

# **ANNOTATED MINUTES**

Wednesday, June 24, 1998 - 9:30 AM  
Multnomah County Courthouse, Boardroom 602  
1021 SW Fourth Avenue, Portland

## **BOARD WORK SESSION**

WS-1      The Multnomah County Board of Commissioners and Department Staff Will Meet to Discuss Strategic Directions Overview (County Vision, Values, Benchmarks and Community Strategies, RESULTS and Community Building Initiative) and Benchmark Sponsorship. Facilitated by Chair Beverly Stein.

***WORK SESSION CANCELLED. TO BE  
RESCHEDULED AT A LATER DATE.***

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Thursday, June 25, 1998 - 9:00 AM  
Multnomah County Courthouse, Boardroom 602  
1021 SW Fourth Avenue, Portland

## **REGULAR MEETING**

*Vice-Chair Sharron Kelley convened the meeting at 9:02 a.m., with Commissioners Gary Hansen, Diane Linn and Lisa Naito present, and Chair Beverly Stein excused.*

***COMMISSIONER LINN ANNOUNCED THAT CHAIR STEIN (WHO IS HOME ILL) ASKED HER TO ACCEPT AN AWARD ON BEHALF OF THE CITIZENS OF MULTNOMAH COUNTY FROM THE PORTLAND OREGON VISITORS ASSOCIATION IN HONOR OF THE COLLECTIVE DECISION TO RENOVATE THE DOWNTOWN CENTRAL LIBRARY TO MAKE IT A SHOWCASE FOR DOWNTOWN PORTLAND AND VISITORS.***

## **CONSENT CALENDAR**

***AT THE REQUEST OF VICE-CHAIR KELLEY AND  
UPON MOTION OF COMMISSIONER HANSEN,***

***SECONDED BY COMMISSIONER LINN, CONSENT  
CALENDAR ITEMS C-1 THROUGH C-3, C-5  
THROUGH C-7 AND C-9 THROUGH C-15 WERE  
UNANIMOUSLY APPROVED.***

**NON-DEPARTMENTAL**

- C-1 Appointment of Frank DeBiccari to the DUII COMMUNITY ADVISORY BOARD
- C-2 Budget Modification NOND 10 Transferring \$137,500 from General Fund Contingency to Forgive 1996 Loan to Brentwood-Darlington Community Family Resource Center for Facility Construction

**DEPARTMENT OF ENVIRONMENTAL SERVICES**

- C-3 Renewal of Intergovernmental Agreement 301588 with the City of Portland for Maintenance of County Roads in West Side Unincorporated Multnomah County

**SHERIFF'S OFFICE**

- C-5 Budget Modification MCSO 98-10 Adding \$22,536 in U.S. Department of Justice Community Oriented Policing Services (COPS More Grant) Funds to the Sheriff's Enforcement Budget to Pay for a Mobile Community Policing Office in the Columbia Gorge

**DEPARTMENT OF HEALTH**

- C-6 Amendment 2 to Intergovernmental Agreement 201127 with Oregon Health Sciences University Russell Street Dental Clinic to Provide Dental Lab Services to Low-Income Multnomah County Residents at a Discounted Rate

**DEPARTMENT OF COMMUNITY AND FAMILY SERVICES**

- C-7 Amendments 3 and 4 to Intergovernmental Agreement 103787 with OHSU University Hospital Psychiatric In-Patient Services for Children and Adults Enrolled in CAAPCare
- C-9 Intergovernmental Revenue/Expenditure Agreement 9910260 with the Oregon Department of Human Resources Funding Integrated Services Project at Beach School Family Resource Center



- C-10      Intergovernmental Revenue/Expenditure Agreement 9910261 with the Oregon Department of Human Resources Funding Integrated Services Project at Marshall High School Family Resource Center
- C-11      Intergovernmental Revenue/Expenditure Agreement 9910262 with the Oregon Department of Human Resources Funding Integrated Services Project at Roosevelt High School Family Resource Center
- C-12      Budget Modification CFS 9 Adding Two Fiscal Specialists, Two Employee Services Specialists, and One Office Assistant in Department Management and Administration
- C-13      Budget Modification CFS 10 Decreasing Oregon Commission on Children and Families Revenue to Reflect Changes in the 95/97 Biennium Carryover Amount Reallocating Current Year Revenue to Reflect Current Year Obligations
- C-14      Budget Modification CFS 11 Adjusting Budget to Reflect New Revenue, Staffing, and Contractual Expenditures Resulting from the Addition of Adults Covered Under the Oregon Health Plan Capitated Mental Health Services (CAAPCare)
- C-15      Budget Modification CFS 12 Increasing Budget to Reflect the Most Recent State Mental Health and Developmental Disabilities Services Division Intergovernmental Agreement through PAAF #50 and Recognizing Revenue from the Center for Mental Health Services

## **REGULAR AGENDA**

### **DEPARTMENT OF ENVIRONMENTAL SERVICES**

- C-4      CU 4-98/HV 7-98 Report the Hearings Officer Decision Regarding Approval with Conditions, to Establish a Single Family Residence in the Commercial Forest Use Zone which Include a 20' Improved Road Width for Property Located at 32152 SE STEVENS ROAD, PORTLAND

***AT THE REQUEST OF VICE-CHAIR KELLEY WHO ADVISED AN APPEAL WAS FILED, AND UPON MOTION OF COMMISSIONER HANSEN, SECONDED BY COMMISSIONER LINN, IT WAS UNANIMOUSLY APPROVED THAT A DE NOVO HEARING BE SCHEDULED FOR 9:30 AM,***

**TUESDAY, JULY 14, 1998, WITH TESTIMONY  
LIMITED TO 20 MINUTES PER SIDE.**

**DEPARTMENT OF COMMUNITY AND FAMILY SERVICES**

- C-8            Intergovernmental Agreement 9910251 with Multnomah Education Service District and Chamber Charitable Institute Leaders Roundtable for Caring Community Coordination, MESD is Acting as the Fiscal Agent for 8 Caring Community Projects and the Leaders Roundtable is Providing Program Oversight

***AT THE REQUEST OF VICE-CHAIR KELLEY AND  
UPON MOTION OF COMMISSIONER HANSEN,  
SECONDED BY COMMISSIONER LINN, C-8 WAS  
UNANIMOUSLY POSTPONED INDEFINITELY.***

**PUBLIC COMMENT**

- R-1            Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.

***NO ONE WISHED TO COMMENT.***

**DEPARTMENT OF SUPPORT SERVICES**

- R-2            Ratification of the 1998-2001 Agreement Between Multnomah County, Oregon and Multnomah County Employees Union Local 88, AFSCME, AFL-CIO (General Employees Unit)

***COMMISSIONER HANSEN MOVED AND  
COMMISSIONER LINN SECONDED, APPROVAL  
OF R-2. KEN UPTON EXPLANATION. JIM  
YOUNGER AND JOE DEVLAE MINCK COMMENTS  
IN SUPPORT. BOARD COMMENTS IN  
APPRECIATION. AGREEMENT UNANIMOUSLY  
RATIFIED.***

**DEPARTMENT OF JUVENILE AND ADULT COMMUNITY JUSTICE**

- R-8            First Reading of an ORDINANCE Designating the County Supervisory Authority, Defining County Secure Residential Treatment Facilities, and Amending MCC 2.30.800 and Creating MCC 2.30.310

**NON-DEPARTMENTAL**

- R-26 First Reading of an ORDINANCE Amending MCC 7.201 Relating to the Office of County Counsel [Stein Proposal]

### **SHERIFF'S OFFICE**

- R-27 First Reading of an ORDINANCE Amending MCC 7.201 Relating to the Office of County Counsel [Noelle Proposal]

***AT THE REQUEST OF VICE-CHAIR KELLEY AND UPON MOTION OF COMMISSIONER LINN, SECONDED BY COMMISSIONER NAITO, IT WAS UNANIMOUSLY APPROVED THAT ITEMS R-8, R-26 AND R-27 BE RESCHEDULED FOR THURSDAY, JULY 9, 1998.***

### **PUBLIC CONTRACT REVIEW BOARD**

(Recess as the Board of County Commissioners and convene as the Public Contract Review Board)

- R-3 ORDER Exempting from the Formal Competitive Bid Process a Contract for the Purchase of a Granular Rubberized Bullet Trap System for the Justice Center Indoor Firing Range from Caswell Detroit Armor Company

***COMMISSIONER HANSEN MOVED AND COMMISSIONER NAITO SECONDED, APPROVAL OF R-3. FRANNA HATHAWAY, JOHN RICHARDS, GERRY NYBERG AND MARK GUSTAFSON EXPLANATION. ORDER 98-80 UNANIMOUSLY APPROVED.***

(Adjourn as the Public Contract Review Board and reconvene as the Board of County Commissioners)

### **DEPARTMENT OF HEALTH**

- R-4 NOTICE OF INTENT to Respond to a Request for Proposals from Oregon Health Division for Statewide Services for Tobacco Prevention and Education

***COMMISSIONER HANSEN MOVED AND COMMISSIONER LINN SECONDED, APPROVAL***

***OF R-4. VALERIE WHELAN EXPLANATION.  
NOTICE OF INTENT UNANIMOUSLY APPROVED.***

**DEPARTMENT OF ENVIRONMENTAL SERVICES**

- R-5 RESOLUTION Authorizing an Application for a Loan from the Small Scale Energy Loan Program (SELP)

***COMMISSIONER HANSEN MOVED AND  
COMMISSIONER NAITO SECONDED, APPROVAL  
OF R-5. AMY JOSLIN EXPLANATION.  
RESOLUTION 98-81 UNANIMOUSLY APPROVED.***

**NON-DEPARTMENTAL**

- R-6 RESOLUTION: Agreement to the City of Gresham's Request for the Transit Supportive, Multiple-Unit or Mixed-Use Development Property Tax Exemption Program

***COMMISSIONER HANSEN MOVED AND  
COMMISSIONER LINN SECONDED, APPROVAL  
OF R-6. CITY OF GRESHAM COMMUNITY  
PLANNER JONATHON HARKER EXPLANATION  
AND RESPONSE TO BOARD QUESTIONS AND  
COMMENTS. RESOLUTION 98-82 UNANIMOUSLY  
APPROVED.***

- R-7 Facility Siting Advisory Committee Update on Multnomah County Public Facilities Siting Project Overview of Possible Sites for the East County Health Clinic, the East County Senior Center and a New Justice Center; Policy Direction Regarding Threshold Criteria and Development of Advisory Committee Site Recommendations. Presented by Linda Davis, Arnold Cogan, Bob Oberst and Len Sobo.

***LEN SOBO, ARNOLD COGAN, BOB OBERST AND  
LINDA DAVIS PRESENTATION AND RESPONSE  
TO BOARD QUESTIONS, COMMENTS AND  
DISCUSSION. STAFF WILL COME BACK IN  
AUGUST WITH ANOTHER UPDATE.***

**DEPARTMENT OF ENVIRONMENTAL SERVICES**

- R-9 Third Reading and Adoption of an ORDINANCE Amending the Multnomah County Animal Control Code Chapter 8.10 to Provide for

Certain New Definitions and Regulations Relating to Exotic Animals,  
Potentially Dangerous Dogs, Dangerous Dogs, Limited Search  
Warrants and State Court Enforcement

**ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. HANK MIGGINS AND COUNTY COUNSEL MATTHEW RYAN EXPLANATION AND RESPONSE TO BOARD QUESTIONS. COMMISSIONER HANSEN MOVED AND COMMISSIONER LINN SECONDED, APPROVAL OF THIRD READING AND ADOPTION. COMMISSIONER NAITO ADVISED SHE WOULD ABSTAIN FROM VOTING AS SHE WAS NOT ON THE BOARD DURING THE PREVIOUS HEARINGS. HANK MIGGINS EXPLANATION. PETER BURCH, JEFF MILLER, CHRISTINA BREWER AND GARY AUSTIN TESTIMONY IN OPPOSITION TO BAN ON REPTILES. CINDY IKEDA, T.J. IKEDA, LARRY ZIMMER, CHRISTINE CAVE, STEVEN BELKNAP, DWAYNE KAPTUR AND GINGER BECKEN TESTIMONY IN OPPOSITION TO BAN ON EXOTIC ANIMALS. MR. KAPTUR AND MS. BECKEN READ AND SUBMITTED A PETITION FROM PACIFIC NORTHWEST EXOTICS CLUB REQUESTING THAT ANY MEMBER IN GOOD STANDING OF THE PACIFIC NORTHWEST EXOTIC CLUB BE EXEMPTED FROM THE BAN. CINDY ROBERT AND JEFF DALLAS TESTIMONY IN OPPOSITION TO BAN ON REPTILES. THOMAS BUCHHOLZ TESTIMONY CONCERNING 1991 ANIMAL RESCUE INCIDENT. MICHAEL TWAIN TESTIMONY IN OPPOSITION TO BAN ON REPTILES AND SUGGESTED LANGUAGE CHANGE TO DEFINITION OF EXOTIC ANIMAL. ANDY TURUDIC TESTIMONY REQUESTING REMOVAL OF COUGARS FROM BAN. JACKIE SINNOTT TESTIMONY IN OPPOSITION TO BAN ON EXOTIC ANIMALS, SUGGESTING LICENSING INSTEAD. HANK MIGGINS AND VICE-CHAIR KELLEY READ PORTIONS OF ORDINANCE DESCRIBING WHICH ANIMALS ARE BANNED, WHICH EXEMPT AND THE GRANDFATHERING CLAUSE. MATTHEW RYAN RESPONSE TO BOARD QUESTIONS AND DISCUSSION. FOLLOWING BOARD COMMENTS,**

**COMMISSIONER HANSEN MOVED, SECONDED BY COMMISSIONER LINN, TO AMEND SECTION I (G) PAGE 2 LINE 17 REGARDING THE DEFINITION OF DANGEROUS OR EXOTIC ANIMAL BY REPLACING THE WORD OR WITH AND, TO READ: "WILD OR PREDATORY NATURE, AND WHICH BECAUSE OF ITS SIZE," AMENDMENT APPROVED, WITH COMMISSIONERS KELLEY, HANSEN AND LINN VOTING AYE, AND COMMISSIONER NAITO ABSTAINING. ORDINANCE 909 APPROVED, AS AMENDED, WITH COMMISSIONERS KELLEY, HANSEN AND LINN VOTING AYE, AND COMMISSIONER NAITO ABSTAINING.**

*The meeting was recessed at 11:34 a.m. and reconvened at 11:39 a.m.*

- R-10 First Reading of an ORDINANCE Adopting the Westside Rural Multnomah County Transportation System Plan (as an Element of the Comprehensive Framework Plan)

**ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. KATHY BUSSE EXPLANATION. COMMISSIONER HANSEN MOVED AND COMMISSIONER NAITO SECONDED, APPROVAL OF FIRST READING. DAVE KOENNECKE, LORA CRESWICK AND CHERYL NEAL TESTIMONY IN SUPPORT OF HIGHER RANKING FOR SAUVIE ISLAND BRIDGE REPLACEMENT. MS. BUSSE RESPONSE TO BOARD QUESTIONS CONCERNING CRITERIA AND PRIORITY RANKING AND FINANCIAL ISSUES. BOARD COMMENTS CONCERNING NEED FOR STATE LEGISLATURE TO ADDRESS TRANSPORTATION FUNDING ISSUES AND CRITICAL BRIDGE REPAIR WORK. FIRST READING UNANIMOUSLY APPROVED. SECOND READING THURSDAY, JULY 2, 1998.**

- R-11 First Reading of an ORDINANCE Amending the Comprehensive Framework Plan (to Comply with the Statewide Transportation Planning Rule)

- R-12 First Reading of an ORDINANCE Amending the Sauvie Island/Multnomah Channel Rural Area Plan (to be Consistent with the Westside Rural Multnomah County Transportation System Plan)
- R-13 First Reading of an ORDINANCE Amending the West Hills Rural Area Plan (to be Consistent with the Westside Rural Multnomah County Transportation System Plan)

**ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. FOLLOWING DISCUSSION, COMMISSIONER NAITO MOVED AND COMMISSIONER HANSEN SECONDED, APPROVAL OF THE FIRST READING OF R-11, R-12 AND R-13. KATHY BUSSE EXPLANATION OF R-11, R-12 & R-13. NO ONE WISHED TO TESTIFY. THE FIRST READING OF R-11, R-12 AND R-13 WAS UNANIMOUSLY APPROVED. SECOND READING THURSDAY, JULY 2, 1998.**

- R-14 First Reading of an ORDINANCE Amending the Action Proceedings Section of the Zoning Code by: 1) Repealing the 120 Day Requirement of Code; 2) Amending the Public Notice Requirement; and 3) Amending the Date Required for a Staff Report to be Made Available Prior to a Hearing

**ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. COMMISSIONER LINN MOVED AND COMMISSIONER NAITO SECONDED, APPROVAL OF FIRST READING. PHIL BOURQUIN EXPLANATION AND RESPONSE TO BOARD QUESTION. NO ONE WISHED TO TESTIFY. FIRST READING UNANIMOUSLY APPROVED. SECOND READING THURSDAY, JULY 2, 1998.**

#### **NON-DEPARTMENTAL**

- R-15 Budget Modification NOND 99-01 Transferring \$765,990 from Public Safety Levy Contingency to Fund Staffing for 40 Beds at the Multnomah County Restitution Center

**COMMISSIONER LINN MOVED AND COMMISSIONER HANSEN SECONDED, APPROVAL OF R-15. DAN NOELLE AND DAVE**

**WARREN EXPLANATION AND RESPONSE TO  
BOARD QUESTIONS. BUDGET MODIFICATION  
UNANIMOUSLY APPROVED.**

- R-16 Second Reading and Adoption of 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

**ORDINANCE READ BY TITLE ONLY. COPIES  
AVAILABLE. COMMISSIONER HANSEN MOVED  
AND COMMISSIONER NAITO SECONDED,  
APPROVAL OF SECOND READING AND  
ADOPTION. TOM SPONSLER EXPLANATION AND  
RESPONSE TO BOARD QUESTIONS AND  
DISCUSSION. NO ONE WISHED TO TESTIFY.  
ORDINANCE 910 UNANIMOUSLY APPROVED.**

- R-17 RESOLUTION Establishing Fees and Charges for Chapter 7, Administration, of the Multnomah County Code
- R-18 RESOLUTION Establishing Fees and Charges for Chapter 11, Revenue and Taxation, of the Multnomah County Code
- R-19 RESOLUTION Establishing Fees and Charges for Chapter 13, Animal Control, of the Multnomah County Code
- R-20 RESOLUTION Establishing Fees and Charges for Chapter 15, Sheriff, of the Multnomah County Code
- R-21 RESOLUTION Establishing Fees and Charges for Chapter 17, Juvenile and Adult Community Justice, of the Multnomah County Code
- R-22 RESOLUTION Establishing Fees and Charges for Chapter 21, Health, of the Multnomah County Code
- R-23 RESOLUTION Establishing Fees and Charges for Chapter 25, Aging and Disability Services, of the Multnomah County Code
- R-24 RESOLUTION Establishing Fees and Charges for Chapter 27, Environment and Property, of the Multnomah County Code
- R-25 RESOLUTION Establishing Fees and Charges for Chapter 29, Building Regulations, of the Multnomah County Code



**FOLLOWING DISCUSSION, COMMISSIONER  
NAITO MOVED AND COMMISSIONER LINN  
SECONDED, APPROVAL OF R-17 THROUGH R-25.  
TOM SPONSLER EXPLANATION AND RESPONSE  
TO BOARD QUESTIONS AND COMMENTS.  
RESOLUTIONS 98-83, 98-84, 98-85, 98-86, 98-87, 98-  
88, 98-89, 98-90 AND 98-91 UNANIMOUSLY  
APPROVED.**

*There being no further business, the meeting was adjourned at 12:25 p.m.*

OFFICE OF THE BOARD CLERK  
FOR MULTNOMAH COUNTY, OREGON

*Deborah L. Bogstad*

Deborah L. Bogstad



## MULTNOMAH COUNTY, OREGON

### BOARD OF COMMISSIONERS

#### Beverly Stein, Chair

1120 SW Fifth Avenue, Suite 1515

Portland, Or 97204-1914

Phone: (503) 248-3308 FAX (503) 248-3093

Email: mult.chair@co.multnomah.or.us

#### Diane Linn, Commission Dist. 1

1120 SW Fifth Avenue, Suite 1500

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Phone: (503) 248-5220 FAX (503) 248-5440

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#### Gary Hansen, Commission Dist. 2

1120 SW Fifth Avenue, Suite 1500

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#### Lisa Naito, Commission Dist. 3

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#### Sharron Kelley, Commission Dist. 4

1120 SW Fifth Avenue, Suite 1500

Portland, Or 97204-1914

Phone: (503) 248-5213 FAX (503) 248-5262

Email: sharron.e.kelley@co.multnomah.or.us

**ANY QUESTIONS? CALL BOARD  
CLERK DEB BOGSTAD @ 248-3277**

Email: deborah.l.bogstad@co.multnomah.or.us

**INDIVIDUALS WITH DISABILITIES  
MAY CALL THE BOARD CLERK AT  
248-3277, OR MULTNOMAH COUNTY  
TDD PHONE 248-5040, FOR  
INFORMATION ON AVAILABLE  
SERVICES AND ACCESSIBILITY.**

### JUNE, 24 & 25 1998 BOARD MEETINGS

#### FASTLOOK AGENDA ITEMS OF INTEREST

2	Wednesday Strategies Work Session
*	<b>PLEASE NOTE: 9:00 AM Start Time for Thursday Board Meeting</b>
2	Consent Calendar of Routine Business
4	Local 88 AFSCME Contract
5	Gresham Property Tax Exemption for New Transit Oriented Development
5	Facility Siting Advisory Committee
5	Secure Residential Treatment Facilities Ordinance
6	Animal Control Code Ordinance
6	Transportation System Ordinances
7	Outside Counsel Ordinances

Thursday meetings of the Multnomah County Board of Commissioners are cable-cast live and taped and may be seen by Cable subscribers in Multnomah County at the following times:

Thursday, 9:30 AM, (LIVE) Channel 30

Friday, 10:00 PM, Channel 30

Sunday, 1:00 PM, Channel 30

Produced through Multnomah Community  
Television

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(Adjourn as the Public Contract Review Board and reconvene as the  
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Public Facilities Siting Project Overview of Possible Sites for the  
East County Health Clinic, the East County Senior Center and a  
New Justice Center; Policy Direction Regarding Threshold Criteria  
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Presented by Linda Davis, Arnold Cogan, Bob Oberst and Len  
Sobo. **[9:40 AM TIME CERTAIN, 20 MINUTES REQUESTED]**

**DEPARTMENT OF JUVENILE AND ADULT COMMUNITY JUSTICE**

- R-8 First Reading of an ORDINANCE Designating the County  
Supervisory Authority, Defining County Secure Residential Treatment  
Facilities, and Amending MCC 2.30.800 and Creating MCC 2.30.310  
**[10:00 AM TIME CERTAIN]**

**DEPARTMENT OF ENVIRONMENTAL SERVICES**

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**SHERIFF'S OFFICE**

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MEETING DATE: JUN 25 1998  
AGENDA NO: C-1  
ESTIMATED START TIME: 9:00

(Above Space for Board Clerk's Use ONLY)

## AGENDA PLACEMENT FORM

SUBJECT: Appointment to DUII Community Advisory Board

BOARD BRIEFING:

DATE REQUESTED: \_\_\_\_\_

REQUESTED BY: \_\_\_\_\_

AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING:

DATE REQUESTED: 6/25/98

AMOUNT OF TIME NEEDED: Consent

DEPARTMENT: Nondepartmental DIVISION: Chair's Office

CONTACT: Delma Farrell/Lynn Hingson TELEPHONE #: 248-3953

BLDG/ROOM #: 106/1515

PERSON(S) MAKING PRESENTATION: \_\_\_\_\_

### ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

### SUGGESTED AGENDA TITLE:

Appointment of Frank DeBiccari to the DUII Community Advisory Board, Treatment Provider Position, for a term ending June 30, 2000..

### SIGNATURES REQUIRED:

ELECTED OFFICIAL: Beverly Stunt

(OR)

DEPARTMENT

MANAGER: \_\_\_\_\_

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277

55400 91  
COUNTY COMMISSIONERS  
JUN 11 PM 2:21  
MULTIOMAH COUNTY  
OREGON



# MULTNOMAH COUNTY OREGON

## INTEREST FORM FOR BOARDS AND COMMISSIONS

In order for the County Executive to more thoroughly assess the qualifications of persons interested in serving on a Multnomah County board or commission, you are requested to fill out this interest form as completely as possible. You are encouraged to attach or enclose supplemental information or a resume which further details your involvement in volunteer activities, public affairs, civic services, published writing, affiliations, etc.

- A. Please list, in order of priority, any Multnomah County boards/commissions on which you would be interested in serving. (See attached list)

B. Name FRANK DEBICCAI

Address 36350 DUBARKO ROAD

City SANDY State OR Zip 97055

Do you live in \_\_\_\_\_ unincorporated Multnomah County or \_\_\_\_\_ a city within Multnomah County.

Home Phone (503) 668-9492

C. Current Employer MAINSTREAM TUALATIN VALLEY CENTERS

Address 4531 SE BELMONT

City PORTLAND State OR Zip 97215

Your Job Title SUBSTANCE ABUSE SPECIALIST

Work Phone (503) 234-3400 (Ext) 214

Is your place of employment located in Multnomah County? Yes ☒ No ☐

D. Previous Employers Dates Job Title

SERVICE COOP. INTERNATIONAL 6/96-8/97 FAMILY COUNSELOR

INACT, INC. 1/96 - AS NEEDED CONSULTANT

STERLING MEDICAL (PIONEER TRAIL) 7/95-2/96

CONTACT: 

G 

BOARDS AND COMMISSIONS

E. Please list all current and past volunteer/civic activities.

Name of Organization	Dates	Responsibilities
GAPP (Greater Area Prevention Partnership)	1996-1997 1996	CHAIRMAN DRUG FREE WORKPLACE DRUG FREE SCHOOL ZONE
REGIONAL DRUG INITIATIVE	1996-PRESENT	TREATMENT COMMITTEE
MT. STORM YOUTH ACTIVITIES	1996-PRESENT	CHAIRMAN
SANDY BAMBINO & SANDY BLITZ LEAGUE SPORTS	1996-PRESENT	BOARD OF DIRECTORS

F. Please list all post-secondary school education.

Name of School	Dates	Degree/Course of Study
BROOKLYN COLLEGE	1996	BA / HUMAN SERVICES
AMERICAN ACADEMY OF ADDICTIONS		CERTIFIED ADDICTION SPECIALIST

G. Please list the name, address and telephone numbers of two people who may be contacted as references who know about your interests and qualifications to serve on a Multnomah County board/commission.

BERNIE GUISTO GRESHAM CHIEF OF POLICE 1333 N.W. EASTMAN GRESHAM OR 97030 618-2318

RON PENNINGTON GAPP 18135 SIEBROOKLYN PK 97236 661-6056

H. Please list potential conflicts of interest between private life and public service which might result from service on a board/commission.

I. Affirmative Action Information

M  
sex / racial ethnic background

birth date: Month 1 Day 5 Year 39

My signature affirms that all information is true to the best of my knowledge and that I understand that any misstatement of fact or misrepresentation of credentials may result in this application being disqualified from further consideration or, subsequent to my appointment to a board/commission, may result in my dismissal.

Signature [Signature] Date 5/14/98

BUDGET MODIFICATION NO.

NOND 10

(For Clerk's Use) Meeting Date

JUN 25 1998

Agenda No.

C-2

## 1. REQUEST FOR PLACEMENT ON THE AGENDA FOR

(Date) 6/17/98

DEPARTMENT Nondepartmental

DIVISION

CONTACT Dave WarrenTELEPHONE 248-3382

\* NAME(S) OF PERSON MAKING PRESENTATION TO BOARD

Dave WarrenSUGGESTEDAGENDA TITLE

(to assist in preparing a description for the printed agenda)

Requests transfer of \$137,500 from General Fund Contingency to forgive loan to Brentwood-Darlington Community Family Resource Center.

(Estimated Time Needed on the Agenda)

## 2. DESCRIPTION OF MODIFICATION (Explain the changes this Bud Mod makes. What budget does it increase? What do changes accomplish? Where does the money come from? What budget is reduced? Attach additional information if you need more space.)

Personnel changes are shown in detail on the attached sheet

Reduces General Fund Contingency by \$137,500 to forgive loan to Brentwood-Darlington Community Center.

98 JUN 17 AM 11:25  
MULTI-COUNTY  
OREGON

## 3. REVENUE IMPACT

(Explain revenues being changed and reason for the change)

Affects next year's Beginning Balance. The impact was already anticipated in projecting revenue available for the 98-9 Budget.

## 4. CONTINGENCY STAT (to be completed by Budget &amp; Quality)

9,747,446

Fund Contingency before this modification

Date

After this modification

\$ 9,609,946

Originated By

Date

Department Director

Date

Dave Warren6/17/98Bill Farrow6-17-98

Plan/Budget Analyst

Date

Employee Services

Date

Julie Neburka6/17/98

Board Approval

Date

NANCY C. BOUSTAD6/23/98

EXPENDITURE												
TRANSACTION EB GM [ ]			TRANSACTION DATE		6/17/98	ACCOUNTING PERIOD				12/98	BUDGET FY 1998	
Document	Action	Fund	Agency	Organi- zation	Activity	Reporting Category	Object	Current Amount	Revised Amount	Change Increase (Decrease)	Subtotal	Description
		100	050	9358			6050		137,500			
									0			
									0			
									0			
									0			
									0			
									0			
									0			
									0			
									0			
									0			
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									0			
									0			
									0			
									0			
									0			
									0			
									0			
									0			
TOTAL EXPENDITURE CHANGE									137,500	0	0	
REVENUE												
TRANSACTION RB GM [ ]			TRANSACTION DATE		6/17/98	ACCOUNTING PERIOD				12/98	BUDGET FY 1998	
Document	Action	Fund	Agency	Organi- zation	Activity	Reporting Category	Object	Current Amount	Revised Amount	Change Increase (Decrease)	Subtotal	Description
		100	075	9120			7700		(137,500)			
									0			
									0			
									0			
									0			
									0			
									0			
									0			
									0			
									0			
									0			
									0			
									0			
									0			
									0			
									0			
TOTAL REVENUE CHANGE									(137,500)	0	0	



# MULTNOMAH COUNTY, OREGON

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN  
DIANE LINN  
GARY HANSEN  
LISA NAITO  
SHARRON KELLEY

BUDGET AND QUALITY  
PORTLAND BUILDING  
1120 S.W. FIFTH - ROOM 1400  
P. O. BOX 14700  
PORTLAND, OR 97214  
PHONE (503) 248-3883

TO: Board of County Commissioners

FROM: Dave Warren *DCW*

TODAY'S DATE: June 17, 1998

REQUESTED PLACEMENT DATE: June 25, 1998

SUBJECT: Write-off of Brentwood Darlington Loan

---

## I. Recommendation / Action Requested:

Approve Bud Mod Nond transferring \$137,500 from General Fund Contingency to cover the cost of a 1996 loan to Brentwood Darlington Community Family Resource Center for facility construction

## II. Background / Analysis:

In order to complete the creation of the Brentwood Darlington Center, the County advanced \$137,500 to PDC to cover part of the construction cost. At the time we had a reasonable expectation that fundraising efforts, particularly a grant application to the Murdock Charitable Trust, would allow the Brentwood Darlington Community Center to repay the loan. We did not expense the payment, but treated it as cash in the hands of a fiscal agent and showed it on the financial statements as an account receivable and part of the 1996-97 Beginning Balance. On August 28, 1997 the Board authorized extending the term of the loan so that we carried the same entry as part of the 1997-98 beginning balance. It now appears almost certain that the loan will not be repaid. The Budget Modification recognizes this and changes the status of the loan from an accounting entry to an expenditure so that the payment to PDC can be recognized and the ending balance for 1997-98 will reflect the payment.

## III. Financial Impact:

The 1998-99 Beginning Balance estimate anticipated that the \$137,500 would not be available. At the time the budget was put together it was not clear to me how the reduction would occur. Dave Boyer recommends an actual expenditure be recorded and a Contingency transfer to authorize this expenditure be approved by the Board.

IV. Legal Issues:

None

V. Controversial Issues:

Probably none. The Board approved the loan and approved its extension. At the time of the extension, the Board was aware that repayment was not likely and it was the Board's intention to forgive the loan if repayment was not made. I believe any controversy would have been more likely then than now.

VI. Link to Current County Policies:

NA

VII. Citizen Participation:

NA

VIII. Other Government Participation:

Although PDC acted as the fiscal agent, neither PDC nor the City of Portland has any responsibility for this funding.

MEETING DATE: JUN 25 1998  
AGENDA NO: C-3  
ESTIMATED START TIME: 9:00

(Above Space for Board Clerk's Use ONLY)

## AGENDA PLACEMENT FORM

SUBJECT: Intergovernmental Agreement for FY1998-99 with City of Portland for  
Maintenance of County Roads in West Side Unincorporated Multnomah County

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: June 25, 1998  
AMOUNT OF TIME NEEDED: Consent

DEPARTMENT: Environmental Services DIVISION: Transportation & Land Use Plng  
CONTACT: Bob Thomas TELEPHONE #: 248-3838  
BLDG/ROOM #: 425

PERSON(S) MAKING PRESENTATION: Bob Thomas

### ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

### SUGGESTED AGENDA TITLE:

Intergovernmental Agreement for FY1998-99 with city of Portland for maintenance of county  
roads in west side unincorporated Multnomah County

6/26/98 ORIGINALS to CATHEY KRAMER

### SIGNATURES REQUIRED:

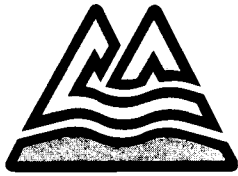
ELECTED OFFICIAL: \_\_\_\_\_  
(OR)  
DEPARTMENT MANAGER: Lou E. Uicciolas

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277

CLERK OF COUNTY COMMISSIONERS  
JUN 15 PM 4:26  
MULTNOMAH COUNTY  
OREGON





# MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES  
TRANSPORTATION DIVISION  
1620 SE 190TH AVENUE  
PORTLAND, OREGON 97233  
(503) 248-5050

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR • 248-3308  
DIANE LINN • DISTRICT 1 • 248-5220  
GARY HANSEN • DISTRICT 2 • 248-5219  
LISA NAITO • DISTRICT 3 • 248-5217  
SHARRON KELLEY • DISTRICT 4 • 248-5213

## MEMORANDUM

TO:  BOARD OF COUNTY COMMISSIONERS

FROM: Larry Nicholas,  
Environmental Services Director

TODAY'S DATE: June 16, 1998

REQUESTED PLACEMENT DATE: June 25, 1998

RE: Proposed IGA with Portland for FY98-99 Maintenance of County Roads in  
Unincorporated Western Multnomah County

I. Recommendation/Action Requested:

The Department of Environmental Services recommends approval of an Intergovernmental Agreement with the city of Portland for maintenance of county roads in unincorporated western Multnomah County during FY1998-99. This IGA is being presented to the Portland City Council for their approval on Wednesday, June 24, 1998.

II. Background/Analysis:

In 1984, Multnomah County and the city of Portland agreed that the city would maintain, through an IGA, all county roads in unincorporated western Multnomah County that were within the Urban Services Boundary. The city of Portland did not receive compensation for these services, since the area was presumed to be annexed to the city shortly. Annexation has proceeded very slowly and the city elected to inform the county that effective July 1, 1997, it would no longer maintain these roads. During 1997, representatives of the city and county have been meeting working out the terms of this proposed IGA. In June 1997, the Board approved a similar IGA that authorized the city of Portland to maintain these roads during FY1997-98. This IGA authorizes Portland to maintain the area for an additional year.

III. Financial Impact:

The city has agreed to maintain the roads during FY1997-98 for approximately \$360,465. Most of this compensation would be in the form of quarterly lump sums. Some emergency maintenance and tree trimming services will be billed on a per hour basis.

IV. Legal Issues:

None.

V. Controversial Issues:

None

VI. Link to Current County Policies:

This IGA is an extension of the county policy set in 1983 and 1984 concerning the maintenance of county roads within the Urban Services Boundary.

VII. Citizen Participation:

None.

VIII Other Government Participation:

City officials from at least two bureaus and the Office of Transportation were active in negotiations with the county for this IGA.

# MULTNOMAH COUNTY CONTRACT APPROVAL FORM

Pre-approved Contract Boilerplate (with County Counsel signature) ☐ Attached ☒ Not Attached Contract #: 301588  
Amendment #: \_\_\_\_\_

CLASS I	CLASS II	CLASS III
<input type="checkbox"/> Professional Services not to exceed \$50,000 (and not awarded by RFP or Exemption) <input type="checkbox"/> Revenue not to exceed \$50,000 (and not awarded by RFP or Exemption) <input type="checkbox"/> Intergovernmental Agreement (IGA) not to exceed \$50,000 <input type="checkbox"/> Expenditure <input type="checkbox"/> Revenue <input type="checkbox"/> Architectural & Engineering not to exceed \$10,000 (for tracking purposes only)	<input type="checkbox"/> Professional Services that exceed \$50,000 or awarded by RFP or Exemption (regardless of amount) <input type="checkbox"/> PCRB Contract <input type="checkbox"/> Maintenance Agreement <input type="checkbox"/> Licensing Agreement <input type="checkbox"/> Construction <input type="checkbox"/> Grant <input type="checkbox"/> Revenue that exceeds \$50,000 or awarded by RFP or Exemption (regardless of amount)	<input checked="" type="checkbox"/> Intergovernmental Agreement (IGA) that exceeds \$50,000 <input checked="" type="checkbox"/> Expenditure <input type="checkbox"/> Revenue <div style="text-align: center;"> <b>APPROVED MULTNOMAH COUNTY</b>  <b>BOARD OF COMMISSIONERS</b>                      AGENDA # C-3 DATE 6/25/98                      DEB BOGSTAD  <b>BOARD CLERK</b> </div>

Department: Environmental Services Division: Transp & Land Use Planning Date: June 11, 1998  
 Originator: Bob Thomas Phone: 83838 Bldg/Rm: 425/Yeon  
 Contact: Cathey Kramer Phone: X22589 Bldg/Rm: 425/Yeon

Description of Contract: Intergovernmental Agreement with city of Portland for maintenance of county roads in unincorporated western Multnomah County during FY 98-99

RENEWAL: ☐ PREVIOUS CONTRACT #(S): \_\_\_\_\_  
 RFP/BID: \_\_\_\_\_ RFP/BID DATE: \_\_\_\_\_  
 EXEMPTION #/DATE: \_\_\_\_\_ EXEMPTION EXPIRATION DATE: \_\_\_\_\_ ORS/AR # \_\_\_\_\_  
 CONTRACTOR IS: ☐ MBE ☐ WBE ☐ ESB ☐ QRF ☒ N/A ☐ NONE (Check all boxes that apply)

Contractor City of Portland Address 1120 SW 5th Ave Room 702 Portland OR 97204 Phone (503) 823-7604	Remittance address _____ (If different) _____ Payment Schedule / Terms <input type="checkbox"/> Lump Sum \$ _____ <input type="checkbox"/> Monthly \$ _____ <input checked="" type="checkbox"/> Other \$ 360,465.00 <input type="checkbox"/> Requirements Not to Exceed \$ _____ Encumber <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Employer ID# or SS# _____ Effective Date July 1, 1998 Termination Date June 30, 1999 Original Contract Amount \$ _____ Total Amt of Previous Amendments \$ _____ Amount of Amendment \$ _____ Total Amount of Agreement \$ _____	<input type="checkbox"/> Due on Receipt <input type="checkbox"/> Net 30 <input checked="" type="checkbox"/> Other (Base-yr) _____

REQUIRED SIGNATURES:

Department Manager <i>Lawrence Nicholas</i>	DATE 6/16/98
Purchasing Manager _____	DATE _____
County Counsel <i>Matthew D. Ryan</i>	DATE 6/16/98
County Chair <i>Sharron Kelley</i> Sharron Kelley, Vice-Chair	DATE 6/25/98
Sheriff _____	DATE _____
Contract Administration _____	DATE _____

(Class I, Class II Contracts only)

LGFS VENDOR CODE						DEPT REFERENCE					
LINE #	FUND	AGENCY	ORG	SUB ORG	ACTIVITY	OBJ/ REV	SUB OBJ	REP CAT	LGFS DESCRIPTION	AMOUNT	INC DEC
01	150	030	6410			6190				282,376.00	
02	150	030	6510			6190				78,089.00	
03											

## **Intergovernmental Agreement**

### **Westside Pocket Area Maintenance**

The City of Portland and Multnomah County enter into this agreement pursuant to the authority granted in Chapter 190 of Oregon Revised Statutes for the purpose of efficiently providing road and drainage facility maintenance to certain areas of unincorporated Multnomah County that are west of the Willamette River.

### **PARTIES TO THE AGREEMENT**

The CITY OF PORTLAND is a municipal corporation organized and existing under the laws and constitution of the State of Oregon and is hereinafter referred to as City.

The COUNTY OF MULTNOMAH is a Home Rule political subdivision of the State of Oregon organized and existing under the laws and constitution of the State of Oregon and is hereinafter referred to as Athe County.

### **RECITALS**

WHEREAS, under the Transition of Urban Services Agreement between the City and the County the City of Portland has provided road and drainage maintenance services to areas of unincorporated Multnomah County that are west of the Willamette River and inside the urban service boundary since 1984; and

WHEREAS, the Transition of Urban Services Agreement does not provide for financial remuneration to the City for road and drainage services provided in unincorporated areas until the area is annexed to the City; and

WHEREAS, annexation of the westside unincorporated areas has proceeded at a slower pace than was anticipated in 1984; and

WHEREAS, the City has informed the County that they can no longer provide road and drainage facility maintenance to westside unincorporated areas without financial remuneration; and

WHEREAS, the City and the County find that a rational and efficient method for delivery of road and drainage facility maintenance to certain westside unincorporated areas is for the City to continue to provide services; and

WHEREAS, ORS 190.010 and 190.030 provide for intergovernmental agreements between units of local government, including the City and the County, to allow the performance of functions or activities by one unit of local government for another; and

WHEREAS, ORS 190.020 requires that an intergovernmental agreement contemplating the performance of functions or activities by one unit of local government for another shall specify the responsibilities and the apportionment of funds between the parties;

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED HEREIN AND PURSUANT TO THE PROVISIONS OF ORS 190.010 - 190.030, THE CITY AND THE COUNTY AGREE AS FOLLOWS:

#### ARTICLE ONE: PURPOSE

The general purposes of this agreement are to:

1. Provide for the maintenance of County road and drainage facilities in unincorporated Multnomah County west of the Willamette River and within the Portland urban service area.
2. Provide a mutual understanding of services to be delivered by the City and the level of service to be provided.
3. Provide for monitoring the services delivered by the City.
4. Provide financial remuneration of services provided by the City.

#### ARTICLE TWO: DEFINITIONS

County Road: All public roads under the jurisdiction of Multnomah County as defined by ORS 368.001 (1), (5) and (6) which have been formally adopted and accepted or legalized by the Board of County Commissioners as County roads and designated as such by the County Engineer.

Local Access Road: A public road in an unincorporated area that is not a county road, a state highway or a federal road.

Westside Contract Maintenance Service Area: County Roads west of the Willamette River and within the Portland urban service boundary, and the following County Roads immediately adjacent to the Portland urban service boundary: NW Thompson Rd., NW 53rd Drive, SW Iron Mountain Road and SW 49th Street.

Roadway Facilities: Public improvements associated with County Roads including, but not limited to, pavement surface and subsurface, pavement markings, signs, traffic signals, shoulders, ditches, culverts, storm sewers, manholes, sumps, catchbasins, and trashracks.

Maintenance: Ordinary maintenance and repair work necessary to preserve the public infrastructure. When necessary, repairs by in-kind replacement of facilities will be made. Maintenance includes, but is not limited to, preservation overlays, minor alterations, street sweeping and cleaning of facilities.

Improvement: Construction of new facilities, and upgrading and/or expanding existing facilities. Examples include, but are not limited to, construction of new roadways, reconstruction of failed roads, roadway widening, and expansion of drainage facilities.

Traffic Operations: Installation of new traffic control devices, markings and signs, replacement of traffic signals, and changes to timing of traffic signals as needed to improve public safety and maintain acceptable traffic operations.

Pavement Treatment: Maintenance of the pavement surface by asphalt/concrete patching, grinding, crack sealing, asphalt paving to prevent surface distortions and avoid major reconstruction.

Routine Road Maintenance: Street sweeping, guardrail maintenance and corner and curb maintenance to prevent driving hazards and maintain the general condition of the system.

Shoulder and Right of Way Maintenance: Maintenance of shoulders on all non-curbed arterial and collector roads and on maintained roads with a maintained ditch, to eliminate hazards caused by deteriorating shoulder conditions or drainage problems.

Traffic Aids Maintenance: Maintenance of pavement markings, traffic signs, and traffic signals to prevent driving hazards and maintain public safety.

Drainage Facility Maintenance: Cleaning and repair of storm sewers, manholes, catchbasins, culverts, ditches, sumps and trashracks to maintain stormwater flow and the general condition of the system.

Emergency Response: Response to events including snow and ice, wind storms, flooding, landslides and other natural or manmade incidents that require immediate action to protect people and property.

Roadway Facility Maintenance Services: Pavement Treatment, Routine Road Maintenance, Shoulder and Right of Way Maintenance, Traffic Maintenance, Drainage Facility Maintenance.

Maintained Ditch: An open drainage facility, that is in the right-of-way and adjacent to a County Road, that directs water into a stormwater conveyance system.

City Standards: Standards, policies, guidelines and/or past practices that are used by the City to maintain the roadway system.

## ARTICLE THREE: AGREEMENT

### SECTION I: ROADWAY FACILITY MAINTENANCE

A. Beginning July 1, 1998, the City shall provide the following Roadway Facility Maintenance Services to County Roads within the Westside Contract Maintenance Service Area. The level of maintenance provided for each activity will be the same level provided by the City to city streets within the City limits. Maintenance services shall be provided in a manner consistent with applicable operations and maintenance best management practices as set forth in the City of Portland Stormwater Management Plan of the 1993 City of Portland National Pollution Discharge Elimination System ("NPDES") Municipal Stormwater Permit. The City will provide copies of any written standards to the County:

#### 1. Pavement Treatment.

- a. Pavement Management System. County Roads will be included in the City's pavement management system. The City will annually assess the pavement condition of County Roads.
- b. Overlays. Based on need, as determined through assessment of data from the pavement management system, the City will design, engineer and perform overlay projects.
- c. Hot Asphalt Concrete Patching. Based on need, as determined through assessment of data from the pavement management system and in response to citizen complaints, the City will use hot asphalt concrete for general maintenance and in preparation of pavement overlay.
- d. Asphalt/Concrete Grinder Patching. Based on need, as determined through assessment of data from the pavement management system, the City will use grinder plug cutting and profiling to repair pavement distress and remove old asphalt build-up for general maintenance and in preparation of pavement overlay.
- e. Crack sealing. Based on need, as determined through assessment of data from the pavement management system, the City will seal pavement cracks for general maintenance and in preparation of pavement overlay.

#### 2. Routine Road Maintenance.

- a. Street sweeping. Curbed streets will be swept at a frequency consistent with City street sweeping. Non-curbed streets will not be swept.

- b. Guardrail, terminal, barrier and guardpost maintenance. Maintenance will be provided using the City standards.
- c. Curb and corner maintenance. Maintenance will be provided using the City standards.

### 3. Shoulder and Right of Way Maintenance.

- a. Shoulder grading and re-rocking. Shoulder grading and re-rocking will be provided on non-curbed arterial and collector roads and on maintained roads with a maintained ditch.
- b. Shoulder potholes. Potholes in shoulders will be repaired to remove hazards on non-curbed arterial and collector roads and on maintained roads with a maintained ditch.
- c. Roadside vegetation. Machine cutting of roadside vegetation will be provided on all roads with a maintained ditch to prevent disruption of drainage.
- d. Herbicide Spraying. Non-residual herbicides will be applied where appropriate.

### 4. Traffic Aids Maintenance

- a. Pavement Markings. Maintenance of existing pavement markings and replacement of pavement markings following pavement overlays. Pavement markings includes center, turn and edge lines; stop lines; crosswalks; and legends.
- b. Signs. Maintenance of signs and sign posts, and replacement of damaged and/or missing signs and sign posts. Traffic control signs on Local Access Roads will also be maintained by the City.
- c. Traffic Signals. Maintenance of traffic signal systems including hardware, controllers, signal loops, pedestrian push buttons, span cable, tether cable, mast arms, poles, signal heads, and pedestrian heads. The City will also respond to calls including police, power outages, knock downs, underground locates, utilities and contractors.
- d. Vegetation. The City will investigate complaints of vegetation that create sight distance problems and vegetation that block traffic control devices. When problems can be corrected with minor trimming the City will do so. When correction of the problem requires the installation of new traffic control devices, moving existing traffic control devices, or major pruning or removal of mature vegetation, the City will contact the County. If, after contacting the property owner, the County directs the City to conduct major pruning or tree removal the



City will do so on a time and materials basis.

5. Drainage Facility Maintenance.

- a. Catchbasin Cleaning and Repair. Clean and repair catchbasins to City standards.
- b. Culvert Cleaning and Repair. Clean and repair culverts to City standards.
- c. Ditch Cleaning. Clean ditches to City standards.
- d. Trashrack Cleaning and Repair. Clean and repair trashracks to City standards.
- e. Sump Cleaning. Clean sumps to City standards.
- f. Storm Sewer Pipes and Manholes. Clean and repair storm sewer pipes and manholes to City standards.
- g. Drainage Facilities Inventory. Maintain inventory of drainage facilities, including type of facility, location and condition.
- h. Maintenance for drainage facilities will be limited to facilities in the right-of-way and within adequate easements when the facility is located on private property. The City will notify the County if the easement is insufficient for proper maintenance.

B. Local Access Roads

Adjoining property owners are responsible for maintenance of Local Access Roads. The only maintenance function the City will perform on Local Access Roads is maintenance of traffic control signs and devices.

C. Emergency Response.

- 1. The City will maintain 24-hour emergency response capabilities.
- 2. The City will respond to emergencies as set forth in Article Three, Section II.

D. Public Inquiries.

- 1. The City will maintain a APothole Hotline for the public to report potholes and other hazards in the pavement and will investigate problems as notified.
- 2. The City will maintain a one-call number for public inquiries regarding general roadway maintenance and investigate problems as notified.

3. The City will respond to all rules of the Oregon Utility Notification Center, or AOne Call service for marking and notification of the County's underground utilities such as, but not limited to culverts and signal traffic loops.

E. Disposal of Materials.

1. The City will transport and dispose of all material arising from maintenance activities and emergency response on Roadway Facilities, except as provided for in Article Three, Section II.A.1 and Section II.A.2.
2. Material will be treated and/or disposed of in accordance with environmental regulations.

SECTION II: EMERGENCY RESPONSE

A. The City will respond to all emergencies including snow and ice, wind storms, flooding, landslides and other natural or manmade incidents. Emergencies that would normally be handled by city crews on City streets, such as landslides, downed trees, snow and ice treatments, and flooding, will be treated by city crews according to City standards. In the event that the City determines that outside assistance is needed to respond to the event, the City will notify the County and jointly work to respond to the event. The City will handle the following emergencies as specified below:

1. Hazardous Chemical Spills.

In the event of hazardous chemical spills in the right-of-way, the following practices will be followed:

- a. The City will contact the City of Portland Fire Bureau for initial response to the spill.
- b. The City will arrange for response to and clean-up of the spill by a qualified hazardous chemical contractor.
- c. The City will provide traffic control until the contractor arrives to clean-up the spill.
- d. The City will prepare a detailed bill of clean-up costs for the County. The bill will include the party responsible for the spill, when known by the City.

2. Landslides and Trees.

- a. The City will move or remove landslide debris to maintain traffic movement and keep drainage facilities operational.
- b. The City will move or remove trees that have fallen onto the right of way to maintain traffic movement and keep drainage facilities operational.

3. Road Debris and Sanding Materials.

- a. The City will remove surface debris, such as abandoned furniture and appliances, from the roadway that is a threat to public safety.
- b. The City will clean-up sanding materials from snow routes to remove road hazards.

4. Local Access Roads.

Emergency repair of Local Access Roads is the responsibility of the adjoining property owner. The City will provide limited emergency services to local access roads only when there is a threat to public safety or health.

SECTION III: COUNTY RESPONSIBILITIES

A. Coordination of Operational Changes and Improvements

1. The County will retain jurisdiction over Roadway Facilities and responsibility for Traffic Operations and Improvements to Roadway Facilities.
2. The County will coordinate operational changes and roadway improvements in the Westside Maintenance Contract Area with the City by seeking the input of the City in the planning, designing, engineering and construction phases of traffic operation and roadway improvement projects.
3. The County will notify the City of changes to the County Road system that are constructed as part of subdivision construction and local improvements.
4. When making operational changes and roadway improvements, the County will use materials that can be maintained by the City.

B. Easements.

1. The County may provide an additional easement or temporary easement when the City determines that the existing easement is insufficient for proper drainage facility maintenance.

C. Emergency Response.

1. When the City determines outside assistance is needed to respond to an emergency event, the County will work with the City to determine the best way to address the problem.

D. Code Enforcement.

1. The County will be responsible for notification of property owners regarding enforcement of code violations, whether on private property or in the public right of way.

E. Hazardous Chemical Spills.

1. When a party responsible for a hazardous chemical spill has been identified, the County will be responsible for sending the clean-up bill to the identified party.
2. When the City cannot identify the party responsible for a hazardous chemical spill, the County will be responsible for paying for the clean-up.

F. Vegetation.

1. When notified by the City that mature vegetation has created sight-distance problems or is blocking a traffic control device the County will investigate and resolve the problem.
2. If correction of the problem requires major pruning and/or removal of vegetation, the County, after notifying the property owner, may direct the City to prune or remove the vegetation, and will pay the City on a time and materials basis.

SECTION IV: REPORTING

The City shall submit the following reports to the County Engineer:

1. Maintenance records will be submitted quarterly, with the City bill for maintenance services, or on request by the County. Records will be provided for Pavement Treatments, Routine Road Maintenance, Shoulder and Right of Way Maintenance, Traffic Maintenance and Drainage Facility Maintenance.
2. Reports of road condition from the Pavement Management System will be submitted in December.

## SECTION V: TERM

- A. The term of this agreement shall be from July 1, 1998, to and including June 30, 1999, unless sooner terminated or renewed under the provisions hereof.
- B. Termination. Each party reserves the right to terminate this agreement with 60-days written notice to the other, and may terminate this agreement for any reason(s) deemed appropriate based on the sole discretion of the party requesting termination.
- F. Renewal.
  - 1. This agreement may be renewed from year to year, by action of the governing bodies of the City and the County, specifying the amount to be paid to the City for services described in this agreement.
  - 2. The base road mileage in the Westside Contract Maintenance Service Area is 19.11 miles. Renewal of this agreement will, among other factors, take into account additions and deletions to this base road mileage.

## SECTION VI: COMPENSATION

The County agrees to compensate the City as follows:

- 1. For Roadway Facility Maintenance Services the County will pay the City \$331,283, on a quarterly basis. This amount includes \$3,473 for snow and ice response.
- 2. The City will bill the County for emergency response services, except snow and ice response, which is included in subsection 1 of this Section, on a time and materials basis. The practices set forth in Article Three, Section II will be followed when carrying out emergency response services. Emergency response service costs are \$27,622, for which the County will be billed on a quarterly basis.
- 3. Major vegetation pruning and tree removal will be billed on a time and materials basis. The estimated cost of this service is \$1,560, for which the County will be billed on a quarterly basis.
- 4. The City's services provided under this agreement will be billed quarterly and collected in accordance with City Code 5.48.040.
- 5. If this agreement is terminated by either party, the quarterly payments for Roadway Maintenance Services, will be pro-rated from the first of the quarter to the date the agreement is terminated. Services that are billed on a time and materials basis and will not be pro-rated.

## SECTION VII: PROJECT MANAGEMENT

### A. The City's project managers will be:

1. Administrative Issues: Mark Lear. Administrative issues includes contract renegotiations, tracking of costs, and coordinating the delivery of reporting materials to the County.
2. Operational Issues: Dick Godfrey. Operation issues includes day to day provision of roadway facility services.
3. Changes in City project management responsibility will be given in writing to the County.

### B. The County's project managers will be:

1. Administrative Issues: Bob Thomas. Administrative issues includes contract renegotiations, tracking of costs, and arranging for service payments to the City.
2. Operational Issues: Don Hauskins. Operation issues includes day to day provision of roadway facility services.
3. Changes in County project management responsibility will be given in writing to the City.

- C. Policy and Code Differences. It is understood that City and County policy and code differences, may, from time to time, preclude the City from responding to all maintenance and emergencies in the same manner that the County would if it were providing services directly. In those instances, the County and City project managers for Operational Issues will work together to determine which party will respond and how.

## ARTICLE FOUR: GENERAL TERMS

1. Indemnification. Each party shall, subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act, defend, save and hold harmless the other from all claims, suits or actions of whatsoever nature, including intentional acts, resulting from or arising out of its activities under this agreement.
2. Insurance. City and County are self-insured for general liability and workers compensation.

3. Amendment. The terms of this agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by the parties.
4. Compliance with Applicable Laws. The City and County shall comply with all applicable laws and regulations in carrying out the terms of this agreement.

CITY OF PORTLAND

By: \_\_\_\_\_  
Charlie Hales, Commissioner of  
Public Safety

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Barbara Clark, Auditor

Date: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Linda Meng, City Attorney

COUNTY OF MULTNOMAH

By: Shannon Kelly Vice-Chair  
for Beverly Stein, Chair of the  
Multnomah County Commission

Date: 6/25/98

APPROVED AS TO FORM:

By: Matthew O. Sponsler  
Thomas Sponsler, County Counsel

APPROVED MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS  
AGENDA # C-3 DATE 6/25/98  
DEB BOGSTAD  
BOARD CLERK

Meeting Date: JUN 25 1998  
Agenda No: C-4  
Est. Start Time: 9:00

(Above Space for Board Clerk's Use ONLY)

**AGENDA PLACEMENT FORM**

**SUBJECT:** Report to the Board the Hearings Officer's decision on CU 4-98 & HV 7-98

**BOARD BRIEFING**      Date Requested:  
                                 Amt. of Time Needed:  
                                 Requested By:

**REGULAR MEETING**      Date Requested:      June 25, 1998  
                                 Amt. of Time Needed:      5 minutes

**DEPARTMENT:**      DES      **DIVISION:** Transportation & Land Use Planning  
**CONTACT:**      Chuck Beasley      **TELEPHONE:** 248-3043  
                                 **BLDG/ROOM:** 412 / 109

**PERSON(S) MAKING PRESENTATION:** Stuart Farmer

**ACTION REQUESTED**

☐ Informational Only      ☐ Policy Direction      ☒ Approval      ☐ Other

**SUGGESTED AGENDA TITLE**

Report to the Board the Hearings Officer's decision regarding an **Approval** of CU 4-98 & HV 7-98 with conditions to establish a single family residence in the Commercial Forest Use zoning district which include a 20' improved road width .

CLERK  
COUNTY COMMISSIONER  
JUN 17 AM 11:14  
JULY 14  
OREGON

**SIGNATURES REQUIRED**

**Elected Official:** \_\_\_\_\_

or

**Department Manager:** KB Beasley





## BOARD HEARING OF July 7, 1998

TIME 10:30am

CASE NAME: Andre Protassy

NUMBER: CU 4-98, HV 7-98

### 1. Applicant Name/Address

Andre Protassy  
12120 SW Boones Ferry Rd.  
Portland, OR 97219

**Owner:**

Andre Protassy

#### Action Requested of Board

☒ Affirm Hearings Officer Dec.

☐ Hearing/Rehearing

#### Scope of Review

☐ On the record

☐ De Novo

☐ New information allowed

2. **Action Requested by Applicant:** Conditional Use approval to modify a condition of approval imposed in case number CU 12-96, which approved a new dwelling in the Commercial Forest Use (CFU) district. The condition requires compliance with the private road standards of the CFU, which include a 20' wide improved road width and other standards. The applicant is also requesting immediate Building Permit approval. The variance request is to allow the minimum road width of 20' to be reduced to 16.'

### 3. Planning Staff Recommendation

Approve in part, the Conditional Use request CU 4-98. The request is for modification of Conditions of Approval for CU 12-96 which require that the applicant demonstrate compliance with the private road standards of MCC 11.15.2074(D), and to direct or require staff to approve the Building Permit immediately. Approval of his variance request, HV 7-98, and subsequent construction of the road to the revised road width, will satisfy MCC .2074(2) and (7). If the variance is approved, staff recommends approval of the request to modify condition #3 of CU 12-96 accordingly. Staff recommends against approval of the Building Permit until the approved road is either in place, or until assurance of timely construction is made.

Approve alternative variance HV 7-98. HV 7-98 is a request to reduce the private road width requirement of .2074(D)(2) to 16'. The applicant has not demonstrated that a practical difficulty exists for the first approximately 170' of road, therefore staff recommends approval of an alternative variance. This variance would allow the improved road width to be reduced to 16' and would require improvement of one 40' long section to the full 20' width to provide a turnout as required in .2074(D).

### 4. Hearings Officer Decision

The Hearings Officer modified Condition of Approval #3 of CU 12-96 to require that the applicant comply with the private road construction standards of MCC 11.15.2074(D), except as modified by the approved variance.

The Hearings Officer denied the requested road width reduction for the first 170' of roadway, and approved a variance to reduce the width for the remainder of the road from 20' to 18'. A condition is imposed that requires that the applicant obtain a Grading and Erosion Control permit for the road work and drainage improvements.

**5. If recommendation and decision are different, why?**

The staff recommendation and Hearings Officer decision are essentially the same for the Conditional Use request. The Hearings Officer found that she does not have the authority under the code to direct staff to approve the Building Permit.

The Hearings Officer agreed with staff that the applicant did not demonstrate justification of a variance for the east 170' of the roadway. The Hearings Officer found that the applicant should build the rest of the road to the maximum width possible in order to protect public safety, and that since the existing utility poles along the north side of the road would need to be moved to construct the requested 16' wide road, that the road should be widened further. The Hearings Officer decision to widen the road beyond the staff recommendation is based on new information submitted at the hearing.

**ISSUES**

*(who raised them?)*

**6. The following issues were raised:**

Staff accepted the applicant's argument that the walnut trees on the south side of the road, and the utility poles on the north side of the road, could be found to be a "practical difficulty" as required for consideration of a variance. The trees did not exist along the first 184' of the road when application was made, therefore staff found that a variance was not justified along that portion of the road. The applicant submitted evidence during the hearings process which showed that the utility poles along the north side would need to be moved in order to widen the road to the requested 16' width. Therefore, there is no practical difficulty to widening the road on the north to the widest allowed within the 30' easement.

The applicant raised an issue that since the road had been approved for a reduction in width from 20' to 16' in a past land use action, and since the road has not been built, he should not be required to meet the ordinance requirements applicable to his application. The Hearings Officer found that the earlier reduction in road width was for a different applicant, was to a different legal standard, and does not in any way justify a variance to the CFU zone standard that applies here

**7. Do any of these issues have policy implications? Explain:**

No.



DEPARTMENT OF ENVIRONMENTAL SERVICES  
TRANSPORTATION AND LAND USE PLANNING DIVISION  
2115 SE MORRISON STREET  
PORTLAND, OREGON 97214-2865  
(503) 248-3043 FAX: (503) 248-3389

## Decision of Hearings Officer

**Case File:** Conditional Use CU 4-98  
Minor Variance HV 7-98

**Proposed Action and Use:** CU 4-98 is a request for modification of a condition of approval imposed in case number CU 12-96, which approved a new dwelling in the Commercial Forest Use (CFU) district. The condition requires compliance with the private road standards of the CFU, which include a 20' wide access road and other standards. The applicant is also requesting immediate Building Permit approval. The variance request is to allow the minimum road width of 20' to be reduced to 16'.

**Location:** 32152 SE Stevens Road

**Property Description:** TL '44' of Section 8, T1S, R4E

**Zoning:** CFU, Commercial Forest Use  
SEC, Significant Environmental Concern

**Applicant/Owner:** Andre Protassy  
12120 SW Boones Ferry Road  
Portland, OR 97219

RECEIVED  
58 JUN 11 PM 2:46  
MULTNOMAH COUNTY  
PLANNING SECTION

### Decision:

**The Hearings Officer denies the variance request for the first 170' of roadway (as measured from the terminus of Stevens Road, east of the Protassy property).**

**The Hearings Officer approves the variance request for the remainder of the roadway at a width of 18 feet, except that the roadway shall be tapered from the 20' width at the 170' point from the end of Steven Road down to a width of 18 feet, according to County specifications.**

**The variance is granted upon the express condition that the Applicant obtain a Grading and Erosion Control permit from the County for all required road work and related drainage improvements prior to commencing roadway improvements.**

**The Hearings Officer modifies Condition of Approval 3 of CU-12-96 to require that the Applicant comply with the requirements of MCC 11.15.2074(D), except as varied by this variance application.**

### **Applications:**

CU 4-98 is a request for modification of Condition of Approval #3 for CU 12-96 which requires that the applicant demonstrate compliance with the private road standards of MCC 11.15.2074(D). MCC 11.15.2074(D) requires Mr. Protassy to widen the existing private roadway to the Protassy residence to a minimum width of 20 feet, to provide a vehicle turnaround and a vehicle turnout. Mr. Protassy proposes to improve the road to a width of sixteen rather than twenty feet. As the road improvement standards included in the conditional use application mirror mandatory County code road requirements, a variance is needed to authorize the requested modification of the conditional use permit.

Mr. Protassy's land use application includes a request that the Hearings Officer direct Multnomah County Planning staff to sign a Building Permit application for the Protassy residence immediately. Mr. Protassy does not identify any provision in the County Code to support this request. Further, the Hearings Officer's authority is strictly limited by law and does not include the authority to direct County staff to take any type of action regarding building permits.

## **Procedural Matters**

A hearing was held on the variance and conditional use applications on May 6, 1998. The record of the application was held open until May 13, 1998 for additional evidence. The Hearings Officer also gave the parties until May 16, 1998 to request an opportunity to respond to new evidence. During the comment period new evidence was received regarding the need to remove the telephone poles in question in this matter to construct a 16' wide road. The Hearings Officer extended the comment period until May 22, 1998 in order to allow the applicant to respond to this new information. On May 21, 1998 the applicant submitted additional information responding to the telephone pole issue.

## **Decision Format**

This decision addresses two requested actions, a request for modification of the Hearings Officer decision, and a Minor Variance. The Applicant's narrative or response to an approval criterion is indicated by the notation "Applicant." Planning staff comments and analysis follow the Applicant's responses to the criteria. Additional planning staff comments are added where supplemental information is needed or where staff may not concur with the applicant's statements. If no staff remarks are indicated, staff concurs with the applicant. The Hearings Officer's comments follow staff remarks. A lack of any findings indicates that the Hearings Officer concurs with applicant and staff comments. Where staff comments differ from the applicant's comments, those of staff shall serve as the controlling findings, unless the Hearings Officer's findings indicate

otherwise.

## FINDINGS:

**Case History:** The applicant's requests follow approval of his forest dwelling application, CU 12-96, in December of 1997, and approval of his Design Review permit DR 14-97 in February of 1998. These cases were and are intended to resolve a zoning violation that entails construction of a dwelling by the applicant without required permits. Inspection of the property for DR 14-97 revealed that a substantial portion of the private easement road is approximately 12' wide, does not meet the 20' width standard of the Commercial Forest Use district, and is therefore not in compliance with CU 12-96.

The record of CU 12-96 includes a written statement from Mr. Protassy that his private road access was 20-feet wide. This statement was provided in order to demonstrate compliance with MCC 11.15.2074(D)(2). This statement is clearly wrong. The road is, *according to Mr. Protassy's current evidence*, a single lane road that is approximately 10 to 12 feet in width. Mr. Protassy claims that his misstatement in CU-12-96 was made because "I assumed that the road, since it has been used for so long, is legal and never bothered to measure it." Whether the road was or was not legal was not question asked in CU-12-96. The question asked was whether the road was 20-feet wide. That question was answered as follows: "The width of the road is at least 20 feet wide . . ." The Hearings Officer finds that Mr. Protassy's prior statement could not reasonably be confused with a statement regarding the legality of the road. Further, a review of the photographs of the roadway and of a car parked in the roadway make it obvious that the existing road is not 20-feet wide. As a result, the Hearings Officer concludes that, at a minimum, Mr. Protassy's prior statement exhibited a complete lack of concern for providing this hearings body with accurate evidence.

Other factual inaccuracies occur throughout Mr. Protassy's testimony, most notably, his statement that the trees that he replaced in April 1998 were lost in an ice storm in the winter of 1997. Photographs from CU-12-96 show that most of the walnut trees that Mr. Protassy claims were lost in the winter of 1997 were not present on the Protassy property in November of 1996. Mr. Protassy offers excuses for his inaccurate testimony, claiming that he was not referring to the loss of all of the trees but it is clear from the photographs that almost all of the walnut trees in question were missing from the Protassy property prior to November 16, 1996.

The fact that Mr. Protassy has provided such inaccurate testimony in this and the earlier conditional use proceeding casts a long shadow on the reliability of the remainder of Mr. Protassy's evidence. As a result, the Hearings Officer has carefully reviewed all of the evidence to determine whether Mr. Protassy has met his burden of proof in the variance and modification proceeding. The burden of proving this case rests on Mr. Protassy's shoulders. Without competent evidence, the requested variance and modification cannot be approved.

A 16' road width for the private road was approved in a Design Review permit for the adjacent Camp Angelos, in October of 1993. Camp Angeles has failed to improve the road to the approved 16' width. The County is currently proceeding to require Camp Angeles to comply with the road improvement requirements of its Design Review approval. The County's approval of a variance for this road in that case was made under different approval criteria and is not binding upon the County in this proceeding. Further, the hearings officer is not authorized to rely upon the fact that such a variance was approved to justify the approval of the requested variance to the road standards of the CFU zone. Approval must be granted based upon facts included in the record of this case and upon the law that relates to the approval of the Protassy dwelling.

The applicant requested immediate zoning sign-off of a Building Permit application in order to obtain the confirmation of compliance with building code requirements needed to meet Condition of Approval #6 of CU 12-96. This condition must be satisfied by June 14, 1998, which is six months from December 14, 1997, the date the decision was final. As discussed above, the Hearings Officer lacks the authority to direct the County to take administrative actions to order County staff to sign a building permit application. As such, this request is denied.

**Description of Site and Vicinity:** The access road is described in the applicant's Exhibits A. and B., which are contained in casefile Exhibit A1.

**Notification and Public Participation:** Notice of the hearing Scheduled for May 6, 1998 and applicable criteria was sent to 15 neighboring property owners, interested parties, and agencies on April 15, 1998. A copy of the notice is included as Exhibit "B1" of this report.

## **Requested Actions**

### **1. CU 4-98, Request for Modification of Hearings Officer Decision**

**Applicant:**

This request is for:

- (a) Modification of condition #3D on a prior Hearings Officer decision from CU 12-96, HV 18-96, and SEC 27-96.
- (b) Immediate permit for sign off from Planning Commission in order to obtain Building permit which is going to satisfy condition #6 of the Hearing's Officer decision from CU 12-96, HV 18-96, and SEC 27-96.

Submitted here with are the following exhibits:

- Exhibit A- Site Plan
- Exhibit B- Photographs
- Exhibit C- letter from Halstead's Arborculture Consultants

- Exhibit D- Signed statement from Thomas Layton (Fire Chief), Multnomah County Fire District #14.
- Exhibit E- Signed statement from Dennis Bryson (Fire Chief), Multnomah County RFPD #14.
- Exhibit F- Site Map.
- Exhibit G- Robert E. Meyer Consultants Inc. Statement.
- Exhibit H- CS 4-92 #574- #583-B from March 2, 1992.
- Exhibit I- Administrative decision on an application for Hillside development permit and final design review plan. File numbers DR 17-93; HDP 21-93.
- Exhibit J- Staff Report for Public hearing on August 3, 1994, HV 12-94 (Variance).
- Exhibit K- Decision of the Hearings Officer HV 12-94.
- Exhibit L- Variance request from Spencer H. Vail, Planning Consultant.

The Site: The site is located approximately one and a quarter miles South of the community of Springdale. It starts at westerly terminus of SE Stevens Road and ends 660 feet to the westerly property line with American Hellenic Education Center Inc. (Camp Angelos). A private roadway provides the current access. This roadway is of varying widths and has two turn arounds.

History: The private road has been serving more or less, three sites for more than thirty years. This road came to the attention of the Planning Commission on March 2, 1992, when a decision was made and approved for community serving expansion CS 4-92 #574/#583-B. Condition # 1 of the approval was to widen the road to 20 feet. Nevertheless, the Planning Commission indicated quote: "Full placement and associated work necessary to widen the access drive shall avoid or minimize adverse effects to existing wall nut trees on tax lot 44, immediately abutting the south boundary of the easement road.

On October 7, 1993, the application for Hillside development permit and final design review plan DR 17-93; HDP 21-93 was approved with conditions. Design review plan was calling for construction of a new access road there fore, for an administrative approval, the design review plan and Hillside development permit had to be modified to provide at least 16 feet of road width for the entire length of the private access from the SE Stevens Road Right-of-way.

On August 3, 1994, a public hearing was held to approve variance HV 12-94. Staff has indicated that the road starting from the end of Stevens road to the entry gate of Camp Angelos is 16 feet or wider which was previously approved from the planning director. A response of Fire Chief, Dennis Bryson of RFPD 14 indicated that a twelve foot wide access is satisfactory to the Fire District.

On August 24, 1994, variance HV 12-94 was approved by the Hearings officer. The road was accepted and approved the way it is except 250 feet on the American Hellenic Education Center Inc. property. The planning director granted 25% minor exception to the 20 foot road width requirement in the DR 17-93 decision. The fact that the road between Camp Angelos property and West end of Stevens road was inspected, accepted

and approved from Portland Planning Division, its staff and Hearings officer creates a confusing situation. I do not know why a road which was serving the area for many years and was approved by the County and Planning Commission for certain reasons, has to be approved twice or for the same reasons again. If the road was accepted and approved by the Planning Commission, it means that the road is legal and that is why I am asking the Hearings Officer to exclude or modify #3 D from the conditions of approval in CU 12-96.

Regardless of all the facts above, the access private road can not be widened without of causing tremendous hardship to tax lot 44 and all the adjoining properties for the following reasons:

- (1) Widening the road is going to kill the ten forty years old walnut trees which are part of my farming. It was already mentioned from the Planning Commission as a condition #1 from March 2, 1992 decision CS 4-92, #574/#583-B and Halstead's Arboriculture Consultant's report from March 16, 1998.
- (2) Widening the road will cause removal and replacement of all electrical polls and cable along the entire private road. The electrical polls sitting almost in the middle of the road will be unsafe for the drivers and causing eventual accidents. Especially dangerous will be for the school district buses full of children driving very often in dozens into the camp. That also will cost unnecessary and expensive work for PGE and Paramount Cable to remove all the electrical polls.
- (3) Widening the road on the south will cause removing and replacing of the entire telephone line along the private road, which will also be expensive work for the telephone company.
- (4) Widening the road (because of the slope) is going to carry twice the amount of water all the way down to the camp property and will cost tremendous erosion and eventual take the entire hill side down. This is regardless if ditches are built on the side of the road or not. It happened some time in the past, and widening the road will double the danger of land slide and erosion.

**Staff Comment:** The applicant notes under "The Site" above that the road is of varying widths and has two turn arounds. Staff is unable to find a description of the varying widths expressed in feet in the application. Only one turn around is indicated on Exhibit A1. A. It is not clear that the turn around meets the 48' radius turn-around requirement in MCC .2074(D)(7). A diagram of turn around types is included in Exhibit C4, and are referenced in the 6/5/96 fire district sign-off in Exhibit A3.

Staff notes that two statements above made by the applicant are not accurate. The applicant's statement that staff found the road to be 16' wide, and that the road was accepted and approved as it is, are not consistent with the record. These statements are addressed in the staff comments beginning on page 8. of this report.



The applicant questions why, since the road in question has already been approved for a reduced width, must he also request a variance. The portion of the access road from Stevens Road to the Camp Angeles property received a Minor Exception to the access road width requirement of the Off-Street Parking Standards. In order for the applicant to meet the code requirements for a dwelling in the CFU district, he must demonstrate compliance with the code requirements of that section, including the road standards of .2074(D). Conditions of approval were imposed to ensure compliance with these code requirements.

**Hearings Officer:** The standards of the CFU zone are different from the off-street parking standards considered in the Camp Angeles approval. The approval of the variance of one legal standard does not, in any way, justify the variance of the different legal standard of the CFU district. The CFU zone variance must rise or fall upon its own merits.

**Applicant:**

(b) In the decision of the Hearings officer CU 12-96, HV 18-96, and SEC 27-96, condition #6 cannot be satisfied without sign off from the Planning Commission, which has been refused to me. The condition has to be satisfied no later than six months from the date that approval has taken place. The dwelling is 90% finished and is sitting in this condition since 1992. I have suffered great loss of materials, furniture, tools and instruments because I do not have heat inside of the dwelling and the moisture destroyed and continues to destroy my belongings. That is why I seek immediate sign off from the Planning Commission in order to obtain building permit and satisfy all the building requirements of the Uniform building code, including the satisfaction of condition #6 of the Hearings officer decision from CU 12-96, SEC 27-96, and HV 18-96.

**Staff Comment:** In his application for a new dwelling under CU 12-96, the applicant stated that the road meets all of the standards of .2074(D), including that it is 20' wide. The County is holding a special hearing on May 6, 1998, in order to expedite processing of the variance request, notwithstanding that the road improvement standards could have been addressed at the July 16, 1997 hearing.

Staff believes that any needed road improvements should be constructed prior to building permit approval in order to ensure safe access to structures which are under construction, and after completion. This is also cited as an Oregon Uniform Fire Code requirement on the Multnomah County fire district response form in Exhibit A3.

**Hearings Officer:** The Hearings Officer lacks the authority to direct staff to "sign-off" the building permit application sought by Mr. Protassy.

**MCC .2074 - Development Standards for Dwellings and Structures:** Except as provided for the alteration, replacement or restoration of dwellings under MCC .2048 (E) and .2049 (B), all dwellings and structures located in the CFU district after January 7, 1993, shall comply with the following:

\* \* \*

**MCC .2074 (D)** A private road (including all easements) accessing two or more dwellings, or a driveway accessing a single dwelling, shall be designed, built, and maintained to:

- (1) Support a minimum gross vehicle weight (GVW) of 52,000 lbs. Written verification of compliance with the 52,000 lb. GVW standard from an Oregon Professional Engineer shall be provided for all bridges or culverts;**
- (2) Provide an all-weather surface of at least 20 feet in width for a private road and 12 feet in width for a driveway;**
- (3) Provide minimum curve radii of 48 feet or greater;**
- (4) Provide an unobstructed vertical clearance of at least 13 feet 6 inches;**
- (5) Provide grades not exceeding 8 percent, with a maximum of 12 percent on short segments, except as provided below;**
  - (a) Rural Fire Protection District No. 14 requires approval from the Fire Chief for grades exceeding 6 percent;**
  - (b) The maximum grade may be exceeded upon written approval from the fire protection service provider having responsibility;**
- (6) Provide a turnaround with a radius of 48 feet or greater at the end of any access exceeding 150 feet in length;**
- (7) Provide for the safe and convenient passage of vehicles by the placement of:**
  - (a) Additional turnarounds at a maximum spacing of 500 feet along a private road; or**
  - (b) Turnouts measuring 20 feet by 40 feet along a driveway in excess of 200 feet in length at a maximum spacing of ½ the driveway length or 400 feet whichever is less.**

**MODIFICATION OF CONDITIONAL USE CONCLUSION:**

**Staff:**

- 1. The applicant has requested modification of the Hearings Officer decision through the variance application HV 7-98. Staff recommends approval of a modified variance which would reduce the road width requirement which must be met to satisfy Condition of Approval #3. A. and D.**
- 2. Approval of request (b), building permit approval prior to construction of the required improvements is not found to be consistent with the purpose of the code because no assurance is provided that the road will be constructed. Staff recommends denial of this part of the request.**

**2. Minor Variance Request HV 7-98:**

**Applicant:**

THE SITE: The site is located approximately one and a quarter miles South of the community of Springdale. It starts at westerly terminus of SE Stevens road and ends 660 feet to the westerly property line with American Hellenic Education Center Inc. (Camp Angelos). A private roadway provides the current access. This roadway is of varying widths and has two turn arounds.

**Hearings Officer:** The applicant has demonstrated that there is one loop road near the end of Stevens Road. A large portion of the loop road, however, is located on land that is not owned by Mr. Protassy and that is located outside of the 30' easement area provided for the private road. In order to qualify as the turnaround required by MCC .2074 and the Hearings Officer's conditional use approval, Mr. Protassy must provide proof of his right to use this turnaround in order to satisfy the conditions of approval of CU-12-96. This issue is not before the Hearings Officer for decision in this case. These comments are offered, however, as *dicta*, in an attempt to help Mr. Protassy understand the requirements of the approved conditional use permit.

**HISTORY:** The private road has been serving more or less, three sites for more than thirty years. The road came to the attention of the Planning Commission on March 2, 1992, when a decision was made and approved for the community serving expansion CS 4-92 #574/#583-B. Condition #1 of the approval was to widen the road to 20 feet. Nevertheless, the Planning Commission indicated quote: "Full placement and associated work necessary to widen the access drive shall avoid or minimize adverse effects to existing wall nut trees on tax lot @ immediately abutting the south boundary of the easement road.

On October 7, 1993, the application for Hillside development permit and final design review plan DR 17-93; HDP 21-93 was approved with conditions. Design review plan was calling for construction of a new access road there fore, for an administrative approval, the design review plan and Hillside development permit had to be modified to provide at least 16 feet of road width for the entire length of the private access from the SE Stevens road Right-of-way.

On August 3, 1994, a public hearing was held to approve variance HV 12-94. Staff has indicated that the road starting from the end of Stevens road to the entry gate of Camp Angelos is 16 feet or wider which was previously approved from the planning director. A response of Fire Chief, Dennis Bryson of RFPD 14 indicated that a twelve-foot wide access is satisfactory to the Fire District.

On August 24, 1994, the Hearings Officer approved variance HV 12-94. The road was accepted and approved the way it is except 250 feet on the American Hellenic Education Center Inc. property. The planning director granted 25% minor exception to the 20 foot road width requirement in the DR 17-93 decision.

The road between Camp Angeles property and west end of Stevens road was inspected, accepted, and approved from Portland Planning Division as a 16 feet wide access private road.

**Staff Comment:** The statement above which states; "Staff has indicated that the road starting from the end of Stevens road to the entry gate of Camp Angeles is 16 feet or wider which was previously approved from the planning director" appears to be in error in part. On page 7 of the staff report for HV 12-94 (see Exhibit A1. K.) the statement that the roadway is 16 feet or wider is the applicant's response, not staff's.

The applicant has submitted a letter from Fire District Chief Tom Layton, dated 4/20/98, which verifies that the easement road was considered and approved as adequate both for access to the applicant's property and for Camp Angeles. This letter and attached fire district responses are included in Exhibit A3. The attached responses include the June 5, 1996 letter from Chief Thomas Layton, and the August 17, 1993 letter from Chief Dennis Bryson. The letter from Chief Layton is in response to the request from Mr. Protassy, in connection with his dwelling request (CU 12-96). The response from Chief Bryson is apparently in response to a request from Camp Angeles in connection with the 1993 Design Review and Hillside Development Permits (DR 17-93 and HDP 21-93). Staff is unsure what this latter response means for the entire access road, extending from the end of Stevens Road to the camp facilities, for two reasons. The 8/17/93 response carries a notation by the Chief Bryson that the access road will serve two parcels of property. If the four tax lots owned by the camp are considered as one parcel, the access road served three parcels at the time, Mr. Protassy's parcel, the adjacent parcel to the north, Tax Lot '49', and the camp. Second, the staff comment on page 7 of HV 12-94 (see Exhibit A1. K.) relates that in a telephone conversation with Chief Bryson, he indicated that a 12' wide access road "on one section of the road was adequate for emergency vehicle access."

The statement above which states; "The road was accepted and approved the way it is except 250 feet on the American Hellenic Education Center Inc. property." appears to be in error in part. The Hearings Officer decision in HV 12-94 (see Exhibit A1. K.) does not "accept" or "approve" any portion of the access road. The decision clearly states on the first page that it is for one 250' section, cites the already approved reduction from 20' to 16' (DR 17-93 decision), and states in the staff comment on page 9 that improvements are required to other portions of the road outside of the 250' being considered for the variance.

Staff does not understand the last statement above because the Portland Planning Bureau has no review authority for implementation of land use decisions in unincorporated Multnomah County.

#### **Hearings Officer:**

The statement from Chief Tom Layton of the Multnomah County Rural Fire Protection District dated April 20, 1998 discusses the Protassy driveway and private driveway but

fails to explain why the District determined that a private roadway that does not meet the fire protection standards of the CFU zone that are plainly listed on the County's Fire Service comment sheet is adequate. The roadway width requirements were imposed by the County to satisfy fire safety concerns of area fire districts and departments. At a minimum, the Hearings Officer needs to know why this very narrow road will provide safe access to three properties, one of which is a very intensive use of land in a very isolated and vulnerable location. At the present roadway width, it is clear that residents and camp visitors fleeing a fire would prevent fire vehicles from driving down the private road. How this can be a safe situation is unclear from the evidence in this case.

#### **MCC 11.15.8505 Variance Approval Criteria**

**(A) The Approval Authority may permit and authorize a variance from the requirements of this Chapter only when there are practical difficulties in the application of the Chapter. A Major Variance shall be granted only when all of the following criteria are met. A Minor Variance shall meet criteria (3) and (4).**

**Staff:** This provision defines the circumstances under which a variance can be considered, and distinguishes between approval criteria for major and minor variances. A finding needs to be made that a practical difficulty to implementation of the 20' road width requirement exists for the application. The applicant makes three general arguments that there are practical difficulties in the application of the 20' road width requirement. These include potential damage to his walnut trees, re-locating existing utilities, and increased stormwater runoff and landslide hazard. See the numbered points under section 1. of this report. The statement of erosion effects or instability caused by road widening is unsubstantiated in the application.

The applicant has submitted a map to show the relationship between the easement road and the utility poles on the north side and the trees on the south side. Based on this map, the walnut trees start 184' from the end of Stevens Road, and the utility poles start 204' from the end. The practical difficulty described by the applicant begins at the point where widening of the road would begin to impact the trees on the south side of the road. Staff estimates that this would be approximately 170' from the end of Stevens Road.

A Minor Variance is defined as one that is within 25% of an applicable dimensional requirement. The dimensional requirement which is the subject of the variance is the CFU Development Standard in MCC 11.15.2074(D)(2), which requires an all-weather surface of at least 20 feet in width for a private road. The applicant is requesting a 4 foot variance for a reduction of 20% of the standard.

**Hearings Officer:** Mr. Protassy planted walnut trees in April 1998, long after approval of CU-12-96. Mr. Protassy claims that the locations he chose for these new trees must be protected from encroachment by any roadway improvements. These trees could have been planted elsewhere on the Protassy property where they would have not been effected by the road widening required by CU-12-96. As such, the location of the

newly planted trees is a self-created difficulty that, as a legal matter, does not warrant approval of a variance.

The evidence in the record indicates that the telephone poles located to the north of the private roadway will need to be moved by Camp Angeles when the camp widens the road to 16' in order to comply with its land use approvals. As a result, the current location of these poles is no longer a justification for this variance. Evidence from County staff reveals that a 21' wide road could be built if the existing road was widened to the north only. Mr. Protassy states that the existing telephone poles are two feet north of the easement area. As the poles in question have a diameter of less than one foot, a total of 3' feet may be required for the poles and a buffer area between the poles and the roadway. This means that Mr. Protassy should be able to widen the private roadway to a width of 18' without harming his walnut trees. This evidence does not, however, justify a variance to the 16' width sought by Mr. Protassy.

Mr. Protassy's evidence does not explain why it is not possible to construct storm drains and other drainage facilities to handle run-off from the private roadway. This may or may not require more than 3' of easement area. As the burden of proof is on the applicant in this proceeding and the hearings officer cannot go outside of the record of this matter to find this information. Without this information, the hearings officer may not justify a variance to a 16' wide road standard (from the 18' justified by the need to place telephone poles in the easement area and to avoid paving on the tree side of the roadway). The hearing officer she would like to approve a variance that will allow the roadway, drainage facilities and telephone poles to be constructed within the easement area without causing harm to the mature walnut trees. Hopefully, the 18' roadway width will allow Mr. Protassy to achieve this result.

**(3) The authorization of the variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located, or adversely affects the appropriate development of adjoining properties.**

**Applicant:** As mentioned above, the access private road is an existing road which has been serving Tax Lot 44 and the adjoining properties for more than thirty years. The owners of the adjoining properties have not expressed any concerns about this matter, and have signed a property owner consent of variance request. Approval of the Variance will only affect the subject property, and this proposal would not impede nor impact any of the neighboring practices. As for adversely affecting the development of adjoining properties, the adjoining properties are already developed and have been served by the same road. Also, as stated above, the Fire District has approved twice the 12 foot width as adequate for emergency vehicles.

**Staff:** The public welfare in this case is safe access and adequate fire access. The 20' road width requirement allows for two way traffic for emergency and private vehicles. Jerry Renfro, Tualatin Valley Fire and Rescue, confirmed in telephone conversation with staff that the 20' road width requirement is intended to allow two way access for

emergency vehicles. The proposed 16' wide road would allow a narrow two lane access for cars, but would not allow two emergency vehicles or a truck and an emergency vehicle to pass. Staff notes that the road development standard in the CFU zone in MCC .2074(D)(7) requires turnarounds or turnouts at intervals of less than 500 feet in order to provide safe and convenient passage of vehicles. The applicant has not shown that a turn around or turnout which meets the requirement of .2074(D)(7) exists within the first 400' or 500' from the end of Stevens Rd. The legal rights to the turn around shown on the applicant's Exhibit A1. A. are uncertain. If the turn around is not within a dedicated easement, then there is no assurance it will remain available because current or future property owners could restrict access.

As noted in the findings under (A) above, the applicant has not demonstrated a practical difficulty to meeting the 20' road width standard for the first approximately 170' from the end of Stevens Road. Improvement of the road to the full width for the first 170' would reduce the substandard road length to the end of the last utility pole to 386'. See Exhibit A5. Widening of the road to 16', plus improvement of a turnout in the middle of the section to 20' X 40' as provided in .2074(D)(7)(b), would meet that standard and substantially increase areas suitable for fire equipment and other vehicles to pass.

The two other adjoining properties are owned by the neighbor to the north, and by the American Hellenic Education Association. The CFU zoning on the property to the north limits that property to one dwelling. The Camp Angelos property received an initial Community Service Use approval in 1986, and approval for expansion in 1992. Future development requests by the Camp will be required to meet the access road requirements of the CFU district in MCC .2074(D), the minimum access road requirements in the Off-Street Parking ordinance .6128(A), and the Framework Plan Policy 31: Community Facilities and Uses.

**Hearings Officer:** Evidence received after the staff report was written show that the private road may be widened to a width of 18 feet because the telephone poles located to the north of the roadway will be need to be moved for construction of a 16' wide road and there is adequate room for such a road and the telephone poles within the existing easement area, without widening the road to the south toward the walnut trees.

**(4) The granting of the variance will not adversely affect the realization of the Comprehensive Plan nor will it establish a use which is not listed in the underlying zone.**

**Applicant:** No use is being permitted that is not allowed either outright or through a conditional use permit. The approval of the Variance request, therefore, will not provide for the establishment of a use not listed in the underlining zone. Previous approvals from the County for the single family dwelling on Lot 44 have been based partially on Findings that the use was consistent with the comprehensive plan. Approval of this Variance concerning roadway width will not jeopardize compliance with the plan.

**Staff:** Staff agrees that approval of the variance would not adversely affect realization of the Comprehensive Plan or establish a use not allowed in the zone.

#### **VARIANCE CONCLUSIONS:**

1. Staff concludes that the applicant has not demonstrated that practical difficulties exist on the approximately 170' road segment beginning at Stevens Road. Since this threshold requirement for consideration of a variance has not been shown to have been met by the applicant, staff recommends that this area be excluded from consideration of the road width variance.
2. The requested variance reduces the road function from a two lane road suitable to all vehicles, to a narrow two lane road for cars. The applicant has not shown that no material detriment to the public welfare would occur if the variance is approved. In addition, the turn around and/or turn out standard of MCC .2074(D)(7) has not been shown to have been met. Staff feels that a conclusion of compliance with variance approval criterion #3. can be made if turnouts which meet the .2074(D)(7)(b) standard are provided. This would require improving one 40' long section in the middle of the 386' long variance area to the full 20' width.

**Hearings Officer:** The Hearings Officer concurs with staff's conclusion that the applicant has failed to demonstrate that a variance is justified for the eastern portion of the private roadway. The Hearings Officer also finds that, due to the fact that the telephone poles will be need to be moved to create a 16' wide road, that the road should be built to the maximum width possible in order to protect public safety. Although the evidence in the record is scanty, it appears that an area of approximately three feet is needed between the edge of the roadway and the northern boundary of the easement for power poles and buffer area. This 3 feet wide area will also allow some room for drainage facilities. Whether it is sufficient is unknown as the applicant has failed to provide this information. Yet, in the absence of proof from the applicant, the Hearings Officer may not grant a more generous variance upon the unproven assumption that a larger area is needed.

#### **3. Multnomah County Comprehensive Plan Policies:**

The Framework Plan Policies applicable to this Quasi-judicial Decision are addressed as follows:

**Policy No. 13, Air, Water and Noise Quality:** Multnomah County, ... Supports efforts to improve air and water quality and to reduce noise levels. ... Furthermore, it is the County's policy to require, prior to approval of a legislative or quasi-judicial action, a statement from the appropriate agency that all standards can be met with respect to Air Quality, Water Quality, and Noise Levels.



**Applicant:** A single family dwelling is not a high emission source. Water quality is not degraded by the dwelling on the property and there are no streams or creeks on the property. This policy is satisfied because all necessary permits have been obtained, and the applicable sanitation regulations have been complied with.

**Staff:** The primary issue under this policy is water quality related to any construction which would be required to widen the road. This type of development impact can be addressed through the Grading and Erosion Control Permit.

**Policy No. 22, Energy Conservation:** The County's policy is to promote the conservation of energy and to use energy resources in a more efficient manner. ... The County shall require a finding prior to approval of a legislative or quasi-judicial action that the following factors have been considered:

- A. The development of energy-efficient land uses and practices;
- B. Increased density and intensity of development in urban areas, especially in proximity to transit corridors and employment, commercial and recreation centers;
- C. An energy-efficient transportation system linked with increased mass transit, pedestrian and bicycle facilities;
- D. Street layouts, lotting patterns and designs that utilize natural environmental and climactic conditions to advantage.
- E. Finally, the County will allow greater flexibility in the development and use of renewable energy resources.

**Applicant:** The parcel is in a rural area. For the proposed use, there are no new streets, power lines, or energy consumptive development requirements.

**Staff:** The parcel is in a rural area. Urban energy, transportation and lotting pattern issues do not apply.

**Policy No. 37, Utilities:** The County's policy is to require a finding prior to approval of a legislative hearing or quasi-judicial action that:

**WATER DISPOSAL SYSTEM:**

- A. The proposed use can be connected to a public sewer and water system, both of which have adequate capacity; or
- B. The proposed use can be connected to a public water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system on the site; or
- C. There is an adequate private water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system; or
- D. There is an adequate private water system, and a public sewer with adequate capacity.

### **DRAINAGE:**

- E. **There is adequate capacity in the storm water system to handle the increased run-off; or**
- F. **The water run-off can be handled on the site or adequate provisions can be made; and**
- G. **The run-off from the site will not adversely affect the water quality in adjacent streams, ponds, lakes or alter the drainage on adjacent lands.**

### **ENERGY AND COMMUNICATIONS:**

- H. **There is an adequate energy supply to handle levels projected by the plan; and**
- I. **Communications facilities are available.**

**Applicant:** There has been an approved site for on-site septic tank and drain field by the sanitarian. A septic tank permit has been obtained. the water run-off will be handled on site, and the property is serviced by PGE, Cascade Utilities, and Corbett Water District. The applicable service provider forms have been submitted in exhibit A from CU 12-96, HV 18-96, and SEC 27-96.

**Staff:** The portion of this policy which is unmet by the submittal is Drainage. The applicable sub-policies are F. and G. The applicant has stated that widening the road will result in increased stormwater flow onto adjoining land, erosion, and increased danger of landslide. He notes that these effects will occur even if roadside ditching is constructed. This policy requires adequate stormwater measures to be provided, and absent expert testimony to the contrary, staff finds that the drainage policies can be met as part of the Grading and Erosion Control Permit process. A Grading and Erosion Control Permit is required for private road construction of the magnitude required to build to meet the revised width.

**Policy No. 38, Facilities:** The County's Policy is to require a finding prior to approval of a legislative or quasi-judicial action that:

- A. **The appropriate School District has had an opportunity to review and comment on the proposal.**
- B. **There is adequate water pressure and flow for fire fighting purposes; and**
- C. **The appropriate fire district has had an opportunity to review and comment on the proposal.**
- D. **The proposal can receive adequate local police protection with the standards of the jurisdiction providing police protection.**

**Applicant:** All of the service provider forms have been signed and submitted, showing adequate service levels can be provided to the dwelling. The service provider forms are in exhibit A6 from CU 12-96, HV 18-96, and SEC 27-96.

**Staff:** The fire district has not commented on the proposed variance or modification of conditions requests. Staff assumes based on the 1996 response form that the district would not oppose the requests.

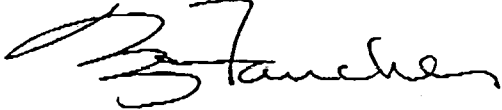
**Policy No. 40, Development Requirements:** The County's policy is to encourage a connected park and recreation system and to provide for small private recreation areas by requiring a finding prior to approval of legislative or quasi-judicial action that:

- A. Pedestrian and bicycle path connections to parks, recreation areas and community facilities will be dedicated where appropriate and where designated in the bicycle corridor capital improvements program and map.
- B. Landscaped areas with benches will be provided in commercial, industrial and multiple family developments, where appropriate.
- C. Areas for bicycle parking facilities will be required in development proposals, where appropriate.

**Applicant:** This should not apply to a residential dwelling, nor is there a near by park or recreation area.

**Staff:** Concurs that this policy does not apply to the request related to a single family dwelling.

Dated this 7<sup>th</sup> day of June 1998.



Liz Fancher, Hearings Officer

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**Appeal to the Board of County Commissioners:**

The Hearings Officer Decision may be appealed to the Board of County Commissioners (Board) by any person or organization who appears and testifies at the hearing, or by those who submit written testimony into the record. An appeal must be filed with the County Planning Division within ten days after the Hearings Officer decision is submitted to the Clerk of the Board. An Appeal requires a completed "Notice of Review" for and a fee of \$500.00 plus a \$3.50 - per- minute charge for a transcript of the initial hearing(s). [ref. MCC 11.15.8260(A)(1) and MCC 11.15.9020(B)] Instructions and forms are available at the County Planning Office at 2115 SE Morrison Street (in Portland) or you may call 248-3043, for additional instructions.

## List of Exhibits for CU 4-98, and HV 7-98

### "A" Applicant Submittals:

- A1 Combined CU, Variance Narrative and Exhibits, 4/9/98 submittal, form.
  - A. Site Plan
  - B. Photographs
  - C. 3/16/98 ltr. Halstead Arboriculture
  - D. 6/5/96 statement from T. Layton, Fire Chief
  - E. 8/17/93 statement from D. Bryson, Fire Chief
  - F. Site Map
  - G. 6/29/93 statement from R. Meyer
  - H. CS 4-92 Decision, 3/2/92
  - I. Administrative decision, DR 17-93, HDP 21-93
  - J. 8/3/94 hearing minutes and staff report, HV 12-94
  - K. Hearings Officer decision HV 12-94
  - L. HV 12-94 Variance request, Spencer Vail
- A2 7/16/97 Hearings Officer decision, CU 12-96, HV 18-96, SEC 27-96
- A3 4/20/98 letter, T. Layton, To Whom it may concern.
- A4 12/9/88 Lot of Exception application, deed and survey.
- A5 Road plan date stamped 4/27/98
- A6 4/24/98 Framework Plan Summary

### "B" Notification Information

- B1 4/15/98 Notice of Public Hearing
- B2 Staff Incomplete letter dated 4/15/98

### "C" Staff Report, Documentation

- C1 CU 4-98, HV 7-98 Staff Report, dated 4/29/98.
- C2 Letters from staff to Andre Protassy, dated 1/7/98, 1/9/98, 1/30/98.
- C3 4/24/98 letter from Lisa Estrin to American Hellenic Education Center, Inc.
- C4 1996 Aerial photo of road and adjacent properties

### "D" Agency Comment

### "H" Documents Submitted at 5/6/98 Public Hearing:

- H1 \_\_\_\_\_
- H2 \_\_\_\_\_
- H3 \_\_\_\_\_

## **Exhibit List for CU 4-98 and HV 7-98, Continued**

### **"F" Documents Submitted After 5/6/98 Public Hearing**

- F-1 May 13, 1998 letter from Chuck Beasley to Liz Fancher
- F-2 Fax and letter from Jim Peterson, Vice President, American Hellenic Educational Center dated May 12, 1998
- F-3 May 12, 1998 letter from Andre Protassy to Liz Fancher
- F-4 Two-part May 21, 1998 letter from Andre Protassy to Liz Fancher, with map and photograph exhibits
- F-5 May 18, 1998 letter from Chuck Beasley to Liz Fancher
- F-6 Letter from Dorothy Cofield to Liz Fancher dated May 7, 1998

### **"H" Documents Submitted at 5/6/98 Public Hearing**

- H-1 Affidavit of Posting
- H-2 May 5, 1998 Letter from Chuck Beasley to Liz Fancher, Hearings Officer
- H-3 Twelve photographs of Protassy property and roadway numbered H-3-A through H-3-L
- H-4 Map of private road, Protassy property and turnaround on adjoining property
- H-5 HB 3508

## BUDGET MODIFICATION NO.

BM MC5098-10

(For Clerk's Use) Meeting Date JUN 25 1998  
Agenda No. C-5

## 1. REQUEST FOR PLACEMENT ON THE AGENDA FOR

(Date)

DEPARTMENT Sheriff's Office

CONTACT Larry Aab

DIVISION

TELEPHONE 251-2489

\* NAME(S) OF PERSON MAKING PRESENTATION TO BOARD

## SUGGESTED

AGENDA TITLE (to assist in preparing a description for the printed agenda)

Budget modification adding \$22,536 in US Department of Justice Community Oriented Policing Services funds which will be used to pay for a mobile community policing office in Columbia Gorge.

(Estimated Time Needed on the Agenda)

## 2. DESCRIPTION OF MODIFICATION

(Explain the changes this Bud Mod makes. What budget does it increase? What do changes accomplish? Where does the money come from? What budget is reduced? Attach additional information if you need more space.)

Personnel changes are shown in detail on the attached sheet

This budget modification will add \$20,859 in overtime funds to the Sheriff's enforcement budget. The funds will be used to staff a mobile community policing office during the summer months in the Columbia Gorge. Also budgeted will be \$1,677 in indirect costs. The funds are part of a US Department of Justice Community Oriented Policing Services grant, also known as a COPS More grant.

## 3. REVENUE IMPACT

(Explain revenues being changed and reason for the change)

Add \$22,536 in US Department of Justice funds.

Add \$1,239 service reimbursement to the insurance fund.

Add \$1,677 in transfer from the federal state fund to the general fund (indirect.)

## 4. CONTINGENCY STATUS

(to be completed by Budget &amp; Planning)

Fund Contingency before this modification (as of

Date

After this modification

\$

\$

Originated By

Date

Department Director

Date

Plan/Budget Analyst

Date

Employee Services

Date

Board Approval

Date

BM MCS098-10

BUDGET FY: \_\_\_\_\_

BUDGET FY: \_\_\_\_\_



**BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM BRIEFING  
STAFF REPORT SUPPLEMENT**

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TO: BOARD OF COUNTY COMMISSIONERS

FROM: DAN NOELLE,  
Sheriff

TODAY'S DATE: JUNE 4, 1998

REQUESTED PLACEMENT DATE: NEXT AVAILABLE BOARD MEETING

RE: BUDGET MODIFICATION APPROPRIATING \$22,536 IN COPS MORE GRANT  
FUNDING TO FUND A MOBILE COMMUNITY POLICING OFFICE IN THE COLUMBIA  
GORGE

---

I. Recommendation/Action Requested:

Recommend approval of a budget modification that will add \$22,536 to overtime in the Sheriff's enforcement budget. Funds will be used to staff a mobile community policing office that will be stationed in the Columbia Gorge.

II. Background/Analysis:

Each year, the Columbia River Gorge has in excess of one million tourists. The bulk of these tourists are in the summer months. With such a high number of visitors a high incidence of thefts, vehicle break ins, etc. are common. This bud mod, through a grant from the federal government, will allow the Sheriff's Office to use an existing motor home and staff a mobile community policing office in the gorge area. The mobility of the motor home will allow officers to move back and forth to high visitor areas.

III. Financial Impact:

This bud mod appropriates revenue from the Federal Government Cops More Program. The total award is \$22,536 to be used for base pay in officer overtime.

III. Legal Issues:

None known

V. Controversial Issues:

None known

VI. Link to Current County Policies:

This grant will help support the county's long term vision of Increased Sense of Safety and Security.

VII. Citizen Participation:

N/A

VIII. Other Government Participation:

Federal Government through the Cops More grant program.



**U.S. Department of Justice**

**Office of Community Oriented Policing Services (COPS)  
Grants Administration Division**

1100 Vermont Avenue, NW  
Washington, D.C. 20530

FEB 9 1997

Sheriff Dan Noelle  
Multnomah County  
12240 NE Glisan Street  
Portland, OR 97230

Dear Sheriff Noelle:

I am pleased to inform you that your request for a renewal of your COPS MORE grant has been approved. As you know, this funding is for the continued support of the civilians and/or overtime that you were awarded under your original COPS MORE Award. We expect this renewal will enable you to maintain the level of redeployment outlined in your original grant.

As a result of this renewal, your grant period has been extended for an additional year. (Your new grant end date appears on the actual Renewal Award document). We understand that this may not be sufficient time to complete the full draw-down of renewal funds (as well as complete grant requirements under your original grant) and therefore you will be able to request an extension of your grant period at a later date.

Enclosed in this packet is your Renewal Award document, which you must sign to officially accept your renewal. On the renewal document you will find the renewal amount as well as the amount of funds previously awarded. The renewal award is a supplement to your original grant, so your grant number will remain the same.

If you have any questions regarding your renewal, please contact the Department of Justice Response Center at 1-800-421-6770 or call your grant advisor.

Sincerely,

*Joe Brann*  
Joseph E. Brann  
Director, COPS Office



**COPS MORE 95 AWARD RENEWAL**  
**U.S. DEPARTMENT OF JUSTICE**  
**OFFICE OF COMMUNITY ORIENTED POLICING SERVICES**  
**Supplement # 2**

Grant #: 95CMWX0232

ORI #: OR02600

Vendor #: 936002309

Applicant Organization's Legal Name: Multnomah County

Authorized Official Name: Sheriff Dan Noelle

12240 NE Glisan Street

Portland, OR 97230

Phone Number: (503) 251-2400

Fax Number: (503) 251-2428

Original Award start date: 9/1/95

New Award end date: 8/30/98

Previous Award Amount: \$36,338.00

Previous Number of Redeployed Officers: 1.2

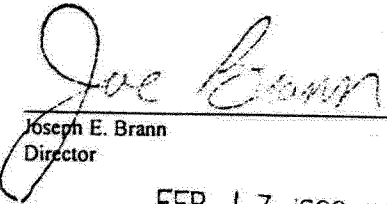
Supplement to Award: \$18,169.00

Supplement to Civilian Personnel Award: \$0.00

Supplement to Overtime Award: \$18,169.00

Supplemental Redeployment: 0.6

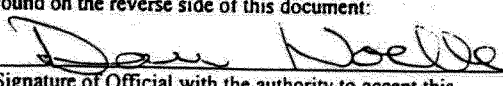
Total Award Amount to date: \$54,507.00

  
Joseph E. Brann  
Director

Date

FEB 17 1998

By signing this award, the signatory official is  
agreeing to abide by the Conditions of Grant Award  
found on the reverse side of this document:

  
Signature of Official with the authority to accept this  
grant award

DAN NOELLE, Sheriff  
Typed Name and Title of Official

March 12, 1998  
Date

## **CONDITIONS OF GRANT RENEWAL**

1. The funding under this MORE grant renewal may only be used for the continuation of payment of the approved salaries and benefits of those full-time civilian positions awarded under your agency's previous MORE award; and/or for the continuation of payment of the overtime hours for officers awarded under your previous MORE award.
2. This grant renewal must result in the maintenance of the increased number of civilian positions and/or overtime hours that resulted from the initial COPS MORE grant award.
3. The grantee remains subject to the same terms and conditions as were set forth in the original MORE award.

MEETING DATE: JUN 25 1998  
AGENDA NO.: C-6  
ESTIMATED START TIME: 9:00

(Above space for Board Clerk's Use ONLY)

**AGENDA PLACEMENT FORM**

SUBJECT: Intergovernmental Agreement with Oregon Health Sciences University

BOARD BRIEFING      Date Requested: \_\_\_\_\_  
                                 Requested By: \_\_\_\_\_  
                                 Amount of Time Needed: \_\_\_\_\_

REGULAR MEETING      Date Requested: \_\_\_\_\_  
                                 Amount of Time Needed: 5 minutes or less

DEPARTMENT: Health      DIVISION: Dental Services

CONTACT: \* Gordon Empey      TELEPHONE #: x26334

BLDG/ROOM #: 160/8

PERSON(S) MAKING PRESENTATION: Consent Calendar

**ACTION REQUESTED:**

☐ INFORMATIONAL ONLY   ☐ POLICY DIRECTION   ☒ APPROVAL   ☐ OTHER

**SUGGESTED AGENDA TITLE:**

Amendment 2 to Intergovernmental Agreement 201127 with OHSU Russell Street Dental Clinic to provide dental lab services to low-income Multnomah County residents at a discounted rate.

6/26/98 ORIGINALS TO MARIANNE  
METZGER

**SIGNATURES REQUIRED:**

ELECTED OFFICIAL: \_\_\_\_\_

Or

DEPARTMENT MANAGER: Billi Odgaard

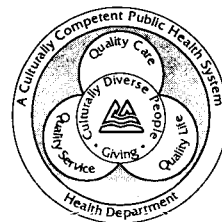
**ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES**

Any Questions: Call the Board Clerk at 248-3277

98 JUN 16 PM 4:27  
MULTNOMAH COUNTY  
OREGON  
BOARD OF  
COUNTY COMMISSIONERS



# MULTNOMAH COUNTY OREGON



HEALTH DEPARTMENT  
426 S.W. STARK STREET, 7TH FLOOR  
PORTLAND, OREGON 97204-2394  
(503) 248-3056  
FAX (503) 248-3015  
TDD (503) 248-3816

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DAN SALTZMAN • DISTRICT 1 COMMISSIONER  
GARY HANSEN • DISTRICT 2 COMMISSIONER  
TANYA COLLIER • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

## MEMORANDUM

**Date:** April 2, 1998  
**To:** Board of County Commissioners  
**Via:** Bill Odgaard, Health Department Director  
**From:** Gordon Empey, Dental Services Director  
**Subject:** Amendment #2 to Intergovernmental Agreement #201127

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### HONOR CULTURE, CELEBRATE DIVERSITY AND INSPIRE QUALITY

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- I. Recommendation/Action Requested: The Health Department recommends Board ratification of Amendment #2 to Intergovernmental Agreement # 201227 with Oregon Health Sciences University.
- II. Background/Analysis: The Health Department and OHSU's Russell Street Dental Clinic have collaborated for many years in the provision of dental care to low-income County residents. In the fall of 1996, Russell Street offered to provide laboratory services for the County's dental clinics free of charge. They are unable to continue to provide this service without a charge. The dental clinics are currently sending full and partial denture work to Russell Street. Russell Street has agreed to provide this work at \$75 per unit of laboratory work. The rate is guaranteed through December 31, 1998. Thereafter, annual increases are allowed but may not exceed the most recently published Portland-area medical CPI. This Amendment also changes the Agreement from an automatic renewal to an expiration date of December 31, 2001.
- III. Financial Impact: Annual expenditures are expected to total approximately \$75,000. This is a substantial discount from a commercial dental laboratory rate. The source of funding is current Medicaid revenues.
- IV. Legal Issues: None.
- V. Controversial Issues: None.
- VI. Link to Current County Policies: Continuing to collaborate with community agencies in the provision of health care.
- VII. Citizen Participation: None.
- VIII. Other Government Participation: None.

# MULTNOMAH COUNTY CONTRACT APPROVAL FORM

(See Administrative Procedure CON-1)

Pre-approved Contract Boilerplate (with County Counsel signature) ☒ Attached ☐ Not Attached Contract #: 201127  
Amendment #: 2

CLASS I	CLASS II	CLASS III
<input type="checkbox"/> Professional Services not to exceed \$50,000 (and not awarded by RFP or Exemption) <input type="checkbox"/> Revenue not to exceed \$50,000 (and not awarded by RFP or Exemption) <input type="checkbox"/> Intergovernmental Agreement (IGA) not to exceed \$50,000 <input type="checkbox"/> Expenditure <input type="checkbox"/> Revenue <input type="checkbox"/> Architectural & Engineering not to exceed \$10,000 (for tracking purposes only)	<input type="checkbox"/> Professional Services that exceed \$50,000 or awarded by RFP or Exemption (regardless of amount) <input type="checkbox"/> PCRB Contract <input type="checkbox"/> Maintenance Agreement <input type="checkbox"/> Licensing Agreement <input type="checkbox"/> Construction <input type="checkbox"/> Grant <input type="checkbox"/> Revenue that exceeds \$50,000 or awarded by RFP or Exemption (regardless of amount)	<input checked="" type="checkbox"/> Intergovernmental Agreement (IGA) that exceeds \$50,000 <input checked="" type="checkbox"/> Expenditure <input type="checkbox"/> Revenue <div style="text-align: center; font-weight: bold;">                         APPROVED MULTNOMAH COUNTY                          BOARD OF COMMISSIONERS                          AGENDA # <u>C-6</u> DATE <u>6/25/98</u>  <u>DEB BOGSTAD</u>                          BOARD CLERK                     </div>

Department: Health Department Division: Dental Services Date: 04/01/98  
 Originator: Gordon Empey Phone: x26334 Bldg/Rm: 160/8  
 Contact: Marianne Metzger Phone: x26207 Bldg/Rm: 160/7

Description of Contract:  
 Dental laboratory services for County's dental clinics. OHSU will charge \$75.00 per unit of laboratory services. The expiration date of the Agreement is December 31, 2001. Annual automatic renewals are no longer applicable.

RENEWAL: ☐ PREVIOUS CONTRACT NO(S): n/a  
 RFP/BID: \_\_\_\_\_ RFP/BID DATE: \_\_\_\_\_  
 EXEMPTION NO/DATE: \_\_\_\_\_ EXEMPTION EXPIRATION DATE: \_\_\_\_\_ ORS/AR #: \_\_\_\_\_  
 CONTRACTOR IS: ☐ MBE ☐ WBE ☐ ESB ☐ QRF ☒ N/A ☐ NONE (Check all boxes that apply)

Contractor <u>Oregon Health Sciences University</u> Address <u>Russell Street Dental Clinic</u> <u>3181 SW Sam Jackson Park Road</u> <u>Portland, OR 97201</u> Phone _____ Employer ID# or SS# <u>93-1176109</u> Effective Date <u>April 1, 1998</u> Termination Date <u>December 31, 2001</u> Original Contract Amount \$ <u>0</u> Total Amt of Previous Amendments \$ <u>0</u> Amount of Amendment \$ <u>Requirements</u> Total Amount of Agreement \$ _____	Carol Dersham, Grants & Contracts Officer, 494-4853 Remittance address _____ (If different) _____ Payment Schedule / Terms <input type="checkbox"/> Lump Sum \$ _____ <input type="checkbox"/> Due on Receipt <input checked="" type="checkbox"/> Monthly \$ <u>(invoice)</u> <input type="checkbox"/> Net 30 <input type="checkbox"/> Other \$ _____ <input type="checkbox"/> Other <input checked="" type="checkbox"/> Requirements Not to Exceed \$ <u>75,000</u> Encumber <input type="checkbox"/> Yes <input type="checkbox"/> No
---	--

**REQUIRED SIGNATURES:**

Department Manager Billee Odegaard DATE 4/16/98  
 Purchasing Manager \_\_\_\_\_ DATE \_\_\_\_\_  
 (Class II Contracts Only)  
 County Counsel Katie Taylor DATE 6/16/98  
 County Chair Sharon Stipp DATE 6/25/98  
 Sheriff \_\_\_\_\_ DATE \_\_\_\_\_  
 Contract Administration \_\_\_\_\_ DATE \_\_\_\_\_  
 (Class I, Class II Contracts only)

LGFS VENDOR CODE						DEPT REFERENCE					
LINE #	FUND	AGENCY	ORG	SUB ORG	ACTIVITY	OBJ/ REV	SUB OBJ	REP CAT	LGFS DESCRIPTION	AMOUNT	INC DEC
01									See attached		
02											
03											



Contract #: 201127  
Amendment #: 2

LINE #	FUND	AGENCY	ORG	SUB ORG	ACTIVITY	OBJ/ REV	SUB OBJ	REP CAT	LGFS DESCRIPTION	AMOUNT	INC DEC
01	156	015	643			6110		0300	Dental Lab Services	22,500	
02	156	015	620			6110		0300	Dental Lab Services	17,500	
03	156	015	630			6110		0300	Dental Lab Services	17,500	
04	156	015	645			6110		0300	Dental Lab Services	17,500	

**AMENDMENT #2 TO  
MULTNOMAH COUNTY AGREEMENT #201127**

THIS AMENDMENT TO AGREEMENT #201127 is between MULTNOMAH COUNTY, hereafter "COUNTY," and OREGON HEALTH SCIENCES UNIVERSITY, hereafter "OHSU."

WITNESSETH:

WHEREAS, COUNTY and OHSU are parties to a certain Agreement dated November 4, 1996, entitled "Intergovernmental Agreement for Dental Laboratory Services" (hereafter "Agreement"); and

WHEREAS, the parties mutually desire to amend said Agreement in the manner hereinafter set forth:

NOW, THEREFORE, the parties agree as follows:

1. The effective date of this Amendment is April 1, 1998.
2. The following paragraph from Amendment #1 to the Agreement is deleted:

~~The expiration date of the Agreement is changed from October 31, 1997, to December 31, 1998. Thereafter the Agreement shall be automatically renewed until December 31 of each following year unless terminated by either party in accordance with the term stated in the Agreement.~~

3. The expiration of the Agreement is December 31, 2001.
4. COUNTY agrees to pay OHSU \$75.00 per unit of laboratory services. One unit equals any of the specific services detailed in paragraph 2.A. of the original Agreement.
  - A. This rate is guaranteed through December 31, 1998. OHSU shall retain the right, upon sixty (60) days prior written notice to COUNTY, to adjust its fees for each year ending December 31 thereafter. Annual fee increases shall not exceed the most recently published Portland-area medical CPI.
  - B. COUNTY will reimburse OHSU monthly upon receipt of a detailed invoice. Invoices shall be sent to:  
Gordon Empey  
Dental Health Officer  
426 SW Stark, 8<sup>th</sup> Floor  
Portland, OR 97204
  - C. COUNTY certifies that sufficient funds are available and authorized to finance the costs of this Agreement through the fiscal year ending June 30, 1998. In the event that funds cease to be available to COUNTY in the amounts anticipated during the remainder of the fiscal year, or in the event that sufficient funds are not approved and

authorized in the next fiscal year, either COUNTY or OHSU may terminate the Agreement or the parties by mutual agreement may reduce Agreement funding accordingly. COUNTY will notify OHSU as soon it receives notification from funding source. Reduction or termination will not affect payment for expenses incurred prior to the effective date of such action.

D. OHSU shall submit all invoices for services provided under this Agreement within 45 days after the end of the Agreement period. COUNTY shall not be responsible for payment of invoices submitted more than 45 days after the end of the Agreement period.

5. All other terms and conditions of the Agreement, as previously amended, remain in effect.

IN WITNESS WHEREOF, the parties have caused this Contract, including the Standard Conditions and any attachments incorporated herein, to be executed by their duly authorized officers.

OREGON HEALTH SCIENCES  
UNIVERSITY

By M.R. Parel  
M.R. Parelus, JD  
Title Acting Director, Research Admin.  
Date 6/8/98

MULTNOMAH COUNTY

By Sharon Kelly Vice-Chair  
for Beverly Stein, Multnomah County Chair  
Date 6/25/98

By Billi Odgaard  
Billi Odgaard, Health Department  
Director,  
Date 4/6/98

By Bob Empey  
Program Manager  
Date 4/3/98

REVIEWED:

Thomas Sponsler, County Counsel for  
Multnomah County, Oregon

By Katie Aug  
Date 6/16/98

MEETING DATE: JUN 25 1998

AGENDA NO: C-7

ESTIMATED START TIME: 9:00

(Above space for Board Clerk's Use Only)

**AGENDA PLACEMENT FORM**

**SUBJECT:** Amendment to Intergovernmental Agreement with Oregon Health Science University Hospital to fund in-patient psychiatric services for children and adult CAAPCare members through a subcapitation, financial risk sharing model.

**BOARD BRIEFING**

Date Requested: \_\_\_\_\_

Requested By: \_\_\_\_\_

Amount of Time Needed: \_\_\_\_\_

**REGULAR MEETING**

Date Requested: \_\_\_\_\_

Amount of Time Needed: N/A

**DEPARTMENT:** Community and Family Services

**DIVISION:** Behavioral Health

**CONTACT:** Lorenzo Poe/Bill Thomas

**TELEPHONE:** 248-3691

**BLDG/ROOM:** B166/7th

**PERSON(S) MAKING PRESENTATION:** Consent

**ACTION REQUESTED:**

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

**SUGGESTED AGENDA TITLE**

Amendment with OHSU University Hospital psychiatric in-patient services for children and adults enrolled in CAAPCare.

4/26/98 ORIGINALS to Irene Finley

**SIGNATURES REQUIRED:**

**ELECTED OFFICIAL:** \_\_\_\_\_

**OR**  
**DEPARTMENT MANAGER:** Lorenzo Poe mas

CLERK  
COUNTY COMMISSIONERS  
98 JUN 19 PM 4:03  
MULTI-NOMINAL COUNTY  
OREGON

**ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES**

Any Questions: Call the Board Clerk @ 248-3277



# MULTNOMAH COUNTY OREGON

DEPARTMENT OF COMMUNITY AND FAMILY SERVICES  
421 SW SIXTH AVENUE, SUITE 700  
PORTLAND, OREGON 97204  
PHONE (503) 248-3691  
FAX (503) 248-3379  
TDD (503) 248-3598

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DAN SALTZMAN • DISTRICT 1 COMMISSIONER  
GARY HANSEN • DISTRICT 2 COMMISSIONER  
TANYA COLLIER • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

TO: Board of County Commissioners  
FROM: Lorenzo Poe, Director *Lorenzo Poe mas*  
Department of Community and Family Services  
DATE: June 17, 1998  
SUBJECT: FY 97-98 Contract Amendment for Mental Health Capitation Services

**I. Retroactive Status:** This contract amendment for in-patient mental health services is retroactive to May 1, 1998 following negotiations to include OHSU in the Participating Provider Hospital subcapitation agreement.

**II. Recommendation/Action Requested:** Department of Community and Family Services recommends Board of County Commissioner approval of the amendment with Oregon Health Sciences University Hospital for the period May 1, 1998 through June 30, 1999. This amendment changes the conditions of contracting and the payment terms to a subcapitated in-patient contract as a Participating Provider Hospital effective May 1, 1998. It also extends the duration of the contract for another year to June 30, 1999.

**III. Background/Analysis:** The contract began April 1, 1996 when the County was first awarded the Children's Mental Health Capitation Project under State Mental Health and Developmental Disability Services Division. Effective November 1, 1997, the State's award became inclusive of adult members of the Mental Health Organization, (MHO), CAAPCare under the Oregon Health Plan Medicaid Mental Health Demonstration Project. At that time, two in-patient hospital providers entered into risk-sharing subcapitation contracts with the County. In a subsequent amendment to the Providence subcapitation contract, all crisis and emergency hold services were channeled through the Providence Health System Crisis Triage Center with Providence and Legacy systems sharing the cost and/or profit with the County. The County continued to maintain contracts with other in-patient hospital providers for pre-authorized services from the Crisis Triage Center or directly from the County MHO, with OHSU being one of the Out-of-Plan Providers.

**IV. Financial Impact:** There is an estimated increase of Requirements based payments of approximately \$100,000 over the period of May 1, 1998 through June 30, 1999. Adult members who became eligible for voluntary hospitalization under CAAPCare in November, 1997 comprise a significant increase to the costs of providing services under CAAPCare. The MHO also became responsible for the emergency hold hospitalizations of its members, which had previously come from the County General Fund budget.

**V. Legal Issues:** None

**VI. Controversial Issues:** None

**VII. Link to Current County Policies:** This agreement and its amendments address the County benchmark to increase access to mental health services.

**VIII. Citizen Participation:** N/A

**IX. Other Government Participation:** This agreement reflects a decision to include OHSU Hospital, a governmental entity, into the mutual sharing of risk by County and other Participating Provider Hospitals.

**MULTNOMAH COUNTY CONTRACT APPROVAL FORM**  
(See Administrative Procedure CON-1)

Contract #: 103787

Pre-approved Contract Boilerplate (with County Counsel signature) ☐ Attached ☒ Not Attached

Amendment #: 3

<b>Class I</b> <input type="checkbox"/> Professional Services not to exceed \$50,00 (and not awarded by RFP or Exemption) <input type="checkbox"/> Revenue not to exceed \$50,000 (and not awarded by RFP or Exemption) <input type="checkbox"/> Intergovernmental Agreement (IGA) not to exceed \$50,000 <input type="checkbox"/> Expenditure <input type="checkbox"/> Revenue <input type="checkbox"/> Architectural & Engineering not to exceed \$10,000 (for tracking purposes only)	<b>Class II</b> <input type="checkbox"/> Professional Services that exceed \$50,000 or awarded by RFP or Exemption (regardless of amount) <input type="checkbox"/> PCRB Contract <input type="checkbox"/> Maintenance Agreement <input type="checkbox"/> Licensing Agreement <input type="checkbox"/> Construction <input type="checkbox"/> Grant <input type="checkbox"/> Revenue that exceeds \$50,000 or awarded by RFP or Exemption (regardless of amount)	<b>Class III</b> <input checked="" type="checkbox"/> Intergovernmental Agreement (IGA) that exceeds \$50,000 <input checked="" type="checkbox"/> Expenditure <input type="checkbox"/> Revenue <p align="center"><b>APPROVED MULTNOMAH COUNTY BOARD OF COMMISSIONERS</b></p> <p><b>AGENDA #</b> C-7 <b>DATE</b> 6/25/98</p> <p align="center">DEB BOGSTAD <b>BOARD CLERK</b></p>
--	---	---

Department: <u>Community and Family Services</u>	Division: <u>Behavioral Health</u>	Date: <u>June 19, 1998</u>
Originator: <u>Bill Thomas/Susan Salkield</u>	Phone: <u>22095/24432</u>	Bldg/Rm: <u>166/5th</u>
Contact: <u>Irene Finley</u>	Phone: <u>26296</u>	Bldg/Rm: <u>166/7</u>

Description of Contract **Amendment to IGA for in-patient mental health services to members of CAAPCare under a sucapitation payment mechanism. Amendment also extends contracts to June 30, 1999.**

RENEWAL: <input type="checkbox"/>		PREVIOUS CONTRACT #(S):
FP/BID: <u>N/A IGA</u>	RFP/BID DATE:	
EXEMPTION	EXEMPTION EXPIRATION	ORS/AR
#/DATE	DATE	#
CONTRACTOR IS: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> ESB <input type="checkbox"/> QRF <input type="checkbox"/> N/A <input type="checkbox"/> NONE (Check all boxes that apply)		

Contractor <u>Oregon Health Sciences University Hospital</u>		Remittance Address
Address <u>3181 SW Sam Jackson Park Road</u>		(If different) _____
<u>Portland, OR 97201-3098</u>		
Phone <u>(503) 494-4854 FAX (503) 494-7787</u>	Payment Schedule / Terms	
Employer ID# or SS# <u>93-1176109</u>	<input type="checkbox"/> Lump Sum \$ _____	<input type="checkbox"/> Due on Receipt
Effective Date <u>May 1, 1998</u>	<input type="checkbox"/> Monthly \$ _____	<input type="checkbox"/> Net 30
Termination Date <u>June 30, 1999</u>	<input checked="" type="checkbox"/> Other \$ <u>see contract</u>	<input type="checkbox"/> Other
Original Contract Amount \$ <u>Requirements</u>		
Total Amt of Previous Amendments \$ <u>Requirements</u>	<input checked="" type="checkbox"/> Requirements \$ _____	
Amount of Amendment \$ <u>Requirements</u>		
Total Amount of Agreement \$ <u>Requirements</u>	Encumber <input type="checkbox"/> Yes <input type="checkbox"/> No	

**REQUIRED SIGNATURES**

Department Manager <u><i>Solange Polley</i></u>	DATE <u>6/19/98</u>
Purchasing Manager _____	DATE _____
County Counsel <u><i>Natlie Dutz</i></u>	DATE <u>6/23/98</u>
County Chair <u><i>Sharron Kelley</i></u>	DATE <u>6/25/98</u>
Sheriff <u>Sharron Kelley, Vice-Chair</u>	DATE _____
Contract Administration _____	DATE _____

LGFS VENDOR CODE						DEPT REFERENCE					
LINE #	FUND	AGENCY	ORG	SUB ORG	ACTIVITY	OBJ/ REV	SUB OBJ	REP CAT	LGFS DESCRIPTION	AMOUNT	INC DEC
01									see attached		
02											

COMMUNITY AND FAMILY SERVICES DEPARTMENT  
CONTRACT APPROVAL FORM SUPPLEMENT

Page 1 of 1  
6/19/98

Contractor : OHSU UNIVERSITY HOSPITAL

Vendor Code : CAP028

Fiscal Year : 97/98

Through Amendment Number : 03

Contract Number : 103787

LINE	FUND	AGEN	ORG CODE	ACTIVITY CODE	OBJECT CODE	REPORTING CATEGORY	LGFS DESCRIPTION	ORIGINAL AMOUNT	AMENDMENT AMOUNT	FINAL AMOUNT	REQT'S ESTIMATE
54	395	010	1663	C11H	6060	9601X	MH XIX Capitation CC/CCPlus Hospitalization	\$0.00	Requirements	Requirements	\$50,000.00
56	395	010	1662	K22B	6060	9601X	MH XIX Capitation Capitated Inpatient Services	\$0.00	Requirements	Requirements	\$100,000.00
57	395	010	1663	K22B	6060	9601X	MH XIX Capitation Capitated Inpatient Services	\$0.00	Requirements	Requirements	\$50,000.00
TOTAL								\$0.00	\$0.00	\$0.00	\$200,000.00

COMMUNITY AND FAMILY SERVICES DEPARTMENT  
CONTRACT APPROVAL FORM SUPPLEMENT  
Contractor : OHSU-UNIVERSITY HOSPITAL

Page 1 of 1  
6/19/98

Vendor Code : CAP028

Fiscal Year : 98/99

Numeric Amendment : 03

Contract Number :

LINE	FUND	AGEN	ORG CODE	ACTIVIY CODE	OBJECT CODE	REPORTING CATEGORY	LGFS DESCRIPTION	ORIGINAL AMOUNT	AMENDMENT AMOUNT	FINAL AMOUNT	REQT'S ESTIMATE
52	395	010	1664	K22B	6060	9601X <div></div>	MH XIX Capitation Capitated Inpatient Services		Requirements	Requirement	\$947,142.00
TOTAL								\$0.00	\$0.00	\$0.00	\$947,142.00



MULTNOMAH COUNTY DEPARTMENT OF COMMUNITY AND FAMILY SERVICES  
CONTRACT #103787, AMENDMENT #3

DURATION OF AMENDMENT:	FROM: May 1, 1998	TO: June 30, 1999
HOSPITAL NAME:	Oregon Health Sciences University Hospital	TELEPHONE: (503) 494-4854
HOSPITAL ADDRESS:	3181 SW Sam Jackson Road	IRS NUMBER: 93-1176109
	Portland, OR 97201-3098	

This amendment is to that certain CAPCare contract dated April 1, 1996, between the Multnomah County Department of Community and Family Services, referred to as "COUNTY" and Oregon Health Sciences University Hospital (OHSU), referred to as "HOSPITAL." It is understood by the parties that all conditions and agreements in the original contract not superseded by the language of this or prior amendment are still in force and apply to this amendment.

This amendment designates OHSU as a Participating Hospital under CAAPCare and extends the term of the contract through June 30, 1999.

## AMENDMENTS

### A. Statement of Work

#### 1. Participating Hospital

Effective May 1, 1998, HOSPITAL is a Participating Hospital under this contract. Participating Hospitals are those hospitals eligible to receive disbursement based on a risk-sharing agreement with COUNTY. HOSPITAL agrees to provide medically appropriate covered services consistent and in compliance with the applicable COUNTY, State and Federal service definitions, laws, Administrative Rules, policies, procedures and program instructions. HOSPITAL agrees that HOSPITAL is governed by Oregon Administrative Rules (OAR) Chapter 309, made applicable by this Contract, and applicable Oregon Medical Assistance Program Rules in OAR Chapter 410 whether in effect at the time this Contract is signed or adopted or amended during the term of this Contract. This includes those rules pertaining to the provision of prepaid capitated health care services, OAR Chapter 410, Division 141. Specifically, and in no way limiting the foregoing sentences, HOSPITAL agrees to comply with OMAP BA Codes, and the OMAP Prioritized List of Covered Services, from May 1, 1998 until the termination of this Contract through June 30, 1999.

#### 2. Compliance with State MHO

Effective November 1, 1997, HOSPITAL agrees to provide mental health services in accordance with the State MHO Agreement, which is hereby incorporated in this Contract, including applicable exhibits, and subsequent revisions of the above referenced document. Applicable sections of the MHO Agreement include: a) Part VII, Statement of Work; b) Part XXIV, Non-Discrimination; c) Part XXVII, Professional Liability Insurance; d) Part XXVIII, Tort Claims; e) Part XXIX, Compliance with State Laws; f) Part XXX, Workers Compensation Coverage; g) Part XXXI, Additional Federal Requirements; and any other provisions of the MHO Agreement that impose requirements upon the COUNTY for any activities being contracted under this Agreement.

#### 3. Title XIX Open Card Services

Effective July 1, 1997, as applicable, HOSPITAL agrees to also provide Title XIX services within the service element(s) marked **State Payment** in Attachment A. For these Title XIX services, HOSPITAL certifies that it is and agrees to maintain its Performing Provider Status under OAR 309-16-0000 through 0230 through the term of this Contract. All funds identified **State Payment** are disbursed by the Oregon Office of Medical Assistance Programs (OMAP).

4. Special Program Instructions contained in Network Provider Manual

Effective May 1, 1998, all references to the Multnomah County CAAPCare (Child, Adolescent and Adult Plan) Provider Manual or PROVIDER MANUAL are replaced by the MENTAL HEALTH NETWORK PROVIDER MANUAL, (hereafter referred to as the NETWORK MANUAL).

5. Coordination and Integration of services with the Crisis Response System

Effective May 1, 1998, HOSPITAL:

a) shall follow criteria and protocols for inpatient mental health services triage and admission as detailed in the NETWORK MANUAL. Any reference to inpatient mental health services in the original contract are superseded by the most recent criteria and protocols in the NETWORK MANUAL. HOSPITAL agrees that all Oregon Health Plan (OHP) covered inpatient mental health hospital admissions to Participating Hospitals and non-participating hospitals under this contract, including Emergency Hospital Holds and transfers from a medical unit to a psychiatric unit, must be evaluated and prior authorized by the Crisis Triage Center (CTC) at Portland Providence Hospital either upon telephone consultation between HOSPITAL or other facility/referral source and the CTC, upon transportation to the CTC from HOSPITAL or upon referral and/or walk in to the CTC. This evaluation may involve mobile outreach by the CTC in some circumstances. In the event that a CAAPCare member who presents at a hospital for an inpatient admission does not meet the CAAPCare criteria for admission to an inpatient facility contained in the NETWORK MANUAL, HOSPITAL will work with member/family/supports to assure that the least restrictive, most appropriate level of outpatient services are made available to the member.

b) agrees that the Crisis Triage Center shall assume all responsibility for decisions related to authorization for payment for inpatient admission of CAAPCare members to Participating Hospitals and non-participating hospitals. COUNTY will assure that hospital staff will receive immediate response from the CTC staff, and that consultation from the CTC physician regarding admission decision will be available as quickly as possible. Should HOSPITAL and CTC disagree about admitting a member, HOSPITAL can appeal to the COUNTY'S CAAPCare Program, in accordance with Provider Appeals procedures contained in the NETWORK MANUAL.

c) will receive prior authorization for an inpatient psychiatric admission from the CTC. COUNTY shall assure that any CAAPCare member for whom HOSPITAL has arranged admission, will be admitted in a timely manner. When a CAAPCare member who appears to meet the criteria for admission to an inpatient facility contained in the NETWORK MANUAL is screened at the HOSPITAL'S Emergency Department, HOSPITAL shall assure that timely contact is made with the CTC to request authorization for an inpatient admission. If so requested by the CTC, HOSPITAL shall assure that appropriate and timely arrangements are made for transportation to the CTC for extended evaluation of medically appropriate alternatives to hospitalization. If inpatient admission is authorized by the CTC to another facility, HOSPITAL shall assure that appropriate and timely arrangements are made for transportation to that facility.

6. Service Delivery

a) HOSPITAL assures the capacity to meet all CAAPCare member needs for OHP covered inpatient mental health services in a timely manner. HOSPITAL assures the provision of inpatient services in specialized inpatient settings appropriate to individualized needs of CAAPCare members, such as adolescents, older adults, and persons with dual diagnoses, including referral to other hospitals when so indicated. HOSPITAL agrees to develop and maintain an individualized treatment plan for each CAAPCare member served.

b) HOSPITAL agrees to notify and coordinate with the member's Primary Care Provider and/or Fully Capitated Health Plan (FCHP) regarding the inpatient admission.

c) HOSPITAL agrees to request prior authorization for specialist consultation or OHP covered medical services from the member's Fully Capitated Health Plan (FCHP) in accordance with that FCHP's procedures should that member have co-morbid medical conditions which require assessment or intervention during the course of an authorized inpatient admission. HOSPITAL agrees to provide OHP Covered Services in compliance with the NETWORK MANUAL, any program instructions and special conditions, all applicable Federal, State, and local laws, service definitions and any subsequent revisions to the above referenced documents.

7. Long-Term Psychiatric Care coordination and expectations

a) If HOSPITAL believes a CAAPCare member who is being served by HOSPITAL in an Acute Inpatient Hospital Psychiatric Care setting is Appropriate for Long Term Psychiatric Care, HOSPITAL shall collaborate with CAAPCare to request a Long Term Psychiatric Care determination as described in Exhibit H of the State MHO Agreement, Long Term Psychiatric Care (LTPC) Determination.

b) HOSPITAL shall request LTPC determinations from:

The Extended Care Management Unit (ECMU) of the Mental Health and Developmental Disability Services Division (MHDDSD) for CAAPCare members age 18 to 65;

The Geropsychiatric Treatment Program of the MHDDSD for CAAPCare members age 65 or older, or 64 or younger who also have significant nursing care needs due to an Axis III disorder of an enduring nature; and

The Community Coordinating Committee (CCC) Chair who will coordinate the need for admission to the Children and Adolescents Treatment Services (CATS) Program with the MHDDSD.

c) HOSPITAL shall submit written clinical justification for the LTPC determination and shall provide all documentation for the request as described in Exhibit H of the State MHO Agreement.

**B. Compensation and Payment**

Effective May 1, 1998, through June 30, 1999, this amendment deletes from Amendment #2 **Part II: Subsection Compensation and Payment** as well as **Part IV. PAYMENT AND BILLING** of the original contract in its entirety and replaces it with the following:

1. Premium (Risk) Sharing Services

a) During the contract period, in accordance with the Compensation and Payment Arrangements in this section, Participating Hospitals shall be fully at risk for the costs of inpatient psychiatric services (as defined in this paragraph) provided to any and all CAAPCare members who meet the criteria for OHP covered inpatient psychiatric admissions contained in the NETWORK MANUAL. Participating Hospitals shall be responsible for all inpatient service charges for CAAPCare members admitted for inpatient psychiatric services, including any medically appropriate charges for emergency room care, for mental health and physical health service, for psychiatric and psychological services and testing and for other institutional and professional services related to inpatient psychiatric hospitalization. Effective November 1, 1997, partial hospitalization as described in the NETWORK MANUAL is considered an outpatient service. Any partial hospitalization provided by HOSPITAL must be pre-authorized by CAAPCare in accordance with the criteria and protocols contained in the NETWORK MANUAL.

b) Capitation Revenue received from the State of Oregon will be allocated to a Mental Health Care Budget and to an Administrative Budget. No less than eighty eight percent (88%) of capitation revenues received from the State of Oregon under the State MHO agreement, including any interest thereon, will be allocated to a Mental Health Care Budget and no more than twelve percent (12%) will be allocated to an Administrative Budget.

c) Capitation revenue received from the State will be allocated by the COUNTY as follows:

Inpatient Services Pool: 19.6% of OMAP premium. Participating Hospitals shall be at full risk for the costs of all psychiatric inpatient services provided to CAAPCare members (except for inpatient services which are identified and paid for by CAAPCare from the system-wide services pool), including inpatient services paid by CAAPCare to non-participating and out-of-area hospitals (out-of-Plan payments).

Outpatient Services Pool: 50% of OMAP premium. Participating Outpatient Provider Networks shall be at full risk for the costs of all psychiatric outpatient services provided to any and all CAAPCare members who meet the criteria

for OHP covered outpatient services contained in the NETWORK MANUAL, except for outpatient services which are identified and paid for by CAAPCare from the system-wide services pool), including outpatient services paid by CAAPCare to non-participating and out-of area outpatient providers (out-of-Plan payments).

System Wide Services Pool: 15.4% of OMAP premium. County will make direct payments for identified system-wide services to adults and children, including but not limited to: day hospital services, sub-acute psychiatric services, dual-diagnosis residential support services, sub-acute day treatment services, therapeutic school services, and Crisis Triage Center services. Authorization of payments for system-wide services shall be made through approval and referral by CAAPCare, in coordination with Participating Provider Networks and Participating Hospitals. Following payments made by COUNTY for system-wide services, on a periodic basis the Inpatient Services Pool, the Outpatient Services Pool, and the Risk Reserve and Incentives Pool shall share in any surplus or deficit in the System-wide Services Pool, in accordance with procedures described below.

Risk Reserve and Incentive Pool: 3% or greater of OMAP Premium. This Pool shall contain an actuarially determined Risk Reserve for the MHO to cover estimated overall risk for the Plan. (this fund is in addition to the State MHO Agreement requirement for a Restricted Reserve Fund of \$250,000, maintained for State access in the event of insolvency by the Plan). The balance of the Pool will be available for incentives offered by the Plan to inpatient and outpatient providers, and for investments in services system developments.

Administration: 12% or less of OMAP Premium. This allocation shall fund CAAPCare administrative activities necessary to fulfill all administrative requirements of the State MHO Agreement. Administrative responsibilities include: Plan administration; medical administration, contract, data and financial management; member access, complaints resolution and other member services; provider relations; quality management; systems development; and Plan based utilization management. Any cost reductions resulting from changes in COUNTY roles and responsibilities which decrease overall CAAPCare administrative costs to below 12% of OMAP premium will be reallocated to the Risk Reserve and Incentive Pool.

d) Combined, the Outpatient Services Pool, Inpatient Services Pool, the System-wide Services Pool and the Risk Reserve and Incentive Pool comprise the Mental Health Care budget.

## 2. Distribution Formula

a) COUNTY agrees to pay Participating Hospitals 19.6% of the total monthly capitation revenues (less Set Aside Fund, described below) received from the State in accordance with the procedure described in the following paragraph, by the fifteenth (15<sup>th</sup>) calendar day of the month or within five (5) working days of receiving the capitation payment from OMAP, whichever is later.

b) Monthly payments to Participating Hospitals shall be made on the basis of the ratio of CAAPCare patient days (total number of authorized admissions x length of stay for each admission) for each hospital, calculated on the most current actual encounter data, to the total CAAPCare patient days of all Participating Hospitals. The first distribution of payments under this amendment to the current Participating Hospitals will be based on the count of client days for May, 1998, provided by Providence Behavioral Health Services. The distribution formula will be retrospectively adjusted no less than quarterly, beginning no later than August, 1998, on the basis of actual encounter data submitted to that date. If any overpayment results from the monthly disbursement to Participating Hospitals, HOSPITAL shall return to the COUNTY the amount of the overpayment within five (5) months following the end of contract period.

c) A percentage of the total amount of capitation revenues received from the State which are allocated for inpatient mental health services shall be held by the COUNTY in a Set Aside Fund for direct payments to non-participating hospitals. County will make direct payments from this fund for out-of-area emergency hospitalizations of CAAPCare members, for authorized admissions of CAAPCare members to non-participating hospitals when beds at Participating Hospitals are not available, or for authorized admissions of CAAPCare members to non-participating hospitals which are made on the basis of case by case clinical considerations related to the optimal patient care (i.e. medical instability r specialty care needs of the member).

d) Initially, ten percent (10%) of the allocation for inpatient mental health services will be set aside for direct payments to non-participating hospitals. As necessary, the percentage will be increased or decreased over the course of this contract on the basis of actual expenses for direct payments. The percentage set aside will be reviewed no less than quarterly. Following the settlement of all claims for direct payments from the Set Aside Fund, or within six (6) months following the end of the contract period, any funds remaining in the Set Aside Fund shall be paid to Participating Hospitals on the basis of the ratio CAAPCare patient days (total number of authorized admissions x length of stay for each admission) for each hospital, calculated on the most current actual encounter data, to the total CAAPCare patient days of all Participating Hospitals.

### 3. Title XIX Open Card Services

Effective July 1, 1997 this amendment corrects Attachment A to include authorization for HOSPITAL to bill OMAP directly for services paid to HOSPITAL by the State for children or adolescents who receive inpatient mental health services under this contract who are covered by Medicaid but are not part of a MHO for this service. This amendment extends this authorization until the termination of this contract through June 30, 1999.

Payment rates and requirements are identified in the Oregon Mental Health and Developmental Disability Services Division's *Medicaid Rehabilitative Services Procedures Codes and Reimbursement Rates*, and are paid directly by the State Office of Medical Assistance Programs (OMAP). HOSPITAL will follow OHP Administrative Rules when submitting Fee-for Service claims for Oregon Health Plan services provided to OMAP members which are not covered services of an MHO. HOSPITAL must be enrolled with OMAP as a Medicaid Performing Provider to receive payment for all Fee-For-Service claims.

### 4. Long-Term Psychiatric Care Services

Effective November 1, 1997, this amendment corrects Attachment A to include authorization for HOSPITAL to bill OMAP directly for services paid to HOSPITAL by the State for adults who receive inpatient mental health services covered by the State of Oregon but who are not covered by an MHO for this service. This amendment extends this authorization until the termination of this contract through June 30, 1999.

The state will pay HOSPITAL directly, on the basis of a daily rate, for inpatient mental health services provided to CAAPCare members determined by the State as Appropriate for Long -Term Psychiatric Care but who remain in an Acute Inpatient Hospital Psychiatric Care setting, as described in the State MHO Agreement. The daily rate shall be published by the COUNTY.

### 5. Special Fiscal Conditions

a) HOSPITAL shall make reasonable effort to ensure that CAAPCare members cooperate in securing third party resources other than liability insurance, and to the extent permitted by law, HOSPITAL shall, when cost effective and clinically appropriate, collect such resources on behalf of Multnomah COUNTY CAAPCare, including reimbursements from Medicare. HOSPITAL may retain and use any third party reimbursements collected on behalf of Multnomah COUNTY CAAPCare, which shall not be used to off-set payments by the COUNTY under this contract and which shall not be subject to any claim by the COUNTY. All third party reimbursements shall be reported to CAAPCare on a schedule and in a form that is specified in the NETWORK MANUAL.

b) HOSPITAL shall maintain sound financial management practices to protect itself against insolvency commensurate with the level of risk assumed under this agreement. HOSPITAL shall protect itself against excessive loss by either self-insuring or by obtaining stop-loss protection from a private insurer in an amount sufficient to cover estimated risk for the duration of this agreement. HOSPITAL shall provide proof of such coverage to COUNTY upon request. In addition, HOSPITAL shall demonstrate to COUNTY the availability of an operating reserve of no less than \$125,000 of cash or cash equivalents.

c) Medical procedures will be paid in accordance with OHP rules. HOSPITAL will coordinate with the Health Plan Unit of the Mental Health and Developmental Disability Services Division to ensure payment of covered medical procedures by the Fully Capitated Health Plans.

d) HOSPITAL may not request or obtain payment from the State of Oregon Mental Health and Developmental Disability Services Division or any CAAPCare member for covered services provided during the contract period for which capitation payments were made by the Division to the COUNTY through the Office of Medical Assistance Programs (OMAP), even if the COUNTY becomes insolvent. If the county becomes insolvent, this agreement will terminate.

### C. Program General Conditions

Effective May 1, 1998, HOSPITAL will comply with the following additions or changes to the Program General Conditions:

#### 1. Integration and Coordination

This amendment adds applicable specifications for integration and coordination of services are the responsibility of HOSPITAL as defined in the State MHO Agreement.

#### 2. Declaration of Mental Health Treatment

This amendment adds the requirement that HOSPITAL shall provide OMAP members with a Declaration for Mental Health Treatment form in accordance with State law with the initial provision of any covered services as per the State MHO Agreement.

#### 3. Notice of Action

This amendment adds the requirement that HOSPITAL shall issue a Notice of Action to the OMAP Member each time a service or benefit will be terminated, suspended, or reduced or issue a Notice of Intended Action under one or more of the conditions described in the State MHO Agreement in Section 1.f. of Exhibit G. Oregon Health Plan Mental Health Services Complaints and Hearings Process which is attached, herein referenced and incorporated in this agreement.

#### 4. Data and Reporting

**Section VI. RECORDS, DATA COLLECTION AND REPORTING** of the original contract is deleted and replaced by the following: HOSPITAL shall submit timely, complete and accurate encounter data for authorized inpatient admissions of all CAAPCare members, including CAAPCare members who are also eligible for Medicare. Encounter data shall include the authorization number received from the CTC, in accordance with procedures contained in the NETWORK MANUAL. Effective May 1, 1998, encounter data must be submitted within five months of the date of discharge. HOSPITAL agrees that encounter data that is not submitted within five months of the date of discharge will not be used in the distribution formula to Participating Hospitals. Encounter data shall not include inpatient mental health services paid directly by the State to HOSPITAL for CAAPCare members who are determined Appropriate for Long-Term Psychiatric Care. COUNTY shall provide monthly reports to HOSPITAL on capitation revenues received from the State, allocations for inpatient mental health services, disbursements from the Set Aside Fund and inpatient utilization based on encounter data submitted by Participating Hospitals and non-participating hospitals.

#### 5. Utilization Management

a) HOSPITAL shall be responsible and assume all liability for decisions made by HOSPITAL related to inpatient admissions, utilization management and discharge planning for CAAPCare members for whom HOSPITAL has received authorization for an inpatient admission, including Emergency Hospital Holds. COUNTY will expedite requests by HOSPITAL to drop Emergency Holds, on a same day basis when possible. Effective May 1, 1998, HOSPITAL will comply with utilization management expectations as set out in the State MHO Agreement for subcontractors of inpatient mental health services.

b) HOSPITAL'S utilization management activities will include a formal utilization review process which includes a structured examination of clinical records and application of admission and continued stay criteria and documents decisions regarding medical appropriateness of treatment services.

c) The HOSPITALS Utilization Review Committee will include Adult and Child psychiatric representation.

d) HOSPITAL shall submit required Utilization Management reports in the NETWORK MANUAL, according to the timelines established in the NETWORK MANUAL.

e) In partnership with the HOSPITAL, CAAPCare will perform site and retrospective utilization reviews to evaluate the appropriateness of services provided by HOSPITAL as well as non-participating hospitals.

f) Utilization Management for authorized system-wide services provided to CAAPCare members will be the shared responsibility of Participating Provider Networks, Participating Hospitals, and CAAPCare, through jointly determined roles for prospective authorizations and concurrent utilization management. In partnership with the Participating Hospitals and Participating Provider Networks, CAAPCare will perform site and retrospective utilization reviews to evaluate the appropriateness of services provided by system-wide providers. These procedures will be incorporated in the NETWORK MANUAL.

## 6. Quality Assurance

**Section VIII. QUALITY ASSURANCE AND PROGRAM EVALUATION** of the original contract is deleted and replaced by the following:

a) Quality management for inpatient services provided to CAAPCare members by HOSPITAL is the responsibility of the HOSPITAL, in partnership with CAAPCare and in accordance with standards set out in the NETWORK MANUAL, including the CAAPCare "Quality Management Plan" Section.

b) Quality management for inpatient services provided to CAAPCare members by non-participating and out-of-area providers is the responsibility of CAAPCare. Overall quality management for system-wide services provided to CAAPCare members is the responsibility of CAAPCare. Such Quality Management monitoring and activities will be conducted in collaboration with system-wide service providers.

c) HOSPITAL shall participate in the development of criteria and protocols of triage, admission, continued stay, discharge, extended care, and long-term psychiatric care and comply with those protocols. HOSPITAL shall participate in the identification and monitoring of utilization management indicators, in case reviews, in continuous quality improvement efforts and in problem resolution with respect to implementation of this contract through regular participation on the Hospital Review Committee. HOSPITAL will comply with applicable quality assurance expectations as defined in the State MHO Agreement: Quality Assurance/Quality Improvement; Subcontracting and Assignment; and Agreement Compliance and Quality Assurance Monitoring.

d) HOSPITAL shall maintain a planned, systematic and ongoing process for monitoring, evaluating and improving the quality and appropriateness of Covered Services provided by the HOSPITAL to CAAPCare members.

e) The HOSPITAL'S QA/QI System will be documented in the form of a written QA/QI Plan submitted for CAAPCare approval according to timelines and requirements established in the CAAPCare "Quality Management Plan" section of the NETWORK MANUAL:

The HOSPITALS QA/QI process shall be consistent with the particular National Committee on Quality Assurance (NCQA) Standards for Accreditation of Managed Behavioral Healthcare Organizations (National Committee for Quality Assurance, Washington, D.C., 1997) cited in the State MHO Agreement.

The HOSPITAL'S QA/QI process shall be consistent with the State Mental Health Developmental Disability Services Division (MHDDSD) Guide to Quality Assurance and Quality Improvement.

The HOSPITAL shall have a formal and ongoing process for gathering and considering information from Stakeholders including but not limited to: OMAP Members, consumers, consumer advocates, families, parent advocates, local and/or regional allied agencies, child and adult psychiatrists, child and adult advocates, and health care professionals.

The HOSPITAL'S Quality Assurance/Quality improvement program will contain a separate utilization review component from utilization management guidelines.

f) The HOSPITAL shall establish a QA/QI committee. The minimum requirements for membership of the QA/QI Committee are specified in the "Quality Management Plan" section of the NETWORK MANUAL.

g) In addition, HOSPITAL shall fully coordinate and comply with the policies and procedures adopted by the COUNTY and contained in the NETWORK MANUAL in accordance with the State MHO Agreement.

#### 7. Disaster Response

HOSPITAL will participate with the COUNTY in providing mental health response services in event of natural or man-made disaster. HOSPITAL will designate a Disaster Response Coordinator and communicate the name and title designation of coordinator to the Manager of the Behavioral Health Division. HOSPITAL will participate in training and planning activities in collaboration with COUNTY to prepare for mental health response in event of natural or man-made disaster.

#### 8. Ownership/Successors in Interest

a) Notwithstanding any other provisions of this contract: HOSPITAL shall notify COUNTY of any changes in the ownership of HOSPITAL and provide COUNTY with the name(s) and address(es) of all owners of an equity interest in HOSPITAL which equals or exceeds five (5) percent. HOSPITAL shall not assign or transfer any of its interest in this Contract without the prior written consent of COUNTY. Subject to the immediately preceding sentence, the provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns, if any. In addition to any other assignment or transfer of interest, for purposes of this Contract, all of the following fundamental changes shall be considered an assignment of an interest in this Contract subject to the COUNTY'S prior written consent:

A consolidation or merger of HOSPITAL, or of a corporation or other entity or person controlling HOSPITAL, with or into a corporation or other entity or person, or any other reorganization or transaction or series of related transactions involving the transfer of more than fifty percent (50%) of the equity interest in HOSPITAL or more than fifty percent (50%) of the equity interest in a corporation or other entity or person controlling HOSPITAL, or

The sale, conveyance or disposition of all or substantially all of the assets of HOSPITAL, or of a corporation or other entity or person controlling HOSPITAL, in a transaction or series of related transactions.

b) HOSPITAL shall notify COUNTY of any changes in the ownership of HOSPITAL at least forty-five (45) calendar days prior to any assignment or transfer of an interest in this Contract and shall reimburse COUNTY for all legal fees reasonably incurred by COUNTY in reviewing the proposed assignment or transfer and in negotiating and drafting appropriate documents.

#### 9. Termination by State of State MHO Agreement

If termination is initiated by COUNTY due to State initiated changes in payment rate, the 30-calendar day notice period does not apply and the termination is effective upon written notice to HOSPITAL. If this Agreement is terminated, HOSPITAL is responsible for any and all claims for Covered Services provided prior to the termination date. HOSPITAL shall promptly notify COUNTY of any outstanding claims for which COUNTY may owe, or be liable for payments, which are known to HOSPITAL at the time of termination or when such new claims incurred prior to termination are received. HOSPITAL shall supply COUNTY with all information necessary for reimbursement of such claims.



**D. Term**

This contract, which became effective April 1, 1996, is amended to extend the term of the contract through June 30, 1999, unless sooner terminated under the provisions contained in the contract.

In witness whereof, the parties hereto have caused this contract to be executed by their authorized officers.

MULTNOMAH COUNTY

BY *Colene Reilly* 6/19/98  
Director, Dept. of Community & Date  
Family Services

BY *Sharon Kelley* 6/25/98  
for Beverly Stein Date  
Multnomah County Chair

OREGON HEALTH SCIENCES UNIVERSITY  
HOSPITAL

BY \_\_\_\_\_  
Agency Authorized Signer Date

BY \_\_\_\_\_  
Agency Authorized Signer Date

REVIEWED:

BY *Kati Gault* 6/23/98  
Thomas Sponsler, County Date  
Counsel For Multnomah County, Oregon

**APPROVED MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS**  
**AGENDA #** C-7 **DATE** 6/25/98  
DEB BOGSTAD  
**BOARD CLERK**

CONTRACT FOR SERVICES  
MULTNOMAH COUNTY COMMUNITY AND FAMILY SERVICES DEPARTMENT

**Attachment A:  
Service Elements and Contract Amounts**

Contractor Name : OHSU UNIVERSITY HOSPITAL		Vendor Code: CAP028
Contractor Address : MANAGED CARE CONTRACTS-UHN-81 3181 SW SAM JACKSON PARK RD PORTLAND OR 97201-3098		
Telephone : 494-1053	Fiscal Year : 97/98	Federal ID # : 93-1176109

**Program Office Name : Mental Health Contracts A**

*Service Element Name : CC/CCPlus Hospitalization (C11H)*

<u>Mod. #</u>	<u>Begin Date</u>	<u>End Date</u>	<u>Payment Method</u>	<u>Payment Basis</u>	<u># of Units</u>	<u>Unit Description</u>	<u>Unit Rate</u>	<u>Amount</u>
3	11/1/98	6/30/98	State Pymt	Fee for Service	Req't's			Req't's
Total					Req't's			Req't's

*Service Element Name : Capitated Inpatient Services (K22B); inpatient*

<u>Mod. #</u>	<u>Begin Date</u>	<u>End Date</u>	<u>Payment Method</u>	<u>Payment Basis</u>	<u># of Units</u>	<u>Unit Description</u>	<u>Unit Rate</u>	<u>Amount</u>
2	11/1/97	6/30/98	Claims Submission	Fee for Service	Req't's	per fee sched.		Req't's
Total					Req't's			Req't's

**Program Office Name : Mental Health Contracts C**

*Service Element Name : CC/CCPlus Hospitalization (C11H); in-patient 18-21 CAP only*

<u>Mod. #</u>	<u>Begin Date</u>	<u>End Date</u>	<u>Payment Method</u>	<u>Payment Basis</u>	<u># of Units</u>	<u>Unit Description</u>	<u>Unit Rate</u>	<u>Amount</u>
1	7/1/97	12/31/97	Per Invoice	Fee for Service	Req't's	see rate schedl		Req't's
3	7/1/98	6/30/98	State Pymt	Fee for Service	Req't's			Req't's
Total					Req't's			Req't's

*Service Element Name : Capitated Inpatient Services (K22B)*

<u>Mod. #</u>	<u>Begin Date</u>	<u>End Date</u>	<u>Payment Method</u>	<u>Payment Basis</u>	<u># of Units</u>	<u>Unit Description</u>	<u>Unit Rate</u>	<u>Amount</u>
3	5/1/98	6/30/98	Monthly Allotment	Capitation				Req't's
Total								Req't's

CONTRACT FOR SERVICES  
MULTNOMAH COUNTY COMMUNITY AND FAMILY SERVICES DEPARTMENT

**Attachment A:  
Service Elements and Contract Amounts**

Contractor Name : OHSU-UNIVERSITY HOSPITAL	Vendor Code: CAP028
Contractor Address : MANAGED CARE CONTRACTS-UHN-81 3181 SW SAM JACKSON PARK RD PORTLAND OR 97212	
Telephone : 494-1053	Fiscal Year : 98/99 Federal ID # : 93-1176109

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**Program Office Name : Managed Care Contracts**

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*Service Element Name : Capitated Inpatient Services (K22B)*

<u>Mod. #</u>	<u>Begin Date</u>	<u>End Date</u>	<u>Payment Method</u>	<u>Payment Basis</u>	<u># of Units</u>	<u>Unit Description</u>	<u>Unit Rate</u>	<u>Amount</u>
3	7/1/98	6/30/99	State Pymt	Fee for Service	Reqt's			Reqt's
3	7/1/98	6/30/99	Monthly Allotment	Capitation				Reqt's
Total					Reqt's			Reqt's

MEETING DATE: JUN 25 1998  
AGENDA NO: C-8  
ESTIMATED START TIME: 9:00

(Above Space for Board Clerk's Use ONLY)

### AGENDA PLACEMENT FORM

**SUBJECT:** Agreement with Multnomah Education Service District and Chamber Charitable Institute/Leaders Roundtable for Caring Community Coordination. MESD is acting as the fiscal agent for the 8 Caring Community Projects and The Leaders Roundtable is providing program oversight.

**BOARD BRIEFING:** **DATE REQUESTED:** \_\_\_\_\_  
**REQUESTED BY:** \_\_\_\_\_  
**AMOUNT OF TIME NEEDED:** \_\_\_\_\_

**REGULAR MEETING:** **DATE REQUESTED:** June 24, 1998  
**AMOUNT OF TIME NEEDED:** Consent

**DEPARTMENT:** Community & Family Services **DIVISION:** Community Programs Partnerships

**CONTACT:** Lorenzo Poe **TELEPHONE #:** 248-3691  
**BLDG/ROOM #:** 166/7

**PERSON(S) MAKING PRESENTATION:** N/A

**ACTION REQUESTED:**

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

**SUGGESTED AGENDA TITLE:**

**Agreement with Multnomah Education Service District and Chamber Charitable Institute/Leaders Roundtable for Caring Community Coordination.**

**SIGNATURES REQUIRED:**

**ELECTED OFFICIAL:** \_\_\_\_\_  
**(OR)**  
**DEPARTMENT**  
**MANAGER:** Lorenzo Poe

CLERK OF  
COUNTY COMMISSIONERS  
58 JUN 15 AM 9:00  
MULTNOMAH COUNTY  
OREGON

**ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES**

**Any Questions: Call the Board Clerk @ 248-3277**



# MULTNOMAH COUNTY OREGON

DEPARTMENT OF COMMUNITY AND FAMILY SERVICES  
421 SW SIXTH AVENUE, SUITE 700  
PORTLAND, OREGON 97204  
PHONE (503) 248-3691  
FAX (503) 248-3379  
TDD (503) 248-3598

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DAN SALTZMAN • DISTRICT 1 COMMISSIONER  
GARY HANSEN • DISTRICT 2 COMMISSIONER  
TANYA COLLIER • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

TO: Board of County Commissioners

FROM: Lorenzo Poe, Director *Lorenzo Poe mes*  
Department of Community and Family Services

DATE: June 15, 1998

SUBJECT: Agreement with Multnomah Education Services District and The Chamber Charitable Institute for Caring Community Coordination.

**I. Recommendation/Action Requested:** The Department of Community and Family Services is recommending Board of County Commissioner approval of the attached agreement with Multnomah Education Service District and Chamber Charitable Institute.

**II. Background/Analysis:** The Department is contracting with Multnomah Education Service District to act as the fiscal agent for the eight Caring Community projects and Chamber Charitable Institute/Leaders Roundtable for the program oversight and administration. The Leaders Roundtable has been the leader in the Caring Community effort, this will continue under the provisions of this agreement. The Department, and the Caring Communities themselves, were interested in consolidating the fiscal oversight of the projects. Multnomah Education Services District agreed to act as the fiscal agent for the Caring Community projects.

**IV. Financial Impact:** Funds are in the Department budget

**V. Legal Issues:** None

**VI. Controversial Issues:** None

**VII. Link to Current County Policies:** One of the primary goals of the Caring Community projects is to increase high school completion rates for the youth in each Caring Community location. This is directly linked to the County's urgent benchmark concerning high school completion.

**VIII. Citizen Participation:** The Caring Communities are open to all members of the community they represent and are committed to citizen participation in the development of work plans and goals for each project.

**IX. Other Government Participation:** Several of the Caring Community projects are closely linked to the high schools and school districts in their area.

MULTNOMAH COUNTY CONTRACT APPROVAL FORM  
(See Administrative Procedure CON-1)

Contract #: 9910251

Pre-approved Contract Boilerplate (with County Counsel signature) ☐ Attached ☒ Not Attached

Amendment #:

Class I	Class II	Class III
<input checked="" type="checkbox"/> Professional Services not to exceed \$50,00 (and not awarded by RFP or Exemption) <input type="checkbox"/> Revenue not to exceed \$50,000 (and not awarded by RFP or Exemption) <input type="checkbox"/> Intergovernmental Agreement (IGA) not to exceed \$50,000 <input type="checkbox"/> Expenditure <input type="checkbox"/> Revenue <input type="checkbox"/> Architectural & Engineering not to exceed \$10,000 (for tracking purposes only)	<input type="checkbox"/> Professional Services that exceed \$50,000 or awarded by RFP or Exemption (regardless of amount) <input type="checkbox"/> PCRB Contract <input type="checkbox"/> Maintenance Agreement <input type="checkbox"/> Licensing Agreement <input type="checkbox"/> Construction <input type="checkbox"/> Grant <input type="checkbox"/> Revenue that exceeds \$50,000 or awarded by RFP or Exemption (regardless of amount)	<input checked="" type="checkbox"/> Intergovernmental Agreement (IGA) that exceeds \$50,000 <input checked="" type="checkbox"/> Expenditure <input type="checkbox"/> Revenue <b>APPROVED MULTNOMAH COUNTY BOARD OF COMMISSIONERS</b> <b>AGENDA # _____ DATE _____</b> <b>BOARD CLERK</b>

Department:	Community and Family Services	Division:	Community Programs & Partnerships	Date:	6/16/98
Originator:	Sue Larsen	Phone:	248-3691 ext. 24421	Bldg/Rm:	166/7
Contact:	Barb Timper	Phone:	248-3691 ext. 28136	Bldg/Rm:	166/7

Description of Contract Provides for coordination of the Caring Community Projects. MESD is acting as the fiscal agent and Chamber Charitable Institute is acting as program administrator.

RENEWAL: <input type="checkbox"/>	PREVIOUS CONTRACT #(S):	
FP/BID:	RFP/BID DATE:	
EXEMPTION	EXEMPTION EXPIRATION	ORS/AR
#/DATE:	DATE:	#:
CONTRACTOR IS: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> ESB <input type="checkbox"/> QRF <input type="checkbox"/> N/A <input type="checkbox"/> NONE (Check all boxes that apply)		

Contractor	Multnomah Education Service District	Remittance Address	
Address	PO Box 30139 Portland, OR 97294-9039 255-1841/ Employer ID# 93-600829 Chamber Charitable Institute/Leaders Roundtable 221 NW Second Ave Portland, OR 228-9411/ Employer ID# 93-0819366	(If different)	
Phone	n/a	Payment Schedule / Terms	
Employer ID# or SS#	n/a	<input type="checkbox"/> Lump Sum \$	<input type="checkbox"/> Due on Receipt
Effective Date	July 1, 1998	<input type="checkbox"/> Monthly \$	<input type="checkbox"/> Net 30
Termination Date	June 30, 1999	<input type="checkbox"/> Other \$	<input type="checkbox"/> Other
Original Contract Amount MESD\$	228,340		
Original Contract Amount Chamber \$	4,660		
Total Amt of Previous Amendments \$		<input type="checkbox"/> Requirements \$	
Amount of Amendment \$			
Total Amount of Agreement \$	233,000	Encumber	<input type="checkbox"/> Yes <input type="checkbox"/> No

REQUIRED SIGNATURES

Department Manager	<u>Lorenzo Pae mus</u>	DATE	<u>6/18/98</u>
Purchasing Manager		DATE	
County Counsel	<u>Latic Gartz</u>	DATE	<u>6/19/98</u>
County Chair		DATE	
Sheriff		DATE	
Contract Administration		DATE	

LGFS VENDOR CODE	DEPT REFERENCE
See Attached	

COMMUNITY AND FAMILY SERVICES DEPARTMENT  
CONTRACT APPROVAL FORM SUPPLEMENT  
Contractor : MULTNOMAH EDUCATION SERVICE DISTRICT  
Vendor Code : 629561B

Page 1 of 1  
6/17/98

Fiscal Year : 98/99

Numeric Amendment : 00

Contract Number : 9910251

LINE	FUND	AGEN	ORG CODE	ACTIVIY CODE	OBJECT CODE	REPORTING CATEGORY	LGFS DESCRIPTION	ORIGINAL AMOUNT	AMENDMENT AMOUNT	FINAL AMOUNT	REQT'S ESTIMATE
02	156	010	0111	Y19C	6060	9999L <input type="text"/>	County General Fund Caring Community Coordination	\$95,210.00		\$95,210.00	
01	156	010	1124	Y19C	6060	9999L <input type="text"/>	County General Fund Caring Community Coordination	\$137,790.00		\$137,790.00	
TOTAL								\$233,000.00	\$0.00	\$233,000.00	\$0.00

## COMMUNITY AND FAMILY SERVICES DEPARTMENT

## CONTRACT APPROVAL FORM SUPPLEMENT

Contractor : CHAMBER CHARITABLE INSTITUTE INC LEADERS ROUNDTABL

Vendor Code : 986019C

Page 1 of 1

6/15/98

Fiscal Year : 98/99

Numeric Amendment : 00

Contract Number : 9910251

LINE	FUND	AGEN	ORG CODE	ACTIVIY CODE	OBJECT CODE	REPORTING CATEGORY	LGFS DESCRIPTION	ORIGINAL AMOUNT	AMENDMENT AMOUNT	FINAL AMOUNT	REQT'S ESTIMATE
01	156	010	1124	Y19C	6060	9999L <div></div>	County General Fund Caring Community Coordination	\$4,660.00		\$4,660.00	
TOTAL								\$4,660.00	\$0.00	\$4,660.00	\$0.00



CARING COMMUNITY PROJECTS AGREEMENT

#9910251

THIS CONTRACT is between MULTNOMAH COUNTY, acting by and through its Department of Community and Family Services, hereafter called COUNTY, and

Multnomah Education Services District  
P.O. Box 31039  
Portland, OR 97294-9039

AND

Chamber Charitable Institute, Inc./  
Leaders Roundtable  
221 NW Second Avenue  
Portland, OR 97209

hereafter called MESD

hereafter called ROUNDTABLE

**I. BACKGROUND:**

This agreement covers the Caring Community Projects to be managed by ROUNDTABLE. It is understood under the terms of this agreement that the ROUNDTABLE shall provide programmatic oversight to the subcontracted Caring Community sites and monitor these subcontractors for adherence to the "Expectations of a Caring Community" listed below. It is also understood that Multnomah Education Service District is the fiscal agent only, and has no responsibility to enforce service provision of the Caring Communities. MESD shall enter into subcontract agreements with each Caring Community outlining the reporting expectations to the ROUNDTABLE. These reporting requirements do impact receipt of quarterly disbursement of funds.

The eight Caring Communities are; West District; North Portland; Jefferson; Inner Southeast; Grant/Madison; Marshall; Mid County; and East County. These projects are part of the overall Caring Community Projects designed to coordinate state, local, and school services to develop a single entry access to human services in an accessible location; link health, educational, and social services to meet multiple and/or complex needs of individuals, families and the communities in which they live. Also, to coordinate services that respect and promote the goals and strengths of communities, individuals, and families. The goal of these services is to develop a system of multi-agency, integrated services staffed by a project coordinator.

Definition of a Caring Community: A Caring community is a community-based team working within a specific geographic area (usually defined by school boundaries) whose objective is to engage families, schools, youth, human service and community agencies, governments, businesses and other community support organizations in actions that lead to collaborative, interactive service delivery for individuals, children, and families. A Caring Community is committed to drawing upon the strengths of existing service integration efforts and to participating in the Leaders Roundtable Partners for a Caring Community Initiative, with special emphasis given to addressing community and County benchmarks. Caring Communities are open to all members of the community. The basic premise of a Caring Community is that all sectors of the Community can more effectively support individuals, children and families by collaborating, by implementing common strategies, and by utilizing existing resources in innovative ways.

## II. TERMS AND CONDITIONS OF AGREEMENT:

All Parties Agree:

1. **FUNDS AVAILABLE.** COUNTY certifies that sufficient funds are available and authorized to finance the costs of this agreement. In the event that funds cease to be available to COUNTY in the amounts anticipated, COUNTY may terminate or reduce contract funding accordingly.
2. **INDEPENDENT CONTRACTOR STATUS.** MESD and ROUNDTABLE are independent contractors, and neither MESD/ROUNDTABLE, nor either party's subcontractors nor employees are employees of the COUNTY. MESD and ROUNDTABLE are responsible for all federal, state, and local taxes and fees applicable to payments for services under this agreement.
3. **SUBCONTRACTS AND ASSIGNMENT.** MESD and ROUNDTABLE shall neither subcontract with others for any of the work prescribed herein, nor assign any rights acquired hereunder without the prior written consent of COUNTY. The COUNTY is not liable to any third person for payment of any compensation payable to MESD and ROUNDTABLE as provided in this agreement.
4. **ACCESS TO RECORDS.** The COUNTY'S authorized representatives shall have access to the books, documents, papers, and records of MESD and ROUNDTABLE which are directly pertinent to this contract for the purpose of making audit, examination, excerpts, and transcripts.
5. **OWNERSHIP OF WORK.** COUNTY shall have non-exclusive and irrevocable license to copy, reproduce, deliver, publish, perform, dispose of, use, re-use, in whole or in part, and to authorize others to do so, all work products of MESD or ROUNDTABLE or their subcontractors that result from this contract.
6. **WORKERS' COMPENSATION INSURANCE**
  - a) MESD and ROUNDTABLE shall maintain worker's compensation insurance coverage for all non-exempt workers employed by either party in the performance of the work either as a carrier or insured employer as provided in Chapter 656 of Oregon Revised Statutes. MESD and ROUNDTABLE shall provide COUNTY with a certificate showing current worker's compensation insurance upon request.
  - b) If MESD and ROUNDTABLE worker's compensation insurance coverage is due to expire before completion of the work, either party will renew or replace such insurance coverage and provide COUNTY with a certificate of insurance coverage showing compliance with this section.
7. **INDEMNIFICATION** MESD and ROUNDTABLE agree to indemnify, defend, and save harmless COUNTY, the State of Oregon, and other funding sources, and their agents and employees against all liability, loss, and costs arising from actions, suits, claims, or demands attributable to or allegedly attributable to acts or omissions of either party, its employees, agents, or subcontractors. MESD and ROUNDTABLE further agrees to defend COUNTY, the state, and other funding sources, their agents and employees, against all suits, actions, or proceedings brought against them in connection with either party's performance of its duties under this contract. MESD's indemnification is subject to the limitations to the extent permitted by the Oregon Tort Claim Act and the Oregon Constitution.
8. **ADHERENCE TO LAW.** MESD and ROUNDTABLE shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this contract.
9. **NONDISCRIMINATION.** MESD and ROUNDTABLE shall not unlawfully discriminate against any individual with respect to hiring, compensation, terms, conditions, or privileges of employment, nor shall

any person be excluded from participating in, be denied the benefits of, or be subjected to discrimination under any program or activity because of such individual's race, color, religion, sex, national origin, age, handicap, or sexual orientation. Both parties must comply with all applicable provisions of federal, state, and local laws, regulations, and policies concerning nondiscrimination.

#### 10. EARLY TERMINATION.

- a) This contract may be terminated by mutual consent of all three parties.
- b) The COUNTY, by written notice of default, may terminate this agreement if MESD or ROUNDTABLE fails to provide any part of the services described herein within a reasonable time frame for completion of that part or any extension thereof.
- c) Upon termination before completion of the services, payment of MESD and ROUNDTABLE shall be prorated to and including the day of termination and shall be in full satisfaction of all claims by MESD or ROUNDTABLE against COUNTY under this Agreement.
- d) Termination under any provision of this paragraph shall not affect any right, obligation, or liability of MESD or ROUNDTABLE or liability of MESD or ROUNDTABLE or COUNTY which accrued prior to termination.
- e) COUNTY may terminate contract effective immediately if:
  - i) COUNTY has evidence that MESD or ROUNDTABLE has endangered or is endangering the health and safety of clients/residents, staff or the public.
  - ii) COUNTY has evidence of MESD or ROUNDTABLE's financial instability which COUNTY deems sufficient to jeopardize levels and/or quality of services required by this contract.
  - iii) COUNTY has evidence of MESD or ROUNDTABLE's improper or illegal use of funds provided under this contract.

### III. MESD RESPONSIBILITIES

MESD will provide financial services to the eight Caring Community sites including:

1. Provide quarterly payments to each Caring Community site, these payments are to occur no later than July 20, 1998; October 20, 1998; January 20, 1999; and April 20, 1999. MESD will retain no more than 3% of the quarterly disbursements for the fiscal administration of the Caring Community subcontracts.
2. Enter into subcontract agreements with each Caring Community sites which details their reporting responsibilities to the ROUNDTABLE. These fiscal and program reporting requirements are detailed in Section IV.3, of this contract and are required to trigger the quarterly payments from the COUNTY to the MESD.

### IV. ROUNDTABLE RESPONSIBILITIES

ROUNDTABLE will provide the following administrative and programmatic oversight of the eight Caring Communities sites. These services will consist of the following:

1. Oversight of the Caring Communities:

- a) Overseeing replacement, as needed, of Caring Community Coordinators.

2. Subcontractor Monitoring for Adherence to the Expectations of a Caring Community:

Because the Caring Communities are community based teams that are intended to be responsive to the evolving needs of their particular communities, each will look and operate differently. However, it is expected that the Caring Communities will all fulfill some common expectations. These include but are not limited to:

- a) Development of an annual work plan with measurable goals and objectives, a mechanism for reporting on progress, and a means of updating the plan regularly.
- b) Establishment of a leadership structure and decision making process for ensuring that the work of the Caring Community is carried out.
- c) Involvement in the Caring Community of the organizations critical to the success of the Caring Community such as schools, community-based organizations, human service organizations, businesses, parents and community residents.
- d) A mechanism for regularly evaluating the Caring Community and reporting on progress to funders.
- e) Participation in the Caring Community Steering committee (Group 3).
- f) Reporting on progress to the Leaders Roundtable and other interested entities.
- g) Each Caring Community site shall leverage and access additional resources from the Caring Communities Projects partners to support projects developed with the funding provided through this agreement.
- h) A mechanism to continually review and expand outreach efforts into the Caring Community.
- i) Regular meetings of the Caring Community with minutes prepared and distributed, and maintenance of roster of Caring Community participants. Each Caring Community shall facilitate ongoing regular meetings. Rosters of such meetings shall be kept and such rosters shall reflect, on average, not less than five (5) separate agencies/programs participating in each Caring Community. Such agencies and programs shall represent private human service providers; state, county and city government agencies; and for profit organizations partnered in the Caring Community catchment areas.
- j) A mechanism for engaging ethnically and economically diverse communities in the Caring Community. Each Caring Community site selected shall develop and implement a plan to expand their capacity to engage ethnically diverse cultures, especially as related to individuals and families who do not speak English as a first language or are recent immigrants. Such plan development and implementation shall follow guidelines set forth under Attachment B: Multnomah County Department of Community and Family Services cultural Competency Plan Standards. Some technical assistance will be available from the COUNTY for plan development.

3. Community Building Initiative Support: There are a number of activities the COUNTY believes are essential to developing and strengthening Community Building efforts. There is a role for Caring Community Coordinators to play in assuring that each Caring Community understands the concept and principles of Community Building and approach the development

of services to meet community needs in a manner consistent with the COUNTY's Community Building Initiative. The COUNTY's expectation is that a minimum of at least 20 percent of each Caring Community Coordinator's time be spent on the following activities in support of the Community Building Initiative:

a) Conduct ongoing outreach and recruitment to engage citizen participation to ensure that the local community population is represented and the new members to the Caring Community are oriented and welcomed. Activities to ensure this happens include, but are not limited to the following:

- i. An assessment of local community involvement to determine who is and is not represented at Caring Community meetings and planning efforts. This assessment should be done periodically to assure inclusion of all community members.
- ii. An assessment of the real or perceived barriers to community participation and ongoing efforts to eliminate those barriers to increase community participation and attendance at Caring Community meetings.
- iii. Establishing a baseline of community involvement for use as a "benchmark" for measuring the progress of increased community participation.

b) Make ongoing efforts to connect and link representatives from local schools, governmental agencies, private and not-for-profit businesses and civic programs and other significant community leaders or groups to further the over all goal of community participation.

c) Facilitation of community collaboration. Assure that all efforts are made to engage Caring Community members to work through critical issues together. Provide a forum and facilitation to work out differences among various partners.

d) Participation in designated training sessions in conjunction with the COUNTY's department of Community and Family Services staff and other entities to learn community organizing skills and models that further Community Building.

Each Caring Community is to include in their quarterly narrative report the activities and initiatives undertaken to address these areas and their attendance at various training programs.

ROUNDTABLE agrees to provide the above services consistent and in compliance with the Caring Community Operating Guidelines and any subsequent revisions to this documents.

CONTRACTOR shall provide written notice and obtain written COUNTY approval prior to implementing any substantive program change and/or change in method of service delivery that affects level, scope, or outcome of services funded under this contract.

#### 4. ROUNDTABLE reporting requirements:

ROUNDTABLE will collect and report to COUNTY data and narrative information that relates to: the Caring Communities Project work plan(s) and benchmark measures; updated rosters of

site participants, including agencies; and any special projects undertaken. Written reports detailing project activities shall be submitted on October 31, 1998; January 30, 1999; April 30, 1999; and July 31, 1999.

ROUNDTABLE shall collect and submit expenditure reports detailing project expenses to date due quarterly on: October 31, 1998; January 30, 1999; April 30, 1999; and July 31, 1999. The initial one quarter payment will be made upon execution of this contract by all parties and the 2<sup>nd</sup> quarter will be made on October 1, 1998. Payment of the January 1, 1999 and April 1, 1999 disbursements are contingent upon the COUNTY receiving the October 31, 1998 and the January 31, 1999 reports detailed above. Any funds not expended by June 30, 1999 shall be returned to COUNTY with the final expenditure report.

## **V. COUNTY RESPONSIBILITIES**

1. Provide an individual to expedite resolution of issues related to COUNTY functions and resources.
2. Establish links with COUNTY agencies serving children and families, i.e. health, mental health, and substance abuse services.
3. Pay MESD and ROUNDTABLE on the following basis:

a) Pay MESD 4 equal disbursements totaling \$228,340 on the following schedule; July 1, 1998, October 1, 1998, January 1, 1999 and April 1, 1999.

Payment of the January 1, 1999 and April 1, 1999 disbursements are contingent upon the COUNTY receiving the reports detailed above in Section IV.4, of this contract.

b) Pay ROUNDTABLE 4 equal payments totaling \$4,660 on the following schedule; July 1, 1998, October 1, 1998, January 1, 1999 and April 1, 1999.

Payment of the January 1, 1999 and April 1, 1999 disbursements are contingent upon the COUNTY receiving the reports detailed above in Section IV.4, of this contract.

## **VI. COUNTY and ROUNDTABLE mutually agree to:**

1. Conduct meetings not less than once per month, to be scheduled at a time convenient to all parties, to work on project objectives and responsibilities.
2. Work cooperatively to facilitate the evaluation of project effectiveness.

## **VII. The maximum payment under this Contract, including expenses, is \$233,000**

## **VIII. FISCAL REQUIREMENTS**

1. All final requests for payment or an estimate of the final requests for payments shall be received

by the Department of Community and Family Services no later than July 20<sup>th</sup> or the next working day after July 20<sup>th</sup>. Final requests or estimates of final request for payment documents not received by the Department of Community and Family Services within the specified time frame shall not be processed and the expense shall be the sole responsibility of the MESD or ROUNDTABLE.

2. Notwithstanding any other payment provision of this contract, failure of ROUNDTABLE to submit required reports when due, comply with federal audit standards, repay disallowed costs, perform or document the performance of contracted services, or maintain services at program standards, may result in the withholding and/or reduction of payments to MESD and ROUNDTABLE under this contract. Such withholding of payment for cause may continue until ROUNDTABLE submits required reports, performs required services, or establishes, to COUNTY'S satisfaction, that such failure arose out of causes beyond the control and without the fault or negligence of ROUNDTABLE.

**IX. This contract may be renewed on the following basis:**

Not applicable

MULTNOMAH COUNTY, OREGON

MULTNOMAH EDUCATION SERVICE DISTRICT

BY Lorenz Poe mms 6/18/98 BY \_\_\_\_\_  
Director, Dept of Community & Family Svcs Date \_\_\_\_\_  
Title \_\_\_\_\_

BY \_\_\_\_\_  
Beverly Stein, Multnomah County Chair Date \_\_\_\_\_

**APPROVED MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS**  
AGENDA # \_\_\_\_\_ DATE \_\_\_\_\_  
\_\_\_\_\_  
**BOARD CLERK**

CHAMBER CHARITABLE INSTITUTE/  
LEADERS ROUNDTABLE

BY \_\_\_\_\_  
Date \_\_\_\_\_  
Title \_\_\_\_\_

**REVIEWED:**

THOMAS SPONSLER, County Counsel  
for Multnomah County, Oregon

By Katie Gurf 6/19/98  
Date \_\_\_\_\_

CONTRACT FOR SERVICES  
MULTNOMAH COUNTY COMMUNITY AND FAMILY SERVICES DEPARTMENT

**Attachment A:**  
**Service Elements and Contract Amounts**

Contractor Name : MULTNOMAH EDUCATION SERVICE DISTRICT	Vendor Code: 629561B
Contractor Address : PO BOX 30139 PORTLAND OR 97294-9039	
Telephone : 255-1841	Fiscal Year : 98/99
Federal ID # :	

---

**Program Office Name : Director's Office**

*Service Element Name : Caring Community Coordination (Y19C); Caring Community Coordination*

<u>Mod. #</u>	<u>Begin Date</u>	<u>End Date</u>	<u>Payment Method</u>	<u>Payment Basis</u>	<u># of Units</u>	<u>Unit Description</u>	<u>Unit Rate</u>	<u>Amount</u>
0	7/1/98	6/30/99	Per Invoice	Lump Sum				\$95,210.00
Total								\$95,210.00

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**Program Office Name : Caring Community**

*Service Element Name : Caring Community Coordination (Y19C); Caring Community Coordination*

<u>Mod. #</u>	<u>Begin Date</u>	<u>End Date</u>	<u>Payment Method</u>	<u>Payment Basis</u>	<u># of Units</u>	<u>Unit Description</u>	<u>Unit Rate</u>	<u>Amount</u>
0	7/1/98	6/30/99	Per Invoice	Lump Sum				\$137,790.00
Total								\$137,790.00



CONTRACT FOR SERVICES  
MULTNOMAH COUNTY COMMUNITY AND FAMILY SERVICES DEPARTMENT

**Attachment A:**  
**Service Elements and Contract Amounts**

Contractor Name :	CHAMBER CHARITABLE INSTITUTE INC LEADERS ROUNDTABL	Vendor Code: 986019C
Contractor Address :	221 NW SECOND AVE PORTLAND OR 97209	
Telephone :	Fiscal Year : 98/99	Federal ID # : 93-0819366

**Program Office Name : Caring Community**

*Service Element Name : Caring Community Coordination (Y19C); CARING COMMUNITY COORDINATION*

<u>Mod. #</u>	<u>Begin Date</u>	<u>End Date</u>	<u>Payment Method</u>	<u>Payment Basis</u>	<u># of Units</u>	<u>Unit Description</u>	<u>Unit Rate</u>	<u>Amount</u>
0	7/1/98	6/30/99	Per Invoice	Lump Sum				\$4,660.00
Total								\$4,660.00

CARING COMMUNITY PROJECTS AGREEMENT

#9910251

THIS CONTRACT is between MULTNOMAH COUNTY, acting by and through its Department of Community and Family Services, hereafter called COUNTY, and

Multnomah Education Services District  
P.O. Box 31039  
Portland, OR 97294-9039

AND

Chamber Charitable Institute, Inc./  
Leaders Roundtable  
221 NW Second Avenue  
Portland, OR 97209

hereafter called MESD

hereafter called ROUNDTABLE

**I. BACKGROUND:**

This agreement covers the Caring Community Projects to be managed by ROUNDTABLE. It is understood under the terms of this agreement that the ROUNDTABLE shall provide programmatic oversight to the subcontracted Caring Community sites and monitor these subcontractors for adherence to the "Expectations of a Caring Community" listed below. It is also understood that Multnomah Education Service District is the fiscal agent only, and has no responsibility to enforce service provision of the Caring Communities. MESD shall enter into subcontract agreements with each Caring Community outlining the reporting expectations to the ROUNDTABLE. These reporting requirements do impact receipt of quarterly disbursement of funds.

The eight Caring Communities are; West District; North Portland; Jefferson; Inner Southeast; Grant/Madison; Marshall; Mid County; and East County. These projects are part of the overall Caring Community Projects designed to coordinate state, local, and school services to develop a single entry access to human services in an accessible location; link health, educational, and social services to meet multiple and/or complex needs of individuals, families and the communities in which they live. Also, to coordinate services that respect and promote the goals and strengths of communities, individuals, and families. The goal of these services is to develop a system of multi-agency, integrated services staffed by a project coordinator.

Definition of a Caring Community: A Caring community is a community-based team working within a specific geographic area (usually defined by school boundaries) whose objective is to engage families, schools, youth, human service and community agencies, governments, businesses and other community support organizations in actions that lead to collaborative, interactive service delivery for individuals, children, and families. A Caring Community is committed to drawing upon the strengths of existing service integration efforts and to participating in the Leaders Roundtable Partners for a Caring Community Initiative, with special emphasis given to addressing community and County benchmarks. Caring Communities are open to all members of the community. The basic premise of a Caring Community is that all sectors of the Community can more effectively support individuals, children and families by collaborating, by implementing common strategies, and by utilizing existing resources in innovative ways.

## II. TERMS AND CONDITIONS OF AGREEMENT:

All Parties Agree:

1. **FUNDS AVAILABLE.** COUNTY certifies that sufficient funds are available and authorized to finance the costs of this agreement. In the event that funds cease to be available to COUNTY in the amounts anticipated, COUNTY may terminate or reduce contract funding accordingly.

2. **INDEPENDENT CONTRACTOR STATUS.** MESD and ROUNDTABLE are independent contractors, and neither MESD/ROUNDTABLE, nor either party's subcontractors nor employees are employees of the COUNTY. MESD and ROUNDTABLE are responsible for all federal, state, and local taxes and fees applicable to payments for services under this agreement.

3. **SUBCONTRACTS AND ASSIGNMENT.** MESD and ROUNDTABLE shall neither subcontract with others for any of the work prescribed herein, nor assign any rights acquired hereunder without the prior written consent of COUNTY. The COUNTY is not liable to any third person for payment of any compensation payable to MESD and ROUNDTABLE as provided in this agreement.

4. **ACCESS TO RECORDS.** The COUNTY'S authorized representatives shall have access to the books, documents, papers, and records of MESD and ROUNDTABLE which are directly pertinent to this contract for the purpose of making audit, examination, excerpts, and transcripts.

5. **OWNERSHIP OF WORK.** COUNTY shall have non-exclusive and irrevocable license to copy, reproduce, deliver, publish, perform, dispose of, use, re-use, in whole or in part, and to authorize others to do so, all work products of MESD or ROUNDTABLE or their subcontractors that result from this contract.

6. **WORKERS' COMPENSATION INSURANCE**

a) MESD and ROUNDTABLE shall maintain worker's compensation insurance coverage for all non-exempt workers employed by either party in the performance of the work either as a carrier or insured employer as provided in Chapter 656 of Oregon Revised Statutes. MESD and ROUNDTABLE shall provide COUNTY with a certificate showing current worker's compensation insurance upon request.

b) If MESD and ROUNDTABLE worker's compensation insurance coverage is due to expire before completion of the work, either party will renew or replace such insurance coverage and provide COUNTY with a certificate of insurance coverage showing compliance with this section.

7. **INDEMNIFICATION** MESD and ROUNDTABLE agree to indemnify, defend, and save harmless COUNTY, the State of Oregon, and other funding sources, and their agents and employees against all liability, loss, and costs arising from actions, suits, claims, or demands attributable to or allegedly attributable to acts or omissions of either party, its employees, agents, or subcontractors. MESD and ROUNDTABLE further agrees to defend COUNTY, the state, and other funding sources, their agents and employees, against all suits, actions, or proceedings brought against them in connection with either party's performance of its duties under this contract. MESD's indemnification is subject to the limitations to the extent permitted by the Oregon Tort Claim Act and the Oregon Constitution.

8. **ADHERENCE TO LAW.** MESD and ROUNDTABLE shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this contract.

9. **NONDISCRIMINATION.** MESD and ROUNDTABLE shall not unlawfully discriminate against any individual with respect to hiring, compensation, terms, conditions, or privileges of employment, nor shall

any person be excluded from participating in, be denied the benefits of, or be subjected to discrimination under any program or activity because of such individual's race, color, religion, sex, national origin, age, handicap, or sexual orientation. Both parties must comply with all applicable provisions of federal, state, and local laws, regulations, and policies concerning nondiscrimination.

#### 10. EARLY TERMINATION.

- a) This contract may be terminated by mutual consent of all three parties.
- b) The COUNTY, by written notice of default, may terminate this agreement if MESD or ROUNDTABLE fails to provide any part of the services described herein within a reasonable time frame for completion of that part or any extension thereof.
- c) Upon termination before completion of the services, payment of MESD and ROUNDTABLE shall be prorated to and including the day of termination and shall be in full satisfaction of all claims by MESD or ROUNDTABLE against COUNTY under this Agreement.
- d) Termination under any provision of this paragraph shall not affect any right, obligation, or liability of MESD or ROUNDTABLE or liability of MESD or ROUNDTABLE or COUNTY which accrued prior to termination.
- e) COUNTY may terminate contract effective immediately if:
  - i) COUNTY has evidence that MESD or ROUNDTABLE has endangered or is endangering the health and safety of clients/residents, staff or the public.
  - ii) COUNTY has evidence of MESD or ROUNDTABLE's financial instability which COUNTY deems sufficient to jeopardize levels and/or quality of services required by this contract.
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### III. MESD RESPONSIBILITIES

MESD will provide financial services to the eight Caring Community sites including:

1. Provide quarterly payments to each Caring Community site, these payments are to occur no later than July 20, 1998; October 20, 1998; January 20, 1999; and April 20, 1999. MESD will retain no more than 3% of the quarterly disbursements for the fiscal administration of the Caring Community subcontracts.
2. Enter into subcontract agreements with each Caring Community sites which details their reporting responsibilities to the ROUNDTABLE. These fiscal and program reporting requirements are detailed in Section IV.3, of this contract and are required to trigger the quarterly payments from the COUNTY to the MESD.

### IV. ROUNDTABLE RESPONSIBILITIES

ROUNDTABLE will provide the following administrative and programmatic oversight of the eight Caring Communities sites. These services will consist of the following:

1. Oversight of the Caring Communities:

- a) Overseeing replacement, as needed, of Caring Community Coordinators.

2. Subcontractor Monitoring for Adherence to the Expectations of a Caring Community:

Because the Caring Communities are community based teams that are intended to be responsive to the evolving needs of their particular communities, each will look and operate differently. However, it is expected that the Caring Communities will all fulfill some common expectations. These include but are not limited to:

- a) Development of an annual work plan with measurable goals and objectives, a mechanism for reporting on progress, and a means of updating the plan regularly.
- b) Establishment of a leadership structure and decision making process for ensuring that the work of the Caring Community is carried out.
- c) Involvement in the Caring Community of the organizations critical to the success of the Caring Community such as schools, community-based organizations, human service organizations, businesses, parents and community residents.
- d) A mechanism for regularly evaluating the Caring Community and reporting on progress to funders.
- e) Participation in the Caring Community Steering committee (Group 3).
- f) Reporting on progress to the Leaders Roundtable and other interested entities.
- g) Each Caring Community site shall leverage and access additional resources from the Caring Communities Projects partners to support projects developed with the funding provided through this agreement.
- h) A mechanism to continually review and expand outreach efforts into the Caring Community.
- i) Regular meetings of the Caring Community with minutes prepared and distributed, and maintenance of roster of Caring Community participants. Each Caring Community shall facilitate ongoing regular meetings. Rosters of such meetings shall be kept and such rosters shall reflect, on average, not less than five (5) separate agencies/programs participating in each Caring Community. Such agencies and programs shall represent private human service providers; state, county and city government agencies; and for profit organizations partnered in the Caring Community catchment areas.
- j) A mechanism for engaging ethnically and economically diverse communities in the Caring Community. Each Caring Community site selected shall develop and implement a plan to expand their capacity to engage ethnically diverse cultures, especially as related to individuals and families who do not speak English as a first language or are recent immigrants. Such plan development and implementation shall follow guidelines set forth under Attachment B: Multnomah County Department of Community and Family Services cultural Competency Plan Standards. Some technical assistance will be available from the COUNTY for plan development.

3. Community Building Initiative Support: There are a number of activities the COUNTY believes are essential to developing and strengthening Community Building efforts. There is a role for Caring Community Coordinators to play in assuring that each Caring Community understands the concept and principles of Community Building and approach the development

of services to meet community needs in a manner consistent with the COUNTY's Community Building Initiative. The COUNTY's expectation is that a minimum of at least 20 percent of each Caring Community Coordinator's time be spent on the following activities in support of the Community Building Initiative:

a) Conduct ongoing outreach and recruitment to engage citizen participation to ensure that the local community population is represented and the new members to the Caring Community are oriented and welcomed. Activities to ensure this happens include, but are not limited to the following:

- i. An assessment of local community involvement to determine who is and is not represented at Caring Community meetings and planning efforts. This assessment should be done periodically to assure inclusion of all community members.
- ii. An assessment of the real or perceived barriers to community participation and ongoing efforts to eliminate those barriers to increase community participation and attendance at Caring Community meetings.
- iii. Establishing a baseline of community involvement for use as a "benchmark" for measuring the progress of increased community participation.

b) Make ongoing efforts to connect and link representatives from local schools, governmental agencies, private and not-for-profit businesses and civic programs and other significant community leaders or groups to further the over all goal of community participation.

c) Facilitation of community collaboration. Assure that all efforts are made to engage Caring Community members to work through critical issues together. Provide a forum and facilitation to work out differences among various partners.

d) Participation in designated training sessions in conjunction with the COUNTY's department of Community and Family Services staff and other entities to learn community organizing skills and models that further Community Building.

Each Caring Community is to include in their quarterly narrative report the activities and initiatives undertaken to address these areas and their attendance at various training programs.

ROUNDTABLE agrees to provide the above services consistent and in compliance with the Caring Community Operating Guidelines and any subsequent revisions to this documents.

CONTRACTOR shall provide written notice and obtain written COUNTY approval prior to implementing any substantive program change and/or change in method of service delivery that affects level, scope, or outcome of services funded under this contract.

#### 4. ROUNDTABLE reporting requirements:

ROUNDTABLE will collect and report to COUNTY data and narrative information that relates to: the Caring Communities Project work plan(s) and benchmark measures; updated rosters of

site participants, including agencies; and any special projects undertaken. Written reports detailing project activities shall be submitted on October 31, 1998; January 30, 1999; April 30, 1999; and July 31, 1999.

ROUNDTABLE shall collect and submit expenditure reports detailing project expenses to date due quarterly on: October 31, 1998; January 30, 1999; April 30, 1999; and July 31, 1999. The initial one quarter payment will be made upon execution of this contract by all parties and the 2<sup>nd</sup> quarter will be made on October 1, 1998. Payment of the January 1, 1999 and April 1, 1999 disbursements are contingent upon the COUNTY receiving the October 31, 1998 and the January 31, 1999 reports detailed above. Any funds not expended by June 30, 1999 shall be returned to COUNTY with the final expenditure report.

## **V. COUNTY REPSONISBILITIES**

1. Provide an individual to expedite resolution of issues related to COUNTY functions and resources.
2. Establish links with COUNTY agencies serving children and families, i.e. health, mental health, and substance abuse services.
3. Pay MESD and ROUNDTABLE on the following basis:

a) Pay MESD 4 equal disbursements totaling \$228,340 on the following schedule; July 1, 1998, October 1, 1998, January 1, 1999 and April 1, 1999.

Payment of the January 1, 1999 and April 1, 1999 disbursements are contingent upon the COUNTY receiving the reports detailed above in Section IV.4, of this contract.

b) Pay ROUNDTABLE 4 equal payments totaling \$4,660 on the following schedule; July 1, 1998, October 1, 1998, January 1, 1999 and April 1, 1999.

Payment of the January 1, 1999 and April 1, 1999 disbursements are contingent upon the COUNTY receiving the reports detailed above in Section IV.4, of this contract.

## **VI. COUNTY and ROUNDTABLE mutually agree to:**

1. Conduct meetings not less than once per month, to be scheduled at a time convenient to all parties, to work on project objectives and responsibilities.
2. Work cooperatively to facilitate the evaluation of project effectiveness.

## **VII. The maximum payment under this Contract, including expenses, is \$233,000**

## **VIII. FISCAL REQUIREMENTS**

1. All final requests for payment or an estimate of the final requests for payments shall be received

by the Department of Community and Family Services no later than July 20<sup>th</sup> or the next working day after July 20<sup>th</sup>. Final requests or estimates of final request for payment documents not received by the Department of Community and Family Services within the specified time frame shall not be processed and the expense shall be the sole responsibility of the MESD or ROUNDTABLE.

2. Notwithstanding any other payment provision of this contract, failure of ROUNDTABLE to submit required reports when due, comply with federal audit standards, repay disallowed costs, perform or document the performance of contracted services, or maintain services at program standards, may result in the withholding and/or reduction of payments to MESD and ROUNDTABLE under this contract. Such withholding of payment for cause may continue until ROUNDTABLE submits required reports, performs required services, or establishes, to COUNTY'S satisfaction, that such failure arose out of causes beyond the control and without the fault or negligence of ROUNDTABLE.

**IX. This contract may be renewed on the following basis:**

Not applicable

MULTNOMAH COUNTY, OREGON

MULTNOMAH EDUCATION SERVICE DISTRICT

BY Lorenzo Paez 6/18/98  
Director, Dept of Community & Family Svcs Date

BY \_\_\_\_\_ Date \_\_\_\_\_  
Title \_\_\_\_\_

BY \_\_\_\_\_ Date \_\_\_\_\_  
Beverly Stein, Multnomah County Chair

**APPROVED MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS**  
AGENDA # \_\_\_\_\_ DATE \_\_\_\_\_  
\_\_\_\_\_  
**BOARD CLERK**

CHAMBER CHARITABLE INSTITUTE/  
LEADERS ROUNDTABLE

BY \_\_\_\_\_ Date \_\_\_\_\_

Title \_\_\_\_\_

**REVIEWED:**

THOMAS SPONSLER, County Counsel  
for Multnomah County, Oregon

By Latie Gault 6/19/98  
Date



CONTRACT FOR SERVICES  
MULTNOMAH COUNTY COMMUNITY AND FAMILY SERVICES DEPARTMENT

**Attachment A:  
Service Elements and Contract Amounts**

Contractor Name : MULTNOMAH EDUCATION SERVICE DISTRICT	Vendor Code: 629561B
Contractor Address : PO BOX 30139 PORTLAND OR 97294-9039	
Telephone : 255-1841	Fiscal Year : 98/99
Federal ID # :	

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**Program Office Name : Director's Office**

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*Service Element Name : Caring Community Coordination (Y19C); Caring Community Coordination*

<u>Mod. #</u>	<u>Begin Date</u>	<u>End Date</u>	<u>Payment Method</u>	<u>Payment Basis</u>	<u># of Units</u>	<u>Unit Description</u>	<u>Unit Rate</u>	<u>Amount</u>
0	7/1/98	6/30/99	Per Invoice	Lump Sum				\$95,210.00
Total								\$95,210.00

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**Program Office Name : Caring Community**

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*Service Element Name : Caring Community Coordination (Y19C); Caring Community Coordination*

<u>Mod. #</u>	<u>Begin Date</u>	<u>End Date</u>	<u>Payment Method</u>	<u>Payment Basis</u>	<u># of Units</u>	<u>Unit Description</u>	<u>Unit Rate</u>	<u>Amount</u>
0	7/1/98	6/30/99	Per Invoice	Lump Sum				\$137,790.00
Total								\$137,790.00

CONTRACT FOR SERVICES  
MULTNOMAH COUNTY COMMUNITY AND FAMILY SERVICES DEPARTMENT

**Attachment A:  
Service Elements and Contract Amounts**

Contractor Name :	CHAMBER CHARITABLE INSTITUTE INC LEADERS ROUNDTABL	Vendor Code: 986019C
Contractor Address :	221 NW SECOND AVE PORTLAND OR 97209	
Telephone :	Fiscal Year : 98/99	Federal ID # : 93-0819366

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**Program Office Name : Caring Community**

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*Service Element Name : Caring Community Coordination (Y19C); CARING COMMUNITY COORDINATION*

<u>Mod. #</u>	<u>Begin Date</u>	<u>End Date</u>	<u>Payment Method</u>	<u>Payment Basis</u>	<u># of Units</u>	<u>Unit Description</u>	<u>Unit Rate</u>	<u>Amount</u>
0	7/1/98	6/30/99	Per Invoice	Lump Sum				\$4,660.00
Total								\$4,660.00

CARING COMMUNITY PROJECTS AGREEMENT

#9910251

THIS CONTRACT is between MULTNOMAH COUNTY, acting by and through its Department of Community and Family Services, hereafter called COUNTY, and

Multnomah Education Services District  
P.O. Box 31039  
Portland, OR 97294-9039

AND

Chamber Charitable Institute, Inc./  
Leaders Roundtable  
221 NW Second Avenue  
Portland, OR 97209

hereafter called MESD

hereafter called ROUNDTABLE

**I. BACKGROUND:**

This agreement covers the Caring Community Projects to be managed by ROUNDTABLE. It is understood under the terms of this agreement that the ROUNDTABLE shall provide programmatic oversight to the subcontracted Caring Community sites and monitor these subcontractors for adherence to the "Expectations of a Caring Community" listed below. It is also understood that Multnomah Education Service District is the fiscal agent only, and has no responsibility to enforce service provision of the Caring Communities. MESD shall enter into subcontract agreements with each Caring Community outlining the reporting expectations to the ROUNDTABLE. These reporting requirements do impact receipt of quarterly disbursement of funds.

The eight Caring Communities are; West District; North Portland; Jefferson; Inner Southeast; Grant/Madison; Marshall; Mid County; and East County. These projects are part of the overall Caring Community Projects designed to coordinate state, local, and school services to develop a single entry access to human services in an accessible location; link health, educational, and social services to meet multiple and/or complex needs of individuals, families and the communities in which they live. Also, to coordinate services that respect and promote the goals and strengths of communities, individuals, and families. The goal of these services is to develop a system of multi-agency, integrated services staffed by a project coordinator.

Definition of a Caring Community: A Caring community is a community-based team working within a specific geographic area (usually defined by school boundaries) whose objective is to engage families, schools, youth, human service and community agencies, governments, businesses and other community support organizations in actions that lead to collaborative, interactive service delivery for individuals, children, and families. A Caring Community is committed to drawing upon the strengths of existing service integration efforts and to participating in the Leaders Roundtable Partners for a Caring Community Initiative, with special emphasis given to addressing community and County benchmarks. Caring Communities are open to all members of the community. The basic premise of a Caring Community is that all sectors of the Community can more effectively support individuals, children and families by collaborating, by implementing common strategies, and by utilizing existing resources in innovative ways.

## II. TERMS AND CONDITIONS OF AGREEMENT:

All Parties Agree:

1. **FUNDS AVAILABLE.** COUNTY certifies that sufficient funds are available and authorized to finance the costs of this agreement. In the event that funds cease to be available to COUNTY in the amounts anticipated, COUNTY may terminate or reduce contract funding accordingly.
2. **INDEPENDENT CONTRACTOR STATUS.** MESD and ROUNDTABLE are independent contractors, and neither MESD/ROUNDTABLE, nor either party's subcontractors nor employees are employees of the COUNTY. MESD and ROUNDTABLE are responsible for all federal, state, and local taxes and fees applicable to payments for services under this agreement.
3. **SUBCONTRACTS AND ASSIGNMENT.** MESD and ROUNDTABLE shall neither subcontract with others for any of the work prescribed herein, nor assign any rights acquired hereunder without the prior written consent of COUNTY. The COUNTY is not liable to any third person for payment of any compensation payable to MESD and ROUNDTABLE as provided in this agreement.
4. **ACCESS TO RECORDS.** The COUNTY'S authorized representatives shall have access to the books, documents, papers, and records of MESD and ROUNDTABLE which are directly pertinent to this contract for the purpose of making audit, examination, excerpts, and transcripts.
5. **OWNERSHIP OF WORK.** COUNTY shall have non-exclusive and irrevocable license to copy, reproduce, deliver, publish, perform, dispose of, use, re-use, in whole or in part, and to authorize others to do so, all work products of MESD or ROUNDTABLE or their subcontractors that result from this contract.
6. **WORKERS' COMPENSATION INSURANCE**
  - a) MESD and ROUNDTABLE shall maintain worker's compensation insurance coverage for all non-exempt workers employed by either party in the performance of the work either as a carrier or insured employer as provided in Chapter 656 of Oregon Revised Statutes. MESD and ROUNDTABLE shall provide COUNTY with a certificate showing current worker's compensation insurance upon request.
  - b) If MESD and ROUNDTABLE worker's compensation insurance coverage is due to expire before completion of the work, either party will renew or replace such insurance coverage and provide COUNTY with a certificate of insurance coverage showing compliance with this section.
7. **INDEMNIFICATION** MESD and ROUNDTABLE agree to indemnify, defend, and save harmless COUNTY, the State of Oregon, and other funding sources, and their agents and employees against all liability, loss, and costs arising from actions, suits, claims, or demands attributable to or allegedly attributable to acts or omissions of either party, its employees, agents, or subcontractors. MESD and ROUNDTABLE further agrees to defend COUNTY, the state, and other funding sources, their agents and employees, against all suits, actions, or proceedings brought against them in connection with either party's performance of its duties under this contract. MESD's indemnification is subject to the limitations to the extent permitted by the Oregon Tort Claim Act and the Oregon Constitution.
8. **ADHERENCE TO LAW.** MESD and ROUNDTABLE shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this contract.
9. **NONDISCRIMINATION.** MESD and ROUNDTABLE shall not unlawfully discriminate against any individual with respect to hiring, compensation, terms, conditions, or privileges of employment, nor shall

any person be excluded from participating in, be denied the benefits of, or be subjected to discrimination under any program or activity because of such individual's race, color, religion, sex, national origin, age, handicap, or sexual orientation. Both parties must comply with all applicable provisions of federal, state, and local laws, regulations, and policies concerning nondiscrimination.

#### 10. EARLY TERMINATION.

- a) This contract may be terminated by mutual consent of all three parties.
- b) The COUNTY, by written notice of default, may terminate this agreement if MESD or ROUNDTABLE fails to provide any part of the services described herein within a reasonable time frame for completion of that part or any extension thereof.
- c) Upon termination before completion of the services, payment of MESD and ROUNDTABLE shall be prorated to and including the day of termination and shall be in full satisfaction of all claims by MESD or ROUNDTABLE against COUNTY under this Agreement.
- d) Termination under any provision of this paragraph shall not affect any right, obligation, or liability of MESD or ROUNDTABLE or liability of MESD or ROUNDTABLE or COUNTY which accrued prior to termination.
- e) COUNTY may terminate contract effective immediately if:
  - i) COUNTY has evidence that MESD or ROUNDTABLE has endangered or is endangering the health and safety of clients/residents, staff or the public.
  - ii) COUNTY has evidence of MESD or ROUNDTABLE's financial instability which COUNTY deems sufficient to jeopardize levels and/or quality of services required by this contract.
  - iii) COUNTY has evidence of MESD or ROUNDTABLE's improper or illegal use of funds provided under this contract.

### III. MESD RESPONSIBILITIES

MESD will provide financial services to the eight Caring Community sites including:

1. Provide quarterly payments to each Caring Community site, these payments are to occur no later than July 20, 1998; October 20, 1998; January 20, 1999; and April 20, 1999. MESD will retain no more than 3% of the quarterly disbursements for the fiscal administration of the Caring Community subcontracts.
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- a) Overseeing replacement, as needed, of Caring Community Coordinators.

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Because the Caring Communities are community based teams that are intended to be responsive to the evolving needs of their particular communities, each will look and operate differently. However, it is expected that the Caring Communities will all fulfill some common expectations. These include but are not limited to:

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2. Establish links with COUNTY agencies serving children and families, i.e. health, mental health, and substance abuse services.
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2. Work cooperatively to facilitate the evaluation of project effectiveness.

## **VII. The maximum payment under this Contract, including expenses, is \$233,000**

## **VIII. FISCAL REQUIREMENTS**

1. All final requests for payment or an estimate of the final requests for payments shall be received



by the Department of Community and Family Services no later than July 20<sup>th</sup> or the next working day after July 20<sup>th</sup>. Final requests or estimates of final request for payment documents not received by the Department of Community and Family Services within the specified time frame shall not be processed and the expense shall be the sole responsibility of the MESD or ROUNDTABLE.

2. Notwithstanding any other payment provision of this contract, failure of ROUNDTABLE to submit required reports when due, comply with federal audit standards, repay disallowed costs, perform or document the performance of contracted services, or maintain services at program standards, may result in the withholding and/or reduction of payments to MESD and ROUNDTABLE under this contract. Such withholding of payment for cause may continue until ROUNDTABLE submits required reports, performs required services, or establishes, to COUNTY'S satisfaction, that such failure arose out of causes beyond the control and without the fault or negligence of ROUNDTABLE.

**IX. This contract may be renewed on the following basis:**

Not applicable

MULTNOMAH COUNTY, OREGON

MULTNOMAH EDUCATION SERVICE DISTRICT

BY Lorenzo P. P. P. 6/18/98  
Director, Dept of Community & Family Svcs Date

BY \_\_\_\_\_ Date \_\_\_\_\_  
Title \_\_\_\_\_

BY \_\_\_\_\_ Date \_\_\_\_\_  
Beverly Stein, Multnomah County Chair

**APPROVED MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS**  
AGENDA # \_\_\_\_\_ DATE \_\_\_\_\_  
\_\_\_\_\_  
**BOARD CLERK**

CHAMBER CHARITABLE INSTITUTE/  
LEADERS ROUNDTABLE

BY \_\_\_\_\_ Date \_\_\_\_\_

Title \_\_\_\_\_

**REVIEWED:**

THOMAS SPONSER, County Counsel  
for Multnomah County, Oregon

By Katie Day 6/19/98  
Date

CONTRACT FOR SERVICES  
MULTNOMAH COUNTY COMMUNITY AND FAMILY SERVICES DEPARTMENT

**Attachment A:**  
**Service Elements and Contract Amounts**

Contractor Name :	MULTNOMAH EDUCATION SERVICE DISTRICT	Vendor Code:	629561B
Contractor Address :	PO BOX 30139 PORTLAND OR 97294-9039		
Telephone :	255-1841	Fiscal Year :	98/99
		Federal ID # :	

**Program Office Name : Director's Office**

*Service Element Name : Caring Community Coordination (Y19C); Caring Community Coordination*

<u>Mod. #</u>	<u>Begin Date</u>	<u>End Date</u>	<u>Payment Method</u>	<u>Payment Basis</u>	<u># of Units</u>	<u>Unit Description</u>	<u>Unit Rate</u>	<u>Amount</u>
0	7/1/98	6/30/99	Per Invoice	Lump Sum				\$95,210.00
Total								\$95,210.00

**Program Office Name : Caring Community**

*Service Element Name : Caring Community Coordination (Y19C); Caring Community Coordination*

<u>Mod. #</u>	<u>Begin Date</u>	<u>End Date</u>	<u>Payment Method</u>	<u>Payment Basis</u>	<u># of Units</u>	<u>Unit Description</u>	<u>Unit Rate</u>	<u>Amount</u>
0	7/1/98	6/30/99	Per Invoice	Lump Sum				\$137,790.00
Total								\$137,790.00

CONTRACT FOR SERVICES  
MULTNOMAH COUNTY COMMUNITY AND FAMILY SERVICES DEPARTMENT

**Attachment A:**  
**Service Elements and Contract Amounts**

Contractor Name :	CHAMBER CHARITABLE INSTITUTE INC LEADERS ROUNDTABL	Vendor Code:	986019C
Contractor Address :	221 NW SECOND AVE PORTLAND OR 97209		
Telephone :	Fiscal Year :	98/99	Federal ID # : 93-0819366

**Program Office Name : Caring Community**

*Service Element Name : Caring Community Coordination (Y19C); CARING COMMUNITY COORDINATION*

<u>Mod. #</u>	<u>Begin Date</u>	<u>End Date</u>	<u>Payment Method</u>	<u>Payment Basis</u>	<u># of Units</u>	<u>Unit Description</u>	<u>Unit Rate</u>	<u>Amount</u>
0	7/1/98	6/30/99	Per Invoice	Lump Sum				\$4,660.00
Total								\$4,660.00

## **BOGSTAD Deborah L**

---

**To:** FORD Carol M; KELLEY Sharron E; HANSEN Gary D; LINN Diane M; NAITO Lisa H;  
TRACHTENBERG Robert J; BAX Carolyn M; DELMAN Mike H; WEIT Ramsay; MARCH Steve  
J; COMITO Charlotte A  
**Cc:** SPONSLER Thomas; GAETJENS Katie G; OLSON Lou G  
**Subject:** C-8 on 6/25/98 agenda

CFSD contracts admin advises C-8 needs revisions. Vice-Chair Kelley needs to ask for a motion to approve the consent calendar with the exception of C-4 and C-8 and after we deal with C-4, Vice-Chair Kelley will need a motion to postpone C-8 indefinitely. The intergovernmental agreement will come back before the Board at a date to be determined later. Sorry for the inconvenience and thanks for your understanding.

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**From:** OLSON Lou G  
**Sent:** Wednesday, June 24, 1998 2:45 PM  
**To:** BOGSTAD Deborah L  
**Subject:** Spitting Nails!!

Just wanted to give you a heads up on item C-8 for tomorrow's board meeting. After asking you to hold a place on the agenda for it and rushing around trying to meet deadlines, the attorneys for Multnomah Education Service District faxed over changes they want to make **yesterday afternoon**. Can you believe it? And furthermore they hoped it would still be on tomorrow's agenda.

Katie just called as I was writing this. You can take it off the agenda. We at Contracts and Evaluation need to get back to square one on this with MESD attorneys.

Sorry about that.

MEETING DATE: JUN 25 1998

AGENDA NO: C-9

ESTIMATED START TIME: 9:00

(Above space for Board Clerk's Use Only)

**AGENDA PLACEMENT FORM**

**SUBJECT:** Revenue/Expenditure Intergovernmental Agreement with the Oregon Department of Human Resources for Beach School Family Resource Center services. Revenue of \$68,000 and Expenditure of \$40,000 (match).

**BOARD BRIEFING**

Date Requested: \_\_\_\_\_

Requested By: \_\_\_\_\_

Amount of Time Needed: \_\_\_\_\_

**REGULAR MEETING**

Date Requested: Next Meeting

Amount of Time Needed: Consent

DEPARTMENT: Community and Family Services

DIVISION: Community Programs and Partnership

CONTACT: Lorenzo Poe/ Mary Li

TELEPHONE: 248-3691

BLDG/ROOM: B166/7th

PERSON(S) MAKING PRESENTATION: N/A

**ACTION REQUESTED:**

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

**SUGGESTED AGENDA TITLE**

REVENUE/EXPENDITURE INTERGOVERNMENTAL AGREEMENT WITH OREGON DEPARTMENT OF HUMAN RESOURCES, BEACH SCHOOL FAMILY RESOURCE CENTER

6/26/98 ORIGINALS to PATTY DOYLE

**SIGNATURES REQUIRED:**

ELECTED OFFICIAL: \_\_\_\_\_

OR

DEPARTMENT MANAGER: Lorenzo Poe

5000 ST  
COUNTY COMMISSIONERS  
98 JUN 16 PM 4:26  
MULTNOMAH COUNTY  
OREGON

**ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES**

Any Questions: Call the Board Clerk @ 248-3277



# MULTNOMAH COUNTY OREGON

DEPARTMENT OF COMMUNITY AND FAMILY SERVICES  
421 SW SIXTH AVENUE, SUITE 700  
PORTLAND, OREGON 97204  
PHONE (503) 248-3691  
FAX (503) 248-3379  
TDD (503) 248-3598

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DAN SALTZMAN • DISTRICT 1 COMMISSIONER  
GARY HANSEN • DISTRICT 2 COMMISSIONER  
TANYA COLLIER • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

TO: Board of County Commissioners

FROM: Lorenzo Poe, Director *Lorenzo Poe*  
Department of Community and Family Services

DATE: June 10, 1998

SUBJECT: Intergovernmental Revenue Agreement with Oregon Department of Human Resources, FY 1998-99

**I. Recommendation/Action Requested:** The Department is recommending Board approval of the Intergovernmental Revenue Agreement with the Oregon Department of Human Resources (DHR) for the period July 1, 1998 through June 30, 1999.

**II. Background/Analysis:** DHR supports community partnership projects that integrate human service, engender community involvement and action, align services and policy strategies, to improve human services outcomes for Oregonians. Service integration through community partnership projects is a key Community Partnership Team strategy in meeting DHR and local goals and outcomes and the Oregon Benchmarks.

Since 1991, DHR and its divisions have contributed to the on-going development of the Beach Family Resource Center coordinated by Multnomah County and the Portland School District. This effort, located among the neighborhoods of northeast Portland, has grown to coordinate several social supports such as; parent support groups, case coordination, teacher consultations, personal development classes for students, girls leadership programming, mentoring, student mediation services, peer support groups, and outreach with neighborhood residents. This project coordinates with various other service integration and community development efforts in outer southeast Portland.

**III. Financial Impact:** The net financial impact of this agreement is revenue of \$28,000. The agreement is both a Revenue Agreement for \$68,000 and an Expenditure Agreement for \$40,000. The expenditure is match funding.

**IV. Legal Issues:** None

**V. Controversial Issues:** None

**VI. Link to Current County Policies:** This agreement supports the County's efforts to develop stronger communities by integrating services through partnerships. It addresses the County Benchmarks of increasing high school completion, reduction of the number of children in poverty, and reduction of juvenile crime.

**VII. Citizen Participation:** The Leaders roundtable was instrumental in developing Family Resource Center sites.

**VIII. Other Government Participation:** This is a partnership between Multnomah County, DHR, and Portland Public Schools.

**MULTNOMAH COUNTY CONTRACT APPROVAL FORM**  
(See Administrative Procedure CON-1)

Contract #: 9910260

Pre-approved Contract Boilerplate (with County Counsel signature) ☐ Attached ☐ Not Attached

Amendment #: 0

<b>Class I</b> <input type="checkbox"/> Professional Services not to exceed \$50,00 (and not awarded by RFP or Exemption) <input type="checkbox"/> Revenue not to exceed \$50,000 (and not awarded by RFP or Exemption) <input type="checkbox"/> Intergovernmental Agreement (IGA) not to exceed \$50,000 <input type="checkbox"/> Expenditure <input type="checkbox"/> Revenue <input type="checkbox"/> Architectural & Engineering not to exceed \$10,000 (for tracking purposes only)	<b>Class II</b> <input type="checkbox"/> Professional Services that exceed \$50,000 or awarded by RFP or Exemption (regardless of amount) <input type="checkbox"/> PCRB Contract <input type="checkbox"/> Maintenance Agreement <input type="checkbox"/> Licensing Agreement <input type="checkbox"/> Construction <input type="checkbox"/> Grant <input type="checkbox"/> Revenue that exceeds \$50,000 or awarded by RFP or Exemption (regardless of amount)	<b>Class III</b> <input checked="" type="checkbox"/> Intergovernmental Agreement (IGA) that exceeds \$50,000 <input type="checkbox"/> Expenditure <input checked="" type="checkbox"/> Revenue <div style="text-align: center;"> <b>APPROVED MULTNOMAH COUNTY BOARD OF COMMISSIONERS</b>  <b>AGENDA # C-9 DATE 6/25/98</b>  <b>DEB BOGSTAD</b>  <b>BOARD CLERK</b> </div>
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Department: <u>Community and Family Services</u>	Division: <u>Community and Family Services</u>	Date: <u>June 10, 1998</u>
Originator: <u>Wendy Lebow</u>	Phone: <u>x 26233</u>	Bldg/Rm: <u>166/5</u>
Contact: <u>Patty Doyle</u>	Phone: <u>x 24418</u>	Bldg/Rm: <u>166/7</u>

Description of Contract **Funds Integrated Services Project at Beach School. This is both an expenditure and a revenue contract.**

RENEWAL: <input checked="" type="checkbox"/>	PREVIOUS CONTRACT #(S): <u>102938</u>
FP/BID: _____	RFP/BID DATE: _____
EXEMPTION #/DATE: _____	EXEMPTION EXPIRATION DATE: _____
CONTRACTOR IS: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> ESB <input type="checkbox"/> QRF <input type="checkbox"/> N/A <input type="checkbox"/> NONE (Check all boxes that apply)	

Contractor <u>Department of Human Resources</u>		Remittance Address _____
Address <u>500 Summer St. SE</u>		(If different) _____
<u>Salem, OR 97310-1012</u>		
Phone <u>(503) 945-5818</u>	Payment Schedule / Terms	
Employer ID# or SS# _____	<input type="checkbox"/> Lump Sum \$ _____ <input type="checkbox"/> Due on Receipt <input type="checkbox"/> Monthly \$ _____ <input type="checkbox"/> Net 30 <input checked="" type="checkbox"/> Other \$ <u>Quarterly</u> <input type="checkbox"/> Other	
Effective Date <u>July 1, 1998</u>	<input type="checkbox"/> Requirements \$ _____	
Termination Date <u>June 30, 1999</u>	Encumber <input type="checkbox"/> Yes <input type="checkbox"/> No	
Original Expenditure Amount \$ <u>40,000</u>		
Original Revenue Amount \$ <u>68,000</u>		
Total Amt of Previous Amendments \$ <u>-0-</u>		
Amendment \$ <u>-0-</u>		
Total Amt of Expenditure \$ <u>40,000</u>		
Total Amt of Revenue \$ <u>68,000</u>		

**REQUIRED SIGNATURES**

Department Manager <u>Lorenzo Poe</u>	DATE <u>6/11/98</u>
Purchasing Manager _____	DATE _____
County Counsel <u>Katie Dwyer</u>	DATE <u>6/16/98</u>
County Chair <u>Sharron Kelley</u>	DATE <u>6/25/98</u>
Sheriff <u>Sharron Kelley, Vice-Chair</u>	DATE _____
Contract Administration _____	DATE _____

LGFS VENDOR CODE						DEPT REFERENCE 00027					
LINE #	FUND	AGENCY	ORG	SUB ORG	ACTIVITY	OBJ/ REV	SUB OBJ	REP CAT	LGFS DESCRIPTION	AMOUNT	INC DEC
01	156	010	1123			2396 Revenue			State DHR	\$68,000	
02	156	010	1123		Y19A			9997	Integ. Svs. Pre-Match Fund	\$40,000	

## COMMUNITY AND FAMILY SERVICES DEPARTMENT

## CONTRACT APPROVAL FORM SUPPLEMENT

Contractor : OREGON - DEPT OF HUMAN RESOURCES-BEACH SCHOO

Vendor Code : 00027

Fiscal Year : 98/99

Numeric Amendment : 00

Contract Number : 9910260

Page 1 of 1

6/10/98

LINE	FUND	AGEN	ORG CODE	ACTIVIY CODE	OBJECT CODE	REPORTING CATEGORY	LGFS DESCRIPTION	ORIGINAL AMOUNT	AMENDMENT AMOUNT	FINAL AMOUNT	REQT'S ESTIMATE
01	156	010	1123	Y19A	6050	9997L <div></div>	Integr Svs Pre-Matched Funding Integrated Services Projects	\$40,000.00		\$40,000.00	
TOTAL								\$40,000.00	\$0.00	\$40,000.00	\$0.00





# Oregon

John A. Kitzhaber, M.D., Governor

## Department of Human Resources

*Contracts and Purchasing Units*

500 Summer Street NE, 4th Floor

Salem, Oregon 97310

(503) 945-5818

Purchasing FAX (503) 373-7365

Contracts FAX (503) 373-7889

TTY (503) 945-5928

Agreement #81009

### INTERGOVERNMENTAL AGREEMENT

This Agreement is between the Department of Human Resources, (DHR), Office of the Director, Community Partnership Team, hereinafter called "CPT", and Multnomah County- Department of Community and Family Services, hereinafter called "PROJECT".

#### I. BACKGROUND

The Department of Human Resources supports community partnership projects that integrate human services, engender community involvement and action, align services and policy strategies, to improve human service outcomes for Oregonians. Service integration through community partnership projects is a key CPT strategy in meeting DHR and local goals and outcomes and the Oregon Benchmarks.

Since 1991, DHR and its divisions have contributed to the on-going development of the Beach Family Resource Center coordinated by Multnomah County and the Portland School District. This effort, located among the neighborhoods of northeast Portland, has grown to coordinate several social supports such as; student counseling, parent involvement activities, school transformation planning and implementation, before & after school programming, case coordination, teacher consultation, and outreach with neighborhood residents. This project coordinates with various other service integration and community development efforts in northeast Portland.

#### II. TERM

This Agreement begins July 1, 1998 and ends June 30, 1999, unless otherwise terminated or extended in writing. CPT support for this project for the Fiscal Year 99-00 is contingent upon approval of further federal funding and continued partnership negotiations.

#### III. GOALS AND OUTCOMES

PROJECT shall work to accomplish the outcomes and outputs as shown on Attachment A, Annual Work Plan, dated FY 1998-1999, which is hereby incorporated into this Agreement by this reference. The attached workplan must be revised and approved by DHR/CPT and Multnomah County by August 14, 1998. This agreement shall terminate on August 14, 1998 if the revised Workplan is not approved by August 14, 1998. This agreement shall be amended to incorporate the revised Workplan at that time.

**The three DHR Outcomes most impacted by this agreement are:**

- 1. #19 Decrease the teen pregnancy rate**
- 2. # 14 Decrease the rate of preventable deaths due to suicide & injuries**
- 3. # 2 Decrease the number of people at risk of alcohol & drug abuse**

**The purpose of the Beach Family Resource Center is to coordinate various DHR and other social supports in one community school location. Integrating human and education services in one location, community involvement, developing wrap-around supports for struggling students and their families are the core objectives of this project.**

#### **IV. RESPONSIBILITIES AND EXPECTATIONS**

##### **A. All Parties shall:**

- 1) Commit to the desired goals and outcomes of the project and work toward meeting those objectives.**
- 2) Provide leadership and support as necessary to accomplish the goals and outcomes of the project.**
- 3) Assist in the operation, oversight, and evaluation of the project.**

##### **B. CPT agrees to:**

- 1) Provide assistance in overcoming service integration barriers among agencies, governments, service providers, advocacy groups, etc..**
- 2) Provide training and technical support regarding operation of state services, budgeting, technology, and branch office flexibility.**
- 3) Provide assistance in areas of community involvement, workplan development, communications, media, project design, group facilitation, volunteer development, human services data, integrated services and supports, alternative programs.**
- 4) Provide a CPT Project Coordinator to act as problem solver for issues relating to DHR functions and resources.**

##### **C. PROJECT agrees to:**

- 1) Work with CPT to develop a functional workplan which includes expected results. The workplan shall include or connect to an evaluation plan (e.g. goals, outcomes, outputs, inputs) that will measure the results of the project.**

- 2) Develop and implement a plan for posting periodic project updates on the First Class E-Mail System.
- 3) Submit semi-annual project reports to CPT on or before January 30 and July 30. Progress reports are to include, but not limited to, information on projects results; outcomes and outputs, lessons learned, anecdotal stories, next steps, and additional supports needed from DHR and its' Divisions. These semi-annual reports may be transmitted via the First Class E-Mail System.
- 4) Produce services, materials, and alternative revenue sources to support the project's operational needs.
- 5) Develop appropriate agreements with other project partners outlining the responsibilities of each project partner.
- 6) Provide CPT with a forecasted expenditure budget and invoice before any federal funds will be disbursed. The forecasted budget shall include, but not be limited to:
  - a. Amount of local, non-federal, previously unmatched dollars (expenditures), being submitted for match
  - b. Sources of all local matching dollars/expenditures
  - c. Projected (annual or quarterly) budget expenditures, including local and federal portions of the total budget
  - d. Total project budget
  - e. An explanation of what the CPT matching funds system allows the project to do that may otherwise be beyond the local coalitions capacity or resources.
- 7) Provide a final expenditure report with the year end progress report by July 30, detailing actual local and federal expenditures for the project.
- 8) Submit all invoices and local checks for payment of funds related to this agreement no later than September 15, 1999.

**V. DESIGNATED LIAISONS**

Liaisons for the term of this Agreement shall be as follows, all correspondence or notices shall be directed to their attention:

**PROJECT:** Mary Marson - CRC Supervisor  
Beach Family Resource Center  
421 SW 6th Ave. S - 500  
Portland, OR. 97204-1620

Tele: 503.248.3999 x 23616

Fax: 503.248.3332

**CPT:** Lennie Bjornsen, CPT Project Coordinator  
Community Partnership Team  
500 Summer St NE, 4th Floor  
Salem, OR 97310-1012

## **VI. CONSIDERATION**

- A.** Payment for all work performed during the term of this Agreement shall not exceed the maximum sum of \$68,000.00. Consideration will be paid on a quarterly basis upon receipt and approval of an invoice and check from the PROJECT. Funding for this project for the Fiscal Year 99-00 is contingent upon approval of further federal funding and a second year agreement approved by CPT.
- B.** PROJECT shall bill CPT quarterly. Before the end of each quarter PROJECT will submit an invoice for the integration services provided and accompany the invoice with a check for the non-federal portion (not to exceed \$10,000.00) of the amount being billed. The invoice and the check shall be sent to:
- Brandi McDaniel, Admin. Assist.  
Community Partnership Team  
Department of Human Resources  
500 Summer Street NE, 4th Floor  
Salem, OR 97310-1012
- C.** All invoices and local checks for payment of funds related to this agreement must be submitted no later than September 15, 1998 in accordance with the instructions of this section.
- D.** PROJECT shall not submit billing and CPT will not pay, any amount in excess of the maximum compensation set forth above. If this maximum compensation amount is increased by amendment of this Agreement, the amendment must be fully effective before PROJECT performs work subject to the amendment. No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement. This Agreement will not be amended after the expiration date.

## **VII. GENERAL PROVISIONS**

- A. Effective Date and Duration**  
It is provided that the passage of the Agreement expiration date shall not extinguish or prejudice CPT's right to enforce this Agreement with respect to any default or defect in performance that has not been cured.
- B. Subcontracts and Assignments**

**PROJECT may not enter into any subcontracts for any of the work scheduled under this Agreement or transfer any of its interest in the Agreement without obtaining prior approval from CPT.**

**C. Termination**

- 1. This Agreement may be terminated by mutual consent of both parties, or by CPT upon 30 days notice, in writing, and delivered by certified mail or in person.**
- 2. In addition, CPT may terminate this Agreement, in whole or in part, effective upon delivery of written notice to the PROJECT, or at such later date as may be established by CPT, under any of the following conditions:**
  - a) If CPT funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services. The Agreement may be modified or terminated to accommodate a reduction in funds.**
  - b) If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement or are no longer eligible for the funding proposed for payments authorized by this Agreement.**
  - c) If any license or certification required by law or regulation to be held by the PROJECT to provide the services required by this Agreement is for any reason denied, revoked, suspended, or not renewed.**

**Any such termination of this Agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.**

- 3. CPT by written notice of default (including breach of Agreement) may terminate the whole or any part of this Agreement if:**
  - a) If PROJECT fails to provide services called for by this Agreement within the time specified herein or any extension thereof; or**
  - b) If PROJECT fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from CPT, fails to correct such failures within 10 calendar days or such longer period as CPT may authorize.**

**The rights and remedies of CPT provided in the above clause related to default (including breach of Agreement) by the PROJECT shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.**

**D. Access to Records**

**CPT, the Secretary of State's Office of the State of Oregon, the federal government, and all duly authorized representatives shall have access to the books, documents, papers, and records of the PROJECT which are directly pertinent to this specific Agreement for the purpose of making audit, examination, excerpts, and transcripts.**

**E. Amendment**

**The terms of this Agreement may not be waived, altered, modified, supplemented or amended, except by written agreement signed by all parties.**

**F. Waiver**

**The failure of CPT or PROJECT to enforce any provision of this Agreement does not waive CPT's right to enforce any other provision.**

**G. INDEMNITY**

**PROJECT shall defend, save, hold harmless, and indemnify the State of Oregon and CPT, its officers, employees, agents, and members from all claims, suits or actions of whatsoever nature resulting from or arising out of the negligent activities or omissions of the PROJECT, its officers, employees, subcontractors, or agents under this Agreement.**

**H. Merger Clause**

**THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS AGREEMENT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS AGREEMENT. PROJECT, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE,**

## VIII. SIGNATURES

**PROJECT** Lorenzo Por, Director  
Community and Family Services

6/11/98  
Date

Sharon Kelly for  
**PROJECT** Beverly Stein, Multnomah County Chair

6/25/98  
Date

**Gary K. Weeks, Director**  
**Department of Human Resources**


Date \_\_\_\_\_

**Lennie Bjornsen**  
**Community Projects Manager**

Date \_\_\_\_\_

**CPT Contracts Unit**

Date \_\_\_\_\_

  
Thomas Spangler, County Counsel  
Multnomah County

6/16/95  
Date

cdm\j\dhr\servin\81009\jun 5, 1998

# ATTACHMENT A ANNUAL WORKPLAN

## MULTNOMAH COUNTY, DIVISION OF COMMUNITY PROGRAMS & PARTNERSHIPS BEACH FAMILY RESOURCE CENTER WORK PLAN: FY 1998 -- 1999:

OBJECTIVE:	BENCHMARK:	STRATEGY:	INPUTS:	OUTPUTS:	OUTCOME MEASURES:
1. Increase access and range of services in Beach Family Resource Center and community.	<ul style="list-style-type: none"> <li>• Increase Health Care &amp; Mental Health services</li> <li>• Increase government responsiveness</li> </ul>	<ul style="list-style-type: none"> <li>• Work with partners to develop grants to expand services at Beach School.</li> <li>• Recruit MSW interns from local colleges/universities.</li> <li>• Strengthen area Service Team</li> <li>• Implement Resource Team recommendations from retreat.</li> </ul>	<ul style="list-style-type: none"> <li>• Agency partnerships</li> <li>• Commitment from Beach faculty and partners to work collaboratively with BFRC</li> <li>• Access to MSW interns</li> <li>• Access to grants</li> </ul>	<ul style="list-style-type: none"> <li>• # of families and students referred to available programs</li> <li>• # of staff hours at BFRC</li> <li>• # of consultative events.</li> <li>• average number of partners attending weekly Resource Team meetings</li> <li>• # of different agencies represented at weekly Resource Team meetings</li> <li>• # of training sessions presented at weekly Resource Team meetings</li> </ul>	<ul style="list-style-type: none"> <li>• Increase clients served at BFRC</li> <li>• Increase consultative events</li> <li>• Increase training sessions at weekly Resource Team meetings</li> <li>• Increase average # of resource team members</li> <li>• Increase agency representation at weekly Resource Team meetings</li> </ul>
2. Increase and support parental involvement in school.	<ul style="list-style-type: none"> <li>• Increase the number of youth completing high school</li> <li>• school success</li> <li>• decrease the number of people at risk of alcohol &amp; drug abuse</li> </ul>	<ul style="list-style-type: none"> <li>• Attend Beach faculty and PTO meetings</li> <li>• Partner with Beach faculty and PTO on issues that impact student success and attendance</li> <li>• Design and attend events to encourage parental involvement</li> <li>• Address identified barriers to parental involvement</li> </ul>	<ul style="list-style-type: none"> <li>• Access to Beach school after hours</li> <li>• Access to interns and volunteers</li> <li>• Commitment from Beach faculty and PTO to work collaboratively</li> <li>• donations from the community</li> </ul>	<ul style="list-style-type: none"> <li>• # of Beach faculty and PTO meetings attended</li> <li>• # of families surveyed</li> <li>• # of programs offered after school to Beach students</li> <li>• # of family focused activities BFRC staff participate in</li> <li>• # of events sponsored by BFRC for families</li> <li>• average # of families who attend events</li> </ul>	<ul style="list-style-type: none"> <li>• Increase # of family focused events</li> <li>• Increase # of families participating in family focused activities</li> <li>• Increase # of after school programs available to students</li> </ul>
3. Enhance student success and attendance.	<ul style="list-style-type: none"> <li>• Increase the # of youth completing high school</li> <li>• school success</li> </ul>	<ul style="list-style-type: none"> <li>• Develop and implement before and after school programs at Beach School</li> <li>• Work with faculty to support Beach 2000 School Improvement Plan</li> <li>• Attend Jefferson Caring Community</li> </ul>	<ul style="list-style-type: none"> <li>• Commitment from partners and faculty to work collaboratively with BFRC</li> <li>• Access to Beach school after hours</li> <li>• Volunteers to staff after school programs</li> </ul>	<ul style="list-style-type: none"> <li>• # of after school programs</li> <li>• # of students participating in after School programs</li> <li>• # of Jefferson Caring Community activities</li> <li>• track student attendance for kids participating in before and after school programs</li> </ul>	<ul style="list-style-type: none"> <li>• Increase in after school programs offered</li> <li>• 90% in attendance of students participating in after school programs</li> </ul>



**Attachment A:**  
**Service Elements and Contract Amounts**

<u>Mod. #</u>	<u>Begin Date</u>	<u>End Date</u>	<u>Payment Method</u>	<u>Payment Basis</u>	<u># of Units</u>	<u>Unit Description</u>	<u>Unit Rate</u>	<u>Amount</u>
0	7/1/98	6/30/99	Per Invoice	Match				\$40,000.00
Total								\$40,000.00

MEETING DATE: JUN 25 1998

AGENDA NO: C-10

ESTIMATED START TIME: 9:00

(Above space for Board Clerk's Use Only)

**AGENDA PLACEMENT FORM**

**SUBJECT: Revenue/Expenditure Intergovernmental Agreement with the Oregon Department of Human Resources for Marshall High School Family Resource Center services. Revenue of \$68,000 and Expenditure of \$40,000 (match).**

**BOARD BRIEFING**

Date Requested: \_\_\_\_\_

Requested By: \_\_\_\_\_

Amount of Time Needed: \_\_\_\_\_

**REGULAR MEETING**

Date Requested: Next Meeting

Amount of Time Needed: Consent

**DEPARTMENT: Community and Family Services**

**DIVISION: Community Programs and Partnership**

**CONTACT: Lorenzo Poe/ Mary Li**

**TELEPHONE: 248-3691**

**BLDG/ROOM: B166/7th**

**PERSON(S) MAKING PRESENTATION: N/A**

**ACTION REQUESTED:**

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

**SUGGESTED AGENDA TITLE**

**REVENUE/EXPENDITURE INTERGOVERNMENTAL AGREEMENT WITH OREGON DEPARTMENT OF HUMAN RESOURCES, MARSHALL HIGH SCHOOL FAMILY RESOURCE CENTER**

*6/26/98 ORIGINALS to Patty Doyle*

**SIGNATURES REQUIRED:**

**ELECTED OFFICIAL:** \_\_\_\_\_

**OR**

**DEPARTMENT MANAGER:** Lorenzo Poe

98 JUN 16 PM 4:27  
MULTIOMAH COUNTY  
OREGON

**ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES**

**Any Questions: Call the Board Clerk @ 248-3277**



# MULTNOMAH COUNTY OREGON

DEPARTMENT OF COMMUNITY AND FAMILY SERVICES  
421 SW SIXTH AVENUE, SUITE 700  
PORTLAND, OREGON 97204  
PHONE (503) 248-3691  
FAX (503) 248-3379  
TDD (503) 248-3598

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
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TO: Board of County Commissioners

FROM: Lorenzo Poe, Director *Lorenzo Poe*  
Department of Community and Family Services

DATE: June 10, 1998

SUBJECT: Intergovernmental Revenue Agreement with Oregon Department of Human Resources, FY 1998-99

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**IV. Legal Issues:** None

**V. Controversial Issues:** None

**VI. Link to Current County Policies:** This agreement supports the County's efforts to develop stronger communities by integrating services through partnerships. It addresses the County Benchmarks of increasing high school completion, reduction of the number of children in poverty, and reduction of juvenile crime.

**VII. Citizen Participation:** The Leaders roundtable was instrumental in developing Family Resource Center sites.

**VIII. Other Government Participation:** This is a partnership between Multnomah County, DHR, and Portland Public Schools.

**MULTNOMAH COUNTY CONTRACT APPROVAL FORM**  
(See Administrative Procedure CON-1)

Contract #: 9910261

Pre-approved Contract Boilerplate (with County Counsel signature) ☐ Attached ☐ Not Attached

Amendment #: 0

<b>Class I</b> <input type="checkbox"/> Professional Services not to exceed \$50,000 (and not awarded by RFP or Exemption) <input type="checkbox"/> Revenue not to exceed \$50,000 (and not awarded by RFP or Exemption) <input type="checkbox"/> Intergovernmental Agreement (IGA) not to exceed \$50,000 <input type="checkbox"/> Expenditure <input type="checkbox"/> Revenue <input type="checkbox"/> Architectural & Engineering not to exceed \$10,000 (for tracking purposes only)	<b>Class II</b> <input type="checkbox"/> Professional Services that exceed \$50,000 or awarded by RFP or Exemption (regardless of amount) <input type="checkbox"/> PCRB Contract <input type="checkbox"/> Maintenance Agreement <input type="checkbox"/> Licensing Agreement <input type="checkbox"/> Construction <input type="checkbox"/> Grant <input type="checkbox"/> Revenue that exceeds \$50,000 or awarded by RFP or Exemption (regardless of amount)	<b>Class III</b> <input checked="" type="checkbox"/> Intergovernmental Agreement (IGA) that exceeds \$50,000 <input type="checkbox"/> Expenditure <input checked="" type="checkbox"/> Revenue <div style="text-align: center;"> <b>APPROVED MULTNOMAH COUNTY BOARD OF COMMISSIONERS</b>  <b>AGENDA # C-10 DATE 6/25/98</b>  <b>DEB BOGSTAD</b>  <b>BOARD CLERK</b> </div>
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Department: Community and Family Services	Division: Community and Family Services	Date: June 8, 1998
Originator: Wendy Lebow	Phone: x 26233	Bldg/Rm: 166/5
Contact: Patty Doyle	Phone: x 24418	Bldg/Rm: 166/7

Description of Contract **Funds Integrated Services Project at Marshall High School. This is both an expenditure and a revenue contract.**

RENEWAL: <input checked="" type="checkbox"/>	PREVIOUS CONTRACT #(S): 102938
FP/BID: _____	RFP/BID DATE: _____
EXEMPTION _____	EXEMPTION EXPIRATION _____
#/DATE: _____	DATE: _____
CONTRACTOR IS: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> ESB <input type="checkbox"/> QRF <input type="checkbox"/> N/A <input type="checkbox"/> NONE (Check all boxes that apply)	

Contractor Address: Department of Human Resources 500 Summer St. SE Salem, OR 97310-1012	Remittance Address: _____ (If different) _____
Phone: (503) 945-5818	Payment Schedule / Terms
Employer ID# or SS#: _____	<input type="checkbox"/> Lump Sum \$ _____ <input type="checkbox"/> Due on Receipt
Effective Date: July 1, 1998	<input type="checkbox"/> Monthly \$ _____ <input type="checkbox"/> Net 30
Termination Date: June 30, 1999	<input checked="" type="checkbox"/> Other \$ _____ Quarterly <input type="checkbox"/> Other
Original Expenditure Amount \$ 40,000	<input type="checkbox"/> Requirements \$ _____
Original Revenue Amount \$ 68,000	Encumber <input type="checkbox"/> Yes <input type="checkbox"/> No
Total Amt of Previous Amendments \$ -0-	
Amendment \$ -0-	
Total Amt of Expenditure \$ 40,000	
Total Amt of Revenue \$ 68,000	

**REQUIRED SIGNATURES**

Department Manager: <u>Lorenzo Pae</u>	DATE: <u>6/11/98</u>
Purchasing Manager: _____	DATE: _____
County Counsel: <u>Katie Gantz</u>	DATE: <u>6/16/98</u>
County Chair: <u>Sharron Kelley</u>	DATE: <u>6/25/98</u>
Sheriff: _____	DATE: _____
Contract Administration: _____	DATE: _____

LGFS VENDOR CODE						DEPT REFERENCE 00028					
LINE #	FUND	AGENCY	ORG	SUB ORG	ACTIVITY	OBJ/ REV	SUB OBJ	REP CAT	LGFS DESCRIPTION	AMOUNT	INC DEC
01	156	010	1123			2396 Revenue			State DHR	\$68,000	
02	156	010	1123		Y19A			9997	Integ. Svs. Pre-Match Fund	\$40,000	

## COMMUNITY AND FAMILY SERVICES DEPARTMENT

## CONTRACT APPROVAL FORM SUPPLEMENT

Contractor : OREGON - DEPT OF HUMAN RESOURCES-MARSHALL

Vendor Code : 00028

Fiscal Year : 98/99

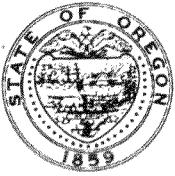
Numeric Amendment : 00

Contract Number : 9910261

Page 1 of 1

6/10/98

LINE	FUND	AGEN	ORG CODE	ACTIVIY CODE	OBJECT CODE	REPORTING CATEGORY	LGFS DESCRIPTION	ORIGINAL AMOUNT	AMENDMENT AMOUNT	FINAL AMOUNT	REQT'S ESTIMATE
02	156	010	1123	Y19A	6050	9997L <div></div>	Integr Svs Pre-Matched Funding Integrated Services Projects	\$40,000.00		\$40,000.00	
TOTAL								\$40,000.00	\$0.00	\$40,000.00	\$0.00



# Oregon

John A. Kitzhaber, M.D., Governor

## Department of Human Resources

*Contracts and Purchasing Units*

500 Summer Street NE, 4th Floor

Salem, Oregon 97310

(503) 945-5818

Purchasing FAX (503) 373-7365

Contracts FAX (503) 373-7889

TTY (503) 945-5928

Agreement #81007

### INTERGOVERNMENTAL AGREEMENT

This Agreement is between the Department of Human Resources, (DHR), Office of the Director, Community Partnership Team, hereinafter called "CPT", and Multnomah County- Department of Community and Family Services, hereinafter called "PROJECT".

#### I. BACKGROUND

The Department of Human Resources supports community partnership projects that integrate human services, engender community involvement and action, align services and policy strategies, to improve human service outcomes for Oregonians. Service integration through community partnership projects is a key CPT strategy in meeting DHR and local goals and outcomes and the Oregon Benchmarks.

Since 1991, DHR and its divisions have contributed to the on-going development of the Marshall Family Resource Center coordinated by Multnomah County and the Portland School District. This effort, located among the neighborhoods of outer southeast Portland, has grown to coordinate several social supports such as; parent support groups, case coordination, teacher consultation, personal development classes for students, girls leadership programming, mentoring, student mediation services, peer support groups, and outreach with neighborhood residents. This project coordinates with various other service integration and community development efforts in outer southeast Portland.

#### II. TERM

This Agreement begins July 1, 1998 and ends June 30, 1999, unless otherwise terminated or extended in writing. CPT support for this project for the Fiscal Year 99-00 is contingent upon approval of further federal funding and continued partnership negotiations.

#### III. GOALS AND OUTCOMES

PROJECT shall work to accomplish the outcomes and outputs as shown on Attachment A, Annual Work Plan, dated FY 1998-1999, which is hereby incorporated into this Agreement by this reference. The attached workplan must be revised and approved by DHR/CPT and Multnomah County by August 14, 1998. This agreement shall terminate on August 14, 1998 if the revised Workplan is not approved by August 14, 1998. This agreement shall be amended to incorporate the revised Workplan at that time.

The three DHR Outcomes most impacted by this agreement are:



1. # 19 Decrease the teen pregnancy rate
2. # 14 Decrease the rate of preventable deaths due to suicide & injuries
3. # 2 Decrease the number of people at risk of alcohol & drug abuse

The purpose of the Marshall Family Resource Center is to coordinate various DHR and other social supports in one community school location. Integrating human and education services in one location, community involvement, developing wrap-around supports for struggling students and their families are the core objectives of this project.

#### **IV. RESPONSIBILITIES AND EXPECTATIONS**

##### **A. All Parties shall:**

- 1) Commit to the desired goals and outcomes of the project and work toward meeting those objectives.
- 2) Provide leadership and support as necessary to accomplish the goals and outcomes of the project.
- 3) Assist in the operation, oversight, and evaluation of the project.

##### **B. CPT agrees to:**

- 1) Provide assistance in overcoming service integration barriers among agencies, governments, service providers, advocacy groups, etc..
- 2) Provide training and technical support regarding operation of state services, budgeting, technology, and branch office flexibility.
- 3) Provide assistance in areas of community involvement, workplan development, communications, media, project design, group facilitation, volunteer development, human services data, integrated services and supports, alternative programs.
- 4) Provide a CPT Project Coordinator to act as problem solver for issues relating to DHR functions and resources.

##### **C. PROJECT agrees to:**

- 1) Work with CPT to develop a functional workplan which includes expected results. The workplan shall include or connect to an evaluation plan (e.g. goals, outcomes, outputs, inputs) that will measure the results of the project.
- 2) Develop and implement a plan for posting periodic project updates on the First Class E-Mail System.
- 3) Submit semi-annual project reports to CPT on or before January 30 and July 30. Progress reports are to include, but not limited to, information on projects results; outcomes and outputs, lessons learned, anecdotal stories, next steps, and additional supports needed

from DHR and its' Divisions. These semi-annual reports may be transmitted via the First Class E-Mail System.

- 4) Produce services, materials, and alternative revenue sources to support the project's operational needs.
- 5) Develop appropriate agreements with other project partners outlining the responsibilities of each project partner.
- 6) Provide CPT with a forecasted expenditure budget and invoice before any federal funds will be disbursed. The forecasted budget shall include, but not be limited to:
  - a. Amount of local, non-federal, previously unmatched dollars (expenditures), being submitted for match
  - b. Sources of all local matching dollars/expenditures
  - c. Projected (annual or quarterly) budget expenditures, including local and federal portions of the total budget
  - d. Total project budget
  - e. An explanation of what the CPT matching funds system allows the project to do that may otherwise be beyond the local coalitions capacity or resources.
- 7) Provide a final expenditure report with the year end progress report by July 30, detailing actual local and federal expenditures for the project.
- 8) Submit all invoices and local checks for payment of funds related to this agreement no later than September 15, 1999.

#### **V. DESIGNATED LIAISONS**

Liaisons for the term of this Agreement shall be as follows, all correspondence or notices shall be directed to their attention:

**PROJECT:** Mary Marson - CRC Supervisor  
Marshall Family Resource Center  
421 SW 6th Ave. S - 500  
Portland, OR. 97204-1620  
Tele: 503.248.3999 x 28616  
Fax: 503.248.3332

**CPT:** Lennie Bjornsen, CPT Project Coordinator  
Community Partnership Team  
500 Summer St NE, 4th Floor  
Salem, OR 97310-1012

#### **VI. CONSIDERATION**



- A. Payment for all work performed during the term of this Agreement shall not exceed the maximum sum of \$68,000.00. Consideration will be paid on a quarterly basis upon receipt and approval of an invoice and check from the PROJECT. Funding for this project for the Fiscal Year 99-00 is contingent upon approval of further federal funding and a second year agreement approved by CPT.
- B. PROJECT shall bill CPT quarterly. Before the end of each quarter PROJECT will submit an invoice for the integration services provided and accompany the invoice with a check for the non-federal portion (not to exceed \$10,000.00) of the amount being billed. The invoice and the check shall be sent to:
- Brandi McDaniel, Admin. Assist.  
Community Partnership Team  
Department of Human Resources  
500 Summer Street NE, 4th Floor  
Salem, OR 97310-1012
- C. All invoices and local checks for payment of funds related to this agreement must be submitted no later than September 15, 1998 in accordance with the instructions of this section.
- D. PROJECT shall not submit billing and CPT will not pay, any amount in excess of the maximum compensation set forth above. If this maximum compensation amount is increased by amendment of this Agreement, the amendment must be fully effective before PROJECT performs work subject to the amendment. No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement. This Agreement will not be amended after the expiration date.

## **VII. GENERAL PROVISIONS**

### **A. Effective Date and Duration**

It is provided that the passage of the Agreement expiration date shall not extinguish or prejudice CPT's right to enforce this Agreement with respect to any default or defect in performance that has not been cured.

### **B. Subcontracts and Assignments**

PROJECT may not enter into any subcontracts for any of the work scheduled under this Agreement or transfer any of its interest in the Agreement without obtaining prior approval from CPT.

### **C. Termination**

1. This Agreement may be terminated by mutual consent of both parties, or by CPT upon 30 days notice, in writing, and delivered by certified mail or in person.
2. In addition, CPT may terminate this Agreement, in whole or in part, effective upon delivery of written notice to the PROJECT, or at such later date as may be established by CPT, under any of the following conditions:
  - a) If CPT funding from federal, state, or other sources is not obtained and continued

at levels sufficient to allow for the purchase of the indicated quantity of services. The Agreement may be modified or terminated to accommodate a reduction in funds.

- b) If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement or are no longer eligible for the funding proposed for payments authorized by this Agreement.
- c) If any license or certification required by law or regulation to be held by the PROJECT to provide the services required by this Agreement is for any reason denied, revoked, suspended, or not renewed.

Any such termination of this Agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

3. CPT by written notice of default (including breach of Agreement) may terminate the whole or any part of this Agreement if:

- a) If PROJECT fails to provide services called for by this Agreement within the time specified herein or any extension thereof; or
- b) If PROJECT fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from CPT, fails to correct such failures within 10 calendar days or such longer period as CPT may authorize.

The rights and remedies of CPT provided in the above clause related to default (including breach of Agreement) by the PROJECT shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

#### **D. Access to Records**

CPT, the Secretary of State's Office of the State of Oregon, the federal government, and all duly authorized representatives shall have access to the books, documents, papers, and records of the PROJECT which are directly pertinent to this specific Agreement for the purpose of making audit, examination, excerpts, and transcripts.

#### **E. Amendment**

The terms of this Agreement may not be waived, altered, modified, supplemented or amended, except by written agreement signed by all parties.

#### **F. Waiver**

The failure of CPT or PROJECT to enforce any provision of this Agreement does not waive CPT's right to enforce any other provision.

#### **G. INDEMNITY**

PROJECT shall defend, save, hold harmless, and indemnify the State of Oregon and CPT, its officers,

employees, agents, and members from all claims, suits or actions of whatsoever nature resulting from or arising out of the negligent activities or omissions of the PROJECT, its officers, employees, subcontractors, or agents under this Agreement.

#### H. Merger Clause

THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS AGREEMENT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS AGREEMENT. PROJECT, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

#### VIII. SIGNATURES

APPROVED BY:

Lorenzo Poe me  
PROJECT Lorenzo Poe, Director, Community and  
Family Services

6/11/98  
Date

Sharon Kelly for  
PROJECT Beverly Stein, Multnomah County Chair

6/25/98  
Date

Gary K. Weeks, Director  
Department of Human Resources

          
Date

Reviewed by:

Lennie Bjornsen  
Community Projects Manager

          
Date

CPT Contracts Unit  
Kati Gail  
Thomas Sponsler, County Counsel,  
Multnomah County

          
Date  
6/16/98  
Date

APPROVED MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS  
AGENDA # C-10 DATE 6/25/98  
DEB BOGSTAD  
BOARD CLERK

MULTNOMAH COUNTY, DIVISION OF COMMUNITY PROGRAMS & PARTNERSHIPS  
MARSHALL FAMILY RESOURCE CENTER WORK PLAN: FY 1998 - 1999

OBJECTIVE:	BENCHMARKS:	STRATEGY:	INPUTS:	OUTPUTS:	OUTCOME MEASURES:
1. Increase access and range of Services in Marshall Family Resource Center and community.	<ul style="list-style-type: none"> <li>Increase Health Care &amp; Mental Health Services.</li> <li>Increase Government Responsiveness.</li> </ul>	<ul style="list-style-type: none"> <li>Develop evening parent workshop/group.</li> <li>Add partner staff to MFRC.</li> <li>Partnership for Youth Investment services.</li> <li>Partnership with AFS for evening service at MFRC.</li> <li>Increase Service Team</li> <li>Plan satellite center at Binnsmead Middle School.</li> <li>Phone outreach to community &amp; youth agencies.</li> </ul>	<ul style="list-style-type: none"> <li>Agency partnerships.</li> <li>Arrange space/time for youth investment spec.</li> <li>Agreements with AFS &amp; Portland Impact.</li> <li>Funding for Family Intervention Specialist at Binnsmead MS</li> <li>Agreement with PPS</li> </ul>	<ul style="list-style-type: none"> <li># of group participants.</li> <li># of youth job referrals.</li> <li># of clients served in evening</li> <li># of clients served</li> <li># of I &amp; R counts.</li> <li># of consultative events</li> <li># of outreach contacts</li> </ul>	<ul style="list-style-type: none"> <li>↑ increase youth job referrals</li> <li>↑ increase youth job placements</li> <li>↑ increase average attendance at Service Team.</li> <li>↑ increase consultative events</li> </ul>
2. Increase parent & resident involvement in schools and community.	<ul style="list-style-type: none"> <li>School Success</li> <li>Sense of Community</li> <li>Resident satisfaction</li> </ul>	<ul style="list-style-type: none"> <li>MFRC staff involvement with MCC family involvement efforts.</li> <li>Develop and implement parent "coffee" hour at MFRC.</li> <li>Personal outreach to parents of students served in MFRC for MHS events</li> </ul>	<ul style="list-style-type: none"> <li>Invitations for coffee hour.</li> <li>Supplies for "coffee hour".</li> </ul>	<ul style="list-style-type: none"> <li># MHS open house attend.</li> <li># of "coffee hour" meetings.</li> <li>Average number of parents attending "coffee hour".</li> <li># of parents introduced to MFRC.</li> <li># of parents participating with MCC.</li> </ul>	<ul style="list-style-type: none"> <li>↑ increase number of parents at MHS open house."</li> <li>↑ increase number of MHS parents with knowledge of MFRC.</li> <li>↑ increase number of residents participating with MCC."</li> </ul>
3. Increase school attendance and performance.	<ul style="list-style-type: none"> <li>Increase High School Completion.</li> <li>School Success.</li> <li>Social Harmony in Schools.</li> </ul>	<ul style="list-style-type: none"> <li>Continue 8<sup>th</sup> - 9<sup>th</sup> grade personal development class/group, transition project.</li> <li>Track student attendance of participating clients.</li> <li>Develop "flex fund" for incentives for attendance and support.</li> <li>Case management.</li> </ul>	<ul style="list-style-type: none"> <li>Volunteer tutors</li> <li>Training from DHR</li> <li>Curriculum and case management services</li> <li>Youth Investment services from Portland Impact and Family Works.</li> </ul>	<ul style="list-style-type: none"> <li># of tutor hours.</li> <li># of students completing class</li> <li>GPA of each student in class.</li> <li># of students tracked, with attendance per quarter.</li> </ul>	<ul style="list-style-type: none"> <li>↑ 90% attendance for students participating in project.</li> <li>↔ no drop outs for participants in project.</li> <li>↔ ↑ Maintain or increase attendance for 75% students tracked by Service Team/MFRC.</li> </ul>

**MULTNOMAH COUNTY, DIVISION OF COMMUNITY PROGRAMS & PARTNERSHIPS**  
**MARSHALL FAMILY RESOURCE CENTER WORK PLAN: FY 1998 – 1999:**

OBJECTIVE:	BENCHMARK:	STRATEGY:	INPUTS:	OUTPUTS:	OUTCOME MEASURES:
4. Build resiliency.	<ul style="list-style-type: none"> <li>• Reduce Teen Pregnancy.</li> <li>• Reduce Domestic Abuse.</li> <li>• School Success.</li> <li>• Decrease number of people at risk of Drug &amp; Alcohol Abuse.</li> </ul>	<ul style="list-style-type: none"> <li>• Continue (GLAD) Girls Leadership &amp; Development Program for 98/99 school year.</li> <li>• Summer GLAD "Destiny" program at MHS.</li> <li>• Introduce NIA fitness &amp; AFS training to GLAD.</li> <li>• Case mgmt at MFRC.</li> <li>• Mentoring for GLAD participants</li> </ul>	<ul style="list-style-type: none"> <li>• Funding for GLAD.</li> <li>• Funding for summer 1999 Destiny program.</li> <li>• Partnership with Health Department and funding for NIA classes</li> <li>• MSW intern from PSU.</li> <li>• AFS training</li> <li>• Mentors</li> </ul>	<ul style="list-style-type: none"> <li>• # of girls in program.</li> <li>• # of NIA classes and # of average participants.</li> <li>• # of case managed cases.</li> <li>• # of GLAD participants with mentor.</li> <li>• # of mentor hours</li> </ul>	<ul style="list-style-type: none"> <li>⇒ No GLAD pregnancies.</li> <li>↑ Improved school attendance for 75% GLAD participants.</li> <li>↑ 75% of participants in GLAD will demonstrate increased self-esteem.</li> <li>↑ 80% of GLAD participants will have increased awareness in career options.</li> </ul>
5. Improve MFRC process for delivery of service and improve facilities for service delivery.	<ul style="list-style-type: none"> <li>• Increase Government Accountability &amp; Responsiveness.</li> <li>• Increase and improve access to Mental &amp; Physical Health Care.</li> </ul>	<ul style="list-style-type: none"> <li>• Upgrade DHR computer system.</li> <li>• Fax machine for MFRC.</li> <li>• Efficient, compatible phone system for entire center.</li> </ul>	<ul style="list-style-type: none"> <li>• Technical and financial assistance from DHR</li> <li>• Multnomah County and Portland Public School coordination for fax.</li> <li>• Install multiple county phone system.</li> </ul>	<ul style="list-style-type: none"> <li>• \$ support for system improvement.</li> <li>• # of partner agencies supporting upgrade of MFRC.</li> </ul>	<ul style="list-style-type: none"> <li>↑ Increased service perception by partner agencies.</li> <li>↑ Increase in DHR use of computer system to support clients.</li> <li>↑ Increase in level of confidentiality provided in MFRC.</li> <li>↑ New phone system in place.</li> </ul>
6. Increase peace promotion and violence prevention activities in Outer SE Portland.	<ul style="list-style-type: none"> <li>• Social Harmony in Schools.</li> <li>• Reduce Domestic Abuse.</li> </ul>	<ul style="list-style-type: none"> <li>• Organize a Peace Camp in summer of 1998.</li> <li>• Provide mediation services to students at MHS.</li> <li>• Peace Action Zone.</li> <li>• Maintain Peer Helper Program.</li> <li>• Continue active MCC Peace Action Team</li> </ul>	<ul style="list-style-type: none"> <li>• Funding for Peace Camp.</li> <li>• Volunteers for Peace Camp</li> <li>• Coordinator for Peer Helper Program.</li> <li>• Support from Health Department on Peace Action Zones.</li> <li>• Provide mtg. Space for Peace Action Team.</li> </ul>	<ul style="list-style-type: none"> <li>• # of volunteers.</li> <li>• # of young people attending Peace Camp.</li> <li>• # of Peer Helpers.</li> <li>• # of mediations</li> </ul>	<ul style="list-style-type: none"> <li>↑ Increased perception of safety as measured by survey, of students participating in Peace Camp and Peer Helper Program.</li> </ul>
7. Complete OSE strategic plan.	<ul style="list-style-type: none"> <li>• Livable Communities</li> <li>• Sense of Community</li> </ul>	<ul style="list-style-type: none"> <li>• Merge MCC &amp; OSECP</li> <li>• Complete pre-planning</li> <li>• Resident outreach</li> </ul>		<ul style="list-style-type: none"> <li>• # of residents participating</li> </ul>	<ul style="list-style-type: none"> <li>⇒ Design outreach by 10/15/98</li> <li>⇒ SWOT analysis complete</li> <li>⇒ Plan complete by 6/30/99</li> </ul>

CONTRACT FOR SERVICES  
MULTNOMAH COUNTY COMMUNITY AND FAMILY SERVICES DEPARTMENT

**Attachment A:**  
**Service Elements and Contract Amounts**

Contractor Name : OREGON - DEPT OF HUMAN RESOURCES- MARSHALL	Vendor Code: 00028
Contractor Address : 500 NE SUMMER ST - 4TH FLOOR SALEM OR 97310-1012	
Telephone : 945-5821	Fiscal Year : 98/99
Federal ID # :	

---

**Program Office Name : Family Resource Centers**

---

*Service Element Name : Integrated Services Projects (Y19A)*

<u>Mod. #</u>	<u>Begin Date</u>	<u>End Date</u>	<u>Payment Method</u>	<u>Payment Basis</u>	<u># of Units</u>	<u>Unit Description</u>	<u>Unit Rate</u>	<u>Amount</u>
0	7/1/98	6/30/99	Per Invoice	Match				\$40,000.00
Total								\$40,000.00

MEETING DATE: JUN 25 1998

AGENDA NO: C-11

ESTIMATED START TIME: 9:00

(Above space for Board Clerk's Use Only)

**AGENDA PLACEMENT FORM**

**SUBJECT: Revenue/Expenditure Intergovernmental Agreement with the Oregon Department of Human Resources for Roosevelt High School Family Resource Center services. Revenue of \$68,000 and Expenditure of \$40,000 (match).**

**BOARD BRIEFING**

Date Requested: \_\_\_\_\_

Requested By: \_\_\_\_\_

Amount of Time Needed: \_\_\_\_\_

**REGULAR MEETING**

Date Requested: Next Meeting

Amount of Time Needed: Consent

**DEPARTMENT: Community and Family Services**

**DIVISION: Community Programs and Partnership**

**CONTACT: Lorenzo Poe/ Mary Li**

**TELEPHONE: 248-3691**

**BLDG/ROOM: B166/7th**

**PERSON(S) MAKING PRESENTATION: N/A**

**ACTION REQUESTED:**

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

**SUGGESTED AGENDA TITLE**

**REVENUE/EXPENDITURE INTERGOVERNMENTAL AGREEMENT WITH OREGON DEPARTMENT OF HUMAN RESOURCES, ROOSEVELT HIGH SCHOOL FAMILY RESOURCE CENTER**

*6/26/98 originals to Patty Doyle*

**SIGNATURES REQUIRED:**

**ELECTED OFFICIAL: \_\_\_\_\_**

**OR**

**DEPARTMENT MANAGER: Lorenzo Poe ms**

PAID  
COUNTY COMMISSIONERS  
98 JUN 16 PM 4:26  
MULTNOMAH COUNTY  
OREGON

**ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES**

**Any Questions: Call the Board Clerk @ 248-3277**

\\cfsd-fs3\vol2\admin\ceu\contract.99\drhroobc.doc



# MULTNOMAH COUNTY OREGON

DEPARTMENT OF COMMUNITY AND FAMILY SERVICES  
421 SW SIXTH AVENUE, SUITE 700  
PORTLAND, OREGON 97204  
PHONE (503) 248-3691  
FAX (503) 248-3379  
TDD (503) 248-3598

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DAN SALTZMAN • DISTRICT 1 COMMISSIONER  
GARY HANSEN • DISTRICT 2 COMMISSIONER  
TANYA COLLIER • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

TO: Board of County Commissioners

FROM: Lorenzo Poe, Director *Lorenzo Poe mls*  
Department of Community and Family Services

DATE: June 10, 1998

SUBJECT: Intergovernmental Revenue Agreement with Oregon Department of Human Resources, FY 1998-99

**I. Recommendation/Action Requested:** The Department is recommending Board approval of the Intergovernmental Revenue Agreement with the Oregon Department of Human Resources (DHR) for the period July 1, 1998 through June 30, 1999.

**II. Background/Analysis:** DHR supports community partnership projects that integrate human service, engender community involvement and action, align services and policy strategies, to improve human services outcomes for Oregonians. Service integration through community partnership projects is a key Community Partnership Team strategy in meeting DHR and local goals and outcomes and the Oregon Benchmarks.

Since 1991, DHR and its divisions have contributed to the on-going development of the Roosevelt Family Resource Center coordinated by Multnomah County and the Portland School District. This effort, located among the neighborhoods of north Portland, has grown to coordinate several social supports such as; parent support groups, case coordination, teacher consultations, personal development classes for students, girls leadership programming, mentoring, student mediation services, peer support groups, and outreach with neighborhood residents. This project coordinates with various other service integration and community development efforts in outer southeast Portland.

**III. Financial Impact:** The net financial impact of this agreement is revenue of \$28,000. The agreement is both a revenue agreement for \$68,000 and an expenditure agreement for \$40,000. The expenditure is match funding.

**IV. Legal Issues:** None

**V. Controversial Issues:** None

**VI. Link to Current County Policies:** This agreement supports the County's efforts to develop stronger communities by integrating services through partnerships. It addresses the County Benchmarks of increasing high school completion, reduction of the number of children in poverty, and reduction of juvenile crime.

**VII. Citizen Participation:** The Leaders roundtable was instrumental in developing Family Resource Center sites.

**VIII. Other Government Participation:** This is a partnership between Multnomah County, DHR, and Portland Public Schools.



**MULTNOMAH COUNTY CONTRACT APPROVAL FORM**  
(See Administrative Procedure CON-1)

Contract #: 9910262

Pre-approved Contract Boilerplate (with County Counsel signature) ☐ Attached ☐ Not Attached

Amendment #: 0

<b>Class I</b> <input type="checkbox"/> Professional Services not to exceed \$50,000 (and not awarded by RFP or Exemption) <input type="checkbox"/> Revenue not to exceed \$50,000 (and not awarded by RFP or Exemption) <input type="checkbox"/> Intergovernmental Agreement (IGA) not to exceed \$50,000 <input type="checkbox"/> Expenditure <input type="checkbox"/> Revenue <input type="checkbox"/> Architectural & Engineering not to exceed \$10,000 (for tracking purposes only)	<b>Class II</b> <input type="checkbox"/> Professional Services that exceed \$50,000 or awarded by RFP or Exemption (regardless of amount) <input type="checkbox"/> PCRB Contract <input type="checkbox"/> Maintenance Agreement <input type="checkbox"/> Licensing Agreement <input type="checkbox"/> Construction <input type="checkbox"/> Grant <input type="checkbox"/> Revenue that exceeds \$50,000 or awarded by RFP or Exemption (regardless of amount)	<b>Class III</b> <input checked="" type="checkbox"/> Intergovernmental Agreement (IGA) that exceeds \$50,000 <input type="checkbox"/> Expenditure <input checked="" type="checkbox"/> Revenue <div style="text-align: center;"><b>APPROVED MULTNOMAH COUNTY BOARD OF COMMISSIONERS</b></div> <div style="text-align: center;">AGENDA # <u>C-11</u> DATE <u>6/25/98</u></div> <div style="text-align: center;">DEB BOGSTAD</div> <div style="text-align: center;"><b>BOARD CLERK</b></div>
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Department: <u>Community and Family Services</u>	Division: <u>Community and Family Services</u>	Date: <u>June 10, 1998</u>
Originator: <u>Wendy Lebow</u>	Phone: <u>x 26233</u>	Bldg/Rm: <u>166/5</u>
Contact: <u>Patty Doyle</u>	Phone: <u>x 24418</u>	Bldg/Rm: <u>166/7</u>

Description of Contract **Funds Integrated Services Project at Roosevelt High School. This is both an expenditure and a revenue contract.**

RENEWAL: <input checked="" type="checkbox"/>	PREVIOUS CONTRACT #(S): <u>102938</u>
FP/BID: _____	RFP/BID DATE: _____
EXEMPTION #/DATE: _____	EXEMPTION EXPIRATION DATE: _____
CONTRACTOR IS: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> ESB <input type="checkbox"/> QRF <input type="checkbox"/> N/A <input type="checkbox"/> NONE (Check all boxes that apply)	ORS/AR #: _____

Contractor <u>Department of Human Resources</u>	
Address <u>500 Summer St. SE</u> <u>Salem, OR 97310-1012</u>	Remittance Address _____ (If different) _____
Phone <u>(503) 945-5818</u>	Payment Schedule / Terms
Employer ID# or SS# _____	<input type="checkbox"/> Lump Sum \$ _____ <input type="checkbox"/> Due on Receipt
Effective Date <u>July 1, 1998</u>	<input type="checkbox"/> Monthly \$ _____ <input type="checkbox"/> Net 30
Termination Date <u>June 30, 1999</u>	<input checked="" type="checkbox"/> Other \$ <u>Quarterly</u> <input type="checkbox"/> Other
Original Expenditure Amount \$ <u>40,000</u>	<input type="checkbox"/> Requirements \$ _____
Original Revenue Amount \$ <u>68,000</u>	Encumber <input type="checkbox"/> Yes <input type="checkbox"/> No
Total Amt of Previous Amendments \$ <u>-0-</u>	
Amendment \$ <u>-0-</u>	
Total Amt of Expenditure \$ <u>40,000</u>	
Total Amt of Revenue \$ <u>68,000</u>	

**REQUIRED SIGNATURES**

Department Manager _____	DATE <u>6/11/98</u>
Purchasing Manager _____	DATE _____
County Counsel _____	DATE <u>6/16/98</u>
County Chair _____	DATE <u>6/25/98</u>
Sheriff _____	DATE _____
Contract Administration _____	DATE _____

LGFS VENDOR CODE						DEPT REFERENCE GV0853B					
LINE #	FUND	AGENCY	ORG	SUB ORG	ACTIVITY	OBJ/ REV	SUB OBJ	REP CAT	LGFS DESCRIPTION	AMOUNT	INC DEC
01	156	010	1123			2396 Revenue			State DHR	\$68,000	
02	156	010	1123		Y19A			9997	Integ. Svs. Pre-Match Fund	\$40,000	

## COMMUNITY AND FAMILY SERVICES DEPARTMENT

## CONTRACT APPROVAL FORM SUPPLEMENT

Contractor : OREGON - DEPT OF HUMAN RESOURCES-ROOSEVELT

Vendor Code : GV0853B

Page 1 of 1

6/10/98

Fiscal Year : 98/99

Numeric Amendment : 00

Contract Number : 9910262

LINE	FUND	AGEN	ORG CODE	ACTIVIY CODE	OBJECT CODE	REPORTING CATEGORY	LGFS DESCRIPTION	ORIGINAL AMOUNT	AMENDMENT AMOUNT	FINAL AMOUNT	REQT'S ESTIMATE
01	156	010	1123	Y19A	6050	9997L <div></div>	Integr Svs Pre-Matched Funding Integrated Services Projects	\$40,000.00		\$40,000.00	
TOTAL								\$40,000.00	\$0.00	\$40,000.00	\$0.00



# Oregon

John A. Kitzhaber, M.D., Governor

## Department of Human Resources

*Contracts and Purchasing Units*

500 Summer Street NE, 4th Floor

Salem, Oregon 97310

(503) 945-5818

Purchasing FAX (503) 373-7365

Contracts FAX (503) 373-7889

TTY (503) 945-5928

Agreement #81008

### INTERGOVERNMENTAL AGREEMENT

This Agreement is between the Department of Human Resources, (DHR), Office of the Director, Community Partnership Team, hereinafter called "CPT", and Multnomah County- Department of Community and Family Services, hereinafter called "PROJECT".

#### I. BACKGROUND

The Department of Human Resources supports community partnership projects that integrate human services, engender community involvement and action, align services and policy strategies, to improve human service outcomes for Oregonians. Service integration through community partnership projects is a key CPT strategy in meeting DHR and local goals and outcomes and the Oregon Benchmarks.

Since 1991, DHR and its divisions have contributed to the on-going development of the Roosevelt Family Resource Center coordinated by Multnomah County and the Portland School District. This effort, located among the neighborhoods of north Portland, has grown to coordinate several social supports such as; health clinics, parent support groups, case coordination, positive family activities, student attendance supports, mentors, alcohol & other drug prevention activities, teacher consultation, parent involvement, and outreach with neighborhood residents. This project coordinates with various other service integration and community development efforts in north Portland.

#### II. TERM

This Agreement begins July 1, 1998 and ends June 30, 1999, unless otherwise terminated or extended in writing. CPT support for this project for the Fiscal Year 99-00 is contingent upon approval of further federal funding and continued partnership negotiations.

#### III. GOALS AND OUTCOMES

PROJECT shall work to accomplish the outcomes and outputs as shown on Attachment A, Annual Work Plan, dated FY 1998-1999, which is hereby incorporated into this Agreement by this reference. The attached workplan must be revised and approved by DHR/CPT and Multnomah County by August 14, 1998. This agreement shall terminate on August 14, 1998 if the revised Workplan is not approved by August 14, 1998. This agreement shall be amended to incorporate the revised Workplan at that time.

cdm\j\dhr\servin\81008\jun 3, 1998

1

*Assisting People to Become Independent, Healthy and Safe*  
An Equal Opportunity Employee



DHR 2999 (5/98)

**The three DHR Outcomes most impacted by this agreement are:**

- 1. #19 Decrease the teen pregnancy rate**
- 2. # 14 Decrease the rate of preventable deaths due to suicide & injuries**
- 3. # 2 Decrease the number of people at risk of alcohol & drug abuse**

**The purpose of the Roosevelt Family Resource Center is to coordinate various DHR and other health & social supports in one community school location. Integrating human and education services in one location, increasing health care access, community involvement, developing wrap-around supports for struggling students and their families are the core objectives of this project.**

**IV. RESPONSIBILITIES AND EXPECTATIONS**

**A. All Parties shall:**

- 1) Commit to the desired goals and outcomes of the project and work toward meeting those objectives.**
- 2) Provide leadership and support as necessary to accomplish the goals and outcomes of the project.**
- 3) Assist in the operation, oversight, and evaluation of the project.**

**B. CPT agrees to:**

- 1) Provide assistance in overcoming service integration barriers among agencies, governments, service providers, advocacy groups, etc..**
- 2) Provide training and technical support regarding operation of state services, budgeting, technology, and branch office flexibility.**
- 3) Provide assistance in areas of community involvement, workplan development, communications, media, project design, group facilitation, volunteer development, human services data, integrated services and supports, alternative programs.**
- 4) Provide a CPT Project Coordinator to act as problem solver for issues relating to DHR functions and resources.**

**C. PROJECT agrees to:**

- 1) Work with CPT to develop a functional workplan which includes expected results. The workplan shall include or connect to an evaluation plan (e.g. goals, outcomes, outputs, inputs) that will measure the results of the project.**

- 2) Develop and implement a plan for posting periodic project updates on the First Class E-Mail System.
- 3) Submit semi-annual project reports to CPT on or before January 30 and July 30. Progress reports are to include, but not limited to, information on projects results; outcomes and outputs, lessons learned, anecdotal stories, next steps, and additional supports needed from DHR and its' Divisions. These semi-annual reports may be transmitted via the First Class E-Mail System.
- 4) Produce services, materials, and alternative revenue sources to support the project's operational needs.
- 5) Develop appropriate agreements with other project partners outlining the responsibilities of each project partner.
- 6) Provide CPT with a forecasted expenditure budget and invoice before any federal funds will be disbursed. The forecasted budget shall include, but not be limited to:
  - a. Amount of local, non-federal, previously unmatched dollars (expenditures), being submitted for match
  - b. Sources of all local matching dollars/expenditures
  - c. Projected (annual or quarterly) budget expenditures, including local and federal portions of the total budget
  - d. Total project budget
  - e. An explanation of what the CPT matching funds system allows the project to do that may otherwise be beyond the local coalitions capacity or resources.
- 7) Provide a final expenditure report with the year end progress report by July 30, detailing actual local and federal expenditures for the project.
- 8) Submit all invoices and local checks for payment of funds related to this agreement no later than September 15, 1999.

**V. DESIGNATED LIAISONS**

Liaisons for the term of this Agreement shall be as follows, all correspondence or notices shall be directed to their attention:

**PROJECT:** Mary Marson - CRC Supervisor  
Roosevelt Family Resource Center  
421 SW 6th Ave. S - 500  
Portland, OR. 97204-1620

Tele: 503.248.3999 x 28616

Fax: 503.248.3332

CPT: Lennie Bjornsen, CPT Project Coordinator  
Community Partnership Team  
500 Summer St NE, 4th Floor  
Salem, OR 97310-1012

## **VI. CONSIDERATION**

- A. Payment for all work performed during the term of this Agreement shall not exceed the maximum sum of \$68,000.00. Consideration will be paid on a quarterly basis upon receipt and approval of an invoice and check from the PROJECT. Funding for this project for the Fiscal Year 99-00 is contingent upon approval of further federal funding and a second year agreement approved by CPT.
- B. PROJECT shall bill CPT quarterly. Before the end of each quarter PROJECT will submit an invoice for the integration services provided and accompany the invoice with a check for the non-federal portion (not to exceed \$10,000.00) of the amount being billed. The invoice and the check shall be sent to:
- Brandi McDaniel, Admin. Assist.  
Community Partnership Team  
Department of Human Resources  
500 Summer Street NE, 4th Floor  
Salem, OR 97310-1012
- C. All invoices and local checks for payment of funds related to this agreement must be submitted no later than September 15, 1998 in accordance with the instructions of this section.
- D. PROJECT shall not submit billing and CPT will not pay, any amount in excess of the maximum compensation set forth above. If this maximum compensation amount is increased by amendment of this Agreement, the amendment must be fully effective before PROJECT performs work subject to the amendment. No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement. This Agreement will not be amended after the expiration date.

## **VII. GENERAL PROVISIONS**

### **A. Effective Date and Duration**

It is provided that the passage of the Agreement expiration date shall not extinguish or prejudice CPT's right to enforce this Agreement with respect to any default or defect in performance that has not been cured.

### **B. Subcontracts and Assignments**

**PROJECT may not enter into any subcontracts for any of the work scheduled under this Agreement or transfer any of its interest in the Agreement without obtaining prior approval from CPT.**

**C. Termination**

- 1. This Agreement may be terminated by mutual consent of both parties, or by CPT upon 30 days notice, in writing, and delivered by certified mail or in person.**
- 2. In addition, CPT may terminate this Agreement, in whole or in part, effective upon delivery of written notice to the PROJECT, or at such later date as may be established by CPT, under any of the following conditions:**
  - a) If CPT funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services. The Agreement may be modified or terminated to accommodate a reduction in funds.**
  - b) If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement or are no longer eligible for the funding proposed for payments authorized by this Agreement.**
  - c) If any license or certification required by law or regulation to be held by the PROJECT to provide the services required by this Agreement is for any reason denied, revoked, suspended, or not renewed.**

**Any such termination of this Agreement shall be without prejudice to any obligations or liabilities or either party already accrued prior to such termination.**

- 3. CPT by written notice of default (including breach of Agreement) may terminate the whole or any part of this Agreement if:**
  - a) If PROJECT fails to provide services called for by this Agreement within the time specified herein or any extension thereof; or**
  - b) If PROJECT fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from CPT, fails to correct such failures within 10 calendar days or such longer period as CPT may authorize.**

The rights and remedies of CPT provided in the above clause related to default (including breach of Agreement) by the PROJECT shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

**D. Access to Records**

CPT, the Secretary of State's Office of the State of Oregon, the federal government, and all duly authorized representatives shall have access to the books, documents, papers, and records of the PROJECT which are directly pertinent to this specific Agreement for the purpose of making audit, examination, excerpts, and transcripts.

**E. Amendment**

The terms of this Agreement may not be waived, altered, modified, supplemented or amended, except by written agreement signed by all parties.

**F. Waiver**

The failure of CPT or PROJECT to enforce any provision of this Agreement does not waive CPT's right to enforce any other provision.

**G. INDEMNITY**

PROJECT shall defend, save, hold harmless, and indemnify the State of Oregon and CPT, its officers, employees, agents, and members from all claims, suits or actions of whatsoever nature resulting from or arising out of the negligent activities or omissions of the PROJECT, its officers, employees, subcontractors, or agents under this Agreement.

**H. Merger Clause**

THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS AGREEMENT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS AGREEMENT. PROJECT, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE,



HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

VIII. SIGNATURES

APPROVED BY:

Lorenzo Poe  
**PROJECT** Lorenzo Poe, Director  
Community and Family Services

6/11/98  
**Date**

Sharon Steiny for  
**PROJECT** Beverly Stein, Multnomah County Chair

6/25/98  
**Date**

Gary K. Weeks, Director  
Department of Human Resources

          
**Date**

Reviewed by:

Lennie Bjornsen  
Community Projects Manager

          
**Date**

CPT Contracts Unit

          
**Date**

Katie Gault  
Thomas Sponsler County Counsel,  
Multnomah County

6/16/98  
**Date**

APPROVED MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS  
AGENDA # C-11 DATE 6/25/98  
DEB BOGSTAD  
BOARD CLERK

ATTACHMENT A WORKPLAN (to be revised by August 14, 1998)

MULTNOMAH COUNTY, DIVISION OF COMMUNITY PROGRAMS & PARTNERSHIPS  
ROOSEVELT COMMUNITY & FAMILY RESOURCE CENTER WORK PLAN: FY 1998 - 1999

OBJECTIVE:	BENCHMARKS:	STRATEGY:	INPUTS:	OUTPUTS:	OUTCOME MEASURES:
1. Increase access and range of Services in the Roosevelt Community & Family Resource Center and community.	<ul style="list-style-type: none"> <li>• Increase Health Care &amp; Mental Health Services.</li> <li>• Increase Government Responsiveness.</li> </ul>	<ul style="list-style-type: none"> <li>• Maintain &amp; enhance current partnerships: i.e. School-based Health Clinic</li> <li>• Add partner staff to RCFRC.</li> <li>• Design mutually acceptable forms for RCFRC.</li> <li>• Increase RCFRC services in cluster schools.</li> </ul>	<ul style="list-style-type: none"> <li>• Agency partnerships.</li> <li>• Agreements with partners for staffing.</li> <li>• Agreements with cluster schools</li> </ul>	<ul style="list-style-type: none"> <li># of referrals from partners.</li> <li># of clients served from cluster schools.</li> <li># of I &amp; R counts.</li> <li># of consultative events</li> </ul>	<ul style="list-style-type: none"> <li>↑ increase in clients served from cluster schools.</li> <li>↑ increase clients served in RCFRC.</li> <li>↑ increase consultative events</li> </ul>
2. Decrease the number of people at risk of alcohol & drug abuse.	<ul style="list-style-type: none"> <li>• School Success</li> <li>• Drug free youth</li> </ul>	<ul style="list-style-type: none"> <li>• Expand &amp; enhance mentorship project for students at RHS.</li> <li>• Coordinate with partners around needs for additional drug &amp; alcohol prevention programs.</li> <li>• Advocate for Touchstone worker at Roosevelt cluster school.</li> </ul>	<ul style="list-style-type: none"> <li>• Leverage staffing and supplies from partners.</li> </ul>	<ul style="list-style-type: none"> <li># of students participating in mentor program.</li> <li># of hours of mentor participation.</li> <li>School attendance tracked for participants, per quarter</li> <li># of D &amp; A referrals from RCFRC</li> </ul>	<ul style="list-style-type: none"> <li>↑ 90% attendance for students participating in mentor project.</li> <li>↑ increased awareness of harmful effects of drug &amp; alcohol abuse</li> <li>↑ increase number of referred students completing D &amp; A programs</li> </ul>
3. Increase school attendance and performance.	<ul style="list-style-type: none"> <li>• Increase High School Completion.</li> <li>• School Success.</li> </ul>	<ul style="list-style-type: none"> <li>• Encourage increased participation by RHS staff in RCFRC.</li> <li>• RCFRC system to track student attendance of participating students.</li> <li>• Develop "flex fund" for incentives for attendance and support.</li> </ul>	<ul style="list-style-type: none"> <li>• Intern to track attendance.</li> <li>• Technical assistance form Truancy Project.</li> <li>• Coordination with RHS to avoid duplication of effort.</li> </ul>	<ul style="list-style-type: none"> <li># of RHS staff participating in RCFRC.</li> <li># of students tracked, with attendance per quarter.</li> </ul>	<ul style="list-style-type: none"> <li>⇒ no drop outs for participants in project.</li> <li>⇒ ↑ Maintain or increase attendance for 75% students tracked by Service Team/MFRC.</li> </ul>

MULTNOMAH COUNTY, DIVISION OF COMMUNITY PROGRAMS & PARTNERSHIPS  
ROOSEVELT COMMUNITY & FAMILY RESOURCE CENTER WORK PLAN: FY 1998 -- 1999:

OBJECTIVE:	BENCHMARK:	STRATEGY:	INPUTS:	OUTPUTS:	OUTCOME MEASURES:
4. Stabilize families so that youth can be more successful in school.	<ul style="list-style-type: none"> <li>• School success.</li> <li>• Drug free youth.</li> <li>• Reduce domestic violence.</li> <li>• Sense of community.</li> </ul>	<ul style="list-style-type: none"> <li>• Provide outreach services to community members and families.</li> <li>• Work with families to identify service needs.</li> <li>• Link families to community resources for parents.</li> <li>• Link with Caring Community of North Portland to access resources for families and students.</li> <li>• Identify pre-existing community and parent groups.</li> <li>• Work with RHS staff to increase parent participation in school sponsored parent meetings.</li> </ul>	<ul style="list-style-type: none"> <li>• Commitments from partners to work collaboratively.</li> <li>• Access to parent and community groups that are currently meeting.</li> </ul>	<ul style="list-style-type: none"> <li>• # of families &amp; community members linked with resources.</li> <li>• # of family-focused activities RCFRC staff participates in.</li> <li>• # of parents attending RHS sponsored parent meetings.</li> </ul>	<ul style="list-style-type: none"> <li>∩ number of families and residents linked with resources.</li> <li>∩ number of parents attending RHS sponsored parent meetings.</li> </ul>

CONTRACT FOR SERVICES  
MULTNOMAH COUNTY COMMUNITY AND FAMILY SERVICES DEPARTMENT

**Attachment A:**  
**Service Elements and Contract Amounts**

Contractor Name : OREGON - DEPT OF HUMAN RESOURCES-ROOSEVELT	Vendor Code: GV0853B
Contractor Address : 500 NE SUMMER ST FOURTH FLOOR SALEM OR 97310-1012	
Telephone : 945-5821	Fiscal Year : 98/99
Federal ID # :	

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**Program Office Name : Family Resource Centers**

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*Service Element Name : Integrated Services Projects (Y19A)*

<u>Mod. #</u>	<u>Begin Date</u>	<u>End Date</u>	<u>Payment Method</u>	<u>Payment Basis</u>	<u># of Units</u>	<u>Unit Description</u>	<u>Unit Rate</u>	<u>Amount</u>
0	7/1/29	6/30/99	Per Invoice	Match				\$40,000.00
Total								\$40,000.00

## 1. REQUEST FOR PLACEMENT ON THE AGENDA FOR:

(Date)

DEPARTMENT: COMMUNITY AND FAMILY SERVICESDIVISION: N/ACONTACT: LES WALKERPHONE: 26777

\* NAME(S) OF PERSON MAKING PRESENTATION TO BOARD:

KATHY TINKLE/MIKE WADDELLSUGGESTED AGENDA TITLE (to assist in preparing a description for the printed agenda)

Budget Modification CFS#09 adding two Fiscal Specialists, two Employee Services Specialists, and one Office Assistant in Department Management and Administration.

## 2. DESCRIPTION OF MODIFICATION: [Explain the changes being made: What budget does it increase / decrease? What do the changes accomplish? Where does the money come from?

[ X ] PERSONNEL CHANGES ARE SHOWN IN DETAIL ON THE ATTACHED SHEET

Budget Modification CFS#09 adds to the Support Services Division 2.0 FTE Fiscal Specialists for grant accounting and 2.0 FTE Employee Services Specialists for personnel and payroll. 1.0 FTE Office Assistant 2 is added to Contract & Evaluation Services. The positions are added to strengthen the Department's infrastructure and are included in the FY99 Adopted Budget.

Budget Modification CFS#09 reclassifies six positions based upon Employee Services review and recommendation and are included in the FY99 Adopted Budget. The reclassifications includes 3.0 FTE Office Assistant 2 to Administrative Secretary, 1.0 FTE Office Assistant to Program Development Technician, 1.0 FTE Data Technician to 1.30 FTE Office Assistant 2, 1.0 FTE CFS Supervisor to CFS Administrator, 1.0 FTE Program Evaluation Specialist to Principle Evaluation Specialist; and 1.0 FTE CFS Manager to FTE CFS Manager Sr.

The net increase to the Department is \$8,919 for increased indirect support. Increased service reimbursements from the Fed/State Fund include \$9,000 to General Fund; \$8,478 to Insurance Fund; \$682 to Motor Pool Fund; \$4,571 to Telephone Fund; \$632 to Distribution/Postage Fund; and \$7,767 to Building Management Fund.

## 3. REVENUE IMPACT

(Explain revenues being changed and reason for the change)

Increase CGF Indirect Support	\$9,000
Increase Svs Reim F/S to General Fund	\$9,000
Increase Svs Reim F/S to Insurance Fund	\$8,478
Increase Svs Reim F/S to Fleet Fund	\$682
Increase Svs Reim F/S to Telephone Fund	\$4,571
Increase Svs Reim F/S to Distribution Fund	\$632
Increase Svs Reim F/S to Bldg. Mgmt. Fund	\$7,767
<b>TOTAL</b>	<b>\$40,130</b>

98 JUN 16 PM 2:27  
MULTNOMAH COUNTY  
COUNTY CLERK'S OFFICE

## 4. CONTINGENCY STATUS [to be completed by Budget &amp; Planning]

Fund Contingency BEFORE THIS MODIFICATION (as of \_\_\_\_\_): \$ \_\_\_\_\_  
(Specify Fund) AFTER THIS MODIFICATION: \$ \_\_\_\_\_

Originated By:

*M. Waddell*  
*Les Walker*

Date:

6/11/98

Department Director:

*Robert P. Poff*

Date:

6/10/98

Plan / Budget Analyst:

*Karyne Dargatz*

Date:

6/15/98

Employee Services:

Date:

Board Approval:

*Deborah C. Bostad*

Date:

6/25/98

## BUDGET MODIFICATION NO. CFS#09

## EXPENDITURES

TRANS EB GM

TRANS DATE:

ACCTING PERIOD:

Budget Fiscal Year: 97/98

Doc No.	Action	Fund	Agency	Org	Activity	Report Category	Object	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
		156	010	0110			5100	470,140	467,627	(2,513)		Permanent
		156	010	0110			5500	82,790	82,312	(478)		Fringe
		156	010	0110			5550	43,009	42,544	(465)		Insurance
		156	010	0110			6060	2,230,604	2,123,759	(106,845)		Pass Through
		156	010	0110			7100	112,463	111,351	(1,112)		Indirect @ 10.69%
											(111,413)	Org 0110 Subtotal
		156	010	0121			5100	259,623	263,881	4,258		Permanent
		156	010	0121			5500	46,022	46,745	723		Fringe
		156	010	0121			5550	33,998	34,763	765		Insurance
		156	010	0121			6120	13,200	13,374	174		Printing
		156	010	0121			6230	8,400	10,652	2,252		Supplies
		156	010	0121			6310	2,500	2,584	84		Travel & Training
		156	010	0121			6330	649	743	94		Local Travel
		156	010	0121			7100	43,723	44,903	1,180		Indirect @ 10.69%
		156	010	0121			7150	8,515	9,821	1,306		Telephone Services
		156	010	0121			7300	96	200	104		Motor Pool
		156	010	0121			7400	19,364	20,546	1,182		Building Mgmt Services
		156	010	0121			7560	2,245	2,341	96		Distribution/Postage
		156	010	0121			8400	0	4,600	4,600		Equipment
											16,818	Org 0121 Subtotal
		156	010	0122			5100	502,168	534,843	32,675		Permanent
		156	010	0122			5500	90,177	95,833	5,656		Fringe
		156	010	0122			5550	67,073	72,207	5,134		Insurance
		156	010	0122			6120	1,500	1,844	344		Printing
		156	010	0122			6230	12,711	15,209	2,498		Supplies
		156	010	0122			6310	2,800	2,966	166		Travel & Training
		156	010	0122			6330	1,178	1,364	186		Local Travel
		156	010	0122			7100	79,672	85,091	5,419		Indirect @ 10.69%
		156	010	0122			7150	6,895	8,201	1,306		Telephone Services
		156	010	0122			7300	200	405	205		Motor Pool
		156	010	0122			7400	41,301	43,637	2,336		Building Mgmt Services
		156	010	0122			7560	4,557	4,747	190		Distribution/Postage
		156	010	0122			8400	0	4,688	4,688		Equipment
											60,803	Org 0122 Subtotal
		156	010	0126			5100	347,045	315,990	(31,055)		Permanent
		156	010	0126			5500	62,320	56,744	(5,576)		Fringe
		156	010	0126			5550	39,556	34,711	(4,845)		Insurance
		156	010	0126			7100	63,759	59,325	(4,434)		Indirect @ 10.69%
											(45,910)	Org 0126 Subtotal
											(79,702)	SUBTOTAL TOTAL

**BUDGET MODIFICATION NO. CFS#09**

## EXPENDITURES

TRANS EB GM

TRANS DATE:

ACCTING PERIOD:

Budget Fiscal Year: 97/98

Doc No.	Action	Fund	Agency	Org	Activity	Report Category	Object	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
		010	156	0135			5100	56,525	58,823	2,298		Permanent
		010	156	0135			5500	10,151	10,560	409		Fringe
		010	156	0135			5550	4,562	5,152	590		Insurance
		010	156	0135			7100	8,893	9,246	353		Indirect @ 10.69%
											3,650	Org 0135 Subtotal
		010	156	0140			5100	612,169	650,043	37,874		Permanent
		010	156	0140			5500	109,932	116,689	6,757		Fringe
		010	156	0140			5550	79,056	86,303	7,247		Insurance
		010	156	0140			6120	20,912	21,537	625		Printing
		010	156	0140			6230	11,357	14,263	2,906		Supplies
		010	156	0140			6310	5,380	5,682	302		Travel & Training
		010	156	0140			6330	925	1,263	338		Local Travel
		010	156	0140			7100	101,942	109,385	7,443		Indirect @ 10.69%
		010	156	0140			7150	7,283	9,242	1,959		Telephone Services
		010	156	0140			7300	1,615	1,988	373		Motor Pool
		010	156	0140			7400	28,923	33,172	4,249		Building Mgmt Services
		010	156	0140			7560	4,165	4,511	346		Distribution/Postage
		010	156	0140			8400	4,600	11,500	6,900		Equipment
											77,319	Org 0140 Subtotal
		010	156	1205			5100	167,780	162,526	(5,254)		Permanent
		010	156	1205			5500	30,130	29,186	(944)		Fringe
		010	156	1205			5550	17,425	17,021	(404)		Insurance
		010	156	1205			6060	2,848,939	2,855,541	6,602		Pass Through
		010	156	1205			7100	43,282	42,622	(660)		Indirect @ .7% & 10.69%
											(660)	Org 1205 Subtotal
		010	156	1501			5100	356,833	362,897	6,064		Permanent
		010	156	1501			5500	63,406	64,468	1,062		Fringe
		010	156	1501			5550	44,154	44,610	456		Insurance
		010	156	1501			7100	59,187	59,998	811		Indirect @ 10.69%
											8,393	Org 1501 Subtotal
		100	075	9310			7608			9,000	9,000	Cash Transfer
		400	070	7522			6580			8,478	8,478	Insurance
		401	030	5905			6230			682	682	Motor Pool
		402	070	7990			6140			4,571	4,571	Telephone
		404	030	5950			6200			632	632	Distribution
		410	030	5630			6230			7,767	7,767	Building Mgmt
										40,130	40,130	GRAND TOTAL

## REVENUES

TRANS EB GM

TRANS DATE:

ACCTING PERIOD:

Budget Fiscal Year: 97/98

Doc No.	Action	Fund	Agency	Org	Activity	Report Category	Rev Source	Current Amount	Revised Amount	Change Increase (Decrease)	Subtotal	Description
		156	010	0110			2607	2,026,051	1,919,047	(107,004)		SMHD Carryover
		156	010	0110			7601	663,835	660,538	(3,297)		CGF Subsidy to Org 0135
		156	010	0110			7601	111,351	110,239	(1,112)		CGF Indirect
											(111,413)	Org 0110 Subtotal
		156	010	0121			2605	111,957	127,595	15,638		SMHD Local Admin
		156	010	0121			7601	43,723	44,903	1,180		CGF Indirect
											16,818	Org 0121 Subtotal
		156	010	0122			2605	405,529	460,913	55,384		SMHD Local Admin
		156	010	0122			7601	79,672	85,091	5,419		CGF Indirect
											60,803	Org 0122 Subtotal
		156	010	0126			2149	41,240	0	(41,240)		Youth Investment
		156	010	0126			7601	341,001	340,765	(236)		CGF Subsidy
		156	010	0126			7601	63,759	59,325	(4,434)		CGF Indirect
											(45,910)	Org 0126 Subtotal
		156	010	0135			7601	58,176	61,473	3,297		CGF Subsidy from Org 0110
		156	010	0135			7601	8,893	9,246	353		CGF Indirect
											3,650	Org 0135 Subtotal
		156	010	0140			2149	52,638	52,026	(612)		Youth Investment
		156	010	0140			2110	0	6,076	6,076		CCDF
		156	010	0140			2317	0	2,351	2,351		SRI
		156	010	0140			2398	0	14,632	14,632		Great Start
		156	010	0140			2312	0	18,793	18,793		JSA
		156	010	0140			2605	291,796	320,196	28,400		SMHD Local Admin
		156	010	0140			7601	526,173	526,409	236		CGF Subsidy from Org 0126
		156	010	0140			7601	101,942	109,385	7,443		CGF Indirect
											77,319	Org 0140 Subtotal
		156	010	1205			7601	49,372	48,712	(660)		CGF Indirect Support
											(660)	Org 1205 Subtotal
		156	010	1501			2607	48,630	56,212	7,582		SMHD DD48 Carryover
		156	010	1501			7601	107,212	108,023	811		CGF Indirect Support
											8,393	Org 1501 Subtotal
		100	075	7410			6602			9,000	9,000	Svs Reim F/S General Fund
		400	070	7522			6602			8,478	8,478	Svs Reim F/S Insurance Fund
		401	030	5905			6602			682	682	Svs Reim F/S Motor Pool Fund
		402	070	7990			6602			4,571	4,571	Svs Reim F/S Telephone Fund
		404	030	5950			6602			632	632	Svs Reim F/S Distrib Fund
		410	030	5630			6602			7,767	7,767	Svs Reim F/S Bldg Mgmt Fund
										40,130	40,130	GRAND TOTAL



**BUDGET MODIFICATION NO. CFS#09**

5. ANNUALIZED PERSONNEL CHANGE (Change on a full-year basis even though this action affects only a part of the fiscal year (FY)).					
		ANNUALIZED			
FTE	POSITION TITLE	BASE PAY	FRINGE	INSUR	TOTAL
(1.00)	Office Assistant 2 (6001-010-156-1205) eff 4/15/98	(25,019)	(4,493)	(1,926)	(31,438)
1.00	Administrative Secretary (6005-010-156-0110) 4/15/98	28,877	5,055	2,173	36,105
(1.00)	Office Assistant Sr (6002-010-156-0110)	(28,739)	(5,161)	(2,962)	(36,862)
1.00	Administrative Secretary (6005-010-156-1501)	28,877	5,055	3,321	37,253
(0.50)	Office Assistant 2 (6001-010-156-0110)	(12,107)	(2,174)	(1,427)	(15,708)
(0.50)	Office Assistant 2 (6001-010-156-0135)	(12,107)	(2,174)	(1,427)	(15,708)
1.00	Program Development Technician (156-010-156-0135)	29,672	5,329	5,014	40,015
(1.00)	Office Assistant 2 (6001-010-156-0121)	(23,911)	(4,294)	(3,935)	(32,140)
1.00	Administrative Secretary (6005-010-156-0121)	28,877	5,055	5,370	39,302
(1.00)	Data Technician (6074-010-156-0126)	(31,055)	(5,576)	(4,845)	(41,476)
1.30	Office Assistant 2 (6001-010-156-0140)	29,771	5,346	6,359	41,476
1.00	Office Assistant 2 (6001-010-156-0140)	22,476	4,038	4,805	31,319
(1.00)	CFS Supervisor (9008-010-156-0140)	(46,731)	(8,393)	(5,436)	(60,560)
1.00	CFS Administrator (9745-010-156-0140)	58,871	10,571	5,729	75,171
(1.00)	Program Evaluation Spec (6368-010-156-0140) eff 4/15/98	(42,746)	(7,676)	(7,080)	(57,502)
1.00	Principle Evaluation Spec (9734-010-156-0140) eff 4/15/98	46,720	8,180	6,216	61,116
(1.00)	CFS Manager (9661-010-156-0122)	(61,065)	(10,965)	(6,407)	(78,437)
1.00	CFS Manager Sr (9612-010-156-0122)	68,870	12,029	8,553	89,452
1.00	Employee Services Specialist 1 (9080-010-156-0121)	33,219	5,816	5,563	44,598
1.00	Employee Services Specialist 2 (9670-010-156-0121)	47,162	8,257	5,990	61,409
2.00	Fiscal Specialist 2 (6030-010-156-0122)	73,895	12,936	11,150	97,981
5.30	<b>TOTAL ANNUALIZED CHANGES</b>	<b>213,807</b>	<b>36,761</b>	<b>34,798</b>	<b>285,366</b>

6. CURRENT YEAR PERSONNEL DOLLAR CHANGE (Calculate costs/savings that will take place in this FY; these should explain the actual dollar amounts being changed by this Bud Mod.						
			CURRENT YEAR			
FTE	POSITION TITLE	EXPLANATION	BASE PAY	FRINGE	INSUR	TOTAL
0.21	Administrative Secretary (6005-010-156-0110) eff 4/15/98		6,064	1,062	456	7,582
(0.10)	Office Assistant 2 (6001-010-156-0110) eff 4/15/98		(2,542)	(456)	(299)	(3,297)
(0.21)	Office Assistant Sr (6002-010-156-0110) eff 4/15/98		(6,035)	(1,084)	(622)	(7,741)
0.04	Employee Services Spec 1 (9080-010-156-0121) eff 6/15/98		1,329	233	223	1,785
0.04	Employee Services Spec 2 (9670-010-156-0121) eff 6/15/98		1,886	330	240	2,456
(0.21)	Office Assistant 2 (6001-010-156-0121) eff 4/15/98		(5,021)	(902)	(826)	(6,749)
0.21	Administrative Secretary (6005-010-156-0121) eff 4/15/98		6,064	1,062	1,128	8,254
(0.21)	CFS Manager (9661-010-156-0122) eff 4/15/98		(12,824)	(2,303)	(1,345)	(16,472)
0.21	CFS Manager Sr (9612-010-156-0122) eff 4/15/98		14,463	2,526	1,796	18,785
0.83	Fiscal Spec 2 (2 positions) (6030-010-156-0122) eff 2/15/98		31,036	5,433	4,683	41,152
(1.00)	Data Technician (6074-010-156-0126) reclass eff 7/1/97		(31,055)	(5,576)	(4,845)	(41,476)
(0.11)	Office Assistant 2 (6001-010-156-0135) eff 4/15/98		(2,543)	(457)	(300)	(3,300)
0.00	Salary Savings (6001-010-156-0135)		(1,390)	(253)	(163)	(1,806)
0.21	Program Development Technician (156-010-156-0135)		6,231	1,119	1,053	8,403
1.30	Office Assistant 2 (6001-010-156-0140) reclass eff 7/1/97		29,771	5,346	6,359	41,476
0.21	Office Assistant 2 (6001-010-156-0140) new eff 4/15/98		4,720	848	1,009	6,577
(0.21)	CFS Supervisor (9008-010-156-0140) eff. 4/15/98		(9,814)	(1,763)	(1,142)	(12,719)
0.21	CFS Administrator (9745-010-156-0140) eff 4/15/98		12,363	2,220	1,203	15,786
(0.21)	Program Evaluation Spec (6368-010-156-0140) eff 4/15/98		(8,977)	(1,612)	(1,487)	(12,076)
0.21	Principle Evaluation Spec (9734-010-156-0140) eff 4/15/98		9,811	1,718	1,305	12,834
(0.21)	Office Assistant 2 (6001-010-156-1205) eff 4/15/98		(5,254)	(944)	(404)	(6,602)
0.21	Administrative Secretary (6005-010-156-1501) eff 4/15/98		6,064	1,062	456	7,582
1.42	TOTAL CURRENT FISCAL YEAR CHANGES		44,347	7,609	8,478	60,434



# MULTNOMAH COUNTY OREGON

DEPARTMENT OF COMMUNITY AND FAMILY SERVICES  
421 SW SIXTH AVENUE, SUITE 700  
PORTLAND, OREGON 97204  
PHONE (503) 248-3691  
FAX (503) 248-3379  
TDD (503) 248-3598

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DAN SALTZMAN • DISTRICT 1 COMMISSIONER  
GARY HANSEN • DISTRICT 2 COMMISSIONER  
TANYA COLLIER • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

## MEMORANDUM

TO: Board of County Commissioners

FROM: Lorenzo Poe, Director  
Department of Community and Family Services

DATE: June 11, 1998

SUBJECT: Budget Modification CFSD #09

**I. RECOMMENDATION/ACTION REQUESTED:** The Department of Community and Family Services recommends the approval of Budget Modification CFSD#09. This modification for Department Management and Administration adds 3.0 FTE to the Support Services Division and 1.0 FTE to the Operations Division.

**II. BACKGROUND ANALYSIS:** Budget Modification CFS#09 adds to the Support Services Division 2.0 FTE Fiscal Specialists for grant accounting and 2.0 FTE Employee Services Specialists for personnel and payroll. 1.0 FTE Office Assistant 2 is added to Contract & Evaluation Services. The positions are added to strengthen the Department's infrastructure and are included in the FY99 Adopted Budget. Budget Modification CFS#09 reclassifies six positions based upon Employee Services review and recommendation and are included in the FY99 Adopted Budget. The reclassifications includes 3.0 FTE Office Assistant 2 to Administrative Secretary, 1.0 Office Assistant to Program Development Technician, 1.0 FTE Data Technician to 1.30 FTE Office Assistant 2, 1.0 FTE CFS Supervisor to CFS Administrator, 1.0 Program Evaluation Specialist to Principle Evaluation Specialist, and 1.0 FTE CFS Manager to CFS Manager Sr.

**III. FINANCIAL IMPACT:** Funding to accomplish the early start of infrastructure development is provided by using unobligated one-time only carryover available from the State Mental Health Grant. Ongoing funding is included in the FY99 base budget. The net increase to the Department is \$9,000 for increased indirect support. Increased service reimbursements from the Fed/State Fund include \$9,000 to General Fund; \$8,478 to Insurance Fund; \$682 to Motor Pool Fund; \$4,571 to Telephone Fund; \$632 to Distribution/Postage Fund; and \$7,767 to Building Management Fund.

**IV. LEGAL ISSUES:** N/A

**V. CONTROVERSIAL ISSUES:** N/A

**VI. LINK TO CURRENT COUNTY POLICY:** N/A

**VII. CITIZEN PARTICIPATIONS:** N/A

**VIII. OTHER GOVERNMENT PARTICIPATION:** N/A

## 1. REQUEST FOR PLACEMENT ON THE AGENDA FOR:

(Date)

DEPARTMENT: COMMUNITY AND FAMILY SERVICESDIVISION: N/ACONTACT: LES WALKERPHONE: 26777

\* NAME(S) OF PERSON MAKING PRESENTATION TO BOARD:

KATHY TINKLE/MIKE WADDELLSUGGESTED AGENDA TITLE (to assist in preparing a description for the printed agenda)

Budget Modification CFS#10 decreases Oregon Commission on Children and Families revenue to reflect changes in the 95/97 biennium carryover amount reallocates current year revenue to reflect current year obligations.

## 2. DESCRIPTION OF MODIFICATION: [Explain the changes being made: What budget does it increase / decrease? What do the changes accomplish? Where does the money come from?

**[ X ] PERSONNEL CHANGES ARE SHOWN IN DETAIL ON THE ATTACHED SHEET**

Budget Modification CFS#10 adjusts the Department's budget to reflect the reconciliation of projected Oregon Commission on Children and Family carryover revenue with the actual carryover amount. The reconciliation results in a decrease of \$834,664 in unobligated 95/97 biennium revenue.

Budget Modification CFS#10 redistributes \$489,137 in unobligated carryover from Division Management and adjusts current year revenue allocations in program orgs, reduces \$821,683 in revenue and expenses also budgeted by the Health Department; and transfers \$736,812 in current year unobligated OCCF revenue to the Multnomah Commission on Children and Families. The net decrease to the department is \$1,144,477. Budget Modification CFS#10 also recognizes \$238,900 in additional revenue based on actual revenue agreements.

The net changes to Department expenditures include \$12,208 increase in personnel services by adding .25 FTE Program Development Specialist to CYF Youth Investment program, \$1,761,061 decrease in pass through, \$14,757 increase in professional services, \$35,470 increase in supplies, and \$5,661 indirect costs. The budget for MCCF is increased by \$736,812 in pass through. Increased service reimbursements from the Fed/State fund include \$2,946 to the General Fund and \$973 to the Insurance Fund.

## 3. REVENUE IMPACT

(Explain revenues being changed and reason for the change)

Net Change in Program Revenue - DCFS (See Attachment A for detail)	(\$1,710,947)
Net Change in Program Revenue - MCCF (See Attachment A for detail)	\$736,812
Increase County General Fund Indirect Support	\$6,660
Increase Svs Reimbursement Fed/State to General Fund	\$2,946
Increase Svs Reimbursement Fed/State to Insurance Fund	\$973
<b>TOTAL</b>	<b>(\$963,556)</b>

JUN 16 PM 2:27  
 MULTNOMAH COUNTY  
 CLERK'S OFFICE

## 4. CONTINGENCY STATUS [to be completed by Budget &amp; Planning]

\_\_\_\_\_ Fund Contingency BEFORE THIS MODIFICATION (as of \_\_\_\_\_): \$ \_\_\_\_\_  
 (Specify Fund) AFTER THIS MODIFICATION: \$ \_\_\_\_\_

Originated By: <i>Mike Waddell</i>	Date: <i>6/11/98</i>	Department Director: <i>John P. Boe</i>	Date: <i>6/11/98</i>
Plan / Budget Analyst: <i>Karyn Dargatz</i>	Date: <i>6/15/98</i>	Employee Services:	Date:
Board Approval: <i>Deborah C. Boast</i>	Date: <i>6/25/98</i>		

**Budget Modification CFS#10****Attachment A****Net Change in Program Revenue - CFS**

Crisis Nurseries	(\$246,330)
BPA YEEP	\$33,823
CCDF	(\$61,178)
Youth Investment	(\$47,783)
FPSSP	(\$575,353)
PDX YEEP	(\$35,450)
JSA	(\$279,231)
SRI	(\$89,033)
OYCC	(\$11,033)
Great Start	(\$569,006)
State Mental Health A & D	\$35,409
City Youth Gang	\$5,282
Meyer Foundation	\$128,936
<b>NET CHANGE IN PROGRAM REVENUE - CFS</b>	<b>(\$1,710,947)</b>

**Net Change in Program Revenue - MCCF**

CCDF	\$56,894
Youth Investment	\$445,054
JSA	\$35,779
SRI	\$29,384
Children/Families	\$2,342
Great Start	\$167,359
<b>NET CHANGE IN PROGRAM REVENUE - MCCF</b>	<b>\$736,812</b>

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<b>TOTAL NET CHANGE IN PROGRAM REVENUE</b>	<b>(\$974,135)</b>
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## BUDGET MODIFICATION NO. CFS#10

## EXPENDITURES

TRANS EB GM

TRANS DATE:

ACCTING PERIOD:

Budget Fiscal Year: 97/98

[illegible]

## BUDGET MODIFICATION NO. CFS#10

## EXPENDITURES

TRANS EB GM

TRANS DATE:

ACCTING PERIOD:

Budget Fiscal Year: 97/98

[illegible]

## BUDGET MODIFICATION NO. CFS#10

## REVENUES

TRANS EB GM

TRANS DATE:

ACCTING PERIOD:

Budget Fiscal Year: 97/98

Doc No.	Action	Fund	Agency	Org	Activity	Report Category	Rev Source	Current Amount	Revised Amount	Change Increase (Decrease)	Subtotal	Description
		156	010	0110			7601	660,538	650,538	(10,000)		CGF Subsidy to Org 1380
		156	010	0110			7601	110,239	110,132	(107)		CGF Indirect Support
											(10,107)	Org 0110 Subtotal
		156	010	0122			2110	0	2,192	2,192		CCDF
		156	010	0122			2149	0	1,644	1,644		Youth Investment
		156	010	0122			2312	0	10,962	10,962		JSA
		156	010	0122			2317	0	1,644	1,644		SRI
		156	010	0122			2398	0	10,962	10,962		Great Start
											27,404	Org 0122 Subtotal
		156	010	1301			2038	85,026	0	(85,026)		Crisis Nurseries
		156	010	1301			2110	74,769	0	(74,769)		CCDF
		156	010	1301			2149	336,852	25,137	(311,715)		Youth Investment
		156	010	1301			2158	324,079	0	(324,079)		FPSSP
		156	010	1301			2312	329,271	52,663	(276,608)		JSA
		156	010	1301			2317	107,516	5,078	(102,438)		SRI
		156	010	1301			2377	11,110	0	(11,110)		OYCC
		156	010	1301			2398	464,282	11,340	(452,942)		Great Start
		156	010	1301			7601	251,694	253,975	2,281		CGF Subsidy from Org 1315
											(1,636,406)	Org 1301 Subtotal
		156	010	1310			2398	0	10,000	10,000		Great Start
		156	010	1310			6827	0	3,936	3,936		Meyer Foundation
		156	010	1310			7601	54,973	55,077	104		CGF Indirect Support
											14,040	Org 1310 Subtotal
		156	010	1315			2605	97,026	132,435	35,409		SMHD A&D
		156	010	1315			7601	1,000,247	997,966	(2,281)		CGF Subsidy to Org 1301
		156	010	1315			7601	54,933	58,718	3,785		CGF Indirect Support
											36,913	Org 1315 Subtotal
		156	010	1340			2398	101,071	75,909	(25,162)		Great Start
		156	010	1340			7601	7,401	7,225	(176)		CGF Indirect Support
											(25,338)	Org 1340 Subtotal
		156	010	1360			2110	0	19,704	19,704		CCDF
		156	010	1360			2398	402,391	350,000	(52,391)		Great Start
		156	010	1360			7601	33,716	33,487	(229)		CGF Indirect Support
											(32,916)	Org 1360 Subtotal
										(1,626,410)	(1,626,410)	SUBTOTAL

## BUDGET MODIFICATION NO. CFS#10

## REVENUES

TRANS EB GM

TRANS DATE:

ACCTING PERIOD:

Budget Fiscal Year: 97/98

Doc No.	Action	Fund	Agency	Org	Activity	Report Category	Rev Source	Current Amount	Revised Amount	Change Increase (Decrease)	Subtotal	Description
		156	010	1370			2149	40,000	372,600	332,600		Youth Investment
		156	010	1370			2312	367,222	390,635	23,413		JSA
		156	010	1370			2317	31,680	46,362	14,682		SRI
		156	010	1370			2377	0	77	77		OYCC
		156	010	1370			2398	0	10,041	10,041		Great Start
		156	010	1370			6827	0	125,000	125,000		Meyer Foundation
		156	010	1370			7601	16,760	19,426	2,666		CGF Indirect Support
											508,479	Org 1370 Subtotal
		156	010	1380			2109	0	33,823	33,823		BPA YEPP
		156	010	1380			2158	251,274	0	(251,274)		FPSSP
		156	010	1380			2159	206,816	171,366	(35,450)		PDX YEPP
		156	010	1380			2312	242,587	208,000	(34,587)		JSA
		156	010	1380			2317	21,069	22,244	1,175		SRI
		156	010	1380			2377	161,304	0	(161,304)		Crisis Nurseries
		156	010	1380			2398	68,597	0	(68,597)		Great Start
		156	010	1380			2764	83,360	88,642	5,282		City Youth Gang
		156	010	1380			7601	18,442	28,442	10,000		CGF Subsidy from Org 0110
											(500,932)	Org 1380 Subtotal
		156	010	1390			2110	8,305	0	(8,305)		CCDF
		156	010	1390			2149	633,479	563,167	(70,312)		Youth Investment
		156	010	1390			2312	2,411	0	(2,411)		JSA
		156	010	1390			2317	4,096	0	(4,096)		SRI
		156	010	1390			2398	917	0	(917)		Great Start
		156	010	1390			7601	12,641	13,258	617		CGF Indirect Support
											(85,424)	Org 1390 Subtotal
		156	050	9036			2110			56,894		CCDF
		156	050	9036			2149			445,054		Youth Investment
		156	050	9036			2312			35,779		JSA
		156	050	9036			2317			29,384		SRI
		156	050	9036			2374			2,342		Children/Families
		156	050	9036			2398			167,359		Great Start
											736,812	Agency 050 Subtotal
		100	075	7410			6602			2,946	2,946	Svs Reim F/S to Gen. Fund
		400	070	7522			6602			973	973	Svs Reim F/S to Ins. Fund
										(963,556)	(963,556)	GRAND TOTAL



**BUDGET MODIFICATION NO. CFS#10**

5. **ANNUALIZED PERSONNEL CHANGE** (Change on a full-year basis even though this action affects only a part of the fiscal year (FY).

		ANNUALIZED			
FTE	POSITION TITLE	BASE PAY	FRINGE	INSUR	TOTAL
1.00	Program Devel Spec (6021-156-010-1390)	38,100	6,841	3,892	48,833
					0
					0
					0
					0
					0
					0
					0
					0
					0
					0
					0
					0
					0
1.00	<b>TOTAL ANNUALIZED CHANGES</b>	<b>38,100</b>	<b>6,841</b>	<b>3,892</b>	<b>48,833</b>

6. **CURRENT YEAR PERSONNEL DOLLAR CHANGE** (Calculate costs/savings that will take place in this FY; these should explain the actual dollar amounts being changed by this Bud Mod.

			CURRENT YEAR			
FTE	POSITION TITLE	EXPLANATION	BASE PAY	FRINGE	INSUR	TOTAL
0.25	Program Devel Spec (6021-156-010-1390)		9,525	1,710	973	12,208
						0
						0
						0
						0
						0
						0
						0
						0
						0
						0
						0
						0
0.25	<b>TOTAL CURRENT FISCAL YEAR CHANGES</b>		<b>9,525</b>	<b>1,710</b>	<b>973</b>	<b>12,208</b>



# MULTNOMAH COUNTY OREGON

DEPARTMENT OF COMMUNITY AND FAMILY SERVICES  
421 SW SIXTH AVENUE, SUITE 700  
PORTLAND, OREGON 97204  
PHONE (503) 248-3691  
FAX (503) 248-3379  
TDD (503) 248-3598

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DAN SALTZMAN • DISTRICT 1 COMMISSIONER  
GARY HANSEN • DISTRICT 2 COMMISSIONER  
TANYA COLLIER • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

## MEMORANDUM

TO: Board of County Commissioners

FROM: Lorenzo Poe, Director  
Department of Community and Family Services

DATE: June 11, 1998

SUBJECT: Budget Modification CFSD #10

**I. RECOMMENDATION/ACTION REQUESTED:** The Department of Community and Family Services recommends the approval of Budget Modification CFSD#10. This modification decreases Oregon Commission on Children and Family revenue to reflect changes in the 95/97 biennium carryover amount and reallocates current year revenue to reflect current year obligations.

**II. BACKGROUND ANALYSIS:** Budget Modification CFS#10 adjusts the Department's budget to reflect the reconciliation of projected Oregon Commission on Children and Family carryover revenue with the actual carryover amount. The reconciliation results in a decrease of \$834,664 in unobligated 95/97 biennium revenue.

**III. FINANCIAL IMPACT:** Budget Modification CFS#10 distributes \$489,137 in unobligated carryover from Division Management and adjusts 97/99 biennium revenue allocations in program orgs, reduces \$821,683 in revenue and expenses also budgeted by the Health Department; and transfers \$736,812 unobligated current year OCCF revenue to Multnomah Commission on Children and Families. The net decrease to the department is \$1,144,477. Budget Modification CFS#10 also recognizes \$238,900 in additional revenue based on actual revenue agreements.

The net changes to Department expenditures include \$12,208 increase in personnel services by adding .25 FTE Program Development Specialist to CYF Youth Investment program, \$1,761,061 decrease in pass through, \$14,757 increase in professional services, \$35,470 increase in supplies, and \$5,661 decrease in indirect costs. The budget for MCCF is increased by \$736,812 in pass through. Increased service reimbursements from the Fed/State fund include \$2,946 to the General Fund and \$973 to the Insurance Fund.

**IV. LEGAL ISSUES:** N/A

**V. CONTROVERSIAL ISSUES:** N/A

**VI. LINK TO CURRENT COUNTY POLICY:** N/A

**VII. CITIZEN PARTICIPATIONS:** N/A

**VIII. OTHER GOVERNMENT PARTICIPATION:** N/A

## 1. REQUEST FOR PLACEMENT ON THE AGENDA FOR:

(Date)

DEPARTMENT: COMMUNITY AND FAMILY SERVICESDIVISION: N/ACONTACT: KEITH MITCHELLPHONE: 29373

\* NAME(S) OF PERSON MAKING PRESENTATION TO BOARD:

KATHY TINKLESUGGESTED AGENDA TITLE (to assist in preparing a description for the printed agenda)

Budget Modification to adjust Department budget to reflect new revenue, staffing, and contractual expenditures resulting from the addition of adults covered under the Oregon Health Plan Capitated Mental Health Services (CAAPCARE).

## 2. DESCRIPTION OF MODIFICATION: [Explain the changes being made: What budget does it increase / decrease? What do the changes accomplish? Where does the money come from?]

**[ X ] PERSONNEL CHANGES ARE SHOWN IN DETAIL ON THE ATTACHED SHEET**

Budget modification CFS#11 recognizes \$2,496,445 in new Title XIX funds not previously budgeted, and \$147,976 in new State Mental Health dollars not previously budgeted. It corrects two revenue source miscodings totaling \$193,564. (Stars Foundation & Family Support). Miscellaneous Revenue is reduced by \$70,989. It also reflects staff and professional services additions and realignments between the Mental Health Organization (Fund 395) and Community Mental Health Program (Fund 156).

Budget modification CFS#11 adjusts the budget in the Caapcare Fund 395 and reflects a net change of \$3,508,925 (\$2,496,445 increase in Title XIX funds, \$105,067 increase in State Mental Health funds, \$857,220 transfers from Fund 156, and \$50,193 in Indirect County General Funds). Program changes include a net increase in personnel services of \$154,236, a net increase in contractual services of \$3,190,961, a net increase in M&S of \$140,038 and a net increase in equipment of \$23,690 to support program requirements. Total FTEs have changed by 2.98 to reflect the addition of one FS2, one FS1, and one PES, as well as transfers between funds.

Budget Modification CFS#11 also adjusts the budget in Fund 156 to reflect a net decrease of \$811,543 (\$857,220 transferred to Fund 395, \$42,909 increase in State Mental Health Funding and \$2,768 increase in Indirect County General Funds) to implement personnel reorganization between the Mental Health Organization and Community Mental Health Programs. Program changes include a net increase in personnel services of \$16,498, a net decrease in contractual services of \$840,200, a net increase in M&S of \$12,159, and no change in equipment. Total FTE's have increased .69 to reflect the net transfers between funds and the addition of one CFS Supervisor.

3. REVENUE IMPACT	Decrease Stars Foundation	(\$134,237)
	Decrease Family Support	(\$59,327)
	Decrease Misc Income	(\$71,039)
	Increase State Mental Health MHS 20 & 24	\$147,976
	Increase Title XIX funds	\$2,690,009
	Increase Svs Reim Cap Fund to Insurance Fund	\$22,808
	Increase Svs Reim Cap Fund to Fleet	\$2,879
	Increase Svs Reim Cap Fund to Telephone	\$6,223
	Increase Svs Reim Cap Fund to Distribution	\$2,295
	Increase Svs Reim Cap Fund to Building Mgmt	\$28,093
	Increase Svs Reim Cap Fund to General Fund	\$70,497
	Increase CGF Indirect Support	\$67,384
	Increase SVS Reim F/S to General Fund	(\$3,113)
	<b>TOTAL</b>	<b>\$2,770,448</b>

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 CLERK'S OFFICE  
 MULTNOMAH COUNTY  
 OREGON

## 4. CONTINGENCY STATUS [to be completed by Budget &amp; Planning]

Fund Contingency BEFORE THIS MODIFICATION (as of \_\_\_\_\_): \$ \_\_\_\_\_

(Specify Fund)

AFTER THIS MODIFICATION: \$ \_\_\_\_\_

Originated By:

Date:

Department Director:

Date:

Plan / Budget Analyst:

Date:

Employee Services:

Date:

Board Approval:

Date:

## BUDGET MODIFICATION NO. CFS#11

## EXPENDITURES

TRANS EB GM

TRANS DATE:

ACCTING PERIOD:

Budget Fiscal Year: 97/98

Doc No.	Action	Fund	Agency	Org	Activity	Report Category	Object	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
		156	010	0110			6060	2,230,604	2,111,683	(118,921)		Pass through
		156	010	0110			7100	97,115	96,283	(832)		Indirect
											(119,753)	Org 0110 Subtotal
		156	010	1610			6120	161,768	161,354	(414)		Printing
		156	010	1610			6230	27,768	27,168	(600)		Supplies
		156	010	1610			6310	24,570	24,370	(200)		Travel & Training
		156	010	1610			6330	35,904	35,680	(224)		Local Travel
		156	010	1610			7150	52,896	52,493	(403)		Telephone Service
		156	010	1610			7250	60,598	59,859	(739)		PC Flat Fee
		156	010	1610			7300	20,376	20,129	(247)		Motor Pool
		156	010	1610			7400	217,154	214,340	(2,814)		Building Management
		156	010	1610			7560	21,534	21,305	(229)		Distribution/Postage
		156	010	1610			7100	92,496	91,868	(628)		Indirect
											(6,498)	Org 1610 Subtotal
		156	010	1625			5100	1,670,926	1,610,706	(60,220)		Permanent
		156	010	1625			5500	300,065	289,253	(10,812)		Fringe
		156	010	1625			5550	204,629	196,743	(7,886)		Insurance
		156	010	1625			7100	92,496	84,060	(8,436)		Indirect
											(87,354)	Org 1625 Subtotal
		156	010	1645			5100	744,615	856,843	112,228		Permanent
		156	010	1645			5500	133,715	153,869	20,154		Fringe
		156	010	1645			5550	88,597	102,784	14,187		Insurance
		156	010	1645			6120	0	1,077	1,077		Printing
		156	010	1645			6230	0	1,560	1,560		Supplies
		156	010	1645			6310	0	520	520		Travel & Training
		156	010	1645			6330	0	582	582		Local Travel
		156	010	1645			7150	0	1,048	1,048		Telephone Service
		156	010	1645			7250	0	1,921	1,921		PC Flat Fee
		156	010	1645			7300	0	642	642		Motor Pool
		156	010	1645			7400	0	7,316	7,316		Building Management
		156	010	1645			7560	0	595	595		Distribution/Postage
		156	010	1645			8400	0	0	0		Equipment
		156	010	1645			7100	103,365	120,665	17,300		Indirect
											179,130	Org 1645 Subtotal
		156	010	1650			5100	155,490	116,778	(38,712)		Permanent
		156	010	1650			5500	27,922	21,145	(6,777)		Fringe
		156	010	1650			5550	14,350	8,686	(5,664)		Insurance
		156	010	1650			7100	22,944	17,476	(5,468)		Indirect
											(56,621)	Org 1650 Subtotal
		156	010	1662			6060	12,379,431	11,658,152	(721,279)		Pass through
		156	010	1662			7100	92,271	87,222	(5,049)		Indirect
											(726,328)	Org 1662 Subtotal
										(817,424)	(817,424)	PAGE TOTAL

**BUDGET MODIFICATION NO. CFS#11**

## EXPENDITURES

TRANS EB GM

TRANS DATE:

ACCTING PERIOD:

Budget Fiscal Year: 97/98

[illegible]

## BUDGET MODIFICATION NO. CFS#11

## EXPENDITURES

GM

TRANS DATE:

ACCTING PERIOD:

Budget Fiscal Year: 97/98

Fund	Agency	Org	Activity	Report Category	Object	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
395	010	1621			5100	283,736	214,241	(69,495)		Permanent
395	010	1621			5500	50,953	38,473	(12,480)		Fringe
395	010	1621			5550	35,052	26,349	(8,703)		Insurance
395	010	1621			6120	2,100	1,410	(690)		Printing
395	010	1621			6230	5,173	4,173	(1,000)		Supplies
395	010	1621			6310	1,400	1,067	(333)		Travel & Training
395	010	1621			6330	700	327	(373)		Local Travel
395	010	1621			7150	3,347	2,675	(672)		Telephone Service
395	010	1621			7250	5,173	3,941	(1,232)		PC Flat Fee
395	010	1621			7300	70	70	0		Motor Pool
395	010	1621			7400	12,031	7,341	(4,690)		Building Management
395	010	1621			7560	882	500	(382)		Distribution/Postage
395	010	1621			8400	0	0	0		Equipment
395	010	1621			7100	42,833	32,131	(10,702)		Indirect
									(110,752)	Org 0140 Subtotal
395	010	1625			5100	502,003	661,996	159,993		Permanent
395	010	1625			5500	90,150	118,670	28,520		Fringe
395	010	1625			5550	71,727	93,219	21,492		Insurance
395	010	1625			6120	3,930	7,779	3,849		Printing
395	010	1625			6230	9,694	51,132	41,438		Supplies
395	010	1625			6310	2,620	4,480	1,860		Travel & Training
395	010	1625			6330	1,310	3,393	2,083		Local Travel
395	010	1625			7150	6,264	12,149	5,885		Telephone Service
395	010	1625			7250	10,346	17,218	6,872		PC Flat Fee
395	010	1625			7300	90	2,388	2,298		Motor Pool
395	010	1625			7400	22,514	48,684	26,170		Building Management
395	010	1625			7560	1,776	3,905	2,129		Distribution/Postage
395	010	1625			8400	0	20,240	20,240		Equipment
395	010	1625			7100	84,220	116,567	32,347		Indirect
									355,176	Org 0140 Subtotal
395	010	1663			6060	11,292,434	14,143,479	2,851,045		Pass Through
395	010	1663			7100	82,536	102,493	19,957		Indirect
									2,871,002	Org 1663 Subtotal
400	070	7522			6580			22,808	22,808	Insurance
401	030	5905			6230			2,879	2,879	Motor Pool
402	070	7990			6140			6,223	6,223	Telephone
404	030	5950			6200			2,295	2,295	Distribution
410	030	5630			6230			28,093	28,093	Building Mgmt
100	010	9130			7608			67,384	67,384	Cash Transfer
								3,245,108	3,245,108	PAGE TOTAL

2,770,448 2,770,448 GRAND TOTAL

## REVENUES

Budget Fiscal Year: 97/98

1 of 2

## REVENUES

Budget Fiscal Year: 97/98

[illegible]



**BUDGET MODIFICATION NO. CFS#11**

5. ANNUALIZED PERSONNEL CHANGE (Change on a full-year basis even though this action affects only a part of the fiscal year (FY).

		ANNUALIZED			
FTE	POSITION TITLE	BASE PAY	FRINGE	INSUR	TOTAL
6.80	MENTAL HEALTH CONSULTANTS (6365/010/156/1645)(FROM 010/395)	275,650	49,502	34,845	359,997
(1.00)	CFS ADMINISTRATOR (9745/010/156/1625)(TO 010/395)	(60,220)	(10,812)	(7,886)	(78,918)
(1.00)	PROGRAM EVALUATION SPEC (6368/010/156/1650)(TO 010/395)	(38,712)	(6,777)	(5,664)	(51,153)
1.00	CFS SUPERVISOR (9008/010/156/1645)(ADDITION)	48,829	8,769	6,172	63,770
5.80	TOTAL ANNUALIZED CHANGES	225,547	40,682	27,467	293,696

6. CURRENT YEAR PERSONNEL DOLLAR CHANGE (Calculate costs/savings that will take place in this FY; these should explain the actual dollar amounts being changed by this Bud Mod.

			CURRENT YEAR			
FTE	POSITION TITLE	EXPLANATION	BASE PAY	FRINGE	INSUR	TOTAL
2.27	MENTAL HEALTH CONSULTANTS (6365/010/156/1645)(BEGIN 3/1)		91,883	16,500	11,616	119,999
(1.00)	CFS ADMINISTRATOR (9745/010/156/1625)(BEGIN 7/1)		(60,220)	(10,812)	(7,886)	(78,918)
(1.00)	PROGRAM EVALUATION SPECIALIST (6368/010/156/1650)(BEGIN 7/1)		(38,712)	(6,777)	(5,664)	(51,153)
0.42	CFS SUPERVISOR (9008/010/156/1645) (BEGIN 2/1)		20,345	3,654	2,571	26,570
0.69	TOTAL CURRENT FISCAL YEAR CHANGES		13,296	2,565	637	16,498

**BUDGET MODIFICATION NO. CFS #11**

5. ANNUALIZED PERSONNEL CHANGE (Change on a full-year basis even though this action affects only a part of the fiscal year (FY)).					
		ANNUALIZED			
FTE	POSITION TITLE	BASE PAY	FRINGE	INSUR	TOTAL
1.00	FISCAL SPECIALIST 2 (6030/010/395/0122)(ADDITION)	36,170	6,494	4,741	47,405
1.00	FISCAL SPECIALIST 1 (6029/010/395/0122)(ADDITION)	30,766	5,524	5,040	41,330
1.00	PROGRAM EVALUATION SPEC (6368/010/395/0140)(ADDITION)	38,837	6,973	5,090	50,900
(5.00)	MENTAL HEALTH CONSULTANT (6365/010/395/1621)(TO FUND 156)	(208,486)	(37,440)	(26,108)	(272,034)
1.00	CFS ADMINISTRATOR (9745/010/395/1625)(FROM FUND 156)	60,200	10,812	7,886	78,898
5.00	PROGRAM DEVELOPMENT TECH (6020/010/395/1625)(ADDITION)	152,645	27,408	20,005	200,058
1.00	MEDICAL RECORDS TECH(6321/010/395/1625)(ADDITION)	28,877	5,055	3,783	37,715
(0.60)	MENTAL HEALTH CONSULTANT (6365/010/395/1625)(TO FUND 156)	(25,467)	(4,573)	(3,515)	(33,555)
1.80	PROG DEVELOP SPEC (6021/010/395/1625)(RECLASSIFICATION)	72,501	13,014	9,498	95,013
1.00	PROG EVALUATION SPEC (6368/010/395/1625)(FROM FUND 156)	38,712	6,777	5,664	51,153
7.20	TOTAL ANNUALIZED CHANGES	224,755	40,044	32,084	296,883

6. CURRENT YEAR PERSONNEL DOLLAR CHANGE (Calculate costs/savings that will take place in this FY; these should explain the actual dollar amounts being changed by this Bud Mod.						
			CURRENT YEAR			
FTE	POSITION TITLE	EXPLANATION	BASE PAY	FRINGE	INSUR	TOTAL
0.25	FISCAL SPECIALIST 2 (6030/010/395/0122)(BEGIN 4/1)		9,043	1,624	1,185	11,851
0.25	FISCAL SPECIALIST 1 (6029/010/395/0122)(BEGIN 4/1)		7,692	1,381	1,260	10,333
0.25	PROGRAM EVAULATION SPECIALIST (6368/010/395/0140)(BEGIN 4/1)		9,709	1,743	1,273	12,725
(1.67)	MENTAL HEALTH CONSULTANT (6365/010/395/1621)(BEGIN 3/1)		(69,495)	(12,480)	(8,703)	(90,678)
1.25	PROGRAM DEVELOPMENT TECH (6020/010/395/1625)(BEGIN 4/1)		38,163	6,853	5,002	50,018
0.25	MEDICAL RECORDS TECH(6321/010/395/1625)(BEGIN 4/1)		7,220	1,264	946	9,430
(0.20)	MENTAL HEALTH CONSULTANT (6365/010/395/1625)(BEGIN 3/1)		(8,489)	(1,524)	(1,172)	(11,185)
0.60	PROGRAM DEVELOPMENT SPEC (6021/010/395/1625)(BEGIN 3/1)		24,167	4,338	3,166	31,671
1.00	CFS ADMINISTRATOR (9745/010/395/1625)(BEGIN 7/1)		60,220	10,812	7,886	78,918
1.00	PROGRAM EVALUATION SPECIALIST (6368/010/395/1625)(BEGIN 7/1)		38,712	6,777	5,664	51,153
2.98	TOTAL CURRENT FISCAL YEAR CHANGES		116,942	20,788	16,507	154,236



# MULTNOMAH COUNTY OREGON

DEPARTMENT OF COMMUNITY AND FAMILY SERVICES  
421 SW SIXTH AVENUE, SUITE 700  
PORTLAND, OREGON 97204  
PHONE (503) 248-3691  
FAX (503) 248-3379  
TDD (503) 248-3598

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DAN SALTZMAN • DISTRICT 1 COMMISSIONER  
GARY HANSEN • DISTRICT 2 COMMISSIONER  
TANYA COLLIER • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

## MEMORANDUM

TO: Board of County Commissioners

FROM: Lorenzo Poe, Director *Lorenzo Poe*  
Department of Community and Family Services

DATE: June 15, 1998

SUBJECT: Budget Modification CFSD #11

**I. RECOMMENDATION/ACTION REQUESTED:** The Department of Community and Family Services recommends the approval of Budget Modification CFSD#11. This modification adjusts the Department's budget to reflect additional revenue, staffing, and contractual expenditures resulting from the addition of adults covered under the Oregon Health Plan Capitated Mental Health Services (CAAPCARE). Adult eligibles were added in Nov '97 increasing the enrolled population from 30,000 to 47,000 per month. It also realigns personnel between the Mental Health Organization (fund 395) and Community Mental Health Program (fund 156).

**II. BACKGROUND ANALYSIS:** Budget Modification CFS#11 adds 2.0 FTE Fiscal Specialists, 1.0 FTE Program Evaluation Specialist, 5.0 FTE Program Development Technicians, and 3.0 FTE Mental Health Consultants to the Mental Health Organization (fund 395), and adds 1.0 FTE CFS Supervisor to the Community Mental Health Program (fund 156). Budget Modification CFS#10 reclassifies 1.8 FTE Mental Health Consultants to Program Development Specialists, transfers 1.0 FTE CFS Administrator and 1.0 FTE Program Evaluation Specialist from fund 156 to fund 395, and transfers 6.8 FTE Mental Health Consultants from fund 395 to fund 156. These changes are made to strengthen the Department's infrastructure and ability to manage a larger and more complex MHO. These changes are included in the FY99 Adopted Budget.

**III. FINANCIAL IMPACT:** Budget Modification CFS#11 recognizes \$2,496,445 in new Title XIX funds and \$147,976 in new State Mental Health dollars. Miscellaneous revenue generated by case management services is reduced by \$79,989. Increased service reimbursements from the Fed/State Fund include \$22,808 to Insurance Fund, \$2,879 to Motor Pool Fund, \$6,223 to Telephone Fund, \$2,295 to Distribution/Postage Fund, \$28,093 to Building Management Fund, and \$67,384 to General Fund.

**IV. LEGAL ISSUES:** N/A

**V. CONTROVERSIAL ISSUES:** N/A

**VI. LINK TO CURRENT COUNTY POLICY:** N/A

**VII. CITIZEN PARTICIPATIONS:** N/A

**VIII. OTHER GOVERNMENT PARTICIPATION:** N/A

## 1. REQUEST FOR PLACEMENT ON THE AGENDA FOR:

(Date)

DEPARTMENT: **COMMUNITY AND FAMILY SERVICES**DIVISION: **N/A**CONTACT: **LES WALKER**PHONE: **26777**

\* NAME(S) OF PERSON MAKING PRESENTATION TO BOARD:

**KATHY TINKLE/MIKE WADDELL**SUGGESTED AGENDA TITLE (to assist in preparing a description for the printed agenda)

Budget Modification CFS#12 increases the Department's budget to reflect the most recent State Mental Health and Developmental Disabilities Services Division Intergovernmental Agreement (SMHDDSD) through PAAF #50 and recognize revenue from the Center for Mental Health Services.

## 2. DESCRIPTION OF MODIFICATION: [Explain the changes being made: What budget does it increase / decrease? What do the changes accomplish? Where does the money come from?

[ ] PERSONNEL CHANGES ARE SHOWN IN DETAIL ON THE ATTACHED SHEET

Budget Modification CFS#12 recognizes \$4,026,855 in new State MHDDSD revenue through PAAF #50 and \$267,697 in new revenue from Center for Mental Health Services to fund the Jail Diversion for Persons with Co-occurring Disorders Project.

Budget Modification CFS#12 increases the budget of the Division of Developmental Disabilities to include \$59,806 to Division Management; \$664,964 to Vocational Services; \$1,948,322 to Residential Services; and \$16,365 to Specialized Services. Increases to the Behavioral Health Division include \$5,047 to Planning & Operations; \$123,031 to Quality Improvement; \$630,272 to Alcohol & Drug Contracts; \$701,516 to Children's Mental Health Contracts; and \$180,204 to Adult Mental Health Contracts.

Budget Modification CFS#12 increases the Department's budget by \$4,329,527. Pass through expenditures increase by \$4,172,244, professional services increase \$111,149, travel and training \$4,560, and indirect costs \$41,574. County General Fund Indirect Support increases by \$34,975. Service reimbursement from the Fed/State Fund to the General Fund increase \$41,574.

## 3. REVENUE IMPACT

(Explain revenues being changed and reason for the change)

Increase State Mental Health Revenue	\$4,026,855
Increase SAMHSA Revenue	\$267,697
Increase County General Fund Indirect Support	\$34,975
Increase Svs Reimbursement F/S to General Fund	\$41,574

TOTAL \$4,371,101

## 4. CONTINGENCY STATUS [to be completed by Budget &amp; Planning]

Fund Contingency BEFORE THIS MODIFICATION (as of \_\_\_\_\_): \$ \_\_\_\_\_

(Specify Fund)

AFTER THIS MODIFICATION: \$ \_\_\_\_\_

Originated By:

Date:

M Waddell

6/15/98

Department Director:

Date:

Lorenzo Paez

6/15/98

Plan / Budget Analyst:

Date:

Karlyne Dargatz

6/15/98

Employee Services:

Date:

Board Approval:

Date:

Wendy C. Boast

6/25/98

## BUDGET MODIFICATION NO. CFS#12

## EXPENDITURES

TRANS EB GM

TRANS DATE:

ACCTING PERIOD:

Budget Fiscal Year: 97/98

Doc No.	Action	Fund	Agency	Org	Activity	Report Category	Object	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
		156	010	1501			6060	175,797	235,187	59,390		Pass Through
		156	010	1501			7100	107,212	107,628	416		Indirect @ .7%
											59,806	Org 1501 Subtotal
		156	010	1510			6060	8,405,320	9,065,662	660,342		Pass Through
		156	010	1510			7100	78,779	83,401	4,622		Indirect @ .7%
											664,964	Org 1510 Subtotal
		156	010	1520			6060	18,689,416	20,624,195	1,934,779		Pass Through
		156	010	1520			7100	210,404	223,947	13,543		Indirect @ .7%
											1,948,322	Org 1520 Subtotal
		156	010	1570			6060	707,281	723,532	16,251		Pass Through
		156	010	1570			7100	69,200	69,314	114		Indirect @ .7%
											16,365	Org 1570 Subtotal
		156	010	1610			6310	24,570	29,130	4,560		Travel & Training
		156	010	1610			7100	118,477	118,964	487		Indirect @ 10.69%
											5,047	Org 1610 Subtotal
		156	010	1650			6110	16,871	128,020	111,149		Professional Services
		156	010	1650			7100	22,944	34,826	11,882		Indirect @ 10.69%
											123,031	Org 1650 Subtotal
		156	010	1661			6060	7,496,789	8,122,680	625,891		Pass Through
		156	010	1661			7100	62,014	66,395	4,381		Indirect @ .7%
											630,272	Org 1661 Subtotal
		156	010	1662			6060	12,379,431	13,076,071	696,640		Pass Through
		156	010	1662			7100	92,272	97,148	4,876		Indirect @ .7%
											701,516	Org 1662 Subtotal
		156	010	1663			6060	2,929,639	3,108,590	178,951		Pass Through
		156	010	1663			7100	22,203	23,456	1,253		Indirect @ .7%
											180,204	Org 1663 Subtotal
		100	010	9130			7608			41,574	41,574	Cash Transfer
										4,371,101	4,371,101	GRAND TOTAL

## BUDGET MODIFICATION NO. CFS#12

## REVENUES

TRANS EB GM

TRANS DATE:

ACCTING PERIOD:

Budget Fiscal Year: 97/98

Doc No.	Action	Fund	Agency	Org	Activity	Report Category	Rev Source	Current Amount	Revised Amount	Change Increase (Decrease)	Subtotal	Description
		156	010	1501			2605	1,065,118	1,124,508	59,390		SMHD DD48 & LA01
		156	010	1501			7601	107,212	107,628	416		CGF Indirect Support
											59,806	Org 1501 Subtotal
		156	010	1510			2605	8,485,471	9,145,813	660,342		SMHD DD53,54,57,90
		156	010	1510			7601	78,779	83,401	4,622		CGF Indirect Support
											664,964	Org 1510 Subtotal
		156	010	1520			2605	19,394,237	21,329,016	1,934,779		SMHD DD45,47,50,51,56,57
		156	010	1520			7601	210,404	223,947	13,543		CGF Indirect Support
											1,948,322	Org 1520 Subtotal
		156	010	1570			2605	1,068,559	1,084,810	16,251		SMHD DD44, 49
		156	010	1570			7601	69,200	69,314	114		CGF Indirect Support
											16,365	Org 1570 Subtotal
		156	010	1610			2163	0	5,047	5,047		SAMHSA
											5,047	Org 1610 Subtotal
		156	010	1650			2163	0	47,824	47,824		SAMHSA
		156	010	1650			2605	18,353	86,297	67,944		SMHD
		156	010	1650			7608	22,944	30,207	7,263		CGF Indirect Support
											123,031	Org 1650 Subtotal
		156	010	1661			2163	0	214,826	214,826		SAMHSA
		156	010	1661			2605	5,244,663	5,657,221	412,558		SMHD A&D
		156	010	1661			7601	62,014	64,902	2,888		CGF Indirect Support
											630,272	Org 1661 Subtotal
		156	010	1662			2605	9,225,209	9,921,849	696,640		SMHD MHS
		156	010	1662			7601	92,272	97,148	4,876		CGF Indirect Support
											701,516	Org 1662 Subtotal
		156	010	1663			2605	2,688,708	2,867,659	178,951		SMHD MHS
		156	010	1663			7601	22,203	23,456	1,253		CGF Indirect Support
											180,204	Org 1662 Subtotal
		100	075	7410			6602			41,574	41,574	Svs Reim F/S General Fund
										4,371,101	4,371,101	GRAND TOTAL



# MULTNOMAH COUNTY OREGON

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## MEMORANDUM

TO: Board of County Commissioners

FROM: Lorenzo Poe, Director *Lorenzo Poe*  
Department of Community and Family Services

DATE: June 15, 1998

SUBJECT: Budget Modification CFS#12

**I. RECOMMENDATION/ACTION REQUESTED:** The Department of Community and Family Services recommends the approval of Budget Modification CFS#12. This modification increases the Department's budget to reflect the most recent State Mental Health and Developmental Disabilities Services Division Intergovernmental Agreement (SMHDDSD) through PAAF #50 and to recognize revenue from the Center for Mental Health Services.

**II. BACKGROUND ANALYSIS:** Budget Modification CFS#12 recognizes \$4,026,855 in new State MHDDSD revenue through PAAF #50 and \$267,697 in new revenue from Center for Mental Health Services to fund the Jail Diversion for Persons with Co-occurring Disorders Project. The increases to the Division of Developmental Disabilities include \$59,806 to Division Management \$664,964 to Vocational Services, \$1,948,332 to Residential Services, and \$16,365 to Specialized Services. Increases to the Behavioral Health Division include \$5,047 to Planning & Operations, \$123,031 to Quality Improvement, \$630,272 to Alcohol & Drug Contracts, \$701,516 to Children's Mental Health Contracts, and \$180,204 to Adult Mental Health Contracts.

**III. FINANCIAL IMPACT:** Budget Modification CFS#12 increases the Department's budget by \$4,329,527. Pass through expenditures increase \$4,112,244, professional services increase \$111,149, travel and training \$4,560, and indirect costs \$34,311. County General Fund Indirect Support increases by \$34,975. Service reimbursement from the Fed/State Fund to the General Fund increase \$41,574.

**IV. LEGAL ISSUES:** N/A

**V. CONTROVERSIAL ISSUES:** N/A

**VI. LINK TO CURRENT COUNTY POLICY:** N/A

**VII. CITIZEN PARTICIPATIONS:** N/A

**VIII. OTHER GOVERNMENT PARTICIPATION:** N/A

MEETING DATE: JUN 25 1998  
AGENDA NO: R-2  
ESTIMATED START TIME: 9:00

(Above Space for Board Clerk's Use ONLY)

## AGENDA PLACEMENT FORM

SUBJECT: Approval of 1998-2001 Local 88 Contract (General Employees Unit)

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: June 25, 1998  
AMOUNT OF TIME NEEDED: 15 Minutes

DEPARTMENT: DSS DIVISION: Labor Relations  
CONTACT: Kenneth Upton TELEPHONE #: 248-5053  
BLDG/ROOM #: 106/1400

PERSON(S) MAKING PRESENTATION: Kenneth Upton

### ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

### SUGGESTED AGENDA TITLE:

\_\_\_\_\_ Ratification of 1998-2001 Agreement between Multnomah County, Oregon and  
Multnomah County Employees Union Local 88, AFSCME, AFL-CIO (General Employees  
Unit)

4/26/98 ORIGINAL SIGNATURE PAGES  
to Ken Upton

### SIGNATURES REQUIRED:

ELECTED OFFICIAL: \_\_\_\_\_  
(OR)  
DEPARTMENT  
MANAGER: \_\_\_\_\_

*Richie L. [Signature]*

98 JUN 17 PM 3:27  
MULTNOMAH COUNTY  
OREGON  
COUNTY CLERK/REGISTRAR

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277





# MULTNOMAH COUNTY OREGON

BEVERLY STEIN  
COUNTY CHAIR

EMPLOYEE SERVICES  
FINANCE  
LABOR RELATIONS  
PLANNING & BUDGET  
RISK MANAGEMENT

(503) 248-5015  
(503) 248-3312  
(503) 248-5135  
(503) 248-3883  
(503) 248-3797

(503) 248-5170 TDD

PORTLAND BUILDING  
1120 S.W. FIFTH, 14TH FLOOR  
P.O. BOX 14700  
PORTLAND, OREGON 97293


PURCHASING, CONTRACTS  
& CENTRAL STORES

(503) 248-5111

2505 S.E. 11TH, 1ST FLOOR  
PORTLAND, OREGON 97202

## Supplemental Staff Report

**To:** Board of County Commissioners

**From:** Department of Support Services, Labor Relations Section 

**Date:** June 17, 1998

**RE:** Ratification of 1998-2001 Agreement between Multnomah County, Oregon and Multnomah County Employees Union Local 88, AFSCME, AFL-CIO (General Employees Unit).

1. **Recommendation/Action Requested:** Recommend ratification.
2. **Background/Analysis:** The Local 88 (General Employees) Unit is the largest collective bargaining unit of County employees, currently with approximately 2,500 members. This contract has been the subject of a lengthy process of collaboratively review utilizing the Employee Relations Committee process. This process was labeled "Continuous Interest Exploration" by the parties. During the past six months this process has transitioned into formal bargaining, utilizing the same collaborative structure. Two executive sessions were held by the Board to give policy guidance to Labor Relations staff concerning this process. The 1998-2001 Agreement before the Board for ratification is in conformance with this policy direction and subsequent discussions. A summary of the financial particulars of the Agreement was provided to the Board in prior correspondence. A complete summary of both financial and non-financial matters will be provided to the Board in advance of the June 25 meeting.
3. **Financial Impact:** The financial implications of this settlement concern all three years of the Agreement as earlier summarized for the Board. Financial issues of a budgetary nature in the first year of the Agreement are as follows:

A. **Direct Implications for Contingency.** The direct sources of cost from this Agreement of a significance which may require budgetary attention are:

(1)	Wage Increase: 3% (Including Roll-Ups)	3,158,793
(2)	Bus Pass: (Sep 98-June 99)	215,000
(3)	Shift Premium (10 cents per hour increase.)	35,997
(4)	Savings on double time	- 30,190
(5)	Special Classification Adjustments (Including Roll-Ups: Initial Estimate)	50,000

Net Cost	<u>3,429,600</u>
----------	------------------

B. **Indirect:** In addition to the above there are substantial costs savings to the County from the September return to the PERS Pick-up, since this money will not be subject to FICA taxation. Estimates of savings are approximately \$700,000 on an annualized basis. On the debit side our Medical and Dental charges have been in excess of expectation for a variety of reasons, including cost increases and increases for the prior year which were underestimated. These unexpected costs have been estimated at approximately \$1,000,000. There are no current plans for budgetary action to address these offsetting savings and costs. Additionally, this contract implements the Information Technology Classification and Compensation Study, which was a management initiative. This cost is estimated at \$550,000. General Fund contingency shift of \$142,000 is anticipated as a result of implementation.

4. **Legal Issues:** No major legal issues have arisen in this bargaining process. A concern about legal issues involved in the return to the PERS Pick-up were resolved by consultation with PERS and County Counsel.
5. **Controversial Issues:** No new issue of a controversial nature are seen in this contract. There are changes in the provisions involving Sick Leave and Bereavement Leave which involve continuation of Board policy with respect to domestic partners, an issue which was controversial in the past.
6. **Link to County Policies:** This Agreement is a continuation of policy direction toward development of a collaborative approach in dealing with Labor Relations issues both with respect to the process by which it was negotiated, and in its terms. Examples are the creation by contract of a County-Union Benefits Board to examine modifications of the Medical-Dental Plans and the provisions for joint County-Union training not only in traditional labor relations matters but in matters related to the County's Quality Improvement initiatives.
7. **Citizen Participation:** None
8. **Other Government Participation:** Assistance in salary survey work from other governments.

1  
2 A G R E E M E N T

3 Between

4 MULTNOMAH COUNTY, OREGON

5 and

6 MULTNOMAH COUNTY EMPLOYEES UNION

7 LOCAL 88, AFSCME, AFL-CIO

8  
9 ARTICLE 1

10 PREAMBLE

11  
12 This Agreement is entered into by Multnomah County, Oregon, hereinafter  
13 referred to as the County, and Local 88, of the American Federation of State,  
14 County and Municipal Employees, AFL-CIO, hereinafter referred to as the Union.

15 The purpose of this Agreement is to set forth those matters pertaining to  
16 rates of pay, hours of work, fringe benefits, and other matters pertaining to  
17 employment consistent with the County's and Union's mutual objective of  
18 providing ever-improved efficient, effective, and courteous services to the public  
19 of Multnomah County.

20 Except as otherwise required by law, regulation, or grant provisions, the  
21 parties agree as follows:

22  
23  
24  
25  
26 ERCtext1 elu

ARTICLE 2  
DEFINITIONS

I. Department:

A "Department" is any organization so deemed by the Board of County Commissioners. The Office of the Sheriff and the Office of the District Attorney shall also be deemed Departments for purposes of this Agreement. Non-departmental employees currently assigned to the Office of the Chair shall be deemed in a department for purposes of this Agreement until and if they are reorganized into a departmental structure. The Labor Relations Manager shall be deemed "Department Director" for any functional purpose of this Agreement for such employees.

The County shall notify the Union no later than thirty (30) days prior to the effective date of creation of a new Department of the title of the new Department and, if available, the name of the new Department Director or Acting Director.

II. Full-time employee:

An employee regularly scheduled to work thirty-two (32) or more hours per week if on an eight (8) hour per day schedule; or an employee regularly scheduled to work thirty (30) or more hours per week if on a ten (10) hour per day schedule.

III. FTE, or full time equivalency:

The number of hours an employee is normally scheduled to work per week divided by 40. For example, the FTE for a forty-hour employee is 1.0; for a twenty-hour employee, .5.

IV. Part-time employee:

An employee regularly scheduled to work forty (40) hours or more during two work weeks, but less than full time.

V. Permanent employee:

An employee who following an examination process is appointed from certified list of eligibles to fill a budgeted position; provided that a permanent

1 employee shall retain such status upon temporary or permanent transfer,  
2 promotion, or demotion.

3 **VI. Probationary employee:**

4 A permanent employee serving a one year period of trial service to  
5 determine his or her suitability for continued employment, such period to begin  
6 on the date of his or her appointment to a permanent position from a certified list  
7 of eligibles. During the period of probation, the employee may be dismissed  
8 without recourse to the grievance procedure if in the opinion of the employee's  
9 supervisor his or her continued service would not be in the best interest of the  
10 County. The length of an employee's probationary period may not be extended  
11 by a Memorandum of Agreement under the terms of Article 26. Entire  
12 Agreement, unless the employee was absent from work for a period of six  
13 months or more previous to the extension. The length of probationary periods for  
14 employees hired prior to the effective date of this Agreement shall not be affected  
15 by the terms of this definition.

16 **VII. Promotional Probationary Employee:**

17 A regular employee serving a six month period of trial service upon  
18 promotion to determine his or her suitability for continued employment in the  
19 classification to which he or she was promoted, such period to begin on the date  
20 of his or her appointment to a higher classification from a certified list of eligibles.  
21 During the period of promotional probation, the employee shall be returned to the  
22 classification and department from which he or she was promoted without  
23 recourse to the grievance procedure if in the opinion of the employee's  
24 supervisor his or her continued service in the classification to which he or she  
25 was promoted would not be in the best interest of the County. The length of the  
26 promotional probationary period for employees promoted prior to the effective  
27 date of this Agreement shall not be affected by the terms of this definition.

28 **VIII. Regular employee:**

29 A permanent employee who has passed the initial probationary period in  
30 effect at the time of his or her appointment, and has been employed by the  
31 County continuously since passing the probationary period. In addition, the

1 following are deemed to be regular employees:

- 2       • A permanent employee who passed the initial one-year
- 3       probationary period, terminated employment, and has been reinstated.
- 4       • A non-probationary employee who has been transferred to the
- 5       County by intergovernmental agreement under ORS 236.610 through
- 6       236.650.

7 **IX. Temporary employee:**

8       Any non-permanent employee.

9

10

11 ERCtext02 elu

12

ARTICLE 3  
RECOGNITION

I. Definition of the Bargaining Unit

The County recognizes Local 88, AFSCME, hereinafter referred to as the "Union", as the sole and exclusive bargaining representative for the purpose of establishing salaries, wages, hours, fringe benefits, and working conditions for all employees in the County classified service as set forth in MCC 3.10 except those specifically excluded below. This unit shall be referred to as the "General Employees Unit". County employees who are excluded from the bargaining unit are:

A. Temporary employees.

B. Employees regularly scheduled to work less than forty (40) hours during two work weeks.

C. Employees certified to another bargaining unit.

D. Supervisory and confidential employees as defined by ORS 243.650, and such others as mutually determined by the parties;

E. Professional employees, limited to physicians, dentists, pharmacists, attorneys (including law clerks), and chaplains, or as mutually determined by the parties;

F. Managerial and administrative employees, including employees not excluded as professional, confidential or supervisory as defined above, but employees who were determined to constitute a community of interest distinct from the bargaining unit. The meaning of the term "Managerial and administrative employees" shall be based on the pattern and practice of the parties in excluding such employees prior to July 1, 1992, or as mutually determined by the parties.

G. Elected officials and their directly appointed staff.

II. Continuation of Existing Unit: Supervisory, Confidential, Professional and Others

1 Except for the special provision for reviewing newly created or modified  
2 classification or positions as per "Section III". below, or with respect to the  
3 disputes cited in "Section IV" below, as of the execution date of this agreement  
4 all classifications included in the unit, with excluded positions for otherwise  
5 included classifications, are listed in Addendum A. Any challenges regarding  
6 the inclusion or exclusion of such classifications or positions shall be in  
7 accordance with the "window period" provisions of Oregon law during FY 2000 -  
8 2001, except for the classification of Chief Sanitarian, which the Parties had  
9 insufficient time to evaluate during the bargaining process.

10 **III. Disputes Concerning Newly Created Classifications or Positions**

11 In the event of disagreement as to the status of newly created or modified  
12 classifications or positions, determination of status shall be in accordance with  
13 unit clarification procedures as provided by Oregon law. To minimize the  
14 possibility of such disputes, when a new exempt classification is created, or  
15 when a new position is exempted from a classification otherwise represented by  
16 the Union, written notice will be sent to the Union to include the reason for  
17 exemption.

18 **IV. Disputes Concerning the Proper Allocation to Exempt Status of**  
19 **Certain Classifications Excluded from the Bargaining Unit During the**  
20 **Period July 1, 1992 to June 30, 1998**

21 The parties recognize that there are disputes concerning the mutuality of  
22 exemption of certain classifications allocated to exempt status during the period  
23 of July 1, 1992 to June 30, 1998. The classifications in dispute are included in a  
24 Memorandum from Susan Ayers to the Union dated May 29, 1998. These  
25 allocations pose a very difficult problem of consultation, compensation and  
26 employee morale. For these reasons, these classifications shall remain exempt,  
27 but the Union and County shall meet and confer regarding each of these  
28 classifications during the period through June 30, 1999. Any resolution of these  
29 disputes shall be by Memorandum of Understanding under the terms of Article  
30 26. Any disputes not resolved by June 30, 1999, shall be subject to the



1 grievance procedure applying the criteria stated in "Section I" above. Any  
2 required arbitration shall be before the permanent classification arbitrator,  
3 William H. Dorsey, as provided for in Article 15. Every reasonable effort will be  
4 made by the parties to ensure resolution of all disputes prior to December 1,  
5 1999. Any classifications determined by the Arbitrator to be in the bargaining  
6 unit shall be deemed new classifications for the purposes of establishing a new  
7 rate of pay under the provisions of Article 15, unless the Arbitrator determines  
8 that the employee is properly allocated to an existing nonexempt classification.  
9 Any employee allocated to a nonexempt classification shall be placed in the  
10 nearest step which would result in no decrease, provided in no event shall any  
11 employee be placed at a rate higher than the top step of the new range, i.e.  
12 employees will not be "red circled" unless so specified in a Memorandum of  
13 Understanding. To ease any needed transition, the effective date of any new  
14 rate of pay will be the first day of the first month following the issuance of the  
15 Arbitrator's award. Prior to that date, any potentially impacted employee will be  
16 paid as an exempt employee, receive exempt benefits, and be subject to all  
17 other terms and conditions of exempt employment. Seniority as an exempt  
18 employee in a disputed classification shall apply to the nonexempt classification  
19 to which the employee is allocated.

20 **V. Temporary List**

21 The County shall, on a monthly basis, provide the Union with a list of  
22 temporary and on-call employees setting forth the job title, rate of pay,  
23 organization code, and date of hire and such other relevant information as may  
24 be reasonably obtained from the County's personnel data base.

25 **VI. Certification of Union Officers**

26 The President of Local 88, or his or her designee, shall provide the  
27 County with written certification of the current Union officers and staff responsible  
28 for contract administration.

29 **VII. Certification of County Designee**

30 The County Chair, the Sheriff, and the District Attorney will provide to the

ARTICLE 3. RECOGNITION

- 1 President and/or Business Agent of Local 88 written certification of current
- 2 designees responsible for Local 88 contract administration.

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ARTICLE 4  
MANAGEMENT RIGHTS

The County shall retain the exclusive right to exercise the customary functions of management including, but not limited to, directing the activities of the departments, determining the levels of service and methods of operation and the introduction of new equipment; the right to hire, layoff, transfer and promote; to discipline or discharge for cause, the exclusive right to determine staffing, to establish work schedules and to assign work, and any other such rights not specifically referred to in this Agreement. Management rights, except where abridged by specific provisions of this Agreement or general law, are not subject to the grievance procedure.

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ARTICLE 5  
UNION SECURITY, REPRESENTATION  
AND BUSINESS

**I. Rights of Bargaining Unit Employees**

Employees shall have the right to self-organize, to form, join or assist labor organizations or to refrain therefrom, to bargain collectively through representatives of their own choosing, and there shall be no discrimination exercised against any employee covered by this Agreement because of his or her membership or Union activities.

**II. Union Security and Check-off**

**A. Deduction of Union Dues and Fair Share Service Fees**

**1. Amount deducted each payroll period**

The County agrees to deduct each payroll period from the pay of employees covered by this Agreement as applicable:

**a. Union dues**

One half (.5) of the current monthly Union membership dues of those Union members who individually request such deductions in writing on the form provided by the Union.

**b. Fair share service fee**

One half (.5) of a monthly Fair Share Service Fee, payable in lieu of dues by any employee who has not joined the Union within thirty (30) days of initial permanent appointment to a bargaining unit position.

**2. Administration and use of Fair Share Service Fees**

The Fair Share Service Fee shall be applied solely to defraying the cost of negotiations and contract administration. The process for determining the amount of the Fair Share Service Fee deduction, accountancy requirements for funds collected, limitations on the use of such funds, and any

1 requirements for refund, shall all be in accordance with the requirements of state  
2 and federal law.

3                   **3.     Authorization and certification of dues and Fair Share**  
4 **Service Fees**

5                   Deduction of membership dues must be authorized in writing  
6 on the form provided by the Union. The amount to be deducted for dues and Fair  
7 Share Service Fees shall be certified in writing to the County by the Union  
8 President. The aggregate of all deductions shall be remitted, together with an  
9 itemized statement, to the Treasurer of the Union at an address certified to the  
10 County in writing by the Union President, within five (5) working days after it is  
11 withheld or by such time as the parties mutually agree in writing.

12                   **4.     Religious objections to payment of dues and Fair Share**  
13 **Service Fees**

14                   The Union expressly agrees that it will safeguard the rights  
15 of non-association of employees, based upon bona fide religious tenets or  
16 teachings of a church or religious body of which such employee is a member.  
17 Any such employee shall pay an amount equal to regular union dues through the  
18 Union to a non-religious charity mutually agreed upon by the employee making  
19 such payment and the Union. The employee will make payment through the  
20 Union on a monthly basis. The Union will forward the payment to the agreed  
21 upon charity, and provide the employee with a copy of the forwarding letter.

22                   **5.     Appointment to excluded positions**

23                   Deductions for Fair Share Service Fees and Union dues  
24 shall cease the pay period following an employee's permanent appointment to a  
25 position which is excluded from the bargaining unit.

26                   **6.     Monthly listing of new and terminated employees**

27                   The County agrees to furnish the Union by the 10th of each  
28 month a listing of all new bargaining unit employees hired during the previous  
29 month and of all employees who terminated during the previous month. Such  
30 listing shall contain the names of the employees, along with their job  
31 classification, work location, and home address.

1           **B.     People Committee Deductions**

2           To the extent allowable by law, employees may authorize payroll  
3     deductions for the People Committee by submitting the form provided by the  
4     Union to Central Payroll.

5           **C.     Defense and Indemnification of the County**

6           The Union agrees that it will indemnify, defend and hold the County  
7     harmless from all suits, actions, proceedings or claims against the County or  
8     persons acting on behalf of the County, whether for damages, compensation,  
9     reinstatement, or any combination thereof, arising out of application of "Section  
10    II" of this Article. In the event any decision is rendered by the highest court  
11    having jurisdiction that any portion of "Section II" is invalid and/or that  
12    reimbursements must be made to any employees affected, the Union shall be  
13    solely responsible for such reimbursements.

14    **III.   Union Representation**

15           **A.     Contract Negotiations**

16           1.     The Union's Negotiating Team shall consist of not more than  
17    ten (10) members, nine (9) of whom may be employees. County employees  
18    participating in such negotiations will be allowed to do so without loss of pay.

19           2.     Observers and/or working staff sponsored by the Union or  
20    County may be in attendance with the negotiating teams. Such attendance for  
21    the Union by a bargaining unit employee shall be on the employee's own time,  
22    unless otherwise mutually agreed.

23           3.     Resource people may be called upon to make statements  
24    and answer questions at the negotiating meetings, but will not be permitted to be  
25    present after their statement and any questions are concluded. Such attendance  
26    for the Union by a bargaining unit employee shall be on the employee's own time  
27    unless otherwise mutually agreed.

28           4.     Prior to negotiations, representatives of the County's and the  
29    Union's Negotiating Teams will jointly establish any other necessary general  
30    negotiating ground rules.

31           **B.     Employee Relations Committee Meetings**

1 To promote harmonious relations and to provide internal  
2 communications, the Union and the County will maintain an Employee Relations  
3 Committee consisting of a bargaining unit and a management representative  
4 from each department, an AFSCME representative, and representatives from the  
5 County Labor Relations Division. The Committee will establish regular quarterly  
6 meetings during normal working hours and will so schedule such meetings as far  
7 as practical to avoid disruptions and interruptions of work. Employees attending  
8 such meetings shall do so without loss of pay. The Committee shall discuss any  
9 matters pertinent to maintaining good employer-employee relationships.

10 **C. Grievances and Contract Administration**

11 The Union is the exclusive representative of bargaining unit  
12 employees with respect to conditions of employment governed by this Agreement  
13 under the State of Oregon Public Employees Collective Bargaining Act. (See  
14 *Article 18, "Section IV.A" on attorneys and on the role of stewards in processing*  
15 *grievances.*)

16 **D. Communication with Bargaining Unit Members**

17 **1. Bulletin Boards**

18 The County agrees to furnish and maintain suitable bulletin  
19 boards in convenient places in each work area to be used by the Union. The  
20 Union shall limit its postings of notices and bulletins to such bulletin boards. All  
21 postings of notices and bulletins by the Union shall be factual in nature and shall  
22 be signed and dated by the individual doing the posting.

23 **2. Use of County Computers for E-Mail and Internet**  
24 **Connections Related to Union Business**

25 a. County computers may be used for Union business  
26 involving E-Mail or Internet connections in the following circumstances, but only  
27 when such use is also in conformance with the other requirements of this  
28 Agreement, specifically to include the provisions of Article 18, "Section IV.B.2.a",  
29 which require that stewards make every effort to avoid disruptions and  
30 interruptions of work.

1 (1) When such use is de minimis and incidental,  
2 such as arranging a meeting with a fellow shop steward or the Council  
3 Representative.

4 (2) For the purpose of conducting an investigation  
5 of a grievance, such as individual inquiries to coworkers which would otherwise  
6 be conducted over the telephone.

7 (3) For the purpose of interacting with the County's  
8 representatives concerning Union-County business, such as setting dates for a  
9 County-Union meeting, making inquiries regarding a grievance, etc.

10 (4) On the employee's own time, for the purposes  
11 of utilizing a link on the MINT, or its successor, to reach a Union internet bulletin  
12 board site. Any such site shall be non-interactive and subject to the same rules  
13 of content as a conventional union bulletin board.

14 (5) For authorized Union officials only, and on  
15 such employee's own time, for the purpose of posting messages on the Bulletin  
16 Board site provided for in (4) above.

17 b. The uses cited in "Subsection a" above may continue  
18 only to the extent that they are at no additional cost to the County, and are  
19 contingent on the continued use of the cited computers, internet connection,  
20 intranet connection, etc. for other County purposes. The content of any and all  
21 communications using the County computer system is not privileged and may be  
22 subject to County review.

23 c. Access to the MINT by any individual outside the  
24 County raises major issues of policy related to privacy, security and cost.  
25 Therefore, the Union business agent may have such access only if:

26 i. Access is approved by the County's Chief  
27 Information Officer, and subject to restrictions imposed by him or her; and

28 ii. All costs associated with making access  
29 available and with maintaining it are borne by the Union.

30 **E. Union Business**

31 **1. Union Business Leave**



1           a.     Employees elected to any Union office or selected by  
2 the Union to do work which takes them from their employment with the County  
3 shall, at the written request of the Union, be recommended in accordance with  
4 the leave provisions set forth in Multnomah County Personnel Rule 17.01 for a  
5 leave of absence exceeding thirty (30) days or more. Any elected official  
6 selected by the Union to participate in any other Union activity shall be granted  
7 an unpaid leave of absence at the request of the Union not to exceed twenty (20)  
8 working days per fiscal year, per official, and provided the County's labor  
9 relations office is notified not less than five (5) working days in advance of such  
10 leave. An additional sixteen (16) working days of unpaid leave shall be granted  
11 upon request to any duly elected Union delegate selected to attend official  
12 AFL-CIO or other certified AFSCME activities.

13           b.     Employees on Union Business Leave shall not be  
14 considered to be in employment status for any purpose, including but not limited  
15 to matters of liability or agency. Solely for reasons of administrative ease and  
16 accountancy purposes, however, if an employee is on a Union leave and is in  
17 pay status for a portion of the pay period, he or she shall accrue vacation and  
18 sick leave for hours on Union leave.

19           **2.     Visits by Union Representatives**

20           The County agrees that accredited representatives of the  
21 American Federation of State, County and Municipal Employees, AFL-CIO,  
22 whether local Union representatives, District Council representatives, or  
23 International representatives, upon reasonable and proper introduction, shall  
24 have reasonable access to the premises of the County at any time during  
25 working hours to conduct Union business. The Union agrees that such visits will  
26 cause no disruptions or interruptions of work.

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**NO STRIKE OR LOCKOUT**

No employee covered by this Agreement shall engage in any work stoppage, slowdown, picketing, or strike at any County facility or at any location where County services are performed during the life and duration of this Agreement. If any such work stoppage, slowdown, picketing, or strike shall take place, the Union will immediately notify such employees so engaging in such activities to cease and desist, and it shall publicly declare that such work stoppage, slowdown, picketing, or strike is in violation of this Agreement and is unauthorized.

Employees in the bargaining unit, while acting in the course of their employment, shall not refuse to cross any picket line established by any labor organization when called upon to cross such picket line in the line of duty. It is understood, however, that no employee shall be disciplined or discharged for refusal to cross a picket line:

B. when the employee has attempted to cross the picket line, contacted the supervisor requesting assistance in passage through the picket line and such assistance was not provided.

Any employee engaging in any activity in violation of this Article shall be subject to disciplinary action, including discharge, by the County without initiation of the grievance procedure of this Agreement, unless "Section II.A."

1 or "Section II.B." above is applicable.

2 **IV. No Lockout**

3 There will be no lockout of employees in the unit by the County as a  
4 consequence of any dispute arising during the life and duration of this  
5 Agreement.

6 **V. Informational Picketing**

7 Nothing in this Article shall be construed to prohibit informational  
8 picketing. Such informational picketing shall not stop and/or disrupt work of  
9 County employees and officials at any time, and picketing shall be prohibited in  
10 all County owned, rented or leased facilities and County meetings, including but  
11 not limited to Multnomah County Board Rooms/Meetings and County offices.

12 Employees engaged in informational picketing shall be subject to the work  
13 rules of the County organization to which they are assigned.

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ARTICLE 7

HOLIDAYS

**I. Holidays**

**A. Recognized and Observed Holidays**

The following days shall be recognized and observed as paid holidays (subject to "Section B" below):

- Any day so declared by the Board of County Commissioners, the District Attorney, and the Sheriff.
- New Year's Day (January 1st)
- Dr. Rev. Martin Luther King Jr.'s Birthday  
(3rd Monday in January)
- Presidents' Day (3rd Monday in February)
- Memorial Day (last Monday in May)
- Independence Day (July 4th)
- Labor Day (1st Monday in September)
- Veterans' Day (November 11th), except for Library employees.
- Thanksgiving Day (4th Thursday in November)
- Christmas Eve Day - Library employees only. (See Addendum F for the dates on which the Christmas and New Year holidays will be observed by the Library Department.)
- Christmas Day (December 25th)
- Four (4) hours on either Christmas Eve or New Year's Eve at the discretion of the employee with the consent of

employee's supervisor; provided that if the supervisor determines that holiday usage on either date is impracticable, the employee shall be credited with four (4) hours of Saved Holiday time. The four-hour "Eve" leave shall be prorated for part-time employees based on their normal FTE.

- Two personal holidays, which in previous contracts were provided for under this article, are incorporated in the vacation accrual rates provided for under Article 8. Vacation Leave. The elimination of personal holidays under the terms of this Agreement has caused a loss of time off for employees on a four day a week, ten hours a day schedule. Therefore, any employee on such a schedule on a permanent, year round basis will be credited with twelve (12) hours of saved holiday time effective July 1, 1998.

For a holiday to be deemed a recognized and observed holiday, an employee must be in pay status both on the employee's scheduled work day before and the employee's scheduled work day after the holiday.

**B. Hours of Paid Leave on Observed Holidays**

The provisions of this subsection do not apply to "Eve" Leave.

**1. Full-time Employees on a Regular Work Schedule**

Employees working five eight-hour shifts per week shall be entitled to eight hours of leave; employees working four ten-hour shifts per week shall be entitled to ten hours of leave.

**2. Part-time Employees**

Part-time employees shall be entitled to leave for the length of their scheduled shift on the observed holiday; provided, however, that the amount of the leave shall not exceed their FTE times eight (8) hours. (For

example, a half-time employee shall have no more than four (4) hours of holiday leave.) If the length of the employee's shift on the observed holiday would exceed the amount of holiday leave to which the employee is entitled, and his or her work place is closed on that date, the difference shall be charged against accrued and available vacation leave, Saved Holiday time, or leave without pay at the employee's option. If the length of the employee's shift on the observed holiday would be less than the amount of holiday leave to which the employee is entitled, then the employee shall be credited with Saved Holiday time for the difference.

### 3. Full-time Employees on an Irregular Work Schedule

Full-time employees who are regularly scheduled to work less than forty (40) hours per week, or days of varying length, shall be treated as permanent part-time employees for purposes of this subsection.

#### C. Saved Holidays

Saved Holidays may be accrued in lieu of observed holidays per the specific provisions of this Article.

1. Any Saved Holiday time which is not used by the end of the fiscal year in which it was accrued will be forfeited.

2. Saved Holiday time may be used at the discretion of the employee with the consent of his or her supervisor. Saved Holiday time will be charged in accordance with the uniform time charging provisions of Article 13.

3. Upon separation from service employees will be paid for unused Saved Holiday time at their regular rate of pay.

4. In the event of an employee's death, his or her heirs will receive payment for unused Saved Holiday time at the employee's regular rate of pay.

## II. Holiday Observance

### A. Full-time Employees Working Five Consecutive Work Days per Week:

1. If the holiday falls on an employee's first scheduled day off,

1 the preceding work day will be observed as that employee's holiday.

2 2. If the holiday falls on an employee's second scheduled day  
3 off, the following day will be observed as that employee's holiday.

4 **B. Full-time Employees Working Four Consecutive Work Days**  
5 **per Week:**

6 1. If a holiday falls on an employee's first or second scheduled  
7 day off, the preceding work day will be observed as that employee's holiday.

8 2. If a holiday falls on an employee's third scheduled day off,  
9 the following work day will be observed as that employee's holiday.

10 **C. Part-time employees, and full-time employees not on a four**  
11 **consecutive day or five consecutive day work week:**

12 The dates designated in "Section I.A" above shall be deemed the  
13 observed holiday if the date falls on an employee's regular day of work.  
14 Otherwise, the employee shall be credited with Saved Holiday time for the  
15 holiday leave to which he or she would have been entitled.

16 **D. Christmas Eve or New Year's Eve:**

17 If the employee works other than day shift, "Eve leave" holiday time  
18 shall be taken preceding or following the scheduled time off for the Christmas or  
19 New Year's holiday at employee's discretion with supervisor's consent; provided  
20 that if the supervisor determines that holiday usage on either date is  
21 impracticable, the employee shall be credited with the entitled number of hours  
22 of Saved Holiday time.

23 **III. Holiday Pay**

24 A. An employee required to work on an observed holiday will be  
25 compensated at one-and-one-half (1-1/2) times his or her regular rate of pay for  
26 the hours worked during the observed holiday for which the employee was  
27 eligible for holiday leave. Any additional hours will be paid at the regular rate of  
28 pay. The employee will also be granted the number of hours of leave to which  
29 he/she was eligible. The employee may elect to accumulate such leave as  
30 Saved Holiday time subject to the provisions of "Section I" above, or be paid at

1 the employee's regular rate of pay. The election must be submitted by the  
2 employee in writing to his or her immediate supervisor on the forms so provided.

3 B. To be eligible for holiday pay as provided in "Section III.A" above,  
4 permanent employees must be in pay status both on the employee's scheduled  
5 work day before and on the employee's scheduled work day after the observed  
6 holiday worked.

7 **IV. Holiday During Leave**

8 If an employee is on an authorized leave with pay when an observed  
9 holiday occurs, such holiday shall not be charged against such leave.

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ARTICLE 8  
VACATION LEAVE

**I. Accrual**

Each permanent employee shall accrue vacation leave from the first day of permanent employment. Vacation leave shall be accrued in accordance with the accrual rates shown in Column 2 of the "Table of Vacation Accrual Rates" in "Section II" below, and accrual balances shall be shown on the employee's check stub.

**II. Table of Vacation Accrual Rates**

1. <u>Years</u> <u>of</u> <u>Service</u>	2. <u>Hours Accrued</u> <u>Per Straight Time</u> <u>Hour Worked or</u> <u>on Paid Leave</u>	3. <u>Hours Accrued</u> <u>Per Week by</u> <u>Forty Hour</u> <u>Employees</u>	4. <u>Hours (Weeks)</u> <u>Accrued Per</u> <u>Year by Forty</u> <u>Hour Employees</u>	5. <u>Maximum</u> <u>Hours</u> <u>Accruable</u>
Less than 5	.0462	1.848	96 (2.4 wks.)	200
5 to 10	.0654	2.616	136 (3.4 wks.)	240
10 to 15	.0846	3.384	176 (4.4 wks.)	320
15 or more	.1038	4.152	216 (5.4 wks.)	400

A. Accrual rates in Column 2 apply only to straight time hours worked or hours of paid leave. Employees who are not in pay status do not accrue vacation leave.

B. Years of service indicated in Column 1 are continuous County seniority years as defined in Article 21, "Section II".

1 C. The figures in Columns 3 and 4 are approximations based on the  
2 accrual rates shown in Column 2.

3 D. Accrual rates shown in Column 2 incorporate two days (sixteen)  
4 hours of leave which in previous contracts were allotted to employees as  
5 personal holidays.

6 **III. Charging**

7 Vacation leave shall be charged in increments in accordance with the  
8 uniform time charging provisions of Article 13.

9 **IV. Payoff Upon Termination or Death**

10 Unused vacation leave shall be paid to the employee at his or her regular  
11 rate of pay at the time of separation from service. In the event of an employee's  
12 death, unused vacation leave shall be paid to the employee's heirs at his or her  
13 regular rate of pay.

14 **V. Use and Scheduling of Accrued Vacation**

15 Employees' use of accrued vacation leave shall be subject to the needs  
16 and requirements of the County. Employees shall be permitted to select one or  
17 more vacation times. The method of vacation selection shall be in accordance  
18 with Memoranda of Agreement which were initiated by the parties from each  
19 Department and introduced during the bargaining process, and are incorporated  
20 herein by reference.

21 **VI. Use of Accrued Vacation for Sick Leave and Other Purposes**

22 The requirements for using accrued vacation for sick leave and other  
23 purposes and the sequencing of such leave use, is specified in Article 9,  
24 "Section II.C".

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ARTICLE 9  
SICK LEAVE, FITNESS FOR DUTY,  
AND DISABILITY INSURANCE

**I. Paid Sick Leave**

**A. Definition and Allowable Use**

Sick leave is a leave of absence with pay which may be used when the employee is directly affected by any of the health conditions listed below, or when specified others are affected by the conditions listed, and require the employee's care.

**1. Specified others**

- a. Members of the employee's immediate household; or
- b. The employee's spouse, parents, or children as defined in the federal Family and Medical Leave Act (hereafter referred to as the "FMLA"); or
- c. The employee's parents-in-law as defined in the Oregon Family Leave Act (hereafter referred to as "OFLA"); or
- d. The employee's domestic partner as designated in an Affidavit of Domestic Partnership submitted to Employee Benefits; or
- e. The children and parents of such domestic partner, defined as if the domestic partner were the employee's spouse.

**2. Covered Health Conditions**

- a. Any condition covered by FMLA or OFLA; or
- b. Any other illness, injury, or quarantine based on exposure to contagious disease; or
- c. Medical and dental appointments

**3. Parental Leave**

Sick leave may be used by employees during Parental Leave as defined by FMLA and/or OFLA, except that the amount of leave taken

1 by the other parent of the employee's child will not affect the amount of Parental  
2 Leave available to the employee.

3 **4. Occupationally Related Conditions**

4 Use of sick leave for occupationally related conditions is  
5 limited to the provisions of Article 12, Workers Compensation.

6 **B. Accrual**

7 Employees shall accrue sick leave at the rate of .0461 hours for  
8 each straight time hour worked. Sick leave may be accrued on an unlimited  
9 basis.

10 **C. Reporting of Sick Leave**

11 An employee who has a position which requires a replacement  
12 during illness must notify the supervisor on duty in sufficient time (at least one (1)  
13 hour) before the beginning of his or her shift so that a replacement may be  
14 obtained. Other employees must notify their immediate supervisor, if available,  
15 or work site no later than fifteen (15) minutes after their scheduled starting time.  
16 Failure to so report may result in loss of pay for the day involved.

17 **D. Use of Sick Leave During Leave**

18 Sick leave may not be used during the term of any unpaid leave of  
19 absence. Sick leave may not be used during vacation except when the  
20 employee notifies the supervisor of the interruption of his or her scheduled  
21 vacation and presents reasonable evidence of a bona fide illness or injury upon  
22 returning to work.

23 **E. Time Charging for Sick Leave**

24 Sick leave shall be charged in accordance with the uniform time  
25 charging provisions of Article 13.

26 **F. Saved Holiday Bonus for Limited Use of Sick Leave**

27 Effective July 1, 1998, employees who have worked full time for the  
28 entire preceding fiscal year are eligible to receive saved holiday time as a bonus  
29 incentive for low sick leave usage, as specified below:

- 30 1. Eligible employees who use no more than eight (8) hours of

sick leave in a fiscal year will receive sixteen (16) hours of saved holiday time for use after July 15 of the following fiscal year; those who use more than eight (8) hours, but no more than sixteen (16) hours of sick leave will receive eight (8) hours of saved holiday time. For example, an eligible employee who used ten hours of sick leave in the 1997-98 fiscal year will receive eight hours of saved holiday time for use after July 15 of the 1998-99 fiscal year.

2. Use of saved holiday bonus time will be governed by the provisions of Article 7, "Section I.C," specifically to include the provision requiring use in the same fiscal year in which it was accrued.

## **II. Use and Misuse of Leave for Sick Leave Purposes**

### **A. Counting Against FMLA, OFLA Entitlements**

Sick leave and any other forms of paid or unpaid leave used for FMLA and/or OFLA qualifying conditions, or absence due to a deferred or approved Workers Compensation claim based on such conditions, will be counted against an employee's annual FMLA and/or OFLA leave entitlements.

### **B. Legitimate Use**

#### **1. Verification of Use**

a. Management may require the completion of a certification form by the employee's health care provider and any other verifications provided for under the provisions of the FMLA, OFLA, or their successors.

b. Management may require medical verification of absence due to non-FMLA and non-OFLA covered illness or injury under the following conditions:

i. the employee has been absent for more than three days; or

ii. the employee has exhausted all sick leave; or

iii. the employee has had five or more events with less than 24 hours notice in a six month period; or

iv. management reasonably believes that the

1 absence may not be bona fide.

2 **2. Discipline**

3 Subject to the limitations of law, including but not limited to  
4 those of the FMLA, discipline may be imposed under the following conditions:

5 **a. Abuse of Sick Leave**

6 Misuse of leave, violation of orders, directives, or  
7 contractual requirements concerning the use of sick leave and other forms of  
8 leave used in lieu of sick leave are cause for disciplinary action.

9 **b. Use of Accrued Sick Leave**

10 i. Use of accrued sick leave, without abuse of  
11 such leave, will not be cause for discipline.

12 ii. When the intermittent use of accrued sick  
13 leave or other paid or unpaid leave used in lieu of sick leave interferes  
14 significantly with an employee's ability to perform the duties of his or her job,  
15 management may do the following (subject to the requirements of law,  
16 including, but not limited to, the FMLA):

17 (a) require the employee to take  
18 continuous leave; or

19 (b) change the employee's work  
20 assignment for six months or until use of intermittent leave ends, whichever  
21 comes sooner; in such cases the provisions of Article 22 will not apply.

22 **c. Excessive Absenteeism**

23 The parties recognize that every employee has a duty  
24 to be reliably present at work, and that failure to confine sick leave usage to  
25 accrued and available sick leave raises the possibility of discipline for excessive  
26 absenteeism. Such cases, however, are subject to just cause review and require  
27 systematic examination of relevant factors, including but not limited to:

28 i. Any legal requirements, including, but not  
29 limited to those of the FMLA or the ADA.

1                   ii.     The tenure and work history of the employee,  
2 specifically to include whether there have been previous instances of this pattern  
3 of absenteeism.

4                   iii.     Whether there is a likelihood of improvement  
5 within a reasonable period of time based on credible medical evidence.

6                   iv.     The particular attendance requirements of the  
7 employee's job.

8                   v.     The pattern of use, and whether the absences  
9 are clearly for bona fide sick leave purposes.

10           **C.     Sequencing of Leaves**

11                   The use of vacation leave, saved holiday time, compensatory time,  
12 and leave without pay is subject to approval by management according to the  
13 requirements of Articles 8, 7, 14, and 10, respectively.     However, unless  
14 otherwise required by law, forms of leave shall be used and exhausted in the  
15 following sequences:

16                   1.     Leave for illness or injury, or for FMLA covered parental  
17 leave will be taken in the following order:

18                           a.     Sick leave until it is exhausted;

19                           b.     Vacation leave, saved holiday time, or compensatory  
20 time, sequenced at the employee's option, until they are exhausted;

21                           c.     Leave without pay.

22                   2.     Leave for other purposes will be taken in the following order:

23                           a.     Vacation leave, saved holiday time, or compensatory  
24 time, sequenced at the employee's option (to the extent allowed by vacation  
25 sign-up provisions) until they are exhausted;

26                           b.     Leave without pay

27           **D.     Limitations on the Use of Leave Without Pay in Lieu of Sick**  
28 **Leave**

1           Use of leave without pay in lieu of sick leave for non-FMLA and  
2 non-OFLA qualifying conditions is subject to the approval of management and  
3 further subject to the following provisions:

4           **1.     Continuous Leave**

5           In the event of a continuous leave of absence without pay in  
6 excess of any legal requirement of the FMLA or OFLA, the County may require  
7 from the employee's physician, and/or arrange for the employee to see a  
8 physician selected by the County to examine the employee and provide a  
9 statement of the disability, current condition, and the anticipated length of current  
10 absence. If the County requires the employee to see a physician it has selected,  
11 it will pay the costs. If deemed necessary by the County, such an examination  
12 shall be repeated every thirty days. If management determines that continued  
13 leave would not be in the best interest of the County, then any resulting  
14 termination would be subject to review under the just cause standard as to the  
15 reasonableness of this determination. Following six months of leave without pay,  
16 to include time spent on unpaid FMLA and/or OFLA leave, any extension of the  
17 leave shall be deemed permissive on the part of the County and if the  
18 employee's leave is not extended, and the employee does not return to work, the  
19 employee will be deemed to have resigned.

20           **2.     Intermittent Leave**

21           Intermittent leave without pay used in lieu of sick leave is not  
22 subject to the six month entitlement provided for above. When such leave  
23 significantly affects an employee's job performance and is not subject to the  
24 requirements of law (including but not limited to the FMLA), management may  
25 evaluate the employee's use of leave according to the criteria of "Section B.2.c"  
26 above. Medical information as provided for in "Section D.1" above may be  
27 required for the evaluation. After completing the evaluation management may  
28 do one of the following:

29           a.     Approve a similar pattern of intermittent use of unpaid  
30 leave for a specified period followed by another evaluation; or



1                   b.     Put the employee on a work plan to manage the use  
2 of leave without pay, followed by disciplinary action if the plan is not successfully  
3 completed; or

4                   c.     Proceed with the disciplinary process.

5     **III.   Fitness for Duty**

6             The parties recognize that employees have the responsibility to report to  
7 work fit for duty. To ensure such fitness, management may send employees for  
8 medical or psychological examination when the supervisor reasonably believes  
9 that the employee is not fit for duty or may be a danger to themselves or others.  
10 Any such examinations will be at County expense.

11    **IV.   Disability Insurance and Catastrophic Leave**

12          **A.   Disability Insurance**

13                **1.   Short Term Disability**

14               Any full-time employee covered by this Agreement may  
15 participate in the-short term disability insurance program developed by the Union  
16 and the County (consistent with carrier contract(s)), the monthly premium to be  
17 paid individually through payroll deduction.

18               **2.   Long Term Disability**

19               a.     All bargaining unit employees will be covered by a  
20 County-paid group long term disability insurance policy, the provisions of which  
21 will be the same as those in UNUM group policy #387790.

22               b.     The County will pay for COBRA medical and dental  
23 insurance coverage for a period of up to six months beyond the month in which  
24 benefits would normally terminate for an employee with an approved long-term  
25 disability claim. However, employees who "opt out" of benefits coverage under  
26 the provisions of Article 11, "Section I.B" of this Agreement will not be eligible for  
27 continued County-paid coverage under this subsection.

28               c.     If proposed by management and approved by the  
29 Union, changes in short term and long term disability insurance coverage will be  
30 put into effect.

1           **B.    Catastrophic Leave Program**

2           The Parties recognize that a Catastrophic Leave Program has  
3    been implemented which allows the donation of vacation leave or compensatory  
4    time to ill or injured employees who have exhausted all paid leave. This program  
5    may be terminated only subject to the terms and conditions of the implementing  
6    Ordinance.

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ARTICLE 10  
OTHER LEAVES

I. Unpaid Leaves of Absence

A. Use of Leave

Leaves of absence without pay for a period of up to six (6) months may be granted by an employee's exempt supervisor for any reasonable purpose. The sequencing of the use of all leaves, to include leaves of absence without pay, is specified in Article 9, "Section II.C". A separate standard for granting any leave of absence for sick leave purposes is specified in Article 9, "Section II.D". Any time spent on unpaid FMLA or OFLA leave shall be deducted from the six (6) month period specified above. Extensions of such leaves may be granted solely at the discretion of the exempt supervisor.

B. Failure to Return from Leave

Except where otherwise provided by law, any employee who has been granted a leave of absence and fails to return to work within five (5) days after the expiration of said leave, shall be considered to have voluntarily resigned his or her position. However, if an employee provides evidence that he or she was unable to contact the County to request a leave extension on the date of, or subsequent to, the last day of the leave, the County shall rescind the employee's resignation. Nothing in this section is intended to prohibit application of Article 17, Disciplinary Action, in cases of absence without leave of less than five (5) days.

II. Judicial Leave

A. Jury Duty

1. An employee shall be granted leave with full pay in lieu of jury fees on any scheduled day of work he or she is required to report for jury duty, if upon receipt the employee submits jury fees to Payroll. (Employees do not have to submit mileage and parking reimbursements.)

1           2.     Except during an emergency or due to operational  
2 requirements, the County will not require employees to report to work after  
3 completing a full day on jury duty, provided that if an employee is required to  
4 work over, any time spent on jury duty shall not be considered time worked for  
5 calculating overtime liability.

6           3.     An employee who is excused or dismissed from jury duty  
7 before the end of the day will report back to work if practicable.

8           4.     An employee may be scheduled to work Monday through  
9 Friday, eight hours per day, on day shift, for the duration of jury duty with less  
10 than ten days' notice. An employee may also be returned to his or her pre-jury  
11 duty schedule with less than ten days' notice after jury duty ends. There shall be  
12 no additional cost to the County or days off for an employee as a result of any  
13 such schedule change.

14           **B.     Subpoenas**

15           1.     Time spent serving as a witness in State or Federal Court  
16 will be treated as time worked for pay purposes under the following conditions:

- 17                   •     The time served occurs during regularly scheduled  
18 working hours; and  
19                   •     The employee is subpoenaed to testify; and  
20                   •     The employee submits witness fees to Payroll upon  
21 receipt.

22           2.     Under no circumstances will employees be paid for time  
23 spent in a judicial proceeding or hearing in which they or their union is the  
24 plaintiff or the defendant, unless they are being defended and indemnified by the  
25 County for conduct occurring during the course of employment.

26           **C.     Merit System Council Hearings**

27           Time spent as a plaintiff or witness at a Merit System Council  
28 hearing will be treated as time worked to the extent that it occurs during regularly  
29 scheduled working hours.

1     **III.     Military Leave**

2             The County acknowledges its obligation under state and federal law to  
3     grant paid and unpaid leave for military training and service. Information about  
4     legally mandated military leave will be made available to employees upon  
5     request from the Employee Services Division.

6     **IV.     Bereavement Leave**

7             An employee shall be granted not more than three (3) days' leave of  
8     absence with full pay in event of death in the immediate family or immediate  
9     household of the employee to make household adjustments or to attend funeral  
10    services. If such funeral is beyond 350 miles, the employee may be granted up  
11    to three (3) additional days with pay at the discretion of his or her supervisor for  
12    travel and personal considerations. For purposes of Bereavement Leave, an  
13    employee's immediate family shall be defined as his or her spouse or domestic  
14    partner, parents, step-parents, children, step-children, siblings, step-siblings,  
15    grandchildren, grandparents, and the parents, step-parents, siblings and step-  
16    siblings of his or her spouse or domestic partner. Immediate household shall be  
17    defined as any person residing at the employee's residence on a regular basis.  
18    In relationships other than those set forth above, under exceptional  
19    circumstances, such leave of absence may be granted by the Department  
20    director, Sheriff, or District Attorney, or their designee(s), upon request.  
21    Employees may request additional bereavement leave in accordance with  
22    "Section I" of this article.

23    **V.     Personnel Examinations/Interviews**

24             Employees shall be given paid time off for participating in County  
25    examinations and interviews for promotion, demotion, or transfer which occur  
26    during their regularly scheduled shift. However, paid time off will be restricted to  
27    examinations and interviews for five positions per fiscal year.

28    **VI.    Inclement Weather and Natural Disasters Policy**

29             The County reserves the right to establish policy with respect to  
30    attendance at work during inclement weather or a natural disaster, and further

1 reserves the right to determine whether or not an event qualifies as such an  
2 event under the terms of any such policy. Any time an employee is unable to be  
3 at work as scheduled due to such an event, may, at the employee's discretion,  
4 be charged to:

- 5       •     Vacation leave
- 6       •     Saved holiday time
- 7       •     Compensatory time
- 8       •     Leave without pay

9 Provided, further, however, that an employee who attempts to get to work in  
10 such a County declared event, but is unavoidably delayed, shall not have time  
11 charged to one of the above categories unless he or she is two or more hours  
12 late, in which event all time late will be charged. The provisions of Article 13,  
13 "Section II, Right to Compensation for Regularly Scheduled Hours" will apply to  
14 instances in which employees report to work to a closed facility, or are otherwise  
15 specifically notified by the County that their facility is closed, and the employee is  
16 not reassigned.

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ARTICLE 11  
HEALTH AND WELFARE

**I. Medical and Dental Insurance**

**A. County Contribution Toward Insurance Premiums**

**1. Full-time employees**

**a. Medical/vision insurance**

The County agrees to pay the monthly premium for the purchase of medical/vision benefits on behalf of each eligible full-time employee and his or her dependents under one of the following plans:

- Kaiser HMO plan (array number 1A5FAEP); or
- The County's self-insured indemnity plan, which is administered by ODS Health Plan at the signing of this Agreement (Amendment No. 4 to Contract No. 9400 between Multnomah County and ODS Health Plan, dated January 1, 1992); or
- Any other medical/vision benefits plan mutually endorsed by the County and the Multnomah County Employees' Benefits Board (MCEBB) under the provisions of "Section III" below; or
- Any successor medical/vision benefits plan implemented under the terms of "Section IV" below.

**b. Dental insurance**

The County agrees to pay the monthly premium for the purchase of dental benefits on behalf of each eligible full-time employee and his or her dependents under one of the following plans:

- Kaiser HMO plan (array number 2CA); or
- The County's self-insured indemnity plan administered by ODS Health Plan at the signing of this Agreement (Amendment No. 3 to Contract No. 3600); or
- Any other dental benefits plan mutually endorsed by the County and the Multnomah County Employees' Benefits Board (MCEBB) under the provisions of "Section III" below; or

1           •       Any successor dental benefits plan implemented under the terms of  
2 "Section IV" below.

3                   **2.    Part-time employees**

4                   a.       **Part-time premium payments**

5                               Part-time employees shall receive full medical/vision  
6 and dental benefits upon payment of fifty percent (50%) of the monthly premium  
7 by the employee to the County. Such payments will be made through payroll  
8 deductions on a pre-tax basis, unless the employee requests post-tax  
9 deductions. Participation in a medical/vision plan and payment of premiums is  
10 mandatory for employees who do not "opt out" under the provisions of "Section  
11 B" below. Participation in the dental plan is optional.

12                   b.       **Premium reimbursements for full-time work**

13                               Part-time employees who work full time (at least .8  
14 FTE) for six consecutive pay periods will be reimbursed for premium payments  
15 made to the County for those payroll periods, adjusted for taxes. However, such  
16 payment will be made only upon written request within 90 days of the last payroll  
17 period of full-time work.

18                   **3.    Retirees**

19                               Provisions governing retiree participation in County medical  
20 and dental plans are in Article 16, "Section V".

21           **B.    "Opt-out": Cash in Lieu of Medical/Vision Benefits**

22                   1.       **"Opt-out" payment amounts**

23                   a.       **Full-time employees**

24                               Full-time employees who certify themselves as  
25 covered under another medical/vision plan may elect to "opt out" of County  
26 medical/vision benefits coverage, and receive an amount equivalent to 33% of  
27 the highest two-party medical/vision premium instead. Full-time employees who  
28 "opt out" of medical/vision benefits coverage may still receive dental benefits; a  
29 dental benefits "opt-out" payment is not available.

30                   b.       **Part-time employees**

31                               Part-time employees who certify themselves as



1 covered under another medical/vision plan may elect to "opt out" of County  
2 medical/vision benefits coverage, and receive one-half of 33% of the highest  
3 two-party medical/vision premium. Part-time employees may opt out of  
4 medical/vision coverage and still elect County dental coverage by paying for one  
5 half of the premium for such coverage as required under "Section A.2.a" above.

6 **2. Loss of Non-County Coverage**

7 If an employee who has "opted out" of County coverage loses  
8 his or her non-County coverage, he or she may enroll in the County plan within  
9 ninety (90) days of losing the non-County coverage without waiting for the annual  
10 Open Enrollment period. County coverage will be effective the first day of the  
11 month following receipt of the enrollment form by Employee Benefits.

12 **C. Default Enrollment**

13 Employees who fail to submit an enrollment form for "Opt-out" or for  
14 the medical/vision and dental benefits plans described in "Section I.A" above  
15 within 31 days of hire will be enrolled in the County's self-insured medical and  
16 dental plans by default. Eligible dependents of such employees may be enrolled  
17 in the same plans if the employee submits application within 15 days of receiving  
18 notice of his or her default enrollment. Part-time employees who are enrolled by  
19 default must pay for medical/vision and dental benefits coverage as provided in  
20 "Section A.2.a" above.

21 **D. Eligible Dependents**

22 **1. Spouses and domestic partners**

23 **a. Enrollment**

24 Employees may enroll spouses and domestic  
25 partners in County medical and dental plans upon completion of the County's  
26 Affidavit of Marriage or Domestic Partnership and applicable enrollment forms.  
27 Enrollment times and other procedures for administration of the medical/vision  
28 and dental insurance plans shall be applied to employees with domestic partners  
29 in the same manner as to married employees to the extent allowed by the law.

30 **b. Definitions**

31 i. A "spouse" is a person to whom the employee

1 is married under Oregon law.

2 ii. A "domestic partner" is a person with whom the  
3 employee:

4 • Jointly shares the same permanent residence for at least six  
5 months immediately preceding the date of signing an Affidavit of Marriage or  
6 Domestic Partnership; and intends to continue to do so indefinitely; and

7 • Has a close personal relationship.

8 In addition, the employee and the other person must share the following  
9 characteristics:

10 • Are not legally married to anyone;

11 • Are each eighteen years of age or older;

12 • Are not related to each other by blood in a degree of kinship closer  
13 than would bar marriage in the State of Oregon;

14 • Were mentally competent to contract when the domestic  
15 partnership began;

16 • Are each other's sole domestic partner;

17 • Are jointly responsible for each other's common welfare including  
18 "basic living expenses" as defined in the Affidavit of Marriage or Domestic  
19 Partnership.

20 c. **Termination of coverage**

21 Employees must remove a spouse or domestic partner from  
22 coverage within 90 days of divorce, or annulment, or dissolution of the domestic  
23 partnership. Employees who fail to remove an ineligible spouse or domestic  
24 partner within 90 days will be required to reimburse the County for premiums  
25 paid after the 90 day window, or be taxed on the benefit, or both.

26 2. **Children**

27 a. **Enrollment**

28 Eligible children of the employee or the employee's spouse or  
29 domestic partner may be enrolled in the medical and dental insurance plans  
30 described in "Section I".

31 b. **Definition**

1           “Eligible children” includes any unmarried biological or  
2 adoptive child under the age of 23 who is a dependent under the federal tax  
3 code; or a court appointed ward; or anyone under the age of 23 for whom the  
4 employee is required by court order to provide coverage. “Eligible children” may  
5 also include dependent children over the age of 23 who became permanently  
6 disabled prior to the age of 23, and the children of children who are currently  
7 enrolled.

8           **c. Termination of coverage**

9           Employees must remove from coverage a child who has  
10 become ineligible because he or she is 23 years old, or for any other reason  
11 within 90 days of disqualification. Employees who fail to remove an ineligible  
12 child within 90 days of disqualification will be required to reimburse the County  
13 for premiums paid after the 90 day window, or be taxed on the benefit, or both.

14           **E. When Benefits Coverage Begins and Ends**

15           **1. Coverage for new employees**

16           **a. Medical benefits**

17           The employee and eligible dependents will be  
18 covered by medical benefits the first day of the month following hire, provided the  
19 employee has submitted an enrollment form prior to that date. Employees who  
20 submit a form after the first day of the month following hire, but within 31 days of  
21 hire, will be covered the first day of the month following receipt of the form by  
22 Employee Benefits. Employees who do not submit a form within 31 days of hire  
23 will be covered the first day of the month following default enrollment as provided  
24 under “Section I.C” above.

25           **b. Dental benefits**

26           The employee and eligible dependents will be  
27 covered by dental benefits the first day of the month following six continuous  
28 months of employment, if Employee Benefits has received an enrollment form  
29 prior to that date. Employees who have not submitted a timely enrollment form  
30 will be covered the first day of the month following default enrollment as provided  
31 under “Section I.C” above.

1                   2.    **Benefits coverage for terminating employees**

2                   a.    **Retirees**

3                   i.    **County-subsidized coverage**

4                               Benefits options for retirees are provided for in  
5 Article 16, "Section V".

6                   ii. **Unsubsidized benefits**

7                               Retirees may continue to participate in County  
8 medical and dental benefits plans on a self-pay basis as mandated by law.

9                   b.    **Other terminating employees**

10                   i.   **County-subsidized coverage**

11                               If the employee's last regularly scheduled work  
12 day in pay status falls on or before the fifteen (15th) day of the calendar month in  
13 which the employee's County employment terminates, medical/vision and dental  
14 benefits toward which the County has contributed will lapse at the end of that  
15 calendar month. If such work day falls after the fifteen (15th) of the calendar  
16 month in which the employee's County employment has terminated, coverage  
17 toward which the County has contributed will lapse at the end of the following  
18 calendar month. (Example: Employee A's last day is July 15. Employee A's  
19 coverage toward which the County has contributed will lapse July 31. Employee  
20 B's last day is July 16. Employee B's coverage toward which the County has  
21 contributed will lapse August 31.)

22                   ii. **Unsubsidized benefits**

23                               Terminating employees may continue to  
24 participate in County medical and dental benefits plans on a self-pay basis as  
25 mandated by law.

26                   3.    **Employees on unpaid leaves of absence**

27                   a.    **Leaves of less than 30 days**

28                               Employees' benefits coverage will be unaffected by  
29 unpaid leaves of absence of less than 30 days' duration.

30                   b.    **FMLA leaves**

31                               The County will contribute toward medical/vision

1 insurance coverage during unpaid FMLA leave as required by law. In addition,  
2 the County will continue any monthly contributions toward dental insurance  
3 coverage as long as legally required contributions toward medical/vision  
4 coverage continue. If the employee remains on unpaid leave for more than 30  
5 days after FMLA leave is exhausted, the leave will be treated as an unpaid leave  
6 of absence per "Subsection c.i" below, except that the last day of FMLA leave will  
7 be deemed the employee's last day in pay status.

8 **c. Non-FMLA unpaid leaves**

9 **i. Lapsing of County-subsidized coverage**

10 If the employee's last regularly scheduled work  
11 day in pay status falls on or before the fifteen (15th) day of the calendar month  
12 coverage toward which the County has contributed will lapse at the end of that  
13 calendar month. If such work day falls after the fifteen (15th) of the calendar  
14 month, coverage toward which the County has contributed will lapse at the end of  
15 the following calendar month. (Example: Employee A goes on non-FMLA  
16 unpaid leave effective July 15. Employee A's coverage toward which the County  
17 has contributed will lapse July 31. Employee B goes on non-FMLA unpaid leave  
18 July 16. Employee B's coverage toward which the County has contributed will  
19 lapse August 31.)

20 **ii. Unsubsidized benefits**

21 Employees may continue to participate in  
22 County medical and dental benefits plans on a self-pay basis as mandated by  
23 law.

24 **iii. Continuation of benefits upon return from a**  
25 **leave of absence without pay**

26 (a) Employees returning from a leave of  
27 absence without pay will be reinstated to the same medical and dental plans (or  
28 successor plans) they had when they left. If they return from leave the first day  
29 of the month, coverage will be in effect upon their return from leave; otherwise,  
30 coverage will be in effect the first day of the month following their return from  
31 leave.

(b) Employees returning from unpaid non-FMLA leave in the following July to June plan year may enroll in different plans within 31 days of their return. If enrollment forms are received on the first day of the month, the changes will be effective that day; otherwise, changes will be in effect the first day of the month following receipt of the forms.

**II. Other Benefits**

**A. Flexible Spending Accounts**

**1. Medical Expenses**

To the extent permitted by law, Medical Expense Reimbursement Plan (MERP) accounts, which allow employees to pay for deductibles and unreimbursed medical, dental, and vision expenses with pre-tax wages, will be available according to the terms of the Multnomah County Medical Expense Reimbursement Plan number 504.

**2. Dependent Care Expenses**

To the extent permitted by law, Dependent Care Assistance Plan (DCAP) accounts, which allow employees to pay for dependent care with pre-tax wages, will be available according to the terms of the Multnomah County Dependent Care Assistance Plan number 502.

**B. Life Insurance**

The County agrees to provide each employee covered by this Agreement with term life insurance in the amount of ten thousand dollars (\$10,000). Employees may purchase supplemental term life insurance coverage for themselves, their spouse or their domestic partner consistent with carrier contract(s) by payroll deduction. Premiums will vary according to age of the insured.

**C. Emergency Treatment**

Employees will be provided with emergency treatment for on-the-job injuries, at no cost to the employees, and employees as a condition of receipt of emergency treatment, do agree to hold the County harmless for injuries or damage sustained as a result thereof, if any. Employees further will promptly sign an appropriate Workers' Compensation claim form when presented by the

1 employer.

2 **D. Disability Insurance**

3 Disability insurance benefits are provided for under Article 9. Sick  
4 Leave, "Section IV".

5 **III. The Multnomah County Employees' Benefits Board (MCEBB)**

6 The Union agrees to participate as a member of the MCEBB jointly with  
7 representatives of the County's other bargaining units and its non-represented  
8 employees under the provisions below:

9 **A. Membership**

10 Each Union or Association representing a bargaining unit of County  
11 employees shall, upon the effective date of an authorizing provision in their  
12 respective collective bargaining agreements, be a member of the Multnomah  
13 County Employees' Benefits Board. In addition, exempt employees will be  
14 deemed a member unit with the same voting privileges as the bargaining unit  
15 members.

16 **B. Participation by Employees**

17 1. Two employee representatives from the AFSCME Local 88  
18 general employees' bargaining unit may attend meetings with pay. In addition,  
19 the AFSCME business agent may attend.

20 2. Representatives from other bargaining units may attend per  
21 the provisions of their collective bargaining agreements.

22 3. Two employees appointed by the Chair will represent exempt  
23 employees.

24 3. Other exempt staff, such as those from Benefits, Labor  
25 Relations, etc., will attend as needed on a non-voting basis.

26 **C. Purpose**

27 The purpose of the MCEBB is to:

28 1. Provide a County-wide forum for education and discussion  
29 regarding Health and Welfare issues.

30 2. Provide a mechanism for responsibly modifying health and  
31 welfare benefits during the term of the Agreement as part of the total

1 compensation approach detailed in Article 14, "Section I.C.2" and "Section I.D.2"

2 3. Provide a mechanism for coherently implementing legally  
3 mandated changes to the health and welfare benefits package.

4 4. Constitute an interim step in a movement to a more formal  
5 structure of governance for matters relating to health and welfare benefits.

6 5. Research the feasibility of legal mechanisms for creating a  
7 more formal structure for joint benefits governance.

8 **D. Meetings**

9 The committee will meet no less often than quarterly beginning  
10 October 1, 1998.

11 **E. Authority**

12 The MCEBB is authorized to endorse or to veto changes to the  
13 health and welfare benefits package proposed by the Benefits Administrator for  
14 their consideration. The Administrator will propose changes no later than April  
15 for implementation the following July 1. He or she may also propose changes at  
16 any other time he or she deems prudent. Once approved by the MCEBB,  
17 endorsed changes will be implemented.

18 **F. Voting**

19 Each bargaining unit will have an electoral vote for each employee  
20 it represents as of the first of the month in which a vote occurs. Each bargaining  
21 unit will designate one voting representative who will cast all of the unit's  
22 electoral votes for or against a proposed change. A proposed change will have  
23 been endorsed by the MCEBB if 80% of all electoral votes are cast in its favor.

24 **G. Allocation of Costs and Savings to the Bargaining Unit**

25 Allocation of any costs or savings from the implementation of any  
26 modifications approved by the MCEBB, as specified above, shall be on a case  
27 specific basis for those plan changes for this bargaining unit, i.e. the allocations  
28 will vary between bargaining units depending on the varied impact of changes to  
29 the particular plan design. These cost calculations shall be reasonably  
30 determined based on accepted actuarial practices by the County's benefit  
31 consultants. Such determination of allocation amounts will specifically be without



1 regard to funding reserve levels, except for reasonable, legitimate, plan specific  
2 Incurred But Not Reported (IBNR) Reserves. (*Note: See memoranda cited in*  
3 *Article 14, "Section I.C.2" and "Section I.D.2" for use of these calculations in*  
4 *conjunction with CPI increases.*)

5 **H. Modification of provisions governing MCEBB**

6 1. In the event enabling legislation for the establishment of a  
7 benefits governance board for county employees is passed by the state  
8 legislature, the terms of this section will be replaced by the requirements of such  
9 legislation upon its effective date. The total compensation requirements of Article  
10 14, "Section I", however, will remain in full force and effect.

11 2. Other structural changes to the MCEBB may be made by  
12 memoranda of agreement signed by all participating unions and the Chair's  
13 designee for labor relations pursuant to Article 26 of this Agreement.

14 **IV. Successor Insurance Plans**

15 In the event any of the above insurance plans are no longer provided by  
16 the County, the County, following consultation with the MCEBB, agrees to  
17 provide to affected employees a substitute plan of the same service delivery  
18 type, if available, at substantially the same or a better benefit level.

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## WORKERS' COMPENSATION AND SUPPLEMENTAL BENEFITS

All members of the bargaining unit will be provided full coverage as required by the Oregon Workers' Compensation Act.

A. The period of time that an employee is off the job and unable to work by reason of a disability compensable under the Workers' Compensation Law shall not interrupt his or her continued period of employment with reference to accrual of seniority unless the employee's doctor, the State Workers' Compensation Department or Board or the employee certifies to the County in writing that the employee will be permanently disabled to such an extent that he or she will be unable to return to the County and fully perform the duties of the position he or she last occupied.

B. If an employee is transferred to another classification because of a compensable injury, his or her seniority shall be governed in accordance with Article 21, Seniority and Layoff. In such event the employee's status shall be governed exclusively by applicable state statutes related to re-employment and non-discrimination.

C. If an injured employee has been released by his or her attending physician to return to the job at injury, he or she will be reinstated to that position if eligible under the provisions of ORS 659.415, or its successor; provided that such reinstatement shall not violate the seniority rights, as contained elsewhere in this Agreement, of any other employee.

## ARTICLE 12. WORKERS' COMPENSATION

1 In accordance with the terms of Article 2, "Section VI," if an employee sustains an  
2 injury during his or her probationary period, it may be extended by written  
3 agreement of the Union, the employee, and the County.

4 **IV. Supplemental Benefits**

5 The County shall supplement the amount of Workers' Compensation  
6 benefits received by the employee for temporary disability due to occupational  
7 injury, illness or disease by an amount which, coupled with Workers'  
8 Compensation payments, will insure the disabled employee the equivalent of one  
9 hundred percent (100%) of his or her semi-monthly net take-home pay (as  
10 calculated in accordance with Workers' Compensation regulations) subject to the  
11 following conditions:

12 A. Supplemental benefits shall only be payable for those days  
13 compensable under Workers' Compensation Law as time loss on an approved  
14 claim. For employees with approved claims, supplemental benefits shall be paid  
15 for no more than three hundred and twenty (320) hours of the employee's regular  
16 working hours or for a period equal to the amount of accrued sick leave hours at  
17 the time of injury, whichever is greater. Such payments shall not be chargeable to  
18 accrued sick leave.

19 B. To the extent not compensated by Workers' Compensation benefits,  
20 the first day of occupational disability shall be compensated as time worked.

21 C. To the extent not compensated by Workers' Compensation benefits,  
22 the day following the first day of occupational disability and the next succeeding  
23 day shall be compensated as sick leave if such days would have been work days.

24 **V. Denied Claims**

25 A. If a Workers' Compensation claim is denied, the employee's  
26 absence from work due to illness or injury shall, to the extent not compensated as  
27 Workers' Compensation time loss, be subject to the provisions of Article 9, Sick  
28 Leave.

ARTICLE 12. WORKERS' COMPENSATION

1           B.     If a Workers' Compensation claim which has been denied is later  
2 held compensable upon appeal, any time loss benefits shall be reimbursed by the  
3 employee to the County and the employee's sick leave account credited with an  
4 equivalent number of days.

5           C.     If an employee's Workers' Compensation claim is under appeal, and  
6 he or she is no longer entitled to medical/dental coverage under Article 11, Health  
7 and Welfare, he or she will be entitled to continued coverage under federal  
8 COBRA law. The duration of such coverage will be for six months or the legally  
9 mandated period, whichever is greater, provided that the employee continues to  
10 be eligible and pays the premiums as required.

11          D.     If a denied claim is later held compensable upon appeal, the  
12 employee will be entitled to:

13               1.     Reimbursement of any premiums paid to the County for  
14 medical/dental benefits, and

15               2.     Any supplemental benefits not paid in accordance with  
16 "Section IV" of this Article.

17 **VI.   Benefits**

18          A.     The County shall continue to provide medical and dental benefits for  
19 an employee with a compensable claim and his or her dependent(s) from the first  
20 day of occupational disability, subject to the limitations of Article 11, Health and  
21 Welfare, if any, for a period of one year or such longer period as may be required  
22 by law.

23          B.     The County shall continue to make retirement contributions, based  
24 upon the appropriate percentage of the gross dollar amount of supplemental  
25 benefits paid, throughout the period that the employee receives such benefits.

26 **VII.   Borrowing of Sick Leave**

27          Nothing in this Article may be construed to permit borrowing of sick leave  
28 not accrued by and available to the employee.

ARTICLE 12. WORKERS' COMPENSATION

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## ARTICLE 12. WORKERS' COMPENSATION

ARTICLE 13  
WORK SCHEDULES

**I. Posting of Work Schedules**

Work schedules showing work days and hours of work will be posted on bulletin boards or otherwise made accessible to employees at all times. Management may change work schedules with ten days' notice to affected employees, and with less notice in the following circumstances:

- Such notice is voluntarily waived in writing by the employee(s); or
- For the duration of an emergency.

**II. Right to Compensation for Regularly Scheduled Hours**

An employee who reports to work as scheduled and is excused from duty for lack of work, or is specifically directed by his or her supervisor or manager not to report to work, will be paid at his or her regular rate for the hours he or she was scheduled to work.

**III. Work Days and Days Off**

**A. Scheduling requirements**

**1. Employees working 40 hours per week**

a. Employees working five eight-hour days a week will be scheduled to work five consecutive days with two consecutive days off.

b. Employees working four ten-hour days a week will be scheduled to work four consecutive days with three consecutive days off, except as provided in "Subsection c" below.

c. In operations which provide services to the public or to clients five days a week, employees working four ten-hour days a week may be assigned to a split work week on weeks in which a holiday occurs. In such weeks only three of the four days employees are not scheduled to work must be consecutive. The provisions of Article 7 governing holiday observance will not apply, and management will designate which day will be the employee's observed holiday.

**2. Employees working less than 40 hours per week**

1 Employees working less than forty hours per week will be  
2 scheduled to work no more than five days a week, and at least two of their days  
3 off must be consecutive.

4 **B. Changing Scheduled Days of Work and Days Off**

5 **1. Voluntary Changes**

6 Changes of work days and days off will be considered  
7 voluntary if they occur at the employee's request or as a result of shift bidding.  
8 During the fourteen day period following the transition from one schedule of work  
9 days and days off to another, the provisions of "Section III.A " above will not  
10 apply, and, for example, the employee may have split days off.

11 **2. Involuntary Changes**

12 Changes of work days and days off will be considered  
13 involuntary if they occur at the discretion of management. In addition to the  
14 provisions which apply to voluntary changes, the following will apply during the  
15 fourteen day transition period:

16 a. Employees who are scheduled to work more than five  
17 days in a row without a day off will be paid at the time-and-a-half rate for all hours  
18 worked on the sixth and subsequent days until their next scheduled day off.  
19 Days worked immediately prior to the transition period will be included in the five  
20 day requirement of this subsection.

21 b. No employee normally scheduled to work forty hours  
22 per week shall be paid for less than eighty (80) hours in a semimonthly pay  
23 period as a result of the application of the provisions of this subsection, except  
24 that in the second pay period in February this minimum shall be seventy (70)  
25 hours.

26 **IV. Scheduling the Work Day**

27 **A. Normal Work Day**

28 **1. Employees working forty hours a week**

29 a. Employees working forty (40) hours per week on a  
30 five (5) day per week work schedule shall work eight (8) consecutive hours per  
31 day excluding the meal period. Employees on a continuous duty schedule per

1 "Section C.3" below shall work eight (8) consecutive hours per day including the  
2 meal period.

3 b. Employees working forty (40) hours per week on a  
4 four (4) day per week work schedule shall work ten (10) consecutive hours per  
5 day excluding the meal period. Employees on a continuous duty schedule per  
6 "Section C.3" below shall work ten (10) consecutive hours per day including the  
7 meal period.

8 **2. Employees working less than forty hours a week**

9 Employees working less than forty hours a week will be  
10 scheduled to work four or more consecutive hours a day. Any meal periods to  
11 which the employee is entitled will be on unpaid time, unless the employee is on  
12 a continuous duty schedule per "Section C.3" below.

13 **B. Breaks**

14 Breaks provided for in this section will be on paid time.

15 **1. During the normal work day**

16 **a. Employees working six or more hours a day**

17 Employees scheduled to work six or more hours a  
18 day are entitled to a fifteen minute break during the first half of the work day, and  
19 another during the second half, provided that the break in the second half of the  
20 work day is required only if the employee is scheduled to work more than two  
21 hours after the previous break or meal period. Breaks for employees scheduled  
22 to work eight or ten hours in a day will be scheduled at the middle of each half of  
23 the work day whenever practicable.

24 **b. Employees working fewer than six hours a day**

25 Employees scheduled to work fewer than six hours a  
26 day are entitled to one fifteen minute break to be scheduled by management.

27 **2. While working overtime**

28 Employees scheduled to work eight or more hours who are  
29 expected to work one and a half or more hours after their scheduled quitting time  
30 are entitled to a fifteen minute break at the end of their regularly scheduled work  
31 day.



1                   **3.     While on a continuous duty schedule**

2                   Breaks for employees on a continuous duty schedule are  
3 covered in "Section C.3" below.

4           **C.     Meal Periods**

5                   **1.     Entitlement to a meal period**

6                   The work schedules of employees working more than six  
7 hours in a work day will include a meal period. An employee who has worked  
8 eight or more hours in a work day and who works two hours beyond his or her  
9 regular quitting time is entitled to a second meal period.

10                  **2.     Unpaid meal periods**

11                  Meal periods are on unpaid time unless the provisions of  
12 "Subsection 3" below apply.

13                       **a.     Length of the meal period**

14                       Employees will be scheduled for a thirty minute meal  
15 period unless they request and management approves a one-hour meal period.  
16 Management may rescind approval for a one-hour meal period, subject to the  
17 provisions for changing work schedules in "Section I" above.

18                       **b.     Scheduling**

19                               i.     The meal period for employees working eight  
20 or more hours will be scheduled in the middle of the work day whenever  
21 practicable.

22                               ii.    When a one-hour meal period is requested and  
23 approved, management will make adjustments to the employee's starting and/or  
24 quitting time, subject to the provisions for changing work schedules in "Section I"  
25 above.

26                   **3.     Paid meal periods: continuous duty schedules**

27                   Management may assign employees performing duties  
28 which do not lend themselves to duty free breaks and meal periods to a  
29 continuous duty schedule. Any such assignment shall be in writing with a copy  
30 provided to the Union and the Labor Relations Manager. Meal periods for such  
31 employees will be on paid time. The scheduling of meal periods and breaks for

1 affected employees will be based solely on management judgment of the need  
2 for supervision of clients or involvement in other continuous duty, or may be on  
3 an "as time is available" basis. Continuous duty employees may not be relieved  
4 of duty during their work day, and may have to take their meals and their breaks  
5 while supervising clients or attending to other duties. Any meal periods or breaks  
6 may be interrupted or missed without additional compensation.

7 **D. Clean-Up Time**

8 Employees occupying labor, trades or craft positions, or whenever  
9 it is essential for other employees to clean up or change clothes before being  
10 presentable upon leaving work, shall be granted not more than a fifteen (15)  
11 minute personal clean-up time prior to the end of each shift. The County shall  
12 provide the required facilities for the employee's clean-up time. Neither party to  
13 this Agreement shall construe "clean-up time" to mean "quit-early time" or  
14 "leave-early time".

15 **V. Flexible Work Schedules**

16 **A. Exceptions to the Requirements of This Article**

17 Greater flexibility in work scheduling than is otherwise provided for  
18 in this article, which benefits employees and the County, may be implemented,  
19 provided that such schedules are in writing, and are agreed upon by the Union  
20 and the Labor Relations Manager. A copy of any such agreed upon schedules  
21 shall be provided to all directly affected employees.

22 **B. Employee Requests for Substitution of Hours Within a Work**  
23 **Week**

24 Employees may request to work fewer hours than scheduled on  
25 one day in an FLSA work week and make up for those hours by working an  
26 equivalent number of additional hours on another day or days in the same FLSA  
27 work week. Such scheduling is subject to the approval of management, and  
28 regardless of any other provisions of this Agreement, will not result in overtime  
29 pay.

30 **V. Uniform Time Charging Provisions**

31 **A. Rounding Rule**

Time charged for all leaves and compensation for time worked under the terms of this Agreement shall be subject to rounding to the nearest quarter of an hour in accordance with the following rules:

- 0 - 7 minutes rounds to 0 hours
- 8 - 15 minutes rounds to 1/4 hour

**B. Applications**

**1. Lateness**

An employee who is seven (7) minutes or less late shall be paid for a full shift. An employee who is eight (8) to fifteen (15) minutes late shall not be paid for one quarter (1/4) of an hour.

**2. Working Over**

An employee who works over less than eight (8) minutes shall not be compensated. An employee who works eight (8) to fifteen (15) minutes over shall be compensated one quarter (1/4) of an hour at the appropriate rate of pay in accordance with Article 14, Compensation.

**3. Leaves**

Late and early return from leaves shall be subject to the same rounding practice as specified above.

**4. Work Day**

The above provisions shall not be construed as a right for management to extend the end of the working day beyond the normally scheduled ending time.

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ARTICLE 14  
COMPENSATION

**I. Wage Adjustments**

**A. July 1, 1998**

Effective July 1, 1998 the rates and ranges of employees covered by this Agreement shall be increased three percent (3.0%). Employees covered by this Agreement shall be compensated in accordance with the wage schedule attached to this Agreement as Addendum A, Table I. Wage Rates Effective July 1, 1998, which by this reference is incorporated herein.

**B. September 1, 1998**

Effective September 1, 1998 the rates and ranges of employees covered by this bargaining unit shall be multiplied by .9434 in conjunction with the return to the employer "Pick-Up" of employee contributions to PERS as provided in ORS 237.075 and Article 16 of this Agreement. The rates and ranges resulting from this transition and reallocation of wages are specified in Addendum A, Table II. Wage Rates Effective September 1, 1998 - PERS Pick-Up Supplement, which by this reference is incorporated herein.

**C. July 1, 1999**

**1. CPI Formula**

Effective July 1, 1999 the rates and ranges of employees covered by this Agreement shall be increased in accordance with the following formula as modified by "Subsection 2" below:

(% increase in CPI )	( % )
(Portland Urban Wage)	( increase )
(Earners and Clerical )	= ( in each )
(Workers Index - )	( wage )
(Second Half 1997 to)	( rate )
(Second Half 1998)	

The minimum CPI based percentage shall be two percent (2.0%). The maximum CPI based percentage shall be four percent (4.0%).

**2. Total compensation adjustment**

The CPI based percentage resulting from application of the formula above will be adjusted upward or downward to take into account the annual rate of change in the cost of medical and dental benefits which is in excess of, or less than, the CPI based percentage. The amount to be deducted from or added to the CPI based percentage will be calculated and certified to the Union according to the Total Compensation Costing Memorandum from the County Budget Manager to the County Labor Relations Manager dated May 18, 1998, and as supplemented by his memorandum of June 2, 1998. Allocations to this calculation based on plan changes shall be in accordance with the provisions of Article 11, "Section III.H"; provided, however, that the maximum deduction from the CPI based percentage shall be .75%, and the maximum bonus shall be .75%.

**3. Reopener**

In the event that the County's estimated general fund resources in the executive budget for 1999 - 2000 fall fifteen percent (15%) or more below the estimated general fund resources in the preceding year's executive budget, the terms of "Section I.C" above shall not be implemented, and negotiations will commence on or before April 15, 1999 for substitute terms for Article 14, "Section I.C".

**D. July 1, 2000**

**1. CPI Formula**

Effective July 1, 2000 the rates and ranges of employees covered by this Agreement shall be increased in accordance with the following formula as modified by "Subsection 2" below:

$$\begin{array}{lcl}
 (\% \text{ increase in CPI} & ) & ( \quad \% \quad ) \\
 (\text{Portland Urban Wage} & ) & ( \text{increase} \quad ) \\
 (\text{Earners and Clerical} & ) & = \quad ( \text{in each} \quad ) \\
 (\text{Workers Index} - & ) & ( \text{wage} \quad ) \\
 (\text{Second Half 1998 to} & ) & ( \text{rate} \quad )
 \end{array}$$

(Second Half 1999)

The minimum CPI based percentage shall be two percent (2.0%). The maximum CPI based percentage shall be four and a quarter percent (4.25%).

**2. Total compensation adjustment**

The CPI based percentage resulting from application of the formula above will be adjusted upward or downward to take into account the annual rate of change in the cost of medical and dental benefits which is in excess of, or less than, the CPI based percentage. The amount to be deducted from or added to the CPI based percentage will be calculated and certified to the Union according to Total Compensation Costing Memorandum from the County Budget Manager to the County Labor Relations Manager dated May 18, 1998, and as supplemented by his memorandum of June 2, 1998. Allocations to this calculation based on plan changes shall be in accordance with the provisions of Article 11, "Section III.H"; provided however, that the maximum deduction from the CPI based percentage shall be .75%, and the maximum bonus shall be .75%.

**3. Reopener**

In the event that the County's estimated general fund resources in the executive budget for 2000 - 2001 fall fifteen percent (15%) or more below the estimated general fund resources in the preceding year's executive budget, the terms of "Section I.D" above shall not be implemented and negotiations will commence on or before April 15, 2000 for substitute terms for Article 14, "Section I.D".

**II. Pay Periods**

Employees shall be paid on a twice a month basis. The pay periods shall be the 1st through the 15th of each month and the 16th through the end of each month. Employees will be paid on the 15<sup>th</sup> of each month for hours worked during the second pay period of the preceding month, and on the last business day of each month for hours worked during the first pay period of that month; provided, however, that if either date falls on a Saturday, Sunday, or Holiday, the pay date will be the preceding business day.

**III. Minimum Pay for Reporting to Work Outside of Regularly Scheduled Hours**

**A. Reporting After Hours**

Any employee who returns to work at the direction of management outside his or her regularly scheduled working hours, shall be paid for a minimum of two (2) hours at the straight time, time-and-a-half, or double time rate according to the provisions of "Section IV" below; provided that an employee who stays at work at the end of his or her scheduled work day or who begins his or her scheduled work day early shall not be eligible for this minimum.

**B. Reporting on a Regularly Scheduled Day Off**

Any employee who reports to work at the direction of management on any day other than his or her regularly scheduled work day shall be paid for a minimum of four hours at the straight time, time-and-a-half, or double time rate according to the provisions of "Section IV" below.

**IV. Overtime**

**A. Time and One-Half**

Employees will be compensated at the rate of one and one-half (1-1/2) times their normal hourly rate of pay for additional time worked as follows:

1. In excess of eight (8) hours in any work day for a five-day, forty-hour -a-week employee; or
2. In excess of ten (10) hours in any work day for a four-day, forty-hour -a-week employee; or
3. In excess of forty (40) hours in any FLSA work week.

**B. Double Time**

An employee will be paid at the rate of two (2) times his or her regular rate of pay for hours worked which meet all of the following criteria:

1. The hours worked were in excess of forty eight (48) for the employee's FLSA workweek; and
2. The employee worked on all days of the FLSA workweek; and
3. The hours were worked on the employee's final day of rest during the FLSA workweek.

**C. Overtime Administration**

**1. Computation of Overtime - Holidays and Leaves**

When computing overtime, paid holidays and leaves with pay taken during the work week shall be considered as time worked.

**2. Equal Distribution of Overtime Work**

Overtime work shall be distributed as equally as practicable among employees working within the same job classification within each work unit providing they have indicated in writing a desire to work overtime to their supervisor.

**3. No Discrimination**

There shall be no discrimination against any employee who declines to work overtime. Overtime work shall be voluntary except in cases where the public health, safety and welfare may be jeopardized.

**4. Discipline for Unauthorized Overtime**

Employees working unauthorized overtime may be subject to discipline.

**5. No Suspending Work to Avoid Overtime**

Employees shall not be required to suspend work during regular hours to avoid overtime.

**6. Compensatory Time**

Compensatory time may be accrued by agreement between the County and the employee with the following limitations. Specifically, in lieu of overtime pay, an employee may with supervisory approval elect to accrue compensatory time off equal to the applicable overtime rate for each hour of overtime worked, provided:

- The maximum allowable accumulation of compensatory time off shall be eighty (80) hours.
- Accrued compensatory time off may be used at the discretion of the employee with the supervisor's consent.
- In the event the employee terminates for any reason, accrued compensatory time shall be paid off in cash to the employee or his or her heirs.
- Flexibility during the work week made at the employee's request is not subject to this section and is solely governed by Article 13, "Section V.B"

**V. Shift Differential**



1           **A.     Payment of Shift Premiums**

2                   **1.     Hours and Amounts**

3                   The County and the Union recognize that a work week may contain  
4 three different shifts: day, swing, and graveyard. The County agrees to pay the following  
5 shift premium pay in addition to the established wage rate to employees who are  
6 scheduled to work eight or more hours in a work day:

7                           **a.     Swing Shift Premium**

8                           An hourly premium of fifty cents (50¢) to employees for all  
9 hours worked on shifts beginning between the hours of twelve (12) noon and seven (7)  
10 p.m.; or

11                           **b.     Graveyard Shift Premium**

12                           An hourly premium of sixty cents (60¢) to employees for all  
13 hours worked on shifts beginning between the hours of seven (7) p.m. and six (6) a.m.,  
14 provided that the employee was not called in early to a shift normally scheduled to begin  
15 after six (6) a.m.; or

16                           **c.     Relief Shift Premium**

17                           An hourly premium of sixty cents (60¢) to employees for all  
18 hours worked in the work week while assigned to a relief shift.

19                   **2.     Definition of Relief Shift**

20                   A relief shift occurs when an employee's work week does not contain  
21 four (4) like shifts, i.e., four (4) day shifts; four (4) swing shifts; or four (4) graveyard shifts.  
22 Employees assigned to a relief shift schedule are exempt from the provisions of Article 13,  
23 "Section I"; however, such employees must be given at least a twenty-four (24) hour notice  
24 of shift assignment.

25           **B.     Inclusion of Shift Differentials in Wages**

26                   **1.     Inclusion in Overtime Rate**

27                   When computing the overtime rate due an employee receiving shift  
28 differential pay, such pay must be included in the overtime rate.

29                   **2.     Inclusion in Sick and Vacation Pay**

30                   Shift differentials shall continue to apply to all hours paid including sick  
31 leave or vacation hours if they occur during the employee's normally scheduled shift.

1                   **3.     Shift Pay Disallowed for Voluntary Single Shift Change**

2                   Employees are not entitled to shift differential pay for a single shift  
3 change that is done at the request of and for the benefit of the employee.

4 **VI.     Auto Allowance and Compensation**

5                   Auto allowance and compensation shall be paid pursuant to Addendum G.

6 **VII.    Deferred Compensation Plan**

7                   Subject to applicable federal regulations, the County agrees to provide a deferred  
8 compensation plan that provides for payment at a future date for services currently  
9 rendered by the eligible employee.

10 **VIII.   Payments in Error and Payments in Violation of Contract**

11               **A.     Knowing Receipt**

12               Any employee knowingly receiving unauthorized payments, or payments in  
13 error due to clerical, technical, or computer error has the obligation to call such error to the  
14 attention of his or her supervisor. Failure to do so may result in disciplinary action. Such  
15 payments are fully recoverable if the County presents the employee with a demand for  
16 repayment.

17               **B.     Unknowning Receipt**

18               Any unauthorized payments or payments in error due to clerical, technical, or  
19 computer error are fully recoverable if the County presents the employee with a demand  
20 for repayment within sixty (60) days of the date of the error.

21               **C.     Repayment to the County**

22               The County will upon request make every effort to recover over payments  
23 specified in "Subsection A" or "Subsection B" above, by payroll deduction over a  
24 reasonable period of time as determined by the Labor Relations Manager.

25               **D.     Repayment to the Employee**

26               In any instance where an error occurs which results in a negative impact on  
27 the employee, upon notification by the employee within sixty (60) days of the error, and  
28 verification by the payroll division, payment in correction of the error shall be made in the  
29 employee's paycheck for the current pay period.

30 **IX.     Standby Pay**

31               **A.     Voluntary Standby**

1 Employees on a regular work schedule may volunteer to be placed on  
 2 "standby" duty beyond their regularly scheduled workday or workweek and may be  
 3 assigned an answering device for standby purposes to avail themselves of the opportunity  
 4 to receive additional pay. Any such employee on voluntary standby status may refuse to  
 5 report if called.

6 **B. Involuntary Standby (FLSA Exempt)**

7 Any employee determined by the Employee Services Division to be FLSA  
 8 exempt may be placed on Involuntary standby Pay. Any such employee shall be allowed  
 9 compensatory time off at the rate of one (1) hour for each eight (8) hour period they are on  
 10 standby status.

11 **C. Involuntary Standby (FLSA Non-exempt)**

12 The Parties recognize the need to develop the terms of a premium pay  
 13 arrangement for employees placed on Involuntary Standby which meets the legal  
 14 requirements of the Fair Labor Standards Act. For this reason, the parties will meet for this  
 15 purpose no later than October 1, 1998, for the purpose of developing such a plan for  
 16 January 1, 1999 implementation. Any such plan shall be executed as a Memorandum of  
 17 Agreement under the terms of Article 26.

18 **X. Implementation of the Information Technology (IT Classification and**  
 19 **Compensation Study**

20 A comprehensive classification and compensation study has been completed  
 21 involving all of the County employees allocated to IT Classifications. The Memorandum  
 22 from Susan Ayers dated April 15, 1998 contains the full and complete details of the  
 23 implementation of this study, including, but not limited to:

24 A. Name of affected employees, classification allocation in the old  
 25 classification system and rate of pay in that system.

26 B. Name of affected employees, classification allocation in the new  
 27 classification system and rate of pay one moment before midnight of the final effective  
 28 date of the prior agreement.

29 C. Copies of the Job Descriptions for the new classifications.

30 D. It is agreed that the across the board increases provided by "Section I" of  
 31 this article will be applied to the rates and ranges for classifications, and the specific

1 rates provided in "Section B" above to determine the rates of pay to all allocations  
2 effective the first moment of the first date of 1998-2001 Agreement, as well as the rates  
3 specified for IT classifications in Addendum A of this Agreement. The informal appeals  
4 process provided for in the implementation of this study is deemed final and binding with  
5 respect to all particulars, including but not limited to allocation to classification, and no  
6 grievance may be filed with respect to the implementation of this study or allocation  
7 contained in it: provided, however:

8           1. All employees allocated in the IT Classification and Compensation  
9 study to the classifications of Information Systems Analyst 3 and Senior Information  
10 Systems Analyst, as well as those employees in the Department of Library Services  
11 allocated to the classification of Information Systems Specialist 2, shall not have their  
12 former classification or rate of pay altered, but shall be retained in their old classification  
13 with the across the board increase provided for in "Section I" of this Article. Effective as  
14 soon as practicable, the County will arrange for a desk audit for the cited employees for  
15 the purpose of re-examining the appropriateness of their allocations in the new  
16 Information Technology Classification Plan. The Union and other interested parties will  
17 have an opportunity to provide input to this audit. The results of this audit process will  
18 be presented to the Employee Services Division, which will then arrange a meeting of a  
19 committee composed of two Employee Services Division representatives and two  
20 representatives from the Union. Both the County and Union will have Chief  
21 Spokespersons, who following discussion will declare the positions of the County and  
22 Union respectively. If the parties agree as to the appropriateness of the allocation, the  
23 matter will be deemed resolved retroactive to July 1, 1998, and matters of  
24 compensation and seniority will be adjusted retroactively. If the parties do not agree,  
25 the employee will remain in the old classification and the matter may be subject to the  
26 grievance procedure. Any unresolved disputes are subject to arbitration under the  
27 terms of Article 15, "Section IV. D".

28           2. Effective January 1, 1999 and thereafter, an employee may file a  
29 grievance under the terms of Article 15, "Section IV" with reference to any shift of duties  
30 or responsibilities which occurred subsequent to June 30, 1998.

31 **XI. Market Pay Adjustments for Selected Classifications**

1 The Parties recognize that the Union has brought to the table certain  
2 classifications which it deems to be especially lagging with respect the market. The  
3 Parties recognize that it takes considerable time to do the proper pay analysis to  
4 determine what increase may be justified. Nonetheless, to avoid any unnecessary  
5 delay, the Parties agree to the following:

6 **A. Construction Project Technician, Construction Project Specialist,**  
7 **Construction Project Specialist/Sr., and Dental Assistant/Receptionist**

8 The pay ranges for the classifications of Construction Project Technician,  
9 Construction Project Specialist, Construction Project Specialist/Sr., and Dental  
10 Assistant/Receptionist will be adjusted and employees placed in the adjusted range as  
11 provided below:

12 **1. Range Adjustments**

13 Effective July 1, 1998, at least one step will be added to the top of  
14 each affected range and at least one step will be trimmed off the bottom.

15 **2. Placement of Employees in the Adjusted Ranges**

16 **a. Employees at the top step on June 30, 1998**

17 i. Employees who had been at the "old" top step of the  
18 adjusted ranges for a year or more on June 30, 1998 will advance one step in the "new"  
19 ranges effective July 1, 1998.

20 ii. Employees who had not been at the "old" top step of  
21 the adjusted ranges for at least a year on June 30, 1998 will advance one step on their  
22 anniversary date.

23 **b. Employees at the bottom step on June 30, 1998**

24 Employees who are on the step or steps to be trimmed from  
25 the bottom of the adjusted ranges as of June 30, 1998 will advance to the "new" bottom  
26 step on July 1, 1998, which will be deemed their anniversary date for future pay  
27 increases.

28 **c. Additional range adjustments**

29 The County may add more than one step to any or all of the  
30 ranges cited in this section, and it may trim more than one step off the bottom, based on  
31 the results of a market analysis in progress at the signing of this Agreement. If the

1 analysis indicates that additional adjustments to any or all of the ranges are needed,  
2 such adjustments may be made effective at any time between July 1, 1998 and July 1,  
3 1999.

4       **B.     Dental Hygienist**

5               Based upon the results of a market analysis in process at the signing of  
6 this Agreement, the County may adjust the pay range for the classification of Dental  
7 Hygienist and place employees in that classification per the provisions of "Section A"  
8 above. If the analysis indicates that a range adjustment is needed, such adjustment  
9 may be made effective at any time between July 1, 1998 and July 1, 1999.

10       **C.     Juvenile Counseling Assistant**

11               Consideration was given during the bargaining process to an adjustment  
12 to the range for the classification of Juvenile Counseling Assistant for reasons of job  
13 transfer. These discussions are ongoing. During FY 1998-1999 the Labor Relations  
14 Manager and Union may adjust the rates and ranges for this classification by  
15 Memorandum of Agreement under the terms of Article 26.

16 **XII.   Market and Equity Adjustment Fund and Process**

17               There is a joint understanding by the parties that market forces during the last  
18 decade have had a variable effect on the relative market standing of many of the  
19 classifications in the bargaining unit. It is further recognized that independent in whole or  
20 part from market issues there exist a certain number of anomalies and equity issues within  
21 the compensation system. To address these issues without being drawn into a  
22 compensation classification compensation study for all classifications:

23       **A.     Joint Labor Management Compensation Committee (the Compensation**  
24 **Committee)**

25               There shall be established no later than September 1998, as an Employee  
26 Relations Committee working committee, a Joint Labor Management Compensation  
27 Committee to review all aspects of the below cited process to ensure timely and accurate  
28 consultation and communication. The composition of this committee will include but may  
29 be supplemented or changed by mutual agreement:

30               **1.     County**

1 Two representatives from the Employee Services Division, the Labor  
2 Relations Manager, and two departmental management representatives. The Chief  
3 Spokesperson for the County shall be designated by the Director of Support Services.

4 **2. Union**

5 The Union Representative and four appointed Union ERC members.

6 **B. January 1, 1999 – May 1, 1999 Study and July 1, 1999 Increases**

7 During the period January 1, 1999 – May 1, 1999, the County will conduct an  
8 informal preliminary compensation survey study to identify job families or isolated  
9 classifications which would appear to be candidates for closer study based on such  
10 specifiable factors as recruitment data or preliminary compensation information. Following  
11 this survey, and consultation with the committee, a formal salary survey will be performed  
12 by the County on the classifications reasonably determined to be a subject of study. The  
13 data resulting from this survey, the funding limitations provided by "Section D", below, the  
14 determined two year strategy for addressing the variability of market relationship for the  
15 studied classifications, as well as internal point factor relationships, will lead to a County  
16 recommendation for increases for July 1, 1999, hereinafter the County Recommendation  
17 for 1999. This Recommendation will be presented to the Union no later than May 1, 1999.  
18 Unless mutually agreed between the County and Union, all such increases will be in fixed  
19 "across the board" percentage terms of the June 30, 1999 rates and ranges for the  
20 affected classifications, although the amount of the percentage increases will vary, or may  
21 be 0%, depending on the strategy and priorities of the study. For example, the study may  
22 recommend a 2% increase on the June 30 rates for a certain classification; this combined  
23 with the percentage increase resulting from application of the CPI provision of "Section I"  
24 of this article would result in the total percentage increase on the June 30 rates for that  
25 classification. The County Recommendation for 1999 will be implemented unless modified  
26 by mutual agreement during the Committee discussion, or unless the Union notifies the  
27 County in writing no later than May 15, 1999, that the County Recommendation is rejected,  
28 in which case the Default Option cited in "Section E" below will be implemented.

29 **C. January 1, 2000 – May 1, 2000, Follow-up Study and**  
30 **July 1, 2000 Increases**

During the period of January 1, 2000 – May 1, 2000 the County will conduct any needed follow-up study in preparation for the July 1, 2000 increase. No later than May 1, 2000 the County will present the Union with the County Recommendation for 2000. The County Recommendation will be implemented unless modified by mutual agreement during the Committee discussion, or unless the Union notifies the County in writing no later than May 15, 2000, that the County Recommendation is rejected, in which case the Default Option cited in "Section E" below will be implemented.

**D. Funding and Amount of Increase**

**1. July 1, 1999**

The amount of funding available for the July 1, 1999 County Recommendation shall be no more than one-half of one percent (.5%) of the budgeted base for all positions allocated to this bargaining unit as calculated by the Budget Manager from the Approved Budget for FY 1999-2000, not including any CPI increase for July 1, 1999. Costing calculations against this amount will default to Step 1 for all vacancies.

**2. July 1, 2000**

The amount of funding available for the July 1, 2000 County Recommendation shall be no more than one quarter percent (.25%) of the budgeted base for all positions allocated to this bargaining unit as calculated by the Budget Manager from the Approved Budget for FY 2000-2001, not including any CPI increase for July 1, 2000. Costing calculations against this amount will default to Step 1 for all vacancies.

**E. Default Option**

The Union and the County realize that the existing compensation arrangements are jointly owned as a product of a series of contracts that have been freely entered into. There is also a joint recognition that any process such as the above which is not, and cannot be, precisely specified in advance, must involve a concerted effort of discussion to be successful, and must be disciplined by a default option; therefore:

1. If the County Recommendation for July 1, 1999, is rejected, the County's obligation shall be void with respect to this entire plan except that the CPI increase provided for in "Section I.C" above shall be increased, following any Total Compensation Adjustment, by adding one quarter of one percent (.25%) to the percentage increase resulting from the CPI formula as adjusted.



1                   2.     If the County Recommendation for July 1, 2000, is rejected, the  
2 County's obligation shall be void with respect to this entire plan except that the CPI  
3 increase provided for in "Section I.D" above shall be increased, following any Total  
4 Compensation Adjustment, by adding on eighth of one percent (.125%) to the percentage  
5 increase resulting from the CPI formula as adjusted.

6     **XIII. Waiver of State Overtime Requirements**

7                   To the extent allowable by law, the provisions of this Article and other provisions  
8 of this Agreement constitute an express waiver of ORS 279.340 as provided by ORS  
9 279.342 (5)(b). Copies of the above cited statutes are available upon employee request  
10 to the Labor Relations Section.

11  
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13

ARTICLE 15  
CLASSIFICATIONS AND PAY RANGES

**I. Wage Schedule**

Employees covered by this Agreement shall be compensated in accordance with the Wage Schedule attached to this Agreement as Addendum A, which by this reference is incorporated herein, and as modified by Article 14.

**II. Step Placement and Anniversary Dates**

**A. New employees and rehires**

1. A rehire is an employee who has terminated permanent employment with the County, and is subsequently selected to occupy a permanent position from a civil service list. (Former employees who return to permanent County employment without being selected from a list are not rehired, but reinstated. See "Section II.G.1" below.)

2. New employees and rehires will be paid at the minimum rate in the range for their classification unless a higher rate is approved by the Employee Services Manager or his or her designee.

3. The anniversary date for wage increases for new employees will be the date of permanent appointment, and the date for rehires will be the most recent date of permanent appointment. However, the anniversary date for new employees and rehires will be adjusted to reflect any additional seniority credit, such as credit for temporary service in classification, which they receive under the provisions of Article 21.

**B. Step Increases**

An employee not at the maximum of his/her pay range shall receive an anniversary step increase upon the completion of one year of service at the current step. Time in service is measured in accordance with Article 21. (*Note that Article 21, "Section II.B.1" provides, "Part-time work within the same or equivalent classification will count on a full-time basis."*)

**C. Promotion**

1                   **1.     Definition**

2                   A promotion is an appointment to a classification with a higher  
3 top step than in the preceding classification.

4                   **2.     Pay adjustments upon promotion**

5                   a.       The base pay of a newly promoted employee will be at  
6 least one step higher than his or her base pay in the lower classification, unless  
7 such an increase puts him or her beyond the top of the higher range. A one step  
8 increase is defined as the percentage difference between the final two steps of the  
9 lower range.

10                  b.       If the employee's base pay in the lower range plus one  
11 step increase is lower than the first step in the higher range, the employee will be  
12 paid at the first step rate.

13                  c.       If the employee's base pay in the lower range plus one  
14 step increase is higher than the top step in the higher range, the employee will be  
15 paid at the top step rate.

16                  d.       If the employee's base pay in the lower range plus one  
17 step increase falls within the higher range, the employee will be paid at the step  
18 rate which represents at least a one step increase, but less than a two step  
19 increase in base pay.

20                  e.       The rate of pay upon promotion for lead workers who  
21 have received lead pay continuously for a year or more immediately prior to the  
22 promotion will be calculated as if the lead pay were part of the base rate.

23                   **3.     Anniversary date upon promotion**

24                   The employee's anniversary date for wage increases will be  
25 the date of appointment to the higher classification, unless the employee receives  
26 additional seniority credit, such as credit for temporary service in the higher  
27 classification, per the provisions of Article 21.

28                   **4.     Failure to Complete Probationary Period after Promotion**

29                   a.       When a regular employee is promoted and does not  
30 complete the probationary period for that classification, he or she shall be

1 reinstated to a position in the classification and department from which he or she  
2 was promoted.

3 b. The employee will be placed at the same step in the old  
4 range that he or she would have been on but for the promotion.

5 c. The anniversary date for wage increases will revert to  
6 the anniversary date in effect prior to the promotion.

7 **D. Demotion**

8 **1. Definition**

9 A demotion is an appointment to a classification with a lower  
10 top step than in the preceding classification.

11 **2. Pay adjustments upon demotion**

12 a. Employees demoted for other than disciplinary reasons  
13 will receive the rate of pay in the lower pay range that causes the least reduction in  
14 base pay. No demoted employee shall receive an increase in base pay.

15 b. Employees demoted for disciplinary reasons will receive  
16 the rate of pay in the lower pay range specified as a part of the disciplinary action.  
17 If no rate of pay is specified, they will receive the rate provided for in "Subsection a"  
18 above.

19 **3. Anniversary dates upon demotion**

20 A demoted employee's anniversary date for wage increases  
21 will be the date of demotion.

22 **E. Transfer**

23 **1. Definition**

24 A transfer, for purposes of payroll administration, is an  
25 appointment to another position within the classification held, or to a position in  
26 another classification with the same top step. The same rules for step placement  
27 and establishing anniversary dates apply whether the transfer occurs within the  
28 bargaining unit or from outside the unit.

29 **2. Pay adjustments upon transfer**

30 a. If an employee transfers to another position in the same

1 classification, or to another classification with the same pay range and steps, there  
2 will be no change in his or her rate of pay.

3 b. If an employee transfers to another classification with  
4 the same top step, but with different lower steps, the employee will be paid at the  
5 step in the new range which is nearest to his or her former rate without causing a  
6 reduction in pay.

7 **3. Anniversary dates upon transfer**

8 The employee's anniversary date will remain unchanged.

9 **F. Reclassification**

10 Wage adjustments and anniversary dates upon reclassification are  
11 covered in "Section IV.C" below.

12 **G. Reinstatement**

13 **1. Step placement upon reinstatement**

14 a. If an employee is reinstated from a recall list, after  
15 voluntary demotion, or after a leave of absence, the employee will be placed at the  
16 same step he or she was on when he or she left the classification.

17 b. A former County employee who is not on a recall list  
18 may also be reinstated at the discretion of the Employee Services Manager or  
19 designee. If reinstated to the classification most recently held, the employee will  
20 be placed at the same step he or she was on when he or she left the classification.

21 **2. Anniversary dates upon reinstatement**

22 The anniversary dates of reinstated employees will be adjusted  
23 so that if the time spent away from the classification exceeds 30 days in duration,  
24 none of the time away will count.

25 **III. Temporary Work in a Higher Classification**

26 **A. Work out of class**

27 **1. Definition**

28 An employee works out of class when he or she replaces  
29 another employee in a higher classification, and performs a majority of the principal  
30 duties of that classification, for all hours the replacing employee is scheduled to

1 work during a work day.

2 **2. Compensation for Work Out of Class**

3 An employee working out of class will be compensated  
4 according to the promotional policy above. (See "Section II.C" Note that if the  
5 employee's pay range and the higher range overlap, the policy provides for an  
6 increase of approximately one step; if the ranges do not overlap, the policy  
7 generally provides for an increase to the first step of the higher range.) However,  
8 the maximum premium for work out of class will be fifteen (15%) over the  
9 employee's hourly rate, regardless of what the promotional policy provides.

10 **3. Paid Leave and Work Out of Class**

11 a. When an employee replaces another employee in a  
12 higher classification during all hours worked in an FLSA work week or longer period  
13 of time, the replacing employee will be paid the out of class rate for all hours in pay  
14 status on days in which he or she was on leave for less than half a shift.

15 b. An employee using leave while working out of class will  
16 be paid at his or her regular rate of pay for all hours in pay status on days in which  
17 he or she worked half or less of his or her scheduled hours.

18 **B. Temporary Appointments**

19 When management anticipates that an employee will be performing  
20 the principal duties of a higher classification for a period of more than 30 days, the  
21 employee may be given a temporary appointment to a position in the higher  
22 classification.

23 **1. Appointment to a higher classification in the bargaining**  
24 **unit**

25 When the appointment is to a classification within the  
26 bargaining unit, written verification of the temporary appointment will be placed in  
27 the employee's personnel file, and the following provisions will apply:

28 a. The employee's rate of base pay will be set according to  
29 the promotional policy above;

30 b. The higher base rate will apply to all hours the employee

1 is in pay status; and

2 c. The employee has the right to return to his or her  
3 permanent position at the end of the appointment without loss of seniority.

4 **2. Appointment to an Exempt Classification**

5 When the appointment is to an exempt classification, written  
6 verification of the temporary appointment will be placed in the employee's  
7 personnel file, and the employee will be notified of the appointment in writing. The  
8 following provisions will apply:

9 a. The employee's salary will be set according to the  
10 Personnel Rules governing promotions to exempt positions;

11 b. The employee is not eligible to receive overtime pay,  
12 shift differential, or other forms of pay not available to permanent employees in the  
13 exempt classification;

14 c. The employee's health and welfare benefits plan will not  
15 change;

16 d. The employee's accrual and use of paid leave will be  
17 governed by the rules applying to permanent employees in the exempt  
18 classification;

19 e. The employee has the right to return to his or her  
20 bargaining unit position at the end of the appointment without loss of seniority; and

21 f. The employee will pay Union dues or such alternatives  
22 as are provided by Article 5, and will continue to be represented by the Union in  
23 accordance with Article 3.

24 **IV. Reclassification**

25 **A. Definition**

26 A reclassification review is an analysis of an employee's duties and  
27 responsibilities to determine whether he or she is in the correct classification.  
28 Individual employees or management may initiate a reclassification review by  
29 completing a request form and submitting it to the Employee Services Division. The  
30 Employee Services Division may also initiate studies of positions or groups of

1 positions.

2 **B. Procedure**

3 1. Copies of completed request forms will be forwarded to the  
4 Union by the Employee Services Division within fifteen days of receipt.

5 2. The Employee Services Division will notify the Union when it  
6 initiates a study.

7 3. The Employee Services Division will render a decision to  
8 affected employees with a copy to the Union within sixty (60) days of receiving a  
9 request or initiating a study.

10 4. If the employee is placed in a new classification, the wage  
11 range for that classification will be established by the procedures described in  
12 "Section V.A" below.

13 5. Wage increases resulting from an upward reclassification will  
14 be effective retroactively to the date of the reclassification request. However, the  
15 Employee Services Manager or his or her designee may authorize retroactivity up  
16 to six months prior to the date of the request.

17 **C. Pay adjustments upon reclassification**

18 1. If the employee's rate of pay is below the minimum for the new  
19 classification, his or her pay will be raised to the minimum rate.

20 2. If the employee's rate of pay is within the new range but does  
21 not match a step in that range, his or her wage will be raised to the closest step. If  
22 the employee's rate of pay matches a step of the new range, there will be no  
23 change in his or her hourly rate.

24 3. If the employee's rate of pay is above the maximum of the new  
25 range, the rate will not change but will be frozen, and the employee will not receive  
26 any increases in base pay, specifically to include general wage increases.  
27 However, when the top step of the new range has risen to exceed the frozen rate of  
28 pay, the employee will be paid at the top step rate.

29 4. When an employee is reclassified, his or her anniversary date  
30 for a wage increase will not be changed.



1           **D.     Resolution of reclassification disputes**

2                   1.     The outcome of a reclassification request may be appealed  
3 under Article 18 at Step 3 of the grievance procedure within fifteen (15) days of the  
4 date on which notice of the decision from Employee Services is received.

5                   2.     If the grievance is advanced to Step 4, the arbitrator will  
6 fashion his or her award within the following parameters:

7                           a.     The arbitrator shall be limited to deciding if the  
8 employee's principal duties fall within the classification to which his or her position  
9 is allocated by the County.

10                           b.     If the arbitrator determines that the position is improperly  
11 allocated, the arbitrator shall direct the County to allocate the position to another  
12 existing classification. If no appropriate classification exists, the arbitrator shall  
13 direct the County to establish such a classification.

14                           c.     The arbitrator shall have no authority to modify a  
15 classification or establish a new classification.

16           **V.     Establishing Wage Rates for New Classifications**

17           **A.     Method of Determining Wage Rates**

18                   Wage rates for new and substantially revised classifications will be  
19 established by the Employee Services Division in the following manner:

20                   1.     Subject the classification to a point evaluation in accordance  
21 with Job Evaluation Manual: Multnomah County, prepared by Ralph Andersen and  
22 Associates, May 31, 1990.

23                   2.     Assign a range which is reasonably related to wage ranges for  
24 comparable positions within the County but which is no more than 12.28% above or  
25 12.28 % below the Policy Pay Line developed during the classification review of  
26 1990 and adjusted for subsequent general increases.

27                   3.     The Employee Services Division may, at its discretion, assign  
28 rates higher than those indicated in "Subsection 2" above if such rates are indicated  
29 by conditions in comparable labor markets for workers in comparable  
30 classifications.

1                   4.     The Employee Services Division shall notify the Union of the  
2 range and its effective date.

3           **B.     Resolution of disputes concerning wage ranges assigned to new**  
4 **classifications**

5                   1.     Within ten (10) working days of receiving notice from Employee  
6 Services, the Union may notify the County's designee for labor relations of its desire  
7 to discuss the appropriateness of the pay range assigned.

8                   2.     If the parties are unable to reach agreement on a wage range,  
9 the matter will be resolved under Article 18 at Step 4 of the grievance procedure.

10                   a.     At Step 4 the arbitrator may either affirm that the pay  
11 range assigned by the County satisfies the requirements of "Section A" above, or  
12 specify the parameters within which a range would satisfy the criteria.

13                   b.     The arbitrator's decision will be final and binding and will  
14 be retroactive to the effective date established in the County's notice, per "Section  
15 V.A.4" above.

16 **VI.     Market Adjustments**

17           The Employee Services Manager or his or her designee for classification and  
18 compensation administration may notify the Union in writing that market based  
19 adjustments to the rates and ranges of certain classifications are warranted. Such  
20 adjustments may be implemented upon written approval of the Union.

21 **VII.    Permanent Arbitrator**

22           Owing to the technical expertise required to adjudicate disputes relating to  
23 classification allocations and the establishment of pay rates, the parties agree to  
24 maintain William H. Dorsey as arbitrator. The Parties agree to select an alternate  
25 West Coast arbitrator with such technical expertise during the life of this  
26 Agreement.

1                                    ARTICLE 16

2                                    PENSIONS

3  
4    I.     PERS Membership

5            Employees shall be eligible for participation in the Oregon Public Employees'  
6 Retirement System (PERS) pursuant to ORS 237 and subject to the terms and  
7 conditions of the Agreement, dated January 22, 1982, integrating the Multnomah  
8 County Employees' Retirement System and PERS, such Agreement having been  
9 entered into between the Public Employees' Retirement Board and Multnomah County  
10 pursuant to the provisions of ORS 237.051.

11   II.    Sick Leave in Application to Final Average Salary (PERS)

12            In accordance with the terms and limitations of ORS 238.350 one half (1/2) of the  
13 accumulated unused sick leave with pay will be applied to final average salary for the  
14 purpose of pension benefit determination.

15   III.   PERS Pick-up

16        A.     July 1, 1998 – August 31, 1998.

17            To the extent allowable by law, the required employee contribution of 6%  
18 of wages to PERS is deemed to be "picked up" by the County for the limited purposes  
19 of Section 414(h)(2) of the Internal Revenue Code and any related federal or state tax  
20 policies. For other purposes, the contribution shall be considered to have been made  
21 by the employee, and payment of the 6% contribution by the employee through payroll  
22 deduction is mandatory for each employee who is a member of PERS. Employees do  
23 not have the option of receiving the wage payment in cash and paying the PERS  
24 contribution directly. The taxable wages of employees on the W-2 form for federal and  
25 state income tax purposes will not include the contribution to PERS.

26        B.     September 1, 1998

27            The deeming of employee contributions to PERS as "picked up" by the  
28 County for purposes of Section 414 (h)(2) of the Internal Revenue Code and any related  
29 federal or state tax policies, as provided for in the prior Agreement, shall be terminated  
30 and the County shall "pick up" the employee contribution to PERS as permitted by ORS  
31 237.205. Should for any reason the ORS 238.205 "employee pick-up" no longer be

1 legally available the County shall on the last payroll period of this Agreement increase  
2 employee wages by six percent (6%) and return to the limited "pick up" provided for  
3 prior to September 1, 1998, including but not limited to the terms of compensation for  
4 non-PERS members.

5 **IV. In-Lieu-of Retirement**

6 Each such permanent employee who elected not to participate in PERS at the  
7 time of integration shall continue to receive from the County the amount of twelve and  
8 four/tenths percent (12.4%) of gross salary in lieu of employer retirement contributions.  
9 It is specifically intended that this in-lieu-of retirement contribution payment be used to  
10 build an investment/savings program for post-retirement use.

11 **V. Retiree Medical Insurance**

12 **A. Definitions**

13 For purposes of this section, a "retiree" refers to a person who retired from  
14 the County on or after the execution date of this Agreement and, at the time of  
15 retirement, occupied a position covered by this bargaining unit. For purposes of this  
16 section, a "member" refers to an active employee(s) in a position covered by this  
17 Agreement.

18 **B. Right to Participate**

19 Except as otherwise provided by this section, retirees may continue to  
20 participate in the County medical plan available to members. Coverage of eligible  
21 dependents uniformly terminates when coverage of the retiree terminates, except as  
22 otherwise required by applicable state or federal law.

23 **C. Choice of Plan**

24 To the extent members are permitted to choose from among two (2) or  
25 more medical insurance plans, retirees shall be permitted to choose between the same  
26 plans under the same conditions and at the same time as apply to members. Retirees  
27 participating in the members' medical insurance plan shall be subject to the application  
28 of any change or elimination of benefits, carrier, administrator or administrative  
29 procedure to the same extent and at the same time as are members.

30 **D. Retiree Responsibilities**

1           The retiree shall be responsible for promptly notifying the Benefits  
2 Administrator (Employee Services Division), in writing, of any changes in the retiree's  
3 current address and of any changes in retiree or dependent eligibility for coverage.

4           **E.   Eligibility for County Payment of One Half of Premium**

5           The following terms related to benefit payments, service, and age  
6 requirements shall also apply:

7           **1.   Payment at 58**

8           The County shall pay one-half (1/2) of the monthly medical  
9 insurance premium on behalf of a retiree and his or her eligible dependents from the  
10 retiree's fifty-eighth (58th) birthday or date of retirement, whichever is later, until the  
11 retiree's sixty-fifth (65th) birthday, death, or eligibility for Medicare, whichever is earlier,  
12 if the retiree had:

- 13           •       five (5) years of continuous County service immediately preceding  
14 retirement at or after age fifty-eight (58) years, or
- 15           •       ten (10) years of continuous County service immediately preceding  
16 retirement prior to age fifty-eight (58) years, or
- 17           •       ten (10) years of continuous County service immediately preceding  
18 retirement in the event of disability retirement.

19           **2.   Payment at 55 or Earlier**

20           The County shall pay one-half (1/2) of the monthly medical  
21 insurance premium on behalf of a retiree and his or her eligible dependents from the  
22 retiree's fifty-fifth (55th) birthday or date of retirement, whichever is later, until the  
23 retiree's sixty-fifth (65th) birthday, death, or eligibility for Medicare, whichever is earlier,  
24 if the employee had thirty (30) years of continuous service with employers who are  
25 members of the Oregon Public Employee Retirement System and twenty (20) or more  
26 years of continuous County service immediately preceding retirement; provided,  
27 however that employees employed on or before July 1, 1992, who are eligible for PERS  
28 regular retirement with 30 years of PERS service and twenty (20) years of County  
29 service shall be eligible for County payment of half the medical premium without waiting  
30 until age fifty-five (55).

1           **F.     Eligibility for Medicare**

2           Actual application for Medicare shall not be required for a finding that a  
3 retiree is "eligible for Medicare" under "Subsection E" of this section.

4           **G.     Part-Time Proration**

5           Part-time service in a regular budgeted position shall be prorated as half  
6 for purposes of the service requirements under "Subsection E" of this section. (For  
7 example, part-time service for two (2) months would equal one (1) month toward the  
8 applicable service requirement.)

9           **H.     Requirement to Continuously Participate**

10          In addition to the other requirements of this section, continued medical  
11 plan participation or benefit of County contributions is conditioned on the retiree's  
12 continuous participation in the member's medical insurance plan from the time of  
13 retirement, and upon the retiree's timely payment of the applicable retiree portion (i.e.,  
14 50% or 100% as applicable) of the monthly premium. Failure to continuously participate  
15 or make timely and sufficient payment of the applicable retiree portion of the monthly  
16 premium shall terminate the retiree's rights under this section. Payments by retirees of  
17 their portion of the monthly premiums under this section shall be timely if the retiree has  
18 directed PERS to regularly deduct his or her portion of the monthly premium from his or  
19 her pension check and remit the proceeds to the County's collection agent, or if the  
20 retiree has directed the County's collection agent to invoice or electronically transfer  
21 funds (EFT) from his or her account. The Employee Services Division shall inform the  
22 retiree at the time he or she signs up for continued medical insurance coverage of the  
23 identity and address of the County's collection agent and shall thereafter inform the  
24 retiree of any change in collection agent at least forty-five (45) days prior to the effective  
25 date of such change.

26          **I.     State and Federal Tax Offset**

27          In the event County medical insurance premium payments on behalf of  
28 retirees or their dependents are made subject to state or federal taxation, any additional  
29 costs to the County shall be directly offset against such payments required under this  
30 section. (For example, if the effect on the County of the additional tax is to increase the  
31 County's outlay by an amount equivalent to ten percent (10%) of aggregate monthly

1 retiree premium, the County's contribution shall be reduced to 40% of premium so that  
2 net County costs will remain unchanged.)

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ARTICLE 17  
DISCIPLINARY ACTION

**I. Forms of Discipline for Cause and Notice Requirements**

Employees may, in good faith for cause, be subject to disciplinary action by oral or written reprimand, demotion, reduction in pay, suspension, dismissal, or any combination of the above; provided, however, that such action shall take effect only after the exempt supervisor gives written notice of the action and cause to the employee and mails written notice to the Union. Oral or written reprimands do not require prior written notice.

**II. Definition of Cause**

Cause shall include misconduct, inefficiency, incompetence, insubordination, indolence, malfeasance, or failing to fulfill responsibilities as an employee.

**III. Appeal Rights**

**A. Written Reprimand**

Any permanent, non-probationary employee who is reprimanded in writing shall have the right to appeal the reprimand through Steps 1 and 2 only of the grievance procedure set out in Article 18.

**B. Reduction in Pay, Demotion, Suspension, or Dismissal**

Any permanent, non-probationary employee who is reduced in pay, demoted, suspended, or dismissed shall have the right to formally grieve within fifteen (15) days of receipt of the letter imposing disciplinary action. The employee shall submit the grievance to the supervisor or manager who imposed the discipline. For example, if the discipline was imposed by a Department Director, the matter would be submitted directly to the Department Director at Step 2.

**IV. Manner of Accomplishing Reprimands**



If the County has reason to reprimand an employee, every reasonable effort will be made to accomplish the reprimand in a manner that will not embarrass the employee before other employees or the public.

## V. No Abridgement of Rights

Nothing in this contract shall be construed to abridge any employee's constitutional or civil rights. Employees have the right to Union representation. If the employee so desires, he or she shall be afforded Union representation.

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ARTICLE 18  
SETTLEMENT OF DISPUTES

**I. Purpose**

Any grievance or dispute involving the application, meaning or interpretation of this Agreement shall be settled under the provisions of this article.

**II. Filing a grievance**

A. Before filing a grievance concerning a non-disciplinary matter, the aggrieved employee and/or the Union will attempt to resolve the issue informally.

B. A grievance is filed when the grievant or his or her union representative submits a written statement of the grievance at the appropriate step of the grievance procedure. The grievant may use a grievance form provided by the Union or submit a memorandum containing the following information:

1. Name of the grievant(s)
2. The date of filing
3. Relevant facts and explanation of the grievance
4. A list of the articles of the contract allegedly violated
5. A description of remedy sought

C. In order to be timely, grievances must be filed as follows:

1. Disciplinary grievances must be filed within fifteen days after receipt of the letter imposing disciplinary action.

2. Non-disciplinary grievances must be filed within fifteen days of the alleged violation of the contract, or within fifteen days of the date on which either the grievant or his or her representative became aware, or should have become aware, of its occurrence. Whether or not the grievant or the union were aware of the alleged violation, no grievance may be filed more than sixty days from the date of its occurrence. However, the sixty day limitation cited above is

1 not intended to affect the pursuit of grievances regarding alleged ongoing  
2 violations of the contract.

3 3. Grievances regarding the calculation of seniority will be  
4 timely filed according to the provisions of Article 21, Seniority and Layoff,  
5 "Section VII.B.1"

6 4. For the purposes of this article, as in the rest of this  
7 Agreement, "days" means "calendar days," unless otherwise specified.

8 5. Submissions at each step of the grievance procedure will be  
9 considered timely if they are mailed or delivered by 11:59 p.m. of the last day.  
10 Timelines at any stage of the grievance procedure may be extended by mutual  
11 agreement between the County and the Union.

12 D. Grievances will be filed at Step 1 of the grievance procedure (see  
13 "Subsection 3" below) with the following exceptions:

14 1. The County and the Union mutually agree to filing at a higher  
15 step.

16 2. Disciplinary grievances will be filed with the manager or  
17 supervisor who imposed the discipline. If he or she is the department director,  
18 the grievance will be filed at Step 2.

19 3. The following types of grievances will be filed at Step 3:

20 a. Grievances regarding the calculation of seniority per  
21 Article 21, Seniority and Layoff, "Section VII.B.1".

22 b. Grievances regarding reclassifications per Article 15,  
23 Classifications and Pay Ranges, "Section IV.D".

24 c. Grievances regarding changes in existing conditions  
25 per Article 24, General Provisions, "Section IV.C";

26 d. Grievances regarding work rules per Article 24,  
27 General Provisions, "Section III.D".

### 28 **III. The Steps of the Grievance Procedure**

#### 29 **Step 1. The Immediate Exempt Supervisor:**

1           Grievances submitted at Step 1 will be filed with the grievant's immediate  
2 exempt supervisor. The grievant's supervisor, or other manager or supervisor  
3 appointed by the department, will respond in writing to the grievant or his or her  
4 Union representative within seven days of receipt.

5           There will be a mandatory meeting either at Step 1 or at Step 2 of the  
6 grievance procedure to formally discuss the grievance. Unless an exception is  
7 agreed upon by the Union and the County, the meeting will be attended by the  
8 grievant, the manager and/or supervisor designated by the County, and the  
9 steward and/or other Union representative. If the grievance is a class grievance,  
10 a representative employee shall be deemed the grievant for the purposes of the  
11 mandatory meeting.

12           **Step 2. The Department Director:**

13           Grievances submitted at Step 2 and grievances unresolved at Step 1 may  
14 be presented by the grievant or his or her Union representative to the  
15 department director. Unresolved grievances must be submitted within fifteen  
16 days after the response is due at Step 1. The department director will respond in  
17 writing to the grievant or his or her Union representative within fifteen days of  
18 receipt.

19           **Step 3. Labor Relations:**

20           Grievances submitted at Step 3 and grievances unresolved at Step 2 may  
21 be presented by the grievant or his or her Union representative to the Labor  
22 Relations Manager or his or her designee. Unresolved grievances must be  
23 submitted within fifteen days after the response is due at Step 2. Labor  
24 Relations will respond in writing to the grievant or his or her Union representative  
25 within fifteen days of receipt.

26           **Step 4. Arbitration:**

27           If the grievance has not been answered or resolved at Step 3, the Union  
28 may, within fifteen days after the expiration of the time limit specified in Step 3,  
29 request arbitration by written notice to the County.

1       After the grievance has been submitted to arbitration, the Union shall  
2 request a list of the names of seven (7) arbitrators from the State of Oregon  
3 Mediation and Conciliation Service. The Union and the County shall select an  
4 arbitrator from the list by mutual agreement. If they are unable to agree on a  
5 method, the arbitrator will be chosen by the method of alternate striking of  
6 names, the order of striking to be determined by lot. One day shall be allowed  
7 for the striking of each name. The final name left on the list shall be the  
8 arbitrator. Nothing in this section shall prohibit the Union and the County from  
9 agreeing upon a permanent arbitrator or permanent list.

10       The Union and the County agree that no less than five (5) days  
11 prior to any scheduled arbitration hearing, they will mutually exchange copies of  
12 all exhibits intended to be offered at the hearing, except the work product of any  
13 attorney or authorized representative involved.

14       No less than five (5) days prior to the scheduled arbitration, the  
15 Union and the County shall submit to the designated arbitrator a signed  
16 stipulation of the issue before the arbitrator. In the event they are unable to  
17 stipulate the issue in dispute, each party shall, not later than four (4) days prior to  
18 the scheduled arbitration, submit to the arbitrator and the other party a signed  
19 statement of the issue that party asserts is in dispute.

20       The arbitrator shall be requested to begin taking evidence and  
21 testimony within twenty-five (25) days after submission of the request for  
22 arbitration; and the arbitrator shall be requested to issue his or her decision  
23 within thirty (30) days after the conclusion of testimony and argument. The  
24 Union and the County hereby vest the arbitrator with authority to compel the  
25 attendance of witnesses on behalf of either party by issuance of a subpoena, the  
26 cost of which shall be borne by the party requesting the subpoena.

27       The arbitrator's decision shall be final and binding, but he or she  
28 shall have no power to alter, modify, amend, add to, or detract from the terms of  
29 this Agreement. The arbitrator's decision shall be within the scope and terms of  
30 the Agreement and in writing. Any decision of the arbitrator may provide for

#### ARTICLE 18. SETTLEMENT OF DISPUTES

1 retroactivity not exceeding sixty (60) days prior to the date the grievance was first  
2 filed, and it shall state the effective date of the award.

3 **IV. Representation of employees**

4 **A. The Union as exclusive representative**

5 1. The Union is the exclusive representative of bargaining unit  
6 employees with respect to conditions of employment governed by this  
7 Agreement under the State of Oregon Public Employees Collective Bargaining  
8 Act.

9 2. Attorneys who do not represent the Union or the County  
10 may appear at grievance meetings and hearings only at the mutual consent of  
11 the Union and the County.

12 3. An employee may file a grievance through Step 3 of the  
13 grievance procedure without the assistance of the Union; however, departure  
14 from the grievance procedure described herein shall automatically nullify the  
15 Union's obligation to process the grievance. Also, whether or not the employee  
16 seeks Union assistance, the Union must be given the opportunity to be present  
17 when a settlement offer is made, and any settlement must be consistent with the  
18 terms of this Agreement.

19 **B. Stewards**

20 **1. Definition and designation**

21 Employees selected by the Union as employee  
22 representatives shall be known as "Stewards". The names of the stewards and  
23 the names of other union representatives who may represent employees, shall  
24 be certified in writing to the County by the Union.

25 **2. Processing of Grievances by Stewards**

26 a. Upon notification to the grievant's supervisor of the  
27 name of the grievant and the tentative cause of the grievance, or the name of the  
28 subject of a disciplinary investigatory interview, the steward(s) responsible for the  
29 grievant's work area may investigate and process a grievance(s) at the work site  
30 during working hours without loss of pay, or in the case of an investigatory

1 interview, participate in such interview without loss of pay. All efforts will be  
2 made to avoid disruptions and interruptions of work.

3 b. Employees meeting with their steward to process a  
4 grievance will also be permitted to do so without loss of pay during working  
5 hours.

6 c. A steward may not process a grievance in any other  
7 work area than the one to which he or she is assigned by the Union unless  
8 mutually agreed by the Department and the Union.

9 **3. Chief stewards**

10 A chief steward shall be assigned in each department by the  
11 Union. When there is no steward assigned to the grievant's work area, the  
12 regular steward is unavailable, or by mutual agreement between the Union and  
13 the Department, the assigned chief steward may process a grievance in  
14 accordance with "Section IV.B" above. When a chief steward is unavailable or  
15 by mutual agreement between the Union and the Department, the Union may  
16 designate a Union officer to act as chief steward.

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1 ARTICLE 19

2 MODIFICATION OF WORK PERFORMED BY THE BARGAINING UNIT:

3 CONTRACTING, INTERGOVERNMENTAL AGREEMENTS,

4 AND USE OF VOLUNTEERS

5  
6 **I. Contracting**

7 **A. Limitations on Contracting**

8 The County may contract or subcontract out work performed by  
9 employees in this bargaining unit regardless of impact on employees, including but  
10 not limited to layoff. In any instance in which such contracting or subcontracting  
11 would result in layoff, however, and the County is unable to find suitable or  
12 comparable alternative employment for the employees, this contracting or  
13 subcontracting will occur only if it was anticipated and considered as a part of the  
14 budgeting process and the Union Business Representative and/or President has  
15 been notified of the specific plan and its probable impact at least thirty (30) days  
16 prior to adoption of the annual budget, referred to as the "Adopted Budget", or  
17 formal Board consideration of budget modifications.

18 **B. Meeting with the Union**

19 The County agrees to meet with the Union to discuss the effect of  
20 proposed contracting out or sub-contracting which would result in layoff prior to the  
21 presentation of the proposal to the Board for adoption. The County further agrees  
22 to meet with the Union, at its request, to explore the alternative of work force  
23 reduction by attrition.

24 **C. No Interference with Contract**

25 Any contracting out of bargaining unit work under the terms of this  
26 article shall be bound exclusively by the exercise of the discretion of the Board of



1 County Commissioners, and any appropriate elected executive, subject only to the  
2 limitations of this article and laws in effect at the time of execution of this  
3 Agreement. This exercise of discretion shall specifically not be bound by the  
4 requirements of any Initiative Petition, or law promulgated thereto, which becomes  
5 effective subsequent to the execution of this Agreement.

6 **II. Intergovernmental Agreements**

7 The County agrees to notify the Local 88 Business Agent and/or President  
8 when an Intergovernmental agreement which would effect the transfer of  
9 employees to or from the County is placed on the Board agenda. The County also  
10 agrees to provide Union with a specific plan and its probable impact relative to  
11 Intergovernmental Agreements involving employee transfer, when such  
12 Agreements are anticipated, at least thirty (30) days prior to formal Board  
13 consideration of budget modifications or the Board's adoption of the annual budget  
14 related to such a transfer.

15 **III. Rights and Benefits of Employees Involved in Consolidation, Merger,**  
16 **and Acquisition of Positions**

17 A. The County and the Union recognize the provisions of ORS 236.610  
18 through 236.650 in the event an employee of the County is transferred to another  
19 public employer as defined under ORS 236.610(2) for reason of merger,  
20 consolidation or cooperation agreement.

21 B. All employees acquired by the County as a result of merger,  
22 consolidation, cooperation agreement, or acquisition of a facility, shall be entitled to  
23 all rights and benefits granted employees under this Agreement and ORS 236.610  
24 through 236.650.

25 **IV. Volunteers**

26 The County shall have the right to use volunteers at any time for any

1 purpose. If a volunteer program is instituted which the Union reasonably believes  
2 may lead to employee layoffs, the County shall at Union request meet and confer  
3 concerning alternatives which would eliminate or mitigate adverse impact on  
4 employees.

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## I. Workloads and Standards

## **II. Employee Development and Training**

3. If approved prior to enrollment, reimbursements will be made within 30 days of successful completion of the training or coursework, provided the employee has submitted verification as required under department policy.

1     **III.     Performance Evaluation**

2             A.     The County may implement and maintain performance evaluation  
3 processes involving members of the bargaining unit.

4             B.     Employees will have the right to attach a response to any evaluations  
5 in their personnel files.

6             C.     No evaluations or employee responses will be admissible in any  
7 disciplinary or arbitration hearing.

8             D.     All performance evaluations shall be signed by the employee's exempt  
9 supervisor, who shall bear ultimate responsibility for the content of the evaluation.

10    **IV.     Organizational Excellence**

11             The parties are committed to the continuation of Labor Management  
12 cooperation as represented by the ERC process, as well as support of the  
13 RESULTS Initiative. (RESULTS: Reaching Excellent Service Utilizing Leadership  
14 and Team Strategies.) To further support this process:

15             **A.     Joint Training**

16                 Joint training shall be provided on an annual basis to all shop  
17 stewards and representative managers and supervisors on matters related to  
18 contract administration and the management of problem employees and teams.  
19 The purpose of this training will be to develop mutual understanding of basic  
20 processes and role. Additionally, to support team development and Quality  
21 initiatives, such training will involve appropriate group process and Quality  
22 components.

23             **B.     Employee Participation and Teams**

24                 It is understood that many of the terms of this Agreement are based  
25 on an individual rights and obligation model. The parties recognize that  
26 employees are increasingly involved in employee participation processes and  
27 working in teams. In such instances, as issues arise from these processes which  
28 may involve the terms of this Agreement, the parties will meet upon the request  
29 of either party to discuss any appropriate action. Mutually agreeable terms of  
30 any needed exceptions and understandings shall be in conformance with Article  
31 26, Entire Agreement.

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ARTICLE 21  
SENIORITY AND LAYOFF

I. Definitions

A. Layoff:

A reduction in force in classification for reasons of lack of funds, lack of work, efficiency or reorganization. Reductions in force are identified by classification within the affected department.

B. Continuous Service:

Means uninterrupted employment with Multnomah County subject to the following provisions:

1. Continuous service shall include uninterrupted employment with another governmental agency accomplished in accordance with and subject to ORS 236.610 through 236.650.

2. Continuous service is terminated by voluntary termination, involuntary termination due to expiration of a recall list, removal from a recall list after layoff pursuant to "Section IV.D" of this article, or discharge for cause.

C. Promotional Line:

Refers to a classification series in the same occupational field in which service in the lower classification qualifies the employee for the higher classification.

D. Bumping:

The displacement of the least senior regular employee by another regular employee within the department with more seniority within the classification.

E. Equivalent Classification:

Refers to matching by the Employee Services Manager or his/her designee of an abolished classification with a current classification that has substantially the same duties, authority, and responsibility.

F. Classification Previously Held:

Refers to a classification or its equivalent in which the employee gained regular status and for which he or she continues to qualify.

1           **G.     Regular Employee:**

2                   Refers to the status a classified employee acquires after successful  
3 completion of the probationary period for the classification to which the employee  
4 was appointed.

5           **H.     Lateral Classification:**

6                   Refers to a classification or its equivalent which has the same top  
7 step as the employee's current classification.

8           **I.     Affected by Layoff:**

9                   Refers to an employee who was demoted, laid off, or reassigned as a  
10 result of a layoff process under the provisions of this article.

11          **J.     Permanent Appointment:**

12                   Refers to the appointment of an employee to a budgeted position  
13 from a certified list of eligibles.

14          **II.    Seniority**

15           **A.     Seniority will be determined as follows:**

16                   1.     The total length of continuous service within the affected job  
17 classification and its equivalent within the County; if a tie occurs, then

18                   2.     Total length of continuous service within the County; if a tie  
19 occurs, then

20                   3.     Test score on the Civil Service Examination, if available, for  
21 the classification; if a tie occurs or if the test scores are not available, then

22                   4.     It shall be broken by lot in a manner to be determined by the  
23 Employee Services Division.

24           **B.     In computing seniority for regular employees, the following**  
25 **factors will be taken into account:**

26                   1.     Part-time work within the same or equivalent classification will  
27 count on a full-time basis.

28                   2.     Time spent in an abolished classification that has a current  
29 equivalent will count toward seniority in the equivalent classification.

30                   3.     Time on authorized leave taken with pay will count.

1                   4.     When an authorized leave without pay exceeds 30 days, no  
2 time spent on that leave will count.

3                   5.     Time spent in unclassified appointment status will not count,  
4 except for purposes of vacation accrual.

5                   6.     Time spent in on-call status will not count.

6                   7.     Temporary time and working out of class time that exceeds  
7 thirty (30) days shall be taken into account in the following manner:

8                   a.     **Prior to permanent appointment:**

9                             All continuous, contiguous service that meets the  
10 following guidelines shall count:

11                                 1. Service in a position which has been classified or  
12 formally labeled the same as the classification to which the employee is appointed;  
13 or

14                                 2. Service with duties substantially the same as the  
15 classification to which the employee is appointed. The determination of whether  
16 the duties were "substantially the same" must be a reasonable one on the part of  
17 the County.

18                   b.     **After permanent appointment:**

19                             All continuous, contiguous service on a temporary  
20 promotion shall count toward seniority in the immediately previous classification,  
21 except in cases in which the promotion becomes permanent immediately following  
22 the temporary appointment; in these cases the time will be counted toward the  
23 classification to which the employee is promoted.

24                   c.     **Communication of seniority determinations**

25                             No other temporary time shall count. The  
26 determinations specified in "Subsection a" and "Subsection b" above shall be  
27 communicated by departmental human resources staff to employees within sixty  
28 (60) days of the date of permanent appointment. Employees shall have fifteen (15)  
29 days from receipt of this determination to request a review of the seniority  
30 determination. Final determination of seniority will be made pursuant to "Section  
31 VII" of this article, Posting Process.

1                   8.     When a layoff exceeds 30 days, no time spent on layoff will  
2 count.

3                   9.     Time spent in a trainee capacity, e.g., in state or federal  
4 trainee programs, will not count.

5                   10.    Time spent working for another government in an equivalent  
6 classification will count if the employee was transferred to Multnomah County  
7 pursuant to ORS 236.610 through 236.650.

8                   11.    Seniority shall be forfeited by discharge for cause, voluntary  
9 termination, or, after layoff, by removal from all recall lists pursuant to "Section IV"  
10 of this article.

11                  12.    Time spent on a probationary period that is not completed will  
12 count toward the employee's previous classification, if any. Time spent on a trial  
13 service period after lateral transfer that is not completed will be counted toward the  
14 previous classification.

15                  13.    Time spent in all higher classifications and their equivalents  
16 within a promotional line shall be combined with time spent in the present  
17 classification and its equivalents to compute seniority.

18                  14.    Current rules for calculation of seniority as contained in this  
19 article do not alter seniority determinations under prior Local 88 contracts.

20 **III.    Layoff Rules**

21 The County will notify regular employees affected by layoff of their reassignment or  
22 layoff, according to the provisions of this section.

23 **A.    Reassignment of Regular Employees During a Layoff**

24 Layoffs will be identified by classification within the affected department.  
25 Employees holding positions that perform functions to be discontinued will be  
26 subject to the following in order of seniority:

27                  1.     Reassignment to a position in the same classification, or if the  
28 employee does not have enough seniority, then

29                  2.     Reassignment to a position in a classification previously held  
30 at the employee's current level, or if the employee does not have enough seniority,  
31 then



1                   3.     Demotion to a position in a classification previously held or to  
2 a lower classification in the promotional line, or if the employee does not have  
3 enough seniority, then

4                   4.     Change of status between full-time and part-time, or if the  
5 employee does not have enough seniority, then

6                   5.     Layoff.

7           **B.     Restrictions on Inter-Departmental Transfers**

8                   Employees shall not have any rights over other employees working  
9 under permanent appointment in another department and may transfer to a  
10 vacancy in another department only under the provisions of the Personnel Rules,  
11 Rule 15, Transfer and/or Article 22, Shift and Work Assignment.

12           **C.     Non-Regular Employees During a Layoff**

13                   1.     Within an affected classification and department, temporary,  
14 non-regular probationary, and other employees who do not have classified status  
15 and who are occupying budgeted positions will be terminated before employees  
16 with classified status are affected by layoff. Employees without status who are  
17 terminated will not be placed on recall lists and do not have bumping rights.

18                   2.     An employee who has not completed a probationary period  
19 following promotion to a classified position and is affected by layoff shall be  
20 returned to the position previously held.

21                   3.     Probationary employees terminated or demoted in accordance  
22 with "Subsection 2" and "Subsection 3" above will be placed on reinstatement lists  
23 for one year from the date of their termination or demotion. They may, at the  
24 County's discretion, be reinstated to their former classification if there are no regular  
25 employees who are on a recall list for that classification. Probationary employees  
26 who are reinstated will be treated as if they have been on a leave of absence from  
27 the classification for purposes of computing seniority and length of probationary  
28 period.

29                   4.     Employees will not be placed in a classification with a higher  
30 maximum salary except by normal promotion procedures.

1           **D.    Layoff Processing for Employees on a Leave of Absence**  
2 **Without Pay**

3                   **1.    Employee Notification:**

4                   Employees who are on a leave of absence without pay which  
5 is scheduled to continue after the layoff effective date and whose classifications are  
6 expected by the County to be affected by an upcoming layoff process will be  
7 notified in writing and given an option to return from leave.

8  
9                   **2.    Use of Positions during the Layoff Process:**

10                  If no response is received by the County within five days of  
11 written notification, or if the employee declines to return from leave of absence, or if  
12 the employee is unable to return from leave of absence, the position from which the  
13 employee is on leave of absence will be treated as a vacant position during the  
14 layoff process and will be available to be filled by another employee who is affected  
15 by the layoff process, according to the provisions of this article.

16                  **3.    Return from Family Medical Leave Without Pay:**

17                  After a layoff process affecting the employee's classification  
18 has occurred, employees who are on Family Medical Leave without pay  
19 immediately prior to returning to work will return to the position formerly held, and  
20 the employee occupying that position will be reassigned according to seniority  
21 pursuant to this article.

22                  **4.    Return from Other Leave Without Pay:**

23                  After a layoff process affecting the employee's classification  
24 has occurred, employees not on Family Medical Leave without pay immediately  
25 prior to returning to work will be reassigned according to seniority pursuant to this  
26 article.

27                  **5.    Recalculation of seniority After Leave of Absence Without**  
28 **Pay:**

29                  All employees on leave of absence without pay that exceeds  
30 thirty (30) days will have their seniority recalculated upon their return from leave so

1 that none of the time on the leave of absence without pay counts toward seniority  
2 per "Section II.B.4" of this article.

3 **E. The Bumping Process**

4 1. Vacancies that are created and approved by the Board of  
5 County Commissioners to be effective the day following the layoff date shall be  
6 treated as vacancies available during a layoff process.

7 2. Reassignment of employees to vacant positions, if available,  
8 will always take precedence over their bumping another employee; where multiple  
9 vacancies are available, the County will reassign the employee to one.

10 3. If bumping is necessary, the least senior employee in the  
11 affected classification in the department will be bumped.

12 4. If demotion is necessary, employees will be demoted to the  
13 classification previously held or classification in the employee's promotional line that  
14 results in the least reduction in pay; if the reduction in pay is equal, employees will  
15 be demoted to the position that affords the greatest seniority.

16 5. Full time employees will be reassigned only to full time  
17 positions and part time employees will be reassigned only to part time positions,  
18 unless reassignment to the other status is the only available option other than  
19 layoff.

20 6. Shift assignment will not have an effect on the layoff process.

21 7. Employees who are reassigned to a position pursuant to these  
22 provisions and do not accept that position will be deemed to have resigned.

23 8. Employees may not be reassigned to positions under this  
24 article unless qualified to perform the duties of that position. Employees may be  
25 denied rights otherwise available under these provisions only if they lack  
26 knowledge, skills or abilities required for the position that are not easily learned on  
27 the job within ninety days. Employees may be required to take and pass qualifying  
28 examinations in order to establish their rights to specific positions.

29 **IV. Notice and Recall List**

30 A. Employees who are subject to reassignment, demotion, or layoff  
31 pursuant to the provisions of this article shall receive a notice in writing at least

1 fifteen days prior to such action. The notice shall state the reason for the action  
2 and shall further state that the action does not reflect discredit on the employee.  
3 The Union will be provided a copy of the notice.

4 B. Employees who are laid off, demoted, or reassigned to a lateral  
5 classification and/or reassigned between full-time and part-time status will be  
6 placed on the recall lists, according to seniority. Employees will be placed on all the  
7 recall lists that meet the criteria below. (For example, employees who are demoted  
8 and reassigned from full-time to part-time will be placed on the recall lists for full-  
9 time appointment in the current classification, for part-time appointment in the  
10 higher classification, and for full-time appointment in the higher classification):

11 1. Employees who are laid off will be placed on the recall list for  
12 the classification held by the employee at the beginning of the layoff process and all  
13 lower classifications in the promotional line.

14 2. Employees who are demoted will be placed on the recall list  
15 for all the classifications in the promotional line from the one held by the employee  
16 at the beginning of the layoff process to, but not including, the one the employee  
17 demoted to.

18 3. Employees who are reassigned to a lateral classification or to  
19 a classification previously held will be placed on the recall list for the classification  
20 held by the employee at the beginning of the layoff process.

21 4. Employees who are reassigned from full-time to part-time will  
22 be placed on the list for recall to full-time assignment.

23 5. Employees who are reassigned from part-time to full-time will  
24 be placed on the list for recall to part-time assignment.

25 C. Employees who are reassigned to positions in the same  
26 classification, resign, or elect to retire will not be placed on recall lists.

27 D. Employees will remain on a recall list for twenty-four months from the  
28 date of placement on the list. Within that time period, employees will be removed  
29 from the recall list only under the following circumstances:

- 30 1. Upon written request of the employee; or  
31 2. Upon their retirement; or

- 1                   3.     Upon acceptance of permanent recall from the list; or
- 2                   4.     Upon declining an offer of permanent recall; or
- 3                   5.     Upon the employee's failure to respond to a certified letter sent
- 4 to the employee's last known address within fourteen days of mailing; or
- 5                   6.     Disciplinary termination for cause.

6           E.     Employees who are laid off and are on recall list(s) and return to  
7 permanent County employment for any reason will be treated as if they have been  
8 on a leave of absence without pay for the purpose of computing seniority.

9   **V.   Recall**

10          A.     Employees on a recall list will be certified in order of seniority, before  
11 applicants who qualify through examination, provided they are qualified to perform  
12 the duties of the position. Employees on a recall list shall be offered appointment to  
13 vacancies, in order of seniority, except when they lack knowledge, skills or abilities  
14 required for the position that are not easily learned on the job within ninety days.  
15 Employees may be required to take and pass qualifying examinations in order to  
16 establish their rights to specific positions. The hiring manager is required to state in  
17 writing what qualification(s) the employee lacks that the position requires. The  
18 employee will remain on the recall list for certification to other vacancies during his  
19 or her term of eligibility.

20          B.     Failure to recall an employee, except as provided above, will be  
21 deemed a dismissal of that employee for cause and will be reviewed and  
22 processed according to the provisions of Article 17, Disciplinary Action.

23   **VI.   Seniority Application**

24          A.     The above terms for determination of seniority shall apply not only to  
25 the layoff process, but also to other situations in which seniority is applied, including  
26 total service for the purpose of vacation accrual rates.

27          B.     For purposes of vacation bidding, the employee's original date of hire  
28 with the County pursuant to "Section II.B" of this article, shall be used to determine  
29 vacation selection in accordance with Article 8, Vacation Leave, "Section V".

30          C.     Seniority determinations shall have no application to retirement  
31 matters.

1 D. The County agrees to make available to the Union upon request  
2 copies of any personnel list the County maintains regarding seniority or  
3 classification changes.

4 **VII. Posting Process**

5 **A. Seniority List Posting**

6 Lists showing seniority within the County and seniority within  
7 classification shall be provided to the Union and posted on all Union bulletin boards  
8 on or about March 1 and October 1 of each year.

9 **B. Seniority List Appeal Process**

10 **1. Errors on new lists**

11 Employees who have concerns about the calculation of their  
12 seniority on any new list may consult with Employee Services within thirty (30) days  
13 of the date the list was posted. If an employee's concerns remain unresolved, the  
14 Union may file a formal written grievance at Step 3 of the grievance procedure  
15 within thirty (30) days of his or her initial consultation with Employee Services. If no  
16 grievance is filed within that time, the seniority calculation is deemed correct. A  
17 grievance may be filed only with respect to seniority accrued since the prior list.

18 **2. Clerical errors from previous lists**

19 The Parties recognize that the provisions of this article  
20 concerning untimely appeals has lead to a number of claims concerning alleged  
21 clerical errors. To provide a forum for such concerns, following the posting of the  
22 seniority list for November, 1998, employees or supervisors may on a one-time-only  
23 basis file a written complaint to the Employee Services Division concerning such  
24 claims. The alleged errors must have occurred no earlier than July 1, 1988. Any  
25 such claim should contain a detailed description of the problem and attach any  
26 relevant documents. Following receipt of these claims, the Union and a  
27 representative of Employee Services will meet and discuss these matters. If the  
28 Union and the representative of Employee Services can resolve the matter, their  
29 joint determination of the seniority dispute will be in writing, shall be placed in the  
30 affected employee's personnel file, and shall be binding. No unresolved matter will  
31 be subject to the grievance procedure.

1           **C.     Promotional Line Posting**

2           A list showing the promotional lines for all classifications within the  
3 bargaining unit shall be provided to the Union by the Employee Services Division  
4 and posted on all Union bulletin boards on or about March 1 of each year.

5       **VIII.   Seniority of and Bumping by Exempt Employees and Other Bargaining**  
6       **Units**

7           A.     The only exempt employees, or members of other bargaining units,  
8 who may bump into the bargaining unit are those who are in the Classified service  
9 and who have previously been a member of the General Employees Bargaining  
10 Unit or Juvenile Custody Service Specialist Bargaining Unit, or in a classification  
11 which subsequently became part of these units, provided, however, the provision  
12 regarding the Juvenile Custody Service Specialist bargaining unit is contingent on  
13 ratification of parallel reciprocal terms by that unit.

14          B.     Only time served in Classified exempt and nonexempt status shall  
15 apply for bumping purposes.

16          C.     It is recognized that employees who would be in the bargaining unit  
17 but for their confidential status may not bump bargaining unit employees or be  
18 bumped by them in the event of layoff. However, seniority between equivalent  
19 confidential and bargaining unit classifications is transferable into and out of the  
20 bargaining unit. For example, an Office Assistant 2 occupying a confidential  
21 position who transfers to an Office Assistant 2 position in the bargaining unit will  
22 retain seniority credit for time served in the confidential position. Likewise, an  
23 Office Assistant 2 occupying a bargaining unit position who transfers into a  
24 confidential position will retain seniority credit.

25       **IX.    Special Provisions to Save Employees From Layoff**

26           It is recognized by the parties that employees who are to be laid off or  
27 involuntarily demoted because of their seniority within a classification within a  
28 department face difficult circumstances in being placed in alternative employment  
29 within the County. Any such employee who is placed in a classification not  
30 previously held or outside his or her promotional line shall be subject to a trial  
31 service period of ninety days to demonstrate his or her ability to perform or fulfill the

1 requirements of the new classification. Employees who, in the opinion of the  
2 County, are unsuccessful during this ninety day trial service period will be removed  
3 from their new classification and placed on the appropriate recall list. Such  
4 employees shall continue to be eligible for placement under the provisions of this  
5 section as long as alternative employment opportunities are being explored by  
6 management for affected employees.

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ARTICLE 22  
SHIFT AND WORK ASSIGNMENT

I. Vacancy

A vacancy shall exist when:

A. The employee assigned to a budgeted position abandons such position because of transfer, promotion, or demotion to another position or County agency; or upon voluntary or involuntary termination of County employment;

B. Additional budgeted positions are allocated;

C. Workload requirements necessitate reallocation of duties for a period in excess of ninety (90) days, as, for example, a training assignment or assignment to another unit with a workload issue;

D. When an employee is on unpaid leave that will exceed ninety (90) days.

II. Temporary and Short Term Work Assignments

A. Ninety Days or Less (Short Term Assignments)

Work assignments of ninety (90) days or less shall be solely at the discretion of management. Following such a short term assignment, the employee will be returned to his or her permanent assignment.

B. Six Months or Less (Temporary Assignments)

If the work assignment is for more than ninety (90) days, but no longer than six (6) months, it shall be deemed a temporary assignment, and shall be filled in the following manner:

1. Management will provide employees a notice of the assignment, the person to contract, and the deadline for consideration.

2. The assignment may be made on the basis of seniority, expressions of preference or by other job related criteria established by management.

3. Following such a temporary assignment, the employee will be returned to his or her permanent assignment.

1     **III.     Permanent Shift/Work Assignment**

2             A permanent vacancy is a vacancy determined by management to be for a  
3 duration of over six (6) months. Whenever there is more than one shift or work  
4 assignment within the same job classification within a work unit, permanent  
5 vacancies shall be filled in the following manner:

6             A.     Management will provide employees a notice of such vacancy, the  
7 person to contact, and the deadline for consideration.

8             B.     The vacancy shall be filled on the basis of seniority provided the  
9 employee is able to perform the work in question and has indicated his or her  
10 preference in writing. Exceptions to seniority preference assignment may be  
11 made in the following situations:

12                 1.     In regard to work assignment only, when a less senior  
13 employee is substantially more qualified for the position in question.

14                 2.     In regard to work assignment only, when a less senior  
15 employee is assigned a job for reasons other than in (1) above, such reasons  
16 shall be put in writing by the manager making the assignment. Such assignment  
17 shall not be for arbitrary or capricious reasons.

18                 3.     In regard to both shift and work assignment, where bona fide  
19 job-related requirements for a balance of experienced and non-experienced  
20 personnel exists between shifts or work assignments in a work unit, management  
21 may temporarily delay the senior employee's shift or work assignment until new  
22 or less senior employees obtain necessary experience.

23             C.     In the event no expression of preference exists for a shift or work  
24 assignment, management may fill a vacancy with the least senior qualified  
25 employee in the work unit. Involuntary changes in shift assignment shall require  
26 ten (10) days' advance written notice to the affected employee.

27             D.     When a new work assignment with substantially different duties is  
28 created, it shall be posted for ten (10) days to permit employees to indicate their  
29 preference for the assignment.

30     **IV.     Transfers**

1       Following the work assignment process within a Department, if the  
2       classification is utilized elsewhere in the County, the three most senior  
3       employees in the same classification who are qualified for and interested in the  
4       specific position shall be interviewed for the vacancy, provided they have  
5       requested consideration for a transfer as required under Personnel Rule 15.

6       **V. Trial Service Periods**

7       Upon appointment to a new permanent work assignment, including  
8       transfers, and specifically including any lateral transfer to another classification,  
9       the employee will serve a trial service period of one hundred and twenty (120)  
10      days to demonstrate his or her ability to fulfill the requirements of the assignment.  
11      If the employee does not satisfactorily fulfill the requirements of the assignment,  
12      such employee will be returned to his or her previous work assignment. Such  
13      determination of satisfactory performance within the one hundred and twenty  
14      (120) day trial service period will be made by management.

15      **VI. Work Unit and Work Assignment Determination and Specification**

16           **A. Departmental Determination**

17           Each Department, either directly at the Departmental level, or by  
18           delegation, shall determine the work units and work assignment structure of its  
19           organization and may change this determination from time to time to reflect  
20           changes in the organization's structure and/or needs. For example, a  
21           Department which has defined its service delivery sites as work units, and major  
22           functions within those sites as work unit assignments, may choose to treat the  
23           entire Department as a work unit with the site locations as work assignments.  
24           Whenever practicable, to ensure communication with employees and discussion  
25           of the implementation process and/or of alternatives, the Department will notify  
26           the Union thirty (30) days in advance of any planned change in the determination  
27           of work units.

28           **B. Listing of Units**

29           In order to assist the Union in enforcing the terms of the Agreement  
30           both in this article as well as in others, the County will provide no later than April

1 1 of each year a comprehensive listing of all work units within the County by  
2 Department.

3 **VII. Employee Rotation Plans**

4 To further employee development or motivation, the County may rotate  
5 employees in the same classification between job assignments within a work unit  
6 or between work units without application of the terms of this article, subject to  
7 the following limitations:

8 A. Any such rotation plan shall be posted ten (10) days in advance  
9 with a copy provided to the Union.

10 B. The terms and criteria of the rotation plan shall apply to all  
11 employees in the affected job classification within a work unit or work units.

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1  
2 ARTICLE 23

3 PERSONNEL RULES AND RECORDS  
4

5 I. Personnel Rules

6 Changes to the Personnel Rules will be submitted to the Union for review  
7 and recommendation prior to their adoption.

8 II. Personnel Records and Information

9 A. Definition

10 For purposes of this section, "personnel file" refers to the formal file  
11 of personnel documents maintained by the Employee Services Division and/or by  
12 the employee's department or division.

13 B. Access to Personnel File Materials

14 1. An employee or his or her representative, with the written  
15 consent of the employee, may inspect that employee's personnel file. Upon  
16 written request, an employee or his or her authorized representative will be given  
17 a copy of any materials in the employee's personnel file.

18 2. An employee will be given a copy of any statement written  
19 for inclusion in the employee's personnel file concerning the employee's conduct  
20 or work performance.

21 C. Removal of File Materials

22 1. Letters of Reprimand

23 An employee may request and have removed from his or her  
24 personnel file any letter of reprimand which is more than two (2) years old.

25 2. Letters Imposing Other Discipline

26 a. Single disciplinary acts

27 A single letter imposing discipline more severe than a  
28 letter of reprimand which is more than five years old will be removed from an  
29 employee's personnel file upon his or her request.

30 b. Multiple disciplinary acts

1                   If there is more than one letter imposing discipline  
2 which is more severe than a letter of reprimand on file, none of the letters may be  
3 removed until the most recent letter is more than five years old. At that time it  
4 and all previous disciplinary letters will be removed from the employee's  
5 personnel file upon request. For the purposes of this subsection "letter" includes  
6 all attachments.

7

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1                                    ARTICLE 24

2                                    GENERAL PROVISIONS

3  
4        I.        No Discrimination

5                    A.        Contractually Prohibited Discrimination

6                    1.        The provisions of this Agreement shall be applied equally to  
7 all employees in the bargaining unit without discrimination as to age, marital  
8 status, race, color, sex, creed, religion, national origin, sexual orientation, or  
9 political affiliation. It is further agreed that there will be no discrimination against  
10 a person with a disability unless bona fide job related reasons exist as provided  
11 by the Americans with Disabilities Act and rules promulgated under its terms.

12                   2.        The Union shall share equally with the County the  
13 responsibility for applying the provisions of the Agreement; provided that this  
14 responsibility shall be limited to those matters under the Union's influence or  
15 control, including but not limited to the behavior of shop stewards and the  
16 contents of Union bulletin boards.

17                   B.        Legally Prohibited Discrimination and County Complaint  
18 Procedure

19                   The County will maintain a complaint procedure for allegations of  
20 discrimination in violation of law.

21        II.        No Prejudicial Harassment

22                   A.        Prejudicial Acts Prohibited

23                   The County and the Union shall not condone and/or tolerate  
24 prejudicial remarks, actions, slurs, and jokes directed at, or expressed that are  
25 offensive to persons with disabilities, racial minority persons, persons having  
26 certain religious preferences or sexual orientation, or persons of a certain  
27 national origin.

1           **B.     Sexual Harassment Prohibited**

2           No employee(s) shall be subjected to unwelcomed sexual  
3 advances, requests for sexual favors, or any form of verbal or physical conduct  
4 of a sexual nature that is offensive, hostile or intimidating that interferes with the  
5 work performance of such employee(s).

6       **III.   Rules**

7           A.     All work rules shall be subject to discussion with the Union before  
8 becoming effective.

9           B.     The County will provide new employees a copy of the Agreement  
10 and applicable rules at time of hire.

11          C.     The County agrees to furnish each affected employee in the  
12 bargaining unit with a copy of all changes to work rules within thirty (30) days  
13 after they become effective.

14          D.     Any dispute as to the reasonableness of any new rule, or any  
15 dispute involving discrimination in the application of new or existing rules may be  
16 resolved through the grievance procedure beginning at Step 3.

17          E.     Except in emergencies, all work rules shall be posted on bulletin  
18 boards for a period of ten (10) consecutive work days prior to becoming effective.

19       **IV.   Changes in Existing Conditions**

20          A.     For the purpose of this Agreement, the term, "existing working  
21 conditions," means practices which have been:

- 22                   1.     Consistent;
- 23                   2.     Clearly acted upon; and
- 24                   3.     Readily ascertainable over a reasonable period of time as  
25 mutually accepted by the parties.

26          B.     Existing working conditions shall be changed only after the Union  
27 has been afforded opportunity to make suggestions and shall not be for arbitrary



1 or capricious reasons. The County shall post changes in existing working  
2 conditions prominently on all bulletin boards for a period of not less than fourteen  
3 (14) days before the changes are to be effective.

4 C. Disputes regarding the change of existing working conditions shall  
5 be resolved through the grievance procedure beginning at Step 3.

6 D. No payment of monies made in error, or not authorized by proper  
7 authority, shall be considered an existing condition. Such payments shall be  
8 governed by Article 14, "Section VIII".

9 E. Conditions relative to and governing working conditions of a  
10 particular nature are contained in Addenda B through G to this Agreement, which  
11 are attached and by this reference made a part hereof as though fully set forth  
12 herein.

13 **V. Uniforms and Protective Clothing**

14 **A. Application to Employees Generally**

15 If an employee is required to wear a uniform, protective clothing, or  
16 any type of protective device, such uniform, protective clothing, or protective  
17 device shall be furnished by the County; the cost of initial tailoring and repair of  
18 the uniform or protective clothing, or device shall be paid by the County, in  
19 accordance with the current practice.

20 **B. Coveralls and Boots**

21 All Heavy Equipment Operators, when required to service heavy  
22 equipment on the job, shall be provided coveralls laundered as needed by the  
23 County. Employees who are working under such conditions as to make  
24 protective rubber boots necessary shall be provided with those boots by the  
25 County. Coveralls or smocks will be provided in other jobs in accordance with  
26 existing practices.

27 **VI. Loss of Personal Property**

1           **A.     Procedure for Advancing Claims**

2           Employees who suffer a loss of personal property on County  
3 premises shall be provided a claims form by the Risk Management Division upon  
4 request. Premises, for this purpose, are defined as County facilities and  
5 vehicles. The Risk Management Division shall provide the requesting employee  
6 with a determination in writing by the County of the legal liability the County may  
7 have in the matter. The County will pay claims for which it determines it has  
8 legal liability.

9           **B.     Exclusion of Personal Vehicles**

10          Personal vehicles are expressly excluded from this provision. Loss  
11 or damage to employees' personal vehicles are the sole responsibility of the  
12 employee.

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1  
2 ARTICLE 25

3 SAVINGS CLAUSE AND FUNDING

4 I. Savings Clause

5 Should any article, section, or portion thereof, of this Agreement be held  
6 unlawful and unenforceable by any court of competent jurisdiction, or any  
7 administrative agency having jurisdiction over the subject matter, such decision  
8 shall apply only to the specific article, section, or portion thereof directly specified  
9 in the decision. Upon the issuance of any such decision, the parties agree  
10 immediately to negotiate a substitute, if possible, for the invalidated article,  
11 section, or portion thereof. All other portions of this Agreement, and the  
12 Agreement as a whole, shall continue without interruption for the term hereof.

13 II. Funding

14 The parties recognize that revenue needed to fund the wages and benefits  
15 and budget related existing conditions provided by the Agreement must be  
16 approved annually by established budget procedures. All such wages, benefits,  
17 and budget related conditions are, therefore, contingent upon sources of revenue  
18 and annual budget certification by the Tax Supervising and Conservation  
19 Committee. The County has no intention of cutting the wages, benefits, or  
20 budget related existing conditions specified in this Agreement because of  
21 budgetary limitations, but cannot and does not guarantee any level of  
22 employment in the bargaining unit covered by this Agreement.

23 The Board of County Commissioners agrees to include in its annual  
24 budget amounts sufficient to fund the wages, benefits, and budget related  
25 existing conditions provided by this Agreement, but makes no guarantee as to  
26 the certification of such budget pursuant to established budget procedures under  
27 Oregon law.

1           In the event of a delay in such certification, the County will make every  
2 reasonable effort to correct whatever budget deficiencies that exist, if any, in  
3 order to obtain certification. Retroactive monetary adjustment shall be made if  
4 any scheduled economic improvement is delayed due to a delay in certification,  
5 unless otherwise precluded by State or Federal law or administrative regulation.

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ARTICLE 26  
ENTIRE AGREEMENT

The parties acknowledge that during the negotiations which resulted in this Agreement each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. This Agreement constitutes the sole and entire existing Agreement between the parties. Except as specifically modified by or treated in this Agreement, all policies, matters, questions and terms affecting unit employees in their employment relationship with the County shall be governed by Article 4, Management Rights, unless such rights are specifically limited by the Multnomah County Code 3.10 or its successor and the Personnel Rules. The County and the Union for the life of the Agreement each voluntarily and unqualifiedly waives the right, and agrees that the other shall not be obliged, to bargain collectively with respect to any subject or matter referred to or covered by this Agreement, even though such subject or matter may not have been within the knowledge or contemplation of either party or both parties at the time that they negotiated and signed this Agreement.

Nothing in this article shall preclude the parties during the term of this Agreement from voluntarily entering into amendments to the Agreement; nor shall the Union and the County Chair or his or her designee(s) for labor relations be precluded from voluntarily entering into Memoranda of Understanding, Interpretation, or Exception concerning matters of contract administration.

ERCtext26 elu

ARTICLE 27TERMINATION

This Agreement shall be effective as of the First day of July, 1998, unless otherwise provided herein, and shall remain in full force and effect through the 30th day of June, 2001, and shall be automatically renewed from year-to-year thereafter, unless either party shall notify the other in writing no later than January 31, 2001, that it wishes to modify the contract for any reason. The contract shall remain in full force and effect during the period of negotiations.

ERCtext27 elu

IN WITNESS WHEREOF, the parties hereto have set their hands this \_\_\_\_ day of June, 1998.

MULTNOMAH COUNTY EMPLOYEES  
UNION, LOCAL 88, AFSCME, AFL-CIO

MULTNOMAH COUNTY, OREGON  
CHAIR

BY \_\_\_\_\_  
President

BY \_\_\_\_\_  
County Chair

BY \_\_\_\_\_  
Vice President

MULTNOMAH COUNTY, OREGON  
BOARD OF COUNTY COMMISSIONERS

BY \_\_\_\_\_  
Secretary

BY \_\_\_\_\_  
Commissioner

BY \_\_\_\_\_  
Treasurer

BY \_\_\_\_\_  
Commissioner

BY \_\_\_\_\_  
Commissioner

BY \_\_\_\_\_  
Jim Younger  
Council Representative  
AFSCME Council 75

BY \_\_\_\_\_  
Commissioner

NEGOTIATED BY:

BY \_\_\_\_\_  
Auditor

\_\_\_\_\_  
Kenneth Upton  
Labor Relations Manager  
Multnomah County, Oregon

BY \_\_\_\_\_  
District Attorney

REVIEWED:

BY \_\_\_\_\_  
Sheriff

\_\_\_\_\_  
Thomas Sponsler  
County Counsel  
Multnomah County, Oregon

SIGNATURE PAGE

ADDENDUM A  
CLASSIFICATIONS INCLUDED IN THE  
BARGAINING UNIT  
WITH PAY RANGES

**I. Listing of Classifications**

Classifications included in the bargaining unit are listed by title in Table I. Bargaining Unit Classifications and Wage Ranges, July 1, 1998, and in Table II. Bargaining Unit Classifications and Wage Ranges, September 1, 1998, PERS Pick-up Supplement.

**A. Excluded Positions within Listed Classifications**

Excluded positions within the listed classifications are as follows:

<u>Classification</u>	<u>Assignment</u>
Office Assistant 1, Office Assistant 2, and Office Assistant/Sr.	Employees assigned to Employee Services, or Central Payroll
Fiscal Specialist 1, Fiscal Specialist 2, and Fiscal Assistant/Sr.	Central Payroll positions
Administrative Secretary	Each Department Director's Secretary
Paralegal Assistant/Co. Counsel and County Counsel Office Assistant	County Counsel



**Classification****Assignment**

Word Processing  
Operator

Positions assigned to the word  
processing center for the Labor  
Relations Section

Program Development  
Technician

Labor Relations Section

Information Technology  
Classification

One bargaining unit position  
assigned to the LAN Unit serving  
the Labor Relations Section

The listing above does not preclude the inclusion or exclusion of positions during the term of the Agreement in accordance with the provisions of Article 3.

**B. Disclaimer**

It is understood between the parties that the attached listings of bargaining unit classifications and pay ranges are a good faith effort at a comprehensive listing of all classifications and salary ranges in effect on July 1, 1998 and on September 1, 1998. These listings are subject to correction if errors in inclusion, exclusion or calculation are discovered.

ERCtextA elu

**Local 88 Addendum A**  
**Classification Rates and Ranges Table**  
**Rates shown represent 3% COLA effective July 1, 1998**

JCN	Title	B/U	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
6005	ADMINISTRATIVE SECRETARY	0088	14.24	14.68	15.10	15.56	16.04	16.51	0.00	0.00	0.00	0.00
6291	ALCOHOL/DRUG EVALUATION SPEC	0088	15.91	16.82	17.37	18.43	18.99	20.11	20.87	21.71	0.00	0.00
6062	ANIMAL CARE AIDE	0088	9.76	10.03	10.33	10.64	10.96	11.29	0.00	0.00	0.00	0.00
6065	ANIMAL CARE TECHNICIAN	0088	12.49	12.81	13.16	13.58	14.04	14.47	0.00	0.00	0.00	0.00
6069	ANIMAL CONTROL AIDE	0088	11.08	11.35	11.68	12.04	12.36	12.72	0.00	0.00	0.00	0.00
6072	ANIMAL CONTROL DISPATCHER	0088	12.30	12.68	13.05	13.43	13.81	14.26	0.00	0.00	0.00	0.00
6071	ANIMAL CONTROL OFFICE ASST	0088	11.18	11.54	11.78	12.13	12.49	12.83	13.21	13.60	0.00	0.00
6067	ANIMAL CONTROL OFFICER	0088	14.98	15.42	15.87	16.36	16.83	17.37	0.00	0.00	0.00	0.00
6061	ANIMAL CONTROL OFFICER/SR	0088	16.36	16.84	17.35	17.87	18.41	19.10	0.00	0.00	0.00	0.00
6066	ANIMAL HEALTH TECHNICIAN	0088	13.58	14.04	14.47	14.92	15.32	15.74	0.00	0.00	0.00	0.00
6043	APPRAISAL SPECIALIST	0088	14.98	15.42	15.87	16.36	16.83	17.37	0.00	0.00	0.00	0.00
6011	ASBESTOS PROJECT SPECIALIST	0088	17.66	18.16	18.73	19.27	19.79	20.37	20.99	21.60	0.00	0.00
6344	BASIC SKILLS EDUCATOR	0088	18.19	18.75	19.28	19.89	20.50	21.08	0.00	0.00	0.00	0.00
6133	BLACKSMITH	0088	18.84	19.36	19.85	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6181	BODY AND FENDER MECHANIC	0088	18.84	19.36	19.85	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6060	BRIDGE MAINTENANCE MECHANIC	0088	18.84	19.36	19.85	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6059	BRIDGE OPERATOR	0088	12.10	12.43	12.78	13.17	13.60	14.02	0.00	0.00	0.00	0.00
6147	CARPENTER	0088	19.14	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6149	CARPENTER/LOCKSMITH	0088	19.14	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6082	CARTOGRAPHER	0088	16.05	16.52	17.00	17.52	17.99	18.49	19.08	19.65	0.00	0.00
6299	CASE MANAGEMENT ASSISTANT	0088	11.18	11.54	11.78	12.13	12.49	12.83	13.21	13.60	0.00	0.00
6298	CASE MANAGER 1	0088	12.76	13.11	13.47	13.84	14.29	14.68	15.09	15.54	16.03	0.00
6297	CASE MANAGER 2	0088	16.49	17.00	17.52	18.04	18.57	19.12	0.00	0.00	0.00	0.00
6296	CASE MANAGER/SENIOR	0088	17.33	17.85	18.40	18.92	19.51	20.10	0.00	0.00	0.00	0.00
6093	CHEMICAL APPLICATOR OPERATOR	0088	15.21	15.68	16.11	16.59	17.11	17.58	0.00	0.00	0.00	0.00
6259	CIVIL DEPUTY	0088	15.21	15.68	16.11	16.59	17.11	17.58	0.00	0.00	0.00	0.00
6235	CIVIL ENGINEER/ASSISTANT	0088	21.20	21.82	22.47	23.09	23.76	24.51	0.00	0.00	0.00	0.00
6236	CIVIL ENGINEER/ASSOCIATE	0088	22.71	23.35	24.01	24.69	25.46	26.25	0.00	0.00	0.00	0.00
6003	CLERICAL UNIT SUPERVISOR	0088	14.98	15.42	15.87	16.36	16.83	17.37	0.00	0.00	0.00	0.00
6013	COMMUNITY INFORMATION SPEC	0088	14.98	15.42	15.87	16.36	16.83	17.37	0.00	0.00	0.00	0.00
6307	COMMUNITY PLACE/RESOURCE SPEC	0088	14.64	15.05	15.48	15.94	16.44	16.88	0.00	0.00	0.00	0.00

6269	COMMUNITY SERVICE PLACE SPEC	0088	14.98	15.42	15.87	16.36	16.83	17.37	0.00	0.00	0.00	0.00
6267	COMMUNITY WORKS LEADER	0088	14.64	15.05	15.48	15.94	16.44	16.88	0.00	0.00	0.00	0.00
6041	COMPUTER SYSTEMS OPERATOR	0088	16.39	16.82	17.25	17.95	18.48	19.07	19.55	20.16	0.00	0.00
6017	CONSTRUCTION PROJECTS SPEC	0088	19.27	19.79	20.37	20.99	21.60	22.25	22.92	23.61	0.00	0.00
6016	CONSTRUCTION PROJECTS SPEC/SR	0088	20.78	21.39	22.04	22.70	23.38	24.08	24.80	25.54	0.00	0.00
6010	CONSTRUCTION PROJECTS TECH	0088	15.48	15.94	16.44	16.88	17.39	17.91	0.00	0.00	0.00	0.00
6268	CORRECTIONS COUNSELOR	0088	15.91	16.82	17.37	18.43	18.99	20.11	20.87	21.71	22.38	23.05
6264	CORRECTIONS HEARINGS OFFICER	0088	18.43	18.99	19.52	20.11	20.65	21.24	21.86	22.48	23.15	23.84
6266	CORRECTIONS TECHNICIAN	0088	13.58	13.98	14.39	14.82	15.30	15.73	0.00	0.00	0.00	0.00
6006	COUNTY COUNSEL OFFICE ASST	0088	13.58	13.98	14.39	14.82	15.30	15.73	0.00	0.00	0.00	0.00
6114	CUSTODIAN	0088	11.53	12.14	12.86	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6249	D A INVESTIGATOR	0088	17.95	18.73	19.38	20.16	20.94	21.78	0.00	0.00	0.00	0.00
6073	DATA ANALYST	0088	17.66	18.16	18.73	19.27	19.79	20.37	20.99	21.60	0.00	0.00
6007	DATA ENTRY OPERATOR	0088	11.59	11.96	12.22	12.57	12.92	13.28	13.65	14.02	0.00	0.00
6008	DATA PROCESSING CLERK	0088	11.18	11.54	11.78	12.13	12.49	12.83	13.21	13.60	0.00	0.00
6014	DATA PROCESSING SPECIALIST 1	0088	15.54	16.05	16.49	16.98	17.51	18.03	0.00	0.00	0.00	0.00
6023	DATA PROCESSING SPECIALIST 2	0088	17.66	18.16	18.73	19.27	19.79	20.37	20.99	21.60	0.00	0.00
6074	DATA TECHNICIAN	0088	14.64	15.05	15.48	15.94	16.44	16.88	0.00	0.00	0.00	0.00
6347	DENTAL ASSISTANT/RECEPTIONIST	0088	11.54	11.78	12.13	12.49	12.83	13.21	13.60	14.01	0.00	0.00
6348	DENTAL HYGIENIST	0088	22.06	22.73	23.40	24.10	24.82	25.56	0.00	0.00	0.00	0.00
6282	DEPUTY MEDICAL EXAMINER	0088	17.24	17.78	18.22	18.79	19.26	19.78	20.34	20.94	0.00	0.00
6292	DEPUTY PUBLIC GUARDIAN	0088	17.66	18.16	18.73	19.27	19.79	20.37	20.99	21.60	0.00	0.00
6124	DRIVER	0088	12.29	12.57	12.95	13.30	13.70	0.00	0.00	0.00	0.00	0.00
6118	ELECTIONS MATERIALS COORD	0088	14.34	14.77	15.20	15.64	16.07	16.52	0.00	0.00	0.00	0.00
6117	ELECTIONS PROJECTS ASSISTANT	0088	12.31	12.68	13.05	13.43	13.82	14.28	0.00	0.00	0.00	0.00
6108	ELECTIONS SPECIALIST	0088	14.98	15.42	15.87	16.36	16.83	17.37	0.00	0.00	0.00	0.00
6239	ELECTRO/MECHANICAL ENGR ASSOC	0088	22.71	23.35	24.01	24.69	25.46	26.25	0.00	0.00	0.00	0.00
6237	ELECTRO/MECHANICAL ENGR ASST	0088	21.20	21.82	22.47	23.09	23.76	24.51	0.00	0.00	0.00	0.00
6300	ELIGIBILITY SPECIALIST	0088	12.76	13.11	13.47	13.84	14.29	14.68	15.09	15.54	16.03	0.00
6230	ENGINEER TECHNICIAN/AIDE	0088	15.43	15.85	16.34	16.67	17.24	17.79	0.00	0.00	0.00	0.00
6231	ENGINEER TECHNICIAN/ASSISTANT	0088	16.74	17.24	17.79	18.27	18.79	19.33	0.00	0.00	0.00	0.00
6232	ENGINEER TECHNICIAN/ASSOCIATE	0088	17.94	18.50	19.13	19.78	20.39	21.08	0.00	0.00	0.00	0.00
6234	ENGINEER TECHNICIAN/PRINCIPAL	0088	22.71	23.35	24.01	24.69	25.46	26.25	0.00	0.00	0.00	0.00
6233	ENGINEER TECHNICIAN/SENIOR	0088	21.20	21.82	22.47	23.09	23.76	24.51	0.00	0.00	0.00	0.00
6180	EQUIPMENT MECHANIC 1	0088	14.67	15.09	15.53	16.03	16.49	17.00	0.00	0.00	0.00	0.00
6182	EQUIPMENT MECHANIC 2	0088	18.84	19.36	19.85	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6107	EQUIPMENT/PROPERTY TECHNICIAN	0088	13.85	14.28	14.70	15.13	15.59	16.06	0.00	0.00	0.00	0.00

6097	FAC MAINT DISPATCH/SCHEDULER	0088	18.16	18.70	19.26	19.84	20.44	21.04	0.00	0.00	0.00	0.00
6094	FACILITIES MAINTENANCE WORKER	0088	12.49	12.95	13.43	13.77	14.17	14.64	15.03	0.00	0.00	0.00
6258	FACILITY SECURITY OFFICER	0088	12.31	12.68	13.07	13.43	13.82	14.28	0.00	0.00	0.00	0.00
6305	FAMILY INTERVENTION SPECIALIST	0088	17.66	18.16	18.73	19.27	19.79	20.37	0.00	0.00	0.00	0.00
6028	FISCAL ASSISTANT	0088	11.18	11.54	11.78	12.13	12.49	12.83	13.21	13.60	0.00	0.00
6027	FISCAL ASSISTANT/SENIOR	0088	13.58	13.98	14.39	14.82	15.30	15.73	0.00	0.00	0.00	0.00
6029	FISCAL SPECIALIST 1	0088	14.98	15.42	15.87	16.36	16.83	17.37	0.00	0.00	0.00	0.00
6030	FISCAL SPECIALIST 2	0088	17.66	18.16	18.73	19.27	19.79	20.37	20.99	21.60	0.00	0.00
6184	FLEET & SUPPORT SERVICES SPEC	0088	17.66	18.16	18.73	19.27	19.79	20.37	0.00	0.00	0.00	0.00
6125	GARAGE ATTENDANT	0088	11.40	12.10	12.80	0.00	0.00	0.00	0.00	0.00	0.00	0.00
7207	GRAPHIC DESIGNER	0088	15.26	15.73	16.19	16.70	17.18	17.69	0.00	0.00	0.00	0.00
6294	HEALTH ASSISTANT	0088	11.18	11.54	11.78	12.13	12.49	12.83	13.21	13.60	14.27	0.00
6352	HEALTH EDUCATOR	0088	18.19	18.75	19.28	19.89	20.50	21.08	0.00	0.00	0.00	0.00
6019	HEALTH INFORMATION SPEC 1	0088	12.78	13.11	13.50	13.92	14.29	14.70	0.00	0.00	0.00	0.00
6018	HEALTH INFORMATION SPEC 2	0088	14.64	15.05	15.48	15.94	16.44	16.88	0.00	0.00	0.00	0.00
6024	HEALTH INFORMATION SPEC/SENIOR	0088	16.03	16.49	17.03	17.52	18.04	18.58	0.00	0.00	0.00	0.00
6177	HEAVY EQUIPMENT OPERATOR	0088	18.84	19.36	19.85	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6083	HOUSING DEVELOPMENT SPECIALIST	0088	19.10	19.79	20.50	21.20	21.91	22.70	0.00	0.00	0.00	0.00
6079	HOUSING REHABILITATION SPEC	0088	19.36	19.91	20.49	21.12	21.71	22.34	0.00	0.00	0.00	0.00
6190	INFORMATION SYSTEMS ANALYST 1	0088	16.66	17.15	17.66	18.16	18.73	19.27	19.79	20.37	0.00	0.00
6189	INFORMATION SYSTEMS ANALYST 2	0088	19.27	19.79	20.37	20.99	21.60	22.25	22.92	23.61	0.00	0.00
6188	INFORMATION SYSTEMS ANALYST 3	0088	21.32	22.00	22.65	23.27	23.99	24.71	25.45	26.21	0.00	0.00
6187	INFORMATION SYSTEMS ANALYST/SR	0088	23.27	23.99	24.71	25.45	26.21	27.00	27.81	28.64	0.00	0.00
6191	INFORMATION SYSTEMS SPEC 1	0088	13.40	13.80	14.21	14.64	15.05	15.48	16.44	15.94	0.00	0.00
6192	INFORMATION SYSTEMS SPEC 2	0088	15.05	15.48	15.94	16.44	16.88	17.39	17.91	18.45	0.00	0.00
6193	INFORMATION SYSTEMS SPEC 3	0088	16.44	16.88	17.39	17.91	18.45	19.00	19.57	20.16	0.00	0.00
6238	INTEGRATED COMM SERVICES COORD	0088	17.33	17.85	18.40	18.92	19.51	20.10	0.00	0.00	0.00	0.00
6280	INVESTIGATIVE TECHNICIAN	0088	14.24	14.68	15.10	15.56	16.04	16.51	0.00	0.00	0.00	0.00
6364	INVOLUNTARY COMMITMENT INVEST	0088	19.10	19.67	20.26	20.87	21.49	22.13	22.82	23.49	0.00	0.00
6262	JAIL STEWARD	0088	15.21	15.68	16.11	16.59	17.12	17.63	0.00	0.00	0.00	0.00
6285	JUVENILE COUNSELING ASSISTANT	0088	14.98	15.42	15.87	16.36	16.83	17.37	0.00	0.00	0.00	0.00
6272	JUVENILE COUNSELOR	0088	15.91	16.82	17.37	18.43	18.99	20.11	20.87	21.71	22.38	23.05
6157	JUVENILE RECORDS TECHNICIAN	0088	11.78	12.13	12.49	12.83	13.21	13.60	14.00	14.42	0.00	0.00
6332	LABORATORY ASSISTANT	0088	10.63	10.96	11.28	11.63	11.99	12.35	0.00	0.00	0.00	0.00
6335	LABORATORY SPECIALIST	0088	18.19	18.75	19.28	19.89	20.50	21.08	0.00	0.00	0.00	0.00
6333	LABORATORY TECHNICIAN	0088	13.58	13.98	14.39	14.82	15.30	15.73	0.00	0.00	0.00	0.00
6246	LEGAL ASSISTANT	0088	14.58	14.99	15.39	15.88	16.35	16.75	0.00	0.00	0.00	0.00

6241	LEGAL ASSISTANT/SENIOR	0088	16.05	16.49	16.92	17.47	17.98	18.43	0.00	0.00	0.00	0.00
7221	LIBRARIAN 1	0088	17.66	18.20	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
7222	LIBRARIAN 2	0088	19.49	20.07	20.65	21.28	21.91	22.57	0.00	0.00	0.00	0.00
7211	LIBRARY ASSISTANT	0088	14.54	14.99	15.44	15.88	16.38	16.84	0.00	0.00	0.00	0.00
7212	LIBRARY ASSISTANT/SENIOR	0088	16.04	16.49	17.02	17.52	18.04	18.58	0.00	0.00	0.00	0.00
7202	LIBRARY CLERK	0088	11.18	11.54	11.78	12.13	12.49	12.83	13.21	13.60	0.00	0.00
7231	LIBRARY COMPUTER SYSTEMS OPER	0088	16.39	16.82	17.25	17.95	18.48	19.07	19.55	20.16	0.00	0.00
7229	LIBRARY DELIVERY DRIVER	0088	12.37	12.75	13.11	13.50	13.92	14.33	0.00	0.00	0.00	0.00
7224	LIBRARY MATERIALS PROCESSOR	0088	10.05	10.36	10.66	10.99	11.31	11.66	0.00	0.00	0.00	0.00
7223	LIBRARY OUTREACH SPECIALIST	0088	18.54	19.11	19.70	20.28	20.90	21.50	0.00	0.00	0.00	0.00
7203	LIBRARY PAGE	0088	9.39	9.69	9.99	10.27	10.59	10.89	0.00	0.00	0.00	0.00
7204	LIBRARY PAGE/SENIOR	0088	10.35	10.65	10.98	11.30	11.65	12.01	0.00	0.00	0.00	0.00
6070	LICENSE COMPLIANCE OFFICER	0088	13.58	14.04	14.47	14.92	15.32	15.74	0.00	0.00	0.00	0.00
7205	MAIL CLERK	0088	9.74	10.31	10.89	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6096	MAINTENANCE CREW LEADER	0088	15.48	15.91	16.39	16.82	17.37	17.85	0.00	0.00	0.00	0.00
6092	MAINTENANCE WORKER	0088	12.95	13.43	13.77	14.17	14.64	15.03	15.46	0.00	0.00	0.00
6185	MARINE EQUIPMENT SPECIALIST	0088	18.84	19.36	19.85	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6369	MARRIAGE AND FAMILY COUNSELOR	0088	19.71	20.29	20.87	21.47	22.11	22.77	23.47	24.16	0.00	0.00
6151	MC SO RECORDS SUPERVISOR	0088	15.65	16.11	16.59	17.10	17.60	18.14	0.00	0.00	0.00	0.00
6150	MC SO RECORDS TECHNICIAN	0088	12.79	13.17	13.58	13.98	14.39	14.82	15.30	15.73	0.00	0.00
6322	MEDICAL RECORDS TECH/SR	0088	15.67	16.14	16.62	17.12	17.63	18.16	0.00	0.00	0.00	0.00
6153	MC SO RECORDS TRAINEE	0088	12.18	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6321	MEDICAL RECORDS TECHNICIAN	0088	14.24	14.68	15.10	15.56	16.04	16.51	0.00	0.00	0.00	0.00
6009	MEDICAL SERVICES CLERK	0088	13.58	13.98	14.39	14.82	15.30	15.73	0.00	0.00	0.00	0.00
6365	MENTAL HEALTH CONSULTANT	0088	19.10	19.67	20.26	20.87	21.49	22.13	0.00	0.00	0.00	0.00
6359	NUISANCE ENFORCEMENT OFFICER	0088	16.49	17.00	17.52	18.04	18.57	19.12	0.00	0.00	0.00	0.00
6342	NUTRITION ASSISTANT	0088	12.78	13.11	13.50	13.92	14.29	14.70	0.00	0.00	0.00	0.00
6340	NUTRITIONIST	0088	18.19	18.75	19.28	19.89	20.50	21.08	0.00	0.00	0.00	0.00
6000	OFFICE ASSISTANT 1	0088	9.74	10.31	10.89	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6001	OFFICE ASSISTANT 2	0088	11.18	11.54	11.78	12.13	12.49	12.83	13.21	13.60	0.00	0.00
6002	OFFICE ASSISTANT/SENIOR	0088	13.58	13.98	14.39	14.82	15.30	15.73	0.00	0.00	0.00	0.00
7206	OUTREACH DRIVER	0088	12.36	12.73	13.10	13.50	13.92	14.33	0.00	0.00	0.00	0.00
6212	PARALEGAL ASST/COUNTY COUNSEL	0088	15.30	15.76	16.23	16.72	17.41	17.93	0.00	0.00	0.00	0.00
6286	PATHOLOGIST ASSISTANT	0088	15.48	15.91	16.39	16.82	17.37	17.85	18.40	18.92	0.00	0.00
6119	PHARMACY TECHNICIAN	0088	12.92	13.33	13.72	14.13	14.56	15.00	0.00	0.00	0.00	0.00
6075	PLANNER	0088	18.33	18.81	19.36	19.91	20.49	21.12	21.71	22.34	0.00	0.00
6078	PLANNER/SENIOR	0088	21.71	22.29	22.95	23.63	24.31	25.02	0.00	0.00	0.00	0.00

7209 PRINTING SPECIALIST	0088	15.26	15.73	16.19	16.70	17.18	17.69	0.00	0.00	0.00	0.00
6276 PROBATION/PAROLE OFFICER	0088	15.91	16.82	17.37	18.43	18.99	20.11	20.87	21.71	22.38	23.05
7230 PRODUCTION ASSISTANT	0088	11.71	12.07	12.44	12.80	13.20	13.60	0.00	0.00	0.00	0.00
7232 PRODUCTION GRAPHIC DESIGNER	0088	16.49	17.00	17.52	18.04	18.57	19.12	0.00	0.00	0.00	0.00
6022 PROGRAM COORDINATOR	0088	16.49	17.00	17.52	18.04	18.57	19.12	0.00	0.00	0.00	0.00
6021 PROGRAM DEVELOPMENT SPEC	0088	17.66	18.16	18.73	19.27	19.79	20.37	20.99	21.60	0.00	0.00
6020 PROGRAM DEVELOPMENT TECH	0088	14.64	15.05	15.48	15.94	16.44	16.88	0.00	0.00	0.00	0.00
6368 PROGRAM EVALUATION SPECIALIST	0088	19.10	19.79	20.50	21.20	21.91	22.70	0.00	0.00	0.00	0.00
6033 PROGRAMMER ANALYST 1	0088	16.49	16.97	17.46	17.95	18.48	19.07	0.00	0.00	0.00	0.00
6035 PROGRAMMER ANALYST 2	0088	19.06	19.55	20.18	20.71	21.32	22.00	0.00	0.00	0.00	0.00
6031 PROGRAMMER ANALYST/SENIOR	0088	21.32	22.00	22.65	23.27	23.99	24.71	0.00	0.00	0.00	0.00
6049 PROPERTY APPRAISER/COMMERCIAL	0088	17.80	18.59	19.43	20.29	20.91	21.59	0.00	0.00	0.00	0.00
6050 PROPERTY APPRAISER/PERSONAL	0088	17.80	18.59	19.43	20.29	20.91	21.59	0.00	0.00	0.00	0.00
6042 PROPERTY APPRAISER/RESIDENTIAL	0088	17.80	18.59	19.43	20.29	20.91	21.59	0.00	0.00	0.00	0.00
6113 PROPERTY MANAGEMENT SPECIALIST	0088	17.66	18.16	18.73	19.27	19.79	20.37	20.99	21.60	0.00	0.00
7208 PUBLICATION SPECIALIST	0088	15.26	15.73	16.19	16.70	17.18	17.69	0.00	0.00	0.00	0.00
6112 PURCHASING SPECIALIST 1	0088	14.64	15.05	15.48	15.94	16.44	16.88	0.00	0.00	0.00	0.00
6111 PURCHASING SPECIALIST 2	0088	17.66	18.16	18.73	19.27	19.79	20.37	20.99	21.60	0.00	0.00
6116 RECORDS ADMINISTRATION ASST	0088	13.58	13.98	14.39	14.82	15.26	15.73	0.00	0.00	0.00	0.00
6211 RIGHT OF WAY PERMITS/CHIEF	0088	20.81	21.40	22.05	22.71	23.35	24.04	0.00	0.00	0.00	0.00
6371 RISK MANAGEMENT TECHNICIAN	0088	15.54	16.03	16.49	17.00	17.51	18.03	0.00	0.00	0.00	0.00
6356 SANITARIAN	0088	18.19	18.75	19.28	19.89	20.50	21.08	0.00	0.00	0.00	0.00
6357 SANITARIAN/CHIEF	0088	20.06	20.64	21.27	21.89	22.55	23.27	0.00	0.00	0.00	0.00
6245 SEWING SPECIALIST	0088	10.63	10.96	11.28	11.63	11.99	12.35	0.00	0.00	0.00	0.00
6295 SOCIAL WORKER	0088	20.06	20.64	21.27	21.89	22.55	23.27	0.00	0.00	0.00	0.00
7227 STACK SERVICES ASSISTANT	0088	12.92	13.32	13.72	14.13	14.54	15.00	0.00	0.00	0.00	0.00
6098 STRIPER OPERATOR	0088	15.21	15.68	16.11	16.59	17.11	17.58	0.00	0.00	0.00	0.00
6250 SUPPORT ENFORCEMENT AGENT	0088	14.98	15.44	15.88	16.37	16.83	17.37	0.00	0.00	0.00	0.00
6106 SUPPORT SERVICES TECHNICIAN	0088	14.64	15.05	15.48	15.94	16.44	16.88	0.00	0.00	0.00	0.00
6091 SURVEY SPECIALIST	0088	21.20	21.82	22.47	23.09	23.76	24.51	0.00	0.00	0.00	0.00
6038 SYSTEMS PROGRAMMER	0088	25.16	25.88	26.60	27.44	28.33	29.18	30.06	30.96	0.00	0.00
6025 TAX COLLECTION SPECIALIST	0088	14.97	15.43	15.85	16.34	16.74	17.18	0.00	0.00	0.00	0.00
6045 TAX EXEMPTION SPECIALIST	0088	18.73	19.27	19.79	20.37	20.99	21.60	22.25	22.92	0.00	0.00
7210 TECHNICAL SERVICES ASSISTANT	0088	14.54	14.99	15.44	15.88	16.38	16.84	0.00	0.00	0.00	0.00
7213 TECHNICAL SERVICES ASST/SENIOR	0088	16.04	16.49	17.02	17.52	18.04	18.58	0.00	0.00	0.00	0.00
6145 TELECOMM OFFICE SPEC 1	0088	17.66	18.16	18.73	19.27	19.79	20.37	20.99	21.60	0.00	0.00
6154 TELECOMM OFFICE SPEC 2	0088	20.69	21.32	21.96	22.62	23.30	24.00	0.00	0.00	0.00	0.00

6195 TELECOMM SPEC 1	0088	15.70	16.17	16.66	17.15	17.66	18.16	18.73	19.27	0.00	0.00
6145 TELECOMM SPEC 2	0088	18.16	18.73	19.27	19.79	20.37	20.99	21.60	22.25	0.00	0.00
6194 TELECOMM SPEC 3	0088	19.27	19.79	20.37	20.99	21.60	22.25	22.92	23.61	0.00	0.00
6146 TELECOMM SPEC/SR	0088	20.09	20.70	21.32	21.96	22.62	23.30	24.00	24.72	0.00	0.00
6146 TELECOMMUNICATION TECH SPEC	0088	17.66	18.16	18.73	19.27	19.79	20.37	20.99	21.60	0.00	0.00
6076 TRANSPORTATION PLANNING SPEC	0088	19.91	20.49	21.12	21.71	22.34	23.01	23.71	24.19	0.00	0.00
6173 TRUCK DRIVER	0088	14.69	15.12	15.52	15.99	16.42	16.89	0.00	0.00	0.00	0.00
6290 VETERANS SERVICES OFFICER	0088	17.66	18.16	18.73	19.27	19.79	20.37	20.99	21.60	0.00	0.00
6247 VICTIM ADVOCATE	0088	15.91	16.82	17.37	18.43	18.99	20.11	20.87	21.71	0.00	0.00
6263 VOLUNTEER COORDINATOR	0088	17.66	18.16	18.73	19.27	19.79	20.37	20.99	21.60	0.00	0.00
6186 WAN ANALYST 1	0088	17.13	17.64	18.17	18.72	19.27	19.79	20.37	20.99	0.00	0.00
6053 WAN ANALYST 2	0088	19.79	20.37	20.99	21.60	22.25	22.92	23.61	24.32	0.00	0.00
6039 WAN ANALYST 3	0088	22.53	23.21	23.90	24.62	25.36	26.12	26.90	27.71	0.00	0.00
6053 WAN SPECIALIST	0088	19.27	19.79	20.37	20.99	21.60	22.25	0.00	0.00	0.00	0.00
6039 WAN SPECIALIST/SENIOR	0088	22.53	23.21	23.90	24.62	25.36	26.12	0.00	0.00	0.00	0.00
6109 WAREHOUSE WORKER	0088	12.29	12.57	12.95	13.30	13.70	0.00	0.00	0.00	0.00	0.00
6110 WAREHOUSE WORKER/CHIEF	0088	14.34	14.77	15.20	15.64	16.07	16.52	0.00	0.00	0.00	0.00
6084 WEATHERIZATION INSPECTOR	0088	17.45	17.96	18.49	19.07	19.61	20.21	0.00	0.00	0.00	0.00
6080 WEATHERIZATION SPECIALIST	0088	16.44	16.92	17.45	17.96	18.49	19.07	0.00	0.00	0.00	0.00
6004 WORD PROCESSING OPERATOR	0088	11.59	11.96	12.22	12.57	12.92	13.28	13.65	14.02	0.00	0.00
6152 WORD PROCESSING OPERATOR/SR	0088	13.58	13.98	14.39	14.82	15.30	15.73	0.00	0.00	0.00	0.00
6336 X-RAY TECHNICIAN	0088	13.73	14.07	14.48	14.92	15.32	15.74	0.00	0.00	0.00	0.00

**Local 88 Addendum A**  
**Classification Rates and Ranges Table**  
**PERS Pick-Up Supplement, effective September 1, 1998**

JCN	Title	B/U	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
6005	ADMINISTRATIVE SECRETARY	0088	13.43	13.85	14.25	14.68	15.13	15.58	0.00	0.00	0.00	0.00
6291	ALCOHOL/DRUG EVALUATION SPEC	0088	15.01	15.87	16.39	17.39	17.92	18.97	19.69	20.48	0.00	0.00
6062	ANIMAL CARE AIDE	0088	9.21	9.46	9.75	10.04	10.34	10.65	0.00	0.00	0.00	0.00
6065	ANIMAL CARE TECHNICIAN	0088	11.78	12.08	12.42	12.81	13.25	13.65	0.00	0.00	0.00	0.00
6069	ANIMAL CONTROL AIDE	0088	10.45	10.71	11.02	11.36	11.66	12.00	0.00	0.00	0.00	0.00
6072	ANIMAL CONTROL DISPATCHER	0088	11.60	11.96	12.31	12.67	13.03	13.45	0.00	0.00	0.00	0.00
6071	ANIMAL CONTROL OFFICE ASST	0088	10.55	10.89	11.11	11.44	11.78	12.10	12.46	12.83	0.00	0.00
6067	ANIMAL CONTROL OFFICER	0088	14.13	14.55	14.97	15.43	15.88	16.39	0.00	0.00	0.00	0.00
6061	ANIMAL CONTROL OFFICER/SR	0088	15.43	15.89	16.37	16.86	17.37	18.02	0.00	0.00	0.00	0.00
6066	ANIMAL HEALTH TECHNICIAN	0088	12.81	13.25	13.65	14.08	14.45	14.85	0.00	0.00	0.00	0.00
6043	APPRAISAL SPECIALIST	0088	14.13	14.55	14.97	15.43	15.88	16.39	0.00	0.00	0.00	0.00
6011	ASBESTOS PROJECT SPECIALIST	0088	16.66	17.13	17.67	18.18	18.67	19.22	19.80	20.38	0.00	0.00
6344	BASIC SKILLS EDUCATOR	0088	17.16	17.69	18.19	18.76	19.34	19.89	0.00	0.00	0.00	0.00
6133	BLACKSMITH	0088	17.77	18.26	18.73	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6181	BODY AND FENDER MECHANIC	0088	17.77	18.26	18.73	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6060	BRIDGE MAINTENANCE MECHANIC	0088	17.77	18.26	18.73	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6059	BRIDGE OPERATOR	0088	11.42	11.73	12.06	12.42	12.83	13.23	0.00	0.00	0.00	0.00
6147	CARPENTER	0088	18.06	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6149	CARPENTER/LOCKSMITH	0088	18.06	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6082	CARTOGRAPHER	0088	15.14	15.58	16.04	16.53	16.97	17.44	18.00	18.54	0.00	0.00
6299	CASE MANAGEMENT ASSISTANT	0088	10.55	10.89	11.11	11.44	11.78	12.10	12.46	12.83	0.00	0.00
6298	CASE MANAGER 1	0088	12.04	12.37	12.71	13.06	13.48	13.85	14.24	14.66	15.12	0.00
6297	CASE MANAGER 2	0088	15.56	16.04	16.53	17.02	17.52	18.04	0.00	0.00	0.00	0.00
6296	CASE MANAGER/SENIOR	0088	16.35	16.84	17.36	17.85	18.41	18.96	0.00	0.00	0.00	0.00
6093	CHEMICAL APPLICATOR OPERATOR	0088	14.35	14.79	15.20	15.65	16.14	16.58	0.00	0.00	0.00	0.00
6259	CIVIL DEPUTY	0088	14.35	14.79	15.20	15.65	16.14	16.58	0.00	0.00	0.00	0.00
6235	CIVIL ENGINEER/ASSISTANT	0088	20.00	20.58	21.20	21.78	22.42	23.12	0.00	0.00	0.00	0.00
6236	CIVIL ENGINEER/ASSOCIATE	0088	21.42	22.03	22.65	23.29	24.02	24.76	0.00	0.00	0.00	0.00
6003	CLERICAL UNIT SUPERVISOR	0088	14.13	14.55	14.97	15.43	15.88	16.39	0.00	0.00	0.00	0.00
6013	COMMUNITY INFORMATION SPEC	0088	14.13	14.55	14.97	15.43	15.88	16.39	0.00	0.00	0.00	0.00
6307	COMMUNITY PLACE/RESOURCE SPEC	0088	13.81	14.20	14.60	15.04	15.51	15.92	0.00	0.00	0.00	0.00



6269	COMMUNITY SERVICE PLACE SPEC	0088	14.13	14.55	14.97	15.43	15.88	16.39	0.00	0.00	0.00	0.00
6267	COMMUNITY WORKS LEADER	0088	13.81	14.20	14.60	15.04	15.51	15.92	0.00	0.00	0.00	0.00
6041	COMPUTER SYSTEMS OPERATOR	0088	15.46	15.87	16.27	16.93	17.43	17.99	18.44	19.02	0.00	0.00
6017	CONSTRUCTION PROJECTS SPEC	0088	18.18	18.67	19.22	19.80	20.38	20.99	21.62	22.27	0.00	0.00
6016	CONSTRUCTION PROJECTS SPEC/SR	0088	19.60	20.18	20.79	21.42	22.06	22.72	23.40	24.09	0.00	0.00
6010	CONSTRUCTION PROJECTS TECH	0088	14.60	15.04	15.51	15.92	16.41	16.90	0.00	0.00	0.00	0.00
6268	CORRECTIONS COUNSELOR	0088	15.01	15.87	16.39	17.39	17.92	18.97	19.69	20.48	21.11	21.75
6264	CORRECTIONS HEARINGS OFFICER	0088	17.39	17.92	18.42	18.97	19.48	20.04	20.62	21.21	21.84	22.49
6266	CORRECTIONS TECHNICIAN	0088	12.81	13.19	13.58	13.98	14.43	14.84	0.00	0.00	0.00	0.00
6006	COUNTY COUNSEL OFFICE ASST	0088	12.81	13.19	13.58	13.98	14.43	14.84	0.00	0.00	0.00	0.00
6114	CUSTODIAN	0088	10.88	11.45	12.13	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6249	D A INVESTIGATOR	0088	16.93	17.67	18.28	19.02	19.75	20.55	0.00	0.00	0.00	0.00
6073	DATA ANALYST	0088	16.66	17.13	17.67	18.18	18.67	19.22	19.80	20.38	0.00	0.00
6007	DATA ENTRY OPERATOR	0088	10.93	11.28	11.53	11.86	12.19	12.53	12.88	13.23	0.00	0.00
6008	DATA PROCESSING CLERK	0088	10.55	10.89	11.11	11.44	11.78	12.10	12.46	12.83	0.00	0.00
6014	DATA PROCESSING SPECIALIST 1	0088	14.66	15.14	15.56	16.02	16.52	17.01	0.00	0.00	0.00	0.00
6023	DATA PROCESSING SPECIALIST 2	0088	16.66	17.13	17.67	18.18	18.67	19.22	19.80	20.38	0.00	0.00
6074	DATA TECHNICIAN	0088	13.81	14.20	14.60	15.04	15.51	15.92	0.00	0.00	0.00	0.00
6347	DENTAL ASSISTANT/RECEPTIONIST	0088	10.89	11.11	11.44	11.78	12.10	12.46	12.83	13.22	0.00	0.00
6348	DENTAL HYGIENIST	0088	20.81	21.44	22.08	22.74	23.42	24.11	0.00	0.00	0.00	0.00
6282	DEPUTY MEDICAL EXAMINER	0088	16.26	16.77	17.19	17.73	18.17	18.66	19.19	19.75	0.00	0.00
6292	DEPUTY PUBLIC GUARDIAN	0088	16.66	17.13	17.67	18.18	18.67	19.22	19.80	20.38	0.00	0.00
6124	DRIVER	0088	11.59	11.86	12.22	12.55	12.92	0.00	0.00	0.00	0.00	0.00
6118	ELECTIONS MATERIALS COORD	0088	13.53	13.93	14.34	14.75	15.16	15.58	0.00	0.00	0.00	0.00
6117	ELECTIONS PROJECTS ASSISTANT	0088	11.61	11.96	12.31	12.67	13.04	13.47	0.00	0.00	0.00	0.00
6108	ELECTIONS SPECIALIST	0088	14.13	14.55	14.97	15.43	15.88	16.39	0.00	0.00	0.00	0.00
6239	ELECTRO/MECHANICAL ENGR ASSOC	0088	21.42	22.03	22.65	23.29	24.02	24.76	0.00	0.00	0.00	0.00
6237	ELECTRO/MECHANICAL ENGR ASST	0088	20.00	20.58	21.20	21.78	22.42	23.12	0.00	0.00	0.00	0.00
6300	ELIGIBILITY SPECIALIST	0088	12.04	12.37	12.71	13.06	13.48	13.85	14.24	14.66	15.12	0.00
6230	ENGINEER TECHNICIAN/AIDE	0088	14.56	14.95	15.42	15.73	16.26	16.78	0.00	0.00	0.00	0.00
6231	ENGINEER TECHNICIAN/ASSISTANT	0088	15.79	16.26	16.78	17.24	17.73	18.24	0.00	0.00	0.00	0.00
6232	ENGINEER TECHNICIAN/ASSOCIATE	0088	16.92	17.45	18.05	18.66	19.24	19.89	0.00	0.00	0.00	0.00
6234	ENGINEER TECHNICIAN/PRINCIPAL	0088	21.42	22.03	22.65	23.29	24.02	24.76	0.00	0.00	0.00	0.00
6233	ENGINEER TECHNICIAN/SENIOR	0088	20.00	20.58	21.20	21.78	22.42	23.12	0.00	0.00	0.00	0.00
6180	EQUIPMENT MECHANIC 1	0088	13.84	14.24	14.65	15.12	15.56	16.04	0.00	0.00	0.00	0.00
6182	EQUIPMENT MECHANIC 2	0088	17.77	18.26	18.73	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6107	EQUIPMENT/PROPERTY TECHNICIAN	0088	13.07	13.47	13.87	14.27	14.71	15.15	0.00	0.00	0.00	0.00

6097	FAC MAINT DISPATCH/SCHEDULER	0088	17.13	17.64	18.17	18.72	19.28	19.85	0.00	0.00	0.00	0.00
6094	FACILITIES MAINTENANCE WORKER	0088	11.78	12.22	12.67	12.99	13.37	13.81	14.18	0.00	0.00	0.00
6258	FACILITY SECURITY OFFICER	0088	11.61	11.96	12.33	12.67	13.04	13.47	0.00	0.00	0.00	0.00
6305	FAMILY INTERVENTION SPECIALIST	0088	16.66	17.13	17.67	18.18	18.67	19.22	0.00	0.00	0.00	0.00
6028	FISCAL ASSISTANT	0088	10.55	10.89	11.11	11.44	11.78	12.10	12.46	12.83	0.00	0.00
6027	FISCAL ASSISTANT/SENIOR	0088	12.81	13.19	13.58	13.98	14.43	14.84	0.00	0.00	0.00	0.00
6029	FISCAL SPECIALIST 1	0088	14.13	14.55	14.97	15.43	15.88	16.39	0.00	0.00	0.00	0.00
6030	FISCAL SPECIALIST 2	0088	16.66	17.13	17.67	18.18	18.67	19.22	19.80	20.38	0.00	0.00
6184	FLEET & SUPPORT SERVICES SPEC	0088	16.66	17.13	17.67	18.18	18.67	19.22	0.00	0.00	0.00	0.00
6125	GARAGE ATTENDANT	0088	10.75	11.42	12.08	0.00	0.00	0.00	0.00	0.00	0.00	0.00
7207	GRAPHIC DESIGNER	0088	14.40	14.84	15.27	15.75	16.21	16.69	0.00	0.00	0.00	0.00
6294	HEALTH ASSISTANT	0088	10.55	10.89	11.11	11.44	11.78	12.10	12.46	12.83	13.46	0.00
6352	HEALTH EDUCATOR	0088	17.16	17.69	18.19	18.76	19.34	19.89	0.00	0.00	0.00	0.00
6019	HEALTH INFORMATION SPEC 1	0088	12.06	12.37	12.74	13.13	13.48	13.87	0.00	0.00	0.00	0.00
6018	HEALTH INFORMATION SPEC 2	0088	13.81	14.20	14.60	15.04	15.51	15.92	0.00	0.00	0.00	0.00
6024	HEALTH INFORMATION SPEC/SENIOR	0088	15.12	15.56	16.07	16.53	17.02	17.53	0.00	0.00	0.00	0.00
6177	HEAVY EQUIPMENT OPERATOR	0088	17.77	18.26	18.73	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6083	HOUSING DEVELOPMENT SPECIALIST	0088	18.02	18.67	19.34	20.00	20.67	21.42	0.00	0.00	0.00	0.00
6079	HOUSING REHABILITATION SPEC	0088	18.26	18.78	19.33	19.92	20.48	21.08	0.00	0.00	0.00	0.00
6190	INFORMATION SYSTEMS ANALYST 1	0088	15.72	16.18	16.66	17.13	17.67	18.18	18.67	19.22	0.00	0.00
6189	INFORMATION SYSTEMS ANALYST 2	0088	18.18	18.67	19.22	19.80	20.38	20.99	21.62	22.27	0.00	0.00
6188	INFORMATION SYSTEMS ANALYST 3	0088	20.11	20.75	21.37	21.95	22.63	23.31	24.01	24.73	0.00	0.00
6187	INFORMATION SYSTEMS ANALYST/SR	0088	21.95	22.63	23.31	24.01	24.73	25.47	26.24	27.02	0.00	0.00
6191	INFORMATION SYSTEMS SPEC 1	0088	12.64	13.02	13.41	13.81	14.20	14.60	15.51	15.04	0.00	0.00
6192	INFORMATION SYSTEMS SPEC 2	0088	14.20	14.60	15.04	15.51	15.92	16.41	16.90	17.41	0.00	0.00
6193	INFORMATION SYSTEMS SPEC 3	0088	15.51	15.92	16.41	16.90	17.41	17.92	18.46	19.02	0.00	0.00
6238	INTEGRATED COMM SERVICES COORD	0088	16.35	16.84	17.36	17.85	18.41	18.96	0.00	0.00	0.00	0.00
6280	INVESTIGATIVE TECHNICIAN	0088	13.43	13.85	14.25	14.68	15.13	15.58	0.00	0.00	0.00	0.00
6364	INVOLUNTARY COMMITMENT INVEST	0088	18.02	18.56	19.11	19.69	20.27	20.88	21.53	22.16	0.00	0.00
6262	JAIL STEWARD	0088	14.35	14.79	15.20	15.65	16.15	16.63	0.00	0.00	0.00	0.00
6285	JUVENILE COUNSELING ASSISTANT	0088	14.13	14.55	14.97	15.43	15.88	16.39	0.00	0.00	0.00	0.00
6272	JUVENILE COUNSELOR	0088	15.01	15.87	16.39	17.39	17.92	18.97	19.69	20.48	21.11	21.75
6157	JUVENILE RECORDS TECHNICIAN	0088	11.11	11.44	11.78	12.10	12.46	12.83	13.21	13.60	0.00	0.00
6332	LABORATORY ASSISTANT	0088	10.03	10.34	10.64	10.97	11.31	11.65	0.00	0.00	0.00	0.00
6335	LABORATORY SPECIALIST	0088	17.16	17.69	18.19	18.76	19.34	19.89	0.00	0.00	0.00	0.00
6333	LABORATORY TECHNICIAN	0088	12.81	13.19	13.58	13.98	14.43	14.84	0.00	0.00	0.00	0.00
6246	LEGAL ASSISTANT	0088	13.75	14.14	14.52	14.98	15.42	15.80	0.00	0.00	0.00	0.00

6241	LEGAL ASSISTANT/SENIOR	0088	15.14	15.56	15.96	16.48	16.96	17.39	0.00	0.00	0.00	0.00
7221	LIBRARIAN 1	0088	16.66	17.17	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
7222	LIBRARIAN 2	0088	18.39	18.93	19.48	20.08	20.67	21.29	0.00	0.00	0.00	0.00
7211	LIBRARY ASSISTANT	0088	13.72	14.14	14.57	14.98	15.45	15.89	0.00	0.00	0.00	0.00
7212	LIBRARY ASSISTANT/SENIOR	0088	15.13	15.56	16.06	16.53	17.02	17.53	0.00	0.00	0.00	0.00
7202	LIBRARY CLERK	0088	10.55	10.89	11.11	11.44	11.78	12.10	12.46	12.83	0.00	0.00
7231	LIBRARY COMPUTER SYSTEMS OPER	0088	15.46	15.87	16.27	16.93	17.43	17.99	18.44	19.02	0.00	0.00
7229	LIBRARY DELIVERY DRIVER	0088	11.67	12.03	12.37	12.74	13.13	13.52	0.00	0.00	0.00	0.00
7224	LIBRARY MATERIALS PROCESSOR	0088	9.48	9.77	10.06	10.37	10.67	11.00	0.00	0.00	0.00	0.00
7223	LIBRARY OUTREACH SPECIALIST	0088	17.49	18.03	18.58	19.13	19.72	20.28	0.00	0.00	0.00	0.00
7203	LIBRARY PAGE	0088	8.86	9.14	9.42	9.69	9.99	10.27	0.00	0.00	0.00	0.00
7204	LIBRARY PAGE/SENIOR	0088	9.76	10.05	10.36	10.66	10.99	11.33	0.00	0.00	0.00	0.00
6070	LICENSE COMPLIANCE OFFICER	0088	12.81	13.25	13.65	14.08	14.45	14.85	0.00	0.00	0.00	0.00
7205	MAIL CLERK	0088	9.19	9.73	10.27	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6096	MAINTENANCE CREW LEADER	0088	14.60	15.01	15.46	15.87	16.39	16.84	0.00	0.00	0.00	0.00
6092	MAINTENANCE WORKER	0088	12.22	12.67	12.99	13.37	13.81	14.18	14.58	0.00	0.00	0.00
6185	MARINE EQUIPMENT SPECIALIST	0088	17.77	18.26	18.73	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6369	MARRIAGE AND FAMILY COUNSELOR	0088	18.59	19.14	19.69	20.25	20.86	21.48	22.14	22.79	0.00	0.00
6151	MCSO RECORDS SUPERVISOR	0088	14.76	15.20	15.65	16.13	16.60	17.11	0.00	0.00	0.00	0.00
6150	MCSO RECORDS TECHNICIAN	0088	12.07	12.42	12.81	13.19	13.58	13.98	14.43	14.84	0.00	0.00
6322	MEDICAL RECORDS TECH/SR	0088	14.78	15.23	15.68	16.15	16.63	17.13	0.00	0.00	0.00	0.00
6153	MCSO RECORDS TRAINEE	0088	11.49	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6321	MEDICAL RECORDS TECHNICIAN	0088	13.43	13.85	14.25	14.68	15.13	15.58	0.00	0.00	0.00	0.00
6009	MEDICAL SERVICES CLERK	0088	12.81	13.19	13.58	13.98	14.43	14.84	0.00	0.00	0.00	0.00
6365	MENTAL HEALTH CONSULTANT	0088	18.02	18.56	19.11	19.69	20.27	20.88	0.00	0.00	0.00	0.00
6359	NUISANCE ENFORCEMENT OFFICER	0088	15.56	16.04	16.53	17.02	17.52	18.04	0.00	0.00	0.00	0.00
6342	NUTRITION ASSISTANT	0088	12.06	12.37	12.74	13.13	13.48	13.87	0.00	0.00	0.00	0.00
6340	NUTRITIONIST	0088	17.16	17.69	18.19	18.76	19.34	19.89	0.00	0.00	0.00	0.00
6000	OFFICE ASSISTANT 1	0088	9.19	9.73	10.27	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6001	OFFICE ASSISTANT 2	0088	10.55	10.89	11.11	11.44	11.78	12.10	12.46	12.83	0.00	0.00
6002	OFFICE ASSISTANT/SENIOR	0088	12.81	13.19	13.58	13.98	14.43	14.84	0.00	0.00	0.00	0.00
7206	OUTREACH DRIVER	0088	11.66	12.01	12.36	12.74	13.13	13.52	0.00	0.00	0.00	0.00
6212	PARALEGAL ASST/COUNTY COUNSEL	0088	14.43	14.87	15.31	15.77	16.42	16.92	0.00	0.00	0.00	0.00
6286	PATHOLOGIST ASSISTANT	0088	14.60	15.01	15.46	15.87	16.39	16.84	17.36	17.85	0.00	0.00
6119	PHARMACY TECHNICIAN	0088	12.19	12.58	12.94	13.33	13.74	14.15	0.00	0.00	0.00	0.00
6075	PLANNER	0088	17.29	17.75	18.26	18.78	19.33	19.92	20.48	21.08	0.00	0.00
6078	PLANNER/SENIOR	0088	20.48	21.03	21.65	22.29	22.93	23.60	0.00	0.00	0.00	0.00

7209 PRINTING SPECIALIST	0088	14.40	14.84	15.27	15.75	16.21	16.69	0.00	0.00	0.00	0.00
6276 PROBATION/PAROLE OFFICER	0088	15.01	15.87	16.39	17.39	17.92	18.97	19.69	20.48	21.11	21.75
7230 PRODUCTION ASSISTANT	0088	11.05	11.39	11.74	12.08	12.45	12.83	0.00	0.00	0.00	0.00
7232 PRODUCTION GRAPHIC DESIGNER	0088	15.56	16.04	16.53	17.02	17.52	18.04	0.00	0.00	0.00	0.00
6022 PROGRAM COORDINATOR	0088	15.56	16.04	16.53	17.02	17.52	18.04	0.00	0.00	0.00	0.00
6021 PROGRAM DEVELOPMENT SPEC	0088	16.66	17.13	17.67	18.18	18.67	19.22	19.80	20.38	0.00	0.00
6020 PROGRAM DEVELOPMENT TECH	0088	13.81	14.20	14.60	15.04	15.51	15.92	0.00	0.00	0.00	0.00
6368 PROGRAM EVALUATION SPECIALIST	0088	18.02	18.67	19.34	20.00	20.67	21.42	0.00	0.00	0.00	0.00
6033 PROGRAMMER ANALYST 1	0088	15.56	16.01	16.47	16.93	17.43	17.99	0.00	0.00	0.00	0.00
6035 PROGRAMMER ANALYST 2	0088	17.98	18.44	19.04	19.54	20.11	20.75	0.00	0.00	0.00	0.00
6031 PROGRAMMER ANALYST/SENIOR	0088	20.11	20.75	21.37	21.95	22.63	23.31	0.00	0.00	0.00	0.00
6049 PROPERTY APPRAISER/COMMERCIAL	0088	16.79	17.54	18.33	19.14	19.73	20.37	0.00	0.00	0.00	0.00
6050 PROPERTY APPRAISER/PERSONAL	0088	16.79	17.54	18.33	19.14	19.73	20.37	0.00	0.00	0.00	0.00
6042 PROPERTY APPRAISER/RESIDENTIAL	0088	16.79	17.54	18.33	19.14	19.73	20.37	0.00	0.00	0.00	0.00
6113 PROPERTY MANAGEMENT SPECIALIST	0088	16.66	17.13	17.67	18.18	18.67	19.22	19.80	20.38	0.00	0.00
7208 PUBLICATION SPECIALIST	0088	14.40	14.84	15.27	15.75	16.21	16.69	0.00	0.00	0.00	0.00
6112 PURCHASING SPECIALIST 1	0088	13.81	14.20	14.60	15.04	15.51	15.92	0.00	0.00	0.00	0.00
6111 PURCHASING SPECIALIST 2	0088	16.66	17.13	17.67	18.18	18.67	19.22	19.80	20.38	0.00	0.00
6116 RECORDS ADMINISTRATION ASST	0088	12.81	13.19	13.58	13.98	14.40	14.84	0.00	0.00	0.00	0.00
6211 RIGHT OF WAY PERMITS/CHIEF	0088	19.63	20.19	20.80	21.42	22.03	22.68	0.00	0.00	0.00	0.00
6371 RISK MANAGEMENT TECHNICIAN	0088	14.66	15.12	15.56	16.04	16.52	17.01	0.00	0.00	0.00	0.00
6356 SANITARIAN	0088	17.16	17.69	18.19	18.76	19.34	19.89	0.00	0.00	0.00	0.00
6357 SANITARIAN/CHIEF	0088	18.92	19.47	20.07	20.65	21.27	21.95	0.00	0.00	0.00	0.00
6245 SEWING SPECIALIST	0088	10.03	10.34	10.64	10.97	11.31	11.65	0.00	0.00	0.00	0.00
6295 SOCIAL WORKER	0088	18.92	19.47	20.07	20.65	21.27	21.95	0.00	0.00	0.00	0.00
7227 STACK SERVICES ASSISTANT	0088	12.19	12.57	12.94	13.33	13.72	14.15	0.00	0.00	0.00	0.00
6098 STRIPER OPERATOR	0088	14.35	14.79	15.20	15.65	16.14	16.58	0.00	0.00	0.00	0.00
6250 SUPPORT ENFORCEMENT AGENT	0088	14.13	14.57	14.98	15.44	15.88	16.39	0.00	0.00	0.00	0.00
6106 SUPPORT SERVICES TECHNICIAN	0088	13.81	14.20	14.60	15.04	15.51	15.92	0.00	0.00	0.00	0.00
6091 SURVEY SPECIALIST	0088	20.00	20.58	21.20	21.78	22.42	23.12	0.00	0.00	0.00	0.00
6038 SYSTEMS PROGRAMMER	0088	23.74	24.42	25.09	25.89	26.73	27.53	28.36	29.21	0.00	0.00
6025 TAX COLLECTION SPECIALIST	0088	14.12	14.56	14.95	15.42	15.79	16.21	0.00	0.00	0.00	0.00
6045 TAX EXEMPTION SPECIALIST	0088	17.67	18.18	18.67	19.22	19.80	20.38	20.99	21.62	0.00	0.00
7210 TECHNICAL SERVICES ASSISTANT	0088	13.72	14.14	14.57	14.98	15.45	15.89	0.00	0.00	0.00	0.00
7213 TECHNICAL SERVICES ASST/SENIOR	0088	15.13	15.56	16.06	16.53	17.02	17.53	0.00	0.00	0.00	0.00
6145 TELECOMM OFFICE SPEC 1	0088	16.66	17.13	17.67	18.18	18.67	19.22	19.80	20.38	0.00	0.00
6154 TELECOMM OFFICE SPEC 2	0088	19.52	20.11	20.72	21.34	21.98	22.64	0.00	0.00	0.00	0.00

6195 TELECOMM SPEC 1	0088	14.81	15.25	15.72	16.18	16.66	17.13	17.67	18.18	0.00	0.00
6145 TELECOMM SPEC 2	0088	17.13	17.67	18.18	18.67	19.22	19.80	20.38	20.99	0.00	0.00
6194 TELECOMM SPEC 3	0088	18.18	18.67	19.22	19.80	20.38	20.99	21.62	22.27	0.00	0.00
6146 TELECOMM SPEC/SR	0088	18.95	19.53	20.11	20.72	21.34	21.98	22.64	23.32	0.00	0.00
6146 TELECOMMUNICATION TECH SPEC	0088	16.66	17.13	17.67	18.18	18.67	19.22	19.80	20.38	0.00	0.00
6076 TRANSPORTATION PLANNING SPEC	0088	18.78	19.33	19.92	20.48	21.08	21.71	22.37	22.82	0.00	0.00
6173 TRUCK DRIVER	0088	13.86	14.26	14.64	15.08	15.49	15.93	0.00	0.00	0.00	0.00
6290 VETERANS SERVICES OFFICER	0088	16.66	17.13	17.67	18.18	18.67	19.22	19.80	20.38	0.00	0.00
6247 VICTIM ADVOCATE	0088	15.01	15.87	16.39	17.39	17.92	18.97	19.69	20.48	0.00	0.00
6263 VOLUNTEER COORDINATOR	0088	16.66	17.13	17.67	18.18	18.67	19.22	19.80	20.38	0.00	0.00
6186 WAN ANALYST 1	0088	16.16	16.64	17.14	17.66	18.18	18.67	19.22	19.80	0.00	0.00
6053 WAN ANALYST 2	0088	18.67	19.22	19.80	20.38	20.99	21.62	22.27	22.94	0.00	0.00
6039 WAN ANALYST 3	0088	21.25	21.90	22.55	23.23	23.92	24.64	25.38	26.14	0.00	0.00
6053 WAN SPECIALIST	0088	18.18	18.67	19.22	19.80	20.38	20.99	0.00	0.00	0.00	0.00
6039 WAN SPECIALIST/SENIOR	0088	21.25	21.90	22.55	23.23	23.92	24.64	0.00	0.00	0.00	0.00
6109 WAREHOUSE WORKER	0088	11.59	11.86	12.22	12.55	12.92	0.00	0.00	0.00	0.00	0.00
6110 WAREHOUSE WORKER/CHIEF	0088	13.53	13.93	14.34	14.75	15.16	15.58	0.00	0.00	0.00	0.00
6084 WEATHERIZATION INSPECTOR	0088	16.46	16.94	17.44	17.99	18.50	19.07	0.00	0.00	0.00	0.00
6080 WEATHERIZATION SPECIALIST	0088	15.51	15.96	16.46	16.94	17.44	17.99	0.00	0.00	0.00	0.00
6004 WORD PROCESSING OPERATOR	0088	10.93	11.28	11.53	11.86	12.19	12.53	12.88	13.23	0.00	0.00
6152 WORD PROCESSING OPERATOR/SR	0088	12.81	13.19	13.58	13.98	14.43	14.84	0.00	0.00	0.00	0.00
6336 X-RAY TECHNICIAN	0088	12.95	13.27	13.66	14.08	14.45	14.85	0.00	0.00	0.00	0.00

ADDENDUM B

LEAD WORKER ASSIGNMENT AND PAY

**I. Duties Defined**

A Lead Worker assignment involves certain limited supervisory and administrative duties which are deemed not to warrant a separate classification. These duties include, but are not limited to: laying out the work for other employees, balancing the work, directing the work, reviewing the work and employee conduct for adherence to standards and rules, and making such reports as may be required to exempt supervisory employees. Lead Workers typically spend a substantial portion of their time in performing the duties of the base classification. Normally, the employees directed by a Lead Worker are in the same classification, but additional classifications are sometimes involved. An employee assigned to be a Lead Worker will not impose or effectively recommend (as that term is intended in Oregon law) formal discipline, i.e. a letter of reprimand or above. The involvement of Lead Workers in performance evaluation shall conform to the restrictions of Article 20, "Section III.D".

**II. Assignment, Selection, Modification, and Termination**

Assignment and selection of Lead Workers shall be at the sole discretion of the County; provided, however, that an employee continuously assigned as a Lead Worker for one year or more shall be given ten (10) days notice prior to the termination of such an assignment. Significant modifications of Lead Worker duties deemed by the County to warrant a modification in the amount of compensation shall also be with ten (10) days notice.

**III. Pay**

When in the judgment of the County:

- A new Lead Worker assignment is necessary; or
- A substantial modification of an existing Lead Worker assignment

warrants a change in compensation, the County shall establish a lead pay rate for the new or substantially modified assignment. The current pay rates for the following classifications shall be calculated by increasing the base hourly pay rates by the following percentages:

Alcohol & Drug Evaluation Spec./Lead - 5.0%
Animal Care Technician/Lead -10.0%
Animal Control Officer/Lead - 5.0%
Basic Skills Educator/Lead - 6.8%
Bridge Maintenance Mechanic/Lead - 6.0%
Carpenter/Lead - 4.8%
Case Management Assistant/Lead - 5.0%
Case Manager 2/Lead - 5.0%
Chemical Applicator Operator/Lead - 5.0%
Civil Deputy/Lead - 8.0%
Community Service Placement Spec./Lead - 5.0%
Community Works Leader/Lead - 6.8%
Computer Systems Operator/Lead - 7.5%
Construction Projects Specialist/Lead - 12.0%
Construction Projects Specialist/Sr./Lead - 12.0%
Corrections Counselor/Lead - 6.8%
Corrections Technician/Lead - 6.8%
Data Analyst/Lead - 5.0%
Dental Assistant/Lead - 4.0%
Driver/Lead - 5.0%
Eligibility Specialist/Lead - 5.0%
Engineer Technician/Prin. - 5.0%
Equipment Mechanic 2/Lead - 10.0%
Equipment/Property Technician/Lead - 7.5%
Facilities Maintenance Worker/Lead - 6.0%

1	Facility Security Officer/Lead -12.0%
2	Family Intervention Specialist/Lead - 5.0%
3	Health Assistant/Lead - 5.0%
4	Health Educator/Lead - 5.0%
5	Health Information Spec. 2/Lead - 5.0%
6	Health Information Spec., Senior/Lead - 5.0%
7	Involuntary Commitment Investigator/Lead - 5.0%
8	Jail Steward/Lead - 6.7%
9	Juvenile Counselor/Lead - 6.8%
10	Juvenile Records Technician/Lead - 5.0%
11	Legal Assistant/Lead - 10.0%
12	Library Materials Processor/Lead - 11.0%
13	Marriage and Family Counselor/Lead - 6.0%
14	Mental Health Consultant/Lead - 5.0%
15	Nutritionist/Lead - 5.0%
16	Probation/Parole Officer/Lead - 6.8%
17	Program Development Spec./Lead - 5.0%
18	Program Evaluation Spec./Lead - 5.0%
19	Programmer Analyst, Senior/Lead - 5.0%
20	Purchasing Specialist 2/Lead - 6.0%
21	Sanitarian/Lead - 5.0%
22	Support Enforcement Agent/Lead - 5.0%
23	Systems Programmer/Lead - 5.0%
24	Word Processing Operator/Lead - 5.0%
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1 ADDENDUM C

2 PREMIUM PAY AND OTHER SPECIAL PROVISIONS

3 *Note: The provisions of this Addendum are listed by department, starting with*  
4 *the provisions applying to all departments followed by those applying to the*  
5 *Department of Community and Family Services (CFSD), the Office of the District*  
6 *Attorney, the Department of Environmental Services (DES), the Department of*  
7 *Health Services, and the Office of the Sheriff (MCSO). Special provisions*  
8 *applying to the Department of Library Services and to the Department of Juvenile*  
9 *and Adult Community Justice Services (JACJS) are found in Addendum F and*  
10 *Addendum G, respectively.*

11  
12 ALL DEPARTMENTS:

13  
14 I. Premium Pay in the Computation of Pay Rates

15 When computing the overtime rate or vacation or sick leave pay due an  
16 employee receiving premium pay, such premium pay must be included when the  
17 employee is regularly assigned to premium work.

18 II. Translation and Second Language Requirements

19 It is understood and agreed that the requirement to have varying degrees  
20 of proficiency in a second language within a classification has been and will  
21 continue to be an expectation for employees assigned to certain positions. Such  
22 requirements will not be a component of classification nor in the alternative  
23 require any special premium, provided that this exemption does not apply to  
24 employees acting as full-time interpreters without other duties or who act as  
25 language teachers.

26 III. Commercial Drivers License (CDL)

27 Employees who are not at the time of hire required to possess a  
28 commercial driver's license, but who are at any time thereafter required as a  
29 condition of employment in that classification (or in their regular assignment  
30 within that classification) to initially obtain a commercial driver's license, shall be  
31 subject to the following terms:

1           **A.     License Fees and Expiration**

2           The employee shall be obligated to pay the cost of the required  
3 license and for renewals.

4           **B.     Written Examination**

5           The employee shall be obligated to pay the cost of each written  
6 exam required to obtain the required license. However, the employee will be  
7 permitted during regularly scheduled work hours, without loss of pay, to take the  
8 first exam of each type needed to obtain the required license. The County will  
9 determine the specific date(s) and time(s) for any such exam(s) following  
10 consultation with the affected employee(s).

11          **C.     Skill (hands-on) Examination**

12          The County will reimburse the employee for the cost of one (1)  
13 passed skill examination up to a maximum of one hundred dollars (\$100) if the  
14 employee submits proof of payment and the new license to his or her immediate  
15 exempt supervisor for verification within ten (10) days following receipt of the  
16 license. At a date(s) and time(s) scheduled by the County, following consultation  
17 with the affected employee(s), the County or its representative will deliver to the  
18 Multnomah County, Oregon, or Clark County, Washington, site designated by the  
19 applicable state's Division of Motor Vehicles equipment necessary for the taking  
20 of the skill examination for the required license.

21          **D.     Physical Exams**

22          If the County selects the physicians giving the physical exam  
23 required for obtaining or maintaining the required license, the County will pay for  
24 the examination. The employee shall determine whether he or she or the County  
25 will select the physician and shall inform the immediate supervisor in advance of  
26 the exam of his or her decision.

27          **E.     Failure to obtain or maintain the required license(s)**

28          Employees who fail to obtain or maintain in a current valid status  
29 the required commercial driver's license shall be subject to disciplinary action or  
30 dismissal in accordance with applicable provisions of the collective bargaining  
31 agreement.

1           **F. Status of License**

2           The employee shall make the immediate supervisor aware in  
3 writing of the expiration of a driver's license(s) required by the County, and of any  
4 event actually or potentially affecting the status of that license (e.g., traffic  
5 citation, drunk driving arrest, license suspension or revocation, failure to pass the  
6 required medical examination, or expiration of the required medical card, etc.).  
7 Such notice shall be given to the supervisor immediately upon expiration of the  
8 license or occurrence of the event.

9           **G. Exemptions**

10          The Division Manager of an employee in a classification in which  
11 one (1) or more employees are required to possess a commercial driver's license  
12 of a particular class may exempt one (1) or more subordinate employees from  
13 the requirement that the license be obtained. However, such exemption may be  
14 rescinded if, in the employer's judgment, the employee's acquisition and  
15 maintenance of such a license is or will be needed to meet operational needs.  
16 An employee whose exemption is rescinded shall be given a reasonable period  
17 of not less than ninety (90) days in which to obtain his or her license.

18  
19           **DEPARTMENT OF COMMUNITY AND FAMILY SERVICES (CFSD):**

20  
21 Any special provisions for the School Based Programs for CFSD included in the  
22 prior Agreement, as amended, and further subject to the Memorandum of  
23 Understanding of May 22, 1998, as supplemented June 8, 1998, shall continue in  
24 effect.

25  
26           **OFFICE OF THE DISTRICT ATTORNEY:**

27  
28           **I. Office of the Medical Examiner**

29           A. Deputy Medical Examiners may be assigned sixteen (16) hour or  
30 eight (8) hour shifts, or any combination thereof, and such shifts need not be  
31 consecutive. Each shift shall have one (1) thirty (30) minute meal period which

1 shall be considered as time worked. Employees are considered on call during  
 2 both meal periods and breaks, and operational requirements may result in such  
 3 breaks or meal periods being interrupted or missed without additional pay or  
 4 such time being made up at a later date.

5 B. Deputy Medical Examiners are:

6 1. Not eligible for shift premium.

7 2. Only eligible for overtime at the rate of time and one-half and  
 8 only for hours worked in excess of eight (8) for an eight (8) hour schedule, in  
 9 excess of sixteen (16) for a sixteen (16) hour schedule, and for over forty (40) in  
 10 a work week.

11 C. A Deputy Medical Examiner will be paid two and one half (2 1/2) his  
 12 or her regular rate of pay for all hours worked on the dates specified in Article 7,  
 13 "Section I.A" midnight to midnight, which shall be deemed the observed holiday  
 14 for all Deputy Medical Examiners. Any employee who is not scheduled to work  
 15 on an observed holiday shall be paid eight (8) hours of pay at his/her regular rate  
 16 of pay in lieu of holiday leave.

17 D. Deputy Medical Examiners may trade shifts with the permission of  
 18 the Chief Deputy.

## 19 20 **DEPARTMENT OF ENVIRONMENTAL SERVICES (DES):**

### 21 22 **I. Division of Assessment**

23 Appraisers who receive a professional designation approved by the  
 24 Director of the Division of Assessment (approved designation includes but is not  
 25 limited to those from the International Association of Assessing Officers, The  
 26 American Institute of Real Estate Appraisers, The Society of Real Estate  
 27 Appraisers, and the American Society of Appraisers), shall be entitled to a  
 28 premium of 5% of their base rate of pay so long as they continue to remain  
 29 qualified for and continue to possess the professional designation.

### 30 **II. Transportation Division and Other DES Divisions**

#### 31 **A. CDL Drivers**

1 For provisions governing CDL licensure, see "Section III, All  
2 Departments," above.

3 **B. Emergency Conditions**

4 Special terms and conditions of employment during periods of  
5 emergency shall be governed by the Emergency Conditions Provisions  
6 (Environmental Services), Addendum D.

7 **C. Clothing and Equipment**

8 **1. Tools**

9 The County agrees to replace all tools furnished by  
10 employees when such tools become damaged beyond usability or stolen on the  
11 job. A "proof of loss by theft" statement must be signed by the employee prior to  
12 recovery for theft. Management will provide any new special tools required to  
13 perform special work.

14 **2. Coveralls and Boots**

15 All Maintenance Workers, Maintenance Worker/Leads, Truck  
16 Drivers, and Heavy Equipment Operators in the Transportation Division will be  
17 issued, for County use, two pairs of coveralls which may be exchanged for  
18 laundered pairs on a weekly basis.

19 For the purpose of reimbursing for tar, paint, epoxy and  
20 cement damage, field personnel assigned to the Transportation Division and the  
21 Fleet and Electronic Services Division shall, on an annual basis, and upon  
22 presentation of a receipt, be eligible for reimbursement up to an amount of  
23 seventy-five dollars (\$75) for work shoes or boots. These employees will be  
24 required to wear work shoes or boots.

25 **D. Premium Pay**

26 *Note: Premium pay items are listed in alphabetical order:*

27 **1. Chemical Application Right-of-Way**

28 Persons in a classification paid lower than a Chemical  
29 Applicator Operator in the Road Maintenance Section who are properly licensed  
30 by the State of Oregon Department of Agriculture for "Public Pesticide  
31 Application Right-of-Way" and who are assigned to utilize this license to apply

1 chemical, will be paid a five percent (5%) premium for each hour worked applying  
2 the license required chemicals.

3                   **2.     Heavy Equipment**

4                   Persons in a lower classification in the Road Maintenance  
5 Section that are assigned to operate a piece of heavy equipment normally  
6 operated by a Heavy Equipment Operator will be paid a premium of the lesser of  
7 fifteen percent (15%) of base pay or the first step of the Heavy Equipment  
8 Operator Classification for all hours assigned to operate the heavy equipment.  
9 This premium will not apply to any employee volunteered training time.

10                   **3.     Height Time Bonus Pay**

11                   When employees in the Transportation Division work on a  
12 structure 90 feet or more above the ground, floor, roadway, roof, or water,  
13 whichever surface is closest, and where scaffolding or special safety devices are  
14 used, the wage rate for such work shall be double the straight time hourly rate.

15                   When the aforementioned work is performed on an overtime  
16 basis or on a holiday, the rate of pay shall be triple the straight time hourly rate.

17                   **4.     Rock Crusher**

18                   Any Maintenance Worker or Maintenance Worker/Lead  
19 assigned to the Rock Crusher, including the wash plant, shall receive a premium  
20 of twenty cents (20¢) per hour for hours operating the Crusher.

21                   **5.     Scoop**

22                   Maintenance Workers for hours assigned to operate the  
23 "scoop" will receive premium pay at the rate of forty cents (40¢) per hour.

24                   **6.     Truck Driver Compensation**

25                   As a recognition for the elimination of Addendum E, "Section  
26 B, subsections 2, 3, 4 and 9" of the prior Agreement, thirty cents (30¢) has been  
27 added to the hourly rate of the Truck Driver Classification.

28                   **7.     Trucks Over 26,000 GVW**

29                   A Maintenance Worker in the Road Maintenance or Bridge  
30 Section will be paid a five percent (5%) premium for all hours assigned to drive a

1 truck over 26,000 GVW. Only persons with a valid and appropriately endorsed  
2 Commercial Drivers License will be assigned to drive those CDL required trucks.

3 **8. Vactor**

4 Truck Drivers for hours assigned to operate the Vactor will  
5 receive premium pay at the rate of forty-five (45¢) per hour.

6  
7 **DEPARTMENT OF HEALTH SERVICES:**

8  
9 **I. School-Based Programs (SBP)**

10 Special provisions governing the terms and conditions of employment of  
11 School Based Program employees were contained in the prior Agreement  
12 between the parties, a subsequent Amendment of the prior Agreement as  
13 applies to such employees, and most recently subject to a Memorandum of  
14 Understanding between the parties entered into May 22, 1998, as supplemented  
15 June 8, 1998. These terms, as amended and subject to understanding as  
16 detailed above, shall continue in effect. Prior to the printing of the current  
17 Agreement, the parties shall meet for the purpose of attempting to reduce this  
18 sequence of provisions to writing for publication in the Agreement which is  
19 distributed to employees, or in the alternative to create an easily accessible  
20 reference memorandum for ease of reading and comprehension.

21 **II. Primary Care Clinics**

22 The County and the Union jointly recognize that the Primary Care Clinic  
23 system of Multnomah County is facing a competitive environment in which its  
24 long term survival is at issue. The parties are jointly committed to meeting this  
25 competitive challenge. To assist in this endeavor:

26 **A. Joint Meetings**

27 The Director of the Primary Care Services Division will meet with  
28 the Union quarterly to discuss operational concerns and any needed flexibility  
29 under the terms of the Agreement. Any variance from contractual terms will  
30 require involvement of County Labor Relations and require written agreement of  
31 both Parties in accordance with Article 26.

1           **B.     Currently Agreed Upon Variances**

2                   1.     Any employee who arrives at his or her assigned clinic and  
3 is reassigned to another clinic for workload reasons may be required to work  
4 overtime on an involuntary basis in order to deal with the difference in shift  
5 ending times for the position to which he or she is assigned.

6                   2.     Any employee who works fewer than five days per week  
7 may be assigned a split work week, i.e., all days off need not be successive,  
8 provided then in no event shall such a schedule not contain two successive days  
9 off.

10  
11                               **OFFICE OF THE SHERIFF (MCSO):**

12       **I.     Sign-Up**

13           **A.     Vacation**

14                   Vacation sign-up shall be in accordance with Article 8 and the  
15 MCSO Memorandum issued pursuant to this article dated March 5, 1998.

16           **B.     Shift and Vacancy**

17                   1.     **Counseling Unit**

18                   The Counseling Unit shall continue to conform with the  
19 requirements of Article 22.

20                   2.     **Auxiliary Services Unit**

21                   The provisions of Article 22 shall apply except as follows:

22                   a.     There shall be an annual sign-up for shift and days  
23 off. The criteria for selection of employees shall be as specified for shift  
24 vacancies in Article 22. Employees will additionally be afforded an opportunity to  
25 express a preference for work assignment and/or location; provided, however,  
26 that final determination in these matters is management's.

27                   b.     Vacancies which occur subsequent to the annual  
28 sign-up shall be filled by bid in accordance with the provisions of Article 22.

29                   3.     **Facility Security Unit**

30                   The Facility Security Unit shall utilize the same procedure for  
31 shift and vacancy bidding as detailed above for Auxiliary Services.



1                   **4.     Records Unit**

2                   The Records Unit shall utilize the same provision as  
3 Auxiliary Services, provided that work assignment and location is deemed an  
4 exclusive management prerogative, shall not be part of the annual bidding  
5 process.

6                   **5.     Other units**

7                   Other units shall conform with the requirements of Article 22  
8 unless a formal exception is executed in accordance with the requirements of  
9 Article 26.

10                  **II.    Shift Trades (Time Exchanges)**

11                 Shift trades shall be allowable subject to the terms and conditions of a  
12 policy and procedure to be developed by MCSO in consultation with the Union no  
13 later than September 1, 1998. It is recognized, however, that shift trade  
14 programs are frequently associated with administrative difficulties and issues of  
15 abuse. For this reason, and only following discussion with the Union to ascertain  
16 whether the difficulties can be resolved, the program may be terminated by the  
17 Sheriff with ten (10) days notice.

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1 ADDENDUM D

2 EMERGENCY CONDITIONS PROVISIONS (ENVIRONMENTAL SERVICES)

3  
4 I. Purpose

5 The purpose of this addendum is to set forth past practice governing wage  
6 entitlements for employees of the Transportation Division and Fleet Section during  
7 periods of emergency.

8 II. Agreement

9 A. An emergency is defined as inclement weather or other condition which  
10 in the judgment of the Director of the Transportation Division constitutes a present or  
11 imminent danger to the health, safety, or property of the people of Multnomah  
12 County.

13 B. During the term of such an emergency, the "work day" for pay purposes  
14 shall be the calendar day (midnight to midnight).

15 C. An employee sent home during the work day, regardless of whether or  
16 not the employee is recalled, shall receive a minimum of eight (8) hours of pay for  
17 that work day.

18 D. The total number of hours worked during the work day, regardless of  
19 how divided, shall be added to determine the total number of hours worked for pay  
20 purposes during the work day.

21 E. All hours worked in excess of eight (8) hours during the work day shall  
22 be compensated at the overtime rate of pay. However, on the first day of the  
23 emergency, any employee sent home and called back within the same work day  
24 shall receive an additional two (2) hours of overtime pay in addition to the  
25 compensation as computed and paid as the paragraph above.

26 F. All hours worked during swing and graveyard shifts shall be paid at the  
27 contractually required shift differential.

1           G.     The provisions of the addendum shall be limited to the employees of  
2 the Transportation Division and the Fleet Section.

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ADDENDUM E  
AUTO REIMBURSEMENTS AND  
TRANSIT SUBSIDIES

I. Auto Allowance

A. Payment

Payment for mileage under this addendum shall be made on a monthly basis, provided the employee has accumulated twenty dollars (\$20) of mileage. No commuting mileage shall be paid by the County under the terms of "Section B" through "Section D" below. In no event will payment be made later than the end of the fiscal year.

B. Incidental Use

An employee who does not drive an automobile as a condition of employment shall be reimbursed at the maximum rate per mile approved by the IRS as a nontaxable expense reimbursement without documentation (which will hereinafter be referred to as "the IRS rate") for miles driven at the requirement of the County.

C. Condition of Employment Use

1. Designation

The County reserves the right under Article 4, Management Rights, to determine the method of transportation for employees during working hours and may discontinue or add the requirement for employees occupying certain positions to utilize an automobile as a condition of employment provided the employees and Union are notified in writing ten (10) days in advance of the change.

2. Payment

An employee who is required to use his or her personal automobile as a condition of employment shall be paid at the IRS rate and shall also

1 receive a base reimbursement of thirty dollars (\$30.00) per month, fifteen dollars  
2 (\$15.00) per month for part-time employees, provided that he or she is assigned to  
3 work in the field and to use his or her personal transportation. In no event, however,  
4 shall the aforementioned base payment be made in a month in which an employee  
5 drives no miles as a condition of employment.

6 **D. Payment Rules for Alterations in Work Site**

7 **1. Temporary Reporting Place**

8 Whenever an employee is temporarily required to report to work  
9 at any location more distant from his or her home than his or her permanent place of  
10 reporting, the employee shall be paid for the use of his or her personal transportation  
11 at the rate provided in "Section B" or "Section C" above as appropriate for additional  
12 miles traveled. This provision will not apply when there is a permanent change in  
13 reporting location as determined by management with ten (10) days written notice to  
14 the affected employees and the Union. In instances in which an employee has no  
15 permanent reporting place, the County will designate one (1) work site as a  
16 "permanent place of reporting" for purposes of mileage reimbursement.

17 **2. Secondary Reporting Place**

18 Whenever an employee reports to his or her permanent place of  
19 reporting and is required to use his or her personal transportation to report for work  
20 at another location, the employee shall be paid for the additional miles traveled to  
21 and from the secondary reporting place in accordance with "Section B" or "Section C"  
22 above as appropriate. The time involved in traveling from the permanent reporting  
23 place to and from the secondary reporting place to the permanent reporting place  
24 shall be considered time worked for pay purposes.

25 **II. Incidental Parking**

26 It is recognized that there has arisen an inconsistent practice of reimbursing  
27 employees for incidental parking charges when employees on a non-commuter basis

1 are required to use their automobile for driving into downtown Portland or elsewhere  
2 parking is charged. Effective September 1, 1998, and subject to procedural  
3 regulation or supervisory direction as to time, place and circumstances of use, such  
4 parking charges shall be reimbursed.

5 **III. Bus Pass**

6 **A. Statement of Purpose**

7 For the purposes of encouraging employees to use mass transit as part  
8 of the County's ride reduction program under the Oregon Department of  
9 Environmental Quality (DEQ)'s Employee Commute Options (ECO) mandate, as well  
10 as part of the County's commitment to limiting traffic congestion and promoting clean  
11 air, each employee shall be eligible to receive a bus pass partially subsidized by the  
12 County for the employee's personal use effective the month of September, 1998, and  
13 thereafter.

14 **B. Scope of Subsidy**

15 1. The bus pass provided for under "Section A" above will be made  
16 available upon payment by the employee of twenty-five percent (25%) of the cost of  
17 such pass; provided, however, that the County may require that the employee pay a  
18 higher percentage if the County's subsidy exceeds the IRS standard for a de minimis  
19 employee benefit .

20 2. This program shall extend to both Tri-Met and C-Tran  
21 passes to all zones.

22 **C. Procedural Requirements**

23 The procedural requirements for payment and verification that the pass  
24 has been used solely by the employee shall be the same as apply to exempt  
25 employees. Such requirements may change from time to time to ensure efficient and  
26 effective implementation of the program.

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1 ADDENDUM F

2 DEPARTMENT OF LIBRARY SERVICES

3  
4 The terms of the 1998-2001 Agreement shall apply except as indicated below:

5 • Article 7. Holidays

6 Observed Christmas and New Year Holidays

7 a. In 1998-99:

8 In 1998-99 the Christmas Eve holiday will be observed on  
9 Thursday, December 24; the Christmas holiday on Friday, December 25;  
10 and the New Year holiday on Friday, January 1, 1999.

11 b. In 1999-2000:

12 (1) The Central Library and the branch libraries will  
13 observe the Christmas Eve holiday on Friday, December 24; the Christmas  
14 holiday on Saturday, December 25; and the New Year holiday on Saturday,  
15 January 1, 2000.

16 (2) The Administration Building will observe the Christmas  
17 Eve holiday on Thursday, December 23; the Christmas holiday on Friday,  
18 December 24; and the New Year holiday on Friday, December 31, 1999.

19 c. In 2000-01:

20 (1) The Central Library and the branch libraries will  
21 observe the Christmas Eve holiday on Sunday, December 24; the  
22 Christmas holiday on Monday, December 25; and the New Year holiday on  
23 Monday, January 1, 2001.

24 (2) The Administration Building will observe the Christmas  
25 Eve holiday on Monday, December 25; the Christmas holiday on Tuesday,  
26 December 26; and the New Year holiday on Monday, January 1, 2001.

27 • Article 8. Vacation Leave

28 Red Circling

29 No professional librarian shall suffer a reduction of accrual rate, including

any bonus vacation, as a result of the transfer from the Library Association of Portland. Instead, affected employees shall be "red circled" at this level of vacation entitlement until such time as this entitlement is less than the amount which would be received utilizing the general terms of the Agreement, at which times the rate specified by the Agreement shall apply.

• **Article 13. General Work Provisions**

The terms of this article shall apply except:

**Section III. Work Days and Days Off**

The provisions of this section shall not apply. Work schedules shall be designed so that all employees shall have at least two consecutive days off in each four week period. Employees may waive this right by written request to the supervisor with a copy provided to the Union.

**Section IV. Scheduling the Work Day**

The provisions of "Section A" shall not apply. Employees may be scheduled for a shift which is either split or continuous. When an employee is required to work a split shift in one work day in which he/she is required by the Library to be off work for two (2) or more working hours between shift segments which total eight (8) hours or more, the second part of the shift shall be paid at time and one half (1 1/2) times the regular rate of pay.

• **Article 14. Compensation**

**1. Shift Differential**

Payment of shift differential as provided by "Section V" shall not apply.

**2. Librarians: Special Hiring and Promotion Provision**

**a. Hiring Classification**

Any newly hired Librarian reasonably determined by management to have two (2) years of relevant professional experience as a Librarian shall be hired into the Librarian 2 classification; those with less experience shall be placed in the Librarian 1 classification.



1                   **b. Advancement**

2                   Any employee hired into the Librarian 1 classification shall  
3 serve a probationary period in accordance with Article 2, of the Agreement.  
4 An employee hired at Step 1 of the Librarian 1 classification shall receive  
5 his or her first step increase in accordance with the terms of Article 15.  
6 Upon eligibility for his or her second anniversary step, the employee shall  
7 be automatically advanced to Step 1 of the Librarian 2 classification. An  
8 employee hired at Step 2 of the Librarian 1 classification shall upon  
9 eligibility for his or her anniversary step be advanced to Step 1 of the  
10 Librarian 2 classification. No employee advanced to the Librarian 2  
11 classification shall be required to serve an additional probationary period.

12                   **3. Working Out of Class**

13                   **a. Pages Replacing Library Clerks**

14                   Because of the distinct nature of the jobs, any Library Page  
15 who replaces a Library Clerk who is absent from work shall be paid working  
16 out of class pay for all hours worked in the higher classification.

17                   **b. Librarian Performing Limited Supervisory Duties**

18                   It is recognized that in those branch libraries without both a  
19 supervisor and/or administrator/manager a Librarian may in the absence of  
20 the supervisor perform such limited supervisory tasks as overseeing  
21 schedule preparation, preparing time cards, arranging for substitutes, and  
22 handling other minor supervisory problems. When the period of  
23 performance of such limited supervisory duties is forty (40) hours or more,  
24 the employee shall be paid a five percent (5%) work out of class differential.

25                   •   **Article 16. Pensions**

26                   **LAP Retirement Plan (LAP Plan)**

27                   The County shall continue as plan sponsor for transferred Library  
28 Association of Portland employees. The County shall have the sole,  
29 exclusive, and non-grievable discretion to choose the administrative  
30 mechanism for dealing with the Plan.

1 • **Article 21. Seniority and Layoff**

2 The terms of this article shall apply except:

3 **1. Job Security for Library Clerks**

4 In order to afford Library Clerks more job security in event of layoff,  
5 the County agrees for the purpose of recall rights in the event of layoff to  
6 establish joint layoff lists in seniority order for the following classifications  
7 on a Countywide basis:

8 Office Assistant 2 and Library Clerk

9 For example, in application of this term, a laid off Library Clerk could be  
10 recalled for a vacant Office Assistant 2 vacancy elsewhere in the County.  
11 Conversely, a laid off Office Assistant 2 could be recalled to a vacancy in  
12 the Library. Such recalls are subject to all other provisions of Article 21,  
13 including, but not limited to, the qualification requirements of Article 21,  
14 "Section V.A".

15 **2. Librarian 1 and Librarian 2**

16 Seniority accrued in the Librarian 1 classification will be carried over  
17 into the Librarian 2 classification upon promotion.

18 • **Article 22. Shift and Work Assignments**

19 The terms of Article 22, "Section III" shall not apply.

20 **1. Lateral Transfers and Voluntary Demotions**

21 The Library will maintain an internal posting process for lateral  
22 transfer and voluntary demotion. (Note: More detailed information on  
23 applying for positions may be obtained from the Library's human resources  
24 office.)

25 **2. Shift Trading**

26 Shift trading will be allowed between employees providing the trade:

- 27 1) Does not conflict with operational needs;  
28 2) Does not require involuntary schedule changes on the part of  
29 other employees; and

1                   3) Does not make the County liable for overtime under the  
2 federal Fair Labor Standards Act.

3

4

5 ERCtextHelu

1 ADDENDUM G

2 DEPARTMENT OF JUVENILE AND ADULT

3 COMMUNITY JUSTICE SERVICES

4 Division of Adult Community Justice Services

5  
6 **I. Pension**

7 Employees allocated to the classification of Probation and Parole  
8 Officer shall be deemed police officers for purposes of ORS 237.610.

9 **II. Scheduling**

10 A. Each Parole and Probation Officer, or any other employee of the  
11 Department of Community Corrections, upon request and approval of their  
12 supervisor, shall establish a work schedule that is approved by their exempt  
13 supervisor and that is responsive to the demands of their job. Such schedule  
14 shall be limited to a 40 hour work week.

15 If the work week is within the 40 hour cap, all hours worked shall be  
16 at the flat rate, on an hour for hour basis, regardless of the starting time, day  
17 worked, or length of the work day. Split work weeks, varied starting and ending  
18 time for shifts, and split shifts shall be permitted.

19 B. Variations of the established work schedule shall be approved by  
20 the supervisor.

21 C. Employees receiving "after hours work calls" may respond. If  
22 responding to after hours calls, employees will "adjust" their work schedule, hour  
23 for hour, within the forty hour work week with the approval of their supervisor.

24 **III. Holidays**

25 Because of the complexity of scheduling, and the participatory scheduling  
26 process involved for certain employees of the Department of Community  
27 Corrections, any employee who is offered a holiday off on an observed holiday  
28 but chooses to self schedule himself on that day shall be granted a personal  
29 holiday in lieu of any other holiday observance or pay. This personal holiday  
30 shall be used within the fiscal year but in no event more than four months from  
31 the date of the holiday.

1   **IV.   Mixed Shifts**

2           Day Reporting Center/Learning Center. When employees at the Day  
3   Reporting Center/Learning Center are regularly scheduled, in accordance with  
4   the provisions of Article 13, to work a combination of day and swing shifts which  
5   does not contain four like shifts within the work week, they will not receive relief  
6   shift differential for all shifts worked. Instead, they will receive swing shift  
7   differential for each swing shift worked.

8

9   ERCtextl elu

10

## ADDENDUM H

### DRUG AND ALCOHOL POLICY

#### **I. Drug Free Workplace Act**

Multnomah County, in keeping with the provisions of the federal Drug Free Workplace Act of 1988, is committed to establishing and maintaining a work place which is free of alcohol and drugs and free of the effects of prohibited alcohol and drug use.

#### **II. Holders of Commercial Drivers Licenses**

While references to rules governing holders of Commercial Drivers Licenses (CDLs) are included below, they are not comprehensive. CDL holders are responsible for complying with all laws, work rules, or County procedures pertaining to them, in addition to the requirements of this addendum.

#### **III. Alcohol and Drug Policy Work Rules and Discipline**

##### **A. Conduct Warranting Discipline**

1. While on duty, or on County premises, or operating County vehicles employees shall obey the work rules listed in "Section B" below. As with all work rules, violations may result in discipline per the provisions of Article 17, Disciplinary Action.

2. Employees will not be subject to discipline for seeking treatment for alcohol or drug dependency. However, employees will be held fully accountable for their behavior. Seeking treatment will not mitigate discipline for rule violations or other unacceptable conduct caused by such dependency.

##### **B. Work Rules**

##### **1. Possession, consumption, and distribution of alcohol and drugs while on duty**

Employees shall:

- Not possess, consume, manufacture, distribute, cause to be brought, dispense, or sell alcohol or alcohol containers in or to the work place except when lawfully required as part of the job. An exception will be

1 sealed alcohol containers for gift purposes; supervisors must be notified when  
 2 such containers are brought to the work place. The "work place" includes  
 3 vehicles parked on County property.

4 • Not possess, consume, manufacture, distribute,  
 5 cause to be brought, dispense, or sell illegal drugs or drug paraphernalia, in or to  
 6 the work place except when lawfully required as part of the job.

7 • Not distribute, dispense or sell prescription  
 8 medications except when lawfully required as part of the job.

9 • Not possess or consume prescription medications  
 10 without a valid prescription.

11 **2. Possession, consumption, and distribution of alcohol**  
 12 **and drugs while off duty on County premises**

13 Employees shall:

- 14 • Not use, possess, or distribute illegal drugs.
- 15 • Not use or distribute alcohol without authorization.

16 **3. Fitness for duty**

17 Employees shall:

18 • Not report for duty while "under the influence" of  
 19 alcohol or drugs. An individual is considered to be "under the influence" of  
 20 alcohol if a breathalyzer test indicates the presence of alcohol at or above the  
 21 .04% level. An individual is considered to be "under the influence" of drugs when  
 22 testing indicates the presence of controlled substances at or above the levels  
 23 applying to CDL holders.

24 • Not render themselves unfit to fully perform work  
 25 duties because of the use of alcohol or illegal drugs, or because of the abuse of  
 26 prescription or non-prescription medications.

27 • Comply with legally mandated occupational  
 28 requirements, whether or not they are specifically included in this policy. For  
 29 example, by law holders of Commercial Drivers Licenses (CDL's) may not  
 30 perform safety sensitive functions, such as driving, at or above the .02% level.

1                   •     Not be absent from work because of the use of  
2 alcohol or illegal drugs, or because of the abuse of prescription or non-  
3 prescription medications, except when absent to participate in a bona fide  
4 assessment and rehabilitation program while on FMLA leave.

5                   •     Inform themselves of the effects of any prescription or  
6 non-prescription medications by obtaining information from health care providers,  
7 pharmacists, medication packages and brochures, or other authoritative sources  
8 in advance of performing work duties.

9                   •     Notify their supervisors in advance when their use of  
10 prescription or non-prescription medications may interfere with the safe and  
11 efficient performance of duties.

12                   **4.     Cooperation with Policy Administration**

13                   Employees shall:

14                   •     Not interfere with the administration of this Drug  
15 Policy. Examples include, but are not limited to, the following: tainting,  
16 tampering, or substitution of urine samples; falsifying information regarding the  
17 use of prescribed medications or controlled substances; or failure to cooperate  
18 with any tests outlined in this policy to determine the presence of drugs or  
19 alcohol.

20                   •     Provide within twenty four (24) hours of request a  
21 current valid prescription in the employee's name for any drug or medication  
22 which the employee alleges gave rise to reasonable suspicion of being under the  
23 influence of alcohol or drugs.

24                   •     Respond fully and accurately to inquiries from the  
25 County's Medical Review Officer (MRO); authorize MRO contact with treating  
26 health care providers upon request.

27                   •     Complete any assessments or treatment programs  
28 required under this Policy.

29                   •     Sign a waiver upon request authorizing treatment  
30 providers to disclose confidential information necessary to verify successful



1 completion of any assessment or treatment program required under this Policy.

2 • Disclose promptly (upon the next working day) and  
3 fully to his/her supervisor:

4 i. All drug or alcohol-related arrests, citations,  
5 convictions, guilty pleas, no contest pleas or diversions which resulted from  
6 conduct which occurred while he or she was on duty, on County property, or in a  
7 County vehicle); or

8 ii. Any other violation of laws regulating use of  
9 alcohol and controlled substances which adversely affects an employee's ability  
10 to perform major job functions, specifically to include loss or limitation of driving  
11 privileges when the employee's job is identified as requiring a valid license.

#### 12 C. Levels of Discipline

13 1. The level of discipline imposed on non-probationary  
14 employees for violation of the Alcohol and Drug Policy Work Rules above or  
15 other violations resulting from the use of alcohol or drugs will be according to the  
16 provisions of Article 17, Disciplinary Action.

17 2. Employees will be held fully accountable for their behavior.  
18 Use of alcohol or drugs, or alcohol or drug dependency, will not mitigate the  
19 discipline imposed for rule violations, misconduct, or poor performance except as  
20 specifically provided in the section on last chance agreements below.

21 3. The Parties acknowledge that, all other things being equal,  
22 certain duties imply a higher standard of accountability for compliance with the  
23 requirements of this policy than others. These duties include, but are not limited  
24 to, the following:

- 25 • carrying firearms
- 26 • work in the criminal justice system
- 27 • responsibility for public safety or the safety of co-
- 28 workers
- 29 • handling narcotics or other controlled substances
- 30 • handling hazardous equipment or materials

- influencing the behavior of minors
- holding a Commercial Drivers License

4. In instances in which the County determines that an employee's conduct warrants termination, and the employee is diagnosed as having a chemical dependency by a Substance Abuse Professional (SAP) as provided for in "Section D" below, the County may offer the employee continued employment under the terms of a last chance agreement, an example of which is included as an attachment to this addendum.

a. Any Last Chance Agreement will include but not be limited to the following:

i. the requirement that the employee enroll, participate in, and successfully complete a treatment program as recommended by the Substance Abuse Professional;

ii. the right for the County to administer any number of unannounced follow up drug or alcohol tests at any time during the work day for a period of two (2) years from completion of any required treatment or education program;

iii. the signatures of the employee's supervisor, the employee, and the employee's Union representative.

b. The offer of a Last Chance Agreement will not set precedent for the discipline of other employees in the future. Any discipline incorporated in a Last Chance Agreement may not be grieved under the provisions of Article 18, Grievance Procedure.

#### **D. Mandatory Assessment and Treatment**

1. Employees who are disciplined for conduct which is related to the use of alcohol or drugs may be required to undergo assessment and to complete a program of education and/or treatment prescribed by a Substance Abuse Professional selected by the County. Employees who test positive for alcohol or controlled substances will be required to undergo assessment at the earliest opportunity, regardless of whether disciplinary action has been taken.

2. The County will verify employees' attendance, and that the assessment and treatment have been completed. This verification and any other information concerning alcohol and drug dependency will be treated as confidential medical information per applicable state and federal law and County Administrative Procedures.

3. Policy on the use of leave for assessment and treatment will be the same as for any other illness.

**E. Return to Work Testing**

Employees who test positive for being "under the influence" of drugs may be required to test negative before returning to work. *(Note that Federal law requires CDL holders performing safety sensitive functions to undergo return to work testing after a positive alcohol or drug test.)*

**IV. Testing**

**A. Basis for Testing**

1. All employees may be tested:

- a. based on reasonable suspicion of being "under the influence" of alcohol or prohibited drugs;
- b. before returning to work after testing positive for being "under the influence" of alcohol or drugs;
- c. as part of a program of unannounced follow-up testing provided for in a Last Chance Agreement.

2. An employee applying for a different County position will be subject to testing on the same basis, and using the same procedures and methods, as outside applicants.

3. Holders of Commercial Drivers Licenses shall be subject to the testing requirements of federal law, in addition to the requirements herein which apply to all employees. For example, unlike other employees, CDL holders will be subject to legally required random testing and testing following certain kinds of accidents.

**B. Establishing Reasonable Suspicion**

1                   **1.     Definition**

2                   a.     "Reasonable suspicion" is a set of objective and  
3 specific observations or facts which lead a supervisor to suspect that an  
4 employee is under the influence of drugs, controlled substances, or alcohol.  
5 Examples include, but are not limited to: slurred speech, alcohol on the breath,  
6 loss of balance or coordination, dilated or constricted pupils, apparent  
7 hallucinations, high absenteeism or a persistent pattern of unexplained  
8 absenteeism, erratic work performance, persistent poor judgment, difficulty  
9 concentrating, theft from office or from other persons, unexplained absences  
10 during office hours, or employee's admission of use of prohibited substances.

11                  b.     Lead workers who oversee day to day work activities are  
12 "supervisors" for the purposes of establishing reasonable suspicion and directing  
13 employees to be tested on that basis. This provision applies to lead workers  
14 who supervise or act as lead workers as part of their job description, (such as  
15 Corrections Records Supervisors and Maintenance Crew Leaders), as well as to  
16 those who receive premium pay under Addendum B, Lead Worker Assignment  
17 and Pay.

18                   **2.     Supervisory training**

19                   The County will provide training to all supervisors on  
20 establishing reasonable suspicion and the nature of alcohol and drug  
21 dependency. Supervisors who have not been trained will not have the authority  
22 to direct employees to be tested on the basis of reasonable suspicion of being  
23 under the influence.

24                   **3.     Additional Precautions**

25                   Application of the "Reasonable Suspicion" standard to any  
26 employee in this bargaining unit shall include the following additional  
27 precautions:

28                   a.     The supervisor shall articulate orally a summary of  
29 the specific facts which form the basis for believing that the employee is under  
30 the influence of drugs or alcohol; and

1                   b.     The supervisor shall provide upon request within forty  
2 eight (48) hours of the oral determination of "reasonable suspicion" a written  
3 specification of the grounds for reasonable suspicion; and

4                   c.     Except in field or shift circumstances which render  
5 contact difficult, no supervisor shall refer an employee for a drug or alcohol test  
6 based on "reasonable suspicion" unless the supervisor has consulted with  
7 another supervisor or exempt person regarding the grounds for the suspicion.

8           **C.     Testing Methodology**

9                   1.     Testing procedures for all employees will be governed by the  
10 same standards as apply to CDL drivers under federal law. These standards  
11 include, but are not limited to, those governing sample acquisition, the chain of  
12 custody, laboratory selection, testing methods and procedures, and verification  
13 of test results.

14                  2.     In accordance with CDL standards, the County will contract  
15 with a medical doctor trained in toxicology to act as an MRO (Medical Review  
16 Officer). He or she will review preliminary positive test results with employees  
17 and any relevant health care providers before the results are reported to the  
18 County. Based on his or her professional judgment, he or she may change the  
19 preliminary test result to negative. The County will not be able to distinguish a  
20 test result that is negative by MRO intervention from any other negative result.

21                  3.     In addition to compliance with federal guidelines, the  
22 following safeguards will also be applied:

23                   a.     Test results will be issued by the MRO or the testing  
24 laboratory only to the investigatory or supervisory personnel designated by the  
25 County. The results will be sent by certified mail or hand-delivered to the  
26 employee within three working days of receipt of results by the County.

27                   b.     If an employee disagrees with the results of the  
28 alcohol or drug test, the employee may request, in writing within five (5) days of  
29 receipt of test results, that the sample be re-tested at the employee's expense by  
30 the testing laboratory. The result of any such retest will be deemed final and

1 binding and not subject to any further test. Failure to make a timely written  
2 request for a retest shall be deemed acceptance of the test results. If an  
3 employee requests a retest, any disciplinary action shall be stayed pending the  
4 results of the re-testing.

5 c. Test reports are medical records, and will be handled  
6 according to applicable state and federal law and County Administrative  
7 Procedures which insure the confidentiality of such records.

8 **V. Definitions**

9 **A. Alcohol:**

10 Ethyl alcohol and all beverages or liquids containing ethyl alcohol.  
11 Levels of alcohol present in the body will be measured using a breathalyzer test.

12 **B. Controlled Substance:**

13 All forms of narcotics, depressants, stimulants, analgesics,  
14 hallucinogens, and cannabis, as classified in Schedules I-V under the Federal  
15 Controlled Substances Act (21 USC § 811-812) as modified under ORS 475.035,  
16 whose sale, purchase, transfer, use, or possession is prohibited or restricted by  
17 law.

18 **C. County:**

19 Multnomah County, Oregon.

20 **D. Drug Paraphernalia:**

21 Drug paraphernalia means any and all equipment, products, and  
22 materials of any kind, as more particularly defined in ORS 475.525(2), which are  
23 or can be used in connection with the production, delivery, or use of a controlled  
24 substance as that term is defined by ORS 475.005.

25 **E. Drug Test:**

26 A laboratory analysis of a urine sample to determine the presence  
27 of certain prohibited drugs or their metabolites in the body.

28 **F. Drugs:**

29 Controlled substances, designer drugs (drug substances not  
30 approved for medical or other use by the U.S. Drug Enforcement Administration

1 or the U.S. Food and Drug Administration), and/or over-the-counter preparations  
2 available without a prescription from a medical doctor that are capable of  
3 impairing an employee's mental or physical ability to safely, efficiently, and  
4 accurately perform work duties.

5 **G. Medical Review Officer (MRO):**

6 A medical doctor trained in toxicology who contracts with  
7 employers primarily to review positive preliminary drug test results with  
8 employees. The MRO determines whether or not the results are likely to have  
9 been caused by factors other than drug abuse.

10 **H. On duty:**

11 The period of time during which an employee is engaged in  
12 activities which are compensable as work performed on behalf of the County, or  
13 the period of time before or after work when an employee is wearing a uniform,  
14 badge, or other insignia provided by the County, or operating a vehicle or  
15 equipment which identifies Multnomah County.

16 **I. Prescription Medication:**

17 A medication for which an employee is required by law to have a  
18 valid, current prescription.

19 **J. Reasonable Suspicion of Being Under the Influence of Drugs**  
20 **or Alcohol:**

21 See "Section IV. B. 1. a" above.

22 **K. Substance Abuse Professional (SAP):**

23 A licensed physician, or licensed or certified psychologist, social  
24 worker, employee assistance professional, or addiction counselor with  
25 knowledge of and clinical experience in the diagnosis and treatment of alcohol  
26 and controlled substance-related disorders.

27 **L. Under the Influence of Alcohol:**

28 See "Section II. B. 2" above.

29 **M. Under the Influence of Drugs:**

30 See "Section II. B. 2" above.

## LAST CHANCE AGREEMENT

The following agreement is entered into between The Employer and The Employee. Failure on the part of the employee to meet the expectations below will result in the termination of his or her employment.

1. I agree to be evaluated by a qualified alcohol/substance abuse counselor, and if required, I shall immediately enroll and continue in a bona fide alcohol/drug inpatient or outpatient rehabilitation program approved by the Employer. I fully understand that should I fail to complete either the inpatient or outpatient program, my employment with The Employer will be terminated.

2. I agree to comply with and complete the conditions of my "Aftercare Plan" as recommended by my treatment counselor. If I must be absent from my aftercare session, I must notify the employer. The Employer has my permission to verify my attendance at required meetings. If I do not continue in the aftercare program, I understand that my employment will be terminated.

3. I understand that the signing of this agreement shall allow the Employer the right to communicate with my physician and/or counselors regarding my status and progress of rehabilitation and aftercare.

4. I agree to submit to periodic, unannounced, unscheduled drug or alcohol testing (urinalysis or breath test) by the Employer for a period of 24 months from the date I return to work. (This time period will increase accordingly if I am absent from work, for any reason, for a cumulative period of one month or more.) I understand that if I refuse to take a drug



1 test or if the test is positive, my employment will be terminated.

2

3 5. I agree to return to work upon successful completion of the alcohol/drug  
4 rehabilitation program.

5

6 6. It is understood that this agreement constitutes a final warning.

7

8 7. I understand the Employee Assistance Program is available to me should  
9 personal problems arise in the future that may have an effect on my ability  
10 to remain in compliance with the Drug and Alcohol Policy and/or this  
11 agreement.

12

13 8. I realize that violation of the Drug and Alcohol Rules and/or policies at any  
14 time in the future is cause for termination.

15

16 9. I realize that my employment will be terminated if I fail to meet the  
17 expectations outlined in this Agreement and the letter attached.

18

19 Disciplinary Action

20 I understand that the disciplinary action imposed in the attached letter may not  
21 be grieved under the grievance procedure in the Local 88 contract.

22

23 Personal Commitment

24 I pledge and agree to abide by the terms of this agreement. I understand that a  
25 violation of or noncompliance with any of these terms will result in my being  
26 terminated. Further, I pledge to remain free of all illegal drugs and also not to  
27 abuse legal drugs (including alcohol). I hereby consent to the County's  
28 contacting any treatment or health care provider who may have information on  
29 my alcohol or drug dependency condition and/or compliance with the terms of  
30 this agreement and authorize the provider to furnish such information to the

1 County.

2

3 I understand the terms and conditions of this letter. I also understand that,  
 4 except as expressly stated in this agreement, my terms and conditions of  
 5 employment will be determined by the County's policies and rules, and that this  
 6 agreement does not guarantee me employment for any set period of time. I  
 7 have had sufficient time to study it away from the work place and to consult  
 8 anyone I desire about it. I sign it free of any duress or coercion. This letter will  
 9 become part of my personnel file.

10

11

12

13

14 \_\_\_\_\_  
 (Employee) (Date) (Exempt Employee With (Date)  
 15 Disciplinary Authority)\*\*

16

17

18

19 \_\_\_\_\_  
 (Labor Representative ) (Date) (Employee's Immediate ( Date)  
 20 Exempt Supervisor\*\*\*)  
 21 (optional)

22

23

24

25 \_\_\_\_\_  
 (Multnomah County (Date)  
 26 Labor Relations, if applicable\*)

27

28 Footnotes:

29

30 \* Necessary only if terms of the Labor Agreement are waived or excepted.

- 1    \*\*    Always necessary.
- 2    \*\*\*    Optional in cases in which immediate supervisor does not have termination
- 3           authority.
- 4    ERCtextLelu

MEETING DATE: JUN 25 1998  
AGENDA #: R-3  
ESTIMATED START TIME: 9:15

(Above Space for Board Clerk's Use ONLY)

## AGENDA PLACEMENT FORM

SUBJECT: PCRB EXEMPTION REQUEST FROM THE FORMAL BID PROCESS FOR PURCHASE OF A GRANULAR RUBBERIZED BULLET TRAP SYSTEM

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: June 25, 1998  
AMOUNT OF TIME NEEDED: 5 minutes

DEPARTMENT: DSS/DES DIVISION: Purchasing/Facilities Management

CONTACT: Franna Hathaway/Mark Gustafson TELEPHONE #: 22651/83322  
BLDG/ROOM #: 421/1<sup>st</sup> - 421/3<sup>rd</sup>

PERSON(S) MAKING PRESENTATION: Franna Hathaway/Mark Gustafson

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

SUGGESTED AGENDA TITLE:

REQUEST FOR EXEMPTION FROM THE FORMAL BID PROCESS FOR THE PURCHASE OF A GRANULAR RUBBERIZED BULLET TRAP SYSTEM

6/26/98 COPIES TO FRANNA HATHAWAY & MARK GUSTAFSON  
SIGNATURES REQUIRED: MARK GUSTAFSON

ELECTED OFFICIAL: \_\_\_\_\_  
(OR)

DEPARTMENT MANAGER: Paul A. Boyer

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the

Board Clerk 248-3277

RECEIVED  
COUNTY COMMISSIONERS  
98 JUN 17 AM 11:36  
MULTNOMAH COUNTY  
OREGON

**BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM BRIEFING  
STAFF REPORT SUPPLEMENT**

TO: BOARD OF COUNTY COMMISSIONERS

FROM:  Franna Hathaway

TODAY'S DATE: June 16, 1998

REQUESTED PLACEMENT DATE: June 25, 1998

RE: Request for exemption from the formal competitive bid process for the purchase of a Granular Rubberized Bullet Trap System from Caswell Detroit Armor Company for the Justice Center Firing Range

I. Recommendation/Action Requested: The Department of Environmental Services, Facilities and Property Management Division has requested an exemption from the formal competitive bid process for the purchase of a Granular Rubberized Bullet Trap System and related mechanical revisions for the indoor firing range at the Justice Center.

II. Background/Analysis: The existing firing range area and mechanical system were recently tested and found to have high levels of airborne lead contamination. The rubberized bullet trap will eliminate the lead contamination problem because with this system the bullets remain in one piece. Additionally the current system is constructed out of steel and has caused problems with ricocheting bullets bouncing off the steel trap causing damage to the building.

There are only two manufacturers of firing range equipment in the United States and there is only one, Caswell Detroit Armor Company, that offers the type of system needed to remedy these problems.

III. Financial Impact: The cost of the system is approximately \$235,000 for the system and an additional \$60,000 for installation. The installation will be competitively bid. The City of Portland through our current Intergovernmental Agreement has hired the County to manage all City projects of this nature in the Justice Center. All costs associated with this project including Project Management will be reimbursed to the County.

IV. Legal Issues: N/A

V. Controversial Issues: N/A

VI. Link to Current County Policies: PCRB Rule 10.140 allows the Board to grant exemptions to the formal competitive bid process.

VII. Citizen Participation: N/A

VIII. Other Government Participation: This purchase will be made as part of the terms and conditions of the Intergovernmental Agreement with the City of Portland for the Facilities Management of the Justice Center.



# MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES  
DIVISION OF FACILITIES AND  
PROPERTY MANAGEMENT  
2505 S.E. 11TH AVENUE  
PORTLAND, OREGON 97202  
(503) 248-3322

## MEMORANDUM

TO: Franna Hathaway, Manager  
Purchasing Section

FROM: Mark Gustafson, Project Manager  
Facilities and Property Management

DATE: June 15, 1998

SUBJECT: REQUEST FOR EXEMPTION OF FORMAL BIDDING PROCESS

I would like to request an exemption to the formal bidding process to allow for purchase of a Granular Rubberized Bullet Trap System and related mechanical revisions; for the indoor firing range at the Justice Center. The reasons for the exemption are as follows:

1. The existing firing range area and mechanical system were recently tested and found to have high levels of airborne lead contamination. This is not only dangerous to the occupants but also to the facility. The rubberized bullet trap will eliminate the lead contamination problem because with this system the bullets remain in one piece, rather than fragmenting; thus causing the lead dust problem. We have been in contact with the two manufacturers of firing range equipment in the United States. We have found that there is only one company that offers this type of system for indoor firing ranges. This is the only system that meets the criteria to solve our existing contamination and safety problems. Caswell Detroit Armor Company has a patent for this type of bullet recovery system and exhaust system. I have a detailed list of references from Police Bureaus and Government Agencies that have recently installed their systems.
2. The existing mechanical system has recently been fitted with a complicated system of filters, in an attempt to reduce the amount of contaminated lead dust being exhausted from this area and into the environment. These filters must be replaced on a monthly basis at a cost of over \$800. The mechanical system is getting so clogged with dust that we are replacing fan motors and belts at an alarming rate.
3. There are also Safety factors related to the existing system that need to be addressed. The existing bullet trap system is constructed out of steel. This has caused many problems in the past from ricocheting bullets bouncing off the steel trap, this is a danger to all officers in the range, as well as causing building damage. In the past we have replaced plumbing lines, electrical lines and patched the floor on a regular basis. These problems will be eliminated with the granular rubber trap system.

We have received a proposal from Caswell Detroit Armor Company, the manufacturer of the rubberized bullet trap system. They propose to replace the existing bullet trap system, redesign and replace the ventilation system and rework the range equipment. Their proposal is for \$235,350.00 for the above mentioned work. They are also willing to streamline the replacement of our system, understanding the seriousness of our current conditions. There is also some additional work to allow for the installation of the new equipment. The estimate for this work is about an additional \$60,000. This work will be completed by local contractors and can be competitively bid.

The City of Portland through an Intergovernmental Agreement has hired the County to manage this project for them. All costs associated with this project including Project Management will be paid for out of the Cities budget. The county will make all payments for materials, labor and project management and bill these costs back to the city.

If you have any questions or require any additional information, please contact me.

c.c. F. Wayne George  
Jim Emerson  
Gerry Nyberg  
John Richards  
File



BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON  
ACTING AS THE PUBLIC CONTRACT REVIEW BOARD

In the Matter of exempting from the formal)  
competitive bid process the purchase of )  
a Granular Rubberized Bullet Trap System)  
from Caswell Detroit Armor Company )

A P P L I C A T I O N

Application to the Public Contract Review Board on behalf of a request from the Department of Environmental Services, Facilities and Property Management Division, is hereby made pursuant to the Board's Administrative Rule 10.140 adopted under the provisions of ORS279.015 for an order exempting the purchase of a Granular Rubberized Bullet Trap System and related mechanical revisions from Caswell Detroit Armor Company for approximately \$235,000.

The Justice Center Indoor Firing Range area and mechanical systems have recently been tested and found to have high levels of airborne lead contamination due to the fact that bullets are fragmented when they hit the current steel constructed bullet trap system. The ricocheting of bullets off this system also has caused damage to the building.

The only two manufactures of indoor bullet trap systems in the United States were contacted and only Caswell Detroit Armor Company has a rubberized system that will remedy the current problems.

Purchasing recommends approval of this exemption from the competitive bid process for the purchase of a Granular Rubberized Bullet Trap System for the Justice Center indoor firing range.

Dated this 16 day of June, 1998

  
Franna Hathaway, Manager  
Purchasing Section

Attachments

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON  
ACTING AS THE PUBLIC CONTRACT REVIEW BOARD  
ORDER NO. 98-80

Exempting from the Formal Competitive Bid Process a Contract for the Purchase of a Granular Rubberized Bullet Trap System for the Justice Center indoor firing range from Caswell Detroit Armor Company.

The Multnomah County Board of Commissioners Finds:

- a. The Board, acting in its capacity as the Multnomah County Public Contract Review Board to review, pursuant to PCRB Rule 10.140, a request from the Department of Environmental Services Facilities and Property Management Division, for an exemption from the formal competitive bid process for a contract for the purchase a Granular Rubberized Bullet Trap System for the approximate amount of \$235,000.
- b. As it appears in the application, the staff report from Franna Hathaway and the memorandum from Larry Nicholas, the request for exemption is based upon the fact that there is a need to replace the current steel constructed bullet trap system due to the airborne lead contamination and building damage caused by fragmenting and ricocheting bullets and Caswell Detroit Armor Company is the only manufacturer of a granular rubberized bullet trap system that will remedy current problems.
- c. This exemption request is in accord with the requirements of Multnomah County Public Contract Review Board Administrative Rule 10.140.

The Multnomah County Board of Commissioners, acting as the Public Contract Review Board Orders:

That the contract for the purchase a Granular Rubberized Bullet Trap System for the Justice Center indoor firing range be exempted from the requirements of public bidding.

APPROVED this 25th day of June, 1998.



BOARD OF COUNTY COMMISSIONERS FOR  
MULTNOMAH COUNTY, OREGON, ACTING  
AS THE PUBLIC CONTRACT REVIEW BOARD

Sharon Kelly  
for Beverly Stein, Chair

Thomas Sponsler, County Counsel  
For Multnomah County, Oregon

By [Signature]  
John Thomas, Assistant County Counsel

MEETING DATE: JUN 25 1998  
AGENDA NO.: R-4  
ESTIMATED START TIME: 9:20

(Above space for Board Clerk's Use ONLY)

**AGENDA PLACEMENT FORM**

SUBJECT: NOI - To Request Services for Tobacco Prevention and Education

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: June 25, 1998  
AMOUNT OF TIME NEEDED: 5 - 10 minutes

DEPARTMENT: HEALTH DIVISION: Support Services  
CONTACT: Valerie Whelan TELEPHONE#: x83934  
BLDG/ROOM#: 161/2

PERSON(S) MAKING PRESENTATION: Valerie Whelan

ACTION REQUESTED:

[ ] INFORMATIONAL ONLY [ ] POLICY DIRECTION [☒] APPROVAL [ ] OTHER

SUGGESTED AGENDA TITLE:

Notice of Intent to Respond to a Request for Proposals from Oregon  
Health Division for Statewide Services for Tobacco Prevention and  
Education.

SIGNATURES REQUIRED:

ELECTED OFFICIAL: \_\_\_\_\_

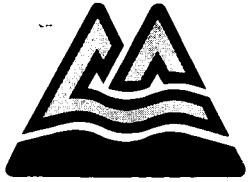
Or

DEPARTMENT MANAGER: Billi Odgaard

(ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES)

Any Questions: Call the Office of the Board Clerk @ 248-3277

1-2-98  
COUNTY CLERK  
JUN 17 AM 11:37  
MULTNOMAH COUNTY  
OREGON



# MULTNOMAH COUNTY OREGON



HEALTH DEPARTMENT  
426 S.W. STARK STREET, 8TH FLOOR  
PORTLAND, OREGON 97204-2394  
(503) 248-3674  
FAX (503) 248-3676  
TDD (503) 248-3816

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DAN SALTZMAN • DISTRICT 1 COMMISSIONER  
GARY HANSEN • DISTRICT 2 COMMISSIONER  
TANYA COLLIER • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

## MEMORANDUM

**TO:** Beverly Stein, Chair

**FROM:** Ardys Craghead, Manager Support Services Division

**THROUGH:** Bill Odegaard, Director

**SUBJECT:** Notice of Intent to Respond to a Request for Proposals from Oregon Health Division for Statewide Services for Tobacco Prevention and Education

**DATE:** June 16, 1998

**REQUESTED PLACEMENT DATE:** June 25, 1998

### **I. Recommendation/Action Requested**

The Multnomah County Health Department is requesting approval to respond to a Request for Proposals from the Oregon Health Division for Statewide Services for Tobacco Prevention and Education. The proposal is due June 30, 1998.

### **II. Background/Analysis**

In November 1996, Oregonians approved Ballot Measure 44, voting to increase the tax on tobacco products and to dedicate 10% of the revenue to tobacco prevention and education. The Oregon Health Division was directed to develop and implement a program to use these funds to reduce the use of tobacco products in our state. The components of the statewide program include: local coalitions and community-based activities; comprehensive school-based programs; public awareness and education campaigns; special statewide and regional projects; statewide coordination and evaluation. The RFP issued by the Oregon Health Division fits within the "special statewide and regional projects" component. The RFP is seeking proposals from qualified agencies to provide the following statewide services for tobacco prevention and education: (1) a cessation quit line; (2) a resources clearinghouse; and (3) training coordination. Respondents to the RFP may propose to provide one, two, or all three services.

Multnomah County Health Department is proposing to provide the cessation quit line service. The Quit Line will be a single, statewide, no charge, convenient telephone-based resource to

provide screening, counseling, support materials and referral for tobacco cessation assistance based on the individuals' readiness to quit. It will provide comprehensive follow-up counseling support for uninsured Oregonians who are ready to quit. For insured Oregonians who are ready to quit, the Quit Line will coordinate with Oregon's health care delivery system to link the quitter with the appropriate resource for comprehensive follow-up support services.

The Health Department currently operates an information and referral toll-free line which provides referrals for social and health services for Multnomah County residents, statewide teen helpline services, and statewide maternal/child health information and referral. The Health Department is proposing to locate the Cessation Quit Line in the Information and Referral Program of the Support Services Division.

### **III. Financial Impact**

The Health Department anticipates requesting \$500,000 for the Cessation Quit Line. The funding period is expected to begin August 1, 1998 and continue through June 30, 1999. The contract may be renegotiated for up to two additional years without the issuance of a new RFP.

### **IV. Legal Issues**

None.

### **V. Controversial Issues**

None.

### **VI. Link to Current County Policies**

Reducing the use of tobacco is consistent with county policies and benchmarks. Tobacco use continues to be a major cause of morbidity and premature mortality in Multnomah County and statewide. Increasing the percentage of adults who do not currently smoke tobacco is an Oregon Benchmark. Decreasing the use of tobacco in adolescents is an objective under the strategic direction of improving key community health indicators in the Health Department 1998-2001 Strategic Plan.

### **VII. Citizen Participation**

The services solicited by this RFP are funded by the tax increase on tobacco products approved with the passing of Ballot Measure 44.

### **VIII. Other Government Participation**

The RFP is issued by the Oregon Department of Human Resources, through the Oregon Health Division.

MEETING DATE: JUN 25 1998  
AGENDA NO: R-5  
ESTIMATED START TIME: 9:25

(Above Space for Board Clerk's Use ONLY)

### AGENDA PLACEMENT FORM

SUBJECT: Energy Loan Approval for Lighting Upgrades

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: June 25, 1998  
AMOUNT OF TIME NEEDED: 10 minutes

DEPARTMENT: DES DIVISION: Facilities & Property Mg't  
CONTACT: Amy Joslin TELEPHONE #: x24544  
BLDG/ROOM #: 421/FM / 3<sup>d</sup> floor

PERSON(S) MAKING PRESENTATION: Amy Joslin

#### ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

#### SUGGESTED AGENDA TITLE:

Resolution authorizing an application for a loan from the Small Scale Energy Loan Program to upgrade the lighting in nine County-owned facilities to be more efficient.

6/26/98 copies to Amy Joslin

#### SIGNATURES REQUIRED:

ELECTED OFFICIAL: \_\_\_\_\_  
(OR)  
DEPARTMENT \_\_\_\_\_  
MANAGER: [Signature]

98 JUN 15 AM 10:56  
MULTNOMAH COUNTY  
OREGON  
BOARD OF  
COUNTY COMMISSIONERS

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277

# SUPPLEMENTAL STAFF REPORT

TO: Board of County Commissioners

FROM: Department of Environmental Services

DATE: June 10, 1998

RE: Energy Loan Approval for Lighting Upgrades

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1. Recommendation/Action Requested: Authorize an application for a State Energy Loan in the amount of \$155,000.
2. Background/Analysis: This project proposes to upgrade existing inefficient lighting at nine County-owned facilities to Oregon Energy Code recommended T-8 lamps and electronic ballasts. This project also brings these nine buildings into line with current County lighting standards.
3. Financial Impact: Energy savings as a result of these improvements are estimated at \$20,977 per year. Debt service on the principal and interest will be \$21,000 per year, paid over ten years. These figures do not include utility incentives that may be received by Portland General Electric, or maintenance savings from reduced re-lamping costs.
4. Legal Issues: None anticipated.
5. Controversial Issues: PCB ballasts will be removed and disposed of according to current hazardous materials codes and standards.

6. Link to Current County Policies: Current policy supports the replacement of outdated, inefficient equipment with newer equipment, particularly when the replacement generates enough energy savings to pay for the replacement costs.
7. Citizen Participation: None anticipated.
8. Other Government Participation: The funds are being loaned to the County via the State Energy Loan Program.



# Lighting Upgrade Benefits

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- Energy Savings
- Maintenance Savings
  - Relamping
  - Standardization
- Occupant Comfort
  - Improved Lighting Quality
  - Eliminate "ballast buzz"
- Support from Outside Agencies
  - U.S. EPA Green Lights
  - Oregon Dept. Energy
  - Utility Incentives
- Environmental
  - Reduced CO emissions
  - Removal PCB ballasts

## AmeriCorp Lighting Projects

Building	Square Feet (Sq-ft)	Annual Electric Cost	Electric Cost Per Sq-ft	Estimated Installation Cost	Energy Cost Savings	One Time O&M Cost Savings	PGE Rebates Available	Est. % Energy Savings	Simple Payback (years)
B161 Mead	61,343	\$94,200	\$1.54	\$65,700	\$7,050	\$11,300	\$8,510	7%	6.5
B331 MCCF	22,000	\$15,375	\$0.70	\$8,806	\$950	\$4,500	\$0	6%	4.5
B420 SE Health Clinic	24,189	\$18,210	\$0.75	\$13,547	\$1,090	\$4,700	\$3,620	6%	4.8
B430 MidCounty Health	21,267	\$14,634	\$0.69	\$15,320	\$1,129	\$3,700	\$2,670	8%	7.9
B314 MCIJ	57,066	\$91,850	\$1.61	\$48,153	\$5,303	\$12,500	PP&L	6%	6.7
B407 Gresham Probation	4,140	\$4,614	\$1.11	\$7,167	\$622	\$1,200	\$750	13%	8.4
B315 Medical Examiners	10,560	\$9,904	\$0.94	\$4,001	\$495	\$1,700	\$600	5%	3.4
B322 NE Health Clinic	78,155	\$63,243	\$0.81	\$41,426	\$6,285	\$7,500	PP&L	10%	5.4
B402 Wikman	5,595	\$2,695	\$0.48	\$8,152	\$530	\$1,160	\$300	20%	12.6
<b>Total</b>	<b>284,315</b>	<b>\$314,725</b>	<b>\$0.96</b>	<b>\$212,272</b>	<b>\$23,454</b>	<b>\$48,260</b>	<b>\$16,450</b>	<b>7%</b>	<b>6.7</b>

### Notes:

1. Annual electric costs based on actual costs for calendar year 1997.
2. Estimated installation costs based on current State pricing agreement for materials, and current in-house shop rates for labor.
3. O&M Cost Savings based on group re-lamping cost scheduled to occur FY 98/99 that can be cancelled due to this lighting upgrade.
4. PP&L rebates are not available for buildings over 20,000 sq-ft.

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 98-81

Authorizing an application for a Loan from the Small Scale Energy Loan Program (SELP)

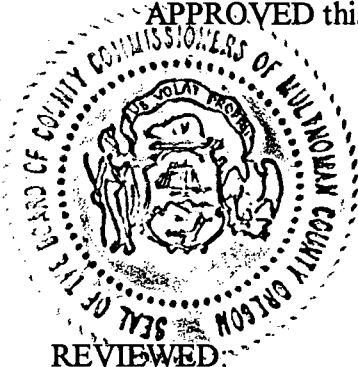
The Multnomah County Board of Commissioners Finds:

- a. Improvements in energy efficiency of lighting systems at nine County-owned facilities: Mead, MCCF, SE Health, MidCounty Health, MCIJ, Gresham Probation, Medical Examiners, NE Health, and Wikman to be cost effective.
- b. The Board of County Commissioners has determined that it would be cost-effective to borrow funds from SELP in order to make the desired lighting improvements.
- c. Financial and Budget Policies authorize the County to apply for a loan from the SELP.

The Multnomah County Board of Commissioners Resolves:

1. Multnomah County is authorized to borrow up to \$155,000 from the Small Scale Energy Loan Program.
2. The Finance Director is authorized to sign any and all loan documents relating to the lighting systems for the nine above mentioned facilities on behalf of Multnomah County.

APPROVED this 25th day of June, 1998.



REVIEWED:

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

Sharon Kelley  
for Beverly Stein, Chair

THOMAS SPONSLER, COUNTY COUNSEL  
FOR MULTNOMAH COUNTY, OREGON

By Sandra N. Duffy  
Sandra N. Duffy, Chief Assistant County Counsel

MEETING DATE: JUN 25 1998  
AGENDA #: R-6  
ESTIMATED START TIME: 9:35

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Resolution of Agreement to Support Gresham's Transit Supportive Tax Exemption Program

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: June 25, 1998  
AMOUNT OF TIME NEEDED: 5 minutes

DEPARTMENT: Non-Dept. DIVISION: Commissioner Sharron Kelley  
CONTACT: Carolyn Marks BAX TELEPHONE #: x2738  
BLDG/ROOM #: 106/1500

PERSON(S) MAKING PRESENTATION: Commissioner Kelley; Jonathon Harker, City of Gresham

ACTION REQUESTED:

[ ] INFORMATIONAL ONLY [ ] POLICY DIRECTION [x] APPROVAL [ ] OTHER

SUGGESTED AGENDA TITLE:

Resolution of Agreement to Support the City of Gresham's Transit Supportive Tax Exemption Program for Multiple-Unit Housing and Mixed-Use Development.

6/26/98 copies to Carolyn Marks BAX

SIGNATURES REQUIRED:

ELECTED  
OFFICIAL: \_\_\_\_\_  
(OR)  
DEPARTMENT  
MANAGER: \_\_\_\_\_

Sharron Kelley

CLERK  
COUNTY CLERK  
MULTI-NOMIN COUNTY  
OREGON  
98 JUN 17 PM 3:40

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

SHARRON KELLEY  
Multnomah County Commissioner  
District 4



Portland Building  
1120 S.W. Fifth Avenue, Suite 1500  
Portland, Oregon 97204  
(503) 248-5213  
E-Mail: sharron.e.KELLEY@co.multnomah.or.us

TO: Board of County Commissioners  
FROM: Commissioner Sharron Kelley  
RE: City of Gresham Transit Supportive Tax Exemption Program  
DATE: June 16, 1998  
AGENDA DATE: June 25, 1998

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I. Recommendation/Action Requested: Adopt Resolution of Agreement to Support Gresham's Transit Supportive Tax Exemption Program.

II. Background/Analysis

ORS 307.600 to 307.691, enables cities and counties to provide a limited property tax exemption for up to ten years to encourage the development of multiple unit housing near light rail and major transit lines. The City of Gresham developed a New Transit Supportive Multiple-unit Housing or Mixed-use Development policy which they adopted June 2, 1998 (Gresham Revised Code Article 10.50). Gresham staff briefed the BCC on their draft policy on May 21, 1998. As a result of that briefing and other discussions the Gresham policy was changed to encourage special needs housing and to extend the property exemption program to eligible areas in Rockwood within one year. Specifically, an amendment was added to section 10.50.055 (Eligible Sites).

"Endorsement by the Multnomah County Board of County Commissioners will be given for projects approved during the year following the adoption of this ordinance, after one year the Multnomah County Board of Commissioners will only endorse projects if section 10.50.055 (Eligible Sites) of this ordinance is extended to the applicable Central Rockwood areas within one year of the effective date of this ordinance. The City of Gresham will endeavor to include Central Rockwood in section 10.50.055 beginning October, 1998."

The BCC adopted a resolution agreeing to support the City of Portland's Transit Oriented Area Development Tax Exemption Program in November 1966. The program has resulted in numerous projects, which include significant numbers of affordable housing units and other public benefits.

III. Financial Impact

As a result of Ballot Measure 50 taxes waived for the exemption program would have gone to the general fund. (The BCC considered this fact when they negotiated with Gresham to do more to encourage special needs housing and expansion of the program to Rockwood, as a tool to support community-building initiatives.)

- Based on Gresham's estimated property tax revenue impacts for the proposed 19 year duration of the program the maximum amount of taxes foregone in any single year is approximately \$457,300. This peak estimate is reached in the year 2007.
- Total property taxes forgone during the 19-year period is approximately \$4.51 million.
- Forgone revenue for each year differs as new projects receive exemptions and the exemptions of existing projects expire. If we were to aerate the total amount forgone over the 19 years, the County would be investing approximately \$237,600 General fund dollars each year.

IV. Legal Issues:

None – Commissioner Kelley is a member of the Rockwood Action Plan Task Force and she will monitor extension of the program to Rockwood within one year.

V. Controversial Issues:

The most controversial issue is the post Ballot Measure Five impact on the general fund. Gresham's original policy was amended to be more encouraging of housing opportunities and community benefits that address the needs of the populations assisted with general fund dollars.

VI. Link to Current County Policies

Supports Comprehensive Housing Strategy, benchmarks related to special needs housing, access to child care facilities, transportation alternatives, land use planning and community design.

VII. Citizen Participation

Gresham held public hearing June 2, 1998. Public BCC briefing May 21, 1998.

VIII. Other Government Participation

Staff reviewed draft policy with State Housing and Community Services Department staff.



# CITY OF GRESHAM

## Office of the Mayor & City Council

June 12, 1998

Mayor

Cussie McRobert

...

City Council

Bob Moore  
Council President  
Position 5

Jack Gallagher  
Position 1

Glenn McIntire  
Position 2

John Leuthauser  
Position 3

Debra Noah  
Position 4

David Widmark  
Position 6

Multnomah County Chair Beverly Stein  
1120 SW Fifth Avenue, Suite 1515  
Portland, OR 97204-1914

RE: Transit Oriented Tax Exemption

Dear Chair Stein:

This is a formal request that the Multnomah County Board of Commissioners take action by resolution to endorse Gresham's "Property Tax Exemption for New Transit Supportive Multiple-unit Housing or Mixed Use Development" (Gresham Revised Code Article 10.50). This would allow qualifying projects to have their Multnomah County property tax, in addition to City and other taxing districts, exempted during the 10 year exemption period. ORS 307.610 specifically allows this when "governing boards agree by resolution to the policy of providing tax exemptions" under the program.

Gresham voted to adopt the program following a public hearing on June 2, 1998. Included in the adopted ordinance is the following section (10.50.145.2):

Staff is directed to request formal endorsement from the Multnomah County Board of Commissioners in order that the property tax exemption apply to the ad valorem taxation of the following taxing districts in addition to the City of Gresham: Multnomah County, Educational Service District, Tri-Met, Metro and the Port of Portland. Endorsement by the Multnomah County Board of Commissioners will be given for projects approved during the year following the adoption of this ordinance, after one year the Multnomah County Board of Commissioners will only endorse projects if section 10.50.055 (Eligible Sites) of this ordinance is extended to the applicable Central Rockwood areas within one year of the effective date of this ordinance. The City of Gresham will endeavor to include Central Rockwood in section 10.50.055 beginning October, 1998.

I would like to personally thank Commissioner Kelly for testifying in favor of the program at the June 2, 1998 hearing. Her comments were well received by the Council. I would also like to extend my thanks to County staff members Carolyn Bax and Maria Lisa Johnson for assisting City staff in crafting a program that serves our mutual interests.

June 12, 1998  
Chair Beverly Stein  
Transit Oriented Tax Exemption - Page two

I understand that the Board of County Commissioners will consider the resolution on June 25<sup>th</sup>. Johathan Harker, staff Community Planner, plans to attend and be available to answer questions about Gresham's ordinance. Please let me know if you would like to have a Gresham staff presentation and/or Council testimony before the County Board of Commissioners. If so, please contact Max Talbot, Community Development Director at 618-2661.

The ordinance will become effective on July 16, 1998. It would be helpful to have the County's endorsement prior to that date. Again I would like to thank the County and especially Commissioner Kelly for assisting in this project.

Yours truly,



Gussie McRobert  
Mayor

GM:JH\mt

c: Commissioner Sharron Kelley  
Commissioner Gary Hansen  
Max Talbot, Community Development Director  
Jonathan Harker, AICP, Community Planner III



**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON**

**RESOLUTION NO. 98-82**

Agreement to the City of Gresham's Request for the Transit Supportive,  
Multiple-Unit or Mixed-Use Development Property Tax Exemption Program

The Multnomah County Board of Commissioners Finds:

- a. ORS 307.600 to 307.691, enables cities and counties to provide a limited property tax exemption for up to ten years to encourage the development of multiple-unit housing near light rail and major transit lines
- b. In passing this legislation, the Legislature determined "that it is in the public interest to promote private investment in transit supportive multiple-unit housing in light rail station areas and transit oriented areas in order to maximize Oregon's transit investment to the fullest extent possible and that the cities and counties of this state should be enabled to establish and design programs to attract new development of multiple-unit housing, and commercial and retail property, in areas located within a light rail station area or transit oriented areas"
- c. It is in the public interest to encourage transit oriented development within walking distance of light rail stations and other major transit facilities in order to reduce vehicle miles traveled, traffic congestion, and air pollution
- d. This program is consistent with Metro's 2040 Regional Growth Management Strategy, Tri-Met's Strategic Plan Land Use Goal, Gresham's Community Development Plan and 2020 Vision
- e. This proposed tax-exemption will help implement the City of Gresham's Downtown Plan District and the Civic Neighborhood Plan District objectives by encouraging development that will increase and enhance the use of transit and the mix of residential and commercial uses
- f. At the May 21, 1998 briefing the Board of County Commissioners made it clear that the County's agreement to grant any tax exemption for the City of Gresham's transit supportive development program was contingent upon the program providing: (1) affordable housing development within mixed-income developments, (2) incentives for on-site child care, (3) incentives for special

needs housing projects for persons who are mentally or physically disabled or other categories of persons as defined by the Federal Fair Housing Amendments Act of 1988 (or successors); and (4) extension of the program to the Rockwood area

- g. At the June 2, 1998 public hearing, the Gresham City Council voted to adopt the "Property Tax Exemption for New Transit Supportive Multiple-unit Housing or Mixed use Development" (Gresham Revised Code Article 10.50) with an amendment to include as the last sentences to 10.50.145. (2) "Endorsement by the Multnomah County Board of County Commissioners will be given for projects approved during the year following the adoption of this ordinance, after one year the Multnomah County Board of Commissioners will only endorse projects if section 10.50.055 (Eligible Sites) of this ordinance is extended to the applicable Central Rockwood areas within one year of the effective date of this ordinance. The City of Gresham will endeavor to include Central Rockwood in section 10.50.055 beginning October, 1998."

The Multnomah County Board of Commissioners Resolves:

1. The Board agrees to the City of Gresham's Property Tax Exemption for New Transit Supportive Multiple-unit Housing or Mixed Use Development (Gresham Revised Code Article 10.50).

Approved this 25th day of June, 1998.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

Sharon Kelly  
for Beverly Stein, Chair

Thomas Sponsler, County Counsel  
For Multnomah County, Oregon

By Sandra N. Duffy  
Sandra N. Duffy, Chief Assistant County Counsel

MEETING DATE: JUN 25 1998  
AGENDA #: R-7  
ESTIMATED START TIME: 9:40

(Above Space for Board Clerk's Use ONLY)

### AGENDA PLACEMENT FORM

SUBJECT: East County Public Facilities Siting Project Briefing

BOARD BRIEFING:                      DATE REQUESTED: \_\_\_\_\_  
   REQUESTED BY: \_\_\_\_\_  
   AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING:                      DATE REQUESTED: June 25, 1998  
   AMOUNT OF TIME NEEDED: 20 minutes

DEPARTMENT: Non-Dept.                      DIVISION: Commissioner Kelley

CONTACT: Carolyn Marks Bax                      TELEPHONE #: x22738  
   BLDG/ROOM #: 106/1500

PERSON(S) MAKING PRESENTATION: Linda Davis, Arnold Cogan, Bob Oberst, Len Sobo

#### ACTION REQUESTED:

☒ INFORMATIONAL ONLY    ☐ POLICY DIRECTION    ☐ APPROVAL    ☐ OTHER

#### SUGGESTED AGENDA TITLE:

Briefing on Multnomah County Public Facilities Siting Project: update on Facility Siting Advisory Committee threshold criteria; overview of eight possible sites for the East County Health Clinic, the East County Senior Center and a new Justice Center; request for direction regarding development of FSAC site recommendations.

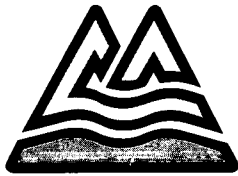
#### SIGNATURES REQUIRED:

ELECTED  
OFFICIAL: Sharon Kelley  
(OR)  
DEPARTMENT  
MANAGER: \_\_\_\_\_

98 JUN 17 AM 11:35  
MULTNOMAH COUNTY  
OREGON  
CLERK OF COUNTY COMMISSIONERS

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277



# MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES  
DIVISION OF FACILITIES AND  
PROPERTY MANAGEMENT  
2505 S.E. 11TH AVENUE  
PORTLAND, OREGON 97202  
(503) 248-3322

## MEMORANDUM

**DATE:** June 18, 1998

**TO:** Multnomah County Board of Commissioners

**FROM:** Len Sobo, Construction Specialist *LS*

**RE:** Status Report on East County Facilities Siting Process

### Summary

At its meeting on June 25, 1998 we will provide a briefing on the progress of the East County Facilities Siting Process. The Facilities Siting Advisory Committee will likely make a recommendation to the Board on a site or sites by August, 1998. The Board will be asked to take action on the recommendation as soon as possible so that the sites can be acquired and the County can move ahead with construction plans. This memo summarizes the process to date, including public involvement activities, and indicates some of the siting issues that are being discussed.

### Background

In late 1997, the County hired the firm of Cogan Owens Cogan to conduct a public involvement process concerning the siting of several county facilities in East Multnomah County. The program designed is based on the general process outlined in the County's Facilities Siting Public Involvement Manual. As part of this process, Commission Chair Bev Stein appointed the Facilities Siting Advisory Committee (FSAC) early this year to review and recommend sites for a number of county departments that need to relocate within the East County area. The East County Facilities Task Force composed of county department staff has been closely involved with the process.

The departments/facilities included in this process are:

- ◆ East County Health Clinic
- ◆ Aging and Disability Services offices
- ◆ Gresham Neighborhood Center (Senior Center)
- ◆ Sheriff's Department
- ◆ Gresham County Court
- ◆ East County District Attorney's Office
- ◆ two East County offices of the Juvenile and Adult Community Justice Department.

The Health Clinic and Senior Center have been condemned by the City of Gresham because they are structurally unsound. The Sheriff's Office, currently located on SE 122<sup>nd</sup> and Glisan in the City of Portland, is also in very serious condition and is beyond economic repair. It is also no longer in the center of the Sheriff's patrol area. Others do not necessarily have to move, but there would be a number of advantages to centralizing a number of county departments and operations.

Very early on, it became apparent that the County would benefit with the construction of an East County Justice Facility that would include the Sheriff and all of the other justice-related departments. Thus, the effort has been focused on finding a suitable suit for co-housing all of these departments in one building or site.

The Health Clinic and Senior Center could continue to be located together, as they are now in Downtown Gresham, or could be located together with the Justice Facility. Another alternative is for each facility to be located on a separate site.

#### Process to Date

On March 31, 1998, the first public meeting was held to address the question of criteria for location of new facilities. About 60 people attended. From this meeting and working with the Task Force and FSAC, we arrived at two sets of evaluation criteria: 1) threshold criteria, and 2) site location criteria. Access to public transit was determined the most important criteria.

On June 25, 1998 two public workshops will be held in Gresham to review and receive public input on eight sites that meet the threshold criteria. Two are located in the Rockwood neighborhood, one is in the Gresham Civic Neighborhood, and five are in the Downtown Neighborhood. All are within walking distance of light rail stations and have bus access.

We anticipate that the FSAC will arrive at a recommendation to forward to the Board by the end of July. The FSAC will likely forward a prioritized list of sites to the Board rather than a single recommendation. It will also likely address the question of whether all facilities should be located together or in different locations.

## Siting Issues

The FSAC will review all eight sites against the site location criteria to arrive at a recommendation. One of the criterion relates to neighborhood support and another to compatibility with community and neighborhood plans. The following is a preliminary review of the issues associated with each grouping of sites.

***Civic Neighborhood.*** The City of Gresham is encouraging the Civic Neighborhood Site for at least the Justice facility, if not all three. The primary benefit of the Justice Facility being located here would be its proximity to the Gresham Police Department and the potential for joint use of facilities by the Sheriff and Police Department. The Gresham Police also see an advantage to be close to the Court. There are some within the neighborhood who feel there will be too many public agencies if the County locates facilities here.

***Rockwood.*** Proponents of Rockwood favor these sites because they want to see public investment assist with revitalizing the neighborhood. There is also a large proportion of Health Clinic clients who reside in this neighborhood. Neither of the sites under consideration could accommodate more than one of the facilities. The Senior Center constituent group is concerned about a move to Rockwood primarily because of perceived security issues. The City of Gresham has also expressed its concerns about Rockwood.

***Downtown Gresham.*** The Gresham Downtown Association (GDA) will be lobbying strongly for the Downtown sites for at least the Senior Center, if not all three facilities. The GDA has developed a marketing program aimed at seniors and does not want to see the Center move out of the neighborhood where it has been located for many years. In addition, there are a number of other social service agencies that are locating in the area that could provide convenient clustering.

We have also been told that the City of Fairview will likely take a position in favor of sites in either the Civic Neighborhood or Downtown because of their more direct access by bus from Fairview.



Multnomah County  
2505 SE 11<sup>th</sup> Avenue  
Portland, Oregon 97202

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Portland, OR  
Permit #5522

**TIME SENSITIVE INFORMATION  
ENCLOSED -- OPEN  
IMMEDIATELY!!**

*Don't forget to mark your calendars for the June 25 public workshops on these eight proposed sites!! For American Disabilities Act (ADA) Accommodations, or a translation in Spanish, please call 248-3674 and ask for extension 24296. Spanish interpreters will be available at both of the workshops.*

- ♣ **Senior Citizens who need transportation to this event please call 248-3840 and ask for extension 265.**
- ♣ **Persons with a disability, under age 60, who need transportation to this event, call TRI-MET LIFT dispatcher at 802-8000, or call TRI-MET at 238-RIDE for help planning your trip.**

***HOPE TO SEE YOU ON THE 25<sup>TH</sup>!!***

**Facility  
Siting  
Advisory  
Committee:**

Sandra  
Carter-  
Templeman

Greg  
DiLoreto

Royal  
Harshman

Gerald  
Johnson

Ron  
Pennington

Jeanne  
Pulliam

Honorable  
Roosevelt  
Robinson

Donna Sather

Jack Shynne

Patty  
Swanson

Staff:  
Len Sobo,  
Multnomah  
County

Consultant:  
Linda Davis,  
Cogan Owens  
Cogan

❖ ***THE EAST COUNTY HEALTH CLINIC***

❖ ***THE EAST COUNTY SENIOR CENTER***

***AND***

❖ ***THE EAST COUNTY JUSTICE CENTER:***

***WHERE SHOULD THEY BE LOCATED???***

Eight possible sites for the East County Health Clinic, the East County Senior Center and a new Justice Center have been identified by a citizen-based Facilities Siting Advisory Committee (FSAC).

All interested citizens are encouraged to attend either of two public workshops on ***June 25, 1998*** to comment on these sites; their location, access, neighborhood compatibility, and other important factors. County staff will make a brief presentation on the siting process and explain the sites under consideration. Citizens will then have the opportunity to comment in small group discussions. Staff and the consultant to the project will be available to answer questions.

***Date: June 25, 1998***

***Time: 2-4 pm or 7-9 pm***

***Place: Gresham City Hall***

***Oregon and Barlow Trail Meeting Rooms***

***1333 NE Eastman Parkway***



*For more information, or to make American Disabilities Act accommodations, contact Len Sobo, Multnomah County, 248-3322. See inside for more details.*

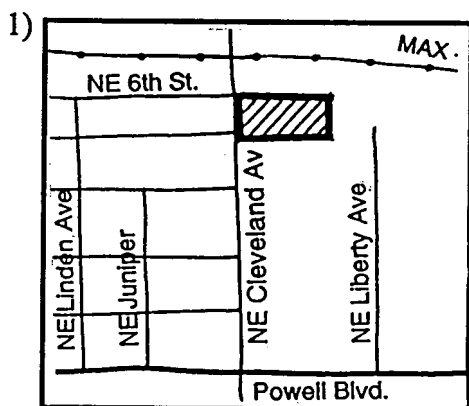


## LOCATION CRITERIA

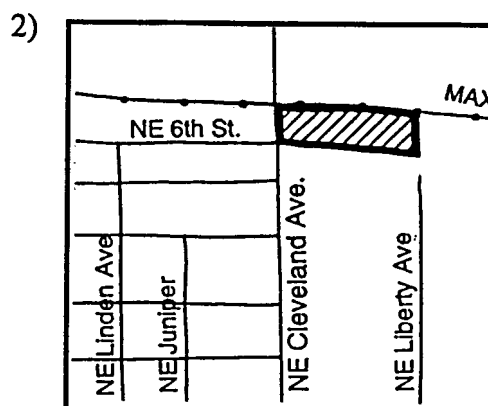
*The sites under consideration have been found by the Facilities Siting Advisory Committee (FSAC) to meet a number of threshold criteria, including: central location; availability; zoning; lack of deed restrictions on use; size; shape; topography; natural resources and hazards; street access; land costs; and site development costs.*

At an open house held in late March, 1998, the public helped identify important factors for site selection. Based on this public input, the FSAC identified the following as important in choosing a site or sites for the new Senior Center, Health Clinic and Justice Facility:

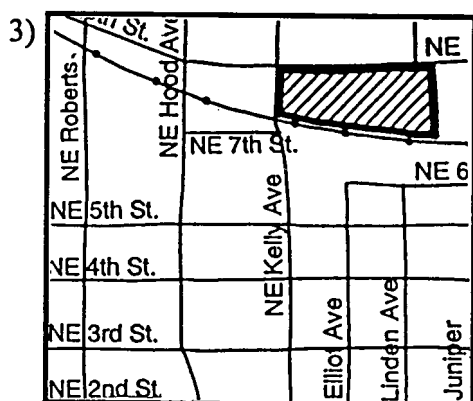
- ✓ Access to light rail transit and bus service
- ✓ Proximity to a transit center, where light rail transit and buses converge



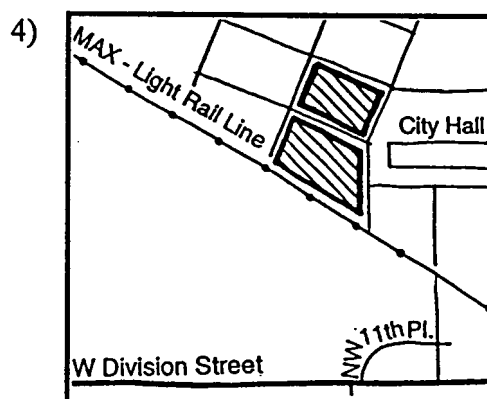
400 NE Cleveland  
2.64 acres  
located in Downtown Gresham



620 NE Cleveland  
2.43 acres  
located in Downtown Gresham



604 NE 8th  
4.28 acres  
located in Downtown Gresham

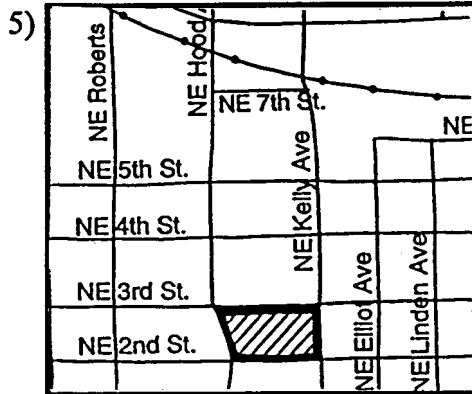


Gresham Civic Center,  
NW Norman Ave.  
2.75 acres  
located in Gresham Civic Neighborhood

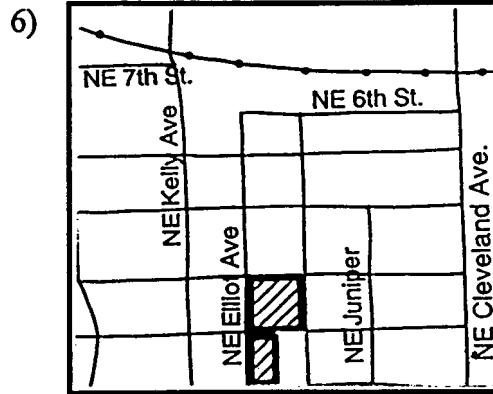
- ✓ Neighborhood support
- ✓ Compatibility with city and neighborhood plans
- ✓ Easy to find
- ✓ Parking requirements and needs
- ✓ Size to accommodate one or more facilities together on one site
- ✓ Room to expand on the site for future growth
- ✓ Proximity of the site to other services
- ✓ Safe access and egress

*How well do these sites meet the site location criteria?*

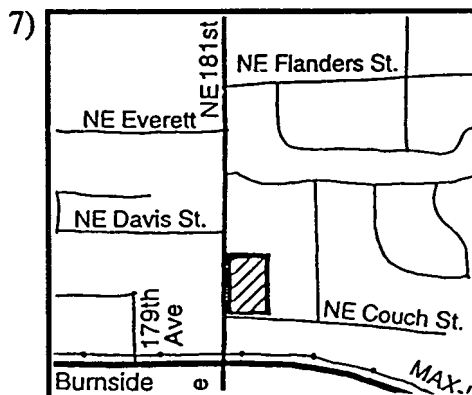
***\*\*Plan to attend the Public Workshop on June 25 to Discuss  
and Comment on the Sites and these Criteria!\*\****



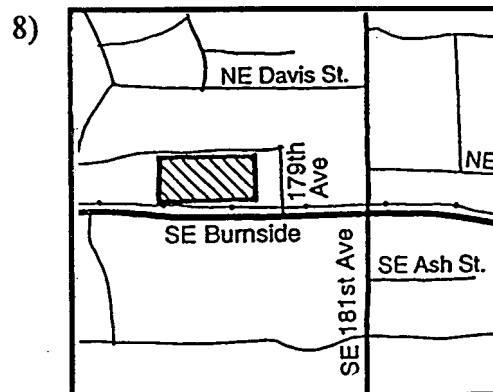
NE 2<sup>nd</sup> and Hood  
2.11 acres  
located in Downtown Gresham



50 NE Elliot  
1.59 acres  
located in Downtown Gresham



202 NE 81<sup>st</sup>  
1.82 acres  
located in Rockwood Neighborhood



17727-17839 E. Burnside  
1.8 acres  
located in Rockwood Neighborhood

MEETING DATE: JUN 25 1998  
AGENDA  
NO: R-8  
ESTIMATED START TIME: 10:00

(Above Space for Board Clerk's Use ONLY)

## AGENDA PLACEMENT FORM

SUBJECT: First reading of ordinance designating authority for operation of secure residential drug and alcohol treatment facilities

Board Briefing:

DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING:

DATE REQUESTED: 6/25/98  
AMOUNT OF TIME NEEDED: 5 minutes

DEPARTMENT: Community Justice  
CONTACT: Lore Joplin

DIVISION: JACJ  
TELEPHONE #: 248-3438  
BLDG/ROOM#: 311/JJD

PERSON(S) MAKING PRESENTATION: Elyse Clawson

### ACTION REQUESTED

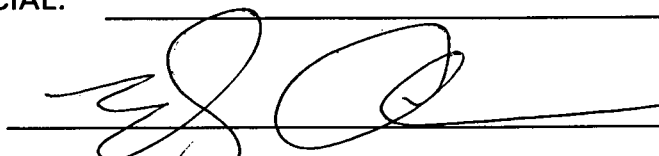
☐ INFORMATIONAL ONLY   ☐ POLICY DIRECTION   ☒ APPROVAL   ☐ OTHER

### SUGGESTED AGENDA TITLE

First reading of ordinance designating the County supervisory authority, defining County secure residential treatment facilities, and amending MCC 2.30.800 and creating MCC 2.30.310

### SIGNATURES REQUIRED

ELECTED OFFICIAL:  
(OR)  
DEPARTMENT  
MANAGER:



ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any questions? Please call the Board Clerk @ 248-3277

98 JUN 17 AM 9:40  
MULTNOMAH COUNTY  
CLERK OF SUPERIOR COURT  
RECORDED



# MULTNOMAH COUNTY OREGON

DEPARTMENT OF JUVENILE AND ADULT COMMUNITY JUSTICE  
JUVENILE COMMUNITY JUSTICE  
1401 N.E. 68TH  
PORTLAND, OREGON 97213  
(503) 248-3460  
TDD 248-3561

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DAN SALTZMAN • DISTRICT 1 COMMISSIONER  
GARY HANSEN • DISTRICT 2 COMMISSIONER  
TANYA COLLIER • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

## MEMORANDUM

TO: Board of County Commissioners

FROM: Elyse Clawson, Director  
Department of Juvenile and Adult Community Justice

DATE: June 16, 1998

SUBJECT: Approval of an Ordinance Designating the Director of the Department of Juvenile and Adult Community Justice to Operate Secure Residential Facilities for the Treatment of Drug and Alcohol Addicted Offenders

### RECOMMENDATION/ACTION REQUESTED:

The Department of Juvenile and Adult Community Justice recommends the Board's approval of the ordinance designating the director of the Department of Juvenile and Adult Community Justice to operate secure residential facilities for the treatment of drug and alcohol addicted offenders.

### BACKGROUND/ANALYSIS:

Multnomah County planned to include secure alcohol and drug treatment, operated by community corrections, as part of the county's plan to manage offenders sentenced to 12 months or less who would be kept locally beginning January 1, 1997 (SB 1145). The original plan was to operate secure treatment at three separate sites. As planning progressed, the decision was made for community corrections to operate one large treatment facility and to co-site the facility with the Radio Towers jail.

During the planning for the secure alcohol and drug treatment facility co-sited with the Radio Towers Jail, many differences of opinion were brought up for discussion between the Multnomah County Sheriff's Office, who will operate the jail, and Adult Community Justice, who will operate the treatment facility. Many of these differences were resolved

through a process of cooperative discussion and decision-making. The areas of greatest conflict were about how offenders would enter the facility and whether offenders would be allowed escorted travel outside the facility for transition planning before discharge. There was not a common understanding regarding the final authority on how these conflicts would be resolved. Because of this, both the Chair and the Sheriff requested a legal opinion from county counsel.

On April 29, 1998, county counsel answered the question, "Does the Multnomah County Home Rule Charter require that the Sheriff administer the proposed alcohol and drug treatment facility?" County counsel concluded that it did not, and that the Board had the authority to determine the administrator of the treatment facility.

On June 2, 1998, a meeting was held with the Sheriff, the Chair, the District Attorney, the Director of Juvenile and Adult Community Justice, and Fred Stickel of the Citizens Crime Commission. As part of the agreement reached at that meeting, the secure alcohol and drug treatment program is to be moved off the jail site thus eliminating the Sheriff's concerns about the operation of the facility at the Tower Jail site.

#### **FINANCIAL IMPACT:**

A new siting process will need to be completed to find a site for the secure alcohol and drug facility. Most of the architectural design work already completed could be used at a new site, so the change would not add costs to those already incurred. There may be some savings in operation of the facility, since some of the agreements made with the Sheriff's Office about staffing at the towers site added costs not required to operate secure treatment.

#### **LEGAL ISSUES:**

The ordinance is consistent with the legal opinion of county counsel on April 29, 1998 regarding the administration of the secure alcohol and drug treatment facility.

#### **CONTROVERSIAL ISSUES:**

The operation of the secure alcohol and drug treatment facility has been a controversial issue, with disagreements between the Sheriff's Office and Juvenile and Adult Community Justice regarding how offenders would enter and leave the facility. Although these specific issues were resolved, the agreement reached on June 2 included removing the treatment facility from the Radio Towers Jail site. This ordinance implements that portion of the agreement.

**LINK TO CURRENT COUNTY POLICIES:**

The secure alcohol and drug treatment program directly addresses the benchmarks of reducing crime and improving public safety. It targets services to those offenders at greatest risk of committing a new crime and provides services most correlated by research with reductions in criminal behavior. It is an important link in the continuum of community sanctions operated by Community Justice, and fits with the agency mission to enhance public safety and promote the positive change of offenders in the community through integrated supervision, rehabilitation, and enforcement strategies.

**CITIZEN PARTICIPATION:**

N/A

**OTHER GOVERNMENTAL PARTICIPATION:**

N/A



# Multnomah County Sheriff's Office

12240 N.E. GLISAN ST., PORTLAND, OREGON 97230

DAN NOELLE  
SHERIFF(503) 256-3600  
TTY (503) 251-2484

## MEMORANDUM

TO: Chair Bev Stein

cc: Board of County Commissioners  
Charter Review Committee  
Fred Stickel, Oregonian Publisher  
DA Mike Schrunk  
Chief Bernie Guisto, Gresham PD  
Gerald McFadden, Volunteers of America (LPSCC)  
Elyse Clawson, Juvenile and Adult Community Justice

FROM: Sheriff Dan Noelle *Dan Noelle*

RE: Agreements reached June 2, 1998

DATE: June 18, 1998

I have reviewed your memo of June 15 describing your understanding of the agreement reached in the June 2 meeting in Fred Stickel's office). My understanding of where we are is as follows:

1. I have received a copy of the letter to Dave Kim and Tim Dabareiner. I understand that the Board intends to move the 300 beds for alcohol and drug treatment to another site. I am opposed to your ordinance that still attempts to redefine the role of the sheriff. State law and the charter already define those roles and this appears to return to the Charter Committee's issues. (see last paragraph) This was never part of our agreement.
2. I am pleased that the \$766,000 will be moved to the Sheriff's budget. As I told you in an earlier memo we have 111 inmates on a waiting list through the month of August. The 40 beds at the Restitution Center will be used to free up current jail beds.
3. The understanding that I have of my ability to appoint outside council is contained in the ordinance that I have proposed and forwarded to the Board of County Commissioners for consideration. (see attached) The language you have proposed does not allow me to seek outside legal advice and appears to discontinue my ability to get advice on this issue effective June 15. I still feel that a series of well-crafted legal questions and answers could help us resolve that issue.
4. On June 23 I have scheduled a meeting in Kenton from 6:00 to 8:00 p.m. to explain the change at the new jail site in regards to the A and D facility. My understanding is that the meeting in Troutdale starts at 8:00 p.m. and I will attend as soon as I have completed the meeting in Kenton. As I explained to people during the June 2 meeting in Fred Stickel's office and public comments prior to that meeting, my concern about the alcohol and drug

Memo to Chair Stein

June 18, 1998

Page 2

facility all along has had to do with commitments we had made to the community and safety issues. Within that framework I certainly agree to work with you and Sharron Kelley to explore with the City of Troutdale the use of those beds. If an agreement can be reached with Troutdale, it is my expectation that at least 190 beds will be added to the Radio Tower site in the initial construction. We cannot reduce jail beds while we are still continuing to matrix.

5. I greatly appreciate Fred Stickel and the Citizens Crime Commission. Without the involvement of Fred Stickel and DA Mike Schrunk, I suspect that we would never have had an opportunity to reach an agreement. I am certainly looking forward to working with the Citizens Crime Commission and seeing their recommendations.

I believe the Charter Review Committee clearly understands the issue. The Charter gave the Sheriff responsibility for the administration of the jail, and I suspect prior Charter Review Committees and the public intended that to include Multnomah County inmates held in custody. The legislature never intended for SB1145 to change the role of the Sheriff. I have attached letters from the Office of the Governor and Association of Oregon Counties (AOC). AOC and the Governor helped draft and frame SB1145. The balance of power is created by Board of County Commissioners controlling the budget and the Sheriff's responsibility for safe and responsible custody of the inmates. This forces us to have debates about the issues and gives the public a clear opportunity to decide how we balance the budget with the public's safety. I believe this is a healthy system.



JOHN A. KITZHABER  
GOVERNOR



August 21, 1995

TO: Jim Willis, Coordinator  
Community Corrections Action Team

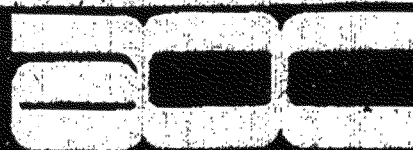
FROM: Steve Marks *SM*

SUBJECT: Senate Bill 1145

This memo is to clarify any misunderstanding related to Section 27 of Senate Bill 1145. Section 27 was designed as a definition section only. There was never an intent then nor is there an intent now to remove from the Sheriffs the responsibility for operating the jails in their communities.

Should this section continue to be an issue of concern to the Sheriffs of Oregon, we will address additional clarification language during the January special session.

SM:lgw



ASSOCIATION OF OREGON COUNTIES

LOCAL GOVERNMENT CENTER 1201 COURT STREET N.E. P.O. BOX 12729 SALEM, OREGON 97309-0729. (503) 585-8357

August 21, 1995

Art Martinak, Executive Director  
Oregon State Sheriffs Association  
3000 Market Street NE  
Salem, Oregon 97302

Subject: Section 27, SB 1145 (1995 Regular Session).

Dear Art:

The question has arisen as to whether section 27 of this bill authorizes the county governing body to take control of the county jail from the sheriff. You have asked for my understanding of what the bill and, in particular, section 27 were intended to do.

My understanding of the agreement between OSSA and AOC, of which section 27 was a part, is that the county governing body would have authority to designate the supervisory authority **ONLY FOR PURPOSES OF DETERMINING WHO HAS AUTHORITY TO MOVE PRISONERS** from one level of custody, or one program, to another. The sheriff would continue to be the operator of the jail. Section 27 is a definition section that applies only to four other specified areas of the bill. None of those areas deal with who operates jails. Rather, they deal with who has responsibility for the custody of prisoners sentenced to 12 months or less, and with what authority the custodian of those prisoners has over what sanctions they get. The agreement between OSSA and AOC was that when an offender is in the county jail, the person with authority over that offender will be the sheriff (just as it is now). The authority of the supervisory authority, as designated by the county governing body in section 27, is to move offenders among available sanctions, subject to the authority of the court to require incarceration. I believe the legislative history will reflect that understanding. Other laws that designate the sheriff as the keeper of the local correctional facility are unchanged, and are not intended to be affected by this legislation.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Paul Snider', is written over a horizontal line.

Paul Snider  
Legal Counsel

### AGREEMENT

The parties to this Agreement are BEVERLY STEIN, Chair of the Multnomah County Board of Commissioners and DAN NOELLE, Multnomah County Sheriff. This Agreement is the result of our discussions at a June 2, 1998 meeting, which was proposed by the Executive Committee of the Multnomah County Public Safety Coordinating Council and convened by Fred Stickel in his office at The Oregonian. Also present at that meeting were the following members of the Public Safety Coordinating Council: District Attorney Mike Schrunk, Chief Bernie Giusto, Gerald McFadden, Elyse Clawson, Ray Mathis and Council Director Peter Ozanne.

Pursuant to our discussions at this meeting, WE AGREE as follows:

We agree to appear together, along with District Attorney Mike Schrunk, at the June 2, 1998 meeting of the Multnomah County Charter Review Commission and to jointly request that the Commission table to withdraw a proposal pending before it. That proposal recommends that the Multnomah County Charter be amended to authorize the Sheriff to assume all responsibility for and authority over corrections in the County, including administration of the Department of Juvenile and Adult Community Justice. Our agreement to make this joint appearance and request before the Charter Review Commission is subject to the following conditions:

1. The proposed 300-bed Alcohol and Drug Treatment Facility, currently planned to be co-sited with the new Multnomah County Jail at a location known as the "Radio Tower Site", will now be located at another site. The parties agree that the new Alcohol and Drug Treatment Facility will be operated by the Department of Adult Community Justice. The Chair and the Sheriff agree to go with the City of Troutdale to explore the use of MCCF for alcohol and drug treatment. If MCCF is approved, at least 190 beds will be added to the Radio Tower site;
2. The County Chair represents that she will obtain approval of the Board of County Commissioners to approve funding for 1998-99 in the approximate amount of \$766,000 for operation of an additional 40 beds in the Multnomah County Restitution Center in Sheriff's budget;
3. The County Chair represents that she will obtain approval of the Board of County Commissioners to amend the Multnomah County Code to authorize Sheriff to retain outside legal counsel to advise the Sheriff under certain circumstances and retroactively; and
4. The issue of unnecessary duplication of services between the Sheriff's Office and the Department of Adult Community Justice, which might lead to inefficiencies and unnecessary costs, will be referred to the Portland Citizens Crime Commission. The Citizens Crime Commission will study this issue, identify such duplication of services, and refer any findings and recommendations to the Board of Commissioners for its consideration in consultation with the Sheriff.

DATED: \_\_\_\_\_

DATED: \_\_\_\_\_

\_\_\_\_\_  
Chair Beverly Stein  
Multnomah County Board of Commissioners

\_\_\_\_\_  
Sheriff Dan Noelle  
Multnomah County



## Beverly Stein, Multnomah County Chair

Room 1515, Portland Building  
1120 S.W. Fifth Avenue  
Portland, Oregon 97204

Phone: (503) 248-3308  
FAX: (503) 248-3093  
E-Mail: [mult.chair@co.multnomah.or.us](mailto:mult.chair@co.multnomah.or.us)

June 15, 1998

TO: Dan Noelle

FROM: Beverly Stein 

CC: Board of County Commissioners  
Charter Review Committee  
Attendees at June 2 meeting

RE: Agreements reached June 2, 1998

At our meeting at the Oregonian in Fred Stickel's office we came to a number of agreement. You complied with most of your part of the agreement by appearing before the Charter Review Commission to recommend withdrawal of the proposal to move community corrections to the sheriff's office. Outstanding is your commitment regarding Troutdale (see point 4 below). Below is an outline of how I am complying with my part of the agreement.

1. Attached is a letter I have sent to Dave Kim and Tim Dabareiner indicating that the 300 bed secure alcohol and drug facility will be located at a site other than the Radio Towers site. Attached also is the previously circulated ordinance which clarifies that Community Corrections will operate such facilities. This ordinance will be filed for consideration by the BCC on June 25.
2. I will submit a bud mod which moves \$766,000 for operating 40 new beds at the Restitution Center from the public safety levy contingency to your budget. This bud mod will be filed for consideration by the BCC on June 25. Also attached is the memo which responds to your previous memo regarding these funds.
3. Attached is an ordinance which gives you new authority to appoint counsel to advise you in situations where it is warranted. This creates the same right for you as a Board member will have. With approval of the BCC you may appoint counsel of your choosing within a budgeted allotment set by the board. I have also included a memo from counsel regarding how other jurisdictions treat this issue. What I have proposed is



consistent with those approaches. The ordinance contains language which will permit payment from your budget of your past legal bills.

4. On June 23 Commissioner Kelley, Elyse Clawson and I will be appearing before the Troutdale City Council to discuss the possibility of using the MCCF Troutdale facility for the A and D secure facility. You have agreed to support the use of MCCF for the secure A and D facility and I hope you will attend that meeting to reaffirm that position. If Troutdale is used for the A and D facility we will have to discuss how to backfill those jail beds.

5. Attached is a letter Fred Stickel thanking him for taking on the task of looking at unnecessary duplications of service between the sheriff's office and community justice and making recommendations regarding such findings to the BCC. Apparently Ray Mathis has set a meeting for June 23 for you and Elyse to discuss the outlines of this effort.

It is my understanding that a majority of the BCC supports the above.

sher.doc



## Beverly Stein, Multnomah County Chair

Room 1515, Portland Building  
1120 S.W. Fifth Avenue  
Portland, Oregon 97204

Phone: (503) 248-3308  
FAX: (503) 248-3093  
E-Mail: [mult.chair@co.multnomah.or.us](mailto:mult.chair@co.multnomah.or.us)

June 12, 1998

Dave Kim  
Kitchell  
421 SW Sixth Ave, Suite 1300  
Portland, Or 97204

Tim Dabareiner  
Barney and Worth  
1211 SW Fifth Ave, Suite 2100  
Portland, Or 97204

Dear Mr. Kim and Mr. Dabareiner:

The Sheriff and I have had a continuing series of discussions over the past month regarding a number of public safety issues. At a meeting last week, we came to a number of agreements. One of them impacts the siting process at the Radio Towers site.

We agreed that we would not try to site the proposed 300 bed secure residential alcohol and drug facility at the Radio Towers site. I have discussed this action with other Board members and they are in agreement.

The Board is tentatively scheduled to have a thorough discussion of the public safety siting issues around the new jail and the alcohol and drug facility on the morning of July 23. We welcome your participation. You will be receiving a specific agenda in the next couple of weeks.

I look forward to continuing to work together on this process.

Sincerely,

  
Beverly Stein

- c. Board of County Commissioners
- c. Sheriff
- c. Elyse Clawson



**BEFORE THE BOARD OF COUNTY COMMISSIONERS**

**FOR MULTNOMAH COUNTY, OREGON**

**ORDINANCE NO. \_\_\_\_\_**

An ordinance designating the County supervisory authority, defining County secure residential treatment facilities, and amending MCC 2.30.800 and creating MCC 2.30.310.

(~~Shaded~~ Language is to be deleted; **Bold** Language is new)

Multnomah County ordains as follows:

**Section 1.     Findings**

- a.     Since January 1, 1997, state law has required counties to assume responsibility for persons convicted of a felony and placed on probation, on parole or post prison supervision, or sanctioned or sentenced to a term of 12 months or less. It authorizes the Board to designate an agency or official as the "supervisory authority" to operate community based corrections supervision, custodial facilities or both. It allows the supervisory authority to impose sanctions other than incarceration.
- b.     It is in the best interests of the citizens of Multnomah County for the Sheriff and the Department of Juvenile and Adult Community Justice to jointly serve as the county supervisory authority

- c. The supervisory authority needs a continuum of secure and non-secure supervision for offenders.
- d. It is in the best interests of Multnomah County to operate both local correctional facilities and local secure residential alcohol and drug treatment facilities as part of the continuum of supervision.
- e. Local correctional facilities are defined by state law as jails for the reception and confinement of prisoners. Their principal purpose is the detention and confinement of persons held with criminal charges or sentenced to incarceration. Local correctional facilities do not include juvenile detention facilities.
- f. Residential treatment facilities are defined by state law as facilities that provide for six or more alcohol or drug dependant persons, residential care and treatment in one or more buildings on contiguous property.

**Section 2. MCC 2.30.800 is amended to read as follows:**

**2.30.800. Duties of the sheriff.**

- (A) The sheriff shall perform the functions of that office prescribed by state law and shall administer the jails and corrections facilities of the county.
- (B) The sheriff and the director of the department of juvenile and adult community justice shall operate jointly as the county



**supervisory authority. In the role of supervisory authority, the sheriff is designated to operate county jails and local correctional facilities.**

- (C) Local correctional facilities as defined by state law do not include juvenile detention facilities or secure residential treatment facilities.**

**Section 3. MCC 2.30.310 is created as follows:**

**2.30.310. Department Director.**

- (A) The director of the department of juvenile and adult community justice shall operate jointly with the sheriff as the county supervisory authority. The director is designated to operate corrections supervision services, juvenile detention facilities and secure residential treatment facilities for the treatment of drug or alcohol addicted offenders.**
- (B) Secure residential treatment facilities whose principle purpose is the treatment of drug and alcohol addicted offenders are custodial facilities, but are not local correctional facilities.**

**Section 4. Effective Date.**

**This Ordinance shall become effective on \_\_\_\_\_.**

**ENACTED this \_\_\_\_ day of \_\_\_\_\_, 1998, being the date of its**

\_\_\_\_\_ reading before the Board of County Commissioners of Multnomah County,  
Oregon.

BOARD OF COUNTY COMMISSIONERS  
MULTNOMAH COUNTY, OREGON

\_\_\_\_\_  
Beverly Stein, Chair

REVIEWED:

\_\_\_\_\_  
Thomas Sponsler, County Counsel

Data/Advisory/Ordinances/Supervisory authority ord.doc



## Beverly Stein, Multnomah County Chair


Room 1515, Portland Building  
1120 S.W. Fifth Avenue  
Portland, Oregon 97204

Phone: (503) 248-3308  
FAX: (503) 248-3093  
E-Mail: [mult.chair@co.multnomah.or.us](mailto:mult.chair@co.multnomah.or.us)

June 8, 1998

### Memorandum

TO: Sheriff Dan Noelle

FROM: Chair Beverly Stein 

CC: Commissioner Gary Hansen  
Commissioner Sharon Kelley  
Commissioner-elect Diane Linn  
Commissioner-elect Lisa Naito

RE: Sheriff's Budget Request

---

I have received and reviewed your June 1<sup>st</sup> memo. In it, you request that the Board of County Commissioners "not move the \$766,000 from the work release beds at the Multnomah County Restitution Center (MCRC) to fund 'Relapse Prevention and Intervention and Mental Health services for dual diagnosis clients.'"

I am pleased that we have reached agreement over MCRC funding as per our June 2 meeting at the Oregonian. However, I do wish to clarify that no money has been 'moved' from the Restitution Center to fund non-public safety services. The Board took two very distinct budget actions regarding the items you mention.

- In accordance with the 1996 levy and consistent with the County's comprehensive public safety approach, the Board approved an Adult Alcohol and Drug Treatment (A&D) package at just over \$1 million which contains mental health services for clients with dual substance abuse and mental health problems.
- Due to documented difficulties at MCRC in getting people into work release beds, which resulted in the 40 extra beds approved in last year's budget not being used, the Board withheld \$766,000 in funds *pending resolution of these difficulties and a demonstrated need for these beds.*

Although Measure 50 no longer requires us to segregate 1996 levy funds from the general fund, the Board has kept faith with the voters by directing levy funds to public safety services promised in the levy. Services targeted to dual diagnosis clients are only one component of this year's Board-approved A&D package, but these mandatory services are clearly consistent with the type of "intensive intervention" promised in the ballot explanatory statement. This package has in no way affected the possibility of funding work release beds.

Once again, I am glad we have reached agreement over MCRC funds. With the restoration of these extra work release beds, I look forward to the full use of this facility.



BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY OREGON

ORDINANCE NO. \_\_\_\_\_

An Ordinance amending MCC 7.201 relating to the Office of County Counsel.

(Stricken language in brackets [ ] is to be deleted; **Bold** language is new.)

Multnomah County ordains as follows:

Section 1. MCC 7.201 (M) shall be amended as follows:

(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, and a majority of the entire board may authorize a board member, sheriff, district attorney or auditor to retain outside legal counsel to advise the elected county official on a specific county matter. The board shall specify the amount of the elected official's budget that may be appropriated for this purpose. With these exceptions no county elected official, board, commission, committee, department director or employee shall employ or be represented by counsel other than the County Counsel.

Section 2. Ratification.

The board hereby ratifies the Sheriff's action in retaining the law firm of Bullard, Korshoj, Smith & Jernstedt to provide legal advice to the Sheriff on the issue of the Sheriff's authority as it relates to the county's proposed secure residential alcohol and drug treatment facility. This ratification applies to legal advice rendered on the stated issue up to and including June 15, 1998. In addition, the board hereby

authorizes the Sheriff to pay Bullard, Korshoj, Smith & Jernstedt for services rendered up to and including June 15, 1998. Said payment shall be made out of the Sheriff's budget.

Section 3. Effective Date.

This Ordinance shall be come effective on \_\_\_\_\_.

ENACTED this \_\_\_\_\_ - day of \_\_\_\_\_, 1998, being the date of its

\_\_\_\_\_ reading before the Board of County Commissioners of Multnomah County, Oregon.

BOARD OF COUNTY COMMISSIONERS  
MULTNOMAH COUNTY, OREGON

\_\_\_\_\_  
Beverly Stein, Chair

REVIEWED:

\_\_\_\_\_  
Jacqueline Weber, Assistant County Counsel



# OFFICE OF MULTNOMAH COUNTY COUNSEL

THOMAS SPONSER  
*County Counsel*

1120 S.W. FIFTH AVENUE, SUITE 1530  
PORTLAND, OREGON 97204-1977

SANDRA N. DUFFY  
*Chief Assistant*

FAX 248-3377  
(503) 248-3138

SUSAN DUNAWAY  
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GERALD H. ITKIN  
JEFFREY B. LITWAK  
STEVEN J. NEMIROW  
MATTHEW O. RYAN  
AGNES SOWLE  
JOHN S. THOMAS  
JACQUELINE A. WEBER  
*Assistant*

## MEMORANDUM

To: Chair Stein

Cc: Sheriff Noelle  
Commissioner Kelley  
Commissioner Hansen  
Commissioner Linn  
Commissioner Elect Naito

From: Jacqueline A. Weber *JA*  
Assistant County Counsel

Subject: Proposed Amendment to County Counsel Ordinance

In conjunction with the proposed amendment to the county counsel ordinance, you requested that we survey other counties as to how they deal with requests for outside legal counsel by elected county officials. You have also asked for a legal analysis of the effect of a legal opinion, whether issued by county counsel, or by authorized outside legal counsel.

### CURRENT ORDINANCE

Under Multnomah County's current ordinance, the Board has delegated to county counsel the authority to employ outside counsel on behalf of the county when county counsel deems it appropriate or necessary. It further provides that no county elected official or other county official shall be represented by counsel other than county counsel, with one exception; a majority of the Board may employ outside legal counsel on a specific matter. Under this ordinance, there is no authority for an elected county official to retain outside counsel to advise them on county issues.

### STATUTORY AUTHORITY

State law provides for the appointment of county counsel by the board of each county, to serve at the pleasure of the board. ORS 203.145 provides in pertinent part:

- (2) Unless otherwise provided by county charter or legislation enacted pursuant thereto, the board of each county may appoint a person or persons licensed to practice law in the State of Oregon as counsel to advise the board and other county officers, to render services in connection with legal questions of a civil nature arising in the discharge of their functions, to prosecute violations of county law as defined by ORS 203.810, and

to provide such additional services as the board determines. Counsel shall serve at the pleasure of the board, on a full-time or part-time basis, and be compensated in the manner and amounts the board determines.

This statute by its terms does not govern Multnomah County, which is a charter county that has enacted specific legislation regarding county counsel.

## SURVEY OF OTHER COUNTIES

I have surveyed 5 other Oregon counties, Washington, Clackamas, Marion, Lane, and Jackson, regarding the circumstances under which they may retain outside counsel, and how the authority to make that decision is delegated.

Clackamas County and Marion County have no ordinance, administrative rule, resolution or other written procedure. They are presumably governed by ORS 203.145 set out above. Jackson County has a very general ordinance, which does not address the issue at all.

Lane County, which is a charter county, has adopted by ordinance rules relating to sources of legal services. County Counsel is designated to provide legal advice on civil matters to the Board of Commissioners and to county departments. Outside legal counsel is authorized where (1) County Counsel determines that an ethical conflict of interest exists, in which case County Counsel's determination is then referred to the Board; (2) where County Counsel does not have the expertise to handle a particular legal matter; (3) where appropriate under the Tort Claims Act; or (4) upon approval of the Board of a request for a private attorney. The ordinance also provides that in any case where a private attorney is retained County Counsel shall authorize payment from appropriate budgeted funds not to exceed \$2,500. If it is necessary to exceed this amount, the fee agreement is handled through the normal contract process.

Washington County established the office of County Counsel and appointed a County Counsel to act as its chief legal advisor pursuant to ORS 203.145, supra, which provides for the appointment of legal counsel by the board of the county. In addition, the Board passed a Resolution identifying the functions and responsibilities of county counsel. The Resolution deals with the issue of appointment of outside legal counsel as follows:

RESOLVED AND ORDERED, from time to time, it may be necessary for the County to acquire outside legal assistance and/or representation and in such cases County Counsel, unless precluded by conflict of interest or otherwise, shall provide the following services:

- 1) Provide consultation as to the necessity and appropriateness of outside legal counsel; and
- 2) Provide advice as to the selection of outside legal counsel; and
- 3) Monitor performance of outside legal counsel performance and provide necessary and appropriate assistance;

The Resolution does not give any indication how Washington County would deal with a request for outside legal counsel to advise a county elected official on county issues.

## CONCLUSION

Of the counties surveyed, the ultimate authority to retain counsel rests with the governing board, either pursuant to statute, or ordinance. Given that Multnomah County is governed by charter, the

Board may by ordinance retain the sole authority to appoint legal counsel, or delegate that authority in whole or in part.

#### **EFFECT OF LEGAL ADVICE/OPINION**

You have asked what would be the effect of a County Counsel opinion that differs from or is in conflict with an advisory opinion provided by outside legal counsel. A legal opinion provided to the county, whether by County Counsel, or by authorized outside counsel, is not binding on the county. Its purpose is to provide analysis of applicable law to specific facts at issue, and to assess likely outcomes and risks in following a particular course of action. This provides guidance upon which policy makers, or the Board on legislative matters, can make an informed decision. A legal opinion does not have legally binding effect. Therefore, conflicting legal opinions on the same subject would simply provide differing information for the policy makers to evaluate.





## Beverly Stein, Multnomah County Chair

Room 1515, Portland Building  
1120 S.W. Fifth Avenue  
Portland, Oregon 97204

Phone: (503) 248-3308  
FAX: (503) 248-3093  
E-Mail: [mult.chair@co.multnomah.or.us](mailto:mult.chair@co.multnomah.or.us)

June 12, 1998

Fred Stickel  
Oregonian  
1320 SW Broadway  
Portland, Oregon 97201

Dear Fred,

I want to thank you for the role you took last week in helping me and the sheriff come to an agreement which to avoid a potentially serious disruption to the heretofore excellent working relations we have had in the criminal justice community.

One of the issues of agreement we reached in the meeting in your office was that the Citizens' Crime Commission would do a review of specific programs and services managed and operated by the Multnomah County Sheriff's Office and Juvenile and Adult Community Justice to determine any areas of duplication and overlap of services. As chair, you agreed that the Citizen's Crime Commission is an appropriate group of people to perform this task.

As a starting point you may want to review the following information to determine if duplication exists:

- Names of people served during a specific time period
- Unique identifiers (SID Numbers, CPMS Numbers, etc.) of offenders/inmates
- Risk level of participants
- Jurisdiction of offender while the service is utilized
- Purpose of the program
- Length of time of program
- Expected outcomes
- Description of successful completion
- % of inmates/offenders successfully completing the program
- Community expectations of similar programs
- Involvement of outside contractors
- Program expectation from partners in the Criminal Justice System
- Staff assigned to program service
- Cost comparisons of similar programs services.

Helpful sources for information regarding the functions of the sheriff's office and the Department of Community Justice include the Honorable Julie Franz, Chief Criminal Judge and the Honorable James Ellis, Chief Presiding Judge. The judges have frequent contact with services operated by both organization and have some thoughts on system improvements. I am sure there are others who would provide valuable information. I am happy to assist you in obtaining any information you may need to do your evaluation.

Very truly yours,



Beverly Stein

Cc: Ray Mathis, Executive Director, Citizens' Crime Commission  
Dan Noelle, Sheriff, Multnomah County  
Elyse Clawson, Director, Juvenile and Adult Community Justice

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON**

**ORDINANCE NO. \_\_\_\_\_**

An ordinance designating the County supervisory authority, defining County secure residential treatment facilities, and amending MCC 2.30.800 and creating MCC 2.30.310.

(~~Shaded~~ Language is to be deleted; **Bold** Language is new)

Multnomah County ordains as follows:

**Section 1.     Findings**

- a.     Since January 1, 1997, state law has required counties to assume responsibility for persons convicted of a felony and placed on probation, on parole or post prison supervision, or sanctioned or sentenced to a term of 12 months or less. It authorizes the Board to designate an agency or official as the "supervisory authority" to operate community based corrections supervision, custodial facilities or both. It allows the supervisory authority to impose sanctions other than incarceration.
- b.     It is in the best interests of the citizens of Multnomah County for the Sheriff and the Department of Juvenile and Adult Community Justice to jointly serve as the county supervisory authority

- c. The supervisory authority needs a continuum of secure and non-secure supervision for offenders.
- d. It is in the best interests of Multnomah County to operate both local correctional facilities and local secure residential alcohol and drug treatment facilities as part of the continuum of supervision.
- e. Local correctional facilities are defined by state law as jails for the reception and confinement of prisoners. Their principal purpose is the detention and confinement of persons held with criminal charges or sentenced to incarceration. Local correctional facilities do not include juvenile detention facilities.
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Section 2. MCC 2.30.800 is amended to read as follows:

2.30.800. Duties of the sheriff.

- (A) The sheriff shall perform the functions of that office prescribed by state law and shall administer the jails and corrections facilities of the county.
- (B) **The sheriff and the director of the department of juvenile and adult community justice shall operate jointly as the county**

**supervisory authority. In the role of supervisory authority, the sheriff is designated to operate county jails and local correctional facilities.**

- (C) Local correctional facilities as defined by state law do not include juvenile detention facilities or secure residential treatment facilities.**

**Section 3. MCC 2.30.310 is created as follows:**

**2.30.310. Department Director.**

- (A) The director of the department of juvenile and adult community justice shall operate jointly with the sheriff as the county supervisory authority. The director is designated to operate corrections supervision, programs and services, juvenile detention facilities and secure residential treatment facilities for the treatment of drug or alcohol addicted offenders.**
- (B) Secure residential treatment facilities whose principle purpose is the treatment of drug and alcohol addicted offenders are custodial facilities, but are not local correctional facilities.**

Section 4. Effective Date.

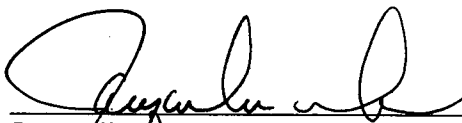
Adopted this second day of July 1998, being the date of its second reading  
before the Board of County Commissioners of Multnomah County,  
Oregon.

BOARD OF COUNTY COMMISSIONERS  
MULTNOMAH COUNTY, OREGON

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Beverly Stein, Chair  
Multnomah County Commissioners

**REVIEWED:**  
THOMAS SPONSLER, COUNTY COUNSEL  
FOR MULTNOMAH COUNTY, OREGON



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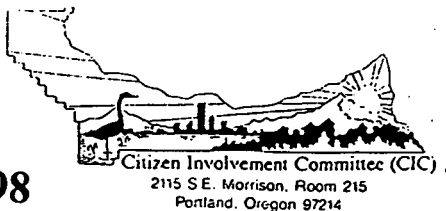
Jacqueline Weber  
Assistant County Counsel



# Facilities Siting Public Involvement Manual

Multnomah County,  
Oregon

*This copy courtesy of the Multnomah County  
Office of Citizen Involvement*



**MARCH 1998**

Citizen Involvement Committee (CIC)  
2115 S.E. Morrison, Room 215  
Portland, Oregon 97214



# Facilities Siting Public Involvement Manual

At its March 11, 1996 regular Executive Committee meeting, the officers of the Multnomah County Citizen Involvement Committee (CIC) initiated a study of public facility siting cases, best practices. The CIC recommended creation of a generic county public facility siting policy. On April 11, 1996, At the charge of the County Chair Beverly Stein, Larry Nicholas, Director of the County's Department of Environmental Services (DES) called a first meeting of a task force to develop a public facility siting process. Months of citizen and technical review and discussion followed, resulting in the Multnomah County Facilities Siting Public Involvement Manual which you hold in you hand. This policy is a pioneering effort in this area of government-public interaction and hopefully serves as a model for other governments. This Manual is dedicated to the men and women of Multnomah County, in and out of government, who gave their name and talents to develop this important public process tool.

## **Department of Environmental Services - 248-5000**

Office of Citizen Involvement - 248-3450

Multnomah County Chair's Office - 248-3308

Questions about this manual should be directed to the Director of the Multnomah County Department of Environmental Services.

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# Introduction

The Facilities Siting Public Involvement Manual for Multnomah County is a guide for County department directors and program managers for citizen outreach for County projects involving facilities siting. It will serve to help implement the Executive Order 230, with which County Board Chair Bev Stein directed the County department directors to develop a public involvement plan as part of the work program for facilities siting projects, and to submit that plan to her office for review and approval.

## A four-part manual

1. *Principles for Facilities Siting Public Involvement Plans* states the fundamental tenants that guide County outreach.
2. *Strategies for Facilities Siting Public Involvement Plans* details the significant steps that each public involvement plan needs to include.
3. *An Example: An Advisory Public Involvement Process* offers program managers and department directors a close look at the mechanics of implementing public involvement.
4. *An Example: An Advisory Public Involvement Process Checklist* consolidates the steps in the advisory process onto a single reference sheet.

The development of this manual was subject to an extensive public involvement plan itself. Surveys, newsletters and public workshops were held to allow citizens the opportunity to decide how it would like government to interact with them on these types of projects.

The steps in this manual are consistent with the citizen involvement resolution adopted by the Board of County Commissioners.



## Multnomah County's Citizen Involvement Principles:

On November 30, 1995, the Multnomah County Board of Commissioners adopted Resolution 95-245. This resolution declares citizen involvement to be a top priority for the county, and suggests nine principles to guide relations with citizens. The Facilities Siting Public Involvement Manual springs from this resolution.

1. Citizen involvement is essential to the health of our county.
2. Active relationships with neighborhoods, community groups and other citizen participation organizations promote on-going dialogue with citizens.
3. Understandable County communications and processes respect and encourage citizen participation.
4. Outreach efforts reflect the County's rich diversity.
5. Citizens should be involved early in planning projects and policy development.
6. The County and its departments and divisions should respond in a timely manner to citizen input and should respect all perspectives and insights.
7. Coordinated County outreach and involvement activities make the best use of citizens' time and efforts.
8. Evaluation and report on the effectiveness of County outreach efforts achieves the quality of County/citizen cooperation critical to good government.
9. On-going education in community organizing, networking and cooperation for citizens in neighborhood and community groups, and County officials and staff is promoted.

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# Principles for Facilities Siting Public Involvement Plans

# 1.

To promote effective public involvement in County siting decisions, the County will require a **public involvement plan** be developed for each facility siting project. This plan, to be developed at the beginning of a project, must be consistent with the following principles:



1. Sharing information early with a broad spectrum of citizens well beyond those who are active in community organizations;
2. Inviting public participation in all critical decisions for a project, and providing ample opportunity for public input to be given directly to top project decision-makers;
3. Being flexible to adjusting plans, where feasible, to meet public needs and desires;
4. Keeping publics to be directly impacted by the siting decision fully informed throughout the process; and,
5. Involving and incorporating community values into the project.
6. Engaging and soliciting the advice of nearby community members at every level and every stage, from planning and construction through the operation of the proposed facility.

# Public Involvement Strategies for Siting Decisions Plans

# 2.



Based upon these principles, County Department Directors will be responsible for developing public involvement plans that will be part of the work program for any facility siting project for Multnomah County. These plans will be forwarded to the Office of the County Chair for review and approval.

From the principles, strategies for public involvement can be derived that will facilitate a successful siting process. The following strategies must be elements of public involvement plans developed for facilities siting projects.

## 1. Initial Description of Project

The County must prepare a description of the project to serve as a public information fact sheet. Information on the fact sheet needs to include a description of the facility, a description of what will occur in the facility, an explanation of why the County is having to build or acquire a facility, a clear map of potential areas for the new facility, total land and facility budget, the time line for decisions, a description of the decision-making process, including identification of the decision-maker, a description of opportunities for the public to give input, and a contact name and number.

## 2. Minimum Criteria

The County needs to identify essential site characteristics necessary for the facility to serve its purpose and for the meeting of broader goals of Multnomah County. These will be used to guide the search for potential locations for the facility. Each must be fundamental to the project: if a site does not meet any one of them, the facility cannot perform its function effectively.

### **3. Identify Key Project Decisions**

The County will identify anticipated decisions in the life of the siting project that will be important to the public. Among these key points may be: facility location (including criteria for site search and evaluation of potential sites), design issues, construction mitigation, and operations concerns, including monetary impacts to the County.

### **4. Identify Stakeholders**

Interested citizens should be identified as an initial step, with an ongoing task of adding the names of additional members of the public who express an interest in the project. The list may include: property owners and tenants near prospective sites; neighborhood associations, business associations and other civic organizations in the area; facility clients; county department citizens advisory boards; and elected officials and other community leaders.

### **5. Inform Stakeholders**

Public education and information about the project will be developed and distributed as soon as possible to interested citizens. At a minimum, this information will be conveyed through direct contact (in person or by phone) with leaders of area community organizations and adjacent property owners and tenants. In addition, an informational mailing may be sent to all deliverable addresses in the carrier route area around prospective sites. This information will include:

- a description of the facility, including size, cost, schedule, design requirements, and the services to be provided;
- a description of the minimum criteria the County has set for any potential site;
- a map showing areas for potential location;
- a description, if possible, of potential community impacts of facility operation, including identification of traffic and parking impacts;
- an explanation of why the County is pursuing the project;
- a timeline for the project, including identification of critical decision points with the project including the potential for added value/benefits to the community from the facility development;

- a description of the decision-making process, including identification of the decision-maker;
- a description of how to get involved in making decisions for the project, including notice of upcoming public meetings, open houses or workshops and a contact name and number for additional information.

## 6. Offer Opportunities for Public Involvement in Decisions

For each key decision point in the life of a project, the County will offer opportunities for direct public input to decision-makers. The County should notify the media of scheduled presentations on the project. These opportunities may include, but will not be limited to, the following forums:

- Informational presentations to neighborhood association, business association and civic organization boards and general membership meetings.
- Surveys included in bulk mailings in the area, or conducted by on-site electronic voting systems.
- Public open houses/public workshops on the project with top project decision-makers, where all key community leaders and all businesses and residents in the area are invited through the mail as well as through notices in *The Oregonian*, neighborhood newspapers, and, if possible, civic organization newsletters.
- The formation of citizens committees from members of key community associations and/or interested citizens including residents or businesses from areas near potential project locations, who meet regularly with project decision-makers. Members may be selected in consultation with or by the community groups. Other potential members include citizens serving on county department advisory boards already in existence.

The County's Citizen Involvement Committee may be utilized as a resource for program managers in selecting the most effective tools for public input.

## **7. Communicate Results of Public's Input**

During the life of a project, as public input is given and decisions are made, the County will communicate the results of key project decisions and the resolution of all citizen suggestions. This can be accomplished through phone calls or written updates, as well as through periodic newsletters sent to a mailing list for the project.

## **8. Maintain Community Support**

Develop partnerships with public and private partners that make other projects happen, particularly those desired by the community. The project should provide opportunities for nearby communities to be an advocate and steward of the proposed project. Their participation should be contingent on receiving a high quality design or related mitigation or amenities projects giving the community tangible benefits based on the community's needs.

## **Responsibility for project public involvement plans:**

After review and approval by the Office of the County Chair, the director of the County department in charge of the facility is responsible for the implementation of public involvement plans.



# An Example: An Advisory Process

# 3.



Springing from the Facility Siting Public Involvement Strategies, an advisory public involvement process has been developed. It is hoped that this more detailed description of the "mechanics" of public outreach will prove valuable as a guide to county personnel.

This process is divided into the basic stages of each project - start-up, introducing project to the public and setting criteria for searching for potential sites, evaluating sites, and making a preliminary recommendation taken to the Multnomah County Board of Commissioners. These public involvement work tasks need to be built into the project work plan.

## A. Project Start-Up: Develop a Public Involvement Plan

1. **Develop a public involvement plan** at the beginning of the project and integrate that program into the project's work plan. The program must meet the principles and strategies suggested in Sections 1 and 2. The Office of the County Chair will review and approve the plan.

The program will identify **key decisions of public interest** in the course of project (for site selection, include criteria for site search and for evaluation and selection of site) and offer **planned opportunities for public input** into each decision. Sufficient time and resources for public involvement will be integrated into the project timeline and budget.

An initial judgment must be reached on whether the project involves a contentious facility. Such facilities include those serving a population that may be perceived by the broader community as dangerous or threatening, or those that involve large areas of land or significant storefront locations. These carry additional public involvement requirements under this process.

The County will identify parameters, or minimum criteria, for the facility's location, i.e., basic site qualities necessary to perform the function intended for the facility. An explanation of these parameters should be developed to share with the public.

**2. Identify an initial list of persons and groups** that may be interested in the project. Groups may include, but are not to be limited to:

- neighborhood associations and coalitions,
- business district associations,
- public and private schools,
- general business organizations - e.g., Chamber of Commerce, economic development councils
- civic groups - e.g., City Club, Kiwanis, Rotary
- other special interest groups - e.g., environmental groups
- citizen advisory groups for County departments
- other affected parties concerned with the project, and
- public agencies and elected officials.

Identify key leaders of these groups for initial contact. The County Citizen Involvement Committee and other staff or resources assigned to assist in public outreach may be a good resource for contact names.

**3. Create a project mailing list** of interested persons and groups. This list will be updated and expanded at every step of the project. Throughout the course of the project, update the project mailing list with the names of persons who call, write or attend any of the community meetings, advisory committee meetings, open houses or public workshops on the project. Persons on the project mailing list will be updated on the progress of the project through systematic phone calls, letters, or regular project newsletters.

**4. Develop project fact sheets** stating reasons for the project, the project timeline and budget, key decisions, planned opportunities for public input, how decisions will be made and the ultimate decision-maker, and a phone number or feedback card for questions. Include the name, address, and phone number of a contact person. If feasible, include a map of the general project area.

## B. Project Introduction and Criteria for Search for Potential Sites

### 1. Contact community leaders identified earlier by phone.

- Introduce nature of project, including the nature of the facility, the project timeline and budget.
- Identify qualities a potential site must have to perform the intended function, including any legal restrictions and availability within project time frame.
- Ask for community advice in developing initial criteria to use in finding potential sites. State each criterion succinctly and unambiguously. Limit initial criteria to about a dozen; otherwise more serious topics may be obscured by trivial issues.
- State that the County will be asking for further advice as the project moves ahead, such as on the facility's design, construction, and operation; how the facility can be made into a community asset (e.g., by building community meeting rooms or by entering into a Good Neighbor Agreement on facility operations issues).
- Ask for names of other citizens or groups that may be interested in the project. Add these names to project mailing list.

### 2. Mail the fact sheet to project mailing list.

- ### 3. Notify local media on project start-up, with basic information included in the project fact sheet, to the local media in the area. Publicize any upcoming meetings scheduled on the project, and list phone number for those who wish to get involved early. Public Information Officers of County Departments or the County Chair's office will assist.

#### ***Who are the local media?***

County Project Teams should work with department Public Information Officers or the County Chair's office on the best way to get information out to the local media. Beyond *The Oregonian*, citizens often rely on local neighborhood newspapers, and civic organization or special interest group newsletters for information on public projects.

4. Offer opportunities for public involvement to advise the development of criteria to search for potential facility locations. These opportunities should be identified in the project's public involvement program.

### ***Public Involvement Opportunities:***

The application of other public involvement tools to receive public guidance on the criteria for selecting sites is dictated by the needs and nature of the specific project. Program managers should consult with the County Citizen Involvement Committee and/or public involvement staff or team the County may designate for assistance. Some of the techniques include:

- A citizen advisory committee - a group of citizens that meet as a group to offer direction and advice to a project, used especially for high impact projects. Members may be selected in consultation with or by community groups.
- Working with a neighborhood association committee - neighborhoods often have standing committees, such as land-use committees, that are good to work with some groups will create a separate committee for working on just one project.
- Open houses/public workshops - public meetings to discuss a project.
- A public kick-off/ scoping meeting for the project.
- Feedback cards - postcards to offer suggestions.
- Mass mailings - can deliver project information and include a return mail survey.
- Newspapers articles - deliver project information and have a contact number for input.
- Local neighborhood newspapers - serve the same purpose as the previous item, but persons often look to these publications for more detailed civic information.
- Civic organization special interest group newsletters - some groups have regular newsletters that go out to members.

5. Develop a list of criteria for searching for potential sites that integrates advice of the public. Forward this list to the County Department of Environmental Services to begin real estate search for possible sites, including existing facilities. Send update of the criteria to those on the project mailing list.

***For contentious facilities, the following additional steps are suggested:***

- 6.** Invitations to the public workshop(s) should be sent by a mass mailing covering the general area where the facility is to be located. The mailing, based on the project fact sheet, should include a response card if a reader would like to be added to the project mailing list, and a phone number for more information.
- 7.** Send local media notice of the public workshop(s) on criteria, including local print media and civic organization newsletters. County Public Information Officers or the County Chair's office will assist in this latter step.
- 8.** Host at least one public workshop to discuss criteria for the project in the general area where the project must be sited. Explore the potential for community organizations in the area serving as co-sponsors of the meetings, helping to get their membership to the meeting. The purpose of the meeting is to expand investment in the criteria and provide an opportunity for debate of issues related to the criteria, as well as finding persons to help on future steps on the project. Prepare clearly labeled, boldly presented graphics illustrating proposals. It is sometimes valuable to hold an open house before the workshop, allowing citizens to ask questions and state concerns in a less formal setting. The names of attendees should be added to the project mailing list.

## **C. Evaluating Potential Sites**

Using the criteria developed, the County will involve the public in the evaluation of the potential locations for the facility.

It is important that citizens understand that a site must be chosen, and a perfect location is seldom available.

1. **Develop an updated fact sheet** and mail to project mailing list, containing the following information:
  - 1 - A list of potential sites.
  - 2 - A description of how sites were selected, i.e., applying the criteria developed previously.
  - 3 - A preliminary or "first cut" list of advantages and disadvantages for each site under consideration. Ask for the help of the community in completing this analysis.

Identify decision-maker, and give a phone number or include a response card so people who receive the mailing can give feedback.

2. **Notify local media**, with assistance of the department Public Information Officer or County Chair's office, on the potential sites under evaluation. Include in the article the name and phone number of the program manager.
3. **Offer opportunities for public involvement to evaluate potential sites.** These opportunities should be identified in the project's public involvement plan.

***For contentious facilities, the following additional steps are suggested:***

4. **Mail to project mailing list an invitation** to the public workshop(s). The mailing, based on the project fact sheet, should include a response mechanism and a phone number.
5. **Deliver door-to-door invitations** to the public workshop(s) to every residence or business in a 500-foot radius of a potential site, or in the case of remote sites, to the nearest neighbors on each side of the site.

**Note** If the project did not allow for the public involvement steps suggested under Section 2, invitations to the public workshop(s) on site evaluation should be mass mailed as outlined in this section, step B,6.

6. Send local media notice of the public workshops, including local print media and civic organization newsletters. County Public Information Officers or the County Chair's Office will assist in this latter step.

**Note:** The optional public involvement opportunities listed after step B,4 can be applied as well to the site evaluation process.

7. Hold at least one public workshop on site evaluation in area where identified potential sites are located. Explore if community organizations in the area will agree to serve as co-sponsors of the meetings, helping to get their membership to the meeting. The purpose of the meeting will be to evaluate potential sites and explore potential community benefits in design and operation at each site. Prepare bold, clearly labeled graphics to illustrate potential sites. Add the names of workshop attendees to the project mailing list.

## **D. Preliminary Recommendation:**

1. Take into account the public input and the needs of the County and make a preliminary site recommendation.
2. Develop a fact sheet on the preliminary recommendation. The fact sheet should name the decision-maker, review the basis of the decision, how public input affected the recommendation, and next steps in the process, including when the measure is scheduled for County Board action. Make specific mention of community benefits the project may realize. Leave contact number and address and time limit for comment on preliminary recommendation.
3. Mail preliminary recommendation fact sheet to project mailing list.
4. Contact key citizen leaders by phone in the project to inform and explain to them preliminary recommendation.

5. **Notify local media**, with assistance of the department Public Information Officer, on the preliminary recommendation. Include schedule for County Board of Commissioners action and the name and phone number of a contact person.
6. **Adjust preliminary recommendation** based on additional public comment.

**Note:** The optional public involvement opportunities listed after step B,4 can be applied as well to the review of the preliminary recommendation.

## **E. Recommendation to County Board of Commissioners**

**Take the recommendation to the County Board of Commissioners for its deliberation.**

**Present a report documenting the nature and extent of public involvement in the project** to County Board of Commissioners, as a part of the recommendation for the facility site. Highlight any steps not taken, and explain why they were not followed.

**Present a plan for continued citizen involvement in the design, construction and operation of the facility** to the County Board, including development of a Good Neighbor Agreement that sets up guidelines for operation of the facility to make it as compatible to the adjacent neighborhood as possible.



# An Example: An Advisory Public involvement Process Checklist

# 4.



## 1. Project Start-Up

1. Develop public involvement plan that offers opportunities for public input into key project decisions.
2. Develop list of interested citizens and groups.
3. Create and maintain a project mailing list of all interested persons and groups.
4. Develop a project fact sheet.

## 2. Project Introduction and Criteria for Search for Potential Sites

1. Contact community leaders to introduce project.
2. Mail fact sheets to project mailing list.
3. Notify press of project start-up.
4. Offer opportunities for public input in developing criteria for search for potential sites within constraints imposed by the project.
5. Develop list of criteria - mail update to project mailing list.

### ***For contentious facilities:***

6. Invitations to public workshop(s) through mass mailing
7. Notify local media of public workshop(s)
8. Host public workshop(s) on criteria

## 3. Evaluating Potential Sites

1. Develop updated fact sheet on potential sites. Mail to mailing list.
2. Contact leaders of community organizations
3. Offer opportunities for public input in evaluating potential sites.

***For contentious facilities:***

4. Invitations to project mailing list to public workshop(s)
5. Deliver invitations door-to-door around potential sites
6. Notify local media of public workshop(s)
7. Host public workshop(s) on site evaluation.

**4. Preliminary  
Recommendation**

1. Take into account public input and needs of the County and make preliminary site recommendation.
2. Develop a preliminary recommendation fact sheet.
3. Mail fact sheet to project mailing list. Contact key citizen leaders by phone to advise them of preliminary recommendation.
4. Notify media of preliminary recommendation.
5. Make advisable adjustments to preliminary recommendation based on public comment.

**5. Recommendation to the  
County Board of  
Commissioners**

1. Take site recommendation to the County Board.
2. Present County Board with report documenting project public involvement.
3. Present plan for continued citizen involvement.

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**Notes:**



#1

## SPEAKER SIGN UP CARDS

DATE 6/25/98

NAME

PETER T. BURCH

ADDRESS

PO BOX 91157

PORTLAND OR 97291

PHONE

626-6748

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC ANIMAL CONTROL R-9

GIVE TO BOARD CLERK

#2

## SPEAKER SIGN UP CARDS

DATE 6-25-98

NAME

JEFF MILLER

ADDRESS

SE PORTLAND

PHONE

775-8697

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC EXOTIC ANIMALS R-9

GIVE TO BOARD CLERK

## SPEAKER SIGN UP CARDS

DATE 6/25/98

NAME

Kris Smalley donated to  
Jeff Miller

ADDRESS

\_\_\_\_\_  
\_\_\_\_\_

PHONE

288-1255

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Exotic Animals

GIVE TO BOARD CLERK



## SPEAKER SIGN UP CARDS

DATE 6/25/98

NAME

Brian Smalley

(minutes donated to  
Jeff Miller)

ADDRESS

4527 SE 11th

PHONE

503-817-7673

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Exotic Animals

GIVE TO BOARD CLERK

# SPEAKER SIGN UP CARDS

DATE June 25, 1998

NAME

BeeJAY LIM

MINUTES DONATED  
TO JEFF MILLER  
←

ADDRESS

PHONE

(503) 817-7673

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC EXOTIC ANIMALS

GIVE TO BOARD CLERK

#3

## SPEAKER SIGN UP CARDS

DATE Thursday June 25, 1998

NAME Christina Brewer

ADDRESS 2229 SE 184th Ave  
Portland OR 97233

PHONE 492-10336

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Multnomah County Airina Control Code  
GIVE TO BOARD CLERK 8.10 R-9

#4

## SPEAKER SIGN UP CARDS

DATE 6/25/98

NAME

GARY Austin

ADDRESS

1732 SE 42nd Ave

Portland Ore. 97215

PHONE

235-1460

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Animal BAN (Snakes) R-9

GIVE TO BOARD CLERK

## SPEAKER SIGN UP CARDS

DATE 6-25-98

NAME AJ Austin donates time

ADDRESS to Gary Austin

PHONE 235-1460 or 9484817

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Reptile Ban - snakes

GIVE TO BOARD CLERK R-9

#5

## SPEAKER SIGN UP CARDS

Cindy

DATE

6/25/98

NAME

C Ikeda

ADDRESS

7180 SW 86th

Portland

PHONE

2452309

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC

Animal issue

GIVE TO BOARD CLERK

R-9

#6

## SPEAKER SIGN UP CARDS

DATE

6/25/98

NAME

T.J. Ikeda

ADDRESS

7180 SW 86 Ave  
Portland

PHONE

245 2309

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC

Animals R-9

GIVE TO BOARD CLERK

#7

## SPEAKER SIGN UP CARDS

DATE 6-25-98

NAME LARRY ZIMMER

ADDRESS 1245 N. JANTZEN Beach Ctr  
PTCPO OK 97217

PHONE (503) 283-3234

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC ANIMAL LEG. R-9

GIVE TO BOARD CLERK



#8

## SPEAKER SIGN UP CARDS

DATE 10-25-98

NAME

Christina Cave

ADDRESS

53758 West Lane Rd

Scappoose 97056

PHONE

503-2740

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Proposed Ban on exotics

GIVE TO BOARD CLERK

Yield to Christine Cave

SPEAKER SIGN UP CARDS

DATE 06-25-98

NAME

David Becken

ADDRESS

PHONE

774-7172

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC MCC 8.10

GIVE TO BOARD CLERK

#9

## SPEAKER SIGN UP CARDS

DATE 6-25-98

NAME Steven Belknap

ADDRESS P.O. Box 90178

Portland, OR 97290

PHONE \_\_\_\_\_

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC MCC 8.10.010

GIVE TO BOARD CLERK

Deb: Ginger Becken & Dwayne Kaptur  
will speak simultaneously. Thanks

#10 **SPEAKER SIGN UP CARDS**

DATE 06-25-98

NAME

Dwayne J. Kaptur

ADDRESS

PHONE

734-9683

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC MCC 8.10

GIVE TO BOARD CLERK

Yield to Dwayne Koptur

**SPEAKER SIGN UP CARDS**

DATE 06-25-98

NAME David Koronen

ADDRESS \_\_\_\_\_  
\_\_\_\_\_

PHONE

374-8288

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC MCC 8.10

GIVE TO BOARD CLERK

#11

## SPEAKER SIGN UP CARDS

DATE 06-25-98

NAME Ginger Becken

ADDRESS \_\_\_\_\_

PHONE \_\_\_\_\_

774-7172

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Mcc 8.10

GIVE TO BOARD CLERK

Yield to Ginger Becken

SPEAKER SIGN UP CARDS

DATE 06-25-98

NAME Jillian Kononen

ADDRESS \_\_\_\_\_  
\_\_\_\_\_

PHONE 374. 8288

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC MCC 8.10

GIVE TO BOARD CLERK

#12

## SPEAKER SIGN UP CARDS

DATE 6/25/98

NAME CINDY ROBERT

ADDRESS PO Box 588

LAKE OSWEGO

PHONE 636 8188

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Animal ordinance R-9  
GIVE TO BOARD CLERK



#13

## SPEAKER SIGN UP CARDS

DATE 6-25-98

NAME

Jeff Dallas

ADDRESS

4037 SW Iowa St.

Portland, OR

PHONE

246-6807

SPEAKING  
TOPIC

ON AGENDA ITEM NUMBER OR  
R-9

GIVE TO BOARD CLERK

#14

## SPEAKER SIGN UP CARDS

DATE 6/25/98

NAME

Thomas Buchholz

ADDRESS

\_\_\_\_\_  
\_\_\_\_\_

PHONE

65 632-6669

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC E-9

GIVE TO BOARD CLERK

#15

## SPEAKER SIGN UP CARDS

DATE 6/25/98

NAME MICHAEL TWARD

ADDRESS 203 SE ALDER

PORTLAND, OR 97214

PHONE 239-4266

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC ANIMAL CONTROL CODE R-9

GIVE TO BOARD CLERK

#16

## SPEAKER SIGN UP CARDS

DATE 6/25/98

NAME Anny Turnall

ADDRESS Po Box 205  
Graham

PHONE 615-9114

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC EXOTIC ORDINANCE R-9

GIVE TO BOARD CLERK

#17

## SPEAKER SIGN UP CARDS

DATE

8/6/

NAME

Jackie Sennott

ADDRESS

POB 25674

PHONE

Old  
643-6958

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC

Wayne Kaptur & Ginger  
Becker

GIVE TO BOARD CLERK

R-9  
10:05

ESTIMATED START TIME: 10:00

~~JUN 18 1998~~

~~10.10~~

**AMOUNT OF TIME NEEDED:**

**AMOUNT OF TIME NEEDED:** 1 hour

**DIVISION:** *Animal Control*

TELEPHONE #: 248-3790 x234

BLDG/ROOM #: 324

**PERSON(S) MAKING PRESENTATION:** Henry Miggins

☐ INFORMATIONAL ONLY    ☐ POLICY DIRECTION    ☒ APPROVAL    ☐ OTHER

*Multnomah County Animal Control code 8.10*

6/26/98 copies to C. FIZENS  
x 3; copy to HANK THIGGINS  
6/30/98 copies to  
ORDINANCE  
DISTRIBUTION  
LIST

BOARD OF  
COUNTY COMMISSIONERS  
98 MAY 13 PM 1:28  
MULTNOMAH COUNTY  
OREGON

**SIGNATURES REQUIRED:**

MANAGER: Chet. O. Chykos

~~ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES~~

**Any Questions: Call the Board Clerk @ 248-3277**



DEPARTMENT OF ENVIRONMENTAL SERVICES  
**ANIMAL CONTROL DIVISION**  
1700 W. Columbia River Highway  
Troutdale, OR 97060-1093  
(503) 248-3790 EXT 234 Fax: (503) 248-3002

BOARD OF COUNTY COMMISSIONERS

BEVERLY STEIN -CHAIR OF THE BOARD  
VACANT -DISTRICT 1 COMMISSIONER  
GARY HANSEN -DISTRICT 2 COMMISSIONER  
VACANT -DISTRICT 3 COMMISSIONER  
SHARRON KELLEY -DISTRICT 4 COMMISSIONER

**MEMORANDUM**

**TO:** Board of County Commissioners  
**FROM:** Henry C. Miggins, Director of Animal Control  
**DATE:** May 8, 1998  
**SUBJECT:** Multnomah County Animal Control Code 8.10

1. Recommendation/Action Requested:

Board to approve the ordinance.

2. Background/Analysis:

A single ordinance needs to be passed for all jurisdictions. The jurisdictions have been briefed and have not raised any objection. The BCC has been briefed on the ordinance revisions at an informal meeting and at a Board Staff meeting.

3. Financial Impact:

None.

4. Legal Issues:

The ordinance falls in compliance with ORS. It does not conflict with any jurisdiction or administrative procedures. Combines currently used County ordinances into one.

5. Controversial Issues:

The Exotic section of the ordinance.

6. Link to Current County Policies:

The proposed ordinance is consistent with current County policies.

7. Citizen Participation:

The Animal Control Advisory Committee has worked on this ordinance for the past year. A copy of the draft was sent Portland Veterinary Medical Association, Multnomah County Sheriff's Office, Chamber of Commerce for Portland and Gresham, all jurisdictions, and Animal Control staff. In addition, meetings have been held with each group. We do expect citizen testimony regarding the ordinance.

8. Other Government Participation:

A draft was sent to all jurisdictions and county departments affected. In addition, we met with each jurisdiction to go over in detail changes made in the ordinance.



Multnomah County Animal Control Code

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. \_\_\_\_\_

An ordinance amending the Multnomah County Animal Control Code Chapter 8.10 to provide for certain new definitions, and regulations relating to Exotic Animals, Potentially Dangerous Dogs, Dangerous Dogs, Limited Search Warrants and State Court Enforcement.

(Language ~~lined through~~ is to be deleted; underlined language is new)

Multnomah County ordains as follows:

Section I. AMENDMENT

MCC 8.10.010 is amended and added to as follows:

(A) *Animal* means any non-human vertebrate.

(B) *Animal at large* means any animal, excluding domestic cats ~~licensed and sterilized cats~~, that is not physically restrained on the owner's or keeper's premises, ~~(private property)~~ (including motorized vehicles) in a manner that physically prevents the animal from leaving ~~that property~~ the premises 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.

(C) *Aggressively bites* means any dog bite that breaks the skin and is accompanied by an attack where the dog exhibits ~~behavior including one or more of the following behavior(s)~~, but not limited to ~~any of the following~~:

Multnomah County Animal Control Code

snarling, baring teeth, chasing, growling, barking, snapping, pouncing,  
lunging, multiple lunges, or multiple bites.

(D) *Board* means the Multnomah County Board of County Commissioners.

(E) *Chronic safety nuisance* is demonstrated by the issuance of two (2) or more  
notice of infractions or citations for:

(1) Violation of MCC 8.10.270 relating to the same dog, or

(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.

(F) *Chronic noise nuisance* is demonstrated by the issuance of two (2) or more  
notice of infractions or citations for violation of MCC 8.10.190(b)(~~5~~)(6) and the  
receipt of multiple complaints from ~~more than~~ one (1) or more households,  
within a one (1) year period, in close proximity to the animal's location.

(1) Excluding all lawful commercial operation operated under appropriate  
zoning.

(G) *Dangerous or Exotic Animal* means 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 MCC 8.10.271. A~~  
dangerous or exotic animal under this chapter shall include any of the  
following animals:

Multnomah County Animal Control Code

1       (1) Any feline from the genera Panthera (lion, tiger, leopard, cougar)  
2             and Acinonyx (cheetah);

3       (2) Any monkey, ape, gorilla, hybrid thereof, or other non-human  
4             primate;

5       (3) Any wolf or canine except the species Canis Familiaris (domestic  
6             dog);

7       (4) Any bear;

8       (5) Any venomous or poisonous reptile;

9       (6) Any reptile of the order Crocodilia (crocodiles, alligators and  
10            caimans).

11    (H) Dangerous Dog means any dog found to have engaged in any of the  
12            behaviors specified in MCC 8.10.271.

13    (I)(H) Dangerous Dog Facility means any site for the keeping of one or more  
14            dangerous animals dogs.

15    (J)(H) Director means the director of the department of environmental services  
16            animal control division of Multnomah County or the director's designee.

17    (K) Domestic Animal. Any animal whose physiology has been determined or  
18            manipulated through selective breeding and does not occur naturally in  
19            the wild, or which may be vaccinated against rabies with an approved  
20            rabies vaccine and for which there is an established rabies quarantine  
21            observation period. Examples of domestic animals include dogs, cats and  
22            livestock.

23    (L) ~~(J)~~ Euthanasia means putting an animal to death in a humane manner.

Multnomah County Animal Control Code

1 (M) ~~(K)~~ *Facility* is a site excluding veterinary hospitals operated or used for:

2 (1) Boarding, training or similar purposes of dogs, cats, or other animals  
3 commonly maintained as pets for varying periods of time.

4 (2) ~~For~~ The purpose of breeding, buying, selling, or bartering of dogs and/or  
5 cats, or other animals commonly maintained as pets.

6 ~~(3) (4) Facility operated by animal welfare/rescue organization. Breeding of~~  
7 ~~dogs and/or cats for the preservation of the breed.~~

8 (N) Harboring of a Dangerous or Exotic Animal means to knowingly allow the  
9 animal to remain, lodge, be fed, or to be given shelter or refuge within the  
10 person's home, store, yard, enclosure, vehicle or building, place of  
11 business, or any other premises in which the person resides or over which  
12 the person has control.

13 (O) ~~(L)~~ *Hearing officer* means a person appointed by the chair to hear appeals  
14 decisions of the director concerning violations of this ~~chapter, or license~~  
15 ~~denial or revocation under MCC 8.10.100 through 8.10.145~~ chapter.

16 (P) ~~(M)~~ *Immediate health hazard* exists if at any given location there are  
17 conditions related to animal care that the director determines warrant  
18 immediate intervention; such conditions include, but are not limited to  
19 inadequate sanitation, untreated disease, or animals in numbers greater  
20 than the animal's owner or keeper can reasonably care for.

21 (Q) ~~(N)~~ *Keeper* means any person or legal entity who harbors, cares for,  
22 exercises control over, or knowingly permits any animal to remain on  
23 premises occupied by that person for a period of time not less than 72

Multnomah County Animal Control Code

1 hours or someone who accepted the animal for the purpose of safe  
2 keeping.

3 ~~(O) Liability insurance means public liability insurance in a single incident amount~~  
4 ~~of not less than \$50,000.00 for bodily injury to or death of any person or~~  
5 ~~persons or a cash bond or irrevocable letter of credit in the amount up to~~  
6 ~~\$2,500.00. The owner or keeper shall be required to provide the director~~  
7 ~~with certification of insurance within ten days of receiving notification of~~  
8 ~~classification. Such policy shall provide that no cancellation of the policy~~  
9 ~~will be made unless ten days' written notice is given to the director by~~  
10 ~~certified mail.~~

11 ~~(R)(P)~~ *Livestock* means animals, including but not limited to fowl, horses, mules,  
12 burros, asses, cattle, sheep, goats, llamas, emu, ostriches, rabbits, swine  
13 and or other farm domestic animals, excluding dogs and cats.

14 ~~(S)(Q)~~ *Livestock facility* means any site for the keeping of livestock.

15 (T) ~~(R)~~ *Minimum care* has the meaning as provided in ORS 167.310(8) (1995).

16 (U) ~~(S)~~ *Muzzle* means a device constructed of strong, soft material or a metal  
17 muzzle that ~~complies with specifications to be adopted as administrative~~  
18 ~~rules by the director. The muzzle must be~~ is made in a manner that will  
19 not cause injury to the dog or interfere with its vision or respiration but  
20 must prevent it from biting any person or animal.

21 (V) ~~(T)~~ *Owner* means any person or legal entity having a possessory property  
22 right in the animal or any person who has been a keeper of an animal  
23 for more than 90 days.

Multnomah County Animal Control Code

1 (W) ~~(U)~~ *Permit*, for the purpose of MCC 8.10.190<sub>1</sub> shall include human  
2 conduct that is intentional, deliberate, careless, inadvertent<sub>1</sub> or  
3 negligent in relationship to an animal.

4 (X) ~~(V)~~ *Person* means any natural person, association, partnership, firm or  
5 corporation.

6 (Y) ~~(W)~~ *Pet license* is a record issued by Animal Control which identifies an  
7 animal of licensable age and the owner. ~~Means a license for any~~  
8 ~~owned animal that is of licensable age.~~

9 (Z) *Pet* means a domestic or other animal allowed under this Chapter to be  
10 kept as a companion:

11 (AA) ~~(X)~~ *Physical device or structure* means a tether, trolley system, other  
12 physical control device or structure made of material sufficiently strong  
13 to adequately and humanely confine the animal in a manner that would  
14 prevent it from escaping the premises.

15 (BB) ~~(Y)~~ *Physical injury* means physical impairment or as evidenced by  
16 scrapes, cuts, punctures, bruises or physical pain ~~or other evidence of~~  
17 ~~physical impairment.~~

18 (CC) ~~(Z)~~ *Potentially dangerous dog* means any dog that has been found to  
19 have engaged in any of the behaviors specified in MCC 8.10.270.

20 (DD) ~~(AA)~~ *Public nuisance animal* is an animal that has been determined by  
21 the director to be a chronic noise nuisance, or a chronic safety  
22 nuisance, or an animal that is subjected to an immediate health  
23 hazard.

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(EE)(BB)-A secure enclosure shall be:

(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.

(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 condition of the structure is not a secure enclosure if the structure would allow the dog to exit the structure ~~on~~ of its own volition; or

(3) For a Dangerous Dog, a fully fenced pen, kennel or structure at least six feet in height, installed beneath the ground level or in concrete or pavement, or a fabricated structure to prevent digging under it. Either enclosure shall be designed to prevent the entry of children or unauthorized persons and to prevent those persons from extending appendages inside the enclosure and be equipped with a self closing and self latching gate. A "Dangerous Dog" sign prescribed by the director must be posted at the entry to the owner's or keeper's premises.

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(FF) ~~(GG)~~ *Serious physical injury* means 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 or protracted loss or impairment of health or of the function of any body part or organ.

(GG) ~~(DD)~~ *Service animal* ~~is 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.~~ means any guide dog, signal dog or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.  
Service animal shall also mean trained animals used by government agencies in police and rescue work.

(HH) ~~(EE)~~ *Sexually unproductive* means being incapable of reproduction and certified as such by a licensed veterinarian.

~~(FF) *Vicious animal* means any dangerous animal, excluding dogs or cats, which bites any human being or other domestic animal or which demonstrates menacing behavior towards human being 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.~~



1 (II) Wolf-Hybrid means any animal which is either the result of cross breeding a  
2 purebred wolf and a dog or an existing wolf-hybrid with a dog.

3 [Ord. 156 § II (2) (1978); Ord. 379 §§ 1--3 (1983); Ord. 480 § 1 (1985); Ord. 517  
4 § 2 (1986); Ord. 591 § 1 (1988); Ord. 732 §§ 1--3 (1992); Ord. 850, § 1 (1996)]

5  
6 Section II. AMENDMENT

7 MCC 8.10.020 is amended as follows:

8 The board of county commissioners recognizes that ORS Chapter 609  
9 constitutes state law for the regulation of dogs but may be superseded in home  
10 rule counties which provide for regulation by ordinance. The board finds that it is  
11 necessary to establish and implement a program for the licensing and regulation  
12 of dogs and other animals and facilities which house them; that animals require  
13 legal protection; that the property rights of owners or keepers and nonowners of  
14 animals should be protected and that the health, safety and welfare of the  
15 people residing in Multnomah County would best be served by adoption of such  
16 an ordinance.

17 Section III. AMENDMENT

18 MCC 8.10.035 is amended as follows:

19 (A) Whenever a county animal control officer or person designated by the  
20 director has reasonable grounds to believe that an animal or facility is in  
21 violation of this chapter, that officer or designee shall be authorized to issue  
22 the owner or keeper notice of civil infraction containing the following  
23 information:

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- (1) The name and address, if known, of the owner or person in violation of this chapter and description of the animal, if applicable; and
- (2) The Code section allegedly violated plus a brief descriptive statement of the nature of the violation; and
- (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 with~~ with a \$25.00 non-refundable fee ~~with to~~ the director of animal control division within 20 days of the date of the notice of infraction was served.
- (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 MCC 8.10.900 (B).

[Ord. 732 § 4 (1992); Ord. 850, § 4 (1996)]

Section IV. AMENDMENT

MCC 8.10.036 is amended as follows:

1 The notice of infraction shall be served on the owner or keeper of the  
2 animal or facility in violation of this chapter by personal service or by regular and  
3 certified mail with return receipt requested.

4 [Ord. 732 § 5 (1992); Ord. 850, § 5 (1996)]  
5

6 Section V. AMENDMENT

7 MCC 8.10.038 is amended as follows:

8 (A) Any party who is issued a notice of infraction for any offense listed under  
9 MCC 8.10.900(A) may, in lieu of requesting a hearing, admit the infraction  
10 and submit the fine as stated on the notice of infraction to the animal control  
11 division. The party may attach a written explanation of mitigating  
12 circumstances with the payment of the fine.

13 (B) Any written explanations submitted under subsection (A) shall be reviewed  
14 by the hearings officer. The hearings officer shall have discretion to reduce  
15 the submitted fine and refund any portion not retained based on the written  
16 explanation.

17 (C) When a person issued a notice of infraction for violation of any of the  
18 following sections of this chapter: MCC 8.10.190(B)(2), (5) ~~(6)~~, (10) ~~(14)~~,  
19 (11) ~~(12)~~, or (12) ~~(13)~~; or MCC 8.10.191(A), the violation may be  
20 compromised as provided at MCC 8.10.038(D).

21 (D) If the person injured, damaged, or otherwise detrimentally impacted by the  
22 commission of the violation; acknowledges in writing any time before the final  
23 decision of the director, hearings officer, or a court of requisite jurisdiction,

1       that the person has received satisfaction for the injury damage or detrimental  
2       impact, the director hearings officer or court may in their discretion, on  
3       payment of any cost or expense incurred, order the notice of infraction  
4       dismissed.

5       (1) The director, hearings officer, or court when issuing an order to dismiss  
6       under this section, may impose additional conditions or requirements upon  
7       the party issued the violation, if in their determination the additional  
8       requirements are necessary to further protect the public health or safety.

9       (2) Any condition or requirement imposed pursuant to MCC 8.10.038(D)(1)  
10       shall be complied with prior to the entry of the final order dismissing the  
11       notice of infraction(s).

12       (E) The order authorized by MCC 8.10.038(D) when made and entered by the  
13       director, hearings officer or court is a bar to another enforcement action for  
14       the same violation.

15       [Ord. 732 § 7 (1992); Ord. 850, § 6 (1996)]

16       Section VI. AMENDMENT

17       MCC 8.10.040 is amended as follows:

18       (A) The director shall operate, maintain or provide for an adequate facility to  
19       receive, care for and safely confine any animal delivered to the director's  
20       custody under provisions of this chapter, which facility shall be accessible to  
21       the public during reasonable hours for the conduct of necessary business  
22       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 ~~dog~~ 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 paragraph (1) of this subsection. 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 subsection (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 subsection (E)(1) of this section, and upon verification of satisfactory compliance with the regulations required in MCC 8.10.270 to 8.10.280. Failure to be in satisfactory compliance with

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1 the potentially dangerous dog regulations within ~~ten days of~~ twenty days  
2 after the date of impoundment shall result in the owner or keeper forfeiting  
3 all rights of ownership of the dog to the county.

4 (2) An animal held for the prescribed period and not redeemed by its owner or  
5 keeper, and which is neither a dangerous or exotic animal nor in a  
6 ~~dangerous~~ unhealthy condition ~~of health~~, may be released for adoption  
7 subject to the provision of MCC 8.10.045.

8 (3) The director shall dispose of animals held for the prescribed period without  
9 redemption or adoption only by humane means ~~of euthanasia, provided,~~  
10 ~~however, that, irrespective of any prescribed holding period, the director,~~  
11 ~~upon advice of a licensed veterinarian,~~

12 (4) At any time the director may euthanize any unlicensed and feral animal,  
13 or any unhealthy or injured animal by humane means without regard to  
14 the holding period specified in (D)(1)(2) above, provided the animal's  
15 injuries must be determined to be life threatening or if the animal is  
16 unhealthy the animal's condition must be found to present a health threat  
17 to the other animals in the shelter.

18 (5) Any device attached to any animal upon impoundment shall be retained,  
19 30 days, by the director should the animal be disposed of as provided in  
20 paragraph (3) of this subsection. Otherwise, the device shall accompany  
21 the animal when redeemed or adopted.

22 [Ord. 156§ III (2) (1977); Ord. 276 § 2 (1981); Ord. 379 §§ 5, 6 (1983); Ord. 591  
23 § 4 (1988); Ord. 732 § 3 (1992); Ord. 580, § 7 (1996)]

1 Section VII. AMENDMENT

2 MCC 8.10.041 is added as follows:

3 (A) Whenever a person in possession of an animal, which has been used in the  
4 commission of a violation of this Chapter, and which is the subject of a lawful  
5 order of impound, refuses to voluntarily release said animal to an Animal  
6 Control Officer upon timely and reasonable request, the Director shall  
7 determine the need to procure the animal's immediate impoundment.

8 (B) A limited search warrant authorized under this section shall be sought by the  
9 Division after the Director has determined the animals immediate  
10 impoundment is necessary based on one or more of the following factors:

11 (1) The public's health and safety is at risk by the subject animal remaining in  
12 the possession of the owner.

13 (2) The health and welfare of the subject animal is at risk by the animal  
14 remaining in the possession of the owner or keeper.

15 (3) The Owner/Keeper has failed to comply with requirements specified in  
16 MCC 8.10.192.

17 (C) The Director shall request the assistance of the Sheriff to procure and  
18 execute the limited search warrant. The Sheriff shall prepare the application  
19 for the warrant including the affidavit in support thereof. The Sheriff shall  
20 obtain the warrant in compliance with the procedures and practices  
21 authorized under State law for the seizure of property pursuant to a search  
22 warrant. The Director and the Sheriff shall coordinate with the Office of



1        County Counsel to review the affidavit for compliance with all the provisions  
2        herein stated.

3  
4        Section VIII. AMENDMENT

5            MCC 8.10.045 is amended as follows:

6        (A) An animal may be released for adoption or transferred to another adoption  
7        agency, approved by the director, subject to the following conditions: .

8            (1) The adoptive owner ~~or keeper~~ shall agree in writing to furnish proper care  
9            to the animal in accordance with this chapter;

10          (2) Payment of required fees; however, animals transferred to another  
11          adoption agency are exempt from the requirement of paying adoption  
12          fees;

13          (3) In the case of a fertile dog or cat, the adoption agency must obtain prior to  
14          transfer from the adoption agency to the adoptive owner a surgical  
15          prepayment deposit in an amount not to exceed \$45.00 refundable upon  
16          furnishing evidence that the animal has been rendered sexually  
17          unreproductive; and written agreement by the adoptive owner or keeper to  
18          render any adopted dog or cat sexually unproductive within 30 days of  
19          adoption or upon the animal attaining sexual maturity, whichever event  
20          last occurs, together with a fee not to exceed \$45 refundable upon  
21          furnishing evidence the animal has been rendered sexually unproductive.  
22          Failure to perform the agreement shall be a forfeiture of the amount  
23          deposited under this paragraph and the director may require return of the

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1        adopted dog or cat to the shelter. It is unlawful to fail to return an adopted  
2        animal as required by the director.

3        ~~(4) A written agreement by the adoptive owner or keeper to render any~~  
4        ~~adopted dog or cat sexually unproductive within 30 days of adoption or~~  
5        ~~upon the animal attaining sexual maturity, whichever event last occurs,~~  
6        ~~together with a fee not to exceed \$45 refundable upon furnishing evidence~~  
7        ~~the animal has been rendered sexually unproductive. Failure to perform~~  
8        ~~the agreement shall be a forfeiture of the amount deposited under~~  
9        ~~paragraph (3) of this section and the director may require return of the~~  
10       ~~adopted dog or cat to the shelter. It is unlawful to fail to return an adopted~~  
11       ~~animal as required by the director.~~

12       (B) The director may decline to release an animal for adoption under any of  
13       ~~the following~~ circumstances including but not limited to:

14       (1) The prospective adoptive owner ~~or keeper~~ has a history of violations of the  
15       animal control ordinance or has been convicted of an animal-related  
16       crime.

17       (2) The prospective adoptive owner ~~or keeper~~ has inadequate or  
18       inappropriate facilities for confining the animal and for providing proper  
19       care to the animal as set out in MCC 8.10.190;

20       (3) The existence of other circumstances which in the opinion of the director  
21       would endanger the welfare of the animal or the health, safety and welfare  
22       of the people residing in Multnomah County. ~~In making a decision under~~

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1       ~~this subsection, the director shall consider the guidelines adopted by the~~  
2       ~~Multnomah County animal adoption panel.~~

3       (4) The animal is classified as a dangerous dog animal or a potentially  
4       dangerous dog.

5       (C) For purposes of this section "adoption agency" shall mean any government,  
6       association, corporation or similar entity approved by the director and capable  
7       of caring for animals pending final adoption placement.

8       [Ord. 275 § 4 (1981); Ord. 379 § 7 (1983); Ord. 732 § 3 (1992); Ord. 850, § 8  
9       (1996)]

10

11       Section IX. AMENDMENT

12       MCC 8.10.054 is amended as follows:

13       **8.10.054. Appeals, fee.**

14       (A) Any party served a notice of infraction or director's decision or order under  
15       this chapter may appeal the infraction or director's decision by submitting a  
16       notice of appeal in writing along with the \$25.00 hearing fee to the animal  
17       eControl division within 30 days of the date the notice of infraction or  
18       director's decision or order was served on the party.

19       (B) Any party whose application for a facility license or dangerous animal facility  
20       license was denied, revoked or issued subject to conditions may appeal the  
21       license denial, revocation or conditional approval by submitting a notice of  
22       appeal in writing along with the \$25.00 hearing fee to the animal eControl

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1 Division within 20 days of the date the denial or conditional approval was  
2 mailed to the applicant by certified mail.

3 [Ord. 732 § 9 (1992); Ord. 850, § 10 (1996)]  
4

5 Section X. AMENDMENT

6 MCC 8.10.055 is amended as follows:

7 (A) The board shall adopt procedural rules governing the conduct and  
8 scheduling of the appeal hearings under this chapter.

9 (B) Upon the receipt of a timely appeal, animal control division shall set the  
10 matter for hearing on the next available date scheduled for animal control  
11 hearings.

12 (C) Any party appealing a notice of infraction or license denial/revocation or  
13 director's decision or order under this chapter shall be given a written notice  
14 of the hearing date no less than ten days prior to the scheduled hearing.

15 (D) The hearings officer shall hold a public hearing on any timely appeal from a  
16 notice of infraction, director's decision or order, or the denial/revocation of a  
17 facility license. The party who brought the appeal or any other person having  
18 relevant evidence concerning the nature of the infraction or license  
19 denial/revocation shall be allowed to present testimony and documentary  
20 evidence at the hearing. The hearings officer may consider mitigating or  
21 extenuating circumstances presented on behalf of a party.

22 (E) If the hearing is held to address a notice of infraction or director's decision  
23 issued under MC 8.10.275 or 8.10.290, the hearings officer shall determine

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1 whether the infraction contained in the notice did occur. The hearings officer  
2 shall have the same authority as the director under MCC 8.10.275 when  
3 conducting potentially dangerous dog hearings.

4 (F) If the hearing is held to address a facility license condition, denial or  
5 revocation, the hearings officer shall determine whether the license conditions  
6 were rightfully imposed or the license was rightfully denied or revoked as  
7 provided under MCC 8.10.120.

8 (G) The hearings officer shall issue a written decision containing findings of fact  
9 addressing the allegations contained in the notice of infraction, the director's  
10 decision, or the license denial/revocation under MCC 8.10.100 through  
11 8.10.145. The decision shall clearly state the hearings officer's conclusion  
12 and the reasoning based on the findings of fact. The decision shall be signed  
13 and dated by the hearings officer and shall be served by personal service or  
14 regular and certified mail to the last known address of the party who filed the  
15 appeal. The decision shall be final on the date of personal service or three  
16 (3) days after mailing.

17 (H) In all appeal under this chapter the hearings officer shall have discretion  
18 ordering conditions, restrictions and penalties.

19 (I) Failure of a party to file an appeal as provided in this section or unexcused  
20 failure of a party to appear at a duly scheduled hearing shall constitute a  
21 waiver by the party of any further appeal under this chapter. Upon the entry  
22 of a waiver in the record, the last decision issued by the animal control  
23 division shall become final.

1 [Ord. 732 § 10 (1992); Ord. 850, § 11 (1996)]

2

3 SECTION XI. AMENDMENT

4 MCC 8.10.060 is amended as follows:

5 **8.10.060. Dogs and cats subject to pet licensing.**

6 (A) The provisions of MCC 8.10.060 to 8.10.090, shall apply to dogs and cats  
7 not covered under a facility subject to licensure under MCC 8.10.100 to  
8 8.10.140.

9 (B) Any animal declared by its owner or keeper to be a wolf-hybrid shall be  
10 considered a dog under this chapter and subject to all provisions relating to  
11 dogs under state law and this chapter with respect to the possession,  
12 ownership and licensing of the animal, including the requirement to vaccinate  
13 the animal against rabies.

14 (C) As a condition of the issuance of a license to a wolf-hybrid owner or keeper,  
15 and notwithstanding that person's obligation to vaccinate the animal against  
16 rabies under MCC 8.10.060(B), any such owner or keeper shall agree in  
17 writing to immediately release the animal for euthanization upon demand of  
18 the County Health Officer or the Director, if the animal has bitten a person or  
19 has been exposed to a rabid animal. This condition, consenting to release,  
20 shall be effective for the life of the wolf-hybrid or until such time as a rabies  
21 vaccine is approved and certified by the Oregon State Department of  
22 Agriculture for use in wolf-hybrids.

23 [Ord. 156 § IV(1) (1977); Ord. 480 § 2 (1985); Ord. 850 § 13 (1996)]

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1 Section XII. AMENDMENT

2 MCC 8.10.070 is amended as follows:

3 (A) Dogs and cats shall be licensed within 30 days of obtaining the age of six  
4 months or within 30 days of obtaining residency in the county or within 30  
5 days of acquisition by the owner or keeper, whichever occurs later.

6 (B) Licenses shall be valid for one, two or three years from date of issuance, at  
7 the option of the pet owner or keeper and, for dogs and cats, shall require a  
8 current rabies inoculation for licensing period selected and shall be issued  
9 upon payment of the fee required by MCC 8.10.220.

10 (C) Licenses issued under prior existing Multnomah County ordinances shall  
11 remain valid until expiration.

12 (D) The person who licenses an animal becomes the owner or keeper of record  
13 and is responsible for the action or behavior of his or her animal including  
14 those responsibilities of an owner as provided in MCC 8.10.190 (A).

15 [Ord. 156 § IV(2a) (1977); Ord. 480 § 3 (1985); Ord. 732 § 3 (1992); Ord. 850,  
16 § 14 (1996)]

17  
18 Section XIII. AMENDMENT

19 MCC 8.10.080 is amended as follows:

20 (A) Pet license tags shall be securely displayed upon animals at all times, except  
21 when the animal is confined to the owner's or keeper's premises or displayed  
22 in an exhibition. ~~Pet owners or keepers shall be allowed to choose the means~~  
23 ~~by which to display the pet license number (tag, collar, tattoo, microchip or~~

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~~another form of identification with the pet license number on it.)~~ A pet license tag, with pet license number, shall be issued by the director. Any additional expenses ~~is~~ are 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 Multnomah County, but within the State of Oregon, shall not require licensing under this chapter until expiration of the current license.

(D) Animal control may inspect the premises ~~with five or more~~ where animals are kept to insure that owners or keepers are providing minimum care and facilities.

[Ord. 156 § IV(2b) (1977); Ord. 195 § 11 (1979); Ord. 480 § 5 (1985); Ord. 732 § 3 (1992); Ord. 850, § 15 (1996)]

Section XIX. AMENDMENT

MCC 8.10.090 is amended as follows:

(A) License Fees shall be waived for licenses ~~issued for any dog used primarily~~ as a service animal upon presentment the owner or keeper establishing the service animal's function as an assistance animal under the Americans With Disabilities Act, 42 USC § 12101 et seq. ~~of an ADA affidavit by the animal's owner or keeper. A service animal license shall be valid for the duration that~~



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1     ~~the dog provides the service or upon retirement due to age or infirmity and so~~  
2     ~~long as the dog remains the property of the person named in the affidavit.~~

3     (B) License fees for dogs and cats owned by persons aged 65 or older and  
4     persons deemed by the director to be under financial hardship ~~shall~~ may be  
5     reduced by up to 50 percent for up to two (2) animals per household.

6     (C) License fees shall be waived for any dog used as a service animal by any  
7     Local, State or Federal Government agency. This exemption shall expire  
8     when the dog is no longer used primarily as a service animal.

9     [Ord. 156 § IV(2c) (1977); Ord. 480 § 6 (1985); Ord. 684 § 3 (1991); Ord. 732 § 3  
10    (1992); Ord. 850, § 17 (1996)]

11

12    Section XV. AMENDMENT

13           MCC 8.10.100 is amended as follows:

14    ~~(A)~~ A facility license or dangerous animal dog facility license shall be granted in  
15    accordance with procedures, standards and limitations provided in MCC  
16    8.10.100 to 8.10.140, and no such facility may lawfully be operated except  
17    upon application and payment of prescribed fees for the license.

18    ~~(B) Issuance of the license shall require prior land use approval and shall be in~~  
19    ~~compliance with any land use restrictions or regulations which may apply to~~  
20    ~~the proposed facility operation.~~

21    ~~(C) The Oregon Humane Society, located at 1067 NE Columbia Boulevard in~~  
22    ~~Portland, Oregon, shall be exempt from the requirements of MCC 8.10.100 to~~  
23    ~~8.10.140.~~

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1 [Ord. 156 § V(1) (1977); Ord. 480 § 7 (1985); Ord. 850, § 18 (1996)]

2 Section XVI. AMENDMENT

3 MCC 8.10.110 is amended as follows:

4 (A) Application for a facility license or dangerous ~~animal~~ dog facility license shall  
5 be made upon forms furnished by the director, shall include all information  
6 required therein and shall be accompanied by payment of the required fee.

7 (B) A facility license or dangerous ~~animal~~ dog facility license shall be valid for  
8 one year from the date of issuance, unless revoked.

9 (C) The director shall inspect any facility for which a license is sought and, upon  
10 determination that the facility and its operation complies with all applicable  
11 provisions of this chapter and other applicable local, state and federal laws,  
12 shall issue a license which may include one or more conditions of approval  
13 and/or operation.

14 (D) If the director fails to approve or deny a fully completed application within 60  
15 days of its receipt and payment of fees, the application shall be considered  
16 approved for the current year, subject only to revocation as provided in MCC  
17 8.10.120.

18 (E) A license shall be conspicuously displayed on the facility premises and a  
19 holder of a license shall keep available for inspection by the director a record  
20 of the name, address and telephone number of the owner or keeper of each

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1 animal kept at the facility, the date each animal was received, the purpose  
2 therefor, the name and address of the person from whom the animal was  
3 purchased or received, a description of each animal including species, age,  
4 breed, sex and color and the animal's veterinarian, if known, at the discretion  
5 of the director. For small animal such as fish, gerbils, hamsters or similar  
6 kinds of animals acquired in lots, an individual record should not be required  
7 for each animal, but the holders shall keep an adequate invoice record of the  
8 lot acquisition.

9 [Ord. 156 § V(2) (1977); Ord. 480 § 8 (1985); Ord. 732 § 3 (1992); Ord. 850 § 19  
10 (1996)]

11 Section XVII. AMENDMENT

12 MCC 8.10.120 is amended as follows:

13 (A) A license required by MCC 8.10.100 to 8.10.140 may be denied or revoked  
14 for any of the following reasons:

15 (1) Failure to comply ~~substantially~~ with any provision of this chapter.

16 (2) Conviction of the owner or keeper or any person subject to the owner's or  
17 keeper's direction or control for the violation of any provision of this  
18 chapter or other applicable state or federal law, rule, order or regulation  
19 pertaining to any activity relating to animals.

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1 (3) Furnishing false information on an application for a license under this  
2 chapter.

3 (B) The director shall refund ~~400~~ 75 percent of any fee paid upon denial of a  
4 license, provided, however, no refund shall be made upon revocation.

5 (C) If the director denies an application for a license or approves subject to  
6 conditions, the determination is final unless the applicant appeals the denial  
7 or conditional approval.

8 (D) The director shall investigate any complaint concerning licensed facilities  
9 and, upon determination that a license should be revoked, shall serve written  
10 notice upon the licensee of that determination by certified mail. The director's  
11 determination shall become final unless appealed.

12 (E) Failure to file a request within 20 days shall terminate any appeal right, and  
13 the director's decision revoking the license shall not be reviewable otherwise.

14 [Ord. 156 § V(3) (1977); Ord. 732 §§ 3, 13 (1992); Ord. 850, § 20 (1996)]  
15

16 Section XVIII. AMENDMENT

17 MCC 8.10.130 is amended as follows:

18 The director shall not issue facility license or dangerous animal dog facility  
19 license until a site inspection demonstrates compliance with the standards  
20 applicable to the nature and species of any animal to be kept as set forth in this  
21 section:

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1 (A) Housing structures shall be sound and maintained in good repair to protect  
2 animals from injury, safely confine any animal housed therein and prevent  
3 entry of other animals.

4 (B) Reliable and adequate electrical service and a potable water supply shall  
5 serve the facility.

6 (C) Storage of food supplies and bedding materials shall be designed to prevent  
7 vermin infestation.

8 (D) Refrigeration shall be furnished for perishable foods.

9 (E) Safe and sanitary disposal facilities shall be available to eliminate animal and  
10 food wastes, bedding, dead animals and debris and to minimize vermin  
11 infestation, odors and disease hazards.

12 (F) Cleaning facilities shall be available to animal caretakers and handlers.

13 (G) Interior ambient temperature shall be maintained above 50 degrees  
14 Fahrenheit for animals not acclimatized to lower temperatures.

15 (H) Adequate ventilation shall be maintained to assure animal comfort by such  
16 means as will provide sufficient fresh air and minimize drafts, odors and  
17 moisture condensation. Mechanical ventilation must be available when  
18 ambient temperatures exceed 85 degrees Fahrenheit, if appropriate.

19 (I) Interior areas shall have adequate natural or artificial lighting provided,  
20 however, that primary enclosures for animals shall be protected from  
21 excessive illumination.

22 (J) Interior building surfaces shall be so constructed and maintained to permit  
23 sanitizing and prevent moisture penetration.

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1 (K) Drainage facilities shall be available to assure rapid elimination of excess  
2 water from indoor housing facilities. The design shall assure obstruction-free  
3 flow and traps to prevent sewage back-flow.

4 (L) Outdoor facilities shall provide protective shading and adequate shelter areas  
5 designed to minimize harmful exposure to weather conditions for those  
6 animals not acclimatized to the environment, if appropriate for the species.

7 (M) The primary enclosure shall be of sufficient size to permit each animal  
8 housed therein to stand freely, sit, turn about and lie in a comfortable normal  
9 position as appropriate for the species. An exercise area or means to provide  
10 each animal with exercise shall be provided on the premises.

11 (N) When restraining devices are used in connection with a primary enclosure  
12 intended to permit movement outside the enclosure, the devices shall be  
13 installed in a manner to prevent entanglement with devices of other animals  
14 or objects and shall be fitted to the animal by a harness or well-fitted collar,  
15 other than a choke type collar, and shall be of reasonable length.

16 (O) Animals shall be fed, as often as necessary, a diet of nutritionally adequate  
17 and uncontaminated foods.

18 (P) Potable water shall be continuously available, unless otherwise  
19 recommended by a veterinarian in a particular situation.

20 (Q) Cages, rooms, hard-surfaced pens, runs and food and watering receptacles  
21 shall be sanitized daily to prevent disease ~~not less than once every two weeks~~  
22 ~~by washing with hot water (180 degrees Fahrenheit) and soap or detergent,~~  
23 ~~by washing with a combination disinfectant and cleanser, by washing with a~~

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~~detergent followed with a safe, effective disinfectant or by cleaning with~~  
~~steam.~~ Prior to the introduction of housing animals in ~~into~~ empty enclosures  
~~previously occupied~~, 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.

(R) 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.

(S) Animals housed together in primary enclosures shall be maintained in  
compatible groups with the following restrictions, except in a residential  
dwelling or otherwise appropriate for the species:

(1) Females in season (estrus) shall not be placed with males except for  
breeding purposes;

(2) Animals exhibiting vicious behavior shall be housed separately;

(3) Animals six months or less of age shall not be housed with adult animals  
other than with their mothers, as appropriate for the species;

(4) Animals shall not be housed with other non-compatible species of  
animals; and

(5) Animals under quarantine or treatment for any communicable disease  
shall be separated from other animals.

(T) Programs of disease control and prevention shall be established and  
maintained.

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(U) Each animal shall be seen at least once per 24-hour period by an animal caretaker.

(V) Owner or keeper shall comply with the provisions of MCC 8.10.190(B)(6)(7) and (B)(8)(9).

[Ord. 156 § V(4) (1977); Ord. 850, § 21 (1996)]

Section XIX. AMENDMENT

MCC 8.10.140 is amended as follows:

(A) ~~Exotic, wild or dangerous animal regulation facility license.~~

~~It is unlawful to harbor and/or own an exotic or dangerous animal. Any facility for keeping of any dangerous animal, whether or not otherwise licensed under this chapter, shall be licensed subject to MCC 8.10.100 and 8.10.110, and the following requirements:~~

~~Animals must at all times be housed in a manner which assures that animals will not create a public nuisance by reason of noise or emission of offensive odors, present a danger to human life or property, endanger the health of the animals or create a safety or health hazard to human beings. The facility must meet the standards as described in the Oregon Administrative Rules chapter 603, division 11, sections 700 through 725 as published in 1994 and as is from time to time amended or as required by the director.~~

~~An applicant for a license must demonstrate satisfactory proof to respond in damages for bodily injury or death of any person or for damage to any property which may result from the keeping, owning or control of the animal.~~



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~~The director may require posting of an adequate bond or proof of liability insurance to remain in effect during any license period.~~

(B) The following facilities, institutions, persons, entities, associations and government agencies are exempt from compliance with 8.10.140(A):

(1) Any facility accredited by the Association of Zoos and Parks and Aquariums (AZPA):

(2) Any licensed or accredited research or medical institution, including any such institution dedicated to the training of exotic primates for service animals;

(3) License or accredited educational institutions;

(4) Veterinary clinics in possession of exotic animals for treatment or rehabilitation purposes.

(5) Traveling circuses or carnivals;

(6) Persons temporarily transporting exotic animals through the county provided that the transit time shall not be more than three (3) days.

(7) Any person or facility licensed as an exhibitor or breeder by the United States Department of Agriculture (USDA) under the Animal Welfare Act.

(8) Persons owning or keeping a trained exotic primate as a service animal and who have submitted a sworn affidavit affirming the need for the service animal in their personal dwelling.

~~(C) A license issued under this section shall be subject to revocation by the director under MCC 8.10.120. Any person, not otherwise exempted, in possession of an exotic animal prior to and upon July 1, 1998, shall be~~

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- 1       eligible to request an Exemption Permit from Compliance with MCC  
2       8.10.190(B)(14) by submitting a written petition to the director. The petition  
3       must address each of the following elements:  
4       (1) What, if any, financial hardship will be caused by the removal of the  
5           animal;  
6       (2) Description of the animal including species, age, size, weight, coloring;  
7       (3) Proof of liability insurance, minimum \$50,000, or, bond for \$5,000 covering  
8           the animal;  
9       (4) History of Compliance With All Exotic and Dangerous Animal Facility  
10           Regulations under any applicable federal or state law.  
11       (D) The director shall evaluate whether any petition submitted under subsection  
12           (E) herein merits the exotic animal to be allowed to be maintained at the  
13           facility for the duration of the animal's life. Said determination shall be based  
14           on comparison of the risk to public health and safety by the specified animal  
15           remaining in the facility and petitioner's response to the four factors  
16           addressed in the petition.  
17       (E) Any Exemption Permit issued under this section shall only be available to the  
18           original permit holder, and shall be non-assignable and nontransferable. An  
19           exemption permit shall be subject to annul renewal and routine periodic  
20           inspection of the facility. Inspection of the facility wherein the animal is kept  
21           shall be for the purposes of evaluating the adequacy of the facility to protect  
22           the public from the animal as well as for the care and treatment of the animal.  
23       The Exemption Permit shall:

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1 (1) Terminate upon death of the animal;

2 (2) Terminate upon the death of the petitioner;

3 (3) Shall be subject to revocation and the animal shall be subject to  
4 immediate impoundment upon any notice of infraction being issued to the  
5 permit holder;

6 (4) Provide that upon termination of the permit for any reason, and if the  
7 animal has not been otherwise disposed of at such time, that the permit  
8 holder, or his or her heirs or successors in interest shall either:

9 (a) Immediately release the animal to impound by the Animal Control  
10 Division, or

11 (b) Immediately transfer the animal to lawfully exempted agency as  
12 provided in subsection (D) herein, that has agreed in writing to accept  
13 the animal, proof of which shall be provided to the Animal Control  
14 Division prior to the transfer.

15 (F) Any dangerous or exotic animal found in Multnomah County in violation of  
16 this section and not otherwise exempt under MCC 8.10.140(B) or (C) shall be  
17 subject to immediate impoundment by Animal Control and disposition  
18 through any lawful and humane means available to Animal Control.

19 [Ord. 156 § V(5) (1977); Ord. 850, § 22 (1996)]

20  
21 Section XX. AMENDMENT

22 MCC 8.10.160 is amended as follows:

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- 1 (A) Any person who finds and harbors an animal without knowing the animal  
2 owner's or keeper's identity shall notify the director and furnish a description  
3 of the animal within 5 days after the date of finding the animal.
- 4 (B) The finder may surrender the animal to the director or retain its possession,  
5 subject to surrender upon demand of the director.
- 6 (C) Records of reported findings shall be retained for six months by the director  
7 and made available for public inspection.
- 8 (D) If the finder chooses to retain possession of the animal, the finder shall,  
9 within 15 days, cause to be published in a newspaper of general circulation in  
10 the county a notice of the finding once each week for two consecutive weeks.  
11 Each such notice shall state the description of the animal, the location where  
12 the animal was found, the name and address of the finder and the final date  
13 before which such animal may be claimed. If the finder does not wish to have  
14 his or her name and address appear in the notice, he or she may obtain a  
15 case number from Multnomah County Animal Control and have that number  
16 published in the newspaper along with the phone number for anAnimal  
17 eControl for contact.
- 18 (E) If no person appears and claims ownership of the animal prior to the  
19 expiration of ~~90~~ 180 days after the date of the notice to the director under  
20 subsection (A) of this section, the finder shall be declared the owner of the  
21 animal. Any person becoming owner of any animal under the provisions of  
22 this subsection shall assume the responsibilities of an owner under this  
23 chapter.

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1 (F) If within ~~three months~~ 180 days of the finder's notice to the director the  
2 animal's owner does appear and establish ownership of the animal, the finder  
3 shall surrender possession of the animal to that owner, provided, however,  
4 that the owner first tender to the finder payment for all of the finder's  
5 reasonable actual costs incurred for giving of notice, providing urgent  
6 veterinary care and keeping of the animal.

7 (G) Any dispute as to ownership or right to possession of the animal, or as to the  
8 amount of the finder's costs, shall be submitted to the director in writing, who  
9 shall ~~promptly~~ decide the matter in writing within 30 days. Any party  
10 aggrieved by the director's decision may appeal the decision under MCC  
11 8.10.054 through 8.10.057.

12 (H) Notwithstanding any other provision in this section, any person who prior to  
13 December 31, 1995 found and harbored any dog or cat and who notified the  
14 director and furnished a description of the animal shall be the animal's owner  
15 if, prior to the expiration of ~~three months~~ 180 days after the director was  
16 notified, no person appeared and claimed ownership of the animal. Any  
17 person becoming owner of any animal under the provisions of this subsection  
18 shall assume the responsibilities of an owner under this chapter.

19  
20 Section XXI. AMENDMENT

21 MCC 8.10.170 is amended to read as follows:

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Any person in physical possession or control of any animal off the premises 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~~.

[Ord. 156 § VI(3) (1977); Ord. 850, § 26 (1996)]

Section XXII. AMENDMENT

MCC 8.10.190 is amended as follows:

(A) For the purposes of this section, unless otherwise limited, the owner is ultimately responsible for the behavior of his or her animal regardless of whether the owner or another member of the owner's 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:

(1) Permit an animal to be an animal at large.

(2) Permit an animal to trespass upon property of another.

~~(3) (4) Keep a vicious animal.~~ 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.

~~(4) (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.

~~(5) (6)~~ Permit any animal to unreasonably cause annoyance, alarm or noise disturbance to any person or neighborhood by at any time of the day or night, by repeated barking, whining, screeching, howling, braying or other

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1 like sounds which may be heard beyond the boundary of the owner's or  
2 keeper's property under conditions wherein the animal sounds are shown  
3 to have occurred either as repeated episodes of continuous noise lasting  
4 for a minimum period of ten minutes or repeated episodes of intermittent  
5 noise lasting for a minimum period of thirty minutes. It shall be an  
6 affirmative defense under this subsection that the animal was intentionally  
7 provoked by a party other than the owner to make such noise. Provided,  
8 8.10.190(B)(5) shall not be applicable to any lawful livestock owner or  
9 keeper; kennel or similar facility, wherein the presence of livestock or the  
10 operation of a kennel or similar facility is authorized under the applicable  
11 land use and zoning laws and regulations.

12 (6) ~~(7)~~ Leave an animal unattended for more than 24 consecutive hours  
13 without minimum care.

14 (7) ~~(8)~~ Deprive an animal of proper facilities or care, including but not limited  
15 to the items prescribed in MCC 8.10.130. Proper shelter ~~shall~~ must  
16 ~~include a structure that does not leak,~~ will provide protection from the  
17 weather and is maintained in a condition to protect the animals from injury.

18 (8) ~~(9)~~ Physically mistreat any animal either by abuse or neglect or failure to  
19 furnish minimum care.

20 (9) ~~(10)~~ Permit any animal to leave the confines of any officially prescribed  
21 quarantine area.

22 (10) ~~(11)~~ Permit any dog to engage in any of the behaviors described in MCC  
23 8.10.270(A) or (B).

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(11)(12) Permit any dog to engage in any of the behaviors described in MCC 8.10.270(C) through 8.10.270 (D).

(12)(13) Permit any dog to engage in the behavior described in MCC 8.10.271.

(13) To harbor a dangerous or exotic animal that is not otherwise exempted under MCC 8.10.140. Provided, any person who is keeping or owning a dangerous animal on the effective date of this Ordinance in their jurisdiction shall have 60 days from that date to provide for the animal's disposition outside of the County.

(C) For the purpose of this section "owner" shall mean either owner or keeper as defined under this chapter.

(E) Notwithstanding, MCC 8.10.190(B)(10), (11) and (12), any dog that has been found to have engaged in behaviors as described at MCC 8.10.270 or 8.10.271, shall be classified, regardless of whether it is established by preponderance of the evidence that the dog owner, keeper or other person permitted the dog to engage in the behavior. If in any such case, it is not established by a preponderance of the evidence that the person cited permitted the dog to engage in the behavior, no fine shall be imposed against that person, but the dog owner or keeper shall be subject to all other restrictions and conditions lawfully imposed by the director or a hearings officer pursuant to MCC 8.10.280(B) and 8.10.055(H) respectively and;

(1) In any case, wherein the citing officer or the director based upon his or her investigation and review of such case, determines there is insufficient



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1 evidence to establish the responsible party permitted the dog to engage in  
2 the violative behavior, may in lieu of issuing a Notice of Infraction for  
3 violation of MCC 8.10.190(B)(10), (11) or (12) issue a Notice of Infraction  
4 citing this subsection and the specific subsection of MCC 8.10.270 or  
5 8.10.271 directly applicable to the dog's alleged behavior.

6 (2) Any Notice of Infraction issued pursuant to 8.10.190(E)(1) shall not be  
7 subject to the imposition of a fine against the person cited, upon issuance  
8 or affirmation but that person shall be subject to all other restrictions and  
9 conditions lawfully imposed by the director or a hearings officer pursuant  
10 to MCC 8.10.280(B) and 8.10.055(H) respectively.

11 [Ord. 156 § VI(5) (1977); Ord. 517 § 4 (1986); Ord. 732 §§ 3, 14 (1992); Ord.  
12 850, § 28 (1996)]

13 Section XXIII. AMENDMENT

14 MCC 8.10.191 is amended as follows:

15 (A) The failure to comply with any conditions or restrictions lawfully imposed  
16 pursuant to a notice of infraction or director's decision not otherwise stayed  
17 under MCC 8.10.056 is a violation of this chapter. Failure to pay the civil fine  
18 shall be an infraction under this section. A notice of infraction issued under  
19 this section for failure to comply shall be of the same classification as the  
20 original infraction. The first notice of infraction issued under this section shall  
21 not be construed as a second offense under MCC 8.10.900(B).

22 (B) Except as provided in MCC 8.10.191(C), all enforcement actions under this  
23 section shall be brought before a hearings officer.

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(C) Any enforcement action for a Class A infraction 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; or

(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 20 month period;

shall be brought in the state court as provided under ORS 203.810 and ORS 30.315.

(D) Notwithstanding subsection (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 MCC 8.10.280(G), shall be a Class C infraction.

[Ord. 732 § 15 (1992); Ord. 773, § 2 (1993); Ord. 850, § 29 (1996)]

(E) In addition to any other remedies allowed by law, judgment may be entered under this Section in state court against any person issued a citation under subsection (C) of this section by reason of that person failing to appear at the time and date set for arraignment or other required appearance provided that such judgment shall only be allowed if the notice of infraction served on the person contains a statement notifying the person that a monetary judgment may be entered against the person up to the maximum amount of fines, assessments, and other costs allowed by law for the infraction if the person fails to appear at the time, date and court specified in the notice of infraction or subsequent hearing notice from the court.

1 Section XXIV. AMENDMENT

2 MCC 8.10.192 is amended as follows:

3 (A) Whenever a public nuisance animal, as determined by the director under this  
4 chapter is found on any premises within the jurisdiction of the county, a  
5 written order may be given to the owner or keeper of the animal(s), or to the  
6 owner, occupant, person in possession, person in charge, or person in control  
7 of the premises where the animal(s) is (are) located, or a written order may be  
8 posted at such premises when none of the above people can be found at the  
9 premises. Such order shall be signed by the director and shall give the  
10 person or persons to whom it is directed no less than 72 hours (three days)  
11 nor more than 120 hours (five days) to remove and abate the nuisance.

12 (B) If, after the time given to comply with the notice has passed, the nuisance has  
13 not been abated, the director may summarily abate the nuisance by ordering  
14 impoundment of the animal(s) and assess the cost of such abatement against  
15 the owner or keeper of the animal(s), or the owner, occupant, person in  
16 possession, person in charge, or person in control of the premises where the  
17 animal(s) is (are) located, to be collected by suit or otherwise, in addition to  
18 the penalties for the violation thereof.

19 (C) It shall be unlawful to fail to comply with an order to abate a nuisance issued  
20 as provided in subsection (A) and shall be construed ~~as interference with the~~  
21 ~~director under MCC 8.10.030(D)~~ a Class A Infraction.

22 (D)(1) Any party served a written order to abate a nuisance as provided in  
23 subsection (A) of this section, may appeal the order as provided under

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1 MCC 8.10.054. The appeal under this section may be consolidated with  
2 any underlying infraction still pending eligible for appeal under this  
3 chapter. Provided, any challenge to an enforcement action brought under  
4 subsection (C) of this section, including issues relating to the validity of the  
5 order to abate the nuisance, shall be joined in one state court proceeding,  
6 and there shall be no further administrative review or appeal except as  
7 directed by the court.

8 (2) Any animal impounded pursuant to the order to abate shall not be  
9 released until such time as the director, hearings officer, or court of  
10 competent jurisdiction orders such release.

11 (E) (1) Any enforcement action first brought under MCC 8.10.191(C) shall bar  
12 any enforcement action brought under this section in relation to the same  
13 event or series of events subject to regulation and enforcement under this  
14 chapter.

15 (2) Notwithstanding MCC 8.10.191(C), any enforcement action first brought  
16 under this section shall bar any enforcement action brought under MCC  
17 8.10.191(C) in relation to the same event or series of events subject to  
18 regulation and enforcement under this Chapter.

19 [Ord. 850, § 30 (1996)]

20 Section XXV. AMENDMENT

21 MCC 8.10.200 is amended as follows:

22 It is unlawful for any person in Multnomah County to:

23 (A) Harbor, keep, possess, breed or deal in gamecocks; or

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(B) Knowingly and intentionally, whether for amusement of self or others, or for financial gain, cause any animal to fight or injure any other animal, cause it to be fought or injured by any other animal or to train or keep for the purpose of training any animal with the intent that the animal shall be exhibited combatively with any other animal. Anyone who permits such conduct on premises under that person's control, and any person present as a spectator at that exhibition, shall be considered a violator of this subsection and subject to punishment upon conviction.

Section XXVI. AMENDMENT

MCC 8.10.270 is amended as follows:

Classification of a dog as potentially dangerous shall be based upon specific behaviors exhibited by the dog. For purposes of MCC 8.10.265 through 8.10.285, behaviors establishing various levels of potentially dangerous dogs are as follows:

(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 in accordance with MCC 8.10.010(B), aggressively bites ~~or causes any physical injury to~~ any person.

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(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 causes the death of any domestic animal or livestock; or

(2) A dog classified as a Level 3 potentially dangerous dog that repeats the behavior in subsection (C) of this section after the owner or keeper receives notice of the Level 3 classification.

(E) Notwithstanding subsection (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 subsections (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.

[Ord. 517 § 3 (1986); Ord. 591 § 2 (1988); Ord. 732 § 3 (1992); Ord. 850, § 36 (1996)]

Section XXVII. AMENDMENT

MCC 8.10.271 is amended to as follows:

(A) Classification of a dog as a dangerous dog ~~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

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(2) A dog is used as a weapon in the commission of a crime ~~or,~~

~~(3) A dog classified as a Level 4 potentially dangerous dog that repeats the behavior described in MCC 8.10.270 (C) or (D) of this section after the owner or keeper receives notice of the Level 4 classification.~~

(B) Notwithstanding subsection (A) of this section, the director or hearings officer shall have discretionary authority to refrain from classifying a dog as a dangerous dog animal, even if the dog has engaged in the behaviors specified in subsection (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 animal, 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 MCC 8.10.271(C) 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; or

(2) Whether the dog has successfully completed the certified America Temperament Testing Society and/or Pet Partners as deemed appropriate ~~been through a certified obedience or other training program; or~~

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1       ~~(3) (4) Whether the dog is a good candidate for obedience training based~~  
2       ~~upon the testimony of a certified animal trainer or behaviorist; or~~ The  
3       reasonable likelihood of no repeated behavior by the animal in violation of  
4       this chapter.

5       [Ord. 850, § 37 (1996)]

6  
7       Section XXVIII. AMENDMENT

8       MCC 8.10.275 is amended to as follows:

9       (A) The director shall have authority to determine whether any dog has engaged  
10      in the behaviors specified in MCC 8.10.270 or 8.10.271. This determination  
11      may be based upon an investigation that includes observation of and  
12      testimony about the dog's behavior, including the dog's upbringing and the  
13      owner's or keeper's control of the dog, and other relevant evidence as  
14      determined by the director. These observations and testimony can be  
15      provided by Multnomah County animal eControl eOfficers or by other  
16      witnesses who personally observed the behavior. They shall sign a written  
17      statement attesting to the observed behavior and agree to provide testimony  
18      regarding the dog's behavior if necessary.

19      (B) The director shall have the discretion to increase or decrease a classified  
20      dog's restrictions based upon relevant circumstances.

21      (C) The director shall give the dog's owner or keeper written notice by certified  
22      mail or personal service of the dog's specified behavior, of the dog's  
23      classification as a potentially dangerous dog or dangerous animal, of the fine



Multnomah County Animal Control Code

1 imposed, and of the restrictions applicable to that dog by reason of its  
2 classification. If the owner or keeper denies that the behavior in question  
3 occurred, the owner or keeper may appeal the director's decision to the  
4 hearings officer by filing a written request for a hearing with the director as  
5 provided under MCC 8.10.054.

6 (D) Upon receipt of notice of the dog's classification as a Level 1, 2, 3, or 4  
7 potentially dangerous dog or dangerous animal pursuant to subsection (C) of  
8 this section, the owner or keeper shall comply with the restrictions specified in  
9 the notice unless reversed on appeal. Failure to comply with the specified  
10 restrictions shall be a violation of this chapter for which a fine can be  
11 imposed. Additionally, the director shall have authority to impound the dog  
12 pending completion of all appeals.

13 (E) If the director's decision or the hearings officer's decision finds that a dog has  
14 engaged in dangerous animal behavior, the dog shall be impounded pending  
15 the completion of a dangerous animal facility application or any appeals.

16 (F) Any dog classified as a Level 4, that is found to have repeated Level 4  
17 behavior as defined under this code shall be impounded pursuant to MCC  
18 8.10.192 if not already impounded. The dog shall not be released to the  
19 owner or be made available for adoption until either potential recipient of the  
20 dog has established arrangements for accommodating the animal consistent  
21 with all the security and safety requirements ordered by the director or the  
22 hearings officer.

[Ord. 517 § 3 (1986); Ord. 550 §§ 2, 3 (1987); Ord. 591 § 3 (1988); Ord. 732 §§  
3, 16 (1992); Ord. 850, § 38 (1996)]

Section XXIX. AMENDMENT

MCC 8.10.280 is amended to as follows:

In addition to the other requirements of MCC Chapter 8.10, 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 in accordance with MCC  
8.10.010(B) 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 premises, 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  
premises. 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

Multnomah County Animal Control Code

keeper's premises, and the owner or keeper shall post warning signs, which are provided by the director, on the premises 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 premises 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 MCC 8.10.271 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 subsection (C) above. 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 Multnomah 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 of the date of classification. Notification to the director of any appeal to the hearings officer as provided for in MCC 8.10.054(A) or to any court of competent jurisdiction shall delay destruction of the dog until a date

Multnomah County Animal Control Code

1 not less than 15 days after a final decision by the hearings officer or final  
2 judgment by the court.

3 (F) To insure correct identification, all dogs that have been classified as  
4 potentially dangerous or dangerous animals shall be marked with a  
5 permanent identifying mark, micro-chipped, photographed, ~~or~~ and may be  
6 fitted with a special tag or collar as determined by the director, at the owner's  
7 expense. The director shall adopt rules specifying the type of required  
8 identification.

9 (G) In addition to the normal licensing fees established by MCC 8.10.220(A)(2)  
10 and (2), there shall be an annual fee of \$50.00 for dogs classified at Level 1;  
11 and \$100.00 for dogs classified at Level 2 and 3 and; \$150.00 for dogs  
12 classified as Level 4; and \$300.00 for dogs classified as Dangerous Animal.

13 This additional fee shall be imposed at the time of classification of the  
14 potentially dangerous dog, and shall be payable within 30 days of notification  
15 by the director. Annual payment of this additional fee shall be due and  
16 payable ~~within 30 days of notification by the director~~ upon the anniversary  
17 date of the classification.

18 (H) The owner or keeper of a potentially dangerous dog or dogs classified as  
19 dangerous animals shall not permit the warning sign to be removed from the  
20 secure enclosure, and shall not permit the special tag or collar to be removed  
21 from the classified dog. The owner or keeper of a potentially dangerous dog  
22 or dogs classified as dangerous animals shall not permit the dog to be moved

Multnomah County Animal Control Code

1 to a new address or change owners or keepers without providing the director  
2 with ten days' prior written notification.

3 ~~(1) Declassification of potentially dangerous dogs or dogs classified as dangerous~~  
4 ~~animal. Any owner or keeper of a classified potentially dangerous dog or a~~  
5 ~~dog classified as a dangerous animal may apply to the director, in writing, to~~  
6 ~~have the restrictions reduced or removed.~~

7 ~~(1) The following conditions must be met:~~

8 ~~(a) Level 1 or Level 2 dogs have been classified for one year without~~  
9 ~~further incident, or and two years for Level 3 or and Level 4 dogs four~~  
10 ~~years for dogs classified as dangerous animals; and~~

11 ~~(b) (c) The owner or keeper provides the director with written certification~~  
12 ~~of satisfactory completion of obedience training for the dog classified,~~  
13 ~~with the owner or keeper; and There have been no violations of the~~  
14 ~~specified regulations; and~~

15 ~~(e) (f) Any other condition ordered by the director or hearings officer at the~~  
16 ~~time of classification.~~

17 ~~(1) The owner or keeper provides the director with written certification~~  
18 ~~of satisfactory completion of obedience training for the dog~~  
19 ~~classified, with the owner or keeper.~~

20 ~~(2) In addition, the director may require the dog owner or keeper to~~  
21 ~~provide written verification that the classified dog has been spayed~~  
22 ~~or neutered.~~

Multnomah County Animal Control Code

~~(3) Any reclassification request submitted under this section must include \$40.00 review fee.~~

~~(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.~~

~~(e) Any reclassification request submitted under this subsection must include \$40.00 review fee.~~

~~(2) When the owner or keeper of a potentially dangerous dog meets all of the conditions in this subsection, 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.~~

[Ord. 517 § 3 (1986); Ord. 850, § 40 (1996)]

Section XXX. AMENDMENT

MCC 8.10.285 is amended as follows:

**MCC 8.10.285 Declassification of potentially dangerous dog.**

Declassification of potentially dangerous dogs or dogs classified as a Dangerous Animal. A \$40.00 Declassification Fee will be assessed when the classification period begins. Declassification will be automatic pursuant to this section. Any person who observes or has evidence of behavior as described in MCC 8.10.270 or 8.10.271 shall forthwith notify the director.

(A) The following conditions must be met:

Multnomah County Animal Control Code

1 (1) Level 1 or Level 2 dogs have been classified for one year without further  
2 incident, and two years for Level 3 and Level 4 dogs; and

3 (2) There have been no violations of the specified regulations; and

4 (3) Any other condition ordered by the director or hearings officer at the time  
5 of classification.

6 (a) The owner or keeper provides the director with written certification of  
7 satisfactory completion of obedience training for the dog classified, with  
8 the owner or keeper.

9 (b) In addition, the director may require the dog owner or keeper to provide  
10 written verification that the classified dog has been spayed or neutered.

11 (B) When the owner or keeper of a potentially dangerous dog meets all of the  
12 conditions in this subsection, the restrictions for Level 1 and Level 2 classified  
13 dogs may be removed. Restrictions for Level 3 and Level 4 dogs, and dogs  
14 classified as dangerous animals may be removed, with the exception of the  
15 secure enclosure.

16 [Ord. 517 § 3 (1986); Ord. 850, § 40 (1996)]

17  
18 Section XXXI AMENDMENT

19 MCC 8.10.900 is amended as follows:

20 (A) Violations of the provisions of this chapter shall be classified as provided  
21 below.

22 (1) Class A infractions. Violations of the following sections or subsections  
23 shall be Class A infractions:

Multnomah County Animal Control Code

- 1 (a) MCC 8.10.030;
- 2 (b) MCC 8.10.150;
- 3 (c) MCC 8.10.180;
- 4 (d) ~~(e) MCC 8.10.190(B)(3)~~ MCC 8.10.190(B)(7)(8);
- 5 (e) ~~(f)~~ MCC 8.10.190(B)(8)(9);
- 6 (f) ~~(g)~~ MCC 8.10.190(B)(9)(10);
- 7 (g) ~~(h)~~ MCC 8.10.190(B)(11)(12)
- 8 (h) MCC 8.10.190(B)(12);
- 9 (i) MCC 8.10.190(B)(13);
- 10 (j) MCC 8.10.192;
- 11 (k) MCC 8.10.200.

12 (2) Class B infractions: Violations of the following sections or subsections of  
13 this chapter shall be Class B infractions:

- 14 (a) MCC 8.10.045(A)(3)(4);
- 15 (b) MCC 8.10.155;
- 16 (c) MCC 8.10.190(B)(3)(4);
- 17 (d) MCC 8.10.190(B)(4)(5);
- 18 (e) MCC 8.10.190(B)(5)(6);
- 19 (f) MCC 8.10.190(B)(6)(7);
- 20 (g) MCC 8.10.190(B)(10)(11).

21 (3) Class C infractions. Infractions of the following sections or subsections of  
22 this chapter shall be Class C infractions:

- 23 (a) MCC 8.10.070;



**Multnomah County Animal Control Code**

1 (b) MCC 8.10.170;

2 (c) MCC 8.10.190(B)(1);

3 (d) MCC 8.10.190(B)(2);

4 (e) MCC 8.10.210.

5 (4) Except as provided under MCC 8.10.191 and 8.10.192, any other violation  
6 of this chapter not listed in this subsection shall be a Class A infraction.

7 (B) Fines:

8 (1) Class A infraction. A fine for Class A infraction shall be no less than  
9 \$100.00 nor more than \$500.00 for a first offense. The fine for a second  
10 Class A infraction committed within 12 months from the date that the first  
11 offense was committed shall be no less than \$200.00, nor more than  
12 \$500.00. The fine for a third Class A infraction committed within 12  
13 months from the date that the first offense was committed, the fine shall  
14 be not less than \$500.00.

15 (2) Class B infraction. A fine for Class B infraction shall be no less than  
16 \$50.00 nor more than \$250.00 for the first offense. If the violator  
17 committed either a Class A or B infraction within the 12-month period  
18 immediately prior to the date of the second infraction, the fine shall be no  
19 less than \$100.00 nor more than \$250.00. If the violator has committed  
20 two or more Class A or B infractions within the 12-month period  
21 immediately prior to the date of the most recent notice of infraction for a  
22 Class B infraction, the fine shall be \$250.00.

**Multnomah County Animal Control Code**

(3) Class C infractions. A fine for a Class C infraction shall be no less than \$30.00 nor greater than \$150.00 for a first offense. If the violator has committed a Class A, B, or C infractions within the 12-month period immediately prior to the date of the second infraction, the fine shall be no less than \$50.00 nor more than \$150.00. 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 \$150.00.

(C) Additional conditions and restrictions. In addition to the monetary civil penalties imposed for infractions of this chapter, and the regulations applicable under MCC 8.10.280, 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:

(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 and/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 MCC 8.10.190(B)(5)(6), to keep the animal inside the owner or keeper's residence during hours specified by the director or hearings officer;

Multnomah County Animal Control Code

(4) The director or hearings officer may suspend, for a period of time specified by the director or hearings officer, the animal owner's or keeper's right to own or keep any animal in Multnomah County.

(5) Require the owner or keeper to have the animal surgically sterilized within a time period determined by the director or hearings officer.

(6) Any other condition(s) that would reasonably abate the infraction.

(D) Late payment penalties. If a civil penalty is unpaid after 30 days, the fine then due shall be increased by 25 percent of the original amount; if the civil penalty is not paid after 60 days, the fine then due shall be increased by 50 percent of the original amount.

(E) 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, § VIII(1) (1977); Ord. 732 § 19 (1992); Ord. 733, § 4 (1993); Ord. 823 § 5 (1995); Ord. 850, § 42 (1996)]

Section XXXII. AMENDMENT

MCC 8.10.940 is amended as follows:

A. Any person convicted of violation of MCC 8.10.200, shall be subject to a fine not to exceed \$500, and the court may order impoundment of any animal caused to be engaged in the prohibited conduct, which animal may be disposed of by the director.

Multnomah County Animal Control Code

1 B. Any person previously convicted under this section shall be subject to  
2 punishment by imprisonment for a term of not more than one year and a fine  
3 not to exceed \$1,000 or both.

4 [Ord 156 § VIII(5) (1977); Rpld. By Ord. 732 § 21 (1992)]  
5

6 Approved this \_\_\_\_\_ day of \_\_\_\_\_, 1998  
7 being the date of its \_\_\_\_\_ reading before the Board of  
8 County Commissioners of Multnomah County, Oregon.

9 MULTNOMAH COUNTY, OREGON  
10

11 By \_\_\_\_\_  
12 Beverly Stein  
13 Multnomah County Chair  
14

15  
16 REVIEWED:

17 THOMAS SPONSLER, COUNTY COUNSEL  
18 FOR MULTNOMAH COUNTY, OREGON  
19

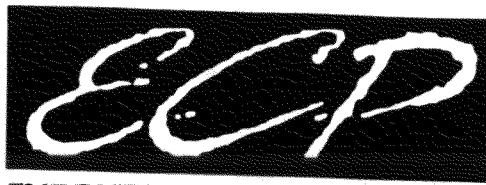
20  
21 By  \_\_\_\_\_  
22 Matthew O. Ryan, Assistant County Counsel

RE:

Multnomah County Council  
May 20, 1998 letter

Commissioner

Tanya Collier Jan. 17, 1995 letter



EXECUTIVE COPY & PRINTING

623 Main Street • Oregon City, OR 97045  
Phone: (503) 655-9227 • Fax: (503) 657-4349

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MAY 21 1998

BEVERLY STEIN  
MULTNOMAH COUNTY CHAIR

## FAX TRANSMITTAL SHEET

**TO:**

Name: Mayor Vera Katz  
Company: Portland Mayor  
Fax Number: 823 - 3588  
Phone Number: \_\_\_\_\_

**FROM:**

Name: Tom Buchholz  
Phone Number: 109 10th St.  
Date: Oregon City OR 97045 27 May 98  
No. of pages (including cover): 4

**Message:**

The Oregon State Senators And Representatives have done a fine balancing Act of owner and County rights in ORS. 167.345, 167.347, And 167.350

Multnomah County has yet to set these rights where they can be scrutinized.

We have had over a decade of Confusion.

Tanya Collier's Jan 17, 1995 letter states "Animal Control officers are always accompanied by Portland Police when an emergency rescue occurs."

In the past 5 years, how many Search Warrants has the Portland Police applied for on behalf of Multnomah County Animal Control? Pursuant to 167.345

Do you agree that this matter needs independent investigation?  
I wait your answer.

cc Governor Kitzhaber  
Commissioners Gary Hasan & Beverly Stein.

Signed

Tom Buchholz

TANYA COLLIER  
Multnomah County Commissioner  
District 3



1120 SW Fifth St., Suite 1500  
Portland, OR 97204  
(503) 248-5217

January 17, 1995

Tom Buccholz  
109 10th St.  
Oregon City, OR 97045

Dear Mr. Bucchoiz:

Thank you for taking the time to contact my office regarding your concerns with Animal Control. I have the information you requested. First, Animal Control keeps records of all their transactions with citizens, that includes emergency animal rescues. If you would like to get a copy of the record of your case, I am sure Mr. Flagler would make that available to you.

Second, a search warrant is not required for emergency animal rescues. The time it would take to get a search warrant could possibly mean death for the animal in question. The officers involved have the discretion to make the decision to intervene when they believe an animal is in danger. Animal Control officers are always accompanied by Portland Police when an emergency rescue occurs.

Finally, Animal Control is currently involved in a management study by a sub-committee of the Animal Control Advisory Council. The committee is looking at the Animal Control ordinance and the agency's policies and procedures. If you would like to have input, please feel free to write a letter outlining your concerns, and I will be sure they get addressed during the committee's discussions.

I am sorry you are not satisfied with the way your case was handled. It probably would have been best if you would filed an appeal three and half years ago when the original decision was made. So much time has passed now that your best recourse is to give input to the Advisory Council.

Sincerely,

Tanya Collier  
Multnomah County Commissioner

cc: Dave Flagler, Director Animal Control



# OFFICE OF MULTNOMAH COUNTY COUNSEL

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*County Counsel*

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(503) 248-3138

SANDRA N. DUFFY  
*Chief Assistant*

May 20, 1998

SUSAN DUNAWAY  
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STEVEN J. NEMITROW  
MATTHEW O. RYAN  
AGNES SOWLE  
JOHN S. THOMAS  
JACQUELINE A. WEBER  
*Assistants*

Thomas Bucholz  
109 10<sup>th</sup> Street  
Oregon City, Oregon 97045

RE: RECENT CORRESPONDENCE TO SHERIFF AND DISTRICT ATTORNEY

Dear Mr. Bucholz:

In recent letters to the above named County officials you raise concerns regarding Multnomah County Animal Control's (MCAC) emergency rescue procedures. Having reviewed some of the correspondence sent to you by MCAC and the District Attorney (D.A.) over the past couple of years, both MCAC and the D.A. have correctly explained to you how the emergency rescue provisions are enforced.

As you are aware, ORS 167.345(1) allows a peace officer to enter "premises" without a warrant in exigent circumstances to aid an animal. ORS 167.345(2) allows impoundment of the animal upon the peace officer obtaining a search warrant. Premises unless otherwise defined, normally means real property, and I would conclude that is the intended meaning in ORS 167.345.

MCC 8.10.150 on the other hand, applies to emergency situation wherein the animal is confined within a motor vehicle. I am sure you would agree that an animal confined within a vehicle without adequate water or ventilation can present a situation of greater urgency than an animal left unattended in a home or yard. Accordingly, MCC 8.10.150 and ORS 167.345 are not in conflict, because the code and the statute are directed toward different circumstances.

I can assure you that if there was any confusion in the past regarding MCAC officers' authority in emergency rescues, the officers are now clear on their role. The ORS 167.345 rescue would be done by a peace officer with the MCAC officer assisting, and a warrant, if necessary would be obtained. A vehicle rescue under MCC 8.10.150 if necessary, could be done without a warrant. To some extent, your input on this issue has helped MCAC clarify its role in handling emergency rescues. The County thanks you for your

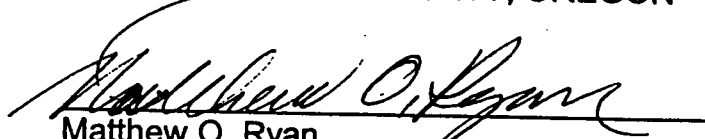
Thomas Bucholz  
May 20, 1998  
Page 2

vigilance on this matter. Nonetheless, both the MCAC Director and the D.A. have previously explained to you the emergency rescue procedures addressed yet again in this letter. I frankly do not feel any additional correspondence is warranted at this time.

The County considers the matter closed. In the absence of any new allegations regarding wrongful MCAC enforcement procedures in this area, the County sees no need to pursue any further review. Please be advised Mr. Bucholz, that unless you provide such new information; any future correspondence by you to the County on this issue may not generate a response.

Sincerely,

THOMAS SPONSLER, COUNTY COUNSEL  
FOR MULTNOMAH COUNTY, OREGON



Matthew O. Ryan  
Assistant County Counsel

Cc: Beverly Stein  
Dan Noelle  
Hank Miggins  
Fred Lenzer

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FAX NAME:            ECP  
FAX NUMBER:        503 657 4349

DATE: 27-MAY-98  
TIME:        12:52

DATE	TIME	REMOTE FAX NAME AND NUMBER	DURATION	PG	RESULT	DIAGNOSTIC
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S=FAX SENT  
I=POLL IN(FAX RECEIVED)  
O=POLLED OUT(FAX SENT)

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TO PRINT MANUALLY. PRESS THE REPORT/SPACE BUTTON. THEN PRESS ENTER.

# memorandum

**Date:** June 10, 1998  
**To:** BOARD OF County Commissioners  
**From:** Henry C, Miggins, Director of Animal Control  
**RE:** Multnomah County Animal Control Code 8.10

---



First reading continued from May 21, 1998.

## Background/Analysis

Issues were raised during the public testimony that needed additional review and examination. We have received additional input from interested parties in the intervening period and offer the following comments and/or recommendations.

**I. Concern:** 810.010(G)(1) The name cited in the ordinance to include Cougars as a feline from the order genera pantheria was questioned.

## Recommendation

This issue is addressed in the attached amendment. The matter was researched and the amendment is brought forward with the assistance of the Metro Zoo.

**II. Concern:** 810.060(C) Requires owner of wolf-hybrid to agree to release any animal that has bitten a person, or that has been exposed to a rabid animal, to Animal Control for euthanization.

## Staff Comments

The Oregon Department of Agriculture advised, on Nov 18, 1998<sup>7</sup>, that, "In case of a human bite, the Public Health Veterinarian in the Oregon Health Division Acute and Communicable Diseases Section, under authority of the Compendium of Animal Rabies Control, considers wolf-hybrides in the category of wild animals. This generally means that an animal who bites a human is euthanized and the brain is examined for rabies-regardless of a history of rabies vaccination."

**III. Concern: 810.140(C)(3)** Proof of liability insurance, minimum \$50,000, or bond for \$5,000 covering the animal:

**Recommendation**

The requirement for insurance deleted because we found that such insurance is unreasonably expensive and often not readily available.

**IV. Concern: 8.10.140(C)** Will the facility license requirement remain in affect for those pet owner who are granted exemption to keep exotic animals after this ordinance is effective?

**Staff Comments**

There will be no need to require facility licenses for those pet owners because Multnomah County Animal Control Division will not be responsible for the inspection or monitoring of exotic animals. The Oregon Department of Agriculture has responsibility for the management of those exotic animals permitted in this County.

*Routine Inspection*

**V. Concern:** One citizen voiced some concern about the changes proposed for the potentially dangerous dog classification level 4 and the requirement to keep dogs so classified in an adequate facility. This citizen was to provide us with a statement to further explain his concerns.

**Staff Comments**

We did not receive any additional comments on this matter; therefore, we are unable to response to that concern.

**VI. Concern:** There were general concerns voiced relating to due process:

- **8.10.040(D)(1); 8.10.110(C); 8.10.140(D) and (E)(3)** These concerns were about the authority of the Director as it relates to issuing licenses, granting approval, and evaluating petitions for exemption and the revocation of permits.
- **8.10.040(E)(4)** One citizen questions whether a veterinarian should approve the Director's decision to euthanize unlicensed and feral animals, or any unhealthy or injured animal.
- **8.10.080(D)** One citizen expressed a need to specify the hours that Animal Control could inspect the premises where animals are kept.

**Staff Comments**

These are operational matters and may be imposed by the Board of County Commissioners by resolution at such time as it sees fit. It is necessary for the Director to manage the Division and these are not new requirements or conditions governing other animals. The concerns addressed in this proposed Ordinance are, for the most part, dealing with exotic animals.

With regards to the inspection of facilities, all inspections are conducted when the inspecting officer is able to make contact with the owner/keeper.

VII. We have been asked to draft an amendment to the proposed ordinance to address constrictor snakes. See attached amendment.

The following are proposed Amendments to the pending Multnomah  
County Animal Control Code Revision Ordinance:

1) MCC 8.10.010(G)(1) be amended as follows:

(1) Any large felid from the genus Panthera, including: lion, *P. leo*; tiger, *P. tigris*; jaguar, *P. onca*; leopard, *P. pardus*; and snow leopard, *Uncia uncia*; as well as the puma (cougar or mountain lion), *Puma concolor*; clouded leopard, *Neofelis nebulosa*; and cheetah, *Acinonyx jubatus*.

2) MCC 8.10.010(G)(6) be amended as follows:

(6) Any reptile of the order Crocodilia (crocodiles, alligators and caimans), or any snake of the family Pythonidae or Boinae over ten (10) feet in length.

3) MCC 8.10.140(B) (1) be amended as follows:

Any facility accredited by the Association of Zoos and Aquariums (AZA).

4) ~~MCC 8.10.140(C)~~ be amended as follows:

(C) ~~A license issued under this section shall be subject to revocation by the director under MCC 8.10.120.~~ Any person, not otherwise exempted, in possession of an exotic animal prior to and upon the date this ordinance takes effect shall be eligible to request an Exemption Permit from Compliance with MCC 8.10.190(B)(14) by submitting a written petition to the director. The petition must address each of the following elements:

~~MCC 8.10.140(C)(3)~~ be deleted.

Page 34  
at line 11

~~6)~~ MCC 8.10.140 (D) be amended as follows:

The director shall evaluate whether any petition submitted under subsection (E) herein merits the exotic animal to be maintained at the facility for the duration of the animal's life. Said determination shall be based on the comparison of the risk to public health and safety by specific animal remaining in the facility and petitioner's response to the three factors addressed in the petition.

Page 34  
at line 17  
→

~~7)~~ MCC 8.10.140(E) be amended as follows:

Any Exemption Permit issued under this section shall only be available to the original permit holder, and shall be non-assignable and nontransferable. An exemption permit shall be subject to annul renewal and routine periodic inspection of the facility. Inspection of the facility wherein the animal is kept shall be for the purposes of evaluating the adequacy of the facility to protect the public from the animal as well as for the care and treatment of the animal. The Exemption Permit shall:

- (1) Terminate upon death of the animal;
- (2) Terminate upon the death of the petitioner;
- (3) Terminate upon the relocation of the petitioner or the animal to an address or site outside the boundaries of Multnomah County.
- (4) Shall be subject to revocation and the animal shall be subject to immediate impoundment upon any notice of infraction being issued to the permit holder;
- (5) Provide that upon termination of the permit for any reason, and if the animal has not been otherwise disposed of at such time, that the permit holder, or his or her heirs or successors in interest shall either:

- (a) Immediately release the animal to impound by the Animal Control Division, or
- (b) Immediately transfer the animal to lawfully exempted agency as provided in subsection (D) herein, that has agreed in writing to accept the animal, proof of which shall be provided to the Animal Control Division prior to the transfer.



# OFFICE OF MULTNOMAH COUNTY COUNSEL

THOMAS SPONSER  
*County Counsel*

1120 S.W. FIFTH AVENUE, SUITE 1530  
PORTLAND, OREGON 97204-1977

FAX 248-3377  
(503) 248-3138

SANDRA N. DUFFY  
*Chief Assistant*

May 20, 1998

SUSAN DUNAWAY  
KATIE GAETJENS  
GERALD H. ITKIN  
JEFFREY B. LITWAK  
STEVEN J. NEMIROW  
MATTHEW O. RYAN  
AGNES SOWLE  
JOHN S. THOMAS  
JACQUELINE A. WEBER  
*Assistants*

Thomas Bucholz  
109 10<sup>th</sup> Street  
Oregon City, Oregon 97045

RE: RECENT CORRESPONDENCE TO SHERIFF AND DISTRICT ATTORNEY

Dear Mr. Bucholz:

In recent letters to the above named County officials you raise concerns regarding Multnomah County Animal Control's (MCAC) emergency rescue procedures. Having reviewed some of the correspondence sent to you by MCAC and the District Attorney (D.A.) over the past couple of years, both MCAC and the D.A. have correctly explained to you how the emergency rescue provisions are enforced.

As you are aware, ORS 167.345(1) allows a peace officer to enter "premises" without a warrant in exigent circumstances to aid an animal. ORS 167.345(2) allows impoundment of the animal upon the peace officer obtaining a search warrant. Premises unless otherwise defined, normally means real property, and I would conclude that is the intended meaning in ORS 167.345.

MCC 8.10.150 on the other hand, applies to emergency situation wherein the animal is confined within a motor vehicle. I am sure you would agree that an animal confined within a vehicle without adequate water or ventilation can present a situation of greater urgency than an animal left unattended in a home or yard. Accordingly, MCC 8.10.150 and ORS 167.345 are not in conflict, because the code and the statute are directed toward different circumstances.

I can assure you that if there was any confusion in the past regarding MCAC officers' authority in emergency rescues, the officers are now clear on their role. The ORS 167.345 rescue would be done by a peace officer with the MCAC officer assisting, and a warrant, if necessary would be obtained. A vehicle rescue under MCC 8.10.150 if necessary, could be done without a warrant. To some extent, your input on this issue has helped MCAC clarify its role in handling emergency rescues. The County thanks you for your



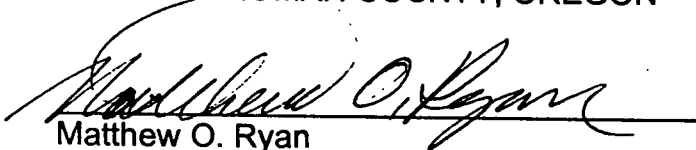
Thomas Bucholz  
May 20, 1998  
Page 2

vigilance on this matter. Nonetheless, both the MCAC Director and the D.A. have previously explained to you the emergency rescue procedures addressed yet again in this letter. I frankly do not feel any additional correspondence is warranted at this time.

The County considers the matter closed. In the absence of any new allegations regarding wrongful MCAC enforcement procedures in this area, the County sees no need to pursue any further review. Please be advised Mr. Bucholz, that unless you provide such new information; any future correspondence by you to the County on this issue may not generate a response.

Sincerely,

THOMAS SPONSLER, COUNTY COUNSEL  
FOR MULTNOMAH COUNTY, OREGON



Matthew O. Ryan  
Assistant County Counsel

Cc: Beverly Stein  
Dan Noelle  
Hank Miggins  
Fred Lenzer

H:\Data\Advisory\Ryan\Bucholz.ltr.doc

DATE: 11 June 1998

TO: Henry Miggins, Director, Multnomah County Animal Control  
Beverly Stein, Chair, Multnomah County Board of Commissioners  
Gary Hansen, Commissioner District 2  
Sharron Kelley, Commissioner District 4

RE: Animal Control Code Ordinance, 2nd Reading, 11 June 1998

My name is Janice Hixson. I have worked at the Metro Washington Park Zoo for 23 years. I am the Animal Management Division Animal Information Specialist. I am responsible for records for the entire animal collection; do all state, federal, international, CDC, export/import and any other needed permits; stay current on federal, state, and international animal regulations; and for years have used the professional Zoo and AZA resources, the keeper, curatorial and veterinary staff expertise to research the needs of exotic animals in order to share that information with the public. Every year I talk with 1,000-1,500 people about exotic animal issues. Over the years I have spent hundreds of hours of my own time preparing information on exotic animal needs for people who have obtained these species but discover they need more and better information to provide the best care for the animals. I have been a Zoo contact and resource for many years for not only the public but State and Federal Wildlife Agencies, State and Federal Departments of Agriculture, various humane societies, rehab people, the Oregon State Police. But I am not a Zoo public relations person, as was erroneously stated during the May 21st hearing.

I support the changes in the Multnomah County Animal Control Code regarding dangerous animals. Many individuals are enamored of owning something exotic and different, yet the testimony you hear from them is almost exclusively about their property rights, not animal welfare or public and animal safety. In response to the various claims made regarding exotics, I offer the following information. This is brief, out of necessity. There are volumes of professional information available to substantiate the concerns of animal control staff, wildlife and public health agencies, zoo staff, and the general public.

Large cats: cougars are considered large predators by professional zoo and felid experts, as well as wildlife agents. It takes thousands of years to domesticate a species, which has been done with the domestic cat and dog. Hand-feeding and raising an animal does not make it domestic. It is still an exotic, wild animal whose natural instincts can surface at any time, triggered by something beyond the control of the owner. The cougar is commonly known as *Felis concolor*, and more recent taxonomic use is genus and species *Puma concolor*, but both the genus *Felis* and *Puma* will be seen in literature. The cougar is designated as a "big game animal" by the Oregon Department of Fish and Wildlife, and eats other "big game animals" for its primary diet. I am submitting documentation of the taxonomic name of the cougar plus additional natural history information from professional references: Mammal Species of the World by Wilson and Reeder (a taxonomic standard) and a Mammalian Species technical paper, published by the American Society of Mammalogist, another widely used reference.

Primates, like the cats, are not domestic. The argument that old world monkeys present a greater risk than new world, and that smaller new world monkeys are not a health or safety risk, is not supported by the facts. To quote the Zoo's veterinarian Dr. Finnegan, "Size has nothing to do with the disease risk in primates." Neither does old world versus new world species. They both create numerous bacterial, viral, and parasitic health risks. Dr. Finnegan notes that new world primates get TB, which is a concern of health officials nation-wide. Dr. Finnegan also

11 June 1998

Multnomah County Animal Control Code

explains that primates are a particular risk because you cannot definitively test up front for and rule out many of the zoonotic diseases. Documentation of primate diseases is included.

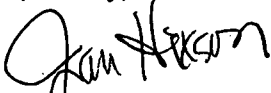
Large snakes: Although large snakes probably do not need to be prohibited, it would be good for public safety and the well-being of the snakes if they were required to be kept in appropriate, humane, and secure housing, which would prohibit carrying large snakes out in public draped on your person. The Seattle Zoo reptile staff states that snakes over ten feet in length are tremendously strong and should be considered hazardous. The Zoo and other professional reptile organizations recommend two people be present for handling any snake 8 feet or longer. The well-known Chicago Herpetological Society states "Don't take uncaged, unbagged, or unrestrained animals out in public places. Such practices can cause stress to the animal from fright and uncontrolled temperatures. Watch for temperature extremes. Never leave animals in a car."

Venomous snakes: Ownership of venomous snakes is widely spread, among private owners and pet shops. The Viparidae snakes (vipers and rattlers) have venom that destroys animal tissue; the Elapidae (coral, crakes, cobras) have neurotoxic toxins which destroy the nervous system; the Hydrophiidae (sea snakes) have a very potent neurotoxin. The rear-fanged Colubrids (mangrove snakes, bird snakes, brown tree snakes, tropical tree/vine snakes) are also venomous. This does not include the entire Colubrid group, many of which are safe and of an appropriate size for private ownership. Safety procedures would require maintaining current treatment information, an up-to-date supply of antivenin (some are not possible to obtain), and signs on doors with instructions regarding procedures, medical contacts, types of antivenin required for each species, etc. Of course, the snake enclosures and the room would require locks and other security measures to be followed at all times. Again, if the commission needs professional references to support these concerns, they can be easily provided.

There are also many claims that private breeders are doing a lot for the conservation of the endangered species of cats. In fact, that is another claim that would be impossible to substantiate. The professional zoo community and other organizations involved in serious breeding conservation programs cannot risk including these privately owned animals because of the probability that they are inbred and/or hybrid. The inbred and hybrid animals would destroy the genetic value of a serious breeding program.

I request that as elected officials, you read the materials submitted to you on these matters, although they may be lengthy. These exotic animal situations are not going to go away. I appreciate the opportunity to submit testimony and information. Please review the Zoo Curator's letter submitted earlier and dated 31 October 1997, in which he covers many of the issues brought up in these hearings.

Respectfully,



Janice Hixson  
Animal Information Specialist  
Metro Washington Park Zoo



Michelle R. Schireman  
14635 SW Quail Lane N303  
Beaverton, Oregon 97007

AMERICAN ZOO AND  
AQUARIUM ASSOCIATION  
June 10, 1998

Executive Office and  
Conservation Center  
7970-D Old Georgetown Rd.  
Bethesda, Maryland 20814  
Tel: 301-907-7777

Mr. Henry Miggins  
Multnomah County Animal Control

Dear Mr. Miggins:

Fax: 301-907-2980  
<http://www.aza.org>  
It has been brought to my attention that I may be of some assistance to you in matters concerning the captive husbandry of cougar, *Puma concolor*. As the Regional Studbook Keeper (including North, South and Central American facilities) for this species for the American Zoo and Aquarium Association I would like to pass on some information that may clarify some points for you.

In the past cougar have been classified by some as 'small cats' due to their placement in the genus *Felis*. They are presently classified under the genus *Puma*. Regardless of the scientific nomenclature used, the animal remains the same. The cougar is a large predator with space requirements and security issues that must be met. When the Felid Taxon Advisory Group (Felid specialists for the A.Z.A.) gather for our annual working meeting we spend a great deal of time producing a document which allocates future available felid exhibit space. While creating this document the representatives are split into two working groups: the small cat and the large cat groups. *Puma concolor* are always represented in the large cat group, due in part to their size and danger potential.

As a zoologist, zookeeper and animal trainer with some 15 years of felid experience I believe cougar should be managed as large cats. When creating spaces for these animals we must keep in mind the animals' physical strength and size, as well as their natural instincts and needs.

If I can be of further assistance please do not hesitate to contact me.

Sincerely,

Michelle R. Schireman  
Puma Regional Studbook Keeper

Enclosure: 1

cc: Multnomah County Board of Commissioners:

Ms. Beverly Stein, Chair

Mr. Gary Hansen, Commission Dist.2

Ms. Sharron Kelley, Commission Dist.4



# LARGE FELIDS

Alan H. Shoemaker (1), Edward J. Maruska (2), Randall Rockwell (3)

- (1) Riverbanks Zoological Park and Botanical Garden, P.O.Box 1060, Columbia, SC 29202
- (2) Cincinnati Zoo and Botanical Garden, 3400 Vine Street, Cincinnati, OH 45220
- (3) Jacksonville Zoological Gardens, 8605 Zoo Parkway, Jacksonville, FL 32218

## GENERAL INTRODUCTION

Within the family Felidae, determination of minimum husbandry needs of large cats is variable because of differences in size, morphology, and behavior. For purposes of this discussion, a large felid is identified as any species of cat belonging to the genus *Panthera*, including: lion, *P. leo*; tiger, *P. tigris*; jaguar, *P. onca*; leopard, *P. pardus*; and snow leopard, *Uncia uncia*; as well as the puma (cougar or mountain lion), *Puma concolor*; clouded leopard, *Neofelis nebulosa*; and cheetah, *Acinonyx jubatus*.

With one exception, large felids are solitary carnivores functioning at or near the top of their trophic level. While this behavior permits them to be housed singly, it also requires that the introduction of potential mates be done carefully to prevent fighting, injury, or death. Their aggressive nature and physical capabilities demand that owners exercise the utmost care when designing cages or exhibits for any species, regardless of size, to ensure that specimens cannot escape or reach into adjacent cages or public areas. Caution also should be exercised when handling otherwise "tame" individuals.

Minimum requirements for exhibit size and furnishings, diet, veterinary needs, and social groupings are broken down in the following way: 1) very large pantherids, 2) other large felids, and 3) cheetahs.

## GENERAL HUSBANDRY

Some aspects of captive management for all large felids are similar and are discussed below. Requirements unique to certain groups are listed separately.

**Temperature** - Although large felids may originate from all manner of climates, most are tolerant of wide temperature extremes, at least during daylight hours. Animals kept outside should always have access to shade, especially during warmer months of the year. When acclimated, most species without young require only minimal unheated shelter at night. Clouded leopards are more cold sensitive than the other species and should be protected from minimum extremes in weather. When kept indoors year round, animals should be protected from temperatures above 85 degrees F (28 degrees C).

**Lighting** - In nature, most species of large felids are nocturnal and, therefore, less active during daylight hours. Accordingly, they all do well under normal light cycles although shy or secretive specimens will thrive with less exposure. Smaller species may be exhibited under reversed light cycles without harm.

**Ventilation and Humidity** - Indoor exhibits should have a negative air pressure of 10-15 air changes per hour of non-recirculated air. Relative humidity should be within the range of 30-70 percent. Separate ventilation systems should be maintained between exhibit and visitor areas to reduce the potential of disease transmission from the public as well as complaints about odor. If possible, separate systems also should be maintained for individual exhibits.

necessitate keeping adults of either sex separate from each other except during pairing to stimulate reproduction.

**Exhibit Size** - Cheetahs do best in spacious outdoor areas surrounded by fence or moated barriers. If kept in caged conditions, minimum dimensions should equal at least 200 sq ft (18.6 sq m). Because they lack sharp, retractable claws, cheetahs climb poorly but benefit from elevated wooden platforms or ledges for sleeping and resting.

**Remarks** - Cheetahs are relatively easy to keep in captivity but remain the most difficult large felid to propagate consistently. With the exception of the Pretoria Zoological Garden's breeding facility at DeWildt Breeding and Research Center, this species is not self-sustaining in captivity (Marker, 1977). Although consistent husbandry techniques have not been identified to date, many owners experiencing successful reproduction keep female(s) separate from males except when they are in estrus. Young may be raised naturally or by hand although breeders were primarily mother reared.

Cheetahs suffer from unusually high incidences of liver disease and research is presently (1988) seeking solutions to this aspect of their husbandry. Other investigations of their physiology seem to suggest that dietary idiosyncrasies play a more important role in the cheetah's fecundity than for other large felids, and managers should stay abreast of new developments.

#### LITERATURE CITED

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- Seifert, Siegfried and Peter Muller 1987.  
International Tiger Studbook 1986. Zoologischer Garten Leipzig, Leipzig. 101 pp.

# FAX Metro Washington Park Zoo, Portland, Oregon USA

To: Matt Ryan, Assistant County  
Council  
Multnomah County

Phone: 248-3138  
FAX: 248-3377

Date: 9 June 1998

From: Jan Hixson, Animal Registrar  
Metro Washington Park Zoo  
4001 SW Canyon Road  
Portland, Oregon USA

Phone: (503) 220-5766  
FAX: (503) 226-0074

Total pages: 8

Dear Matt,

Sorry it is getting later in the afternoon. I'm faxing information from AZA, as we discussed, plus a couple of other references.

One reference is Mammal Species of the World, edited by Wilson and Reeder. This is a professional standard, referenced by AZA facilities as well as universities and wildlife agencies, etc. The text is a little confusing, but does attest to the fact that puma or cougar are known as genus Felis and Puma. Puma being now the most current usage. But in the recent past, and for several years, it has been Felis. Taxonomy changes like fashion sometimes. Strict taxonomists will accuse you of being incorrect in your usage, but will not deny that Felis has been in use recently and in the past.

Another reference is Mammalian Species, also a long-time standard for mammals. The copy I'm sending is dated 1983, so it uses Felis as the genus. It also lists 30 subspecies of cougar or mountain lion on the first page, and 11 other genus-species used for species differentiated, usually, by location. *Another taxonomy reference at the bottom of 2nd page -> 3rd.*

Another source that would document that cougar/puma are large cats is the Oregon Department of Fish and Wildlife. Cougar are officially categorized as "big game mammals," and eat other "big game mammals" such as deer. Not to mention that they are capable of attacking and killing humans, although instances of this have been rare through the years.

I may have to send the snake stuff tomorrow. Call if you need anything else we might be able to help with!

Sincerely,

*Jan Hixson*  
Janice Hixson  
Animal Registrar

## LARGE FELIDS

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# MAMMAL SPECIES

OF A TAXONOMIC  
AND  
THE GEOGRAPHIC  
REFERENCE

# WORLD

SECOND EDITION



Edited by Don E. Wilson  
and DeeAnn M. Reeder

Smithsonian Institution Press • Washington and London  
in association with the American Society of Mammalogists

3

*Prionailurus rubiginosus* (I. Geoffroy Saint-Hilaire, 1831). In Bélanger (ed.), Voy. Indes Orient., Mamm., 3(Zoologie):140.

TYPE LOCALITY: "bois de lataniers qui couvrent une hauteur voisine de Pondichéry" [India, Pondicherry].

DISTRIBUTION: India and Sri Lanka (see Chakraborty, 1978).

STATUS: CITES - Appendix I (Indian population), otherwise Appendix II; IUCN - Insufficiently known.

SYNONYMS: *koladivinus* Deraniyagala, 1956; *phillipsi* Pocock, 1939.

COMMENTS: Placed in *Prionailurus* by Weigel (1961), Hemmer (1978), Kratochvíl (1982c), and Groves (1982a).

*Prionailurus viverrinus* (Bennett, 1833). Proc. Zool. Soc. Lond., 1833:68.

TYPE LOCALITY: "from the continent of India".

DISTRIBUTION: Bangladesh, Burma, S China, India, Indonesia, Malaysia, Nepal, Pakistan, Sri Lanka, Taiwan, Thailand, and Vietnam.

STATUS: CITES - Appendix II.

SYNONYMS: *bennettii* Gray, 1867; *himalayanus* Jardine, 1834; *rizophoreus* Sody, 1936; *viverriceps* Hodgson, 1836.

COMMENTS: Placed in *Prionailurus* by Weigel (1961), Hemmer (1978), Kratochvíl (1982c), and Groves (1982a).

*Profelis Severtzov*, 1858. Revue Mag. Zool. Paris, ser. 2, 10:386.

TYPE SPECIES: *Felis celidogaster* Temminck, 1827 (= *Felis aurata* Temminck, 1827), by monotypy.

*Profelis aurata* (Temminck, 1827). Monogr. Mamm., 1:120.

TYPE LOCALITY: "Nous ne savons pas au juste dans quelle partie du globe a été trouvé"; fixed by Van Mensch and Van Bree (1969) to "probably the coastal region of Lower Guinea (Between Cross River and River Congo. . .)".

DISTRIBUTION: N Angola, Burundi, Cameroon, Central African Republic, Gabon, Gambia, Ghana, Kenya, Liberia, Nigeria, Rwanda, Sierra Leone, Uganda, S Zaire.

STATUS: CITES - Appendix II.

SYNONYMS: *celidogaster* Temminck, 1827; *chalybeata* H[amilton]. Smith, 1827; *chrysothrix* Temminck, 1827; *cottoni* Lydekker, 1906; *maka* Van Saceghem, 1942; *neglecta* Gray, 1838; *rutilus* Waterhouse, 1843.

COMMENTS: Revised by Van Mensch and Van Bree (1969). Placed in *Profelis* by Pocock (1917), Weigel (1961), Hemmer (1978), Kratochvíl (1982c), and Groves (1982a). Král and Zima (1980) placed in *Felis*.

*Puma* Jardine, 1834. Natur. Libr., 2:266.

TYPE SPECIES: *Felis concolor* Jardine, 1834, by original designation.

*Puma concolor* (Linnaeus, 1771). Mantissa Plantarum, 2:522.

TYPE LOCALITY: "Brassilia", restricted by Goldman (in Young and Goldman, 1946:200); to "Cayenne region, French Guiana".

DISTRIBUTION: Argentina, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Honduras, Guatemala, Guyana, Mexico, Nicaragua, Panama, Paraguay, Peru, Surinam, USA, Venezuela.

STATUS: CITES - Appendix I as *F. c. coryi*, *F. c. costaricensis*, and *F. c. cougar*; otherwise Appendix II. U.S. ESA - Endangered as *F. c. coryi*, *F. c. costaricensis*, and *F. c. cougar*. IUCN - Endangered as *F. c. coryi* and *F. c. cougar*.

SYNONYMS: *acrocodia* Goldman, 1943; *anthonyi* Nelson and Goldman, 1931; *araucanus* Osgood, 1943; *arundivaga* Hollister, 1911; *aztecus* Merriam, 1901; *bangsi* Merriam, 1901; *borbensis* Nelson and Goldman, 1933; *browni* Merriam, 1903; *cabrerae* Pocock, 1940; *californica* May, 1896; *capricornensis* Goldman and Young, 1946; *coryi* Bangs, 1899; *costaricensis* Merriam, 1901; *cougar* Kerr, 1792; *floridana* Cory, 1896; *greeni* Nelson and Goldman, 1931; *hippolestes* Merriam, 1897; *hudsoni* Cabrera, 1957; *improcera* Philipps, 1912; *incarum* Nelson and Goldman, 1929; *kaibabensis* Nelson and Goldman, 1931; *mayensis* Nelson and Goldman, 1929; *missoulensis* Goldman, 1943; *nigra* Jardine, 1834; *olympus* Merriam, 1897; *oregonensis* Rafinesque, 1832; *osgoodi* Nelson and Goldman, 1943; *patagonica* Merriam, 1901; *pearsoni* Thomas, 1901; *puma*

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*Neofelis nebul*  
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*Panthera* Oken,  
TYPE SPECIES  
SYNONYMS:  
Kretz  
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Tigris  
synon

*Panthera leo* (L  
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Malav  
Ugan  
Arabi  
STATUS: CIT  
Enda  
SYNONYMS:  
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Neun  
COMMENTS:  
Krato

*Panthera onca*  
TYPE LOCAL  
[Braz

#4

Molina, 1782; *punensis* Housse, 1950; *schorgeri* Jackson, 1955; *soasoaranna* Lesson, 1842; *soderstromii* Lönnberg, 1913; *stanleyana* Goldman, 1938; *sucuacuara* Liais, 1872; *vancouverensis* Nelson and Goldman, 1932; *wavula* Lesson, 1842; *youngi* Goldman, 1936.

COMMENTS: Reviewed by Currier, 1983 (Mammalian Species, 200, as *Felis concolor*). Placed in *Puma* by Pocock (1917), Weigel (1961), Hemmer (1978), and Kratochvíl (1982c).

Subfamily Pantherinae Pocock, 1917. Ann. Mag. Nat. Hist. ser. 8, 20:332.

COMMENTS: Type genus: *Panthera* Oken, 1816. Pocock's (1917) original classification for this subfamily placed *Neofelis* in the Felinae.

*Neofelis* Gray, 1867. Proc. Zool. Soc. Lond., 1867:265.

TYPE SPECIES: *Felis macrocelis* Horsfield, 1825 (= *Felis nebulosa* Griffith, 1821), by subsequent designation by Pocock (1917:343).

COMMENTS: Placed in Pantherinae by Hemmer (1978) and Weigel (1961). Placed in Neofelinae by Kratochvíl (1982c).

*Neofelis nebulosa* (Griffith, 1821). Gen. Particular Descrip. Vert. Anim. (Carn.), p. 37, pl.

TYPE LOCALITY: "brought from Canton" [China, Guangdong: Guangzhou].

DISTRIBUTION: Burma, Cambodia, China, India, Indonesia, Malaysia, Nepal, Taiwan, Thailand, and Vietnam.

STATUS: CITES - Appendix I; U.S. ESA - Endangered; IUCN - Vulnerable.

SYNONYMS: *brachyurus* Swinhoe, 1862; *diardi* Cuvier, 1823; *macrocelis* Horsfield, 1825; *macrosceloides* Hodgson, 1853.

COMMENTS: Placed in *Neofelis* by Pocock (1917), Weigel (1961), Hemmer (1978), and Kratochvíl (1982c). Groves (1982a) placed in *Panthera*.

*Panthera* Oken, 1816. Lehrs. Naturgesch., ser. 3, 2:1052.

TYPE SPECIES: *Felis pardus* Linnaeus, 1758, by subsequent designation by Allen (1902:378).

SYNONYMS: *Jaguaris* Severtzov, 1858; *Leo* Oken, 1816; *Leonina* Grevé, 1894; *Pardotigris* Kretzoi, 1929; *Pardus* Fitzinger, 1868; *Tigris* Oken, 1816.

COMMENTS: Revised by Hemmer (1966, 1968, 1974). *Panthera* Oken, 1816, has been ruled available (International Commission on Zoological Nomenclature, 1985c). Includes *Tigris* following Pocock (1916b). Van Gelder (1977b:13) included *Panthera* as a synonym of *Felis*.

*Panthera leo* (Linnaeus, 1758). Syst. Nat., 10th ed., 1:41.

TYPE LOCALITY: "Africa", restricted by Allen (1924:222) to "the Barbary coast region of Africa, or, more explicitly, Constantine, Algeria".

DISTRIBUTION: Present (except in tropical rain forests) in Botswana, Ethiopia, India, Kenya, Malawi, Mali, Mozambique, Namibia, Senegal, Somalia, South Africa, Sudan, Uganda, Zambia, and Zimbabwe. Formerly present but now extinct in Algeria, Arabia, Egypt, Greece, Iran, Iraq, Israel, Libya, Morocco, Pakistan, and Tunisia.

STATUS: CITES - Appendix I as *P. l. persica*; otherwise Appendix II. U.S. ESA and IUCN - Endangered as *P. l. persica*.

SYNONYMS: *adusta* Pocock, 1927; *africanus* Brehm, 1829; *asiaticus* Jardine, 1834; *azandicus* Allen, 1924; *barbaricus* Meyer, 1826; *barbarus* Fischer, 1829; *bengalensis* Bennett, 1829; *bleyenberghi* Lönnberg, 1914; *capensis* Fischer, 1829; *gambianus* Gray, 1843; *gojratensis* Smee, 1833; *hollisteri* Allen, 1924; *indicus* de Blainville, 1843; *kamptzi* Matschie, 1900; *krugeri* Roberts, 1929; *maculatus* Huevelmans, 1955; *massaicus* Neumann, 1900; *melanochaitus* H. Smith, 1842; *nigra* Loche, 1858; *nobilis* Gray, 1867; *nubicus* Blainville, 1843; *nyanzae* Heller, 1913; *persicus* Meyer, 1826; *roosevelti* Heller, 1913; *sabakiensis* Lönnberg, 1905; *senegalensis* Meyer, 1826; *somaliensis* Noack, 1891; *suahelicus* Neumann, 1900; *vernayi* Roberts, 1948; *webbiensis* Zukowsky, 1964.

COMMENTS: Revised by Pocock (1930c). Placed in *Panthera* by Pocock (1930c), Weigel (1961), Kratochvíl (1982c), Hemmer (1978), and Groves (1982a).

*Panthera onca* (Linnaeus, 1758). Syst. Nat., 10th ed., 1:42.

TYPE LOCALITY: "America meridionali", fixed by Thomas (1911a:136) to "Pernambuco" [Brazil].

## Felis concolor. By Mary Jean P. Currier

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### *Felis concolor* Linnaeus, 1771

#### Mountain Lion

- Felis concolor* Linnaeus, 1771:522. Type locality restricted to Cayenne, French Guiana, by Goldman (Young and Goldman, 1946).  
*Felis couguar* Kerr, 1792:151. Type locality North and South Carolina, Georgia, Pennsylvania; restricted to Pennsylvania by Nelson and Goldman (1929).  
*Felis puma* Molina, 1782:295. Type locality vicinity of Santiago, Chile.  
*Felix* (sic) *oregonensis* Rafinesque, 1832:62. Type locality Oregon, by restriction (Nelson and Goldman, 1932) to Ohanapechosh River, Mount Rainier National Park, Pierce County, Washington.  
*Felis californica* May, 1896:22. Type locality Kern Co., California.  
*Felis coryi* Bangs, 1899:15. Type locality wilderness back of Sebastian, Florida.  
*Felis hipolestes* Merriam, 1897:219. Type locality western United States (Wind River Mountains, near basin Wind River, Fremont Co., Wyoming).  
*Felis bangsi* Merriam, 1901:595. Type locality Dibuila, department of Magdalena, Colombia.  
*Felis aztecus*, Merriam, 1903:73; used as a full species, originally proposed as a subspecies of *Felis hipolestes*.  
*Felis arundivaza* Hollister, 1911:176. Type locality 12 miles SW Vidalia, Concordia Parish, Louisiana.  
*Felis improcera* Phillips, 1912:85. Type locality Calmalli, Baja California, Mexico.

**CONTEXT AND CONTENT.** Order Carnivora, Family Felidae, Subfamily Felinae. The genus *Felis* includes about 29 species. The subgenus *Puma* (here recognized following Young and Goldman, 1946) includes one species, *Felis concolor*. Thirty subspecies are generally recognized (Young and Goldman, 1946):

- F. c. acrocodia* Goldman, 1943:230. Type locality Descalvados, Matto Grosso, Brazil.  
*F. c. anthonyi* Nelson and Goldman, 1931:209. Type locality Playa del Rio Base, Monte Duida, Territory of Amazonas, Venezuela.  
*F. c. araucanus* Osgood, 1943:77. Type locality "Fundo Maite-nuhue," Sierra Nahuelbuta, west of Angol, Malleco, Chile.  
*F. c. azteca* Merriam, 1901:592. Type locality Colonia Garcia, about 60 mi SW Casas Grandes, Chihuahua, Mexico.  
*F. c. bangsi* Merriam, 1901:595, see above.  
*F. c. borbensis* Nelson and Goldman, 1933:524. Type locality Borba, Rio Madeira, Amazonas, Brazil.  
*F. c. browni* Merriam, 1903:73. Type locality Colorado River, 12 mi below Yuma, Arizona.  
*F. c. cabrerai* Pocock, 1940:308. Type locality La Rioja, Province of La Rioja, northern Argentina.  
*F. c. californica* May, 1896:22, see above.  
*F. c. capricornensis* Nelson and Goldman, 1929:346. Type locality Piracicaba, Sao Paulo, Brazil.  
*F. c. concolor* Linnaeus, 1771:522, see above.  
*F. c. coryi* Bangs, 1899:15, see above (*arundivaza* Hollister a synonym).  
*F. c. costaricensis* Merriam, 1901:596. Type locality Boquete, Chiriqui, Panama.  
*F. c. couguar* Kerr, 1792:151, see above.  
*F. c. greeni* Nelson and Goldman, 1931:211. Type locality Curraes Novos, Rio Grande do Norte, Brazil.  
*F. c. hipolestes* Merriam, 1897:219, see above.  
*F. c. improcera* Phillips, 1912:85, see above.  
*F. c. incarum* Nelson and Goldman, 1929:347. Type locality Piscocucho, Rio Urubamba, Department of Cuzco, Peru.  
*F. c. kaibabensis* Nelson and Goldman, 1931:209. Type locality Powell Plateau, Grand Canyon National Park, Arizona.  
*F. c. mayensis* Nelson and Goldman, 1929:350. Type locality La Libertad, Department of Peten, Guatemala.

- F. c. missoulensis* Goldman, 1943:299. Type locality Sleeman Creek, about 10 mi SW Missoula, Montana Co., Montana.  
*F. c. olympus* Merriam, 1897:220. Type locality Lake Cushman, Olympic Mountains, Washington.  
*F. c. oregonensis* Rafinesque, 1832:62, see above.  
*F. c. osgoodi* Nelson and Goldman, 1929:348. Type locality Buena Vista, Department of Santa Cruz, Bolivia.  
*F. c. patagonica* Merriam, 1901:598. Type locality Lake Pueyrredon, Territory of Santa Cruz, Argentina.  
*F. c. pearsoni* Thomas, 1901:188. Type locality Santa Cruz, about 70 mi from coast, southern Argentina.  
*F. c. puma* Molina, 1782:295, see above.  
*F. c. soderstromii* Lönnerberg, 1913:2. Type locality Nono, Mount Pichincha, Ecuador.  
*F. c. stanleyana* Goldman, 1936:137. Type locality Bruni Ranch near Bruni, Webb Co., Texas.  
*F. c. vancouverensis* Nelson and Goldman, 1932:105. Type locality Campbell Lake, Vancouver Island, British Columbia.

**DIAGNOSIS.** The mountain lion is the largest species in the genus *Felis*, as restricted to exclude the pantherines. Size varies among the subspecies, but males generally weigh between 55 and 65 kg, and females between 35 and 45 kg. Total length is generally between 2.2 and 2.3 m in males, and between 2.0 and 2.1 m in females. Its feet resemble those of *F. geoffroyi*, *F. yagouaroundi*, *F. viverrinus*, and *F. silvestris* more than those of the pantherines (Pocock, 1917a). Its claws are retractile, but the claw-sheaths do not fully encase the claws as in the pantherines, thus resembling the claws of *F. geoffroyi*, *F. yagouaroundi*, *F. viverrinus*, and *F. silvestris* (Pocock, 1917a). The tail is long, cylindrical, and typically about one-third of the animal's total length. The ears are short and rounded. The dorsal color is light grayish brown to dark reddish brown. The lateral muzzle, backs of ears, and tip of tail are dark brown or black. The chin, medial muzzle, and ventral area are creamy white.

**GENERAL CHARACTERS.** The mountain lion is large and slender and has short, muscular limbs (Fig. 1). The pelage is of medium texture, characteristically short year-round in tropical forms, but growing longer and thicker in the winter in temperate forms. The young are black-spotted in three irregular dorsal lines and transverse rows. These spots are vivid up to the animal's third or fourth month of life. The eye color is blue in young kittens and turns grayish brown to golden in adults. The pupils are round. The skull (Fig. 2) is short, rounded, and has a sagittal crest, resembling the skull of *F. caracal* in shape (Pocock, 1917a). The partition



FIGURE 1. Adult female *Felis concolor hipolestes* (photo by K. R. Russell).

are the most common internal parasites, although they are not widespread (Hornocker, 1970; Leiby and Dyer, 1971; Sitton and Wallen, 1976). Flukes (*Heterophyes heterophyes*) (Davis and Libbe, 1971), and nematodes (*Trichinella spiralis*) (Worley et al., 1974; Zimmerman, 1971) also have been reported. The roundworm *Filaroides striatum* has been reported in mountain lions in Brazil (Young and Goldman, 1946). One case of piroplasmiasis caused by the protozoan *Babesia felis* has been reported in a captive mountain lion (Howe, 1971). One probable case of rabies has been recorded (Storer, 1923), and Bittle (1970) acknowledged the occurrence of feline panleukopenia in mountain lions. There is some evidence that arthritis occurs in old animals (Connolly, 1949; Hornocker, 1970). Anthrax has been reported in mountain lions that have eaten infected meat (Miller, 1971).

Two subspecies of mountain lion, *F. c. coryi* and *F. c. cougar*, have been declared endangered (U.S. Fish and Wildlife Service, 1974). The mountain lion was bountied in 9 western states (not in Alaska, Wyoming, or Nevada), and by the provinces of British Columbia and Alberta. The bounty programs varied in duration between 1843 and 1970, but averaged almost 50 years in each state or province. Although the state did not bounty mountain lions in Texas, counties did. In 1970, two counties still paid a bounty, and one remained in 1974 (Nowak, 1976). The mountain lion was declared a game animal in Colorado and Nevada in 1965, in Washington and British Columbia in 1966, in Oregon and Utah in 1967, in California (but is currently protected by a legislative moratorium) and Alberta in 1969, in Arizona in 1970, in New Mexico and Montana in 1971, in Idaho in 1972, and in Wyoming in 1973. It is still considered a predatory animal in Texas and receives no protection.

The mountain lion was bountied intermittently in Florida during the 1800's. From 1950 to 1958 it was considered a game animal, and in 1958 it became fully protected. The mountain lion is fully protected in the following states and provinces: Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Kentucky, Louisiana, Manitoba, Maryland, Massachusetts, Missouri, New Brunswick, New Hampshire, New Jersey, New York, North Carolina, Oklahoma, South Carolina, Tennessee, and Virginia. As of 1976, there was no legal classification and no protection of mountain lions, except in agreement with the federal government, by the following states and provinces (lions are federally protected in states followed by an asterisk, because part of the original range of the endangered subspecies occurred there): Alaska, Indiana\*, Iowa, Kansas, Maine\*, Michigan\*, Minnesota, Mississippi\*, Nebraska, North Dakota, Northwest Territories, Nova Scotia, Ohio\*, Ontario, Pennsylvania\*, Quebec, Rhode Island\*, Saskatchewan, South Dakota, Vermont\*, West Virginia\*, Wisconsin\*, and Yukon (Nowak, 1976).

Mountain lions readily breed in captivity and are, therefore, often recipients of birth control implants to control overpopulation problems in some zoos. Unfortunately, many captive mountain lions originated from indiscriminate crossbreeding of different subspecies, so pure strains of the endangered subspecies are not readily available. A breeding program for the endangered *F. c. coryi* (Florida panther) is being attempted at the Rare Feline Breeding Compound in Florida by R. Baudy (Dawning, 1979), but three of the four males are well over 20 years old and the fourth is believed to be sterile.

Mountain lion pelts are not commercially valuable, although both North and South American Indians formerly made extensive use of them. Mountain lion claws and teeth are sometimes used for ornamentation.

The main methods of studying mountain lions have been observation of sign and capture and tagging. Mountain lions are generally tracked with two to four experienced hounds, then immobilized with phencyclidine hydrochloride (0.5 mg/lb) or a derivative injected from a dart shot from a Cap-Chur gun (Palmer Chemical and Equipment Co., Douglasville, Georgia 30134, USA), and marked with either a nylon rope collar and ear tattoo or a radio collar (Ashman, 1975; Currier et al., 1977; Donaldson, 1975; Hornocker, 1970; Seidensticker et al., 1973; Shaw, 1977; Sitton and Wallen, 1976).

Numerical estimates of population density based on tracks have been attempted (Currier, 1976; Koford, 1978; Kutilek et al., 1980), but accurate estimation is difficult. Seidensticker et al. (1973) were able to mark essentially the entire resident population on their 520 km<sup>2</sup> area, but this was not possible in most studies. Johnson and Couch (1954) developed a formula for a minimum population estimate based on lions killed:  $N = 3.3K$ , where  $N$  = minimum population and  $K$  = number of lions killed each year. Nowak (1976) estimated the total population of mountain lions in the United States and Canada to be 16,000.

**BEHAVIOR.** Reproductive behavior in the mountain lion is typical of felids. When a female is in estrous, she vocalizes freely, frequently rubs against nearby objects, and often exhibits lordosis and treading (Rabb, 1959). A male responds vocally with similar yowls (Rabb, 1959), sniffs the female's genital area, and tests her condition with Flehmen (vomeronasal response) (Eaton and Verlander, 1977). After a period of courtship, which primarily involves the male docilely following the female, an attempted mounting by the male is met by either defensive snarls and hisses or by allowed copulation. Prior to intromission, the male often grasps the female's neck fur. Copulation is brief but frequent (see REPRODUCTION AND ONTOGENY). The female seeks a secluded place to have her young, but no bedding is prepared.

Communication between adult mountain lions is largely visual and olfactory. When a female is in estrous, auditory and tactile communication are also important. Adult males and infrequently adult females make scrapes in their home areas (Musgrave, 1926; Smith, 1981). Scrapes are small piles of substrate kicked up by the hindfeet. Seidensticker et al. (1973) measured 86 scrapes and found them to be 15 to 46 cm long, 15 to 30 cm wide, and 3 to 5 cm deep. Most were found where topography yielded easy passage: on the downhill side of trees, near mouths of canyons, in draws, and on ridges. While tracking lions, they found the lion might go for many kilometers without scraping, or make two scrapes within a few hundred meters. Hibben (1937) stated that a male will scrape frequently when courting a female. Feces or obvious urine were only associated with about 20% of the scrapes; however, detection of urine was difficult, so it may be much more prevalent. Feces were sometimes found unassociated with a scrape, usually near a kill site (Seidensticker et al., 1973). Both males and females visit scrape sites and sometimes change course abruptly after the visit, suggesting that information is transferred from one lion to another (Hornocker, 1969).

Communication between mother and offspring is mainly tactile (licking, rubbing) and vocal. Young mountain lions give a loud, chirping whistle that serves to direct the mother's attention to the kitten (Eaton and Verlander, 1977; Rabb, 1959). Adult mountain lions have a low-pitched squeal that also appears to function in attention-getting (Rabb, 1959). Like smaller cats, but unlike the large, roaring cats, mountain lions can show contentment by purring both during inspiration and expiration of breath (see FORM AND FUNCTION). Mountain lions in captivity also make a variety of meows and barks which probably do not occur as frequently in more solitary wild mountain lions. The occurrence of the fabled "scream" is much debated. For example, Seidensticker et al. (1973) did not witness it in eight years of work with wild and captive mountain lions.

Many postures and habits of the mountain lion are typical of felids. It cleans itself by licking (see FORM AND FUNCTION). It laps water with its tongue and tears chunks of meat from a carcass with its sharp premolars and molars. Lions swim only when necessary, although they are not so averse to water as are domestic cats. Posture and facial expressions are similar to those described by Hemmer (1972) for the snow leopard. The greeting posture of captive mountain lions is standing with the tail curved upwards, and is accompanied by a short "mra" sound (Currier, pers. observ.). Annoyance or anger is indicated by a hiss or growl accompanied by a flattening of the ears against the skull (Bogue and Ferrari, 1974). Mountain lions remain playful throughout their lives, particularly when a female is in or approaching estrous (Young and Goldman, 1946).

**GENETICS.** The mountain lion has 19 pairs of chromosomes as do most felids. Eighteen of these pairs are metacentric or submetacentric and one is acrocentric or subacrocentric; the total number of chromosome arms is 37 (most felids are 19-17-2-36) (Robinson, 1976). Hsu et al. (1963) suggested that one pair of small acrocentric chromosomes was eliminated in mountain lions through pericentric inversion. The X chromosome is medium-sized and metacentric and the Y chromosome is small and submetacentric (Wurster and Benirschke, 1968).

Of the 15 coat color mutant genes known in the domestic cat (*F. domesticus*), the mountain lion probably exhibits three forms: non-agouti (the yellow or brown band is absent from agouti hairs resulting in a black-appearing coat), albinism, both reported by Young and Goldman (1946), and nonextension of black in agouti hairs, resulting in yellowish or reddish coat color (Robinson, 1976).

#### REMARKS

Population and Anthony (1972) estimated more than 10,000.

A few authors recognize *Puma* as a separate genus for the mountain lion (*Class. Mamm., 1973; Hemmer, 1978; Pocock, 1917a*). It is generally accepted (Simpson, 1945; Young, 1946).

Other vernacular names for the mountain lion include cougar and puma.

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31 October 1997

Beverly Stein, Chair  
Multnomah County Commission  
Portland Building, Room 1515  
1120 S.W. Fifth Avenue  
Portland, Oregon 97204

Re: Animal Control Hearing and Further Information

Dear Chair Stein,

Thank you for arranging the public hearing that was held Wednesday evening, 29 October, soliciting input on a proposed ordinance addressing exotic animals within Multnomah County. Though you were not in attendance at the meeting, I'm sure you have or will review the transcripts so that you can better understand the complexities of this issue. I question if the group was truly a representative sampling of the voters living in Multnomah County.

There was a very well organized showing of exotic pet owners at this public hearing who pretty much focused on issues relating to property rights, their rights to own exotic animals as pets, their willingness to involve the County in litigation, the value of their animals in organized conservation efforts, and their belief that exotic animals are not a "problem" within the County.

To help clarify a few issues, I would like to offer the following information.

- There were several claims that exotic pet owners take better care of their animals than zoo keepers. You need to be aware that there is no evidence, scientific or otherwise, that will support those claims. In fact, animal keepers nationwide belong to the American Association of Zoo Keepers, an organization that was founded by animal keepers to further enhance the quality of animal care. Zoo animal keepers are dedicated, committed individuals who generally give more than is required of them to care for their animals. In my professional opinion, they are the ones who are largely responsible for developing standards for proper and adequate animal care.
- Several statements were made that exotic pets were important to conservation efforts. I believe that all of these statements were made in context to these pets providing genetic material to gene pools. While it is difficult to talk to this issue in generalities -- as was the case during the public meeting -- usually exotic pets, specifically mammals, are not suitable candidates for organized breeding programs. Often times their genetic blood lines cannot be verified. Other times their close association with their human companions has such a detrimental affect on their behavior that they don't behave in ways that would produce successful breedings. The incidence of exotic animals (not pets) held by private individuals participating in bona fide conservation breeding programs is the exception, not the rule.



- And, when the private holder of exotic animals does participate in a conservation breeding program with the American Association of Zoos and Aquariums (AZA), they are required to provide a level of animal care and housing that meets or exceeds those standards required by AZA member institutions (other zoos). The AZA standards would not allow one of their breeding programs to include a private holder of a tiger if it was a pet and held in a residential area of a city.
- Further, attempting to legitimize the holding of exotic animals as pets for conservation purposes does not address the problem that Multnomah County must resolve. Many exotic animals are dangerous and require specialized care and security. You should not compromise public safety based on this weak allegation.
- I was curious about the statements regarding home owners' insurance. At least two individuals indicated this has been a problem. One of them said their insurance had been canceled when the insurance company discovered the home owner had exotic animals. It would seem to me that the insurance company's experience with exotic animals would have a bearing on this decision. Have they settled litigation regarding exotic animals as pets? I wonder if the County could better understand the liability costs of an exotic animal incident if they looked into it further with the insurance industry.
- Several individuals accused the county of creating a problem where one does not exist. This is a problem and will continue to be a problem into the future as individuals with no animal training or knowledge continue to obtain exotic animals. The pet trade is big business and I suspect several individuals who provided comments during the hearing were doing so to protect their business potential. But the fact remains that many of these animals are abused and abandoned every year. Both Bob Salinger of Portland Audubon and Jan Hixson from the zoo said it best -- this is a big problem and it happens on a daily basis.

Ironically, the individual who owns the tiger in southwest Portland contacted the zoo to ask if we could temporarily house his animal. He claimed that he had had an intruder on his property one evening. This indicates to me that he did not have confidence in the level of security that he had provided for his animal. Also, at the conclusion of this public hearing, I was approached by an individual who wanted to donate two snakes to the zoo. She didn't want to give them to "just anyone." She felt her precious pets would have a good home at the zoo. This was an individual who addressed the commissioners that evening with her dedication and commitment to her exotic pets. Often I feel that too many pet owners feel that they can always approach the zoo *as a last resort*. This is not uncommon. In fact we have a list of animals that we need for our education programs that we feel will be offered to us from private owners in the near term. Rather than us acquiring from another zoo, we will wait and hopefully save animals that are no longer wanted as pets.

It seems that if the County decides to put a permit process in place, there would need to be a fee associated with the permit which would help cover the cost of implementing the program. This would include the cost of additional facilities and staff that would be needed in the event of dangerous exotic animal confiscations. Doesn't the current law require a vote of the citizens before the County can raise fees or create new fees? If that is the case, the issue that needs to be referred to the voter would be: a "Yes" vote would approve the ordinance to create a permit process with an associated fee; a "No" vote would mandate the County to ban exotics from the area because the voters did not want to approve the costs necessary to responsibly support the program. In that event, the voter has the final say on how this issue could be resolved.

As the General Curator of the zoo, I would be happy to assist you further with this issue. As you may know, we have assisted Multnomah County with various exotic animal issues over the years. We recognize that this is more



Ms. Stein  
Multnomah County Chair

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Michael Keele

than just a county problem and we are willing to help where we can. But, not unlike the County, our resources are limited, especially in the current tax climate.

I hope my input will be beneficial to you and the rest of the Multnomah County Commission in responsibly addressing this issue.

Sincerely,

Mike Keele  
General Curator

c: Commissioner Saltzman, District 1  
Commissioner Hansen, District 2  
Commissioner Collier, District 3  
Commissioner Kelley, District 4  
Portland City Council

H. Michael Maetz, VMD, MPH, Associate Professor and Chairman  
University of Alabama at Birmingham  
School of Public Health, Department of Epidemiology

Man's relationship with captive animals has evolved from prehistoric times to one that more often than not involves exploitation of the animal. Animals work for us, entertain us, act as status symbols and are sacrificed in order to generate scientific knowledge. The companionship that they provide is too often taken for granted, as is the pleasure we derive from simply observing them.

In the 1950's, amusing articles in magazines describe strange pets that notable people kept. It was considered "captial fun" if a pair of New Yorkers kept wombat and a llama in their Manhattan townhouse. Ladies of fashion in South America used to appear on occasion with large spiders incrustated with precious stones clinging to their dresses. Such whimsical practices have more often than not led to tragedy or waste because of ignorance or carelessness on the part of humans. As a recent issue of Smithsonian magazine pointed out, however, sentiment is tending to run against the back yard lion and the drawing room chimp. Unfortunately, with over 1.5 million animals imported into the U.S. each year for commercial purposes, the expression of such sentiments has not stimulated anything approaching complete cessation of man's misuse of wild or exotic species. Today I wish to comment on some of the public health and humane implications of this misuse and suggest some actions that might be taken to address the issue.

In characterizing the health problems of populations, epidemiologists require adequate, reliable data, and it should be emphasized at the outset that no such data pertaining to the problem we are discussing here exists. The most detailed recent summary of injuries or health threats to humans from wild or exotic pets was compiled by the American Veterinary Medical Association for the period 1971 to 1981, but only 74 incidents were listed, clearly an example of underreporting. This is not surprising, since no formal surveillance program has been established. Despite its limitations, however, the survey referred to provided some indication of the types of repercussions those who obtain these types of animals as pets can experience.

The risk of rabies is one of the most serious. Between 5,000-6,000 rabies cases are reported each year in wild life, most in skunks and raccoons. A continuing outbreak in the mid-Atlantic states has been spreading 25-50 miles per year, with 190 cases recorded the first six weeks of 1983 in Virginia, West Virginia, Maryland, Pennsylvania and the District of Columbia. More than 90% of these cases were in raccoons, one captured two blocks from the White House. Despite the publicity this outbreak has generated, young skunks and raccoons continued to be taken from the wild by persons wishing to domesticate them. The risk of this practice should be readily apparent. Two pet raccoons in South Carolina that developed rabies in 1983 stimulated post-exposure rabies treatment of 18 people at a cost of over \$10,000.

The regrettable practice of pen-breeding such animals only tends to stimulate an unwarranted complacency, as the recent rabies case in a Minnesota animal farm shipment of 226 skunks illustrates. Since there is currently no effective method for control of wild life rabies or an approved vaccine for other than domestic species, such risks are not likely to diminish.

Although probably the most serious, rabies is but one of over 150 infectious diseases or zoonoses common to and potentially transmissible between animals and man. The significant reduction of tuberculosis in the U.S. population has reduced the chance of this disease occurring in subhuman primates, although the high degree of susceptibility in both primates and man makes the transmission potential a continuing concern. A variety of other bacteria including Salmonella, E. coli and Shigella are readily capable of producing communicable intestinal infections. This slide illustrates an ulcerative colitis in a chimp that resulted from Shigella infection, a condition that is comparable in severity to that occurring humans. A similar condition in both primates and man results from Entamoeba infection, leading to amoebic dysentery.

In addition to rabies, owners of primates have contracted other viral infection that can result in severe disease including Herpes virus simiae, which has over a 70% case fatality rate in man and a considerable risk of long-term disability in survivors. Hepatitis A, formally called infectious hepatitis, has also been transmitted from primate to man, an infection that at least in the subclinical state has been documented in over 90% of chimps living in the wild.

The diseases mentioned only represent examples of infectious zoonoses that could be mentioned in this context. Traumatic injuries from bites and scratches are a more likely outcome of wild or exotic animal ownership. Eighty percent of the incidents recorded as part of the ten year AVMA study already mentioned involved bite or scratch wounds, a number severe enough to cause fractures, amputation and death. As has often been the case with bite injuries by pet dogs, a large proportion of the victims of exotic pet attacks were young children. It seems to reflect many species' tendencies to attack what they correctly perceive as a more helpless victim and their likely interpretation of certain kinds of movements by children as threatening.

The final issue I wish to raise relates to the well-being of the animal. What is probably the largest exotic animal auction in the world is held in Missouri, with approximately two million dollars in animals sold each year. Similar sales, on a smaller scale, are regularly held elsewhere in the U.S. Originally established as sources for zoo animals, the sales have been adversely affected by zoological park breeding programs which have reduced demands and resulted in the distribution of larger numbers of animals to roadside zoos, game parks, carnivals and, of course, private individuals. The auctions typically handle a variety of wild cats including lions and tigers, primates, reptiles, birds, and hoofed animals such as elk and buffalo, all going to the highest bidder. The possibility of mistreatment of such

animals, whether from ignorance or indifference, is high. An inappropriate diet, an unsatisfactory environment and insufficient veterinary care are commonplace and inevitably followed by disease and likely death of the animal. Michael Jackson, the rock singer, may have the where-with-all and commitment to provide the best care for his pet llama. Others with such pets may not. Former boxer George Foreman had to part with his lion and tiger cubs when they "got too hard to handle". How they were disposed of is not clear. Singer Barry White's Bengal tiger cub died after three months from a concussion. Likewise, no further details are available. You know best how unsuitable privately owned animals tend to be for zoos, although it is a commonly held belief that if an unusual animal doesn't work out a home, the zoo will take it. Other options open to the owner are obviously limited.

How can this problem be dealt with? Both the AVMA and the American Animal Hospital Association have passed resolutions strongly recommending that federal agencies such as the Department of Agriculture, the Public Health Service, the Plant and Animal Inspection Service and the Department of the Interior establish regulations prohibiting interstate shipment of raccoons, foxes and skunks for use as pets. These associations and the Centers for Disease Control in Atlanta have also encouraged all states to enact laws prohibiting the keeping of wild or exotic animals by private individuals, and a number of states have done so. To facilitate state and local action, national humane associations have prepared model wild life protection bills, animals cruelty ordinances, and instructions for citizens on how to lobby for their enactment. The legislative process tends to be painfully slow, however, particularly when the issue in question has less direct impact on the average citizen. Zoos nevertheless can play important roles in facilitating necessary actions through their various educational programs. By emphasizing unique needs of exotic animals and the special qualifications of zoos to meet these needs, the public, especially children, who can influence adults, can be transformed into vocal supporters of efforts to not only discourage but to prevent the private ownership of these animals. The docent programs, public service announcements and zoo publications are several mechanisms that could be used. Likewise, boards of directors of zoological parks and aquaria can be mobilized to bring pressure to bear on the appropriate public officials. One approach would be to develop a coordinated thrust involving of other organizations such as humane societies, health departments and veterinary associations, organizations that often have considerable experience with the political process. Your role in making people aware of animals as a fascinating resource is an invaluable one. Opportunities to expand that role clearly exist.

# LIONS AND TIGERS AND BEARS... IN YOUR NEIGHBOR'S BACKYARD? OH, MY!

The precious, playful cub purchased from an exotic pet dealer will become a large, dangerous, unmanageable and probably unhealthy animal.

By SATCH KRANTZ, Executive Director

Photograph by LARRY CAMERON

"Good morning, Riverbanks Zoo."

"Uh, yeah. I've, uh, got this pet lion and, uh, I'd like to give it to the Zoo."

"I'm sorry, sir, we don't accept pet animals."

"But I've got this problem. Last week it destroyed my living room sofa and yesterday it bit my girlfriend real bad. I'll give it to the Zoo for free."

"I'm terribly sorry, but we won't be able to help you."

"Well, then, could you please tell me who else I could call?"

"There is no organization in South Carolina that can help. You might try calling humane societies in other states. Perhaps they know of someone."

"Okay, thanks. I'll leave my phone number just in case. I'm desperate."

As alarming as this fictitious telephone conversation may seem, calls like it occur all too frequently. Several times each week calls similar to this one come into the Zoo's switchboard. The only variable is the species. Instead of a lion, the offending creature may be a tiger, wolf, bear, monkey, cobra, raccoon or any one of a number of potentially dangerous animals. And while the majority of such inquiries originate from within South Carolina, equally desperate calls are regularly received from almost every state. Amazingly, Riverbanks Zoo receives an average of three such calls every day – about one thousand calls a year! While most involve native species that have been "rescued" from the wild, a large number of exotic pet owners call all too frequently.

Just who are these people and how did they come to own such animals? The answers to these questions are disparate and wide-ranging. The caller might be a college professor, an out-of-work waitress, a farmer or an apartment dweller. The animal may have been purchased through a magazine or traded for a pickup truck. Perhaps the only thing common to each situation is the desire to get out of a hopeless dilemma. Such is the unpredictable business of exotic pets.

Over the years that I have been associated with the

Zoo, I have spoken with hundreds of exotic pet owners or potential owners. Their desires to obtain lions and tigers and bears are indeed different, but there is usually one common thread – ego. "I wanted something really different;" "I thought a lion would make a great watch dog;" "When I walk down the beach with that python draped around my neck, people notice!" The price of this rather unusual vanity can be quite expensive. Lion and tiger cubs are routinely sold in the private sector for thousands of dollars.

These animals are often bred in cramped and unsanitary conditions. On more than one occasion I have personally observed two or three large cats kept in chain link cages barely large enough for one animal. They may be fed a diet comprised exclusively of meat scraps or chicken necks, leading to health problems which will plague the animal throughout its life. Genetic problems are not unusual as fathers are bred to daughters or siblings to each other. Any combination is acceptable to the breeder as long as cubs are produced. This does not mean that there are no private breeders who care deeply about their animals and provide for them well. I have seen breeders who strive to maintain their animals in conditions superior to some "zoos." These people are, unfortunately, in the minority. Many breeders simply wish to keep as many animals as possible in order to supply a demanding public with their offspring.

Most unsuspecting buyers do not understand that they are purchasing a wild animal. Unlike dogs, cats, cattle or horses that have been domesticated over thousands of years, most exotic pets are usually no more than one or two generations removed from their wild ancestors. For millions of years, they have evolved physical and behavioral characteristics which enable them to survive in their natural habitats.

Those habitats are not backyards or living rooms in urban Richland or Lexington County. And those characteristics do not leave the animal when it is found on the roadside or born in captivity. Admittedly, some



characteristics may be suppressed. A few may never surface at all. But sooner or later most of these "undesirable" characteristics will appear.

It is when these traits begin to surface that the unsuspecting owner realizes he has a serious problem. Some owners may attempt to delay the inevitable – animals are routinely declawed, defanged or neutered. However, these attempts do little more than mutilate. The innate desires to claw, bite or reproduce cannot be surgically removed. Once this becomes evident, the owner is faced with a difficult decision – keep the animal, sell it or give it away.

Broken lamps, clawed furniture or trips to the emergency room to have bites and scratches treated usually make the first alternative undesirable. Since the owner has invested a great deal of money in the purchase of the animal, food, veterinary bills and other miscellaneous expenses, he tries the second alternative – selling the animal.

The owner will discover that the value of the animal has rapidly decreased. It is not unusual for a lion cub that originally sold for \$1,000 to be offered next for \$250 or less. By the time the animal reaches its third owner, its value usually drops to nothing – that person is willing to give the animal to anyone.

This phenomenon is what the zoo staff refers to as "musical owners." By way of a series of incoming telephone calls, the Zoo is sometimes able to trace the same exotic pet through several owners during a relatively short period.

It is at this point that the last frustrated owner turns to the Zoo.

During a typical one-month period, Riverbanks received over 90 calls from owners of various exotic animals wishing to sell or donate them to the Zoo. Although most of the animals were native species such as raccoons, deer and snakes, several large exotic species, such as lions and puma, were also offered.

Regardless of the animal, owners are surprised when the Zoo refuses their "generous" offer. Quite often their surprise quickly turns to anger, depending on how desperate they are to rid themselves of an unwanted pet.

Why would the Zoo refuse such an offer, particularly a free tiger or monkey?

Like most zoos, Riverbanks has limited resources. It is extremely important that decisions concerning the acquisition of animals be made as carefully as possible. Space requirements, diet, lineage, popularity, availability, cost, and other factors must be considered before a particular species or individual animal is obtained for the Zoo's collection.

Each of Riverbanks' 36 mammal exhibits is inhabited by one or more species of mammal. Each of the 50 mammal species has been specifically chosen for a particular exhibit. Therefore, it is highly unlikely that a member of the public could offer the Zoo an animal which could be used for display.

This does not, however, explain the Zoo's refusal to accept animals that may be added to species already displayed here, such as the tiger.



Riverbanks is an active participant in the Species Survival Plan (SSP) of the American Association of Zoological Parks and Aquariums. This plan, implemented in 1982, coordinates the breeding of many rare and endangered species of wildlife. Zoos that chose to participate in the SSP must sign an agreement that they will follow the recommendations of a national committee elected to genetically manage a particular species. Before any recommendation is made, the lineage of every animal in the plan must be known. In many cases, animals can be traced back several generations, often to their wild-caught ancestors. Such information is critical to the success of any captive breeding program.

Most private breeders of exotic animals do not follow these guidelines. Records are rarely kept and incestuous matings are commonplace. The goals of accredited zoos and private breeders are vastly different. Zoos breed to propagate certain species for future zoogoers to enjoy and to preserve other species as a hedge against extinction. Private breeders produce babies to sell. To illustrate this point, I have contacted several well-known conservation organizations regarding the issue of private breeders. None of the organizations I spoke with were aware of any cooperative or scientifically based captive reproductive programs organized by private breeders in the United States. In fact, the World Wildlife Fund has a policy prohibiting their involvement with private breeders.

There are additional, more practical reasons for refusing unwanted exotics.

Almost all exotic pets are "hand-raised." That is, they were taken from their mothers very soon after birth and bottle-fed by humans. Because of this, they have become "imprinted" on humans. Those behaviors that are learned from their natural parents, particularly social behavior, never develop. Because of this lack of social contact, they have an extremely difficult time relating to members of their own species.

This problem is often compounded by the fact that most large exotic pets, such as lions, are declawed and defanged, rendering them defenseless among members of their own species.

For these reasons, the length of time and the amount of work required to "introduce" an imprinted animal to our existing collection is simply not worth the effort.

A final, and perhaps the most important, reason for not accepting offers of exotic pets is the potential for disease. Animals in the Riverbanks collection are acquired only after careful consideration of their origin.

More than 95 percent of the animals housed at Riverbanks came from other zoos — zoos with a proven record of good animal health care. However, even these animals undergo a rigid 30-day quarantining period before they are placed in an exhibit. These procedures are followed both to ensure the new animal's health and to protect those animals already housed at the Zoo.

All too often exotic pets receive little or no veterinary care, particularly preventive care like vaccinations and parasite analysis. They usually pass through several owners in rapid succession, and are exposed to many communicable diseases. With this history, it is not worth the risk of exposing our existing collection.

Having suffered through a succession of owners, and having been rejected by zoos and other wildlife agencies, the animal has finally reached the end. The only remaining alternative is to kill it. Although this may seem cruel and senseless to many, for an animal that has been passed from owner to owner, malnourished, mistreated and separated from contact with members of its own species, death may be a welcome relief.

In South Carolina owning exotic animals is perfectly legal. Two rather obscure laws do act as a mild deterrent. One law, enacted to help control the spread of rabies, makes it illegal to sell a non-domestic carnivore in South Carolina. The other law, in an attempt to stem the tide of native carnivores entering the state, requires a permit to import wild animals into South Carolina. The permit may be obtained from the South Carolina Department of Wildlife and Marine Resources. Neither law, however, prevents the possession of exotic pets. This is left to the individual counties and municipalities in the state through the adoption of local ordinances. A recently enacted law offers some encouragement. In May 1992, H3777 "Regulation of Dangerous Animals" was enacted by the General Assembly of South Carolina. This law classifies as a felony the ownership of any canine or feline which the owner knows to be potentially dangerous to people or domestic animals, unless the owner meets certain provisions.

Unless one works in a position, such as at the Zoo, where frustrated owners call for help, the scope of the exotic pet problem is largely unappreciated. While no one would claim its treatment should have the same priority as restructuring state government or the health care crisis, anyone concerned about the ethical and humane treatment of all animals recognizes that it is a significant problem deserving of attention.

*Keeping exotic and native wild animals as pets is not only dangerous for people but, in most cases, a substandard life for the animals as well.*

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Subscriptions to *Riverbanks* are provided to members of the Riverbanks Zoological Society. Individual memberships are \$25 a year; family memberships are \$35 a year; grandparent memberships \$39; and family plus memberships \$49. Members receive free admission and guest passes, invitations to members-only activities, and special programs.

Front cover: Green tree monitor. Photograph by Emily Short.  
Back cover: Tulips "Francaise." Photograph by Emily Short.



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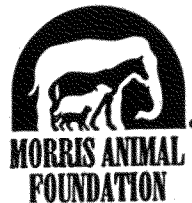
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and depend on the species causing the infection. Treatment should be based on recommendations for the human diseases after consultation with a tropical disease specialist or the CDC.

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## VIRAL HEPATITIS IN NEW WORLD PRIMATES

Ed Ramsay

Richard J. Montali

Viral hepatitis is one of the more interesting and perplexing medical problems of New World primates. These animals are susceptible both to spontaneous and experimentally induced viral infections, including several agents that cause hepatic disease in humans. The several forms of spontaneous or naturally occurring hepatitis are of primary interest because of their impact on individual animals or the colonies. The types of human hepatitis that have been experimentally passed to New World primates, as models for the study of human infections, generally produce mild to no clinical disease in nonhuman primates. Other viral infections of New World primates cause liver lesions, but only those considered as primarily hepatotropic diseases are covered here.

### YELLOW FEVER

Yellow fever is an endemic viral disease of primates in South and Central America and Africa. Members of the genera *Alouatta*, *Ateles*, *Aotus*, *Callicebus*, *Cebus*, *Saimiri*, and *Saguinus* are susceptible to yellow fever, with howler monkeys (*Alouatta* sp.) most susceptible. In humans, yellow fever varies from mild to fulminating, with approximately 10% mortality. The clinical course and pathology of yellow fever are

similar in New World primates and humans. Highly fatal epizootics of yellow fever have been reported in nonhuman primates in Central and South America.

Yellow fever is caused by an arbovirus group B flavivirus. It is transmitted from monkey to monkey (sylvatic cycle) by mosquitoes, primarily *Aedes* sp. The incubation period is short, 3 to 5 days, and death may follow within 14 to 25 hours.<sup>12</sup> Clinical signs in primates include fever, lethargy, hemorrhages, jaundice, and vomiting of blood.

Laboratory manifestations of yellow fever include leukopenia, albuminuria, and elevations of serum aspartate aminotransferase (AST), alanine aminotransferase (ALT), and bilirubin levels at the onset of clinical signs. At necropsy there is jaundice, petechial hemorrhages, and an enlarged, soft, yellowish liver. Typical histological changes include midzonal hepatocellular necrosis with minimal inflammation and the presence of Councilman bodies, rounded eosinophilic segments of degenerate hepatocytes that lie free in the sinusoids or within Kupffer cells. Necrosis is also observed in the spleen, lymph nodes, and kidney tubules. Survivors of infections are immune to subsequent challenges by the yellow fever virus.<sup>16</sup>

Because the incubation period is shorter than the quarantine period of most primate facilities for new arrivals,<sup>12</sup> yellow fever is seldom observed outside its endemic area. Primates for export from endemic areas should be housed in mosquito-proof containers for 9 days prior to shipment. Yellow fever can be transmitted to animals in transit through endemic areas, and all primates traveling through these areas should be in mosquito-proof containers. Vaccination is recommended for animals held in endemic areas and for handlers of primates arriving from endemic areas.

## CALLITRICHID HEPATITIS

The most recently described, naturally occurring viral hepatitis of New World primates is callitrichid hepatitis (CH), an acute, highly fatal disease that affects members of the families Callitrichidae and Callimiconidae. Since 1981, 12 outbreaks of CH have been identified in 10 American zoos,<sup>23</sup> and an outbreak of a similar disease has been reported in a British zoo.<sup>20</sup> To date, CH has not been identified as a clinical disease of other species of primates or at primate research centers.

The callitrichid hepatitis virus (CHV) has been shown to be an arenavirus, 67 to 130 nm in size, closely related to lymphocytic choriomeningitis virus (LCMV).<sup>24</sup> Several arenaviruses are zoonotic agents, for which rodents are known carriers. It was previously speculated that rodents might act as a reservoir for this disease,<sup>23</sup> and the identification of the agent as an arenavirus strengthens that hypothesis.

Callitrichid hepatitis is characterized by sporadic outbreaks within collections with high mortality, frequently approaching 100% within affected family groups of marmosets and tamarins. The natural infection incubation time is unknown, but deaths within family groups of tamarins have occurred over periods ranging from weeks to months. Tamarins infected experimentally show clinical signs and serum chemistry changes within 7 days of infection.<sup>21</sup>

The clinical signs of CH are subtle and often nonspecific. Anorexia, depression, and lethargy may be observed, but more frequently death occurs without premonitory signs. Jaundice has been observed more commonly postmortem than antemortem. Clinical pathology changes associated with both natural and experimental infections include lymphocytosis, elevated serum AST and alkaline phosphatase levels, and bilirubinemia.

Necropsy findings in CH include jaundice, subcutaneous and intramuscular hemorrhage, hepatosplenomegaly, and pleuropericardial effusions. The major histological changes are hepatocellular swelling and necrosis, with mild lymphocytic and neutrophilic inflammation. Acidophilic bodies are found, similar to the Councilman bodies that occur in yellow fever; these are believed to be remnants of degenerated hepatocytes. Necrosis also occurs in the spleen, lymph nodes and, to a lesser extent, in other parenchymal organs, indicating that CH is a systemic disease that is primarily hepatotropic.

The diagnosis of CH is suggested by characteristic histological changes in susceptible species, and can be confirmed by the evaluation of serum and liver tissue using immunoblot assays.<sup>27</sup> Naturally and experimentally infected animals have serum antibodies to CH. Seropositive, asymptomatic animals have been identified in institutions that have experienced outbreaks of CH, but these animals have not been associated with the seroconversion of other primates.<sup>25</sup> Humans exposed to infected animals have developed antibodies to CHV, but without signs of illness. The isolation of CHV permits the development of serologic tests for antibodies to CHV and

the surveillance of captive and wild populations for evidence of infection.

Callitrichid hepatitis is of particular interest because of its virulence in the genus *Leontopithecus*, which includes several endangered tamarin species. The golden lion tamarin, *L. rosalia rosalia*, is a species whose captive propagation has been a long-term focus of the zoo community. Captive-reared individuals are being reintroduced into Brazil to augment depleted wild populations.<sup>3</sup> A primary goal of studies on CH is to prevent the introduction of this potentially catastrophic disease to wild populations from repatriated animals.

## HERPESVIRUS TAMARINUS (INCLUSION BODY HEPATITIS)

Herpesvirus tamarinus (herpes T or herpes platyrrhinae), is thought to be the agent that causes inclusion body hepatitis of marmosets and owl monkeys.<sup>24</sup> More commonly, this virus causes a more generalized disease, with lesions in a wide variety of tissues. The squirrel monkey, *Saimiri* sp., is believed to be the natural host and principal reservoir for the virus. Members of the genera *Saimiri*, *Cebus*, *Aotus*, *Ateles*, *Callithrix*, *Saguinus*, and others are affected by herpesvirus tamarinus, with the owl monkey, *Aotus trivirgatus*, being especially susceptible to infection.<sup>22</sup>

The infection may be subclinical or animals may have oral and labial ulcers, signs of upper respiratory infections, or diarrhea. Pathological changes include the widespread necrosis of most organs, with characteristic intranuclear inclusions, which differentiate this disease from other viral causes of hepatitis in New World primates. Herpesvirus tamarinus infection is controlled by screening imported animals for antibodies to the virus and by not housing squirrel monkeys with other New World primate species.

## HUMAN HEPATITIS A VIRUS

Human hepatitis A virus (HAV), also known as infectious hepatitis, is a disease of humans with worldwide distribution. The discovery in the mid-1960s that HAV infects marmosets led to the first animal model for the study of this disease.<sup>6</sup> Antibodies to HAV have been found in members of the genera *Cebus*, *Callithrix*, *Ateles*, *Lagothrix*, and *Aotus*. Surveys of colony-held animals demonstrated that 40% of the *Cebus* monkeys, 50% of the common marmosets (*Callithrix jacchus*), and 60% of the owl monkeys had antibodies to HAV.<sup>9, 16</sup> Only the owl monkey (*Aotus trivirgatus*) and members of *Saguinus* sp. have been reproducibly infected experimentally. The mustached tamarin, *S. mystax*, and the owl monkey appear to be particularly susceptible to infection.<sup>15, 31</sup>

HAV is caused by a picornavirus, one of the enteroviruses, 27 nm in size. Natural infections in humans occur by fecal-oral transmission, but most nonhuman primate studies use parenteral inoculation

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to induce infection. Clinical signs of HAV in marmosets are generally uncommon, but may range from mild illness to death. Serum AST and ALT levels may exceed normal between 14 and 37 days postinoculation. The AST level may peak at 645 U/ml (mean normal marmoset value,  $97 \pm 26$  U/ml) and ALT levels may exceed 1500 U/ml (mean normal marmoset value,  $31 \pm 10$  U/ml).<sup>19</sup> Elevation of the serum isocitrate dehydrogenase (ICD) level appears to be the most sensitive indicator of HAV infection in marmosets, but this enzyme is not routinely measured in clinical situations.<sup>15</sup>

Histological findings include spotty hepatocellular degeneration and necrosis, Kupffer cell proliferation, and inflammation. The necrosis occurs throughout the lobule but is more intense in centrilobular areas. Lymphocytes, plasma cells, and neutrophil infiltrates localize in areas of cellular necrosis and the portal triads. Overall histological changes are similar to those of liver lesions caused by HAV in humans.

In most primate studies, virus shedding begins 1 to 2 weeks prior to clinical signs and persists for 1 to 4 weeks. Antibodies to HAV appear approximately 4 to 6 weeks postinoculation. Shedding of HAV begins 4 to 10 days after infection and ceases at or slightly before the development of humeral antibodies.<sup>17</sup>

Diagnostic tests for HAV were largely developed from studies of infected marmosets, and human tests should be useful for evaluation of the disease in nonhuman primates. Serum samples may be screened for HAV antigen and antibody. No vaccines are currently available commercially for HAV.

## HUMAN HEPATITIS B VIRUS

Natural infections with human hepatitis B virus (HBV; serum hepatitis) have not been observed in New World primates. Antibodies to HBV surface antigen have been observed in captive *Saimiri*<sup>9</sup> and "a number of New World monkey species."<sup>30</sup> Human HBV surface antigen has been reported in marmosets (species unspecified), and red spider monkeys (*Ateles geoffroyi*), although the latter report is poorly confirmed.<sup>7</sup> The experimental inoculation of New World primates has produced infection only in woolly monkeys (*Lagothrix lagotherica*).<sup>2</sup> Attempts to transmit HBV to members of the genera *Callithrix*, *Aotus*, *Saimiri*, and *Cebus* were consistently negative.<sup>2, 30</sup>

## HUMAN NON-A, NON-B HEPATITIS

Non-A, non-B hepatitis (NANBH) was recognized and named in the mid-1970s to describe hepatitis in which no evidence of HAV or HBV could be found. Since then, it has become apparent that there are at least two distinct forms of NANBH, with different causative agents.<sup>11</sup> Those infections associated with blood transfusions are now mostly referred to as hepatitis C (HCV) and those related to poor hygiene (fecal-oral transmission) and not associated with blood transfusions are called enterically transmitted NANBH (ET-NANBH). The relationships among

the GB agent, which has been demonstrated to cause hepatitis in marmosets and tamarins, and the causative agents of human NANBH remains unclear. The GB agent is discussed separately (see later).

The results of experimental inoculation of marmosets with ET-NANBH have varied.<sup>4</sup> Some investigators have claimed that several species of *Saguinus* are resistant to infection by at least one HCV agent, whereas others have found *Saguinus* sp. to be susceptible to the parenteral inoculation of sera from human HCV patients.<sup>10, 29</sup> Marmoset infections with HCV are usually subclinical, with elevations of serum ALT and ICD levels occurring 1 to several weeks after inoculation, and remaining elevated for months.<sup>14</sup> Histological changes include focal hepatic necrosis, with mononuclear cell inflammation. In some animals, the mononuclear cell infiltrates within the sinusoids and portal tracts may become quite dense.

ET-NANBH has been experimentally transmitted to *Saguinus* sp.<sup>3</sup> The clinical course and serum chemistry changes observed were similar to those in HCV infections. Liver changes in ET-NANBH show more parenchymal necrosis than portal involvement.<sup>28</sup>

The diagnosis of HCV and ET-NANBH is based on elevations of serum enzyme levels and on the absence of demonstrable HAV or HBV antibodies or antigens in serum and/or liver tissue. Serological tests for HCV have become commercially available but are of unknown value for use in New World primates. The clinical signs for all forms of human viral hepatitis (HAV, HBV, HCV, and ET-NANBH) in nonhuman primates are indistinguishable, and diagnosis therefore relies on serology, anamnesis, and/or the exclusion of other agents.

## GB AGENT HEPATITIS

GB hepatitis is a disease of *Saguinus* and *Callithrix* species that remains shrouded in controversy. There have been no described natural infections by the GB agent in nonhuman primates. The disease was originally induced by the inoculation of a tamarin with serum from a human surgeon with hepatitis.<sup>7</sup> The GB agent has been shown to be distinct from human hepatitis A and C viruses.<sup>11</sup> The questions of whether the GB agent represents a feral tamarin hepatitis virus, is related to other causative agents of human NANBH hepatitis, or is a novel human hepatitis agent remains unanswered.

The GB agent is a 20 to 22 nm virus.<sup>1</sup> It produces infection by both the oral and parenteral routes,<sup>8</sup> with an incubation period of 12 to 47 days. Infections are usually subclinical, and can be documented by elevations of the serum ALT level and by liver biopsy. Clinical chemistry changes and liver lesions are most severe about 4 weeks postinfection (PI) and return to normal approximately 10 weeks PI. Histological changes in the liver include mononuclear infiltrates of the sinusoids and portal tracts, with foci of hepatocellular necrosis. Mortality is generally low and infection appears to confer immunity to subsequent GB agent infection, but not to infection by other known human hepatitis viruses.<sup>13</sup>



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## ZOONOTIC DISEASES OF NONHUMAN PRIMATES

Janis E. Ott-Joslin

Taxonomically, nonhuman primates are closely related to humans. In a captive situation, this predisposes both the nonhuman primate and the human to interchanging pathogens. The more closely related the nonhuman primate is to humans, the greater the number of pathogens that may be exchanged. The greater the phylogenetic separation, the greater the chance of the human or nonhuman primate reacting

severely to many pathogens that are harmless to their hosts (e.g., herpes B and herpes hominis). The exchanges may be from the nonhuman primate to humans (zoonotic exchanges), or back and forth between nonhuman primates and humans (anthro-zoonotic; Table 31-3).<sup>1, 12, 17</sup>

Those involved with the direct care of nonhuman primates (e.g., keepers, veterinarians) and indirect care (e.g., medical technologists) should be aware of the potential risks to the nonhuman primates and themselves. The pathogens involved are bacterial, mycoplasmal, spirochetal, fungal, parasitic, and viral. The pathogens may be spread by several means such as physical contact, which includes biting or scratching and handling animals or their tissues (e.g., excrement, secretions, blood), airborne transmission (in

Bacterial  
Shigello

Salmon

Campylo  
(Camp)  
Mycoba  
tuberc

Streptoc  
pneum

Mycoba

Viral infect  
Herpesv  
Herpe  
(her)

Varice  
(chic)

Molluscu

Paramyx  
Parainf  
myxo  
(infl)

Measle

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## PARASITES OF NEW WORLD PRIMATES

Peregrine L. Wolff

New World primates are host to a wide variety of internal and external parasites. Most of these parasites are well adapted to their hosts and appear to cause little pathology. However, some cause severe disease that can even result in the death of the primate host.

Tables 31-13 and 31-14 are a summary of parasites that have been reported in New World primates, the clinical disease caused, methods used to diagnose the infection, and reported treatments.<sup>1-20</sup> All parasites that are considered to be zoonotic from New World primates are marked with an asterisk (\*) before the genus name.

References begin on page 389

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Table 31-13. INTERNAL PARASITES

Parasite	Host Location	Family Affected	Clinical Disease	Diagnosis	Treatment	Comments
Protozoa						
Flagellates						
Hemoflagellates						
* <i>Trypanosoma cruzi</i>	Blood	Callithricidae, Cebidae	Edema, anemia, lymphadenitis, splenomegaly, hepatomegaly, myocarditis	Blood smear, organ smear, organ section, serological tests	None; control of insect vector	<i>T. cruzi</i> only trypanosome found to be pathogenic in New World primates; intermediate hosts are insects from family Reduviidae
<i>Trypanosoma</i> sp.	Blood	Callithricidae, Cebidae	No pathological effect	Blood smear	None; control of insect vector	
Enteric flagellates						
* <i>Trichomonas</i> sp.	Intestine	Callithricidae, Cebidae	Diarrhea	Fecal swabs, saline wet mount—fresh feces	Metronidazole 17.5–25 mg/kg, bid for 10 days	High rates of infection with <i>Trichomonas</i> have been found in <i>Saimiri</i> ; no pathological effects reported
<i>Pentatrichomonas</i> sp.	Cecum, colon	Cebidae	Unknown	Saline wet mount—fresh feces	Metronidazole 17.5–25 mg/kg, bid for 10 days	
<i>Chilomastix</i> sp.	Cecum, colon	Callithricidae, Cebidae	None	Saline wet mount—fresh feces	Metronidazole 17.5–25 mg/kg, bid for 10 days	
* <i>Giardia</i> sp.	Anterior small intestine	Cebidae	Diarrhea	Saline wet mount—fresh feces, fecal concentration for cysts	Metronidazole 17.5–25 mg/kg, bid for 10 days	<i>Giardia</i> sp. infections apparently rare in New World primates
Sarcodina (ameba)						
* <i>Entamoeba histolytica</i>	Cecum, colon	Callithricidae, Cebidae	Diarrhea	Saline wet mount, iodine stain	Metronidazole 17.5–25 mg/kg, bid for 10 days; paromomycin, 12.5–15 mg/kg, bid for 5–10 days	Although common in Old World primates, natural infection of New World primates appears to be rare; infection with <i>E. histolytica</i> in New World primates, however, reported to cause greater pathogenicity than in Old World primates; neotropical primates have a number of amebic commensals, so positive diagnosis of <i>E. histolytica</i> should be attempted
<i>Entamoeba</i> sp.	Cecum, colon	Callithricidae, Cebidae	None	Saline wet mount		
<i>Iodamoeba bütschlii</i>	Cecum, colon	Cebidae	None	Saline wet mount, iodine stain		
<i>Endolimax nana</i>	Cecum, colon	Cebidae	None	Saline wet mount, iodine stain		
Sporozoans (Coccidia)						
<i>Isospora</i> sp.	Intestine	Callithricidae	None; diarrhea	Fecal flotation, saline wet mount	Sulfamethoxine 50 mg/kg/day first day, then 25 mg/kg/day; coccidiostats	Coccidia have not been reported commonly in New World primates; clinical disease appears to be rare

Table continued on following page

Table 31-13. INTERNAL PARASITES Continued

Parasite	Host Location	Family Affected	Clinical Disease	Diagnosis	Treatment	Comments
<i>Sarcocystis</i> sp.	Skeletal muscle, cardiac muscle, esophagus, diaphragm	Callithricidae	Steatitis, myositis	Histological or gross examination of tissue	None	<i>Sarcocystis</i> sp. have been reported as natural infections in New World primates, which play role of intermediate host
* <i>Toxoplasma gondii</i>	Brain, lungs, liver, heart, kidney, lymph node, blood, intestine	Callithricidae, Cebidae	Anorexia, neurological disease, diarrhea	Serology, histological section	Sulfadiazine 100 mg/kg/day, pyrimethamine (load with 2 mg/kg/day for 3 days) then 1 mg/kg/day supplement with folic acid. Clindamycin 12.5-25 mg/kg/bid	<i>T. gondii</i> has been reported as a natural infection in New World primates, who appear to be highly sensitive to the disease, with illness and death being reported to occur in 5-6 days; treatment has been reported to be somewhat successful in people and dogs
* <i>Plasmodium brasilianum</i>	Erythrocytes	Callithricidae, Cebidae	Anemia, fever, hepatosplenomegaly, depression, death; quartan malaria (72-hour fever cycle)	Blood smear	Chloroquine phosphate 10 mg/kg orally or IM, followed by 5 mg/kg 6 hours later, then 5 mg/kg/day for 2 days and primaquine, 0.3 mg/kg/day, for 14 days	Only two species of <i>Plasmodium</i> naturally infect New World primates, but many neotropical primates have been used as animal models for human malaria; <i>P. brasilianum</i> is very similar to <i>P. malariae</i> of humans and may have been introduced by early explorers, becoming a mutant strain in New World primates; this may account for its pathogenicity in the primate host; <i>P. simium</i> found in southern Brazil, appears only to affect <i>Alouatta</i> and <i>Brachyteles</i>
* <i>Plasmodium simium</i>	Erythrocytes	<i>Alouatta</i> , <i>Brachyteles</i> only	None reported in host species, tertiary malaria (48-hour fever cycle)	Blood smear		<i>P. carinii</i> does not occur naturally, but has been found to infect colony primates; only a problem in immunocompromised host
<i>Pneumocystis carinii</i>	Bronchioles, alveoli	Callithricidae	Interstitial pneumonia	Pulmonary secretions, histopathological section	Trimethoprim 20 mg, sulfamethoxazole 25 mg/kg qid	<i>P. carinii</i> does not occur naturally, but has been found to infect colony primates; only a problem in immunocompromised host
Ciliates <i>Balantidium coli</i>	Colon	Cebidae	None or diarrhea, ulcerative colitis	Saline wet mount—fresh feces	Metronidazole 30-50 mg/kg bid for 10 days; doxycycline 5 mg/kg bid day 1, followed by 2.5 mg/kg/day	<i>B. coli</i> is only ciliate reported in New World primates; pathogenicity appears low in these species
Nematodes Rhabdida <i>Strongyloides cebus</i>	Duodenum, jejunum	Cebidae	Diarrhea, debilitation, emaciation	Fecal flotation, Baermans	Thiabendazole, 50 mg/kg/day for 2 days; mebendazole, 15 mg/kg/day for 3 days; levamisole, 10 mg/kg; ivermectin, 200 µg/kg	Like all strongyloides, there are indirect and direct life cycles; unlike <i>S. stercoralis</i> , however, eggs of <i>S. cebus</i> do not hatch until shed in feces; larvae are not zoonotic because they cannot penetrate human skin

Strongylidae  
\**Necator americanus*

Small intestine

Cebidae

Enteritis

Fecal flotation

Thiabendazole;  
mebendazole

Natural infections with this common  
human hookworm believed

Strongylidae * <i>Necator americanus</i>	Small intestine	Cebidae	Enteritis	Fecal flotation	Thiabendazole; mebendazole; ivermectin; pyrantel pamoate, 11 mg/kg, one dose	Natural infections with this common human hookworm believed extremely rare in New World primates
Trichostrongylidae <i>Molinueus torulosa</i>	Small intestine	Cebidae	Ulcerative hemorrhagic enteritis	Fecal flotation	Ivermectin, 200 µg/kg	<i>M. torulosa</i> is only pathogenic species of this genus; infection with <i>Molinueus</i> sp. is commonly found in wild-caught New World primates
<i>Molinueus vexillarius</i>	Stomach, small intestine	Callithricidae	None	Fecal flotation	Ivermectin, 200 µg/kg	
<i>Molinueus elegans</i>	Small intestine	Cebidae	None	Fecal flotation	Ivermectin, 200 µg/kg	
Metastrongylidae <i>Angiostrongylus</i> <i>costaricensis</i>	Mesenteric arteries	Callithricidae	Parasitic granulomas within mesenteric arteries and intestinal walls	Fecal examination, histological examination	None reported	Most metastrongylids require an intermediate molluscan host; <i>A.</i> <i>costaricensis</i> is common parasite of children in South and Central America; this parasite has been infrequently reported in wild Callithricidae
<i>Filaroides</i> sp.	Lungs	Callithricidae, Cebidae	Usually none; occasionally, atelectasis, pulmonary hemorrhage, coughing	Fecal flotation; histopathological examination	Fenbendazole 50 mg/kg for 14 days; albendazole, 25 mg/kg bid for 5 days; levamisole	<i>Filaroides</i> sp. commonly found in New World primates; pathogenicity appears to be low, but mild to moderate interstitial pneumonia has been reported on histological examination; complete life cycle is unknown; females produce infective larvae, which are coughed up, swallowed, and passed in feces; at necropsy, <i>Filaroides</i> appear as small, pink to grey nodules, close to pleural surface
Oxyurata <i>Enterobius</i> sp.	Large intestine	Callithricidae, Cebidae	Irritability, perianal pruritus	Visualization of adults around anus; tape method for getting eggs from anus	Pyrantel pamoate, 11 mg/kg, one dose	New World primates are infected by a wide variety of pinworms from the genera <i>Enterobius</i> and <i>Trypanoxyuris</i> (Buckley <i>Enterobius</i> ); no known public health significance from these naturally occurring infections but <i>E. vermicularis</i> , human pinworm, can cause infection in captive Callithricidae
<i>Trypanoxyuris</i> sp. (Buckley <i>Enterobius</i> )	Large intestine	Cebidae	Irritability, perianal pruritus	Visualization of adults around anus; tape method for getting eggs from anus		
<i>Oxyuronema ateloporum</i>	Large intestine	Ateles sp.	Hemorrhagic enteritis, abdominal discomfort	Visualization of adults around anus; tape method for getting eggs from anus		

Table continued on following page

Table 31-13. INTERNAL PARASITES *Continued*

Parasite	Host Location	Family Affected	Clinical Disease	Diagnosis	Treatment	Comments
Ascaridata						No confirmed reports of ascarid infections in New World primates
Spirurida						
<i>Trichospirura leptostoma</i>	Pancreas	Callithricidae, Cebidae	Chronic, acute pancreatitis	Necropsy examination	None reported, but ivermectin may be effective	All members of Spirurida require intermediate arthropod host; in general, cause little pathology within host unless large numbers are present; <i>T. leptostoma</i> is common pancreatic parasite of Callithricidae
<i>Pterygodermatitis nycticebi</i>	Small intestine	Callithricidae	Watery diarrhea, anorexia, weakness	Fecal flotation	Cockroach control, frequent prophylactic wormings with ivermectin and mebendazole	<i>P. nycticebi</i> also known as <i>Rictularia nycticebi</i> ; infection with this parasite has caused morbidity and mortality in family Callithricidae; anterior ends of adult worms were found imbedded in mucosa of small intestine on histopathological examination; a pseudomembranous enteritis may be associated with infection; control of this parasite appears to be through control of intermediate host and prophylactic wormings with ivermectin and mebendazole
<i>Gongylonema</i> sp.	Oral cavity, esophagus, stomach	Cebidae	None reported	Fecal flotation, necropsy	None reported; control of intermediate host	<i>G. macrogubernaculum</i> and <i>G. pulchrum</i> inhabit esophagus of definitive host; cockroach or dung beetle acts as intermediate host; pathogenicity appears to be low; <i>G. pulchrum</i> infections have been reported in humans
<i>Physaloptera dilatata</i>	Stomach	Callithricidae, Cebidae	Gastritis	Fecal flotation	Mebendazole at high dosages has been efficacious against some <i>Physaloptera</i> sp.	<i>P. dilatata</i> found attached to mucosa of stomach; hyperplastic gastric lesions and gastritis have been associated with heavy infestations
Filariata						
<i>Dipetalonema</i> sp.	Peritoneal and pleural cavities,	Callithricidae, Cebidae	None; peritonitis, pleuritis	Microfilaria in blood smear; larvae in blood smear	Diethylcarbamazine, 6-20 mg/kg daily for 15 days	Members of this suborder require intermediate blood-sucking insect

<i>Physaloptera dilatata</i>	Stomach	Callithricidae, Cebidae	Gastritis	Fecal flotation	Mebendazole at high dosages has been efficacious against some <i>Physaloptera</i> sp.	<i>C. pulchrum</i> infections have been reported in humans <i>P. dilatata</i> found attached to mucosa of stomach; hyperplastic gastric lesions and gastritis have been associated with heavy infestations
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#### Filariata

<i>Dipetalonema</i> sp.	Peritoneal and pleural cavities, subcutaneous tissues	Callithricidae, Cebidae	None; peritonitis, pleuritis	Microfilaria in blood smear; larvae in blood smear; adults in subcutaneous tissue or peritoneal cavity on necropsy or surgery	Diethylcarbamazine, 6–20 mg/kg daily for 6–15 days, may be useful against pathogenic species	Members of this suborder require intermediate blood-sucking insect for transmission of infective larvae; adults are found in subcutaneous tissues or body cavities of definitive host; filariasis is extremely common in neotropical primates; 12 different species have been reported, 4 from <i>Dipetalonema</i> and 7 from <i>Tetrapetalonema</i> ; not uncommon for an individual to be infected by multiple species of these parasites; most species reside in subcutaneous tissues, where they cause little damage to host; <i>D. gracile</i> and <i>D. caudispira</i> , however, parasitize peritoneal and pleural cavities; Fibrinopurulent peritonitis and pleuritis have been attributed to filariasis
<i>Mansonella</i> sp.	Subcutaneous tissues, peritoneal and pleural cavities	Callithricidae, Cebidae	None; peritonitis, pleuritis	Microfilaria in blood smear; larvae in blood smear; adults in subcutaneous tissue or peritoneal cavity on necropsy or surgery		

#### Trichurata

<i>Trichuris trichiuria</i>	Cecum, colon	Cebidae	None, watery diarrhea	Fecal flotation	Mebendazole, levamisole	<i>Trichuris</i> of nonhuman primates morphologically indistinguishable from <i>T. trichiuria</i> , human whipworm; <i>T. trichiuria</i> found in colon of host; apparently only heavy parasite loads cause disease; life cycle of this parasite is direct
<i>Capillaria hepatica</i>	Liver	Cebidae	Hepatitis, cirrhosis	Necropsy examination	None reported	<i>C. hepatica</i> found in liver parenchyma of host; chronic infections cause granulomatous reactions, scarring, and cirrhosis of liver; eggs are laid within liver and only liberated after decomposition or ingestion of liver; eggs require aerobic conditions to mature to infective larvae, which then enter host through oral route; <i>C. hepatica</i> has been reported in humans but, because of unique life cycle, zoonotic potential from nonhuman primates is probably low Table continued on following page

Table 31-13. INTERNAL PARASITES *Continued*

Parasite	Host Location	Family Affected	Clinical Disease	Diagnosis	Treatment	Comments
<b>Trematodes</b>						
<b>Lecithodendriidae</b>						
<i>Phanerocephalus orbicularis</i>	Intestines	Callithricidae, Cebidae	Unknown, none reported	Fecal sedimentation	Praziquantel	Commonly found in New World primates; trematodes from Lecithodendriidae, Dicrocoeliidae, Echinostomatidae, Schistocomatidae, and Diplostomatidae families have been reported in platyrrhines; <i>Schistosoma mansoni</i> and <i>Athesmia foxi</i> of primary importance
<b>Echinostomatidae</b>						
<i>Echinostoma aphyllactum</i>	Small intestine	Callithricidae	None reported	Fecal sedimentation	Praziquantel	
<b>Diplostomatidae</b>						
<i>Neodiplostomum tamarini</i>	Intestine	Callithricidae	None reported	Fecal sedimentation	Praziquantel	
<b>Schistocomatidae</b>						
<i>Schistosoma mansoni</i>	Mesenteric and abdominal veins	Cebidae	Bloody diarrhea, hematuria, ascites	Eggs in fecal flotation or urine; adults in vessels at necropsy	Praziquantel, 40 mg/kg once	<i>S. mansoni</i> transmitted to definitive host through contact with infective cercarian-contaminated water; once in definitive host, adult parasitizes mesenteric and abdominal veins; primary pathological effects from <i>S. mansoni</i> appear to be secondary to granulomatous reaction surrounding eggs, which can be found in almost any body tissue
<b>Dicrocoeliidae</b>						
<i>Athesmia foxi</i>	Bile duct	Callithricidae, Cebidae	Biliary disease, hepatitis	Fecal sedimentation; adults in bile duct on necropsy	Praziquantel	<i>A. foxi</i> common inhabitant of bile duct of New World primates; considered moderately pathogenic; low numbers appear to cause little harm, but heavy infections can cause mechanical blockage and inflammatory reactions in bile duct; although some trematodes are considered potential zoonotics to humans, risk of infection from nonhuman primates is low because of life cycle requirements for an obligate mollusk intermediate host
<i>Platynosomum</i> sp.	Gallbladder, bile ducts	Callithricidae	None reported	Fecal sedimentation; adults in bile duct on necropsy	Praziquantel	Commonly found in <i>Saguinus</i> sp.
<b>Cestodes</b>						
<b>Diphyllobothriidae</b>						
<i>Diphyllobothrium erinacei</i>	Larva—subcutaneous	Callithricidae	Tissue inflammation	Palpation	None	



*Platynosomum* sp.

Gallbladder, bile ducts

Callithricidae

None reported

Fecal sedimentation;  
adults in bile duct  
on necropsy

Praziquantel

primates is low because of life  
cycle requirements for an obligate  
mollusk intermediate host  
Commonly found in *Saguinus* sp.

# Cestodes

## Diphyllbothriidae

*Diphyllbothrium erinacei*

Larva—  
subcutaneous  
tissue, muscle

Callithricidae,  
Cebidae

Tissue inflammation  
and edema

Palpation,  
radiography of  
nodules; necropsy  
examination

None, surgical removal

*Diphyllbothrium* and *Spirometra* sp.  
are pseudophyllidean cestodes  
found in neotropical primates;  
pleurocercoid larva of these  
genera are called sparganum, the  
resulting infection, sparganosis;  
infection probably secondary to  
accidental ingestion of crustacean  
intermediate host; sparganum  
infects connective, muscle, and  
subcutaneous tissues of body;  
migrations of sparganum through  
tissues cause inflammation and  
edema; chronic lesions often  
calcify, allowing radiographic  
visualization; reactions in  
subcutaneous tissue may be  
palpable; otherwise, infection is  
usually only found on gross  
necropsy

*Spirometra reptans*

Larva—  
subcutaneous  
tissue

Callithricidae

Tissue inflammation  
and edema

None, surgical removal

## Taeniidae

*Echinococcus granulosus*

Larva—liver,  
lungs,  
peritoneal  
cavity

Cebidae

Clinical signs  
consistent with a  
space-occupying  
lesion

Presence of cysts

Surgical removal

Adults found in birds and mammals,  
and cause little pathogenicity;  
infective larvae can infect  
nonhuman primates following  
ingestion of infective eggs; these  
larvae produce scoleces,  
containing cysts in body tissue of  
primate intermediate host; within  
this family, *Echinococcus* has  
been rarely reported in New  
World primates; adults within this  
genus parasitize carnivore species;  
infective larvae of *E. granulosus*  
produces a hydatid cyst, most  
commonly found in liver, but can  
be found in any body tissue; cysts  
often do not produce pathology  
until large; at this time, clinical  
signs are consistent with those of  
space-occupying lesion

## Anoplocephalidae

*Bertiella* sp.

Small intestine

Cebidae

Fecal flotation

Niclosamide,  
500 mg/3 kg

Infection with genera of families  
Anoplocephalidae and  
Davaineidae commonly reported  
in New World primates; life cycle  
of these parasites is not fully  
known, but infection probably  
occurs from ingestion of a mite;  
pathogenicity from members of  
these genera is low  
Table continued on following page

*Matheovataenia* sp.

Small intestine

Callithricidae

Fecal flotation

Praziquantel, 15–20 mg/  
kg, one dose

*Atriotaenia megastoma*

Small intestine

Callithricidae,  
Cebidae

Fecal flotation

Praziquantel, 15–20 mg/  
kg, one dose

## Davaineidae

*Rallietina* sp.

Small intestine

Callithricidae,  
Cebidae

None reported

Fecal flotation

Niclosamide,  
praziquantel

Table 31-13. INTERNAL PARASITES *Continued*

Parasite	Host Location	Family Affected	Clinical Disease	Diagnosis	Treatment	Comments
Hymenolepididae * <i>Hymenolepis</i> sp.	Small intestine	Callithricidae, Cebidae	None, to diarrhea, anorexia, vomiting, water loss	Fecal flotation	Niclosamide, praziquantel	Adults of this family parasitize intestinal tracts of mammals and birds; all require intermediate arthropod host, but <i>Hymenolepis nana</i> , or dwarf tapeworm, can also cause direct infection to mammalian host; <i>H. nana</i> has not been commonly reported in neotropical primates but, because of its alternate direct life cycle, can cause significant infections in primate colonies; <i>H. nana</i> is considered zoonotic
Paratriotaeniidae <i>Paratriotaenia oedipomidatus</i>	Small intestine	Callithricidae	None reported	Fecal flotation	Niclosamide, praziquantel	
Pentastomidae <i>Linguatula serrata</i>	Mesenteric lymph nodes, viscera	Cebidae	None, to inflammatory response in tissues	Necropsy	None	Pentastomid infections in New World primates appear to be rare, with little pathogenicity; common sites of infection with larvae are liver and peritoneal cavities; adult pentastomids are found in respiratory tracts of snakes; primates become infected by ingestion of food or water contaminated with snake feces
<i>Porocephalus</i> sp.	Peritoneum, viscera	Callithricidae, Cebidae	None, to inflammatory response in tissues	Necropsy	None	
<i>Armillifer armillatus</i>	Peritoneal cavity	Cebidae	None, to inflammatory response in tissues	Necropsy	None	
Acanthocephala <i>Prosthenorchis</i> sp.	Ileum, cecum	Callithricidae, Cebidae	Peritonitis, wasting	Fecal concentration	None consistently effective; control of intermediate host	<i>Prosthenorchis</i> sp. are commonly found in primates and carnivores in South and Central America; all acanthocephalans have indirect life cycle; intermediate hosts for <i>Prosthenorchis</i> sp. are insects, most commonly German cockroach

\*Considered to be zoonotic from New World primates.

Table 31-14. EXTERNAL PARASITES

Parasites	Host Location	Family Affected	Clinical Disease	Diagnosis	Treatment
Arthropods					

Table 31-14. EXTERNAL PARASITES

Parasites	Host Location	Family Affected	Clinical Disease	Diagnosis	Treatment	Comments
Arthropods						
<i>Cuterebra</i> sp.	Skin, subcutaneous tissue	Cebidae	Dermal cyst, chronic inflammation at site	Removal and identification of grub	Removal of grub	<i>Alouatta</i> sp. appear to be natural hosts for these fly larvae; infections commonly found around neck
<i>Alouattamyia</i> sp.	Skin, subcutaneous tissue	Cebidae	Dermal cyst, chronic inflammation at site	Removal and identification of grub	Removal of grub	
<i>Dermatobia hominis</i>	Skin, subcutaneous tissue	Cebidae	Dermal cyst	Removal and identification of grub	Removal of grub	
Female <i>D. hominis</i> lays eggs on other insects; larvae develop and then drop off onto host when insects alight to feed; larvae then burrow into skin, forming a cyst; lesions produced by <i>Cuterebra</i> and <i>Dermatobia</i> can be persistent, and care of lesion after removal of larvae is important						
Lice						
Anoplura						
<i>Pediculus</i> sp.	Hair	Cebidae	None to pruritus, hair loss	Hair examination	Pyrethrin-based powders used for domestic pets or poultry	New World primates are infected by both Anoplura and Mallophaga orders of lice; Anoplura, blood-sucking lice, are not commonly found on neotropical primates; <i>Pediculus humanus capitis</i> was found on Ateles, thus indicating that human lice species can cross-infect to New World primates; no cross-infection with Old World primates has been reported. Although New World primates and great apes are susceptible to human louse infections, no rickettsial diseases have been reported in platyrrhines; New World primates are thought to have been originally infected by humans
<i>Harrisonia uncinata</i>	Hair	Callithricidae	None to pruritus, hair loss	Hair examination		
<i>Pedicinus</i> sp.	Hair	Cebidae	None to pruritus, hair loss	Hair examination		
<i>Gliricola pinto</i>	Hair	Callithricidae	None to pruritus, hair loss	Hair examination		
Mallophaga						
<i>Trichodectes</i> sp.	Hair	Cebidae	None reported	Hair examination	Pyrethrin-based powders used for domestic pets or poultry	Mallophageus (biting) lice from a number of genera have been reported in New World primates
<i>Tetragynopus aotophilus</i>	Hair	Cebidae	None reported	Hair examination		
<i>Aotiella aotophilus</i>	Skin	Cebidae	None reported	Hair examination		
<i>Cebidocola</i> sp.	Skin	Cebidae	None reported	Hair examination		

Table continued on following page

Table 31-14. EXTERNAL PARASITES *Continued*

Parasites	Host Location	Family Affected	Clinical Disease	Diagnosis	Treatment	Comments
<b>Ticks</b>						
<i>Ixodes loricatus</i>	Skin	Cebidae	None reported	Visualization of tick	Removal	Reports of ticks in New World primates are extremely rare; do not appear to be a natural host for any species
<i>Amblyomma</i> sp.	Skin	Callithricidae	None reported	Visualization of tick	Removal	
<b>Mites</b>						
Mesostigmates <i>Pneumonyssoides stammeri</i>	Large bronchioles, larynx, nasal cavities, sinuses	Cebidae	None reported	Bronchial washes, necropsy examination	Ronnel 55 mg/kg, orally E.O.D. for four treatments, then weekly for 3 months; has reduced worm loads	Natural infection with pulmonary mites appears to be rare in neotropical primates; theorized that entire life cycle of mite is carried out within the lungs.
Prostigmates <i>Demodex</i> sp.	Skin, hair follicles	Cebidae, Callithricidae	Dermatitis	Deep skin scrape	Ronnel, applied topically; other dips recommended for mites in pets and poultry	Although New World primates play host to a wide variety of mites, most appear to cause little pathogenicity in host; infections with genera <i>Demodex</i> and <i>Prosarcoptes</i> have been reported to cause dermatitis in captive species
Astigmatas <i>Prosarcoptes pitheci</i>	Skin	Cebidae	Dermatitis	Skin scrape	Ronnel, applied topically; other dips recommended for mites in pets and poultry	Although New World primates play host to a wide variety of mites, most appear to cause little pathogenicity in host; infection with genera <i>Demodex</i> and <i>Prosarcoptes</i> have been reported to cause dermatitis in captive species
<i>Listrocarpus</i> sp.	Skin	Callithricidae, Cebidae	None reported	Skin scrape	Ronnel, applied topically; other dips recommended for mites in pets and poultry	
<i>Audycptes</i> sp.	Hair follicles	Cebidae	None reported	Skin scrape	Ronnel, applied topically; other dips recommended for mites in pets and poultry	
<i>Rhynocptes</i> sp.	Hair follicles	Callithricidae, Cebidae	None reported	Skin scrape	Ronnel, applied topically; other dips recommended for mites in pets and poultry	
<i>Mortelmansia</i> sp.	Nasal cavities	Callithricidae, Cebidae	None reported	Nasal examination	None reported	
<i>Dunnalges lanbrechti</i>	Skin	Cebidae	None reported	Skin scrape	Dips or powders recommended for pets and poultry	

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## ZOONOTIC DISEASES OF NONHUMAN PRIMATES

Janis E. Ott-Joslin

Taxonomically, nonhuman primates are closely related to humans. In a captive situation, this predisposes both the nonhuman primate and the human to interchanging pathogens. The more closely related the nonhuman primate is to humans, the greater the number of pathogens that may be exchanged. The greater the phylogenetic separation, the greater the chance of the human or nonhuman primate reacting

severely to many pathogens that are harmless to their hosts (e.g., herpes B and herpes hominis). The exchanges may be from the nonhuman primate to humans (zoonotic exchanges), or back and forth between nonhuman primates and humans (anthropozoonotic; Table 31-3).<sup>1, 12, 17</sup>

Those involved with the direct care of nonhuman primates (e.g., keepers, veterinarians) and indirect care (e.g., medical technologists) should be aware of the potential risks to the nonhuman primates and themselves. The pathogens involved are bacterial, mycoplasmal, spirochetal, fungal, parasitic, and viral. The pathogens may be spread by several means such as physical contact, which includes biting or scratching and handling animals or their tissues (e.g., excrement, secretions, blood), airborne transmission (in

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Table 31-3. DISEASES OF HUMANS THAT MAY INFECT NONHUMAN PRIMATES

Agent	Affected Host(s)	Syndrome in Affected Hosts	Transmission
<b>Bacterial infections</b>			
Shigellosis ( <i>Shigella</i> sp.)	Great apes, macaques, New World monkeys, baboons, other African species	Diarrhea with copious mucus and blood, depression, dehydration; gingivitis in macaques	Fecal-oral route
Salmonellosis	South American and Old World monkeys, apes	Watery and profuse diarrhea, rarely contains blood; may develop septicemia	Fecal-oral route
Campylobacteriosis ( <i>Campylobacter fetus</i> )	All nonhuman primates	Enterocolitis	Direct oral-fecal route
<i>Mycobacterium tuberculosis</i>	All nonhuman primates	Mainly a slowly progressive respiratory disease; can also involve visceral organs, spinal column, and eyes	Aerosolization and inhalation
<i>Streptococcus pneumoniae</i>	Great apes, macaques	Starts as bronchopneumonia, then can spread to cause bacterial meningoencephalitis; has caused peritonitis, otitis, and panophthalmitis	A common inhabitant of pharynx of about 20% of humans; spread by aerosolization and inhalation
<i>Mycobacterium leprae</i>	Sooty mangabeys	Crusted maculopapular rash on trunk and limbs and nodular lesions on lips, nostrils, eyebrows, ears, hands, forearms, and scrotum; lumps swell and ulcerate; paralysis of foot and hand	Requires close contact with humans suffering from lepromatous leprosy; bacteria are excreted from nasal secretions; bacteria can survive up to 7 days in dried nasal mucus
<b>Viral infections</b>			
Herpesvirus			
Herpesvirus hominis (herpes simplex)	Ringtail lemurs, pottos, tree shrews, owl monkeys, gibbons, marmosets, gorillas, orangutans,* chimpanzees,† baboons,‡ macaques,† vervet†	Conjunctivitis, nasal discharge, ulcerative dermatitis, lingual ulcers; may cause diarrhea and CNS signs; gibbons develop recurrent oral vesicles and ulcers and later CNS signs; type 2 herpes hominis caused ulcers on external genitalia of two chimpanzees and a pygmy chimpanzee	Virus can be isolated from nasopharynx, conjunctiva, feces, urine, and blood; spread by direct contact or by aerosolized virus contacting the conjunctiva or nasopharynx
Varicella-zoster virus (chickenpox)	Gorillas, orangutans, chimpanzees	Animals are feverish, anorexic, have generalized vesicular eruptions with puritis; recovery is usually uneventful	Aerosolization and close contact
Molluscum contagiosum	Chimpanzees	Small nodules on periorbital or inguinal regions	Probably contact
Paramyxovirus			
Parainfluenza myxovirus (influenza)	Patas monkeys, chimpanzees, marmosets, gibbons, crab-eating macaques, vervets, capuchins, baboons	Bronchopneumonia, pleurisy, pericarditis, peritonitis, nasal discharge, anorexia, lethargy, laryngotracheobronchitis	Aerosolization and inhalation
Measles (rubella)	Newly imported nonhuman primates affected—macaques, gibbons, baboons, African green monkeys, squirrel monkeys, chimpanzees, marmosets, hairy saki monkeys, colobus monkeys, silvered leaf monkeys, owl monkeys, orangutans	Often asymptomatic; can develop facial edema, erythema, then a maculopapular rash on neck, chest, lower abdomen, inner surfaces of arms, and thighs; may have fever, conjunctivitis, leukopenia, nasal discharge, dry cough, gastrointestinal signs	Aerosolization and inhalation

Table continued on following page

Table 31-3. DISEASES OF HUMANS THAT MAY INFECT NONHUMAN PRIMATES *Continued*

Agent	Affected Host(s)	Syndrome in Affected Hosts	Transmission
Respiratory syncytial virus	Chimpanzees	Respiratory infection with fever, nasal discharge, cough, anorexia, sneezing, bronchopneumonia	Aerosolization and inhalation
Mumps	Chimpanzees, orangutans,† gorillas,† New World monkeys,† Old World monkeys,† prosimians†	Parotiditis with erosions of pharynx and soft palate	Aerosolization of infected saliva or respiratory secretions by inhalation or direct contact
Picornavirus Poliovirus	Chimpanzees, gorillas, orangutans, colobus monkeys	Meningitis, encephalomyelitis, paralysis	Fecal-oral route
Coxsackievirus	Chimpanzees	Most cases are asymptomatic; lethargy, hypothermia, diarrhea in a newborn underweight chimpanzee—later (about 8 weeks), after being treated, animal developed hepatomegaly, anemia, cardiomegaly, and died	Fecal-oral route
Rhinovirus Rotavirus	Chimpanzees, orangutans, gorillas	Diarrhea, anorexia, vomiting	Fecal-oral route
Viral hepatitis Hepatitis A	Chimpanzees, cynomolgus (crab-eating) macaques, woolly monkeys, Celebes macaques, siamangs, owl monkeys	Rarely causes clinical signs in nonhuman primates; in a few chimpanzees causes anorexia, vomiting, fever, diarrhea, lethargy, jaundice, clay-colored stools, elevated liver enzyme levels	Fecal-oral route
Parasitic infections Protozoans			
<i>Entamoeba histolytica</i>	Old World monkeys	Weakness, dehydration, anorexia, vomiting, severe diarrhea, which may contain mucus and blood; can cause necrotic ulcerative colitis, amebic abscesses in liver, lungs, central nervous system	Fecal-oral route
<i>Giardia lamblia</i>	Nonhuman primates	Diarrhea with mucus but without blood; abdominal pain, nausea, vomiting, flatulence	Fecal-oral route
<i>Balantidium coli</i>	Commonly found in nonhuman primate stool samples, but rarely causes a problem in nonhuman primates, except gorillas	Severe diarrhea with an ulcerative enterocolitis in gorillas; weight loss, lethargy	Fecal-oral route
Nematodes Pinworm ( <i>Enterobius vermicularis</i> )	Old World primates and great apes	Anal pruritus, restlessness, or asymptomatic; fatal cases in chimpanzees with ulcerative enterocolitis and peritonitis	Fecal-oral route

\*Herpesvirus hominis may have caused oral lesions in these animals, but the causative agent was not identified.

†Serological evidence of infection without signs.

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the form of aerosols or droplets), ingestion, and arthropod vectors.

Often, the nonhuman primate carries and transmits the disease (e.g., infectious hepatitis) without any visible signs. Therefore, one must always be aware of the potential risks involved. This is especially true for animals under stress, such as those that have been recently shipped or introduced into a new social situation, or have developed a recent illness. Even though these animals may appear to be in a static state, they could be harboring potential pathogens that are a risk for humans.

Several precautionary measures should be followed when dealing with nonhuman primates:<sup>5, 6, 15</sup>

1. Hands should be washed frequently, especially after handling the animal, its food, bedding, enclosure materials, excrement, and/or tissue and body fluids. This includes washing the hands, even if gloves are worn. Anything that comes in contact with the nonhuman primate should be considered contaminated. Hand washing is probably the most effective means of preventing infection.

2. Cages should be cleaned so as to minimize the risk of creating aerosols or droplets of potentially infectious materials. Wearing protective clothing, especially masks, gloves, and goggles or glasses, is important. Manual removal of bedding, food, and fecal matter before hosing decreases the risk of creating aerosols or droplets. Scrubbing heavily soiled areas with disinfectants should be done before hosing down the area. The use of high-pressure water hoses and steam cleaners should be kept to a minimum, because these methods can increase the risk of creating potentially infectious sprays, which are a risk to workers and to other nonhuman primates housed nearby.

3. A baseline serum sample should be collected from all personnel working with nonhuman primates. The sample should be stored in an ultracold ( $-70^{\circ}\text{C}$ ) freezer. For personnel working in high-risk areas (e.g., quarantine keeper, pathologist, clinical laboratory technicians working with infectious materials), additional serum samples should be collected and stored annually.

4. The staff should be instructed to engage in proper personal hygiene procedures in and out of the workplace. This includes not smoking, eating, or drinking in animal areas, frequent hand washing, keeping hands away from the mouth, nose, and eyes while working around the animals and their feces, and not chewing on pens, pencils, or needle caps (one doesn't know where the items have been and who has handled them).

5. Staff members who are ill with a cold and/or have a cold sore should avoid working around the monkeys until they are well or should wear a face mask while preparing food and working around the animals.

6. If staff members who work with nonhuman primates get sick (e.g., have fever, chills, diarrhea, or open sores), they should seek medical attention and inform the physician that they work with nonhuman primates.

7. Staff members should take precautions to prevent monkey bites or scratches. However, if they do get injured, they should wash the wound thoroughly with a disinfectant soap and water, notify the supervisor about the injury, and seek medical care, if indicated.

8. An effective means for handling, reporting, evaluating, and treating occupational exposures to possible zoonotic infections should be developed for the institution.

9. Staff members should not use animals' bowls when preparing their own food. They should not wash their dishes where they wash out litter pans and should minimize direct physical contact with the animals.

10. Individuals with a known immunodeficiency (e.g., those with AIDS or those receiving radiation, chemotherapy, or high doses of steroids) should be extremely cautious in working with potentially infected animals or materials (Table 31-4).<sup>6</sup> Pregnant women should also be considered to be at risk.

11. Personnel who have open cuts or sores on their hands should wear gloves while working around animals and their feces.

12. An active insect and rodent control program should be instituted in the facility.

13. Ventilation rates should be adequately maintained to minimize odors and the risk of containment of noxious agents. The recommended ventilation rate is six air changes/hour. Ideally, rooms housing animals should be maintained to discharge exhaust air directly outside without recycling the air.

If these precautions are followed closely, the risk of staff members acquiring zoonotic infections is lowered.

## BACTERIAL DISEASES

Several bacterial diseases are shared between nonhuman primates and humans (e.g., tuberculosis, shigellosis, salmonellosis, campylobacteriosis, streptococcal pneumonia). Most of these are acquired by the nonhuman primates from humans, and the nonhuman primate can in turn pass the disease back to humans. Bacterial enteric infections are the most common cause of disease in nonhuman primates, followed by bacterial pneumonia.

### Enteric Infections

Salmonellosis, shigellosis, and campylobacteriosis are covered elsewhere in this chapter (see earlier, Bacterial Enterocolitis in Nonhuman Primates).

Other bacteria have been implicated as causes of possible zoonotic enteric diseases, including *Proteus morgani*, enteropathic *Escherichia coli*, *Pseudomonas aeruginosa*, *Citrobacter* sp., *Yersinia pseudotuberculosis*, and *Y. enterocolitica*. The direct oral-fecal route is the means of infection.

*Yersinia pseudotuberculosis* is a rare disease of nonhuman primates. In addition to an ulcerative enterocolitis causing diarrhea, with or without blood,

Table 31-4. ZOONOTIC DISEASES OF CONCERN FOR IMMUNOSUPPRESSED HUMANS

Disease	Causative Agent	Means of Transmission	Systems Involved	Diagnosis	Prevention and/or Management
<b>Bacteria</b>					
Tuberculosis	<i>Mycobacterium tuberculosis</i> , <i>M. avium</i>	Ingestion, inhalation	Pulmonary, digestive	Tuberculin testing, cultures	Euthanasia of infected nonhuman primates; antitubercular drugs for more valuable primates
Leprosy	<i>Mycobacterium leprae</i>	Contact	Integumentary, neurological	Cultures	Avoid close contact with infected animals
Atypical mycobacteria	<i>Mycobacterium avium</i>	Ingestion, contact	Digestive; integumentary	Tuberculin testing, cultures	Prevent fecal-oral transmission and close contact
Salmonellosis	<i>Salmonella typhimurium</i>	Ingestion	Digestive	Cultures	Prevent fecal-oral transmission
<b>Viruses</b>					
Herpes B infection	Herpesvirus simiae	Bite wounds, scratches, handling infected tissues, aerosolization	Central nervous system, integumentary, muscular, upper gastrointestinal tract	Virus isolation, serology, histopathology	Euthanasia of infected nonhuman primates for less valuable macaques (follow guidelines for prevention of herpes B)
Viral hepatitis	Hepatitis A	Ingestion	Hepatic	Serology, histopathology	Prevent fecal-oral transmission (e.g., washing hands, wearing masks)
	Hepatitis B	Accidental injection of animal's serum	Hepatic	Serology	Prevent accidental inoculation (e.g., from scratches or contaminated needles)
Herpes simplex	Herpes simplex virus	Contact, ingestion	Integumentary, central nervous system, reproductive, respiratory	Serology, cultures	Antiviral medication; prevent contact and fecal-oral transmission
Cytomegalovirus infection	Cytomegalovirus	Contact, blood transfusion	Ocular, pneumonia	Cultures, serology	Avoid contact
Coxsackievirus infection	Coxsackievirus	Contact, fecal-oral route	Respiratory, cardiac	Cultures, serology	Avoid contact and fecal-oral transmission
Varicella zoster infection	Varicella zoster virus	Contact, oral route	Integumentary, central nervous system, respiratory	Cultures, serology, histology	Vaccination, antiviral medication
<b>Parasites</b>					
Strongyloidiasis	<i>Strongyloides stercoralis</i>	Ingestion	Gastrointestinal, integumentary	Fecal parasite examination	Prevent fecal-oral transmission (e.g., washing hands, wearing masks)

there may be mesenteric lymphadenitis and hepatosplenic necrosis. Rats are commonly infected and can be the source of infection to nonhuman primates, which can then infect humans.<sup>8</sup>

## Pneumonia and Tuberculosis

### Mycobacterioses

*Mycobacterium tuberculosis* is probably the most well-known zoonotic pathogen of nonhuman primates, and can be spread between humans and nonhuman primates. It mainly causes a slowly progressive respiratory infection, with a course of a few months, and often goes undetected until it is too late and has spread throughout the group. Tuberculosis may also involve the visceral organs, the spinal column, and the eyes.

Nonhuman primates vary in their susceptibility to

the disease. Macaques are highly susceptible to infection, where as few as 10 tubercle bacilli inoculated intracheally may cause a fatal infection. Great apes, African monkeys, and all other Asian monkeys are intermediate in their susceptibility, whereas New World species and prosimians are more resistant to infection.

Other mycobacterial species may also cause disease in humans and nonhuman primates. *Mycobacterium bovis* is the second most common mycobacterium encountered. Atypical mycobacteria (*M. avium*, *M. intracellulare*, *M. kansasii*, *M. scrofulaceum*, *M. africanum*) have also been isolated from nonhuman primates. Some of these atypical mycobacteria may cause pneumonia and enteric and/or skin infections, and the disease may be slow to develop. Clinically, these diseases are indistinguishable from lesions caused by typical mycobacteria. Microscopically, the intestinal lesions of the atypical mycobacteria may

differ from those that are not seen in humans. Some of the causes of mycobacteriosis are comparable to those in humans, but both are done in a domestic context. Atypical *M. intracellulare* is a contaminant of mycobacteria in direct contact and non-infectious; rats and the same

### Pneumonia

*Streptococcus* is a common cause of pneumonia in humans, usually of the family *Streptococcus*. It takes great care to work with it.

Other *Pasteurella* and *Brucella* are also causes of pneumonia in humans. It is difficult to find should be a certain pathogen where as primates are more spread.

The climate in the tropics is weak.

### Other Bacterial Infections

Tularemia has been reported in tamarins (*Leontideus rosalia*), and in other species of the same family. It is a disease of the respiratory tract.

In one study, primates and squirrels are

differ from those seen with typical mycobacteria in that necrosis, giant cells, and typical tubercles are not seen, and infiltrations of epithelioid cells are found in the lamina propria of the gut.

Some atypical mycobacteria colonize the gut without causing any illness. However, these colonizing mycobacteria may sensitize the animal to the tuberculin test, producing a false-positive reaction.<sup>13, 14</sup> A comparative tuberculin test in these animals using both mammalian and avium tuberculin products, as is done with comparative tuberculin testing in domestic cattle, can help resolve the problem.

Atypical mycobacteria (especially *M. kansasii* and *M. intracellulare*) may cause clinical disease in humans. Most atypical organisms are acquired from contaminated food, soil, dust, or water. The atypical mycobacterium is transmitted by aerosol, oral, or direct contact. Therefore, these infections in humans and nonhuman primates are usually not true zoonoses; rather, the infections for both are acquired from the same environmental sources.

### Pneumonia

*Streptococcus pneumoniae*, which causes pneumococcal pneumonia, is a common anthroponozoonotic infection of great apes that may result in fatal respiratory disease and/or meningitis in great apes. It usually occurs when the primate keepers and/or their families have periodic colds. Primate keepers should take great care at these times to wear masks if they must work while they are sick.

Other bacteria, such as *Klebsiella pneumoniae*, *Pasteurella multocida*, *Hemophilus influenzae*, *Bordetella bronchiseptica*, and *Staphylococcus* sp., may cause pneumonia in both nonhuman primates and humans. The spread between the two groups is probably difficult to document, but the potential risk should be considered. *B. bronchiseptica* is a significant pathogen of *Callicebus* sp. and prosimians, whereas African and South American nonhuman primates are natural hosts of the bacteria and therefore spread the diseases to humans.<sup>7</sup>

The clinical signs of infection in nonhuman primates include coughing, sneezing, facial edema, air sacculitis, nasal discharge, dyspnea, anorexia, and weakness.

### Other Bacterial Diseases

#### Tularemia

Tularemia, caused by *Francisella tularensis*, has been reported as a natural infection in black-and-red tamarins (*Saguinus nigricollis*), talapoin (*Cercopithecus talapoin*), a Geoffroy's marmoset (*Callithrix geoffroyi*), and a squirrel monkey (*Saimiri sciureus*). The usual source of infection is wild rodents and lagomorphs. It is transmitted by flea and tick bites. The disease may also be transmitted by the oral or respiratory route.

In one outbreak, a small group of nonhuman primates acquired the disease through fleas from squirrels around their cages. Four of the seven mon-

keys died acutely from the infection. One surviving monkey had signs of ocular and nasal discharge, lingual ulcers, and sialorrhea. While being treated, this animal bit the veterinarian, who subsequently developed diarrhea, fever, weakness, and an enlarged axillary lymph node. Both the monkey and veterinarian recovered.<sup>11</sup>

### Leprosy

*Mycobacterium leprae* has caused spontaneous infections in a chimpanzee and a mangabey (*Cercocebus atys*). Mangabeys and rhesus and African green monkeys (*Cercopithecus aethiops*) are all susceptible to experimental infections, and are commonly used as experimental models. Infected animals pose a risk to humans.

The disease in the chimpanzee started with a thickening of the skin of the eyebrows, nose, lips, and ears. The lesions of the nose, skin, and dermal nerves contained acid-fast bacteria.

The disease in the mangabey started with facial nodules. After four months, a large ulcerated area appeared on the face, and there were nodules present on the ear and forearms. After 16 months of infection, the animal exhibited deformities and paralysis of its limbs. The animal had probably acquired the disease from a human.<sup>1, 2</sup>

Humans are the principal source of *Mycobacterium leprae*. The method of transmission is unknown, but it is believed to be contact with lepromatous patients who shed bacilli from ulcerated skin lesions and from the nose and mouth.

### Listeriosis

Listeriosis (*Listeria monocytogenes*) may cause encephalitis, meningitis, septicemia, abortions, and neonatal deaths. Infection can be transmitted from animals to humans by contact with the skin or mucous membranes, by the fecal-oral route, or by inhalation.

### MYCOPLASMAL DISEASE

There have been anecdotal reports of zoo veterinarians experiencing episodes of polyarticular arthritis after treating gorillas for a mycoplasma arthritis syndrome. In one case, the arthritis in both humans and gorilla responded to treatment with erythromycin.<sup>16</sup>

### SPIROCHETAL DISEASES

#### Relapsing Fever

Relapsing fever (*Borrelia* sp.) is present worldwide. Spirochetal infection is a naturally occurring endemic disease of wild nonhuman primates. In South American monkeys, infections with spirochetes is common, and may represent the animal reservoir for the disease. The disease is transferred by body lice, bedbugs, and ticks.

## Leptospirosis

*Leptospira icterohaemorrhagiae* infection in non-human primates occurs by contact with rats or by eating food contaminated by rat droppings. The non-human primates then become a source of potential infection to humans.

## ACTINOMYCETIC DISEASES

### Dermatophiliosis

*Dermatophilus congolensis* causes an infectious dermatitis in New World monkeys (*Aotus trivirgatus*, *Lagothrix lagothricha*, *Callicebus moloch*, and *Saimiri sciureus*). Infections in humans and nonhuman primates are rare. Human infections have been caused by direct contact with infected animals. Flies and ticks may act as mechanical vectors to spread the disease. The lesions are first erythematous and then become scaly, changing to crusty, exudative papillomatous lesions. If the crusts are removed, they leave raw bleeding wounds.<sup>9</sup>

### Nocardiosis

*Nocardia asteroides* infection may be acquired by contact on wounds, inhalation, or ingestion of contaminated feed. Disseminated pyogranulomatous lesions may occur in the brain, liver, intestine, lung, kidneys, or heart.<sup>9</sup>

## FUNGAL DISEASES

Dermatophytoses caused by *Microsporum* and *Trichophyton* may occur in nonhuman primates. These cause typical lesions of ringworm, with circumscribed lesions of hair loss and scaliness of the skin. The infection is acquired by direct contact of infected humans or animals or through contact with contaminated equipment.

## VIRAL DISEASES

There is extensive serological evidence that primates, including humans, interchange many viruses, but fortunately few of these cause disease. Indeed, serological surveys have indicated that viral infections in nonhuman primates are common, and they often occur without any recognizable signs of disease. Therefore, staff members should be aware of the potential risk of viral infections to the collection and to the humans in contact with it. Animals under stress (e.g., from illness or recent shipment) have an increased incidence of virus shedding, even though they appear to be clinically normal. However, these animals are a potential hazard to cagemates and to human health. Quarantining newly imported monkeys for 60 to 90 days should decrease the risk of transmitting viral infections to the collection.

If a viral infection occurs, the clinician should make

a concerted effort to identify the viral agent. The diagnosis is often made, however, without viral isolation. Serological evidence must be obtained using paired serum samples to determine whether the infection is latent or active, or if there is sufficient immunity.

Only a few laboratories perform viral isolation and serological procedure. Because each laboratory may vary in the way in which tissues are processed, it is recommended that the laboratory be contacted prior to shipping specimens. If no laboratory is available nearby, the Virus Reference Laboratory can be contacted. This is a diagnostic center for reference and research in viruses, located in the South Texas Medical Center.\* In addition, this laboratory can run six different serological panels for common simian viruses based on the species group being tested (e.g., a panel for macaques and Asian species versus one for great apes).

Proper collection of suitable specimens at the most appropriate time in the course of a viral disease is necessary for diagnosis. Specimens should be collected in the acute phase of the illness (first 3 to 4 days of illness—often before overt signs develop), and acute serum samples during the first week. A reference serum specimen obtained from each animal at the end of the quarantine period can be frozen and stored, and can be used later as a baseline sample if one cannot be obtained during the acute phase of the illness. A convalescent serum sample should be obtained 2 to 4 weeks after onset of the disease and, if necessary, a third serum sample should be obtained 6 to 8 weeks after onset.<sup>4,12</sup>

Specimens are usually collected from the area associated with the virus, such as the throat and rectum, and from spinal fluid, pleural and pericardial effusions, or vesicular fluid. Specimens must be collected aseptically to prevent contamination. Virus isolation without serological confirmation is questionable, because isolation of a virus alone does not necessarily indicate the causative agent.

Indirect diagnostic methods using histopathology and electron microscopy are helpful in diagnosing a viral disease rapidly.

## DNA Virus Infections

### Herpetic Infections

To date, about 40 herpesviruses have been isolated from Old and New World monkeys and apes, but a few are considered zoonoses (Table 31-5).<sup>1,6,12</sup> In most herpetic infections the virus is harmless to its host species, except for young animals, which are more severely affected than adults. Juveniles become infected after losing their maternal immunity and, by adulthood, most animals are infected. The adults may serve as latent carrier animals, shedding the virus intermittently with or without signs of disease. Overt signs of disease include small vesicles or ulcers on the tongue, oral cavity, lip, skin, and/or labia. Rarely

\*7540 Louis Pasteur, Suite 202, San Antonio, TX 78279; (512) 696-5510.

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Table 31-5. ZOO NOTIC HERPESVIRUS INFECTIONS

Virus	Definitive Host(s)	Affected Host(s)	Risk to Humans	Comments
Herpesvirus hominis (herpes simplex)	Humans	Ringtail lemurs, pottos, tree shrews, owl monkeys, gibbons, marmosets, gorillas, orangutans,* chimpanzees,*† baboons,† macaques,† vervet†	Minimal; humans are the definitive host	In nonhuman primates causes conjunctivitis, nasal discharge, ulcerative dermatitis, lingual ulcers, may cause diarrhea and CNS signs; transmission by aerosolization; infection in gibbons causes recurrent oral vesicles and ulcers, and may later cause CNS signs; type 2 herpes hominis was isolated from external genitalia of two chimpanzees and a pygmy chimpanzee; people with active herpes lesions should be restricted from access to susceptible animals
Herpesvirus simiae (herpes B)	Macaques (rhesus, crab-eating, bonnet monkeys, stump-tailed, Formosan, Japanese); possibly an African green monkey† acquired the virus from a macaque and affected humans, baboons,† chimpanzees†	Humans, colobus monkeys*	Caused a fatal ascending myelitis and encephalitis, fever, muscular pain, fatigue, headache, sore throat, vesicles in mouth and skin, lymphadenitis, vomiting, nausea, abdominal pain	24 cases have occurred in humans; virus transmitted to humans from bite wounds, scratches, handling infected macaque tissues (especially brain), or aerosolization; incubation period is 1-5 weeks; infection in humans has been successfully treated with acyclovir; people handling macaques should follow guidelines for prevention of herpes B infection; in macaques, primary infection occurs at weaning or in animals under stress (e.g., new arrivals); virus rarely causes disease in macaques, but has caused oral vesicles, a mucopurulent nasal discharge, conjunctivitis; virus has been isolated from saliva, blood, feces, urine, eye, brain, kidney tissue cultures; virus is maintained in the trigeminal nerve and trigeminal nerve ganglia; virus has produced fatal infections in bonnet macaques, causing respiratory disease
Herpesvirus tamarinus (herpes platyrrhinae)	Squirrel monkeys, capuchins,† spider monkey†	Owl monkeys, marmosets, titi monkeys, humans	Only one reported case in humans with skin pustules, fever, and a nonfatal encephalitis	Virus shed in oral secretions and oral lesions of monkeys; in nonhuman primates, virus causes generalized herpetic disease; virus spread by direct contact, aerosols, or fomites
Varicella-zoster virus (chickenpox)	Humans	Gorillas, orangutans, chimpanzees	Minimal risk to humans, who are the definitive hosts	Greatest risk to young apes
Cytomegalovirus (salivary gland inclusion disease)	Rhesus, African green monkeys, owl monkeys, marmosets, squirrel monkeys, capuchins, chimpanzees, tarsiers, gorillas	Humans	One report of a possible human cytomegalovirus infection subsequent to a chimpanzee bite, with splenomegaly, lymphadenopathy, hepatomegaly 1 month after being bitten and evidence of an increasing cytomegalovirus titer	In nonhuman primates, virus is an incidental finding at necropsy. Fatal cases in tarsiers and chimpanzees, with signs of diarrhea, anorexia, lethargy and lesions in the adrenal cortices and submaxillary glands; infection in a gorilla with bloody diarrhea, anorexia, anemia, abdominal pain, dehydration, emaciation, lesions of a severe ulcerative colitis, interstitial pneumonia, nephrosis, splenic atrophy

\*The virus may have caused lesions in these animals, but the causative agent was not identified.  
†Serological evidence of infection without signs.

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does an adult carrier die of its own herpesvirus infection unless it is severely debilitated or immunosuppressed. In this respect, herpesvirus infection in nonhuman primates is analogous to herpes hominis infection in humans.

Fatalities occur when the virus is passed to nonhost species. It may produce a generalized herpetic disease (e.g., Herpesvirus hominis in owl monkeys) and neurological disease (e.g., Herpesvirus simiae in humans).<sup>3</sup>

### Poxvirus Infections

Poxvirus infections are listed in Table 31-6.<sup>1,12</sup>

### RNA Virus Infections

#### Paramyxovirus Infections

There are several paramyxoviruses that are known to affect nonhuman primates (Table 31-7).<sup>1,2,13</sup>

#### Picornavirus Infections

Picornaviruses include enteroviruses and rhinoviruses (Table 31-8).<sup>1,12</sup> Several enteroviruses have been isolated from normal and ill nonhuman primates, including poliovirus, coxsackievirus, and numerous simian enteroviruses. Rhinoviruses have also been isolated from sick nonhuman primates.

#### Rhabdovirus Infections

Rhabdoviruses (e.g., Marburg virus, rabies virus) are potentially dangerous zoonotic diseases that can be acquired from nonhuman primates. An outbreak of Marburg virus occurred in 1967, affecting 27 laboratory personnel and killing six individuals (see earlier, Emerging Viral Diseases of Nonhuman Primates in the Wild).

There have been at least 16 confirmed cases of rabies in the United States in nonhuman primates (rhesus and crab-eating macaques, capuchins, squirrel monkeys, marmosets, and a chimpanzee) since 1929. In two of these cases, the disease was probably the result of vaccination with live attenuated vaccine.

The incubation period in nonhuman primates is probably similar to that in humans. However, in one experimentally inoculated monkey, it was 100 days before clinical signs were exhibited, whereas in another monkey it was 6 months before signs were observed after it was bitten by a rabid dog.

Wild-caught monkeys from India, Indonesia, and Argentina should always be considered as animals at risk. They should be kept under close observation for 6 to 12 months after arrival.

Rabies in nonhuman primates is usually of the paralytic form, but the animal can become aggressive and bite if provoked. Self-mutilation has been observed in one monkey diagnosed with rabies. Rabies might easily be overlooked as a differential diagnosis.

Any animal inflicting a bite should be closely monitored for neurological signs. Those handling newly arrived, wild-caught nonhuman primates from

endemic areas should be routinely vaccinated against rabies. Nonhuman primates should never be vaccinated with modified live vaccines. Killed vaccines are safe in nonhuman primates, and have been shown to produce high antibody titers and to protect against death from street virus in rhesus macaques.<sup>12</sup> Thus, animals in high-risk situations should be vaccinated using killed vaccine.

### Togavirus (Arbovirus) Infections

Many arboviruses affect both human and nonhuman primates. Nonhuman primates are implicated in the spread of disease by serological evidence or by their presence in areas of disease outbreaks. Often, nonhuman primates are used by researchers as sentinels, held in cages in the canopy of the tropical or subtropical forest. Their death and the subsequent isolation of virus from the tissues heralds the arrival of arboviral infections.

#### YELLOW FEVER

The most significant arbovirus involving nonhuman primates is yellow fever virus. The disease occurs in Africa and Central and South America. The virus is maintained and transmitted by *Aedes*, *Haemagogus*, and *Sabethes* mosquitoes. The mosquito, once infected, remains as a reservoir for life. Because of the presence of *A. aegypti* in the United States, it is possible that yellow fever could be transmitted to humans in this country.

Nonhuman primates in Africa and South America help maintain the virus infection in the wild. Among African species, guenons (*Cercopithecus* sp.), patas monkeys, baboons, colobus monkeys, and bushbabies rarely die when infected experimentally. The virus multiplies rapidly 1 to 3 days postinoculation, and virus titers high enough to infect mosquitoes exist for 1 to several days. The animals that survive rapidly develop neutralizing antibodies that protect them against subsequent viral challenge.<sup>1</sup> Chimpanzees and gorillas are susceptible to infection but, probably because of their low numbers in the wild, do not play an important role in the spread of the disease.<sup>12</sup>

New World monkeys are more susceptible to infection. They are involved in the forest or sylvatic cycle of yellow fever. *Haemagogus* mosquitoes are day feeders that can infect spider monkeys, marmosets (*Saguinus* sp.), howlers, squirrel monkeys, titi monkeys, and capuchins. The owl monkey, although susceptible to infection, is rarely involved with the transmission of the virus because of its nocturnal habits. Howler monkeys and marmosets are extremely susceptible to the disease. Their deaths in the jungle may be a signal that a wave of yellow fever infection is moving into an area.<sup>1</sup>

The lesions in these monkeys and icterus, multiple hemorrhages, and fatty degeneration of the liver are similar to those in humans. Histologically, there is midzonal necrosis in the liver and the necrotic hepatocytes undergo a peculiar hyaline change, forming Councilman bodies. There are intranuclear acidophilic inclusions in the liver and basophilic concretions and colloidal material in the kidney tubules.<sup>12</sup>

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Table 31-6. ZOO NOTIC POXVIRUS INFECTIONS

Virus	Definitive Host(s)	Affected Host(s)	Risk to Humans	Comments
Monkeypox	Unknown	Rhesus and crab-eating macaques, chimpanzees, orangutans, gibbons, squirrel monkeys, marmosets, African green monkeys, langurs, owl-faced monkeys, humans	Causes fever, facial edema, multiple papules with dark brown umbilicated center; thick, puslike material can be expressed from the papules, which later change to pustules with a reddish-brown center that falls off, leaving a scar; lesions are found on hands, feet, arms; lesions in humans result from scratches by affected nonhuman primate; humans develop backache, headache, fever, lethargy; lesions regress without complications; can be spread from person to person	This virus affects both human and nonhuman primates; causing similar signs and lesions; lesions in nonhuman primates are found on buttocks, hands, feet, hind limbs, tongue, pharyngeal, laryngeal and tracheal mucosa; can be fatal in langurs, orangutans, marmosets, squirrel monkeys, gibbons; young are more severely affected; route of infection is probably respiratory; animals that survive develop solid immunity to monkeypox
Molluscum contagiosum	Humans	Chimpanzees	Minimal; causes skin lesions	Causes small, firm papules around eyes and inguinal area; waxlike seborrheic material can be expressed from lesions; this material and the skin lesions contain large blue intracytoplasmic inclusion bodies
Yaba virus	African nonhuman primates	Rhesus macaques, baboons	Minimal; causes skin lesions	Crab-eating, pig-tailed, Japanese, stump-tailed, and Celebes macaques, African green monkeys are resistant to infection; African monkeys born in Africa are resistant, but African monkeys (e.g., sooty mangabey, baboons, vervets, patas) born in the United States and England were susceptible; probably spread to humans by mosquitos, biting insects, tattooing; lesions develop on face and distal limbs, become ulcerated, with hemorrhages; additional tumors may be found along lymphatic vessels; tissues contain large, pleomorphic "histiocyte cells" with eosinophilic cytoplasmic inclusions; animals develop immunity after infection
Tanapox	African nonhuman primates	Humans, rhesus, pig-tailed, bonnet, stump-tailed, and crab-eating macaques, Hanuman langurs	Fatal in young children; spread by mosquito or direct contact (e.g., scratches); humans develop fever, backache, headache, lethargy	Occurred in humans living along the Tana River Valley in Kenya, also in Oregon, Texas, and California primate centers; African primates showed no lesions; causes pinkish, elevated thickening of skin, with umbilicated centers, which usually heal without problems; also called BEMP (benign epidermal monkeypox), Ortega, Yaba-like disease; separation of African from Asian monkeys prevents infection

Table 31-7. ZOONOTIC PARAMYXOVIRUS INFECTIONS

Virus	Definitive Host(s)	Affected Host(s)	Risk to Humans	Comments
Parainfluenza type 3	Humans	Patas monkeys, chimpanzees, marmosets, gibbons, crab-eating macaques	Minimal	75% mortality in newly arrived patas monkeys; causes bronchopneumonia, pleurisy, pericarditis, peritonitis; gibbons had serous nasal discharge, coughing, anorexia, lethargy
Parainfluenza type 2, SV5	Humans	Vervets, baboons, crab-eating macaques	Minimal	Macaques died of respiratory disease, pharyngitis, bronchitis, bronchopneumonia
Myxovirus (influenza)	Humans	Capuchins, baboons, marmosets, chimpanzees, gibbons	Minimal	Nonhuman primates had signs of serous to purulent rhinorrhea, conjunctivitis, coughing, depression, anorexia, gastrointestinal upset; caretakers with signs of influenza infection (chills, fever, headache, myalgias, respiratory signs) should stay away from nonhuman primates
Measles (rubella)	Humans	Rhesus, crab-eating, and Formosan macaques, gibbons; baboons, African green monkeys, squirrel monkeys, chimpanzees, marmosets, hairy sakis, colobus monkeys, owl monkeys, silvered leaf monkeys, orangutans	Clinical signs of measles	Affects highly stressed, newly imported monkeys; disease is often asymptomatic; some animals develop facial edema and erythema, leukopenia, fever, conjunctivitis, serous mucopurulent nasal discharge, dry cough, and maculopapular rash on neck, chest, lower abdomen, inner surfaces of upper arms and thighs; can produce an interstitial bronchitis and a giant cell pneumonia; can have a 100% mortality in colobus and silvered leaf monkeys; abortions and still-births possible; in New World monkeys mortality rate may reach 55%; marmosets become lethargic, anorexic, have diarrhea, die within 24 hours; vaccination with modified live measles vaccine may be indicated for highly susceptible species; human gamma globulin preparations contain antibodies for measles, so it may be helpful to give gamma globulin injections to new arrivals that have probably been exposed en route
Mumps	Humans	Chimpanzees, gorillas,* orangutans,* New and Old World monkeys,* prosimians*	Minimal	Chimpanzees are susceptible to infection similar to mumps; they develop a parotiditis, with erosions of the pharynx and soft palate
Respiratory syncytial virus (chimpanzee coryza agent)	Humans	Chimpanzees, orangutans,* gorillas,* gibbons,* crab-eating and rhesus macaques,* vervets,* squirrel monkeys,* spider monkeys*	Minimal	Chimpanzees develop nasal discharge, listlessness, anorexia, sneezing; can develop bronchopneumonia
Rotavirus	Humans	Chimpanzees, orangutans, gorillas	Causes vomiting and diarrhea, with low-grade fever	Found in young chimpanzees, orangutans, and gorillas, with diarrhea, anorexia, and vomiting

\*Serological evidence of infection without signs.

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Table 31-8. ZOO NOTIC PICORNAVIRUS INFECTIONS

Virus	Definitive Host(s)	Affected Host(s)	Risk to Humans	Comments
Poliovirus	Humans	Gorillas, chimpanzees, orangutans, black-and-white colobus monkeys	Polio	Virus acquired by the oral route; animals can develop meningitis, encephalomyelitis, paralysis; animals may become an asymptomatic carrier for up to 8 weeks; vaccination of great apes with oral trivalent poliovirus vaccine is recommended
Coxsackievirus	Humans	Chimpanzees	Minimal	Diagnosed in a newborn, undersized female chimpanzee; several hours after birth, animal was lethargic, hypothermic, had an irregular pulse; at 6 weeks, she developed diarrhea and respiratory symptoms, then developed cardiomegaly and died
Rhinovirus (reovirus types 1, 2, and 3; simian reovirus SA3 and SV12)	Humans, chimpanzees, rhesus macaques, gibbons, African green monkeys	Gibbons, chimpanzees, rhesus macaques	Minimal; newborn babies develop pneumonia and diarrhea, and children develop febrile exanthema and diarrhea; can cause vomiting and diarrhea, with a low-grade fever	Usually a subclinical infection develops in gibbons and chimpanzees; occasionally, virus causes a coryza-type syndrome in these primates; probably acquired from humans with respiratory infections, so animal keepers who are ill should avoid working with nonhuman primates; a spontaneous reovirus type 2 infection in a chimpanzee caused rhinitis and common cold symptoms; reovirus type 2 (also identified as SV59) caused interstitial pneumonitis; viruses are excreted through the respiratory or intestinal tract; infections have been spread between humans and nonhuman primates, and vice versa

Capuchins, spider monkeys, and squirrel monkeys are more resistant to infection. Clinical signs include high fever, chills, lethargy, jaundice, emesis, and albuminuria, with elevated antibody titers, but the disease is rarely fatal. The virus can be isolated from the animal's blood, and rarely from its liver.

Any nonhuman primates from a yellow fever area must be maintained in a double-screened, mosquito-proof enclosure for 9 days before importation to the United States or must be immunized against yellow fever prior to importation. Monkeys dying within 10 days after arrival in the United States must be necropsied, paying particular attention to any evidence of yellow fever lesions. Personnel handling newly wild-caught nonhuman primates from endemic yellow fever areas should be vaccinated against the virus. These precautions have so far prevented the spread of yellow fever into the United States.

#### KYASANUR FOREST DISEASE

Kyasanur forest disease (KFD) was first discovered in an epidemic among Indian natives and an epizootic

among bonnet macaques and Hanuman langurs in the Kyasanur Forest in India in 1957. The virus belongs to the tick-borne Russian spring-summer encephalitis virus group, and is spread by *Haemaphysalis*, *Ixodes*, and *Dermacentor* ticks.

During the viremic phase of the illness, 6 to 8 days after experimental inoculation, there is a marked pancytopenia, fever, and bradycardia. This is followed by an encephalic phase from which few monkeys survive.

At necropsy, signs of epistaxis and bleeding from the gut can be found. Also evident are focal necrosis of the liver, degenerative changes in the cortical convoluted tubules of the kidney, and increased nuclear debris in the lymph nodes. Most animals die 10 to 12 days after viral inoculation. Animals that die later than the 15th day after inoculation have a nonsuppurative encephalomyelitis.

Several other arboviruses have been recognized as being involved in a primate-human cycle, but their significance in nonhuman primates is unknown. Simians may be involved in the maintenance of some of these diseases as reservoirs in the wild.

## VIRAL HEPATITIS

Viral hepatitis is discussed elsewhere in this chapter (see earlier, Viral Hepatitis in New World Primates).

## FILOVIRUS INFECTION

In 1989 and 1990, filoviruses were isolated from crab-eating (cynomolgus) macaques imported from the Philippines. The viruses were morphologically identical to the Marburg and Ebola viruses, but were found to be antigenically and genetically distinct.<sup>10</sup> Because of the devastating effect of the Marburg and Ebola viruses on humans, there was great concern when these viruses were isolated from the cynomolgus monkeys. Several workers demonstrated seroconversion after exposure to the monkeys, but no evidence of illness from these viruses has been documented to date in humans. This virus is discussed elsewhere in this chapter (see earlier, Emerging Viral Diseases of Nonhuman Primates in the Wild).

## PARASITIC DISEASES

## Enteric Infections

The infective stages of enteric nonhuman parasites may be ingested by humans because of poor hygiene. The parasitic cysts may be aerosolized when cages are cleaned with high-pressure cage washers and the particles are inhaled or ingested. Human parasites can be transmitted to primates by feeding them unwashed fruits and vegetables that have been contaminated with human feces, either in the field or by handling the food with dirty hands. Special care should be taken when cleaning cages and handling contaminated food pans and specimens.

## Protozoan Infections

**Amebic Dysentery.** *Entamoeba histolytica* is a pathogen for both nonhuman primates and humans. It produces an infective cyst that is resistant to drying and disinfectants. It is transmitted through food, water, insects, and fomites by ingestion.

Old World monkeys are commonly infected. Young monkeys and New World monkeys are more susceptible to severe infections with this parasite. There is a great difference in virulence among strains of organisms. Virulence is also affected by the host species infected, the nutritional state of the host, environmental factors, and bacterial microflora in the gut.<sup>17</sup> *Entamoeba histolytica* only becomes pathogenic when it invades the gut mucosa. Affected animals show signs of weakness, dehydration, anorexia, vomiting, and severe diarrhea, which may contain mucus and blood. The parasite causes a mild to severe necrotic ulcerative colitis. After invasion of the gut, the parasite may enter the lymphatics and produce amebic abscesses in the liver, lungs, and central nervous system.

Both nonhuman primates and humans can be asymptomatic carriers. In some colonies, 100% of

the animals become infected. This parasite is difficult to identify in the stool because it is easily confused with numerous nonpathogenic protozoa.

**Giardiasis.** Giardiasis lamblia is a protozoan parasitism that has been increasing in humans. It is transmitted by ingestion of the infective cysts.

This protozoa inhabits the upper small intestine. Trophozoites and cysts are passed in the stool. The infection is associated with diarrhea and mucus, but without blood. Occasionally there are signs of abdominal pain, nausea and vomiting, flatulence, urticaria, and intolerance for certain foods. Carriers may be asymptomatic. The protozoa may be transmitted from primates to humans. The infection is more common in children and young animals than in adults.

**Balantidiosis.** *Balantidium coli* is a common protozoan parasite found in nonhuman primate stool samples. It can cause severe diarrhea in humans. It is rarely a problem in most nonhuman primates except for gorillas, in whom it may cause severe ulcerative enterocolitis. The animals are anorexic and have weight loss, muscle weakness, lethargy, watery diarrhea, and tenesmus. Large ulcers are present in the muscularis mucosa, with a lymphocytic infiltrate, coagulative necrosis, and hemorrhage on histopathological examination.<sup>17</sup>

Infection is transmitted through the ingestion of trophozoites or cysts. The organism is usually nonpathogenic and is found in the cecum of nonhuman primates. It may be associated with loose stools but is most likely an opportunistic protozoa inhabiting the gut.

## Hemoprotozoal Infections

Hemoprotozoal infections are listed in Table 31-9.<sup>18</sup>

## Helminthic Infections

Helminthic infections are presented in Table 31-10.<sup>1, 18</sup>

## Arthropod Infections

## Lice, Fleas, and Tick Infection

Many lice, fleas, and ticks infect nonhuman primates. Humans can acquire many of these parasites through direct contact; these may include the human head and body louse (*Pediculus humanus*), the chigoe flea (*Tunga penetrans*), and ticks (*Ornithodoros* sp.). Most of these infestations are associated with skin infection characterized by itching, scaling, and inflammation. Most nonhuman primates, because of their grooming behaviors, prevent severe infections with these ectoparasites. However, the risk of these arthropods as intermediate hosts for parasitic or viral diseases must be recognized. Ticks can act as intermediate hosts for such diseases as yellow fever and relapsing fever.

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Table 31-9. ZOO NOTIC HEMOPROTOZOAL INFECTIONS

Disease	Causative Agent	Nonhuman Primate Host	Development and Transmission	Vector or Intermediate Host
Malaria	<i>Plasmodium</i> sp.	All nonhuman primates (except rhesus macaques, tamarins, marmosets, owl monkeys)	Indirect life cycle; mosquitos are biological vectors; sexual phase in mosquitos and asexual stage in humans or nonhuman primates, where it exists in the liver or blood phase	Mosquitos ( <i>Anopheles</i> sp.)
Trypanosomiasis, Chagas' disease, sleeping sickness	<i>Trypanosoma cruzi</i> , <i>T. brucei</i> , etc.	South American nonhuman primates (squirrel monkeys, marmosets, capuchins, spider monkeys, uakaris)	Parasite exists in the host in the blood, in skeletal or cardiac muscle cells, or elsewhere in the body; parasite transmitted by insects or possibly by accidental injection	Insect vector
Leishmaniasis	<i>Leishmania</i> sp.	Nonhuman primates have been experimentally infected and have been postulated to be potential reservoir hosts	Normal reservoirs are ground-dwelling species (e.g., dogs, foxes, jackals, gerbils)	Sandflies ( <i>Phlebotomus</i> sp.)

Table 31-10. ZOO NOTIC HELMINTHIC DISEASES

Disease	Causative Agent	Nonhuman Primate Host	Development and Transmission	Vector or Intermediate Host
Nematodes				
Strongyloidiasis	<i>Strongyloides fullerborni</i> , <i>S. cebus</i> , <i>S. stercoralis</i>	Fatalities have occurred in orangutans, chimpanzees, gibbons, patas monkeys, woolly monkeys	Direct life cycle; infective third-stage filariform larvae is free-living or in fresh feces; may penetrate skin, mucosa, or gut wall, migrate through blood to lungs, to mouth, and swallowed; sexual stage develops as parthenogenic female in small intestinal mucosa; eggs develop into rhabditiform larvae, which pass in stool or molt in gut into infective third-stage larvae, which can autoinfect; rhabditiform larvae in stool can mature into infective larvae or reside outside the host as free-living sexual stage, which can then produce infective larvae	None
Pinworms	<i>Enterobius vermicularis</i>	Old World monkeys, great apes	Direct life cycle; ova spread by air or dust and spread from hand to mouth; ova are swallowed and develop into adults, which reside in colon	None

Table continued on following page

Table 31-10. ZOONOTIC HELMINTHIC DISEASES *Continued*

Disease	Causative Agent	Nonhuman Primate Host	Development and Transmission	Vector or Intermediate Host
Oesophagostomiasis	<i>Oesophagostomum</i> sp.	Old World monkeys	Direct life cycle; ova passed in stool; hatch into larvae in 48 hours, and are swallowed; larvae pass into colon where they penetrate gut wall, forming firm, encapsulated nodules that rupture in 5-8 days, releasing an adult worm; once infected, animals may become immunized against reinfection; nodules may become calcified or caseated	None
Filariasis	<i>Loa loa</i> <i>Brugia malayi</i> , <i>B. pahangi</i> <i>Onchocerca volvulus</i> <i>Dipetalonema streptocerca</i> <i>D. rodhaini</i> , <i>D. pongoi</i> <i>D. immitis</i>	Gorillas, chimpanzees, drills, baboons, mangabeys, vervets, Asian monkeys	Indirect life cycle; adult worms live outside digestive tract; female worms produce microfilariae that circulate through blood or live in subcutaneous tissue; biting and blood-sucking insects transfer parasite to humans or other mammals	Biting and blood-sucking insects
Anatrichosomiasis	<i>Anatrichosoma cutaneum</i> , <i>A. cynomologi</i>	Macaques, langurs, patas monkeys, talapoins, gibbons, marmosets, siamangs, mangabeys	Resides in nasal mucosa and stratum malpighii near basal layer of the skin; female worms migrate through superficial keratin layers of squamous epithelium, depositing eggs in the tunnels behind them and causing creeping eruptions; transmission probably through direct contact	None
Cestode Hymenolepiasis (tapeworm)	<i>Hymenolepis nana</i>	Rhesus macaques, squirrel monkeys, chimpanzees	Does not require an intermediate host; may pass through beetle or flea or autoinfect by eggs hatching in intestine and developing into adults	May pass through a dwarf beetle or flea
Trematodes Dinobdelliasis	<i>Dinobdella ferox</i>	Macaques	Leeches are parasites of nasal cavity of macaques and can attack humans; life cycle is direct; adults are hermaphroditic and eggs are laid on objects near the pond's surface; eggs hatch and immature leeches are ingested by nonhuman primates or humans while drinking; leech attaches to upper respiratory mucosa, sucking blood until it matures and then drops out through nostrils	None
Schistomiasis	<i>Schistosoma mansoni</i> , <i>S. haematobium</i> , <i>S. incognitum</i>	Baboons	Resides in inferior mesenteric veins or portal vein; eggs penetrate vessel wall and accumulate in perivascular tissues, pass into intestines, and pass out with stool; eggs hatch in fresh water to miracidia, which enter snail's body to change into sporocysts and cercariae; these are released from snail and penetrate skin of human or nonhuman primate; they then migrate to vascular system near liver and mature to adults; humans are infected when they drink infested water	Snail

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### Mite Infection

The sarcoptic mange mite (*Sarcoptes scabiei*) has been reported from crab-eating macaques, drills, gorillas, chimpanzees, orangutans, siamangs, and gibbons. Signs of infection in nonhuman primates can include intense itching, weakness, weight loss, tremors, anorexia, alopecia, and thickening and scaling of the skin. *S. scabiei* infections in nonhuman primates can be transmitted to humans through direct contact or by contact with contaminated objects.

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## NONHUMAN PRIMATE RETROVIRUSES AND SIMIAN ACQUIRED IMMUNODEFICIENCY SYNDROME

Linda J. Lowenstine  
Nicholas W. Lerche

Nonhuman primates have long been known to be hosts to various retroviruses, among which only the gibbon ape leukemia virus was thought to be of potential significance to the health of captive monkeys or apes. In the 1980s, however, three additional groups of retroviruses were identified, sometimes associated with clinical syndromes similar to the acquired immunodeficiency syndrome (AIDS) of humans.<sup>14, 23, 26</sup> These viruses are the simian T-lymphotropic viruses (a group of type C retroviruses, collectively called STL-1); the simian type D retroviruses (also called simian AIDS retroviruses, or SRV); and the simian immunodeficiency viruses (a group of lentiviruses closely related to the human

immunodeficiency viruses HIV-1 and HIV-2, and collectively referred to as SIVs). These viruses have in common their ability to infect cells that are critical for the immune competency of their host. A seroepidemiological survey has demonstrated the presence of these viruses in zoo collections.<sup>29</sup> Other studies have identified infections in primates in the wild and captive in their countries of origin, as well as in primate research centers and vivaria.<sup>6, 21, 26</sup>

The study of these three groups of retroviruses is a rapidly expanding field because of the usefulness of the agents as models for human diseases. New data that could be added to a discussion such as this appear in the literature almost monthly. Captive and free-ranging primates can benefit from this research.

### SIMIAN T-LYMPHOTROPIC RETROVIRUSES

STLV-1 is a type C retrovirus of the subfamily Oncornavirinae that is highly related genetically to and nearly indistinguishable immunologically from the human T-cell leukemia virus, HTLV-1. These viruses are named for their nearly exclusive tropism for thymus-derived lymphocytes. The human T-cell leukemia virus is associated with "atypical" or "adult" T-cell leukemia (ATL). The incidence of

and blood-  
ing insects

through  
beetle

# THE PET NONHUMAN PRIMATE: HEALTH CONCERNS AND SAFETY MEASURES

Cathy A. Johnson-Delaney, D.V.M.  
Primate Seminar 11-16-91

OR....

What you can't see CAN hurt you.

## Zoonotic Disease Potential

Because of the close phylogenetic relationship between nonhuman primates (NHP) and humans, disease agents ubiquitous to NHP may cause severe or even fatal illness in humans. Many fairly common ailments affect both, and can be transmitted between the humans and monkeys in a household. There are also potential problems with disease transmission to other pets in the household. Of constant concern must also be bite wounds or scratches inflicted by the monkey, not only because of the immediate trauma of the bite or scratch itself, but of the possibility of pathogen transmission. The owner or handler should seek immediate advice from their physician should a bite or scratch occur.

The most widely used definition of zoonoses refers to those diseases, illnesses, and infestations which are naturally transmitted between vertebrate animals and humans. The most common usage of the term is for those diseases transmitted from animal to man. Although wild-caught NHP present a great many potential causes of human infectious disease, those domestically bred can carry indigenous latent infections and parasitic infestations. This presentation will attempt to outline some of the more frequently found zoonosis that owners of NHP should be aware of. This list is by no means complete, and continued attention to decreasing potential avenues for exposure, preventive medical procedures, attention to personal protection, sanitation and management procedures must be constantly addressed.

## Routes of Exposure:

- bite wounds
- cuts, abrasions from contaminated items e.g. cage, toys
- aerosol contact with mucous membranes
- ingestion

Protection particularly during cage cleaning is recommended. Disposable respirator (mask), safety glasses or full face shield. Disposable waterproof shoe covers or boots (dispose at exit), GLOVES.

## Monkey Bite/Scratch/Spit First Aid Kit

1. Dakin's Solution - a buffered 10% bleach solution
2. Hibiclens<sup>R</sup> - antiseptic skin cleanser
3. Dacriose - sterile ophthalmic irrigating solution
4. Iodophor surgical scrub sponge/brush (Betadyne<sup>R</sup>)
5. Disposable latex gloves - at least one pair/person in household.
6. Sterile packet of gauze and irrigation syringe
7. Sterile bowl
8. Safety glasses/face shield
9. Phone number(s) for emergency room/hospital; Map to hospital
10. Step-by-step printed instructions.
  - a. Scrub wound vigorously with Hibiclens
  - b. Saturate gauze sponges with Dakin's solution using gloved hands (gauze in bowl, pour in Dakin's)
  - c. Vigorously scrub and soak wound for a full 15 minutes. (note: Dakin's may cause minor skin irrit.)
  - d. Irrigate deep wounds with Dakin's (syringe)
  - e. Loosely cover wound with dry gauze
  - f. Proceed to Emergency!

Eye Splashes: irrigate contaminated eye with clear water or Dacriose for full 15 minutes. Go to Hospital! Also inform the attending physician of the animal (species), and provide her/him with your veterinarian's name/number. Your veterinarian, physician, and public health officer will confer: your monkey may need to be tested, depending on currency of your pet's known health conditions, vaccination status, serologic status.

## Infectious Diseases of Nonhuman Primates - Bacterial

- Tuberculosis (human, bovine, avian)
- Shigellosis
- Mycoplasma Infections
- Leptospirosis
- Pseudotuberculosis
- Pasteurellosis
- Respiratory (Pneumococcus, Staphylococcus Streptococcus, Haemophilus, Klebsiella, Bordetella)
- Enteric (Proteus, Shigella, Salmonella, E.coli, Campylobacter, other)
- Meningitis (Neisseria, Pneumococcus, Staphylococcus Haemophilus, others)

(Numerous organisms are frequently recovered from simian tissues that are not presently associated with disease in the non-immunosuppressed animal or human.)

## Infectious Diseases of Nonhuman Primates - Mycotic (Fungal)

- Aspergillosis
- Histoplasmosis
- Dermatormycosis
- Coccidiomycosis
- Moniliasis
- Blastomycosis
- Cryptococcosis
- Nocardiosis

(Numerous organisms are frequently recovered from simian tissues that are not presently associated with disease in the non-immunosuppressed animal or human.)

## Infectious Diseases of Nonhuman Primates - Parasitic

- Amebiasis
- Leishmaniasis
- Giardiasis
- Acanthocephala Inf.
- Pentastomid Inf.
- Filariasis
- Trematode Inf.
- Cryptosporidia
- Balantidiasis
- Toxoplasmosis
- Malaria (Heaptocystis)
- Strongyloidiasis
- Troglodytella Inf.
- Acariasis (Pulmonary, Cutaneous)
- Ascariasis
- Coccidia
- Trypanosomiasis
- Trichomoniasis
- Schistosomiasis
- Oesophagostomiasis
- Trichostrongylosis
- Ancylostomiasis

## Infectious Diseases of Nonhuman Primates - Viral

### HERPESVIRUSES

- *H.simiae* (B-virus)
- *H. hominis*
- *H. tamarinus*
- *H. varicellae*
- *H. saimiri*
- Cytomegalovirus
- SA 8
- Patas Monkey Virus
- Epstein-Barr Virus
- *H.aotus*
- Chimpanzee Herpesvirus
- Gorilla Herpesvirus

### POXVIRUSES

- Monkeypox
- *Molluscum contagiosum*
- Yaba and Yaba-like

### ARBOVIRUSES

- Yellow Fever
- Kyasanur Forest
- Dengue and others

### MYXOVIRUSES

- Measles
- Respiratory Syncytial
- Parainfluenza- Influenza

### ADENOVIRUSES

### PICORNAVIRUSES

- Poliovirus
- Cocksackievirus
- Echovirus
- Hepatitis A

### RETROVIRUSES

### MISCELLANEOUS

- Marburg (African Green Monkey Disease)
- Ebola
- Rubella
- Hepatitis B, Delta, HCV, Callitrichid.....
- Rabies

(Numerous viruses are recovered from simian tissues and body fluids, their capacity to produce disease is not known in most instances.)

## MAJOR DISEASES - From Humans to Nonhuman Primates:

Measles      Chicken Pox (Varicella)      Tuberculosis      Influenzas and "colds"      Parasites (various)  
Dermatomycosis (Ringworm)      Staph, Strep, Campylobacter, Salmonella, etc.

## VACCINATION - Protection for both the Nonhuman Primate and the Human Primate

### Nonhuman Primate:

- Measles (all species)
- Tetanus (all species)
- Trivalent Oral Poliovirus (great apes only)
- Rabies (housed outdoors, enzootic rabies area)

### Human Primate:

- Measles (Rubeola); German Measles (Rubella)
- Tetanus
- Poliovirus
- DIPHTHERIA/PERTUSSIS/TETANUS (DPT)
- MUMPS, or (MMR or MR)
- ??Influenza, Haemophilus, Hepatitis B, Rabies

## Other Companion Pets in the Household - Potential Diseases traded between NHP and:

Birds: Psittacosis, Avian TB, Salmonella, Giardia, Coccidia.....

Reptiles: Salmonella, Shigella, Balantidium, Entamoeba.....

Dogs, Cats, Ferrets: Campylobacter (Helicobacter), Toxoplasmosis, Ascariasis, Acariasis, Dermatomycosis, Bordetella, Pasteurellosis, Coccidia .....

Rabbits, Rodents: Pasteurellosis, Dermatomycosis, Coccidia, Mycoplasma, Salmonella, Balantidium, Acariasis, .....

## Responsibility of the owner of a Nonhuman Primate:

- \* To yourself, your family (human and nonhuman)
- \* To contacts--visitors, friends, acquaintances, "the public"
- \* To the Nonhuman Primate!!!!

## MORE ABOUT HERPES B

Exposure:      Macaque Bites, Scratches, Aerosol contamination, lesions from an infected person, animal

### In the Macaque:

- Harmless disease characterized by:
  - short duration
  - mild clinical signs
  - vesicular lesions in the oral cavity i.e. "canker sore" type...
  - non-responsive mild conjunctivitis
  - light nasal discharge
  - mild pneumonia

The virus may be shed with clinical signs. The virus may be shed without clinical signs. The virus is shed intermittently.

**CONSIDER ALL ADULT MACAQUES INFECTED!**

### In the Human:

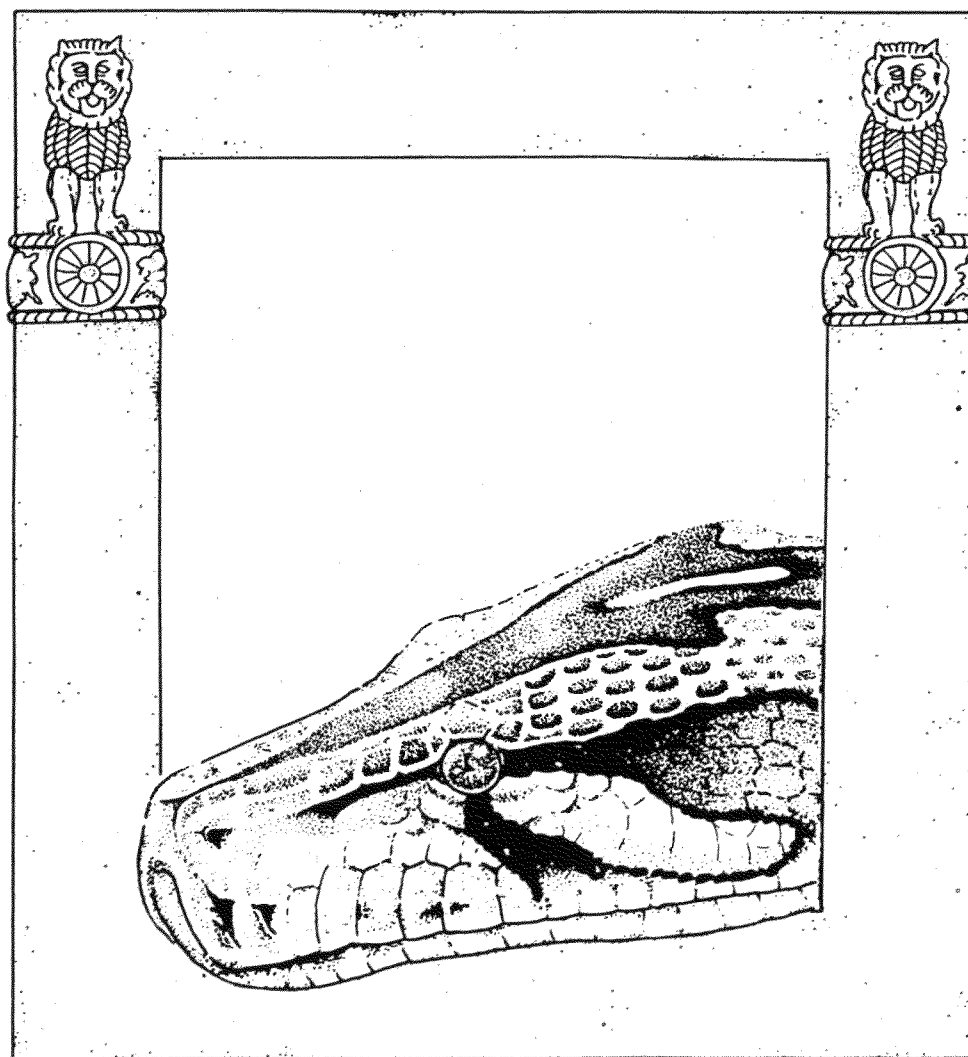
- High mortality if infection occurs:
  - acute onset - neurotropic disease (high fever, encephalitis, coma-resp. arrest-death)
  - available antivirals can control the course of the disease
  - early detection of the virus increases chances for successful treatment
  - ...low frequency for transmission, but lower still if no exposure!!!



The General Care and Maintenance  
of  
**BURMESE PYTHONS**

including notes on other large pythons

by Philippe de Vosjoli



The Herpetocultural Library  
Series 200

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Ernie Wagner of Seattle WA., for

## Before Buying a Burmese Python

Many people who buy Burmese pythons probably should not. They have no clear notion of the difference between the small hatchling which can be held in one hand and be housed in a ten gallon vivarium and the large adult which may require two people for handling and will require a cage that will take up a significant portion of a room. Most first time Burmese python buyers also don't fully grasp the fact that they will start by feeding their baby snake a mouse and end up with having to feed it large rabbits..

If you want a large snake, there are other species which don't grow quite as large and are easier to handle as adults such as boa constrictors, Dumeril's boas, rainbow boas, ball pythons and carpet pythons. Granted, Burmese pythons also have great qualities: large and impressive size, beauty and many, when captive raised from juveniles, have about the nicest personality you can find in a snake. But is a giant snake really what you want?

This type of decision is no different than that which confronts a dog buyer. Before purchasing a snake, one must consider one's lifestyle such as whether one lives in an apartment or a large home, whether one has children, how much free time one has, the ease of obtaining required food items as well as the selection of the breed, say a kingsnake, rainbow boa, boa constrictor or a Burmese python. Is the Burmese python going to end up in your studio apartment or in a special room on the bottom floor of the house? Are your young children likely to tamper with it? If you're an older person, will you be able to handle it when it exceeds 60 pounds? Will there be someone there to help you? These are the things one should think about if one intends to be a responsible snake owner.

### BEING A RESPONSIBLE SNAKE OWNER

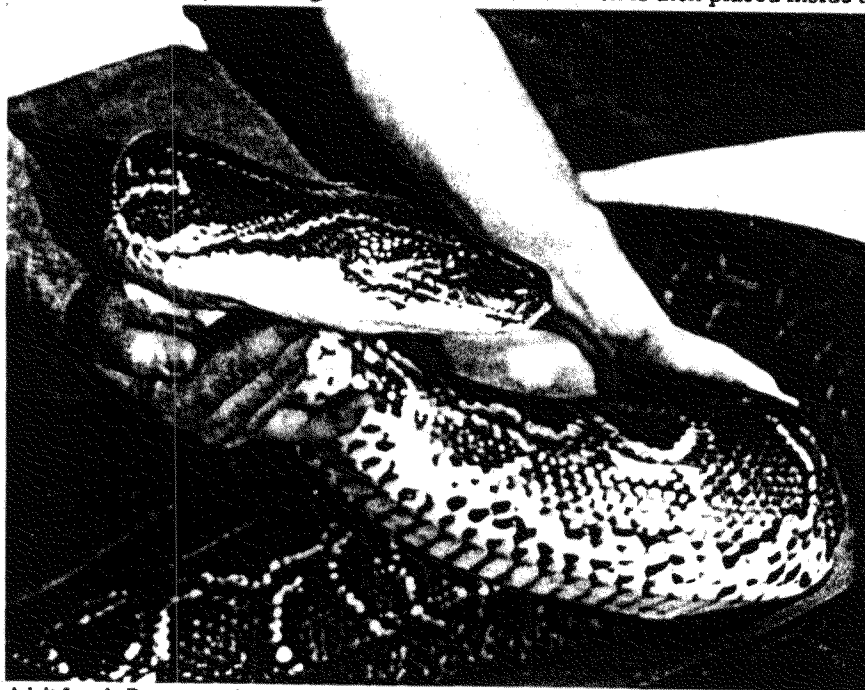
Every year, hundreds of pet snakes in the U.S. escape from their inadequate cages. Many are never heard of again. Others end up making the news including many escapee large constrictors (the State of Florida seems to be # 1 on the list for reported escaped large constrictors). Every time this happens, this gives fuel to those who want to oppose the keeping of exotic animals including large constrictors by the private sector. In addition, bad P.R. is caused by individuals who take their snakes out in public places outside of the proper forum for such displays and by individuals who intentionally aim to shock people. The news media loves incidents that involve reptiles. The public subconsciously must look forward to these incidents. It gives them something to talk about and it didn't even have to come out of the National Enquirer.

## RESPONSIBLE SNAKE OWNERSHIP

In terms of snake ownership, the author supports some of the views recently presented by board members of the American Federation of Herpetoculturists, a non-profit organization which represents the interests of herpetoculturists while taking into consideration both the welfare of the general public and the welfare of amphibians and reptiles. The AFH emphasizes responsible herpetoculture as the backbone of its position on the keeping of amphibians and reptiles. With regard to the ownership of large constrictors, an outline of the AFH views which has been presented at several hearings in Southern California is as follows:

A. In consideration of the right of the general public not to be exposed unexpectedly to snakes such as large constrictors and in consideration of the irresponsible behavior of certain snake owners, the AFH recommends that snakes not be openly displayed in a public setting outside of proper and established forums for such practices such as herpetological shows, educational displays, pet stores and presentations, and other special displays whereby members of the public are forewarned that a snake(s) may be displayed in the open.

B. The AFH recommends that all snakes be transported in a manner that precludes escape: In a sturdy cloth bag free of holes or tears which is then placed inside a



Adult female Burmese python

box or similar container with holes for aeration. The box or container should then be sealed or locked shut. Another alternative is to double bag snakes. Care must be taken to use sturdy cloth bags with a weave that allows for adequate air flow. Airlines should be consulted as to their requirements when shipping snakes by air.

C. For the keeping of large constrictors eight feet or more, the AFH recommends general caging regulations whose effects are similar to those which require dog owners to keep their pets within the confines of their property. Caging regulations for large snakes should require owners of such snakes to house them in secure cages with hinged top or doors or a sliding glass front which include a locking mechanism. Such enclosures should preferably be contained in a large room modified to prevent snake escapes and with a door which shall be kept shut or locked when not occupied by the owners. This recommendation is made to require responsible herpetocultural practices by individuals in consideration for the animals, for family members and for members of the general public. As herpetoculturists we will all benefit by adopting these responsible practices.

D. When handling any of the giant snakes (Green anaconda, Indian and Burmese python, African rock python, reticulated python and amethystine python) over 8 feet, the AFH recommends that another individual be present or at the very least within calling reach. The probability of any serious problem occurring when handling such snakes is very remote but the AFH position is that herpetoculturists, out of responsibility to themselves, to family members and to other herpetoculturists, should handle and maintain large snakes in a manner that significantly prevents the likelihood of any accident or incident.

E. The AFH does not recommend the ownership of the above mentioned giant constrictors as well as other large (adult size over seven feet) boid snakes by minors without parental consent to assume responsibility for proper housing, maintenance and supervision when handling.

F. As with any other animals such as dogs, owners of large constrictors should remember that they can be liable for the medical costs of treating injuries as well as additional financial damages for traumas or damage caused by their animals.

The AFH is currently drafting an official statement on the keeping of large constricting snakes by the private sector as well as a legislative package to help herpetocultural organizations contend with legislative issues relating to this matter.

For information write to: The American Federation of Herpetoculturists, P.O. Box 1131, Lakeside, CA, 92040.



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G-16. THE "UNDERGROUND ZOO" - THE PROBLEM OF EXOTIC VENOMOUS SNAKES  
IN PRIVATE POSSESSION IN THE UNITED STATES

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Said I to the keeper at the zoo,  
It's a good thing that pet snakes are so few.  
He said: the zoo you see here,  
Is not the one you should fear.  
There's also one "underground" too.

Most poison centers in the United States routinely handle calls involving treatment of those snake species native to North America. There exists, however, a number of exotic venomous snakes in the United States, either in zoos, research facilities, or often secretly held in private collections of amateur herpetologists forming an "underground zoo." Does the presence of these exotic species constitute a problem for medical personnel in their rapid and effective management of the envenomated patient? To what extent do bites by these exotic species occur, and under what circumstances? In an attempt to answer some of these ques-

tions, a survey was undertaken of the 25 regional poison centers recognized by the American Association of Poison Control Centers (AAPCC) in 1981 in order to determine their experiences with exotic snake bites from 1975-1980 and the awareness of poison center personnel as to the presence of any exotic snake specimens in their areas. Nationally prominent medical consultants on snake bite poisoning were also surveyed to determine their involvement in exotic envenomations during the same five year period. There apparently exists in the amateur herpetological communities a certain amount of skepticism of the ability of their local poison centers and emergency department personnel to handle their case of envenomation by exotic species, should it happen. To more effectively provide care to the patient of the exotic envenomation, the medical professionals and the amateur herpetologists must be brought

Table 1. 1981 AAPCC Recognized Regional Poison Centers, Venomous Snake Bite 1976-1980

STATE	1979 TOTAL CALLS	1979 BITE CASES	1979 TOTAL TREATMENTS	1979 TOTAL DEATHS	1979 TOTAL EXOTIC CASES	1979 TOTAL EXOTIC DEATHS	1979 TOTAL EXOTIC TREATMENTS	1979 TOTAL EXOTIC DEATHS
1. ALABAMA	17,200	17	17	0	0	0	0	0
2. ARIZONA	10,200	10	10	0	0	0	0	0
3. ARKANSAS	10,200	10	10	0	0	0	0	0
4. CALIFORNIA	10,200	10	10	0	0	0	0	0
5. COLORADO	10,200	10	10	0	0	0	0	0
6. CONNECTICUT	10,200	10	10	0	0	0	0	0
7. DELAWARE	10,200	10	10	0	0	0	0	0
8. FLORIDA	10,200	10	10	0	0	0	0	0
9. GEORGIA	10,200	10	10	0	0	0	0	0
10. ILLINOIS	10,200	10	10	0	0	0	0	0
11. INDIANA	10,200	10	10	0	0	0	0	0
12. IOWA	10,200	10	10	0	0	0	0	0
13. KANSAS	10,200	10	10	0	0	0	0	0
14. KENTUCKY	10,200	10	10	0	0	0	0	0
15. LOUISIANA	10,200	10	10	0	0	0	0	0
16. MAINE	10,200	10	10	0	0	0	0	0
17. MARYLAND	10,200	10	10	0	0	0	0	0
18. MASSACHUSETTS	10,200	10	10	0	0	0	0	0
19. MICHIGAN	10,200	10	10	0	0	0	0	0
20. MINNESOTA	10,200	10	10	0	0	0	0	0
21. MISSISSIPPI	10,200	10	10	0	0	0	0	0
22. MISSOURI	10,200	10	10	0	0	0	0	0
23. MONTANA	10,200	10	10	0	0	0	0	0
24. NEBRASKA	10,200	10	10	0	0	0	0	0
25. NEVADA	10,200	10	10	0	0	0	0	0
26. NEW HAMPSHIRE	10,200	10	10	0	0	0	0	0
27. NEW JERSEY	10,200	10	10	0	0	0	0	0
28. NEW MEXICO	10,200	10	10	0	0	0	0	0
29. NEW YORK	10,200	10	10	0	0	0	0	0
30. NORTH CAROLINA	10,200	10	10	0	0	0	0	0
31. NORTH DAKOTA	10,200	10	10	0	0	0	0	0
32. OHIO	10,200	10	10	0	0	0	0	0
33. OKLAHOMA	10,200	10	10	0	0	0	0	0
34. OREGON	10,200	10	10	0	0	0	0	0
35. PENNSYLVANIA	10,200	10	10	0	0	0	0	0
36. RHODE ISLAND	10,200	10	10	0	0	0	0	0
37. SOUTH CAROLINA	10,200	10	10	0	0	0	0	0
38. SOUTH DAKOTA	10,200	10	10	0	0	0	0	0
39. TENNESSEE	10,200	10	10	0	0	0	0	0
40. TEXAS	10,200	10	10	0	0	0	0	0
41. UTAH	10,200	10	10	0	0	0	0	0
42. VERMONT	10,200	10	10	0	0	0	0	0
43. VIRGINIA	10,200	10	10	0	0	0	0	0
44. WASHINGTON	10,200	10	10	0	0	0	0	0
45. WEST VIRGINIA	10,200	10	10	0	0	0	0	0
46. WISCONSIN	10,200	10	10	0	0	0	0	0
47. WYOMING	10,200	10	10	0	0	0	0	0
TOTAL	10,200	10	10	0	0	0	0	0

to a better understanding of each others problems and needs. It is as an attempt to inform the poison centers on how to prepare for the exotic snake bite, that this paper is dedicated.

### THE EPIDEMIOLOGICAL PROBLEM

#### Survey of AAPCC Regional Poison Centers

A questionnaire was sent in 1981 to the 25 AAPCC approved regional poison centers. These 25 centers represented 25/271 (9.1%) of all centers responding to the 1980 National Survey conducted by the National Clearinghouse for Poison Control Centers (NCPCC), and the same 25 centers reported a total of 646,036 (40.0%) of the 1,317,705 calls reported taken in 1979 by all responding centers. Each center was asked in the "Exotic Snakebite Questionnaire" to search their records for the five year period 1976-1980 and to indicate how many confirmed venomous snakebite related incidents they handled. Of these total incidents they were asked how many were from domestic and how many were from exotic snake species. For each exotic species, the poison center was asked to give background on the bite victim and whether the person was a professional or amateur herpetologist, herpetological supplier, or innocent bystander. Each exotic snake was to be identified by scientific name where possible. Additional information was sought on the medical treatment the victim received and the outcome of the incident. Each poison center was also asked to list any exotic snake species they were aware of in private collections within the geography covered by their poison center.

Of the 25 questionnaires sent out, 24 (96.0%) were returned. However, only 18 (72.0%) of the 25 centers were able to supply data for the full time period or a portion of it. The two major reasons why most centers were unable to provide the requested data were that either they did not break down envenomation calls to that degree, or they lacked sufficient

funds and manpower to abstract the requested data from their records. The results of this survey are given in Tables 1 and 2.

Table 1 ranks the poison centers by total calls taken in 1979 as they indicated in the NCPCC National Survey (Column B), and also for perspective is given the 1959 "bite rate" (the recorded treated snake bites per million people per year) taken from the 1959 national epidemiological survey by HM Parrish, MD, for the state in which the regional poison center is located (Column C). As can be seen, there were a total of 774 cases of authenticated snake envenomations which included 7 (0.9%) cases by exotic species (Column E). The percentage of the five year reporting period of which the poison centers' data represents is found in Column F.

Table 2 provides a breakdown of the seven cases of exotic snake bites encountered as to species, victim's herpetological background, cause of the incident, treatment received, and case outcome. It is interesting to note that 5 (71.4%) of the cases involved amateur collectors and that in 4 (57.0%) of the cases, the victim was either inebriated or in a self-destructive frame of mind when the incident occurred. In only one (14.3%) of the cases was there a fatality. The most common snakes listed in 5 (71.4%) of the cases were various subspecies of the "Cobra", Naja naja. Only 4 (17.4%) of the responding poison centers were able to list any exotic venomous snakes in their area in private collections. Among the species identified to be in private hands were: Naja naja (Cobras), Boiga dendrophila (Philippine Mangrove Snake), Bitis gabonica (Gaboon Viper), Bitis arietans (African Puffadder), Bungarus sp (Kraits), Dendroaspis angusticeps (Green Mamba), Vipera berus (European Viper), and Vipera aspis (European Asp).

It appears that although exotic venomous snakes do exist in communities served by poison centers, there are very few bite incidents that are captured by the poison center information system. Either the amateur collectors are very careful in their handling of their collections, or the bite is not reported when it occurs. Another possibility might be that the poison center was bypassed in the seeking of information of toxicity and treatment.

#### Survey of National Snakebite Consultants

In order to determine if additional exotic snake bites had occurred in the United

Table 2. Reported Cases of Exotic Snakebites, 1976-1980				
CASE NUMBER	LOCATION	VENOMOUS SPECIES	COLLECTOR	OUTCOME
1	LOS ANGELES, CA	<u>Naja naja</u> (Cobra)	AMATEUR COLLECTOR	DECEASED AFTER 24 HOURS
2	LOS ANGELES, CA	<u>Naja naja</u> (Cobra)	AMATEUR COLLECTOR	DECEASED AFTER 24 HOURS
3	LOS ANGELES, CA	<u>Naja naja</u> (Cobra)	AMATEUR COLLECTOR	DECEASED AFTER 24 HOURS
4	LOS ANGELES, CA	<u>Naja naja</u> (Cobra)	AMATEUR COLLECTOR	DECEASED AFTER 24 HOURS
5	LOS ANGELES, CA	<u>Naja naja</u> (Cobra)	AMATEUR COLLECTOR	DECEASED AFTER 24 HOURS
6	LOS ANGELES, CA	<u>Naja naja</u> (Cobra)	AMATEUR COLLECTOR	DECEASED AFTER 24 HOURS
7	LOS ANGELES, CA	<u>Naja naja</u> (Cobra)	AMATEUR COLLECTOR	DECEASED AFTER 24 HOURS

States during the same five-year period, a questionnaire was sent to several nationally recognized medical consultants which were listed in the POISINDEX microfiche system. Of the eight consultants surveyed, 5 (62.5%) supplied data on their consultations regarding exotic snake bites during 1976-1980. Those consultants responding were: Sherman A Minton, MD, Indianapolis, IN; David L Hardy, MD, Tucson, AZ; Findlay E Russell, MD, Tucson, AZ; Jack Wainschel, MD, Arcadia, CA; and Willis A Wingert, MD, Los Angeles, CA.

The results of this survey are listed in Table 3. In this data it can be seen that three of the consultants broke down their consultations, the others providing more generalized discussions. Of the data supplied, there were a total of at least 168 consultations, of which 17 (10.1%) involved exotic species of snakes. Of the 17 cases at least 6 (35.5%) were involving amateur collectors. Many of these cases, of course, might include duplicated information with the data from the poison center survey, or as consultants confer with each other, but it does present a picture of the type of incidents that are recorded. Many of the snake species involved were not recorded by any of the poison centers which would seem to indicate a direct call to the consultant bypassing the poison center's information system.

#### Literature Review

In order to determine if any previous work had been done on the subject of envenomation by exotic snake species, a review of the international literature was conducted. Some of the prior experiences that were revealed were as follows: HM Parish, MD, stated that of approximately 6,680 people bitten annually in the United States, the estimate was that 8 (0.1%) were due to foreign venomous snakes. Also during the period 1950-1959, there were 138 snake bite fatalities, 3 (2.2%) of which were due to foreign venomous species. His estimate was that about 8 people are bitten by foreign

venomous snakes in the United States annually (1). FE Russell, MD, stated that by the year 1975, in 650 cases of snake bites he attended to, 85 (12.9%) were due to exotic species. Also during the period 1955-1977, the Los Angeles County - University of Southern California Medical Center had logged a total of 373 telephone calls and 121 letters relating to bites by exotic snakes. Dr Russell also noted that a mail survey of ten Southern California snake collectors, handlers, or herpetologists, indicated that they kept 667 exotic venomous snakes, and the respondents suggested there may be as many as 2,000 exotic snakes in the area (2). HA Reid, MD, studied the problem of foreign venomous snakes in Great Britain and found that from 1970-1977, there were 32 bites by foreign venomous snakes. Three bites were to zoo personnel, 5 bites were to workers in research facilities utilizing venomous snakes, and 24 (75.0%) were to private individuals in their homes. A questionnaire survey of 500 members of herpetological societies showed that of the 310 (62.0%) respondents, 26 (8.4%) said they kept foreign venomous snakes including representatives of 50 different species. The more common species were: *Crotalus atrox* (Western Diamondback Rattlesnake), *Bitis arietans* (Puff Adder), *Bitis gabonica* (Gaboon Viper), and *Naja naja* (Cobras) (3). Of course many of the species foreign to Great Britain are native to the United States, but many of the exotics are the same in the collections found in each country.

#### Survey of Herpetological Societies

To determine the extent of exotic venomous species in possession by amateur herpetologists, a letter survey was carried out involving several large amateur herpetological groups around the United States, as to what "HOT" (venomous) exotic species their memberships might possess. There was no response to the letters; the societies and their memberships remained disturbingly silent.

#### Survey of National Antivenin Resource Center

To determine if any calls for exotic antivenins had bypassed both the poison centers and the medical consultants, a letter was written to the Oklahoma Poison Control Center, producers of the "Antivenin Index." In this letter the staff was asked to abstract their data for the period 1976-1980, for the number of times and for what species they were asked to assist in locating exotic antivenin stocks in the United States. Their response was that they only showed one instance in 1979 *Naja naja kaouthia*, Monocellate Cobra, and three instances in 1980 (*Bitis arietans*, Puff Adder; *Dendroaspis polyplepis*, Black Mamba; and *Bungarus sp.*, Krait). For the prior years, there were no records still on file. These results seem to indicate that although exotic antivenins were used often in cases of exotic snake envenomations as indicated by the medical consultant, and poison center

Table 3. Survey of Snakebite Medical Consultants

Consultant	Year	Species	Number of Bites	Number of Deaths
1. Sherman A Minton, MD, Indianapolis, IN	1976-1980	17	0	0
2. David L Hardy, MD, Tucson, AZ	1976-1980	168	0	0
3. Findlay E Russell, MD, Tucson, AZ	1976-1980	168	0	0
4. Jack Wainschel, MD, Arcadia, CA	1976-1980	168	0	0
5. Willis A Wingert, MD, Los Angeles, CA	1976-1980	168	0	0

questionnaire responses, this valuable resource center for poison centers and medical personnel was not utilized in the location of antivenin as much as one would have expected.

#### THE EDUCATION PROBLEM AND POSSIBLE SOLUTIONS

From information gathered by the author in conversations with candid but wary amateur herpetologists, it seems as though the medical professionals and the exotic snake keepers are caught in a circular information gap problem. On the one hand, the amateur collector would often rather ride out his exotic snake bite encounter at home because he believes that his local emergency room personnel knows little about how to treat the domestic envenomation let alone exotic ones. In addition, the amateur collector knows that access to exotic antivenins which would be needed for proper treatment is limited. Lastly, the victim is probably afraid of being reported to some enforcement agency which might result in the confiscation of his prized herpetological specimens. The emergency room personnel, on the other hand, are totally unaware of the "underground zoo" in their area and the types of species they might be involved in treating. How does the medical personnel learn more about the locally kept exotic species, and in turn, how does the amateur collector begin to gain more confidence in the medical community's ability to handle his problem? The poison center can serve as a bridge to aid in closing the information gap between these groups by providing specialized education programs for the two diverse groups. Some of the programs and education tools which have been prepared by the Western Michigan Poison Center (WMPC) include: a slide talk directed to medical personnel in emergency treatment facilities on the current management of snake bite envenomations; a slide talk directed to amateur herpetological groups on the natural history and behavior of venomous snake species, including prevention tips on avoiding bites from all specimens domestic and exotic and a discussion of the readiness of the poison center to handle their problems; the development of poison center protocols for handling the bite of the exotic snake species by rapidly obtaining aid from medical consultants and the location of exotic antivenins with arrangement for their transportation to the treating facility if needed (see Appendix A); and the development of protocols working with the local zoo herpetology section on the initial first aid for snake bite and tips on prevention within the facility, as modified from work by Rappolt et al (4) (See Appendices B, C, D and E).

#### APPENDIX A: WMPC EXOTIC-SNAKEBITE PROTOCOL

1. Call received from hospital, zoo or amateur collector that snake bite has occurred.
2. Gather standard WMPC information:
  - A. On the patient (in addition to regular information) obtain: patient's allergy history; prior history of snake bites, and species involved

in prior bites; present health status of patient and prior medical status.

- B. On the snake involved, obtain: species identification; age and size of snake; circumstances of the bite (How did it happen?).
3. Contact John T. immediately, and brief him of the situation.  
(616) (Pager) (616) 676-9945 (Home)
  4. For initial treatment follow protocols listed in PoisindexC, and guidelines in the "biotoxin hand-outs" by John T.
  5. Medical Consultants:  
Walter D Meester, MD, Grand Rapids, MI, (616) (Pager), (616) (Home).  
Sherman A Minton, MD, Indianapolis, IN, (317) 264-7842 (Office), (317) 849-2596 (Home).  
Findlay E Russell, MD, Tucson, AZ, (602) 626-4558 (Office), (602) 626-6016 (Via Arizona Poison Center).
  6. If exotic antivenin is needed, contact the antivenin index center for availability and location of appropriate antivenin: Oklahoma Poison Information Center, (405) 271-5454; Oklahoma City Zoo (405) 424-3344.
  7. Brief treatment facility and inform them that WMPC has located antivenin and will arrange for quickest transport, if treating physician deems it needed.
  8. If antivenin is needed: arrange for the quickest air and/or ground transportation from the nearest storage depot to treating facility (ie, Law enforcement agencies, military, commercial, or private carriers).

#### APPENDIX B: ZOO PROTOCOL-IMMEDIATE FIRST AID FOR POISONOUS SNAKEBITE

The snakebite victim should sound alarm; attempt to remain calm; secure and identify the snake (if this can be done quickly and without any further personal risk); remove any rings, bracelets, or other jewelry; sit or lie down as soon as possible.

The person assisting the snakebite victim should: check to see snake has been secured and identified properly; reassure the victim; immobilize the involved extremity or area; watch for any untoward reactions (ie, absence of breathing - needing CPR); see that appropriate transportation is arranged for and agencies notified: call for transportation to emergency treatment facility, call 9-911 and ask for advanced life support (ALS) transportation, ask 911 dispatcher to patch to Western Michigan Poison Center, and notify them of the incident, and details (identification of victim and health history, pull victim's personnel card; present physical condition of the victim; identification of snake by species and the details of the bite, pull id card from snake's cage; name of the emergency facility to which victim is being transported); obtain appropriate antivenin from zoo supply; do not delay in transporting the victim (with supply of appropriate antivenin) to emergency treatment facility.

#### APPENDIX C: ZOO PROCEDURES FOR VENOMOUS REPTILES

1. Have the appropriate antivenin on hand in the refrigerator.
2. Arrange a transportation system in the event of a bite incident (E-Unit).
3. Make sure the reptile holding facility is safeguarded against vandalism and animal escape. In the case of an emergency have a policy developed for the evacuation of the building.
4. Have all entrances from the rear areas to the public areas "snake-proof".



5. No venomous reptiles are to be directly handled by anyone except designated personnel, and only during working hours when at least two qualified reptile keepers are in the building.
6. Have available a bell alarm signal system to notify others that a handler has been bitten.
7. Cages containing reptiles considered extremely dangerous are not to be opened unless reptiles are in shift cages, except by designated personnel.
8. All venomous animal cages and containers are to have cards on them with the following data which is kept up-to-date at all times: reptile identification (common and scientific names); number of specimens in container (spelled out); what antivenin to use.
9. All venomous reptile cages and containers are marked with "venomous" tags. These tags are to be removed from vacant cages. All other cages are to be marked with "harmless" tags when in use. Vacant cages, therefore, will have no tags, but will be latched at all times.
10. Designated personnel will check the antivenin supply for anticipated needed replacements as part of the semi-annual maintenance checklist. Needed replacements will be ordered at that time.
11. Conduct a semi-annual "dry run" through the emergency snakebite procedure.
12. Except for authorized personnel, no one is permitted in the service areas unless accompanied by designated zoo personnel.
13. No venomous reptile is to be removed from the premises, without proper authorization of designated zoo personnel.
14. Do not handle venomous reptiles if feeling unwell in any way.
15. Always expect the unexpected (untypical behavior). There is no such thing as a typical individual for any species.

#### APPENDIX D: ZOO PROTOCOL-VENOMOUS REPTILE CHECKLIST

Monthly check list-litter and blanket: check for availability; antivenins: check inventory against stock; antivenin index: check location in reptile building; snakebite procedures: check locations; animal enclosure ID cards: check against ID and quantity of animals.

Semi-annual check list-poison control center test check: call for antivenin and current information regarding treatment of test case; personnel medical information records: check for currentness of information.

Annual check list-review all procedures for modifications and updating.

#### APPENDIX E: ZOO SNAKE-HANDLER INFORMATION

1. Name
2. Home Address
3. Home Telephone
4. Nearest relative
5. Birth date
6. Medical History
  - Chronic medical problems
  - Chronic medications
  - Allergies
  - Medications
  - Horse serum
  - Other
7. Prior history of snakebites:
  - Species involved
  - Date occurred

8. Personal physician  
Name  
Telephone Number

Others ways to aid in education is for orientation of poison center staffs on exotic snakes by having them read from recommended texts. The following basic library can be constructed by a poison center for approximately \$83.00: Minton, Sherman A, Venom Diseases, Charles C Thomas Pub, Springfield IL, 1974, \$11.75; Parrish, Henry M, Poisonous Snakebites in the United States, Vantage Press, New York, NY, 1980, \$15.00; Poisonous Snakes of the World, US Government Printing Office, Washington, DC, 1965, \$6.25; Russell, Findaly E, Snake Venom Poisoning, J B Lippincott Comp, Philadelphia, PA, 1980, \$35.00; and Visser, John and Chapman, David S, Snakes and Snake bite - Venomous Snakes and Management of Snakebite in Southern Africa, Purnell and Sons, Ltd, Cape Town, South Africa, 1978, \$15.00. The above mentioned texts will give an operational poison center a good working knowledge of both domestic and exotic species and the managements of their envenomations. It will prove most useful when the time arises. It is also helpful to make contact with the Oklahoma Poison Control Center, Oklahoma Children's Memorial Hospital, PO Box 26307, Oklahoma City, OK 73126 (405/271-5454), producers of the "Antivenin Index" and obtain a copy for the poison center to aid in more speedy location of exotic antivenins within the United States. Also make contact with local herpetological groups and local zoos to determine their needs and to offer the assistance of the poison center's information facilities. Through the utilization of some of these techniques and the development of new ones, the emergency treatment facility personnel and amateur herpetologist will feel they are not so isolated and alone in dealing with snake envenomations, as there is a facility which is prepared and ready to assist them.

#### CONCLUSION

It is evident that even though the problem of a bite by an exotic venomous snake in the United States is a rare one, the existence of these species by amateur herpetologists in secluded "underground zoo" collections cannot be denied. This problem will not go away as there are no apparent federal laws regulating the possession of these snakes and a quite active but secretive marketing and exchange mechanism exists in the collector communities. In order to better prepare for the exotic snake envenomation, poison centers and others involved in clinical toxicology should prepare themselves for this isolated incident so that the bite victim will receive fast and effective management of his clinical problem, where time is of the utmost importance.

#### ACKNOWLEDGEMENTS

The author would like to thank all those



individuals (poison center personnel, medical consultants, and herpetological organizations) for their time and efforts in abstracting and sharing their data and ideas, making this paper a reality.

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  4. Rappolt, Richard T, et al: Medical Toxicologist's Notebook: Snakebite Treatment and International Antivenin Index, Clinical Toxicology 13:409-438, 1978.
-

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American Association of Zoo Keepers, Portland Chapter

The publications listed below can be obtained from most large public libraries. Many books can be ordered from bookstores, book dealers, or the publisher. Many of the references below fit into more than one category. \*If you are just starting to acquire references on captive husbandry, the de Vosjoli and Mattison books are excellent and economical resources.

### **Reptile Care in Captivity**

Frye, Fredric L. 1991. A PRACTICAL GUIDE FOR FEEDING CAPTIVE REPTILES. Krieger Publishing Company, Melbourne, Florida.

Frye, Fredric L. and Wendy Townsend. 1993. IGUANAS: A GUIDE TO THEIR BIOLOGY AND CAPTIVE CARE. Krieger Publishing Company, Melbourne, Florida. (Husbandry information and personal experiences with iguanas.)

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\*Mattison, Christopher. 1987. THE CARE OF REPTILES AND AMPHIBIANS IN CAPTIVITY. Revised 2nd edition. Blandford Press, Dorset, Great Britain; distributed in U.S. by Sterling Publishing Co., Inc. New York.

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### Herpetology, Taxonomy, and Natural History

Auffenberg, Walter. 1988. GRAY'S MONITOR LIZARD. University Press of Florida, Gainesville. (Comprehensive study of a monitor lizard, with information on other monitors as well. Very technical.)

Burghardt, Gordon M. and A. Stanley Rand, eds. 1982. IGUANAS OF THE WORLD, THEIR BEHAVIOR, ECOLOGY AND CONSERVATION. Noyes, Park Ridge, New Jersey. (Broad based, technical.)

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Englemann, Wolf-Eberhard and Fritz J. Obst. 1982. SNAKES. BIOLOGY, BEHAVIOR AND RELATIONSHIP TO MAN. Exter Books, New York. (Good summary of snake biology with good pictures. Emphasizes interactions of snakes with man.)

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Goin, C.J. and Goin, O.B. and Zug, G.R. 1978 (3rd edition). INTRODUCTION TO HERPETOLOGY. W.H. Freeman and Co., New York. (basic herpetology.)

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### Conservation

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Medem, Federico. 1985. CROCODILE SKIN TRADE IN SOUTH AMERICA. World Wildlife Fund, Washington, D.C.

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**EXECUTIVE COPY & PRINTING**623 Main Street • Oregon City, OR 97045  
Phone: (503) 655-9227 • Fax: (503) 657-4349Beverly Stein**FAX TRANSMITTAL SHEET****TO:**

Name:

Gary Hansen

Company:

Multnomah County Commission

Fax Number:

248-5440

Phone Number:

**FROM:**

Name:

Thomas Buchholz

Phone Number:

609 10th St.

Date:

Oregon City OR 97045 Jun 16, 1998

No. of pages (including cover):

Message:

RE: Multnomah County Counsel letter May 20, 1998 & Mcc 8.10MR. Ryan states "... the officers are now clear on their role."IN Mcc 8.10.040 Multnomah County has mixed Apples with oranges.1. Mcc 8.10.040(B) includes Animals rescued in ORS 167.2. Mcc 8.10.040(D)(1)(2)(3) is taken from ORS 6093. Mcc 8.10.040(D)(3) recognizes the holding periods in ORS 433.340 and ORS 433.390 butDoes not recognize the procedures in ORS ORS 167.347 & ORS 167.350There seems to be a lot of confusion about ORS Chapter 167. Will the County recognize ORS 167 procedures?Animals removed from private property (ORS 167) that are injured or in unhealthy condition, will the animals be taken to a veterinarian to investigate or the the Animal Control to be destroyed? who determines what is life threatening or a health threat? Mcc 8.10.040(E)(4)

Signed

Thomas L. Buchholz

## **BOGSTAD Deborah L**

---

**From:** CHAIR Mult  
**Sent:** Thursday, June 18, 1998 9:35 AM  
**To:** STEIN Beverly E  
**Cc:** BOGSTAD Deborah L  
**Subject:** FW: Ban on "Exotic" Animals  
**Importance:** High

Do you want email testimonies like these printed and treated as written testimony and included in public records?

**From:** David Hatch[SMTP:David@therecruiter.com]  
**Sent:** Wednesday, June 17, 1998 8:55 PM  
**To:** mult.chair@co.multnomah.or.us  
**Subject:** Ban on "Exotic" Animals  
**Importance:** High

Tomorrow you will hold a hearing on the question of whether or not Multnomah County should allow private individuals to own and keep large predatory animals and venomous reptiles within the County limits. I cannot attend the hearing, however I would like you to consider the following:

I applaud the Commissioners for taking the time to allow public comment on this issue. It is your duty as public servants. I am concerned, though, that the County could be misled by a vocal minority. The silent majority — many of whom spend what time they have working and raising families — rely upon our elected officials to man the helm of public safety and welfare.

Ownership does not imply expertise. According to Webster's dictionary, ownership is "1. the state or fact of being an owner. 2. legal right of possession." The definition of expert, on the other hand is "1. a person who is very skillful or highly trained and informed in some special field." I would hope that you are seriously considering advice from experts in the field of exotic, predatory animals. While those private owners who have attended the hearings indicate they are "experts", I am not aware that any of them have sufficient Curriculum Vitae to be hired, for example, at an accredited zoo.

I have, in the past, given each Commissioner names of reputed experts in the field of large, predatory animals. I urge you to base your decision on testimony and information provided to you by non-partisan, uninvolved experts whose reputations are beyond reproach. There are many out there and all would gladly give their expert advice to the Commission.

Public safety is the paramount charge of an elected official. To allow wild animals to be brought into our neighborhoods and be "owned" by individuals lacking the necessary expertise and financial ability, is a breach in the contract you have with your constituents.

Sincerely,

Anne Hatch  
3122 SW Wilbard  
Portland, OR 97219

**The following are proposed Amendments upon the Second Reading of the Multnomah County Animal Control Code Revision Ordinance on June 18, 1998:**

- 1) At Page 3, Line 7; MCC 8.10.010 (G) (6) was **incorrectly** amended by the addition of the following language: "..., or any snake of the family *Pythonidae* or *Boinae* over ten (10) feet in length." The language was considered and rejected on June 11, 1998, and needs to be stricken.
- 2) New proposal for the same subsection referenced in Number 1 as follows: MCC 8.10.010 (G) (6) be amended to read as follows:

Any reptile of the order *Crocodylia* (crocodiles, alligators and caimans), or any snake of the family *Pythonidae* or *Boinae* capable of obtaining eight feet or more in length.

- 3) At Page 38, Line 4; the proposed new subsection MCC 8.10.190 (B) (13), be amended as follows:

To harbor a dangerous or exotic animal that is not otherwise exempted under MCC 8.10.140. Provided, any person who owns or is keeping a dangerous or exotic animal on the effective date of this Ordinance in that person's jurisdiction, shall have 180 days from the effective date to provide for the animal's removal from Multnomah County or other lawful disposition.

Multnomah County Animal Control Code

- 1                   uncia; as well as the puma (cougar or mountain lion), Puma concolor;  
2                   clouded leopard, Neofelis nebulosa; and cheetah, Acinonyx jubatus.
- 3           (2)   Any monkey, ape, gorilla, hybrid thereof, or other non-human primate;  
4           (3)   Any wolf or canine except the species Canis Familiaris (domestic dog);  
5           (4)   Any bear;  
6           (5)   Any venomous or poisonous reptile;  
7           (6)   Any reptile of the order Crocodilia (crocodiles, alligators and caimans),  
8                   or any snake of the family Pythonidae or Boinae over ten (10) feet in  
9                   length.
- 10   (H)   Dangerous Dog means any dog found to have engaged in any of the  
11           behaviors specified in MCC 8.10.271.
- 12   (I)(H) Dangerous Dog Facility means any site for the keeping of one or more  
13           dangerous animals dogs.
- 14   (J) (H) Director means the director of the department of environmental services  
15           animal control division of Multnomah County or the director's designee.
- 16   (K)   Domestic Animal. Any animal whose physiology has been determined or  
17           manipulated through selective breeding and does not occur naturally in the  
18           wild, or which may be vaccinated against rabies with an approved rabies  
19           vaccine and for which there is an established rabies quarantine observation  
20           period. Examples of domestic animals include dogs, cats and livestock.
- 21   (L)   ~~(J)~~ Euthanasia means putting an animal to death in a humane manner.
- 22   (M) ~~(K)~~ Facility is a site excluding veterinary hospitals operated or used for:

Multnomah County Animal Control Code

1 ~~(11)(12)~~ Permit any dog to engage in any of the behaviors described in MCC  
2 8.10.270(C) through 8.10.270 (D).

3 ~~(12)(13)~~ Permit any dog to engage in the behavior described in MCC 8.10.271.

4 ~~(13)~~To harbor a dangerous or exotic animal that is not otherwise exempted under  
5 MCC 8.10.140. Provided, any person who is keeping or owning a dangerous  
6 animal on the effective date of this Ordinance in their jurisdiction shall have  
7 60 days from that date to provide for the animal's disposition outside of the  
8 County.

9 (C) For the purpose of this section "owner" shall mean either owner or keeper as  
10 defined under this chapter.

11 (E) Notwithstanding, MCC 8.10.190(B)(10), (11) and (12), any dog that has been  
12 found to have engaged in behaviors as described at MCC 8.10.270 or 8.10.271,  
13 shall be classified, regardless of whether it is established by preponderance of  
14 the evidence that the dog owner, keeper or other person permitted the dog to  
15 engage in the behavior. If in any such case, it is not established by a  
16 preponderance of the evidence that the person cited permitted the dog to engage  
17 in the behavior, no fine shall be imposed against that person, but the dog owner  
18 or keeper shall be subject to all other restrictions and conditions lawfully imposed  
19 by the director or a hearings officer pursuant to MCC 8.10.280(B) and  
20 8.10.055(H) respectively and;

21 (1) In any case, wherein the citing officer or the director based upon his or her  
22 investigation and review of such case, determines there is insufficient  
23 evidence to establish the responsible party permitted the dog to engage in the



BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. \_\_\_\_\_

An ordinance amending the Multnomah County Animal Control Code Chapter 8.10 to provide for certain new definitions, and regulations relating to Exotic Animals, Potentially Dangerous Dogs, Dangerous Dogs, Limited Search Warrants and State Court Enforcement.

(Language lined through is to be deleted; underlined language is new) Multnomah County ordains as follows:

Section I. AMENDMENT

MCC 8.10.010 is amended and added to as follows:

(A) *Animal* means any non-human vertebrate.

(B) *Animal at large* means any animal, excluding domestic cats ~~licensed and sterilized cats~~, that is not physically restrained on the owner's or keeper's premises, ~~(private property)~~ (including motorized vehicles) in a manner that physically prevents the animal from leaving ~~that property~~ the premises 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.

(C) *Aggressively bites* means any dog bite that breaks the skin and is accompanied by an attack where the dog exhibits ~~behavior including~~ one or more of the following behavior(s), but not limited to ~~any of the following~~: snarling, baring

Multnomah County Animal Control Code

teeth, chasing, growling, barking, snapping, pouncing, lunging, multiple lunges,  
or multiple bites.

(D) *Board* means the Multnomah County Board of County Commissioners.

(E) *Chronic safety nuisance* is demonstrated by the issuance of two (2) or more  
notice of infractions or citations for:

(1) Violation of MCC 8.10.270 relating to the same dog, or

(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.

(F) *Chronic noise nuisance* is demonstrated by the issuance of two (2) or more  
notice of infractions or citations for violation of MCC 8.10.190(b)(5)(6) and the  
receipt of multiple complaints from more than one (1) or more households, within  
a one (1) year period, in close proximity to the animal's location.

(1) Excluding all lawful commercial operation operated under appropriate  
zoning.

(G) *Dangerous or Exotic Animal* means any animal, including insects, which is of a  
wild or predatory nature, <sup>AND</sup> ~~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 MCC 8.10.271.~~ A dangerous or  
exotic animal under this chapter shall include any of the following animals:

(1) Any large felid from the genus Panthera, including: lion, P. leo; tiger,

P. tigris; jaguar, P. onca; leopard, P. pardus; and snow leopard, Uncia

June 25, 1998

To: Multnomah County Commission

From: Sally Stember, citizen  
3304 SW Scholls Ferry Road  
Portland, Oregon 97221

Re: Exotic Animal and Reptile Laws

Many laws are written to protect people from their own ignorance. When you hire a roofer to reroof your house, or a landscaper to beautify your yard, or an auto mechanic to repair your car, there are laws to help protect you as a consumer and the value of your property, laws designed to help insure that the people you seek assistance from are qualified and knowledgeable. These laws help protect the standards of the profession and by doing so they protect business by enabling a relationship of trust to develop between merchant and clientele.

I would like to explain why such laws are so urgently needed to apply towards the pet industry in general, and exotic pets specifically. About a month ago I began searching for a particular reptile that, while not rare, is found only seasonally in pet stores. This search took me to several shops where I witnessed many things.

At one store a man who had called prior to coming in, brought in a very beautiful snake. He explained a former landlord had called to ask him to help remove the snake from an apartment after a tenant had moved out abandoning it there. He had a very lengthy conversation with the salesperson as to whether or not the shop would be interested in buying this animal. At one point the gentlemen asked if the store could keep the snake overnight until the owner would be available to make a decision as he himself didn't have an appropriate set up for the snake at home. The salespersons response was,

" Your snake is really clean. I don't have any clean cages to put him in, he could pick up mites here and I'd feel bad."

This event illustrates two things. People abandon snakes as readily as they abandon cats and dogs. The humane society will tell you the feral problem is epidemic, this city may not want to add feral exotics such as ferrets, alligators, anacondas, iguanas, to their animal control budget, but it will have to if it continues to allow irresponsible selling and buying of animals.

The other thing illustrated, is the lack of sanitation and professionalism in the industry. The very people who purport to set the standard, has set them very low. This particular store houses animals for a fee while you vacation. It is sickening to think that a animal could become ill under the care of a professional herpetologist.

A following visit to the same store was revolting. The stench was like that of death. All the cages were filthy. A salesperson held a dying chameleon in his hand and was on the phone to a friend condemning the consumer who, in seeking cheap medical assistance, had brought the chameleon there. The chameleon's tongue was languid and unable to retract back into its mouth. The salesperson went on about how ignorant the public is and how the chameleon could have lived if only they knew to use a UV light and what a bunch of smucks people are. This same salesperson while on the portable phone repeatedly put the chameleon in and out of a nearby cage that was littered with feces. In between times, he would handle animals customers bought in, animals for purchase in the store, and just about everything else except soap and water.

This same salesperson, when asked specifically about a reptile I was inquiring about, hadn't learned about the animal despite the fact I had requested the same information the previous time, had phoned several times and had been promised by him he would do so. The most information I received was that rabbit food pellets are the perfect substrate for all geckos, all geckos have the same needs, they all live in the tropics and that's all I as a consumer need to know. I hardly know what to say to such ignorance.

The consumer has long been encouraged to learn about animals prior to selecting that animal as a pet. There are not a lot of places to go to learn about exotics. Most of the information out there is generated by the pet industry itself, which means, for the average consumer, the pet store *is* the authority and the consumer *has* to rely on the information given there. All too often that information is MISinformation.

The public is told by the Pet Industry that iguanas make good, easy pets. Once at home, however, when people begin to realize they can not properly house these animals, when they have received enough bites and scratches and tail lashings, many get donated to Hart's Reptile World. Some iguanas get donated to schools. Or, in the case of my son's classroom iguana, they get donated back to the pet store, giving the store the opportunity to make profit on the same animal twice.

Two baby bearded dragons were recently donated to Hart's Reptile World. These reptiles actually *do* make good pets, they were donated however, because misinformation from the pet industry lead the consumers to believe they could put the babies in with adults and everything would be fine. The adults immediately tried to eat the infants, the owners quickly retrieved the babies minus their various limbs from their previously healthy state, and brought them to Hart's for medical care, all because someone in the industry wanted to make a sale.

At a national chain pet store, I found the reptiles I sought. However, they had arrived from the distributor severely dehydrated. The salesperson there was a little more knowledgeable, and he said he would *not* sell them because he didn't believe they would survive, they were too far gone. He said he might have been able to do something, but the company doesn't allow for veterinary care in its budget, preferring to write it off as a loss when the animal dies, which all three did within the week.

There are some good stores that are clean and knowledgeable, and well run, but they appear to be more the exception than the rule. Many of the pet stores I went into seemed to run on the sympathy angle, designed to make the customer feel compelled to buy the animal to rescue it from the pet store. It is akin to beggars who put lye on their skin to get more alms for the poor wretched soul with the burns. It is atrocious.

Ferrets and alligators are two other exams of inappropriate animals easily available in the industry. For the last several weeks I've seen ads in the Oregonian selling monkeys. Six years ago while hiking the trail at Smith Rocks our family came upon a monkey on a leash tethered to a rock. It was a startling affair. My son turned to run from it and it leaped on his back and started gnawing on him. I immediately pulled the animal off and got my family away. Where was the responsible pet owner? About a hundred feet up the face of the cliff attached to a harness and rope. The man made no attempt to come down and tend to his animal or care for my son.

Many of the exotics are sold under the guise of being a service to the serious collector. I have never had a single pet store clerk or owner ask me for my herpetology resume, but I have had several of them ask me for my check guarantee card. The Pet Industry makes no effort to distinguish between which reptiles make good pets and which do not. It chooses instead to pander to fads and to the dollar. Once the novelty wears off, and the consumer disposes of the animal in any number of inventive ways, including allowing it to *graduate* to the great outdoors, the consumer is free to come back and purchase the newest, latest, greatest pet on the market. And the Pet Industry is happy to accommodate.

Studies show that eight out of ten inmates incarcerated never owned a pet. Studies show that the elderly live longer with fewer medical visits when they own pets. Teaching a child to love and care for an animal is one of the top ten best things a parent can do. It is too important to allow the Pet Industry to set a poor example. The Pet Industry is in very sad condition. It seems either unable or unwilling to regulate itself properly, giving the legislature no choice but to regulate the industry for it.

Thank you for your time.

**Sec. 4-7. Vicious or dangerous animals prohibited.**

- (a) For the purpose of this section, a vicious or dangerous animal is any animal which, without provocation, bites or attacks any person or another animal, whether such attack occurs on private or public property. No animal may be declared vicious if the threat injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of the animal, or was teasing, tormenting, abusing or assaulting the animal or has, in the past, been observed or reported to have teased, tormented, abused or assaulted the animal or was committing or attempting to commit a crime.
- (b) Upon written complaint to the municipal court by a complainant alleging the viciousness or dangerous character of any animal, the clerk of said court shall cause a copy of the complaint and a notice of hearing to be served upon the owner as defined at ~~Section 4-3~~ of the animal, the subject of the complaint. Such notice shall establish a date and time for such hearing before the judge of the municipal court but in no event shall such hearing be held prior to the eleventh day following service of such notice to the owner. Such notice shall reference the complaint and shall notify the owner to appear and to show cause why the court should not order some remedial action, as provided below, for the protection of the public.
- (c) After notice and hearing, the judge of the municipal court shall make a determination as to whether such animal is vicious or dangerous to persons or other animals. In the event the animal is declared to be vicious or dangerous, the judge shall enter orders for the protection of the public or other animals, such orders providing for, but not limited to, **muzzling, sufficient enclosing**, or destroying the vicious or dangerous animal. In the event that destruction is ordered, the judge shall order a date, time and location for the owner to deliver such animal to the animal control superintendent of the city, who shall immediately destroy or cause to be destroyed the vicious or dangerous animal.
- (d) No person shall interfere with or attempt to prevent the performance of any official duties or acts required by any public official by this chapter. Nor shall any owner of any animal declared to be vicious or dangerous pursuant to the foregoing subsections keep or harbor a vicious or dangerous animal ordered destroyed within the city beyond the date and time ordered for the owner to deliver possession of such animal to the animal control superintendent. Violation of the foregoing is declared to be unlawful, and the commission of same is declared to be a class C misdemeanor, punishable in accordance with the general penalty provisions of this Code.
- (c) If, after notice and hearing, the judge of the municipal court shall make a determination that an animal is vicious or dangerous to persons or other animals and does not order the destruction of the vicious or dangerous animal, the judge shall enter an order for the muzzling and sufficient enclosing of the animal. The owner of the animal shall provide a fenced area under which the animal may not dig for escape. Such fenced area shall contain an escape-proof floor, inside a secure fenced area under which the fence extends twelve (12) inches below ground level and contains an enclosed top. The judge's order shall further provide that the animal shall not be removed from such fenced area unless it is on a leash and is muzzled and is in the attendance of the owner. The judge's order shall further contain provision that the owner be required to place a clearly visible sign, to be permanently displayed on the owner's premises, stating "Vicious Animal."

(Code 1965, § 4-42)

## Wild things

**Focus on dogs and cats, not on lions and bears**

**Editorial:**

**Tribune-Star**

**June 26, 1997**

Terre Haute's proposed ban on exotic animals was conceived with good intentions. When there are lions, tigers or bears in the neighborhood, it is understandable that public safety would be an issue.

Despite good intentions, City Council proposers of the pending ordinance have failed to show that the few exotic animals that could be considered dangerous are any significant risk to anyone.

Those who own exotic pets are licensed to do so. Lions or bears are not animals you'll see penned up on every block. Evidence locally is that potentially exotic animals are well treated and cared for, and are kept in secure surroundings. Not only are dangers minimal, the city's proposal apparently lacks an adequate plan for enforcement. The people who own exotic animals are the only ones trained and qualified to handle them properly. Yet they are the ones whose animals will be confiscated if they don't voluntarily give up their stock.

Good intentions aside, the proposed exotic animal ban is poorly conceived. What's more, it's troubling to see such a minor issue generating such attention.

In fact, the most striking irony in this entire debate is that if Terre Haute has an animal problem and there is evidence that it does it is with stray dogs and cats. Yet no elected official is pursuing solutions to that problem with any vigor.

Indiana Conservation Officer Dean Jenkins, who happens to be the brother of Mayor James R. Jenkins, told the TribuneStar this week that the city's best approach would be to formulate an exotic pet ordinance in accordance with state law rather than implementing its own set of rules that require financial investment and training in the handling of wild animals.

He also noted the city would be wise to concentrate its efforts on containing stray cats and dogs and leave exotic animal problems to other agencies.

**We agree. There is no compelling need reason to pursue an exotic animal ordinance. On the other hand, a comprehensive animal control ordinance that seeks to reduce and contain the dog and cat population is long overdue.**





## Exotic animals stay

### Council votes down animal ban

By Michelle L. Hudson  
Tribune-Star  
July 11, 1997

Terre Haute City Council members Thursday night voted 4-5 to quash a resolution banning exotic animals, prompting many speaking against it to breathe a sigh of relief.

Several city residents Andy couple of pet shop owners voiced their opposition to a proposed ban on exotic animals, saying they thought the council should focus more on smaller animals, namely with dogs and cats.

Council members did address that issue later in the meeting at City Hall, voting to form a committee to study constructing an animal control facility. Council members also discussed adopting an animal control ordinance.

Many residents told council members they didn't think an exotic animal ordinance was necessary. They said owners of those types of pets tend to take care of the animals and aren't a threat to the public.

Councilman Charles Toth, D-5th, proposed the ordinance banning exotic animals in May. It defined exotic animals as: any animal not indigenous to the United States; any snake, reptile or carnivorous mammal weighing more than five pounds; or any bird of prey.

Toth proposed the ordinance because he said he believes exotic animals belong in zoos, and if the council didn't pass legislation to ban the animals from city limits, someone might be injured by an exotic pet.

But some exotic pet owners attended the meeting - and past meetings - to voice their opposition.

Bill Heyman, owner of Atlantis Pet Center, has a lion at his store at 1521 N. 13th St. He said he has heard many people complain about the pro-posed ordinance, and he thinks the council should focus more on cats and dogs than exotic animals.

"This is just the tip of the iceberg," Heyman said. "We need to deal with dogs and cats. Exotic animals are not the problem."

Heyman also said there are state regulations dictating the care of those type of pets.

Pat Harris, who owns a 5-foot-long, 60-pound python named Herman, agreed cats and dogs are a bigger problem. She said most exotic pet owners are responsible - more responsible than many owners of cats and dogs.

"I don't feel it's as dangerous as our neighbor's dog," Harris said. "I can't see why they should have to get rid of lions and things like that when people can't keep their dogs locked up."

Council members voted 4-5 against the ordinance, but they are considering adopting an animal control ordinance that would address problems with cats and dogs. No action was taken on the issue.

Council members did vote on a proposal by Councilman Norman Loudermilk to establish a committee that will study the feasibility of constructing, maintaining and operating an animal control facility.

No date has been set for the committee to meet.

#### How they voted

Here's how individual Councilmen voted on the proposed exotic animal ban:

- Larry Auler-Against
- Louis "Joe" Duby-For
- Charles Ennis-Against
- L.E. "Gene" Frazier-For
- Norman Loudermilk-Against
- Chuck Miles-Against
- John S. Newlin-For
- Charles Toth-For
- William Thompson-Against

#### J&A Comment

This was a "fluff" issue. Terre Haute faces more compelling problems than the risks posed by "exotic" animals. Furthermore, the ban was too broad in that it eliminated "any animal not indigenous to the United States." Is Toth bored or just unwilling to address more substantive issues?





# National Alternative Pet Association

**Is your pet *unconventional*?**

**Do people put you down because your pet isn't a socially acceptable cat, dog or goldfish?**

**Do you prefer the companionship of a domestic ferret, sugar glider, hedgehog, gerbil, snake, lizard, prairie dog, domestic skunk, degu, wallaby, emu, llama, exotic cat, monkey or ? Do you have trouble finding information on how to properly keep your alternative pet? Is it hard to find veterinarians, shelters, rescue groups?**

**Do you think it is fair for various exotic pet species to be prohibited in various states or cities? Discrimination based on your choice of a pet is still discrimination.**

Even though many exotic pet species have been bred in captivity for a long time now, the laws still treat them like second class pets in some areas. They often blow isolated incidents out of proportion or treat those with exotic pets like criminals. They accuse pet owners of causing the decline of species, when in fact many endangered species are bred by private individuals and are declining due to habitat destruction. Some species have no chance other than captive breeding.

Vets are hard to locate at times and rescue groups are even scarcer. Zoos often will not take unwanted exotic pets nor help the owners learn how to care for them. Too many shelters who end up with an animal that is not a domestic dog or cat resort to euthanasia, because they are unwilling to allow a dedicated or qualified private individual adopt an animal they believe only a zoo is qualified to keep. Some wildlife rehab groups also would rather put the exotic pet or non-releasable animal to sleep rather than place it in a new home.

**Are you tired of extremists making the word 'pet' a dirty word or animal rights groups who would rather see animals dead than kept in loving homes?**

**Its time for a change and education is the key....**

(Exotic Animal/Pet Related Sites Only!)

**FREE**  
**Guestbook**

The National Alternative Pet Association is here to help.

**Exotic Pet Care Info**  
**Exotic Pet Rescue Networking**

## Severe Animal Attacks

During 1995, a total of 621 severe attacks/bites were voluntarily reported to the Zoonosis Control division of the Texas Department of Health. "Severe attack" is defined as one in which the animal repeatedly bites or vigorously shakes its victim, and the victim, or a person intervening has extreme difficulty terminating the attack. "Severe bite" is defined as a puncture or laceration made by an animal's teeth which breaks the skin, resulting in a degree of trauma which would cause most prudent and reasonable people to seek medical care for treatment of the wound, without considerations of rabies prevention alone. Most of the reports were submitted by local health departments, law enforcement agencies, and animal control agencies.

Species reported to be involved in severe attacks were dogs (534 reports, 85.9%), feline (66 reports, 10.6%), opossum, raccoon, rooster, snake, and squirrel (one each, 0.2%).

When only reports involving canines are examined, 492 reports specified the breed. Of the 87 breeds and crossbreeds listed, eight breeds and breed crosses constituted 51.8% of the reports. No other breeds or breed crosses represented more than 4% of the reports.

Breed	No.	Percent
Chow Chow	67	13.6
Chow Cross	39	7.9
Pit Bull	32	6.5
German Shepherd	26	5.3
Heeler	24	4.9
Mixed	24	4.9
Rottweiler	23	4.7
German Shepherd Cross	20	4.1
All Others	237	48.2

Of the 403 reports involving dogs or cats which indicated whether the animal's rabies vaccination was current, 223 (54.9%) were current and 183 (45.1%) were not.

Of the 516 reports which listed the animal's behavior prior to the attack, the animal was described as docile or friendly in 335 cases (64.9%). Of the 604 reports stating whether multiple animals were involved, 35 (5.8%) incidents involved an attacking animal that was part of a larger group of animals (range, 2 to 10 animals; mean, 2.7) while in 569 (94.2%) incidents, the animal acted alone.

Thirty-three attack victims required surgery, 41 required hospitalization, and 174 required sutures.

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The TSP is the document Multnomah County will use to review future developments  
and transportation improvements

ADOPTED this 2nd day of July, 1998, being the date of its second reading  
before the Board of County Commissioners of Multnomah County.

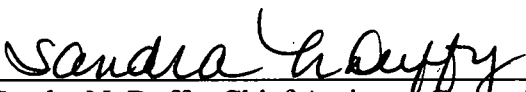
BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

---

Beverly Stein, Chair

REVIEWED:

THOMAS SPONSLER, COUNTY COUNSEL  
FOR MULTNOMAH COUNTY, OREGON

By   
Sandra N. Duffy, Chief Assistant Counsel

1

2 (D) On June 15, 1998 the Multnomah County Division of  
3 Transportation and Land Use Planning placed an announcement of a public hearing  
4 on the Sauvie Island/Multnomah Channel Rural Area Plan amendments in the  
5 Oregonian and mailed notices to interested parties who had participated in the  
6 development of the Transportation System Plan.

7

8 (E) On June 25, 1998, the Multnomah County Board of  
9 Commissioners conducted a public hearing on the first reading of Sauvie  
10 Island/Multnomah Channel Rural Area Plan amendments.

11

12 (F) On July 2, 1998 the Multnomah County Board of  
13 Commissioners considered the second reading of the Sauvie Island/Multnomah  
14 Channel Rural Area Plan amendments.

15

16 Section III. Amendment to the Sauvie Island/Multnomah Channel Rural Area Plan

17

18 The Multnomah County Sauvie Island/Multnomah Channel Rural Area Plan  
19 is hereby amended to include the following language:

20

21 P. 24, following existing policy #26:

22

23 The Westside Rural Multnomah County Transportation System Plan (TSP) has been  
24 adopted since formulation of these policies. The TSP is consistent with the  
25 preceding transportation policies and it specifically implements policies 24 & 25..

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BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON  
ORDINANCE NO. \_\_\_\_\_

An Ordinance amending the Sauvie Island/Multnomah Channel Rural Area  
Plan.

Multnomah County Ordains as follows:

Section I. Purpose

(A) The purpose of this ordinance is to amend the Multnomah  
County Sauvie Island/Multnomah Channel Rural Area Plan to be consistent with the  
Westside Rural Multnomah County Transportation System Plan.

Section II. Findings

(A) The Westside Rural Multnomah County Transportation  
System Plan provides transportation policies and alternatives for the westside rural  
area of the County to comply with the Statewide Transportation Planning Rule.

(B) The policies identified in the Transportation System Plan  
support and expand upon the transportation policies adopted in the Sauvie  
Island/Multnomah Channel Rural Area Plan.

(C) The Multnomah County Planning Commission held a public  
hearing on amendments to the Sauvie Island/Multnomah Channel Rural Area Plan  
that reflect consistency with the Westside Rural Multnomah County Transportation  
System Plan on May 18, 1998.

IV. Legal Issues:

There are no legal issues.

V. Controversial Issues:

There are no controversial issues.

VI. Link to Current County Policies:

The purpose of this action is to make all County policies consistent. The Land Use and Transportation planning staff have worked closely on the changes to the Plan.

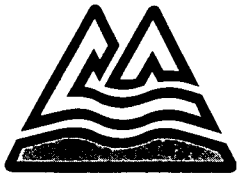
VII. Citizen Participation:

A public hearing was held before the Planning Commission on May 18, 1998.

VIII. Other Government Participation:

The Department of Land Conservation and Development has been notified of these proposed changes.





# MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES  
TRANSPORTATION DIVISION  
1620 SE 190TH AVENUE  
PORTLAND, OREGON 97233  
(503) 248-5050

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR • 248-3308  
DIANE LINN • DISTRICT 1 • 248-5220  
GARY HANSEN • DISTRICT 2 • 248-5219  
LISA NAITO • DISTRICT 3 • 248-5217  
SHARRON KELLEY • DISTRICT 4 • 248-5213

## MEMORANDUM

**TO:** BOARD OF COUNTY COMMISSIONERS

**FROM:** Larry F. Nicholas, P. E., Director  
Karen Schilling, Transportation Planning Administrator *KS*

**TODAY'S DATE:** June 15, 1998

**REQUESTED PLACEMENT DATE:** June 25, 1998

**RE:** Adopt amendments to the Sauvie Island/Multnomah Channel Rural Area Plan.

**I. Recommendation/Action Requested:**

Adopt amendments to the Sauvie Island/Multnomah Channel Rural Area Plan to incorporate the Westside Rural Multnomah County Transportation System Plan.

**II. Background/Analysis:**

The Sauvie Island/Multnomah Channel Rural Area Plan (adopted October 30, 1997) is being amended to be consistent with the Westside Rural Multnomah County Transportation System Plan (TSP). The Westside Rural Multnomah County Transportation System Plan is a requirement of the Statewide Transportation Planning Rule. The policies in the TSP support and expand upon the transportation policies adopted in the Sauvie Island/ Multnomah Channel Rural Area Plan.

There are no substantive changes to the Sauvie Island/Multnomah Channel Rural Area Plan.

**III. Financial Impact:**

There are no financial impacts.

MEETING DATE: JUN 25 1998  
AGENDA NO: R-12  
ESTIMATED START TIME: 10:30

(Above Space for Board Clerk's Use ONLY)

### AGENDA PLACEMENT FORM

SUBJECT: Public Hearing for the adoption of amendments to the Sauvie Island/Multnomah Channel Rural Area Plan

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: June 25, 1998  
AMOUNT OF TIME NEEDED: 5 minutes

DEPARTMENT: Environmental Services DIVISION: Transp. & Land Use Planning  
CONTACT: Karen Schilling TELEPHONE #: 248-3636  
BLDG/ROOM #: 425/Yeon

PERSON(S) MAKING PRESENTATION: Karen Schilling

#### ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

#### SUGGESTED AGENDA TITLE:

Adoption of amendments to the Sauvie Island/Multnomah Channel Rural Area Plan.

#### SIGNATURES REQUIRED:

ELECTED OFFICIAL: \_\_\_\_\_  
(OR)  
DEPARTMENT  
MANAGER: Lan E. Nicholas

98 JUN 16 AM 9:20  
COUNTY CLERK  
MULTNOMAH COUNTY  
OREGON

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277

1  
2 (E) On June 25, 1998, the Multnomah County Board of  
3 Commissioners conducted a public hearing on the first reading of amendments to the  
4 Comprehensive Framework Plan.

5  
6 (F) On July 2, 1998 the Multnomah County Board of  
7 Commissioners considered the second reading of the amendments to the  
8 Comprehensive Framework Plan.

9  
10 Section III. Amendment of the Comprehensive Framework Plan

11  
12 The Multnomah County Comprehensive Framework Plan is hereby amended  
13 to include the Westside Rural Multnomah County Transportation System Plan,  
14 attached hereto as Exhibit "A", with the Addendum attached as Exhibit "B", and  
15 Resolution C-498 attached as Exhibit "C". The Comprehensive Framework Plan is  
16 also amended to include the following language:

17  
18 P. 42-1, following the first paragraph of the introduction under Policy 33A:

19  
20 When adopted, the transportation system plans, developed for a specific sub-area of  
21 the County, provide transportation policies and alternatives for their specific areas.  
22 Additional transportation policies have been identified and adopted in the rural area  
23 plans developed through the land use planning process for certain sub-areas of the  
24 County. Where an adopted transportation system plan exists, it should be used,  
25 along with the corresponding rural area plan, to establish criteria for the County to  
26 use in evaluating alternative transportation proposals in order to achieve a balanced,  
27 safe and efficient system.

28  
29 The following policies apply to areas without a County adopted transportation  
30 system plan. The purpose of this policy is to establish criteria for the County to use  
31 in evaluating alternative transportation proposals in order to achieve its objective of

V. Controversial Issues:

There are no controversial issues.

VI. Link to Current County Policies:

The purpose of this action is to make all County policies consistent. The Land Use and Transportation planning staff have worked closely on the changes to the Plan.

VII. Citizen Participation:

A public hearing was held before the Planning Commission on May 18, 1998.

VIII. Other Government Participation:

The Department of Land Conservation and Development has been notified of these proposed changes.

MEETING DATE: JUN 25 1998  
AGENDA NO: R-11  
ESTIMATED START TIME: 10:25

(Above Space for Board Clerk's Use ONLY)

### AGENDA PLACEMENT FORM

SUBJECT: Public Hearing for the adoption of amendments to the Comprehensive Framework Plan

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: June 25, 1998  
AMOUNT OF TIME NEEDED: 5 minutes

DEPARTMENT: Environmental Services DIVISION: Transp. & Land Use Planning

CONTACT: Karen Schilling TELEPHONE #: 248-3636  
BLDG/ROOM #: 425/Yeon

PERSON(S) MAKING PRESENTATION: Karen Schilling

#### ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

#### SUGGESTED AGENDA TITLE:

Adoption of amendments to the Comprehensive Framework Plan.

#### SIGNATURES REQUIRED:

ELECTED OFFICIAL: \_\_\_\_\_  
(OR)  
DEPARTMENT MANAGER: Larry Nicholas

CLERK OF  
COUNTY COMMISSIONERS  
98 JUN 16 AM 9:20  
MULTNOMAH COUNTY  
OREGON

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277

1  
2 (I) On July 2, 1998 the Multnomah County Board of  
3 Commissioners considered the second reading of the Westside Rural Multnomah  
4 County Transportation System Plan.

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6  
7 Section III. Adoption

8  
9 ADOPTED this 2nd day of July 1998, being the date of its second reading before the  
10 Board of County Commissioners of Multnomah County.

11  
12 BOARD OF COUNTY COMMISSIONERS  
13 FOR MULTNOMAH COUNTY, OREGON

14  
15 \_\_\_\_\_  
16 Beverly Stein, Chair

17  
18  
19 REVIEWED:

20 THOMAS SPONSER, COUNTY COUNSEL  
21 FOR MULTNOMAH COUNTY, OREGON

22  
23 By Sandra N. Duffy  
24 Sandra N. Duffy, Chief Assistant Counsel

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(D) These draft policies and projects were presented at a public open house in April 1998 within the Westside rural community.

(E) The Multnomah County Planning Commission held a public hearing on the draft Westside Rural Multnomah County Transportation System Plan on May 18, 1998. The Planning Commission recommended the Transportation System Plan (Exhibit A dated April 15, 1998) and Addendum (Exhibit B dated May 8, 1998) with amendments as noted in the attached Resolution C-498 (Exhibit C dated May 18, 1998) for adoption by the Multnomah County Board of Commissioners following the hearing.

(F) On April 21, 1998, the draft Westside Rural Multnomah County Transportation System Plan was sent to the Oregon Department of Land Conservation and Development for a 45 day review period.

(G) On June 15, 1998 the Multnomah County Division of Transportation and Land Use Planning placed an announcement of a public hearing on the Westside Rural Multnomah County Transportation System Plan in the Oregonian and mailed notices to interested parties who had participated in the development of the Transportation System Plan

(H) On June 25, 1998, the Multnomah County Board of Commissioners conducted a public hearing on the first reading of Westside Rural Multnomah County Transportation System Plan.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON  
ORDINANCE NO. \_\_\_\_\_

An Ordinance adopting the Westside Rural Multnomah County Transportation  
System Plan.

Multnomah County Ordains as follows:

Section I. Purpose

(A) The purpose of this ordinance is to adopt the Westside Rural  
Multnomah County Transportation System Plan as an element of the Comprehensive  
Framework Plan.

Section II. Findings

(A) The Westside Rural Multnomah County Transportation System  
Plan provides transportation policies and alternatives for the westside rural area of the  
County to comply with the Statewide Transportation Planning Rule.

(B) In June 1997, a task force and sounding board of 40 area citizens  
were formed to assist in the preparation of the Westside Rural Multnomah County  
Transportation System Plan.

(C) The task force met three times between July 1997 and March  
1998 and formulated draft policies and projects to be included within the Westside  
Rural Multnomah County Transportation System Plan.



III. Financial Impact:

Adoption of the Transportation System Plan does impact our long-term financial commitments. Additional projects will be added to the Capital Improvement Plan and additional studies will be added to the planning and engineering work programs.

IV. Legal Issues:

There are no legal issues.

V. Controversial Issues:

There are no controversial issues.

VI. Link to Current County Policies:

The Transportation System Plan is consistent with Policy 33A of the Comprehensive Framework Plan that calls for implementation of a balanced, safe and efficient transportation system.

VII. Citizen Participation:

A Sounding Board and Task Force of area residents were established at the beginning of the project and assisted the County in developing transportation goals and policies and identifying the transportation needs for the area. The Task Force met three times over the past year. An Open House was held in April 1998 with approximately 100 residents in attendance.

A public hearing was held before the Planning Commission on May 18, 1998.

VIII. Other Government Participation:

Representatives from Metro, City of Portland, Washington and Columbia Counties, and ODOT have participated in the development of the TSP.



# MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES  
TRANSPORTATION DIVISION  
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(503) 248-5050

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LISA NAITO • DISTRICT 3 • 248-5217  
SHARRON KELLEY • DISTRICT 4 • 248-5213

## MEMORANDUM

**TO:** BOARD OF COUNTY COMMISSIONERS

**FROM:** Larry F. Nicholas, P. E., Director  
Karen Schilling, Transportation Planning Administrator *KS*

**TODAY'S DATE:** June 15, 1998

**REQUESTED PLACEMENT DATE:** June 25, 1998

**RE:** Adopt the Westside Rural Multnomah County Transportation System Plan.

**I. Recommendation/Action Requested:**

Adopt the Westside Rural Multnomah County Transportation System Plan (Attachment A) with recommended changes (Attachments B and C).

**II. Background/Analysis:**

The Westside Rural Multnomah County Transportation System Plan is a requirement of the Statewide Transportation Planning Rule. The Transportation System Plan addresses transportation policies and projects for the rural area of Multnomah County west of the City of Portland. All modes of transportation have been addressed including auto, air, rail, bicycle, pedestrian and transit.

The West Hills and Sauvie Island/Multnomah Channel Rural Area Plans are being amended to be consistent with the TSP. The Comprehensive Framework Plan is being amended to comply with the Transportation Planning Rule. There are no substantive changes to these Plans.

MEETING DATE: JUN 25 1998  
AGENDA NO: R-10  
ESTIMATED START TIME: 10:10

(Above Space for Board Clerk's Use ONLY)

### AGENDA PLACEMENT FORM

SUBJECT: Public Hearing for the adoption of the Westside Rural Multnomah County  
Transportation System Plan

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: June 25, 1998  
AMOUNT OF TIME NEEDED: 15 minutes

DEPARTMENT: Environmental Services DIVISION: Transp. & Land Use Planning

CONTACT: Karen Schilling TELEPHONE #: 248-3636  
BLDG/ROOM #: 425/Yeon

PERSON(S) MAKING PRESENTATION: Karen Schilling

#### ACTION REQUESTED:

[ ] INFORMATIONAL ONLY [ ] POLICY DIRECTION [X] APPROVAL [ ] OTHER

#### SUGGESTED AGENDA TITLE:

Adoption of the Westside Rural Multnomah County Transportation System Plan.

#### SIGNATURES REQUIRED:

ELECTED OFFICIAL: \_\_\_\_\_

(OR)

DEPARTMENT  
MANAGER: \_\_\_\_\_

*Larry Nicholas*

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277

98 JUN 16 AM 9 21  
MULTNOMAH COUNTY  
OREGON  
COUNTY COMMISSIONERS

#1

## SPEAKER SIGN UP CARDS

DATE 6/25/98

NAME Dave Koennicke

ADDRESS 14482 NW Billman  
Portland OR 97231

PHONE 503 621 3224

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC TSP Plan

GIVE TO BOARD CLERK

R-10

#2

## SPEAKER SIGN UP CARDS

DATE

JUNE 25-98

NAME

LORA CRESWICK

ADDRESS

15203 NW BURLINGTON CT.

PORTLAND, OREGON

PHONE

621-3645

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC

Transportation Systems

GIVE TO BOARD CLERK

R-10 - R-12

#3

## SPEAKER SIGN UP CARDS

DATE June 25, 1998

NAME

Cheryl Neal

ADDRESS

12115 NW Skyline Blvd

Portland, Or 97231

PHONE

(503) 629-5848

SPEAKING  
TOPIC

ON AGENDA ITEM NUMBER OR  
R-10 R-13

GIVE TO BOARD CLERK

# GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

## SENATE BILL 954

**Short Title: Exotic Animal Registry. (Public)**

**Sponsors:** Senators Webster; and Kerr.

**Referred to:** Agriculture/Environment/Natural Resources.

April 17, 1997

A BILL TO BE ENTITLED

**AN ACT TO DIRECT THE DEPARTMENT OF AGRICULTURE TO DEVELOP A PLAN FOR ESTABLISHING A REGISTRY OF ALL EXOTIC ANIMALS HOUSED IN THE STATE.**

Additional Information:

The General Assembly of North Carolina enacts:

Section 1. The General Assembly finds that certain animals not indigenous to North Carolina pose a serious threat to human health and safety by virtue of their physical attributes and natural behavior. Often these animals are imported outside of their natural habitat and kept as pets. Therefore, the General Assembly recognizes a need to create a registry of such animals so that their presence is known to persons inhabiting the area in which such an animal is housed and that proper precautions may be taken in the event that such an animal escapes.

Section 2. The Animal Welfare Section of the Animal Health Division of the Department of Agriculture shall develop a plan for establishing a registry of exotic animals housed in this State. For purposes of this act, the term "exotic animal" means an animal:

- (1) That is not indigenous to North Carolina; and
- (2) That poses a significant threat to human health and safety.

The plan shall address methods for collecting data on the location of exotic animals housed in public or private facilities across the State. The plan shall also address potential methods for tagging exotic animals through the use of technology, identifying marks, or other means so that a particular animal can be identified despite changes in the possession or ownership of the animal.

The Wildlife Resources Commission and the North Carolina Zoological Park shall provide the Department with any necessary expertise in developing the plan required by this section.

Section 3. The Animal Welfare Division shall report the

plan developed pursuant to this act upon the convening of the 1998 Regular Session of the 1997 General Assembly.

Section 4. Nothing in this act is intended to interfere with the lawful possession of exotic animals by citizens of this State.

Section 5. This act is effective when it becomes law.



PETITION

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Pacific Northwest Exotics Club,	)	
"PNWE",	)	
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	)	Proposed Exotic Animal
L.I.O.C. Endangered Species	)	Ordinance MCC 8.10
Conservation Federation, Inc.,	)	
"L.I.O.C."	)	
	)	To
	)	
	)	Multnomah County
	)	Commissioners,
	)	"County"
	)	

Now comes the Pacific Northwest Exotics Club before the Multnomah County Commissioners on June 25, 1998 to petition consideration of the rights vested in the citizens of Oregon by the State and Federal Constitutions and to grant those privileges and immunities granted to a similar class of private organization, the AZA, in a proposed exotic animal ordinance. The following facts and allegations are put forth as testimony by PNWE:

25  
26  
27  
28  
29  
30

1.

The County is considering the adoption of a policy, contrary to that of the State of Oregon, held by private organizations including the American Association of Zoos and Aquaria (AZA) and the United States Humane Society (USHS) both of which are based outside the State of Oregon, to prohibit private ownership of exotic companion animals by citizens of the County and State, in Multnomah County.

2.

The County has cited authority for its actions by the power vested in the County by the State Legislature in ORS 609.205 (1985), which may allow any city or county to prohibit the keeping of exotic animals or wildlife.

**609.205 Prohibitions against keeping of wild or exotic animals.** Notwithstanding the provisions of ORS chapters 496, 497 and 498 relating to wildlife, and ORS 609.305 to 609.335 and 609.992 relating to exotic animals, a city or county may prohibit by ordinance the keeping of wildlife, as defined in ORS 496.004, and may prohibit by ordinance the keeping of exotic animals as defined in ORS 609.305. [1977 c.802 s.3; 1985 c.437 s.9]

3.

ORS 609.205 (1985) does not provide authority to any city or county for any conditional exclusion, to blanket prohibition of exotics or wildlife, to any citizen, class of citizens, corporate entity, or public body.

4,

The County has, in its proposed ordinance, redefined "unreasonable danger to human life or property" to be inclusive of "keeping, maintaining, or confining animals in a safe and secure manner" by deleting that wording from the existing ordinance at MCC 8.10.010 (G). This would include "harboring" of such animals by AZA members.

5.

The County is a one third owner of the Metro Washington Park Zoo ("Zoo") in Portland and may be in conflict of interest, and subject to capricious action not in the public interest, with its membership interests in a private organization, the AZA, and in conflict with maintaining status quo with already adequate laws at the local and State levels to protect public health, welfare, and safety. Those standards of confinement, keeping, and animal health were based on testimony and participation from experts, including members of the veterinary and zoological professions. The County is prejudicially choosing to hear testimony from an "animal information specialist" from the AZA member Zoo, rather than from any expert on animal caging or health.

1 6.

2 The Zoo is a member of the Association of Zoos and Aquaria (AZA), a private  
3 sector corporation based in West Virginia comprised of members that include both the  
4 public and private sector in the State of Oregon.

5 7.

6 The AZA has publicly engaged in nationwide activism to encourage its members  
7 to proliferate laws that may be anti-trust in nature, by apparently attempting to create a  
8 monopoly within its membership by granting itself the exclusive right to keep, maintain,  
9 and breed exotic and wildlife animals.

10 8.

11 The AZA requires that its members' animals be kept, maintained, and confined in  
12 a safe and secure manner to protect the health and safety of the public.

13 9.

14 The AZA maintains a registry and exchanges its members' animals across State  
15 boundaries for breeding or display purposes. The AZA seeks to preserve species in the  
16 wild.

17 10.

18 Oregon Constitution, Article I Bill of Rights, Section 20 states:

19 "Equality of privileges and immunities of citizens. No law shall be passed  
20 granting to any citizen or class of citizens privileges, or immunities, which, upon  
21 the same terms, shall not equally belong to all citizens.--"  
22

23 11.

24 Pacific Northwest Exotics (PNWE) is a club whose membership consists,  
25 primarily, of citizens of the State of Oregon and the State of Washington and includes  
26 members that are residents of Multnomah County.

1 12.

2 PNWE is a branch of a national organization of exotic cat owners, the LIOC  
3 Endangered Species Conservation Federation, Inc. a non-profit, non-commercial  
4 organization devoted to the welfare of exotic felines (Federal ID 59-2048618).

5 13.

6 The LIOC publishes a Code of Conduct for its members that creates a covenant  
7 that the animals are to be kept, maintained, and confined in a safe and secure manner to  
8 protect the health and safety of the public. The Code of Conduct includes a covenant of  
9 compliance with local, state, and federal laws and a covenant requiring the member to  
10 make provisions for the continued care of the animal should an inability arise to care for  
11 the animal by the member.

12 14.

13 Members of PNWE expertly keep, maintain, or breed exotic and wildlife animals  
14 and are dedicated to further educate themselves, fellow members, and the public on the  
15 behavior, habits, and preferences of the family of exotic and wildlife cats. Members of  
16 PNWE regularly contribute expert knowledge to State Agencies, including ODFW and  
17 ODA and have been involved directly in the drafting of ORS 609 et. seq., OAR 611,  
18 OAR 644, and Portland Emergency Exotic Ordinance banning the genus Panthera, only.

19 15.

20 The LIOC maintains a national registry and exchanges its members' animals  
21 across State boundaries for breeding or display purposes. A covenant not to threaten  
22 the viability of species in the wild is part of the Code of Conduct of members of LIOC.

23 16.

24 A recent AZA proposal, at <http://pages.prodigy.com/cats/pcf.htm> states that  
25 there is social value to keeping exotics and wild felids:

26  
27 "There is substantial interest by the private sector in the North American region  
28 in the holding and breeding of wild felids. These facilities can be a source of both  
29 space and expertise to supplement and support main stream conservation  
30 effort." [Emphasis added].  
31

1 17.

2 The AZA proposal cited supra. further states:

3 \*\*\* the private sector and the AZA share a number common goals, objectives,  
4 and values"

5 18.

6 Each County Commissioner has sworn to uphold the Constitutions of Oregon  
7 and the United States of America.

8 PETITION

9 The facts clearly show that PNWE, as a Branch of LIOC and as an Oregon  
10 Association of expert individual members of PNWE, is a group of citizens that shares  
11 the same classification, interests, objectives, goals, and organizational structure as the  
12 AZA. As such, PNWE, under Oregon Constitutional Law, should enjoy the same  
13 privileges and immunities as another organization of the same class. Any ordinance  
14 could also result in legislative interference with member agreements and with interstate  
15 commerce in the pursuit of propagating captive species of exotic and wildlife cats.

16 As a Club comprised of citizens of Multnomah County and of citizens of the  
17 State of Oregon, PNWE respectfully petitions the Multnomah County Commissioners to  
18 uphold their oath to the Oregon Constitution by moving and voting for amending the  
19 proposed exotic animal ordinance MCC 8.10.140 to include the following language:

20 "(B) (9) Any member in good standing of the Pacific Northwest Exotics Club of  
21 Oregon."  
22

23 EXECUTION

24 Provided in public testimony and executed by our hand as representing the truth, to the  
25 best of our knowledge, and as representing the interests of PNWE on June 25, 1998,

26 

27 D. Kaptur\*

28 President, PNWE  
29 P.O. Box 205  
30 Gresham, OR 97030

26 

G. Becken\*

Secretary-Treasurer, PNWE  
P.O. Box 205  
Gresham, OR 97030

31  
32 \* Residents of Multnomah County



## OREGON PET INDUSTRIES ASSOCIATION

P.O. Box 14707

Portland, Oregon 97214

A Non-Profit Oregon Corporation

# MULTNOMAH COUNTY ANIMAL CONTROL PROPOSED RULES

## PROPOSED RULES PLACE BUSINESSES IN MULTNOMAH COUNTY AT A COMPETITIVE DISADVANTAGE.

The availability of snakes increases the sale of the associated supplies. Stores in Washington, Clackamas, and Clark Counties as well as all other counties in Oregon will be selling snakes and supplies. Consumers will not purchase snake supplies for fear of being turned in. Instead, they will travel outside the county for what they need. The result will be to take business away from stores in Multnomah County and move it to outside the county.

## BOAS CAUSED ZERO DEATHS IN THE U.S. BETWEEN 1978 AND

1988. Boas of any size do not represent any safety risk to the public. Pythons do not represent any significant safety risk to the public. The statistics for deaths caused by animals for the period 1978 thru 1988\* include the following:

Animal	10 years	Per Year Ave.
Horses	2190	219
Dogs	140	14
Reticulated Pythons	3	0.3
Burmese Pythons	1	<del>0.4</del> 0.1
All Other Pythons	0	0
Boa Constrictors	0	0
All Other Boas	0	0

Human deaths by other 1978 thru 1988\* were as follows:

Cause of Death	10 years
Motor Vehicles	242055
Firearms	7320
Drowning during Sports/ Recreation	5150
Domestic Wiring and Appliances	1310

Injuries to Humans by Horses 1978 thru 1988\* were 714900.

Statistically, Boas and Pythons do not represent a health or safety risk to the public.

## THE PROPOSED RULES ON SNAKES OVER 8 FEET WILL COMPROMISE OTHER NEEDED ANIMAL CONTROL SERVICES.

More unneeded rules will Require Animal Control to respond complaints. Since no additional funding is being provided for this purpose, this will mean that for each snake complaint that is responded to, some other necessary function or response cannot be handled. Therefore, other necessary services will be compromised.

**PETS FOR LIFE . . . . LIFE FOR PETS**



- **Sources for statistical data include the following:**

1. **National Electronic Injury Surveillance System (NEISS).**
2. **Bixby-Hammet, 1990.**
3. **National Safety Council, Accident Facts, 1991.**
4. **McCarthy, V.O., Cox, R.A. and Haglund, B. 1989.**
5. **Journal of Forensic Sciences, 31 (1) 239-243.**
6. **NBC Evening News, September 1996.**
7. **De Vosjoli, Philippe. 1993. Human Deaths in the U.S.**

## **RECOMMENDATION:**

**Pass the code with a minor change to the definition of Exotic Animals and remove the language associated with snakes over 8 feet. Direct the Director of Animal Control to assemble 2 to 4 experts in the field of snakes to identify specific types that can be named (which represent a bonafide statistical safety risk to the public) and present new language to the Board which can be added at a later date.**





BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 909

An ordinance amending the Multnomah County Animal Control Code Chapter 8.10 to provide for certain new definitions, and regulations relating to Exotic Animals, Potentially Dangerous Dogs, Dangerous Dogs, Limited Search Warrants and State Court Enforcement.

(Language lined through is to be deleted; underlined language is new) Multnomah County ordains as follows:

Section I. AMENDMENT

MCC 8.10.010 is amended and added to as follows:

(A) *Animal* means any non-human vertebrate.

(B) *Animal at large* means any animal, excluding domestic cats licensed and sterilized cats, that is not physically restrained on the owner's or keeper's premises, ~~(private property)~~ (including motorized vehicles) in a manner that physically prevents the animal from leaving ~~that property~~ the premises 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.

(C) *Aggressively bites* means any dog bite that breaks the skin and is accompanied by an attack where the dog exhibits behavior including one or more of the following behavior(s), but not limited to ~~any of the following~~: snarling, baring

Multnomah County Animal Control Code

1 teeth, chasing, growling, barking, snapping, pouncing, lunging, multiple lunges,  
2 or multiple bites.

3 (D) *Board* means the Multnomah County Board of County Commissioners.

4 (E) *Chronic safety nuisance* is demonstrated by the issuance of two (2) or more  
5 notice of infractions or citations for:

6 (1) Violation of MCC 8.10.270 relating to the same dog, or

7 (2) Any dangerous animal that is not confined as required by law, or

8 (3) Any other violation of this chapter based on animal behavior that causes a  
9 substantial risk to public safety.

10 (F) *Chronic noise nuisance* is demonstrated by the issuance of two (2) or more  
11 notice of infractions or citations for violation of MCC 8.10.190(b)(5)(6) and the  
12 receipt of multiple complaints from ~~more than one~~ (1) or more households, within  
13 a one (1) year period, in close proximity to the animal's location.

14 (1) Excluding all lawful commercial operation operated under appropriate  
15 zoning.

16 (G) *Dangerous or Exotic Animal means* any animal, ~~including insects~~, which is of a  
17 wild or predatory nature, and which because of its size, vicious nature or other  
18 characteristics would constitute an unreasonable danger to human life or  
19 property, ~~if not kept, maintained or confined in a safe and secure manner. A dog~~  
20 ~~that has engaged in the behaviors specified in MCC 8.10.271. A dangerous or~~  
21 exotic animal under this chapter shall include any of the following animals:

22 (1) Any large felid from the genus Panthera, including: lion, P. leo; tiger,  
23 P. tigris; jaguar, P. onca; leopard, P. pardus; and snow leopard, Uncia

Multnomah County Animal Control Code

- 1           uncia; as well as the puma (cougar or mountain lion), Puma concolor;  
2           clouded leopard, Neofelis nebulosa; and cheetah, Acinonyx jubatus.
- 3           (2) Any monkey, ape, gorilla, hybrid thereof, or other non-human primate;  
4           (3) Any wolf or canine except the species Canis Familiaris (domestic dog);  
5           (4) Any bear;  
6           (5) Any venomous or poisonous reptile;  
7           (6) Any reptile of the order Crocodilia (crocodiles, alligators and caimans),  
8           or any snake of the family Pythonidae or Boinae capable of obtaining  
9           eight (8) feet or more in length.
- 10       (H) Dangerous Dog means any dog found to have engaged in any of the  
11       behaviors specified in MCC 8.10.271.
- 12       (I)(H) Dangerous Dog Facility means any site for the keeping of one or more  
13       dangerous animals dogs.
- 14       (J)(H) Director means the director of the department of environmental services  
15       animal control division of Multnomah County or the director's designee.
- 16       (K) Domestic Animal. Any animal whose physiology has been determined or  
17       manipulated through selective breeding and does not occur naturally in the  
18       wild, or which may be vaccinated against rabies with an approved rabies  
19       vaccine and for which there is an established rabies quarantine observation  
20       period. Examples of domestic animals include dogs, cats and livestock.
- 21       (L) ~~(J)~~ Euthanasia means putting an animal to death in a humane manner.
- 22       (M)(K) Facility is a site excluding veterinary hospitals operated or used for:

Multnomah County Animal Control Code

1 (1) Boarding, training or similar purposes of dogs, cats, or other animals  
2 commonly maintained as pets for varying periods of time.

3 (2) ~~For~~ The purpose of breeding, buying, selling, or bartering of dogs and/or cats,  
4 or other animals commonly maintained as pets.

5 (3) ~~(4) Facility operated by animal welfare/rescue organization. Breeding of~~  
6 ~~dogs and/or cats for the preservation of the breed.~~

7 (N) Harboring of a Dangerous or Exotic Animal means to knowingly allow the animal  
8 to remain, lodge, be fed, or to be given shelter or refuge within the person's  
9 home, store, yard, enclosure, vehicle or building, place of business, or any  
10 other premises in which the person resides or over which the person has  
11 control.

12 (O) ~~(L)~~ *Hearing officer* means a person appointed by the chair to hear appeals  
13 decisions of the director concerning violations of this chapter, ~~or license~~  
14 ~~denial or revocation under MCC 8.10.100 through 8.10.145~~ chapter.

15 (P) ~~(M)~~ *Immediate health hazard* exists if at any given location there are conditions  
16 related to animal care that the director determines warrant immediate  
17 intervention; such conditions include, but are not limited to inadequate  
18 sanitation, untreated disease, or animals in numbers greater than the animal's  
19 owner or keeper can reasonably care for.

20 (Q) ~~(N)~~ *Keeper* means any person or legal entity who harbors, cares for, exercises  
21 control over, or knowingly permits any animal to remain on premises occupied  
22 by that person for a period of time not less than 72 hours or someone who  
23 accepted the animal for the purpose of safe keeping.

Multnomah County Animal Control Code

1 ~~(O) Liability insurance means public liability insurance in a single incident amount of~~  
2 ~~not less than \$50,000.00 for bodily injury to or death of any person or persons~~  
3 ~~or a cash bond or irrevocable letter of credit in the amount up to \$2,500.00.~~  
4 ~~The owner or keeper shall be required to provide the director with certification~~  
5 ~~of insurance within ten days of receiving notification of classification. Such~~  
6 ~~policy shall provide that no cancellation of the policy will be made unless ten~~  
7 ~~days' written notice is given to the director by certified mail.~~

8 ~~(R)(P) Livestock~~ means animals, including but not limited to fowl, horses, mules,  
9 burros, asses, cattle, sheep, goats, llamas, emu, ostriches, rabbits, swine and  
10 or other farm domestic animals, excluding dogs and cats.

11 ~~(S)(Q) Livestock facility~~ means any site for the keeping of livestock.

12 ~~(T) (R) Minimum care~~ has the meaning as provided in ORS 167.310(8) (1995).

13 ~~(U) (S) Muzzle~~ means a device constructed of strong, soft material or a metal  
14 muzzle that ~~complies with specifications to be adopted as administrative~~  
15 ~~rules by the director. The muzzle must be~~ is made in a manner that will not  
16 cause injury to the dog or interfere with its vision or respiration but must  
17 prevent it from biting any person or animal.

18 ~~(V) (T) Owner~~ means any person or legal entity having a possessory property  
19 right in the animal or any person who has been a keeper of an animal for  
20 more than 90 days.

21 ~~(W) (U) Permit~~, for the purpose of MCC 8.10.190, shall include human conduct  
22 that is intentional, deliberate, careless, inadvertent, or negligent in  
23 relationship to an animal.

Multnomah County Animal Control Code

1 (X) ~~(V)~~ *Person* means any natural person, association, partnership, firm or  
2 corporation.

3 (Y) ~~(W)~~ *Pet license* is a record issued by Animal Control which identifies an  
4 animal of licensable age and the owner. Means ~~a license for any owned~~  
5 ~~animal that is of licensable age.~~

6 (Z) *Pet* means a domestic or other animal allowed under this Chapter to be kept  
7 as a companion;

8 (AA) ~~(X)~~ *Physical device or structure* means a tether, trolley system, other  
9 physical control device or structure made of material sufficiently strong to  
10 adequately and humanely confine the animal in a manner that would  
11 prevent it from escaping the premises.

12 (BB) ~~(Y)~~ *Physical injury* means physical impairment or as evidenced by scrapes,  
13 cuts, punctures, bruises or physical pain ~~or other evidence of physical~~  
14 ~~impairment.~~

15 (CC) ~~(Z)~~ *Potentially dangerous dog* means any dog that has been found to have  
16 engaged in any of the behaviors specified in MCC 8.10.270.

17 (DD) ~~(AA)~~ *Public nuisance animal* is an animal that has been determined by the  
18 director to be a chronic noise nuisance, or a chronic safety nuisance, or an  
19 animal that is subjected to an immediate health hazard.

20 (EE)~~(BB)~~ *A secure enclosure* shall be:

21 (1) A fully fenced pen, kennel or structure that shall remain locked with a padlock  
22 or combination lock. Such pen, kennel or structure must have secure sides,  
23 minimum of five feet high, and the director may require a secure top attached

Multnomah County Animal Control Code

1 to the sides, and a secure bottom or floor attached to the sides of the  
2 structure or the sides must be embedded in the ground no less than one foot.

3 The structure must be in compliance with the jurisdiction's building code.

4 (2) A house or garage. When dogs are kept inside a house or garage as a  
5 secure enclosure, the house or garage shall have latched doors kept in good  
6 repair to prevent the accidental escape of the dog. A house, garage, patio,  
7 porch or any part of the house or condition of the structure is not a secure  
8 enclosure if the structure would allow the dog to exit the structure ~~on~~ of its  
9 own volition; or

10 (3) For a Dangerous Dog, a fully fenced pen, kennel or structure at least six feet  
11 in height, installed beneath the ground level or in concrete or pavement, or a  
12 fabricated structure to prevent digging under it. Either enclosure shall be  
13 designed to prevent the entry of children or unauthorized persons and to  
14 prevent those persons from extending appendages inside the enclosure and  
15 be equipped with a self closing and self latching gate. A "Dangerous Dog"  
16 sign prescribed by the director must be posted at the entry to the owner's or  
17 keeper's premises.

18 (FF) ~~(CC)~~ *Serious physical injury* means any physical injury which creates a  
19 substantial risk of death or which causes significant disfigurement, significant  
20 ~~impairment of health or significant loss or impairment of the function of any body~~  
21 ~~part or bodily organ~~ or protracted loss or impairment of health or of the function of  
22 any body part or organ.

1 (GG) ~~(DD) Service animal is an animal that is professionally trained to provide~~  
2 ~~assistance and whose primary function is to provide such service. Service~~  
3 ~~animals include, but are not limited to, guide dogs, police dogs and rescue dogs.~~  
4 means any guide dog, signal dog or other animal individually trained to do work  
5 or perform tasks for the benefit of an individual with a disability, including, but not  
6 limited to, guiding individuals with impaired vision, alerting individuals with  
7 impaired hearing to intruders or sounds, providing minimal protection or rescue  
8 work, pulling a wheelchair, or fetching dropped items. Service animal shall also  
9 mean trained animals used by government agencies in police and rescue work.

10 (HH) ~~(EE) Sexually unproductive~~ means being incapable of reproduction and  
11 certified as such by a licensed veterinarian.

12 ~~(FF) Vicious animal means any dangerous animal, excluding dogs or cats, which~~  
13 ~~bites any human being or other domestic animal or which demonstrates~~  
14 ~~menacing behavior towards human being or domestic animals. "Vicious animal"~~  
15 ~~does not include an animal which bites, attacks or menaces a trespasser on the~~  
16 ~~property of its owner or keeper or harms or menaces anyone who has tormented~~  
17 ~~or abused it.~~

18 (II) Wolf-Hybrid means any animal which is either the result of cross breeding a  
19 purebred wolf and a dog or an existing wolf-hybrid with a dog.

20 [Ord. 156 § II (2) (1978); Ord. 379 §§ 1–3 (1983); Ord. 480 § 1 (1985); Ord. 517 § 2  
21 (1986); Ord. 591 § 1 (1988); Ord. 732 §§ 1–3 (1992); Ord. 850, § 1 (1996)]

22 Section II. AMENDMENT

23 MCC 8.10.020 is amended as follows:



## Multnomah County Animal Control Code

1       The board of county commissioners recognizes that ORS Chapter 609  
2       constitutes state law for the regulation of dogs but may be superseded in home rule  
3       counties which provide for regulation by ordinance. The board finds that it is  
4       necessary to establish and implement a program for the licensing and regulation of  
5       dogs and other animals and facilities which house them; that animals require legal  
6       protection; that the property rights of owners or keepers and nonowners of animals  
7       should be protected and that the health, safety and welfare of the people residing in  
8       Multnomah County would best be served by adoption of such an ordinance.

### 9       Section III. AMENDMENT

10       MCC 8.10.035 is amended as follows:

11       (A) Whenever a county animal control officer or person designated by the director  
12       has reasonable grounds to believe that an animal or facility is in violation of this  
13       chapter, that officer or designee shall be authorized to issue the owner or  
14       keeper notice of civil infraction containing the following information:

15       (1) The name and address, if known, of the owner or person in violation of this  
16       chapter and description of the animal, if applicable; and

17       (2) The Code section allegedly violated plus a brief descriptive statement of the  
18       nature of the violation; and

19       (3) A statement of the amount due as a civil fine for the infraction and notice that  
20       the animal is to be impounded if impoundment is authorized hereunder.

21       (4) A statement explaining all fines are due within 30 days of service of the  
22       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 with a \$25.00 non-refundable fee ~~with~~ to the director of animal control division within 20 days of the date of the notice of infraction was served.

(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 MCC 8.10.900 (B).

[Ord. 732 § 4 (1992); Ord. 850, § 4 (1996)]

Section IV. AMENDMENT

MCC 8.10.036 is amended as follows:

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.

[Ord. 732 § 5 (1992); Ord. 850, § 5 (1996)]

Section V. AMENDMENT

MCC 8.10.038 is amended as follows:

(A) Any party who is issued a notice of infraction for any offense listed under MCC 8.10.900(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.

Multnomah County Animal Control Code

1 (B) Any written explanations submitted under subsection (A) shall be reviewed by  
2 the hearings officer. The hearings officer shall have discretion to reduce the  
3 submitted fine and refund any portion not retained based on the written  
4 explanation.

5 (C) When a person issued a notice of infraction for violation of any of the following  
6 sections of this chapter: MCC 8.10.190(B)(2), (5) ~~(6)~~, (10) ~~(11)~~, (11) ~~(12)~~, or (12)  
7 ~~(13)~~; or MCC 8.10.191(A), the violation may be compromised as provided at  
8 MCC 8.10.038(D).

9 (D) If the person injured, damaged, or otherwise detrimentally impacted by the  
10 commission of the violation; acknowledges in writing any time before the final  
11 decision of the director, hearings officer, or a court of requisite jurisdiction, that  
12 the person has received satisfaction for the injury damage or detrimental impact,  
13 the director hearings officer or court may in their discretion, on payment of any  
14 cost or expense incurred, order the notice of infraction dismissed.

15 (1) The director, hearings officer, or court when issuing an order to dismiss under  
16 this section, may impose additional conditions or requirements upon the party  
17 issued the violation, if in their determination the additional requirements are  
18 necessary to further protect the public health or safety.

19 (2) Any condition or requirement imposed pursuant to MCC 8.10.038(D)(1) shall  
20 be complied with prior to the entry of the final order dismissing the notice of  
21 infraction(s).

1 (E) The order authorized by MCC 8.10.038(D) when made and entered by the  
2 director, hearings officer or court is a bar to another enforcement action for the  
3 same violation.

4 [Ord. 732 § 7 (1992); Ord. 850, § 6 (1996)]

5 Section VI. AMENDMENT

6 MCC 8.10.040 is amended as follows:

7 (A) The director shall operate, maintain or provide for an adequate facility to receive,  
8 care for and safely confine any animal delivered to the director's custody under  
9 provisions of this chapter, which facility shall be accessible to the public during  
10 reasonable hours for the conduct of necessary business concerning impounded  
11 animals.

12 (B) Any animal may be impounded and held at the facility when it is the subject of a  
13 violation of this chapter, when an animal requires protective custody and care  
14 because of mistreatment or neglect by its owner or keeper or when otherwise  
15 ordered impounded by a court, a hearings officer, or the director.

16 (C) An animal shall be considered impounded from the time the director or the  
17 director's designee takes physical custody of the animal.

18 (D) Impoundment is subject to the following holding period and notice requirements:

19 (1) An animal bearing identification of ownership shall be held for 144 hours from  
20 time of impoundment. The director shall make reasonable effort ~~within 24~~  
21 ~~hours of impoundment~~ by phone to give notice of the impoundment to owner  
22 or keeper and, if unsuccessful, shall mail written notice ~~within 48 hours of~~  
23 ~~impoundment~~ to the last known address of the owner or keeper advising of

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1 the impoundment, the date by which redemption must be made and the fees  
2 payable prior to redemption release.

3 (2) An animal dog for which no identification of ownership is known or reasonably  
4 determinable shall be held for 72 hours from time of impoundment before any  
5 disposition may be made of the animal.

6 (3) Animals held for periods prescribed under this section, or as otherwise  
7 required by ORS 433.340 or 433.390, and not redeemed by the owner or  
8 keeper, shall be subject to such means of disposal as the director considers  
9 most humane.

10 (4) Animals delivered for impoundment by a peace officer who removed the  
11 animal from possession of a person in custody of the peace officer shall be  
12 held for the period prescribed in paragraph (1) of this subsection. A receipt  
13 shall be given the peace officer, who shall deliver the receipt to the person in  
14 custody from whom the animal was taken. The receipt shall recite  
15 redemption requirements and shall serve as the notice required by this  
16 section.

17 (E) (1) Any impounded animal shall be released to the owner or keeper or the  
18 owner's or keeper's authorized representative upon payment of impoundment,  
19 care, rabies, vaccination deposits, license fees, past due fines, and all fees and  
20 deposits related to potentially dangerous dog regulations with the addition of the  
21 following conditions:

22 (a) Any animal impounded by court, hearings officer's or director's order shall be  
23 released to the owner or keeper or the owner's or keeper's authorized

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1 representative upon payment of all fees required in subsection (E) (1) of this  
2 section, and upon receipt of a written order of release from the court of  
3 competent jurisdiction or the hearings officer or the director issuing the order.

4 (b) Any classified potentially dangerous dog shall be released to the owner or  
5 keeper or the owner's or keeper's authorized representative upon payment of  
6 all fees required in subsection (E)(1) of this section, and upon verification of  
7 satisfactory compliance with the regulations required in MCC 8.10.270 to  
8 8.10.280. Failure to be in satisfactory compliance with the potentially  
9 dangerous dog regulations within ~~ten days of~~ twenty days after the date of  
10 impoundment shall result in the owner or keeper forfeiting all rights of  
11 ownership of the dog to the county.

12 (2) An animal held for the prescribed period and not redeemed by its owner or  
13 keeper, and which is neither a dangerous or exotic animal nor in a dangerous  
14 unhealthy condition of health, may be released for adoption subject to the  
15 provision of MCC 8.10.045.

16 (3) The director shall dispose of animals held for the prescribed period without  
17 redemption or adoption only by humane means ~~of euthanasia, provided,~~  
18 ~~however, that, irrespective of any prescribed holding period, the director,~~  
19 ~~upon advice of a licensed veterinarian,~~

20 (4) At any time the director may euthanize any unlicensed and feral animal, or  
21 any unhealthy or injured animal by humane means without regard to the  
22 holding period specified in (D)(1)(2) above, provided the animal's injuries  
23 must be determined to be life threatening or if the animal is unhealthy the

1        animal's condition must be found to present a health threat to the other  
2        animals in the shelter.

3        (5) Any device attached to any animal upon impoundment shall be retained, 30  
4        days, by the director should the animal be disposed of as provided in  
5        paragraph (3) of this subsection. Otherwise, the device shall accompany the  
6        animal when redeemed or adopted.

7        [Ord. 156§ III (2) (1977); Ord. 276 § 2 (1981); Ord. 379 §§ 5, 6 (1983); Ord. 591 § 4  
8        (1988); Ord. 732 § 3 (1992); Ord. 580, § 7 (1996)]

9        Section VII. AMENDMENT

10        MCC 8.10.041 is added as follows:

11        (A) Whenever a person in possession of an animal, which has been used in the  
12        commission of a violation of this Chapter, and which is the subject of a lawful  
13        order of impound, refuses to voluntarily release said animal to an Animal Control  
14        Officer upon timely and reasonable request, the Director shall determine the  
15        need to procure the animal's immediate impoundment.

16        (B) A limited search warrant authorized under this section shall be sought by the  
17        Division after the Director has determined the animals immediate impoundment  
18        is necessary based on one or more of the following factors:

19        (1) The public's health and safety is at risk by the subject animal remaining in  
20        the possession of the owner.

21        (2) The health and welfare of the subject animal is at risk by the animal  
22        remaining in the possession of the owner or keeper.

1       (3) The Owner/Keeper has failed to comply with requirements specified in MCC  
2       8.10.192.

3       (C) The Director shall request the assistance of the Sheriff to procure and execute  
4       the limited search warrant. The Sheriff shall prepare the application for the  
5       warrant including the affidavit in support thereof. The Sheriff shall obtain the  
6       warrant in compliance with the procedures and practices authorized under State  
7       law for the seizure of property pursuant to a search warrant. The Director and  
8       the Sheriff shall coordinate with the Office of County Counsel to review the  
9       affidavit for compliance with all the provisions herein stated.

10      Section VIII. AMENDMENT

11           MCC 8.10.045 is amended as follows:

12      (A) An animal may be released for adoption or transferred to another adoption  
13      agency, approved by the director, subject to the following conditions:

14           (1) The adoptive owner ~~or~~ keeper shall agree in writing to furnish proper care to  
15           the animal in accordance with this chapter;

16           (2) Payment of required fees; however, animals transferred to another adoption  
17           agency are exempt from the requirement of paying adoption fees;

18           (3) In the case of a fertile dog or cat, the adoption agency must obtain prior to  
19           transfer from the adoption agency to the adoptive owner a surgical  
20           prepayment deposit in an amount not to exceed \$45.00 refundable upon  
21           furnishing evidence that the animal has been rendered sexually  
22           unreproductive; and written agreement by the adoptive owner or keeper to  
23           render any adopted dog or cat sexually unreproductive within 30 days of



1       adoption or upon the animal attaining sexual maturity, whichever event last  
2       occurs, together with a fee not to exceed \$45 refundable upon furnishing  
3       evidence the animal has been rendered sexually unproductive. Failure to  
4       perform the agreement shall be a forfeiture of the amount deposited under  
5       this paragraph and the director may require return of the adopted dog or cat  
6       to the shelter. It is unlawful to fail to return an adopted animal as required by  
7       the director.

8       ~~(4) A written agreement by the adoptive owner or keeper to render any adopted~~  
9       ~~dog or cat sexually unproductive within 30 days of adoption or upon the~~  
10       ~~animal attaining sexual maturity, whichever event last occurs, together with a~~  
11       ~~fee not to exceed \$45 refundable upon furnishing evidence the animal has~~  
12       ~~been rendered sexually unproductive. Failure to perform the agreement shall~~  
13       ~~be a forfeiture of the amount deposited under paragraph (3) of this section~~  
14       ~~and the director may require return of the adopted dog or cat to the shelter. It~~  
15       ~~is unlawful to fail to return an adopted animal as required by the director.~~

16       (B) The director may decline to release an animal for adoption under any of the  
17       following circumstances including but not limited to:

18       (1) The prospective adoptive owner or keeper has a history of violations of the  
19       animal control ordinance or has been convicted of an animal-related crime.

20       (2) The prospective adoptive owner or keeper has inadequate or inappropriate  
21       facilities for confining the animal and for providing proper care to the animal  
22       as set out in MCC 8.10.190;

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(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 Multnomah County. ~~In making a decision under this subsection, the director shall consider the guidelines adopted by the Multnomah County animal adoption panel.~~

(4) The animal is classified as a dangerous dog animal or a potentially dangerous dog.

(C) For purposes of this section "adoption agency" shall mean any government, association, corporation or similar entity approved by the director and capable of caring for animals pending final adoption placement.

[Ord. 275 § 4 (1981); Ord. 379 § 7 (1983); Ord. 732 § 3 (1992); Ord. 850, § 8 (1996)]

Section IX. AMENDMENT

MCC 8.10.054 is amended as follows:

**8.10.054. Appeals, fee.**

(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 \$25.00 hearing fee to the ~~a~~Animal ~~e~~Control ~~d~~Division within 30 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 \$25.00 hearing fee to the ~~a~~Animal ~~e~~Control ~~d~~Division

1 within 20 days of the date the denial or conditional approval was mailed to the  
2 applicant by certified mail.

3 [Ord. 732 § 9 (1992); Ord. 850, § 10 (1996)]

4 Section X. AMENDMENT

5 MCC 8.10.055 is amended as follows:

6 (A) The board shall adopt procedural rules governing the conduct and scheduling of  
7 the appeal hearings under this chapter.

8 (B) Upon the receipt of a timely appeal, animal control division shall set the matter  
9 for hearing on the next available date scheduled for animal control hearings.

10 (C) Any party appealing a notice of infraction or license denial/revocation or director's  
11 decision or order under this chapter shall be given a written notice of the hearing  
12 date no less than ten days prior to the scheduled hearing.

13 (D) The hearings officer shall hold a public hearing on any timely appeal from a  
14 notice of infraction, director's decision or order, or the denial/revocation of a  
15 facility license. The party who brought the appeal or any other person having  
16 relevant evidence concerning the nature of the infraction or license  
17 denial/revocation shall be allowed to present testimony and documentary  
18 evidence at the hearing. The hearings officer may consider mitigating or  
19 extenuating circumstances presented on behalf of a party.

20 (E) If the hearing is held to address a notice of infraction or director's decision issued  
21 under MC 8.10.275 or 8.10.290, the hearings officer shall determine whether the  
22 infraction contained in the notice did occur. The hearings officer shall have the

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1 same authority as the director under MCC 8.10.275 when conducting potentially  
2 dangerous dog hearings.

3 (F) If the hearing is held to address a facility license condition, denial or revocation,  
4 the hearings officer shall determine whether the license conditions were rightfully  
5 imposed or the license was rightfully denied or revoked as provided under MCC  
6 8.10.120.

7 (G) The hearings officer shall issue a written decision containing findings of fact  
8 addressing the allegations contained in the notice of infraction, the director's  
9 decision, or the license denial/revocation under MCC 8.10.100 through 8.10.145.  
10 The decision shall clearly state the hearings officer's conclusion and the  
11 reasoning based on the findings of fact. The decision shall be signed and dated  
12 by the hearings officer and shall be served by personal service or regular and  
13 certified mail to the last known address of the party who filed the appeal. The  
14 decision shall be final on the date of personal service or three (3) days after  
15 mailing.

16 (H) In all appeal under this chapter the hearings officer shall have discretion ordering  
17 conditions, restrictions and penalties.

18 (I) Failure of a party to file an appeal as provided in this section or unexcused failure  
19 of a party to appear at a duly scheduled hearing shall constitute a waiver by the  
20 party of any further appeal under this chapter. Upon the entry of a waiver in the  
21 record, the last decision issued by the animal control division shall become final.

22 [Ord. 732 § 10 (1992); Ord. 850, § 11 (1996)]

23

1 SECTION XI. AMENDMENT

2 MCC 8.10.060 is amended as follows:

3 **8.10.060. Dogs and cats subject to pet licensing.**

4 (A) The provisions of MCC 8.10.060 to 8.10.090, shall apply to dogs and cats not  
5 covered under a facility subject to licensure under MCC 8.10.100 to 8.10.140.

6 (B) Any animal declared by its owner or keeper to be a wolf-hybrid shall be  
7 considered a dog under this chapter and subject to all provisions relating to  
8 dogs under state law and this chapter with respect to the possession, ownership  
9 and licensing of the animal, including the requirement to vaccinate the animal  
10 against rabies.

11 (C) As a condition of the issuance of a license to a wolf-hybrid owner or keeper, and  
12 notwithstanding that person's obligation to vaccinate the animal against rabies  
13 under MCC 8.10.060(B), any such owner or keeper shall agree in writing to  
14 immediately release the animal for euthanization upon demand of the County  
15 Health Officer or the Director, if the animal has bitten a person or has been  
16 exposed to a rabid animal. This condition, consenting to release, shall be  
17 effective for the life of the wolf-hybrid or until such time as a rabies vaccine is  
18 approved and certified by the Oregon State Department of Agriculture for use in  
19 wolf-hybrids.

20 [Ord. 156 § IV(1) (1977); Ord. 480 § 2 (1985); Ord. 850 § 13 (1996)]

21 Section XII. AMENDMENT

22 MCC 8.10.070 is amended as follows:

1 (A) Dogs and cats shall be licensed within 30 days of obtaining the age of six  
2 months or within 30 days of obtaining residency in the county or within 30 days  
3 of acquisition by the owner or keeper, whichever occurs later.

4 (B) Licenses shall be valid for one, two or three years from date of issuance, at the  
5 option of the pet owner or keeper and, for dogs and cats, shall require a current  
6 rabies inoculation for licensing period selected and shall be issued upon payment  
7 of the fee required by MCC 8.10.220.

8 (C) Licenses issued under prior existing Multnomah County ordinances shall remain  
9 valid until expiration.

10 (D) The person who licenses an animal becomes the owner or keeper of record and  
11 is responsible for the action or behavior of his or her animal including those  
12 responsibilities of an owner as provided in MCC 8.10.190 (A).

13 [Ord. 156 § IV(2a) (1977); Ord. 480 § 3 (1985); Ord. 732 § 3 (1992); Ord. 850, § 14  
14 (1996)]

15 Section XIII. AMENDMENT

16 MCC 8.10.080 is amended as follows:

17 (A) Pet license tags shall be securely displayed upon animals at all times, except  
18 when the animal is confined to the owner's or keeper's premises or displayed in  
19 an exhibition. ~~Pet owners or keepers shall be allowed to choose the means by~~  
20 ~~which to display the pet license number (tag, collar, tattoo, microchip or another~~  
21 ~~form of identification with the pet license number on it.)~~ A pet license tag, with  
22 pet license number, shall be issued by the director. Any additional expenses is  
23 are to be borne by the pet owner or keeper.

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1 (B) A pet license is not transferable to another animal. The pet license number shall  
2 be assigned to the animal and shall remain with the animal upon transfer to  
3 another owner or keeper for the life of the animal.

4 (C) An animal displaying a current license from jurisdictions outside Multnomah  
5 County, but within the State of Oregon, shall not require licensing under this  
6 chapter until expiration of the current license.

7 (D) Animal control may inspect the premises ~~with five or more~~ where animals are  
8 kept to insure that owners or keepers are providing minimum care and facilities.

9 [Ord. 156 § IV(2b) (1977); Ord. 195 § 11 (1979); Ord. 480 § 5 (1985); Ord. 732 § 3  
10 (1992); Ord. 850, § 15 (1996)]

11 Section XIX. AMENDMENT

12 MCC 8.10.090 is amended as follows:

13 (A) License Fees shall be waived for licenses issued for any dog used primarily as a  
14 service animal upon presentment the owner or keeper establishing the service  
15 animal's function as an assistance animal under the Americans With Disabilities  
16 Act, 42 USC § 12101 et seq., of an ADA affidavit by the animal's owner or keeper.  
17 ~~A service animal license shall be valid for the duration that the dog provides the~~  
18 ~~service or upon retirement due to age or infirmity and so long as the dog remains~~  
19 ~~the property of the person named in the affidavit.~~

20 (B) License fees for dogs and cats owned by persons aged 65 or older and persons  
21 deemed by the director to be under financial hardship shall may be reduced by  
22 up to 50 percent for up to two (2) animals per household.

1 (C) License fees shall be waived for any dog used as a service animal by any Local,  
2 State or Federal Government agency. This exemption shall expire when the dog  
3 is no longer used primarily as a service animal.

4 [Ord. 156 § IV(2c) (1977); Ord. 480 § 6 (1985); Ord. 684 § 3 (1991); Ord. 732 § 3  
5 (1992); Ord. 850, § 17 (1996)]

6 Section XV. AMENDMENT

7 MCC 8.10.100 is amended as follows:

8 ~~(A)~~ A facility license or dangerous animal dog facility license shall be granted in  
9 accordance with procedures, standards and limitations provided in MCC  
10 8.10.100 to 8.10.140, and no such facility may lawfully be operated except upon  
11 application and payment of prescribed fees for the license.

12 ~~(B) Issuance of the license shall require prior land use approval and shall be in~~  
13 ~~compliance with any land use restrictions or regulations which may apply to the~~  
14 ~~proposed facility operation.~~

15 ~~(C) The Oregon Humane Society, located at 1067 NE Columbia Boulevard in~~  
16 ~~Portland, Oregon, shall be exempt from the requirements of MCC 8.10.100 to~~  
17 ~~8.10.140.~~

18 [Ord. 156 § V(1) (1977); Ord. 480 § 7 (1985); Ord. 850, § 18 (1996)]

19 Section XVI. AMENDMENT

20 MCC 8.10.110 is amended as follows:



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- 1 (A) Application for a facility license or dangerous animal dog facility license shall be  
2 made upon forms furnished by the director, shall include all information required  
3 therein and shall be accompanied by payment of the required fee.
- 4 (B) A facility license or dangerous animal dog facility license shall be valid for one  
5 year from the date of issuance, unless revoked.
- 6 (C) The director shall inspect any facility for which a license is sought and, upon  
7 determination that the facility and its operation complies with all applicable  
8 provisions of this chapter and other applicable local, state and federal laws, shall  
9 issue a license which may include one or more conditions of approval and/or  
10 operation.
- 11 (D) If the director fails to approve or deny a fully completed application within 60 days  
12 of its receipt and payment of fees, the application shall be considered approved  
13 for the current year, subject only to revocation as provided in MCC 8.10.120.
- 14 (E) A license shall be conspicuously displayed on the facility premises and a holder  
15 of a license shall keep available for inspection by the director a record of the  
16 name, address and telephone number of the owner or keeper of each animal  
17 kept at the facility, the date each animal was received, the purpose therefor, the  
18 name and address of the person from whom the animal was purchased or  
19 received, a description of each animal including species, age, breed, sex and  
20 color and the animal's veterinarian, if known, at the discretion of the director. For  
21 small animal such as fish, gerbils, hamsters or similar kinds of animals acquired

1     in lots, an individual record should not be required for each animal, but the  
2     holders shall keep an adequate invoice record of the lot acquisition.

3     [Ord. 156 § V(2) (1977); Ord. 480 § 8 (1985); Ord. 732 § 3 (1992); Ord. 850 § 19  
4     (1996)]

5     Section XVII. AMENDMENT

6             MCC 8.10.120 is amended as follows:

7     (A) A license required by MCC 8.10.100 to 8.10.140 may be denied or revoked for  
8     any of the following reasons:

9         (1) Failure to comply substantially with any provision of this chapter.

10        (2) Conviction of the owner or keeper or any person subject to the owner's or  
11        keeper's direction or control for the violation of any provision of this chapter or  
12        other applicable state or federal law, rule, order or regulation pertaining to any  
13        activity relating to animals.

14        (3) Furnishing false information on an application for a license under this chapter.

15     (B) The director shall refund ~~400~~ 75 percent of any fee paid upon denial of a license,  
16     provided, however, no refund shall be made upon revocation.

17     (C) If the director denies an application for a license or approves subject to  
18     conditions, the determination is final unless the applicant appeals the denial or  
19     conditional approval.

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1 (D)The director shall investigate any complaint concerning licensed facilities and,  
2 upon determination that a license should be revoked, shall serve written notice  
3 upon the licensee of that determination by certified mail. The director's  
4 determination shall become final unless appealed.

5 (E) Failure to file a request within 20 days shall terminate any appeal right, and the  
6 director's decision revoking the license shall not be reviewable otherwise.

7 [Ord. 156 § V(3) (1977); Ord. 732 §§ 3, 13 (1992); Ord. 850, § 20 (1996)]

8 Section XVIII. AMENDMENT

9 MCC 8.10.130 is amended as follows:

10 The director shall not issue facility license or dangerous animal dog facility license  
11 until a site inspection demonstrates compliance with the standards applicable to the  
12 nature and species of any animal to be kept as set forth in this section:

13 (A) Housing structures shall be sound and maintained in good repair to protect  
14 animals from injury, safely confine any animal housed therein and prevent entry  
15 of other animals.

16 (B) Reliable and adequate electrical service and a potable water supply shall serve  
17 the facility.

18 (C) Storage of food supplies and bedding materials shall be designed to prevent  
19 vermin infestation.

20 (D) Refrigeration shall be furnished for perishable foods.

21 (E) Safe and sanitary disposal facilities shall be available to eliminate animal and  
22 food wastes, bedding, dead animals and debris and to minimize vermin  
23 infestation, odors and disease hazards.

- 1 (F) Cleaning facilities shall be available to animal caretakers and handlers.
- 2 (G) Interior ambient temperature shall be maintained above 50 degrees Fahrenheit  
3 for animals not acclimatized to lower temperatures.
- 4 (H) Adequate ventilation shall be maintained to assure animal comfort by such  
5 means as will provide sufficient fresh air and minimize drafts, odors and moisture  
6 condensation. Mechanical ventilation must be available when ambient  
7 temperatures exceed 85 degrees Fahrenheit, if appropriate.
- 8 (I) Interior areas shall have adequate natural or artificial lighting provided, however,  
9 that primary enclosures for animals shall be protected from excessive  
10 illumination.
- 11 (J) Interior building surfaces shall be so constructed and maintained to permit  
12 sanitizing and prevent moisture penetration.
- 13 (K) Drainage facilities shall be available to assure rapid elimination of excess water  
14 from indoor housing facilities. The design shall assure obstruction-free flow and  
15 traps to prevent sewage back-flow.
- 16 (L) Outdoor facilities shall provide protective shading and adequate shelter areas  
17 designed to minimize harmful exposure to weather conditions for those animals  
18 not acclimatized to the environment, if appropriate for the species.
- 19 (M) The primary enclosure shall be of sufficient size to permit each animal housed  
20 therein to stand freely, sit, turn about and lie in a comfortable normal position as  
21 appropriate for the species. An exercise area or means to provide each animal  
22 with exercise shall be provided on the premises.

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1 (N)When restraining devices are used in connection with a primary enclosure  
2 intended to permit movement outside the enclosure, the devices shall be  
3 installed in a manner to prevent entanglement with devices of other animals or  
4 objects and shall be fitted to the animal by a harness or well-fitted collar, other  
5 than a choke type collar, and shall be of reasonable length.

6 (O)Animals shall be fed, as often as necessary, a diet of nutritionally adequate and  
7 uncontaminated foods.

8 (P)Potable water shall be continuously available, unless otherwise recommended by  
9 a veterinarian in a particular situation.

10 (Q)Cages, rooms, hard-surfaced pens, runs and food and watering receptacles shall  
11 be sanitized daily to prevent disease ~~not less than once very two weeks by~~  
12 ~~washing with hot water (180 degrees Fahrenheit) and soap or detergent, by~~  
13 ~~washing with a combination disinfectant and cleanser, by washing with a~~  
14 ~~detergent followed with a safe, effective disinfectant or by cleaning with steam.~~  
15 Prior to the introduction of housing animals in into empty enclosures previously  
16 occupied, the enclosures shall be sanitized. Animals shall be removed from the  
17 enclosure during the cleaning process and adequate care shall be taken to  
18 protect animals in other enclosures.

19 (R)Excrement shall be removed from primary enclosures a minimum of every 24  
20 hours, or more often if necessary as to prevent contamination, reduce disease  
21 hazards and minimize odors.

1 (S) Animals housed together in primary enclosures shall be maintained in compatible  
2 groups with the following restrictions, except in a residential dwelling or otherwise  
3 appropriate for the species:

4 (1) Females in season (estrus) shall not be placed with males except for  
5 breeding purposes;

6 (2) Animals exhibiting vicious behavior shall be housed separately;

7 (3) Animals six months or less of age shall not be housed with adult animals  
8 other than with their mothers, as appropriate for the species;

9 (4) Animals shall not be housed with other non-compatible species of animals;  
10 and

11 (5) Animals under quarantine or treatment for any communicable disease shall  
12 be separated from other animals.

13 (T) Programs of disease control and prevention shall be established and maintained.

14 (U) Each animal shall be seen at least once per 24-hour period by an animal  
15 caretaker.

16 (V) Owner or keeper shall comply with the provisions of MCC 8.10.190(B)(6)(7) and  
17 (B)(8)(9).

18 [Ord. 156 § V(4) (1977); Ord. 850, § 21 (1996)]

19 Section XIX. AMENDMENT

20 MCC 8.10.140 is amended as follows:

21 (A) Exotic, wild or dangerous animal regulation facility license.

22 It is unlawful to harbor and/or own an exotic or dangerous animal. Any facility for

23 keeping of any dangerous animal, whether or not otherwise licensed under this

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1 chapter, shall be licensed subject to MCC 8.10.100 and 8.10.110, and the  
2 following requirements:

3 Animals must at all times be housed in a manner which assures that animals will  
4 not create a public nuisance by reason of noise or emission of offensive odors,  
5 present a danger to human life or property, endanger the health of the animals or  
6 create a safety or health hazard to human beings. The facility must meet the  
7 standards as described in the Oregon Administrative Rules chapter 603, division  
8 11, sections 700 through 725 as published in 1994 and as is from time to time  
9 amended or as required by the director.

10 An applicant for a license must demonstrate satisfactory proof to respond in  
11 damages for bodily injury or death of any person or for damage to any property  
12 which may result from the keeping, owning or control of the animal. The director  
13 may require posting of an adequate bond or proof of liability insurance to remain  
14 in effect during any license period.

15 (B) The following facilities, institutions, persons, entities, associations and  
16 government agencies are exempt from compliance with 8.10.140(A):

17 (1) Any facility accredited by the Association of Zoos and Aquariums (AZPA):

18 (2) Any licensed or accredited research or medical institution, including any such  
19 institution dedicated to the training of exotic primates for service animals;

20 (3) License or accredited educational institutions;

21 (4) Veterinary clinics in possession of exotic animals for treatment or  
22 rehabilitation purposes.

23 (5) Traveling circuses or carnivals;

1     (6) Persons temporarily transporting exotic animals through the county provided  
2     that the transit time shall not be more than three (3) days.

3     (7) Any person or facility licensed as an exhibitor or breeder by the United States  
4     Department of Agriculture (USDA) under the Animal Welfare Act.

5     (8) Persons owning or keeping a trained exotic primate as a service animal and  
6     who have submitted a sworn affidavit affirming the need for the service animal  
7     in their personal dwelling.

8     ~~(C) A license issued under this section shall be subject to revocation by the director~~  
9     ~~under MCC 8.10.120.~~ Any person, not otherwise exempted, in possession of an  
10    exotic animal and a current exotic animal facility license prior to and upon the  
11    date this ordinance takes effect shall be eligible to request an Exemption Permit  
12    from Compliance with MCC 8.10.190(B)(14) by submitting a written petition to  
13    the director. The petition must address each of the following elements:

14    (1) What, if any, financial hardship will be caused by the removal of the animal;  
15    (2) Description of the animal including species, age, size, weight, coloring;  
16    (3) History of Compliance With All Exotic and Dangerous Animal Facility  
17    Regulations under any applicable federal or state law.

18    (D) The director shall evaluate whether any petition submitted under subsection (E)  
19    herein merits the exotic animal to be maintained at the facility for the duration of  
20    the animal's life. Said determination shall be based on comparison of the risk to  
21    public health and safety by the specified animal remaining in the facility and  
22    petitioner's response to the three factors addressed in the petition.



1 (E) Any Exemption Permit issued under this section shall only be available to the  
2 original permit holder, and shall be non-assignable and nontransferable. An  
3 exemption permit shall be subject to annul renewal and routine periodic  
4 inspection of the facility. Inspection of the facility wherein the animal is kept  
5 shall be for the purposes of evaluating the adequacy of the facility to protect the  
6 public from the animal as well as for the care and treatment of the animal. The  
7 Exemption Permit shall:

8 (1) Terminate upon death of the animal;

9 (2) Terminate upon the death of the petitioner;

10 (3) Terminate upon the relocation of the petitioner or the animal to an address or  
11 site outside of the boundaries of Multnomah County.

12 (4) Shall be subject to revocation and the animal shall be subject to immediate  
13 impoundment upon any notice of infraction being issued to the permit holder;

14 (5) Provide that upon termination of the permit for any reason, and if the animal  
15 has not been otherwise disposed of at such time, that the permit holder, or his  
16 or her heirs or successors in interest shall either:

17 (a) Immediately release the animal to impound by the Animal Control Division,

18 or

19 (b) Immediately transfer the animal to lawfully exempted agency as provided  
20 in subsection (D) herein, that has agreed in writing to accept the animal,  
21 proof of which shall be provided to the Animal Control Division prior to the  
22 transfer.

- 1 (F) Any dangerous or exotic animal found in Multnomah County in violation of this  
2 section and not otherwise exempt under MCC 8.10.140(B) or (C) shall be  
3 subject to immediate impoundment by Animal Control and disposition through  
4 any lawful and humane means available to Animal Control.

5 [Ord. 156 § V(5) (1977); Ord. 850, § 22 (1996)]

6 Section XX. AMENDMENT

7 MCC 8.10.160 is amended as follows:

- 8 (A) Any person who finds and harbors an animal without knowing the animal owner's  
9 or keeper's identity shall notify the director and furnish a description of the animal  
10 within 5 days after the date of finding the animal.
- 11 (B) The finder may surrender the animal to the director or retain its possession,  
12 subject to surrender upon demand of the director.
- 13 (C) Records of reported findings shall be retained for six months by the director and  
14 made available for public inspection.
- 15 (D) If the finder chooses to retain possession of the animal, the finder shall, within 15  
16 days, cause to be published in a newspaper of general circulation in the county a  
17 notice of the finding once each week for two consecutive weeks. Each such  
18 notice shall state the description of the animal, the location where the animal was  
19 found, the name and address of the finder and the final date before which such  
20 animal may be claimed. If the finder does not wish to have his or her name and  
21 address appear in the notice, he or she may obtain a case number from  
22 Multnomah County Animal Control and have that number published in the  
23 newspaper along with the phone number for animal eControl for contact.

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1 (E) If no person appears and claims ownership of the animal prior to the expiration of  
2 90 180 days after the date of the notice to the director under subsection (A) of  
3 this section, the finder shall be declared the owner of the animal. Any person  
4 becoming owner of any animal under the provisions of this subsection shall  
5 assume the responsibilities of an owner under this chapter.

6 (F) If within ~~three months~~ 180 days of the finder's notice to the director the animal's  
7 owner does appear and establish ownership of the animal, the finder shall  
8 surrender possession of the animal to that owner, provided, however, that the  
9 owner first tender to the finder payment for all of the finder's reasonable actual  
10 costs incurred for giving of notice, providing urgent veterinary care and keeping  
11 of the animal.

12 (G) Any dispute as to ownership or right to possession of the animal, or as to the  
13 amount of the finder's costs, shall be submitted to the director in writing, who  
14 shall ~~promptly~~ decide the matter in writing within 30 days. Any party aggrieved  
15 by the director's decision may appeal the decision under MCC 8.10.054 through  
16 8.10.057.

17 (H) Notwithstanding any other provision in this section, any person who prior to  
18 December 31, 1995 found and harbored any dog or cat and who notified the  
19 director and furnished a description of the animal shall be the animal's owner if,  
20 prior to the expiration of ~~three months~~ 180 days after the director was notified, no  
21 person appeared and claimed ownership of the animal. Any person becoming  
22 owner of any animal under the provisions of this subsection shall assume the  
23 responsibilities of an owner under this chapter.

1 Section XXI. AMENDMENT

2 MCC 8.10.170 is amended to read as follows:

3 Any person in physical possession or control of any animal off the premises of  
4 the animal's owner or keeper shall immediately remove excrement or other solid  
5 waste deposited by the animal in any public area ~~or private property~~.

6 [Ord. 156 § VI(3) (1977); Ord. 850, § 26 (1996)]

7 Section XXII. AMENDMENT

8 MCC 8.10.190 is amended as follows:

9 (A) For the purposes of this section, unless otherwise limited, the owner is ultimately  
10 responsible for the behavior of his or her animal regardless of whether the owner  
11 or another member of the owner's household or a household visitor permitted the  
12 animal to engage in the behavior that is the subject of the violation.

13 (B) It is unlawful for any person to:

14 (1) Permit an animal to be an animal at large.

15 (2) Permit an animal to trespass upon property of another.

16 (3) ~~(4) Keep a vicious animal.~~ Fail to comply with requirements of this chapter  
17 which apply to the keeping of an animal, or dangerous animal or any facility  
18 where such animals are kept.

19 (4) ~~(5)~~ Permit a dog in season (estrus) to be accessible to a male dog not in the  
20 person's ownership except for intentional breeding purposes.

21 (5) ~~(6)~~ Permit any animal to unreasonably cause annoyance, alarm or noise  
22 disturbance to any person or neighborhood by at any time of the day or night,  
23 ~~by repeated barking, whining, screeching, howling, braying or other like~~

1 sounds which may be heard beyond the boundary of the owner's or keeper's  
2 property under conditions wherein the animal sounds are shown to have  
3 occurred either as repeated episodes of continuous noise lasting for a  
4 minimum period of ten minutes or repeated episodes of intermittent noise  
5 lasting for a minimum period of thirty minutes. It shall be an affirmative  
6 defense under this subsection that the animal was intentionally provoked by a  
7 party other than the owner to make such noise. Provided, 8.10.190(B)(5)  
8 shall not be applicable to any lawful livestock owner or keeper; kennel or  
9 similar facility, wherein the presence of livestock or the operation of a kennel  
10 or similar facility is authorized under the applicable land use and zoning laws  
11 and regulations.

12 (6) (7) Leave an animal unattended for more than 24 consecutive hours without  
13 minimum care.

14 (7) (8) Deprive an animal of proper facilities or care, including but not limited to  
15 the items prescribed in MCC 8.10.130. Proper shelter ~~shall~~ must include a  
16 ~~structure that does not leak,~~ will provide protection from the weather and is  
17 maintained in a condition to protect the animals from injury.

18 (8) (9) Physically mistreat any animal either by abuse or neglect or failure to  
19 furnish minimum care.

20 (9) (10) Permit any animal to leave the confines of any officially prescribed  
21 quarantine area.

22 (10) (11) Permit any dog to engage in any of the behaviors described in MCC  
23 8.10.270(A) or (B).

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1 (11)(12) Permit any dog to engage in any of the behaviors described in MCC  
2 8.10.270(C) through 8.10.270 (D).

3 (12)(13) Permit any dog to engage in the behavior described in MCC 8.10.271.

4 (13)To harbor a dangerous or exotic animal that is not otherwise exempted under  
5 MCC 8.10.140. Provided, any person who owns or is keeping a dangerous or  
6 exotic animal on the effective date of this Ordinance in that person's  
7 jurisdiction, shall have 180 days from the effective date to provide for the  
8 animal's removal from Multnomah County or other lawful disposition.

9 (C)For the purpose of this section "owner" shall mean either owner or keeper as  
10 defined under this chapter.

11 (E) Notwithstanding, MCC 8.10.190(B)(10), (11) and (12), any dog that has been  
12 found to have engaged in behaviors as described at MCC 8.10.270 or 8.10.271,  
13 shall be classified, regardless of whether it is established by preponderance of  
14 the evidence that the dog owner, keeper or other person permitted the dog to  
15 engage in the behavior. If in any such case, it is not established by a  
16 preponderance of the evidence that the person cited permitted the dog to engage  
17 in the behavior, no fine shall be imposed against that person, but the dog owner  
18 or keeper shall be subject to all other restrictions and conditions lawfully imposed  
19 by the director or a hearings officer pursuant to MCC 8.10.280(B) and  
20 8.10.055(H) respectively and;

21 (1) In any case, wherein the citing officer or the director based upon his or her  
22 investigation and review of such case, determines there is insufficient  
23 evidence to establish the responsible party permitted the dog to engage in the

1 violative behavior, may in lieu of issuing a Notice of Infraction for violation of  
2 MCC 8.10.190(B)(10), (11) or (12) issue a Notice of Infraction citing this  
3 subsection and the specific subsection of MCC 8.10.270 or 8.10.271 directly  
4 applicable to the dog's alleged behavior.

5 (2) Any Notice of Infraction issued pursuant to 8.10.190(E)(1) shall not be subject  
6 to the imposition of a fine against the person cited, upon issuance or  
7 affirmation but that person shall be subject to all other restrictions and  
8 conditions lawfully imposed by the director or a hearings officer pursuant to  
9 MCC 8.10.280(B) and 8.10.055(H) respectively.

10 [Ord. 156 § VI(5) (1977); Ord. 517 § 4 (1986); Ord. 732 §§ 3, 14 (1992); Ord. 850, §  
11 28 (1996)]

12 Section XXIII. AMENDMENT

13 MCC 8.10.191 is amended as follows:

14 (A) The failure to comply with any conditions or restrictions lawfully imposed  
15 pursuant to a notice of infraction or director's decision not otherwise stayed  
16 under MCC 8.10.056 is a violation of this chapter. Failure to pay the civil fine  
17 shall be an infraction under this section. A notice of infraction issued under this  
18 section for failure to comply shall be of the same classification as the original  
19 infraction. The first notice of infraction issued under this section shall not be  
20 construed as a second offense under MCC 8.10.900(B).

21 (B) Except as provided in MCC 8.10.191(C), all enforcement actions under this  
22 section shall be brought before a hearings officer.

1 (C) Any enforcement action for a Class A infraction failure to comply wherein the  
2 circumstances of the failure to comply by the party in violation are determined by  
3 the director to:

4 (1) Be a substantial risk to public safety; or

5 (2) Be a substantial risk to the care and treatment of the subject animal(s); or

6 (3) Be a failure to pay past-due fines on three or more infractions within a 20  
7 month period;

8 shall be brought in the state court as provided under ORS 203.810 and ORS  
9 30.315.

10 (D) Notwithstanding subsection (A) of this section, a notice of failure to comply  
11 issued under this section that is based solely on the failure to pay the annual  
12 classified dog fee under MCC 8.10.280(G), shall be a Class C infraction.

13 [Ord. 732 § 15 (1992); Ord. 773, § 2 (1993); Ord. 850, § 29 (1996)]

14 (E) In addition to any other remedies allowed by law, judgment may be entered  
15 under this Section in state court against any person issued a citation under  
16 subsection (C) of this section by reason of that person failing to appear at the  
17 time and date set for arraignment or other required appearance provided that  
18 such judgment shall only be allowed if the notice of infraction served on the  
19 person contains a statement notifying the person that a monetary judgment may  
20 be entered against the person up to the maximum amount of fines, assessments,  
21 and other costs allowed by law for the infraction if the person fails to appear at  
22 the time, date and court specified in the notice of infraction or subsequent  
23 hearing notice from the court.



1 Section XXIV. AMENDMENT

2 MCC 8.10.192 is amended as follows:

3 (A) Whenever a public nuisance animal, as determined by the director under this  
4 chapter is found on any premises within the jurisdiction of the county, a written  
5 order may be given to the owner or keeper of the animal(s), or to the owner,  
6 occupant, person in possession, person in charge, or person in control of the  
7 premises where the animal(s) is (are) located, or a written order may be posted  
8 at such premises when none of the above people can be found at the premises.

9 Such order shall be signed by the director and shall give the person or persons to  
10 whom it is directed no less than 72 hours (three days) nor more than 120 hours  
11 (five days) to remove and abate the nuisance.

12 (B) If, after the time given to comply with the notice has passed, the nuisance has  
13 not been abated, the director may summarily abate the nuisance by ordering  
14 impoundment of the animal(s) and assess the cost of such abatement against  
15 the owner or keeper of the animal(s), or the owner, occupant, person in  
16 possession, person in charge, or person in control of the premises where the  
17 animal(s) is (are) located, to be collected by suit or otherwise, in addition to the  
18 penalties for the violation thereof.

19 (C) It shall be unlawful to fail to comply with an order to abate a nuisance issued as  
20 provided in subsection (A) and shall be construed as ~~interference with the~~  
21 ~~director under MCC 8.10.030(D)~~ a Class A Infraction.

22 (D)(1) Any party served a written order to abate a nuisance as provided in  
23 subsection (A) of this section, may appeal the order as provided under MCC

1 8.10.054. The appeal under this section may be consolidated with any  
2 underlying infraction still pending eligible for appeal under this chapter. Provided,  
3 any challenge to an enforcement action brought under subsection (C) of this  
4 section, including issues relating to the validity of the order to abate the nuisance,  
5 shall be joined in one state court proceeding, and there shall be no further  
6 administrative review or appeal except as directed by the court.

7 (2) Any animal impounded pursuant to the order to abate shall not be released  
8 until such time as the director, hearings officer, or court of competent  
9 jurisdiction orders such release.

10 (E)(1) Any enforcement action first brought under MCC 8.10.191(C) shall bar any  
11 enforcement action brought under this section in relation to the same event or  
12 series of events subject to regulation and enforcement under this chapter.

13 (2) Notwithstanding MCC 8.10.191(C), any enforcement action first brought  
14 under this section shall bar any enforcement action brought under MCC  
15 8.10.191(C) in relation to the same event or series of events subject to  
16 regulation and enforcement under this Chapter.

17 [Ord. 850, § 30 (1996)]

18 Section XXV. AMENDMENT

19 MCC 8.10.200 is amended as follows:

20 It is unlawful for any person in Multnomah County to:

21 (A) Harbor, keep, possess, breed or deal in gamecocks; or

22 (B) Knowingly and intentionally, whether for amusement of self or others, or for  
23 financial gain, cause any animal to fight or injure any other animal, cause it to be

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1 fought or injured by any other animal or to train or keep for the purpose of  
2 training any animal with the intent that the animal shall be exhibited combatively  
3 with any other animal. Anyone who permits such conduct on premises under  
4 that person's control, and any person present as a spectator at that exhibition,  
5 shall be considered a violator of this subsection and subject to punishment upon  
6 conviction.

7 Section XXVI. AMENDMENT

8 MCC 8.10.270 is amended as follows:

9 Classification of a dog as potentially dangerous shall be based upon specific  
10 behaviors exhibited by the dog. For purposes of MCC 8.10.265 through 8.10.285,  
11 behaviors establishing various levels of potentially dangerous dogs are as follows:

12 (A) Level 1 behavior is established if a dog at large is found to menace, chase,  
13 display threatening or aggressive behavior or otherwise threaten or endanger the  
14 safety of any person or domestic animal.

15 (B) Level 2 behavior is established if a dog while at large, causes physical injury to  
16 any domestic animal.

17 (C) Level 3 behavior is established if a dog, while confined in accordance with MCC  
18 8.10.010(B), aggressively bites or causes any physical injury to any person.

19 (D) Level 4 behavior is established if:

20 (1) A dog, while at large,

21 (a) aggressively bites or causes physical injury to any person; or

22 (b) kills or causes the death of any domestic animal or livestock; or

1 (2) A dog classified as a Level 3 potentially dangerous dog that repeats the  
2 behavior in subsection (C) of this section after the owner or keeper receives  
3 notice of the Level 3 classification.

4 (E) Notwithstanding subsection (A) through (D) of this section, the director shall have  
5 discretionary authority to refrain from classifying a dog as potentially dangerous,  
6 even if the dog has engaged in the behaviors specified in subsections (A)  
7 through (E) of this section, if the director determines that the behavior was the  
8 result of the victim abusing or tormenting the dog or was directed towards a  
9 trespasser or other similar mitigating or extenuating circumstances.

10 [Ord. 517 § 3 (1986); Ord. 591 § 2 (1988); Ord. 732 § 3 (1992); Ord. 850, § 36  
11 (1996)]

12 Section XXVII. AMENDMENT

13 MCC 8.10.271 is amended to as follows:

14 (A) Classification of a dog as a dangerous dog animal shall be based upon the dog  
15 engaging in any of the following behaviors:

16 (1) A dog, whether or not confined, causes the serious physical injury or death of  
17 any person; or

18 (2) A dog is used as a weapon in the commission of a crime ;~~or~~.

19 ~~(3) A dog classified as a Level 4 potentially dangerous dog that repeats the~~  
20 ~~behavior described in MCC 8.10.270 (C) or (D) of this section after the owner~~  
21 ~~or keeper receives notice of the Level 4 classification.~~

22 (B) Notwithstanding subsection (A) of this section, the director or hearings officer  
23 shall have discretionary authority to refrain from classifying a dog as a dangerous

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1 dog animal, even if the dog has engaged in the behaviors specified in subsection  
2 (A) of this section, if the director or hearings officer determines that the behavior  
3 was the result of the victim abusing or tormenting the dog or was directed  
4 towards a trespasser or other extenuating circumstances that establishes that the  
5 dog does not constitute an unreasonable risk to human life or property.

6 (C) If a dog is classified under this section as a dangerous dog animal, and the  
7 owner requests to keep the dog, the director shall have discretion to order the  
8 dog not be euthanized provided the dog is placed in a certified dangerous animal  
9 facility as defined under this chapter.

10 (D) The director in making a determination under MCC 8.10.271(C) may consider  
11 any relevant evidence that addresses one or more of the following factors:

12 (1) Whether the dog constitutes an unreasonable risk to human life or property if  
13 housed in a dangerous dog facility; or

14 (2) Whether the dog has successfully completed the certified America  
15 Temperament Testing Society and/or Pet Partners as deemed appropriate  
16 ~~been through a certified obedience or other training program; or~~

17 ~~(3) (4) Whether the dog is a good candidate for obedience training based upon~~  
18 ~~the testimony of a certified animal trainer or behaviorist; or~~ The reasonable  
19 likelihood of no repeated behavior by the animal in violation of this chapter.

20 [Ord. 850, § 37 (1996)]

21 Section XXVIII. AMENDMENT

22 MCC 8.10.275 is amended to as follows:

- 1 (A) The director shall have authority to determine whether any dog has engaged in  
2 the behaviors specified in MCC 8.10.270 or 8.10.271. This determination may be  
3 based upon an investigation that includes observation of and testimony about the  
4 dog's behavior, including the dog's upbringing and the owner's or keeper's  
5 control of the dog, and other relevant evidence as determined by the director.  
6 These observations and testimony can be provided by Multnomah County  
7 aAnimal eControl eOfficers or by other witnesses who personally observed the  
8 behavior. They shall sign a written statement attesting to the observed behavior  
9 and agree to provide testimony regarding the dog's behavior if necessary.
- 10 (B) The director shall have the discretion to increase or decrease a classified dog's  
11 restrictions based upon relevant circumstances.
- 12 (C) The director shall give the dog's owner or keeper written notice by certified mail  
13 or personal service of the dog's specified behavior, of the dog's classification as  
14 a potentially dangerous dog or dangerous animal, of the fine imposed, and of the  
15 restrictions applicable to that dog by reason of its classification. If the owner or  
16 keeper denies that the behavior in question occurred, the owner or keeper may  
17 appeal the director's decision to the hearings officer by filing a written request for  
18 a hearing with the director as provided under MCC 8.10.054.
- 19 (D) Upon receipt of notice of the dog's classification as a Level 1, 2, 3, or 4  
20 potentially dangerous dog or dangerous animal pursuant to subsection (C) of this  
21 section, the owner or keeper shall comply with the restrictions specified in the  
22 notice unless reversed on appeal. Failure to comply with the specified  
23 restrictions shall be a violation of this chapter for which a fine can be imposed.

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1 Additionally, the director shall have authority to impound the dog pending  
2 completion of all appeals.

3 (E) If the director's decision or the hearings officer's decision finds that a dog has  
4 engaged in dangerous animal behavior, the dog shall be impounded pending the  
5 completion of a dangerous animal facility application or any appeals.

6 (F) Any dog classified as a Level 4, that is found to have repeated Level 4 behavior  
7 as defined under this code shall be impounded pursuant to MCC 8.10.192 if not  
8 already impounded. The dog shall not be released to the owner or be made  
9 available for adoption until either potential recipient of the dog has established  
10 arrangements for accommodating the animal consistent with all the security and  
11 safety requirements ordered by the director or the hearings officer.

12 [Ord. 517 § 3 (1986); Ord. 550 §§ 2, 3 (1987); Ord. 591 § 3 (1988); Ord. 732 §§ 3,  
13 16 (1992); Ord. 850, § 38 (1996)]

14 Section XXIX. AMENDMENT

15 MCC 8.10.280 is amended to as follows:

16 In addition to the other requirements of MCC Chapter 8.10, the owner or keeper of a  
17 potentially dangerous dog shall comply with the following conditions:

18 (A) Dogs classified as Level 1 dogs shall be restrained in accordance with MCC  
19 8.10.010(B) by a physical device or structure, in a manner that prevents the dog  
20 from reaching any public sidewalk, or adjoining property and must be located so  
21 as not to interfere with the public's legal access to the owner's or keeper's  
22 premises, whenever that dog is outside the owner's or keeper's home and not on  
23 a leash.

1 (B) Dogs classified as Level 2 dogs shall be confined within a secure enclosure  
2 whenever the dog is not on a leash. The secure enclosure must be located so as  
3 not to interfere with the public's legal access to the owner's or keeper's premises.  
4 In addition, the director may require the owner or keeper to obtain and maintain  
5 proof of public liability insurance. In addition, the owner or keeper may be  
6 required to complete a responsible pet ownership program as prescribed by the  
7 director or a hearings officer.

8 (C) Dogs classified as Level 3 or Level 4 dogs shall be confined within a secure  
9 enclosure whenever the dog is not on a leash. The secure enclosure must be  
10 located so as not to interfere with the public's legal access to the owner's or  
11 keeper's premises, and the owner or keeper shall post warning signs, which are  
12 provided by the director, on the premises where the dog is kept, in conformance  
13 with rules to be adopted by the director. In addition, the director may require the  
14 owner or keeper to obtain and maintain proof of public liability insurance. The  
15 owner or keeper shall not permit the dog to be off the owner's or keeper's  
16 premises unless the dog is muzzled and restrained by an adequate leash and  
17 under the control of a capable person. In addition, the director may require the  
18 owner or keeper to satisfactorily complete a pet ownership program.

19 (D) Dogs classified as a dangerous animal as described in MCC 8.10.271 shall be  
20 euthanized or placed in a dangerous animal facility as determined by the director  
21 or hearings officer. A dog classified as a dangerous animal shall be confined  
22 within a secure enclosure with a double security gate and shall meet the  
23 requirements in subsection (C) above. In addition, the director or hearings officer



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1 may suspend, for a period of time specified by the director or hearings officer,  
2 that dog owner's or keeper's right to be the owner or keeper of any dog in  
3 Multnomah County, including dogs currently owned by that person.

4 (E) All dogs classified as dangerous animals, and determined by the director or  
5 hearings officer to be euthanized shall be euthanized at any time not less than 20  
6 days of the date of classification. Notification to the director of any appeal to the  
7 hearings officer as provided for in MCC 8.10.054(A) or to any court of competent  
8 jurisdiction shall delay destruction of the dog until a date not less than 15 days  
9 after a final decision by the hearings officer or final judgment by the court.

10 (F) To insure correct identification, all dogs that have been classified as potentially  
11 dangerous or dangerous animals shall be marked with a permanent identifying  
12 mark, micro-chipped, photographed, ~~or~~ and may be fitted with a special tag or  
13 collar as determined by the director, at the owner's expense. The director shall  
14 adopt rules specifying the type of required identification.

15 (G) In addition to the normal licensing fees established by MCC 8.10.220(A)(2) and  
16 (2), there shall be an annual fee of \$50.00 for dogs classified at Level 1; and  
17 \$100.00 for dogs classified at Level 2 and 3 and; \$150.00 for dogs classified as  
18 Level 4; and \$300.00 for dogs classified as Dangerous Animal. This additional  
19 fee shall be imposed at the time of classification of the potentially dangerous dog,  
20 and shall be payable within 30 days of notification by the director. Annual  
21 payment of this additional fee shall be due and payable ~~within 30 days of~~  
22 ~~notification by the director~~ upon the anniversary date of the classification.

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1 (H) The owner or keeper of a potentially dangerous dog or dogs classified as  
2 dangerous animals shall not permit the warning sign to be removed from the  
3 secure enclosure, and shall not permit the special tag or collar to be removed  
4 from the classified dog. The owner or keeper of a potentially dangerous dog or  
5 dogs classified as dangerous animals shall not permit the dog to be moved to a  
6 new address or change owners or keepers without providing the director with ten  
7 days' prior written notification.

8 ~~(I) Declassification of potentially dangerous dogs or dogs classified as dangerous~~  
9 ~~animal. Any owner or keeper of a classified potentially dangerous dog or a dog~~  
10 ~~classified as a dangerous animal may apply to the director, in writing, to have the~~  
11 ~~restrictions reduced or removed.~~

12 (1) ~~The following conditions must be met:~~

13 ~~(a) Level 1 or Level 2 dogs have been classified for one year without further~~  
14 ~~incident, or and two years for Level 3 or and Level 4 dogs four years for~~  
15 ~~dogs classified as dangerous animals; and~~

16 ~~(b) (c) The owner or keeper provides the director with written certification of~~  
17 ~~satisfactory completion of obedience training for the dog classified, with~~  
18 ~~the owner or keeper; and There have been no violations of the specified~~  
19 ~~regulations; and~~

20 ~~(c) (f) Any other condition ordered by the director or hearings officer at the~~  
21 ~~time of classification.~~

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~~(1) 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.~~

~~(2) 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 section must include \$40.00 review fee.~~

~~(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.~~

~~(e) Any reclassification request submitted under this subsection must include \$40.00 review fee.~~

~~(2) When the owner or keeper of a potentially dangerous dog meets all of the conditions in this subsection, 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.~~

[Ord. 517 § 3 (1986); Ord. 850, § 40 (1996)]

Section XXX. AMENDMENT

MCC 8.10.285 is amended as follows:

**MCC 8.10.285 Declassification of potentially dangerous dog.**

Declassification of potentially dangerous dogs or dogs classified as a Dangerous Animal. A \$40.00 Declassification Fee will be assessed when the classification

Multnomah County Animal Control Code

1 period begins. Declassification will be automatic pursuant to this section. Any  
2 person who observes or has evidence of behavior as described in MCC 8.10.270 or  
3 8.10.271 shall forthwith notify the director.

4 (A) The following conditions must be met:

5 (1) Level 1 or Level 2 dogs have been classified for one year without further  
6 incident, and two years for Level 3 and Level 4 dogs; and

7 (2) There have been no violations of the specified regulations; and

8 (3) Any other condition ordered by the director or hearings officer at the time of  
9 classification.

10 (a) The owner or keeper provides the director with written certification of  
11 satisfactory completion of obedience training for the dog classified, with the  
12 owner or keeper.

13 (b) In addition, the director may require the dog owner or keeper to provide  
14 written verification that the classified dog has been spayed or neutered.

15 (B) When the owner or keeper of a potentially dangerous dog meets all of the  
16 conditions in this subsection, the restrictions for Level 1 and Level 2 classified  
17 dogs may be removed. Restrictions for Level 3 and Level 4 dogs, and dogs  
18 classified as dangerous animals may be removed, with the exception of the  
19 secure enclosure.

20 [Ord. 517 § 3 (1986); Ord. 850, § 40 (1996)]

21 Section XXXI AMENDMENT

22 MCC 8.10.900 is amended as follows:

23 (A) Violations of the provisions of this chapter shall be classified as provided below.

Multnomah County Animal Control Code

1 (1) Class A infractions. Violations of the following sections or subsections shall  
2 be Class A infractions:

3 (a) MCC 8.10.030;

4 (b) MCC 8.10.150;

5 (c) MCC 8.10.180;

6 (d) ~~(e) MCC 8.10.190(B)(3)~~ MCC 8.10.190(B)(7)(8);

7 (e) ~~(f)~~ MCC 8.10.190(B)(8)(9);

8 (f) ~~(g)~~ MCC 8.10.190(B)(9)(10);

9 (g) ~~(h)~~ MCC 8.10.190(B)(11)(12)

10 (h) MCC 8.10.190(B)(12);

11 (i) MCC 8.10.190(B)(13);

12 (j) MCC 8.10.192;

13 (k) MCC 8.10.200.

14 (2) Class B infractions: Violations of the following sections or subsections of this  
15 chapter shall be Class B infractions:

16 (a) MCC 8.10.045(A)(3)(4);

17 (b) MCC 8.10.155;

18 (c) MCC 8.10.190(B)(3)(4);

19 (d) MCC 8.10.190(B)(4)(5);

20 (e) MCC 8.10.190(B)(5)(6);

21 (f) MCC 8.10.190(B)(6)(7);

22 (g) MCC 8.10.190(B)(10)(14).

(3) Class C infractions. Infractions of the following sections or subsections of this chapter shall be Class C infractions:

- (a) MCC 8.10.070;
- (b) MCC 8.10.170;
- (c) MCC 8.10.190(B)(1);
- (d) MCC 8.10.190(B)(2);
- (e) MCC 8.10.210.

(4) Except as provided under MCC 8.10.191 and 8.10.192, any other violation of this chapter not listed in this subsection shall be a Class A infraction.

(B) Fines:

(1) Class A infraction. A fine for Class A infraction shall be no less than \$100.00 nor more than \$500.00 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 \$200.00, nor more than \$500.00. 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 \$500.00.

(2) Class B infraction. A fine for Class B infraction shall be no less than \$50.00 nor more than \$250.00 for the 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 \$100.00 nor more than \$250.00. 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

Multnomah County Animal Control Code

1 most recent notice of infraction for a Class B infraction, the fine shall be  
2 \$250.00.

3 (3) Class C infractions. A fine for a Class C infraction shall be no less than  
4 \$30.00 nor greater than \$150.00 for a first offense. If the violator has  
5 committed a Class A, B, or C infractions within the 12-month period  
6 immediately prior to the date of the second infraction, the fine shall be no less  
7 than \$50.00 nor more than \$150.00. If the violator has committed two or  
8 more Class A, B, or C infractions within the 12-month period immediately prior  
9 to the date of the most recent notice of infraction for a Class C infraction, the  
10 fine shall be \$150.00.

11 (C) Additional conditions and restrictions. In addition to the monetary civil penalties  
12 imposed for infractions of this chapter, and the regulations applicable under MCC  
13 8.10.280, the director and the hearings officer shall have authority to order  
14 additional restrictions and conditions upon the party in violation, including but not  
15 limited to:

16 (1) Require the owner or keeper and animal to satisfactorily complete an  
17 obedience program approved by the director or hearings officer at owner's or  
18 keeper's expense.

19 (2) Require the owner or keeper to attend a responsible pet ownership program  
20 adopted and/or approved by the director or hearings officer, at the owner's or  
21 keeper's expense;

22 (3) Require the owner or keeper of an animal that unreasonable causes  
23 annoyance, as described in MCC 8.10.190(B)(5)(6), to keep the animal inside

Multnomah County Animal Control Code

1 the owner or keeper's residence during hours specified by the director or  
2 hearings officer;

3 (4) The director or hearings officer may suspend, for a period of time specified by  
4 the director or hearings officer, the animal owner's or keeper's right to own or  
5 keep any animal in Multnomah County.

6 (5) Require the owner or keeper to have the animal surgically sterilized within a  
7 time period determined by the director or hearings officer.

8 (6) Any other condition(s) that would reasonably abate the infraction.

9 (D) Late payment penalties. If a civil penalty is unpaid after 30 days, the fine then  
10 due shall be increased by 25 percent of the original amount; if the civil penalty is  
11 not paid after 60 days, the fine then due shall be increased by 50 percent of the  
12 original amount.

13 (E) At the discretion of the director, any civil penalty(ies) not paid within 30 days from  
14 the date of issuance of the notice of infraction may be assigned to a collections  
15 agency for collection.

16 [Ord. 156, § VIII(1) (1977); Ord. 732 § 19 (1992); Ord. 733, § 4 (1993); Ord. 823 § 5  
17 (1995); Ord. 850, § 42 (1996)]

18 Section XXXII. AMENDMENT

19 MCC 8.10.940 is amended as follows:

20 A. Any person convicted of violation of MCC 8.10.200, shall be subject to a fine not  
21 to exceed \$500, and the court may order impoundment of any animal caused to  
22 be engaged in the prohibited conduct, which animal may be disposed of by the  
23 director.



Multnomah County Animal Control Code

1 B. Any person previously convicted under this section shall be subject to  
2 punishment by imprisonment for a term of not more than one year and a fine not  
3 to exceed \$1,000 or both.

4 [Ord 156 § VIII(5) (1977); Rpld. By Ord. 732 § 21 (1992)]

5 Approved this 25th day of June, 1998 being the date of its third reading  
6 before the Board of County Commissioners for Multnomah County, Oregon.



8 BOARD OF COUNTY COMMISSIONERS  
9 FOR MULTNOMAH COUNTY, OREGON

11 By Sharron Kelley  
12 Sharron Kelley, Vice-Chair  
for Beverly Stein, Chair

13  
14 REVIEWED:

15 THOMAS SPONSLER, COUNTY COUNSEL

16 FOR MULTNOMAH COUNTY, OREGON

17  
18 By Matthew O. Ryan  
19 Matthew O. Ryan, Assistant County Counsel

MEETING DATE: JUN 25 1998  
AGENDA NO: R-13  
ESTIMATED START TIME: 10:35

(Above Space for Board Clerk's Use ONLY)

### AGENDA PLACEMENT FORM

SUBJECT: Public Hearing for the adoption of amendments to the West Hills Rural Area Plan

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: June 25, 1998  
AMOUNT OF TIME NEEDED: 5 minutes

DEPARTMENT: Environmental Services DIVISION: Transp. & Land Use Planning  
CONTACT: Karen Schilling TELEPHONE #: 248-3636  
BLDG/ROOM #: 425/Yeon

PERSON(S) MAKING PRESENTATION: Karen Schilling

#### ACTION REQUESTED:

[ ] INFORMATIONAL ONLY [ ] POLICY DIRECTION [X] APPROVAL [ ] OTHER

#### SUGGESTED AGENDA TITLE:

Adoption of amendments to the West Hills Rural Area Plan.

#### SIGNATURES REQUIRED:

ELECTED OFFICIAL: \_\_\_\_\_

(OR)

DEPARTMENT

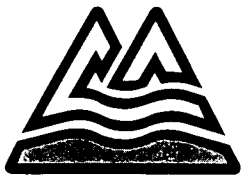
MANAGER: \_\_\_\_\_

*Lawrence Nicholas*

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURE

Any Questions: Call the Board Clerk @ 248-3277

98 JUN 16 AM 9:28  
MULTNOMAH COUNTY  
OREGON  
BOARD OF  
COUNTY COMMISSIONERS



# MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES  
TRANSPORTATION DIVISION  
1620 SE 190TH AVENUE  
PORTLAND, OREGON 97233  
(503) 248-5050

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR • 248-3308  
DIANE LINN • DISTRICT 1 • 248-5220  
GARY HANSEN • DISTRICT 2 • 248-5219  
LISA NAITO • DISTRICT 3 • 248-5217  
SHARRON KELLEY • DISTRICT 4 • 248-5213

## MEMORANDUM

**TO:** BOARD OF COUNTY COMMISSIONERS

**FROM:** Larry F. Nicholas, P. E., Director  
Karen Schilling, Transportation Planning Administrator *KS*

**TODAY'S DATE:** June 15, 1998

**REQUESTED PLACEMENT DATE:** June 25, 1998

**RE:** Adopt amendments to the West Hills Rural Area Plan.

**I. Recommendation/Action Requested:**

Adopt amendments to the West Hills Rural Area Plan to incorporate the Westside Rural Multnomah County Transportation System Plan (TSP).

**II. Background/Analysis:**

The West Hills Rural Area Plan (adopted October 17, 1996) is being amended to be consistent with the TSP. The Westside Rural Multnomah County Transportation System Plan is a requirement of the Statewide Transportation Planning Rule. The policies in the Transportation System Plan support and expand upon the transportation policies adopted in the West Hills Rural Area Plan.

There are no substantive changes to the West Hills Rural Area Plan.

**III. Financial Impact:**

There are no financial impacts.

IV. Legal Issues:

There are no legal issues.

V. Controversial Issues:

There are no controversial issues.

VI. Link to Current County Policies:

The purpose of this action is to make all County policies consistent. The Land Use and Transportation planning staff have worked closely on the changes to the Plan.

VII. Citizen Participation:

A public hearing was held before the Planning Commission on May 18, 1998.

VIII. Other Government Participation:

The Department of Land Conservation and Development has been notified of these proposed changes.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON  
ORDINANCE NO. \_\_\_\_\_

An Ordinance amending the West Hills Rural Area Plan.

Multnomah County Ordains as follows:

Section I. Purpose

(A) The purpose of this ordinance is to amend the West Hills Rural Area Plan to be consistent with the Westside Rural Transportation System Plan.

Section II. Findings

(A) The Westside Rural Multnomah County Transportation System Plan provides transportation policies and alternatives for the westside rural area of the County to comply with the Statewide Transportation Planning Rule.

(B) The policies identified in the Transportation System Plan support and expand upon the transportation policies adopted in the West Hills Rural Area Plan.

(C) The Multnomah County Planning Commission held a public hearing on the West Hills Rural Area Plan amendments on May 18, 1998.

(D) On June 15, 1998 the Multnomah County Division of Transportation and Land Use Planning placed an announcement of a public hearing on the West Hills Rural Area Plan in the Oregonian and mailed notices to interested parties who had participated in the development of the Transportation System Plan.

1 (E) On June 25, 1998, the Multnomah County Board of  
2 Commissioners conducted a public hearing on the first reading of West Hills Rural  
3 Area Plan.

4

5 (F) On July 2, 1998 the Multnomah County Board of  
6 Commissioners considered the second reading of the West Hills Rural Area Plan.

7

8

9 Section III. Amendments to the West Hills Rural Area Plan:

10

11 The Multnomah county West Hills Rural Area Plan is hereby amended to include the  
12 following language:

13

14 P. 32, following existing policy #10:

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16 The Westside Rural Multnomah County Transportation System Plan (TSP) has been  
17 adopted since formulation of these policies. The TSP is consistent with the preceding

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transportation policies. The TSP is the document Multnomah County will use to review  
future developments and transportation improvements.

ADOPTED this 2<sup>nd</sup> day of July, 1998, being the date of its second reading  
before the Board of County Commissioners of Multnomah County.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

---

Beverly Stein, Chair

REVIEWED:  
  
THOMAS SPONSER, COUNTY COUNSEL  
FOR MULTNOMAH COUNTY, OREGON

By Sandra N. Duffy  
Sandra N. Duffy, Chief Assistant Counsel

Meeting Date: JUN 25 1998  
Agenda No: R-14  
Est. Start Time: 10:40

(Above Space for Board Clerk's Use ONLY)

### AGENDA PLACEMENT FORM

**SUBJECT:** Public Hearing on an Ordinance amending the Action Proceedings section of the zoning code to address three specific timing related procedural requirements.

**BOARD BRIEFING**      Date Requested:  
                                 Amt. of Time Needed:  
                                 Requested By:

**REGULAR MEETING**      Date Requested: June 25, 1998  
                                 Amt. of Time Needed: 10 Min.

**DEPARTMENT:** DES      **DIVISION:** Transportation & Land Use Planning  
**CONTACT:** Phil Bourquin      **TELEPHONE:** 248-3043  
                                 **BLDG/ROOM:** 412 / 109

**PERSON(S) MAKING PRESENTATION:** Phil Bourquin

### ACTION REQUESTED

☐ Informational Only      ☐ Policy Direction      ☒ Approval      ☐ Other

### SUGGESTED AGENDA TITLE

Public Hearing on an Ordinance amending the Action Proceedings section of the zoning code to address three specific timing related procedural requirements.

### SIGNATURES REQUIRED

**Elected Official:** \_\_\_\_\_

or

**Department Manager:** K. B. Nicholas

98 JUN 17 AM 11:14  
MULTNOMAH COUNTY  
OREGON  
BOARD OF  
COUNTY COMMISSIONERS



**BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM BRIEFING  
STAFF REPORT**

**To:** Board of County Commissioners

**From:** Planning Staff

**Today's Date:** June 5, 1998

**Board Hearing:** June 25, 1998

**RE:** Public hearing on an ordinance amending the Action Proceedings Section of the zoning code to address three specific timing related procedural requirements. (Planning File C 7-97)

**I. Recommendation/ Action Requested:**

Recommend adoption of an ordinance amending the Action Proceedings section of the zoning code by: 1) repealing the 120 day requirement of code and relying on statutory requirements; 2) amending the public hearing notice requirement from 20 days to 10 days prior to a hearing; and 3) amending the date a staff report is made available prior to a hearing from 5 days to 7 days as required by statute.

**II. Background/ Analysis:**

The Action Proceedings section of the zoning code lays out the process by which land use decisions are made. Through time the procedural requirements of the County have been and are increasingly affected by new and/or revised state requirements. The effect of these changes has and will result in the Action Proceedings provisions becoming increasingly antiquated. The need for major revisions to procedural sections of the zoning code are evident and have been scheduled into the Planning Commission work program in June 1998.

In advance of the major work element, the following three minor changes are necessary to either satisfy statutory requirements or provide clarification within the zoning ordinance of the procedural choices of the County.

- A. 120 Day Rule:** In general, the 120 day rule refers to the amount of time the county has to issue a final decision on a land use application. With the complexity of procedural requirements affecting land use applications including notice requirement, staff reports, scheduling hearings, continuances, keeping the record open, etc., the County has found it difficult in many cases to complete all the requirements within 120 days, particularly if the case is complex.

The current ordinance (MCC 11.15.8280(E)) requires the County to render a final decision within 120 days from the time the application is accepted as being complete.

The 1997 Oregon Legislature passed House Bill 2006 B-Engrossed which revises the time period in which the county must take final action (ORS 215.428) on an application for permit, limited land use decision or zone change. The Bill specifies that final action must be taken within 120 days for land within urban growth boundary or on applications for mineral aggregate extraction. It also specifies **150-day deadline** for all other applications (ie. all land use applications for property outside the UGB). This amendment has a termination date of September 30, 1999.

House Bill 2006 was adopted by the Legislature in response to the difficulty several jurisdictions are having in completing complex land use permit applications within 120 days. Multnomah County is no exception and has had to utilize resources in defending itself against legal challenges based on the 120 day rule. The 150 day deadline provides an alternative deadline for Counties which appears to be reasonable, however, is subject to change in September, 1999.

**Options:**

- a) Leave the existing 120 day language of MCC .8280 (E) in tact.
- b) Adopt an amendment to .8280 (E) replicating the 120/150 day language of House Bill 2006 B-Engrossed.
- c) Repeal MCC 11.15.8280 (E) and default to statute.
- d) Other options determined by the Planning Commission.

**Recommendation: c) repeal MCC 11.15.8280 (E) and default to statute.** This option will provide consistency with current County practices and allow for flexibility as statutory language evolves.

Staff recognizes the 150 day rule language is subject to change in September, 1999 and that the existing 120 day language of code does not conflict with the 150 days provided by the bill. However, the 150 days would be more consistent with practice, as the 120 day language of code has not been feasible to meet in several instances.

- B. Twenty Day Notice of Hearing:** All land use hearings require notice to affected parties. The 20-day language of MCC .8220 (C) requires notice to be sent 10 days earlier than that provided by statute<sup>1</sup> when two or more evidentiary hearings are provided.

With just one HO hearing date per month, the 20 day notice requirement has resulted in hearings being pushed back an additional month to meet the notice requirement resulting in conflicts with the 120 day clock. A ten day notification would facilitate the applicants ability to be heard by HO in a more timely manner while enhancing the County's ability to issue a final decision within the statutory timeline.

**Options:**

- a) Leave the existing notification language of MCC .8220 (C) in tact.
- b) Amend .8220 (C) by replacing the 20 day notification language with 10 days.
- c) Repeal MCC 11.15.8220 (C).
- d) Other options determined by the Planning Commission.

**Recommendation: b) Amend .8220 (C) by replacing the 20 day notification language to 10 days.** This option would provide a clear understanding of process in code while ensuring applicants can get to a hearing quicker.

- C. Availability of Staff Report:** MCC 11.15.8230 (C) requires a Staff Report be completed and available at the office of the Planning Director at least **five days** prior to the date fixed for hearing. ORS 197.763 (4)(b) requires that a copy of the staff report will be available for inspection at no cost at **least seven days** prior to the hearings. The current 5-day language of MCC .8230(C) violates the 7-day requirement of statute and therefore should be amended to be consistent with the 7-day statutory language.

**Options:**

- a) Repeal MCC 11.15.8230 (C) and rely on statutory requirements.
- b) Amend .8230 (C) by replacing the 5 day language with 7 days.

**Recommendation: b) Amend .8230 (C) by replacing the 5 day language with 7 days.**

---

<sup>1</sup> MCC 11.15.8220 (C) requires the County to mail notice of a quasi-judicial hearing at least twenty days prior to the hearing, to certain persons. ORS 197.763 (3)(f) requires notice be mailed twenty days before the evidentiary hearing; or if two or more evidentiary hearings are allowed, 10 days before the first evidentiary hearing. All land use applications in Multnomah County have an opportunity for at least two public hearings as a decision of either the Hearings Officer or Planning Commission is appealable to the Board.

### **III. Financial Impact:**

Under II. A. - violations of the existing 120 day code requirement has and could result in a Writ being issued with legal costs being picked up by the County. The recommended option would increase the time frame by which the County must make a decision to that provided by statute, thus minimizing the potential for future Writs.

### **IV. Legal Issues:**

The recommended amendments would correct existing procedural inconsistencies and distinguish County choices from those provided under state law.

### **V. Controversial Issues:**

None anticipated.

### **VI. Link to Current County Policies:**

Policy requires a citizen involvement program offering opportunities for citizens to be involved in all phases of the land planning process. The procedures recommended for amendment would continue to provide notice to neighboring properties of upcoming hearings and assure Staff reports are available for review by citizens in a timely manner prior to hearing.

### **VII. Citizen Participation:**

Notice of Planning Commission hearing(s) on the proposed ordinance will be published in the *Orgonian* newspaper. At the Planning Commission hearing(s) public testimony will be accepted.

### **VIII. Other Government Participation:**

A notice of proposed amendment will be mail to the Department of Land Conservation and Development a minimum of 45 days prior to adoption.

### **IX. PROPOSED CODE AMENDMENTS**

Proposed amendments are shown within the following text of the Action Proceedings Section with new wording **bold and underlined** and ~~strikethrough sections are deleted.~~

\* \* \*

11.15.8280 Board Decision

- (A) The Board may affirm, reverse or modify the decision of the Planning Commission or Hearings Officer and may grant approval subject to such modifications or conditions as may be necessary to carry out the Comprehensive Plan or to achieve the objectives of MCC .8240 (D).
- (B) The Board shall state all decisions upon the close of its hearing or upon continuance of the matter to a time certain.
- (C) Written findings of fact and conclusions, based upon the record, shall be signed by the Presiding Officer of the Board and filed with the Clerk of the Board with a decision within five business days following announcement of the decision under subsection (B) above.
- (D) The Board's decision shall be final at the close of business on the tenth day after the Decision, Findings of Fact and Conclusions have been filed under subsection (C) above, unless the Board on its own motion grants a rehearing under MCC .8285(A).
- ~~(E) The Board shall render a decision within 120 days from the time the application for that action is accepted as being complete, except when: Except as provided in MCC .7330, the approval of a Conditional Use shall expire two years from the date of issuance of the Board Order in the matter, or two years from the final resolution of all appeals, unless:~~
- ~~(1) A participant requests an extension before the conclusion of the initial evidentiary hearing, in which case the extension shall not be subject to the 120-day limitation, or~~
- ~~(2) Additional documents or evidence is provided in support of the application less than 20 days prior to or at the initial evidentiary hearing and a party requests a continuance of the hearing, in which case the continuance shall not be subject to the 120-day limitation.~~

\* \* \*

#### 11.15.8220 Notice of Hearing - Contents

- (A) Notice of hearing before the Planning Commission or Hearings Officer shall contain the following:
- (1) The date, time and place of the hearing;
- (2) A legal description of the subject property;

- (3) A street address or other easily understood geographical reference to the subject property;
  - (4) The nature of the proposed action and the proposed use or uses that could be authorized;
  - (5) A listing of the applicable Zoning Code and comprehensive plan policies that apply to the application;
  - (6) A statement that all interested parties may appear and be heard;
  - (7) A statement that failure to raise an issue, either in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to LUBA based on that issue;
  - (8) A statement that the hearing shall be held pursuant to the adopted Rules of Procedure;
  - (9) In the case of a hearing by the Planning Commission, the names of the members of the Commission and, in the case of a hearing by the Hearings Officer, the name of the Officer and the name of the staff representative to contact and the telephone number where additional information may be obtained;
  - (10) A statement that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
  - (11) A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; and
  - (12) A copy of the Planning Commission's Rules of Procedure.
- (B) When the proposed action is a change of zone classification, the Planning Director may include in the notice of hearing a statement that the approval authority may consider classifications other than that for which the action is initiated.
- (C) In addition to the notice required by MCC .8120(B) and any other notice required by law, notice shall be mailed at least ~~ten~~ twenty days prior to the hearing to the following persons:
- (1) The applicant;
  - (2) All record owners of property within:

- (a) 100 feet of the subject property on matters listed under MCC .8205(D) and (E), and on all other matters within the Urban Growth Boundary.
- (b) 250 feet of the subject property where the subject property is outside the Urban Growth Boundary and not within a farm or forest zone;
- (c) 500 feet of the subject property where the subject property is within a farm or forest zone.

\* \* \*

#### MCC 11.15.8230 Hearings

- (A) The Hearings Officer or a quorum of at least three members of the Planning Commission, as is appropriate, shall conduct a hearing on the application within 90 days of the initiation thereof, under MCC .8210(B), unless such time is extended with the written consent of the one initiating the action.
- (B) Three members of the Planning Commission shall constitute a quorum in acting on applications under MCC .8115(B).
- (C) No action shall be heard unless a Staff Report is completed and available at the office of the Planning Director at least seven ~~five~~ days prior to the date fixed for hearing. A copy of the Report shall be mailed, upon completion, to the one initiating the action and to the Planning Commission or Hearings Officer, as appropriate. In addition, a copy shall be furnished to other persons who request the same upon payment of the fee provided for under MCC .9020. The Staff Report may be supplemented only at the hearing.

\* \* \*

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON  
ORDINANCE NO. \_\_\_\_\_

An Ordinance amending the Action Proceedings Section of the zoning code by: 1) repealing the 120 day requirement of code; 2) amending the public notice requirement; and 3) amending the date required for a staff report to be made available prior to a hearing. (Underlined sections are new replacements; [bracketed] sections are deleted.)

Multnomah County Ordains as follows:

Section I. Findings.

(A) The Action Proceedings section of the zoning code lays out the process by which land use decisions are made. Through time the procedural requirements of the County have been and are increasingly affected by new and/or revised statutory requirements. The effect of these changes result in the Action Proceedings provisions becoming increasingly inconsistent with statutory language, inflexible with statutory choices, or in conflict with the expeditious review of land use applications.

(B) On February 2, 1998 the Planning Commission held a public hearing and recommended approval through Resolution C7-97, of an ordinance amendment to the Action Proceedings section of code by: 1) repealing the 120 day requirement of code and relying on statutory requirements; 2) amending the public hearing notice requirement from twenty days to ten days prior to a hearing as provided by statute; and 3) amending the date a staff report is required to be made available from 5 days to 7 days as required by statute. All interested persons were given an opportunity to be heard at the hearing.

(C) Planning Commission Resolution C7-97 is intended to make minor changes necessary to both satisfy statutory requirements and provide clarification within the zoning ordinance of the procedural choices of the County.



1    **Section II. Amendment of the Action Proceedings Section of Code.**

**2 Multnomah County Code Chapter 11.15 is amended to read as follows:**

3 \*\*\*

**4 11.15.8280 Board Decision**

6 (A) The Board may affirm, reverse or modify the decision of the Planning Commission or  
7 Hearings Officer and may grant approval subject to such modifications or conditions as  
8 may be necessary to carry out the Comprehensive Plan or to achieve the objectives of  
9 MCC .8240 (D).

11 (B) The Board shall state all decisions upon the close of its hearing or upon continuance of  
12 the matter to a time certain.

14 (C) Written findings of fact and conclusions, based upon the record, shall be signed by the  
15 Presiding Officer of the Board and filed with the Clerk of the Board with a decision  
16 within five business days following announcement of the decision under subsection (B)  
17 above.

(D) The Board's decision shall be final at the close of business on the tenth day after the Decision, Findings of Fact and Conclusions have been filed under subsection (C) above, unless the Board on its own motion grants a rehearing under MCC .8285(A).

~~[(E)The Board shall render a decision within 120 days from the time the application for that action is accepted as being complete, except when: Except as provided in MCC .7330, the approval of a Conditional Use shall expire two years from the date of issuance of the Board Order in the matter, or two years from the final resolution of all appeals, unless:~~

~~(1) A participant requests an extension before the conclusion of the initial evidentiary hearing, in which case the extension shall not be subject to the 120-day limitation, or~~

~~(2) Additional documents or evidence is provided in support of the application less than 20 days prior to or at the initial evidentiary hearing and a party requests a continuance of the hearing, in which case the continuance shall not be subject to the 120-day limitation.]~~

**\*\*\***

## 11.15.8220 Notice of Hearing - Contents

(C) In addition to the notice required by MCC .8120(B) and any other notice required by law, notice shall be mailed at least ~~ten~~ [twenty] days prior to the hearing to the following persons:

- (1) The applicant;
- (2) All record owners of property within:
  - (a) 100 feet of the subject property on matters listed under MCC .8205(D) and (E), and on all other matters within the Urban Growth Boundary.
  - (b) 250 feet of the subject property where the subject property is outside the Urban Growth Boundary and not within a farm or forest zone;
  - (c) 500 feet of the subject property where the subject property is within a farm or forest zone.

\*\*\*

## MCC 11.15.8230 Hearings

(A) The Hearings Officer or a quorum of at least three members of the Planning Commission, as is appropriate, shall conduct a hearing on the application within 90 days of the initiation thereof, under MCC .8210(B), unless such time is extended with the written consent of the one initiating the action.

**(B) Three members of the Planning Commission shall constitute a quorum in acting on applications under MCC .8115(B).**

1 (C) No action shall be heard unless a Staff Report is completed and available at the office of  
2 the Planning Director at least seven ~~[five]~~ days prior to the date fixed for hearing. A  
3 copy of the Report shall be mailed, upon completion, to the one initiating the action and  
4 to the Planning Commission or Hearings Officer, as appropriate. In addition, a copy shall  
5 be furnished to other persons who request the same upon payment of the fee provided for  
6 under MCC .9020. The Staff Report may be supplemented only at the hearing.

7  
8 \* \* \*

9 Section III. Adoption

10  
11  
12 ADOPTED THIS \_\_\_\_\_ day of \_\_\_\_\_, 1998, being the date of its second reading  
13 before the Board of County Commissioners of Multnomah County.

14  
15  
16  
17 BOARD OF COUNTY COMMISSIONERS  
18 FOR MULTNOMAH COUNTY, OREGON  
19  
20  
21

22 \_\_\_\_\_  
23 Beverly Stein, Chair  
24

25 REVIEWED:

26 THOMAS SPONSLER, COUNTY COUNSEL  
27 FOR MULTNOMAH COUNTY, OREGON  
28

29 By Sandra N. Duffy  
30 Sandra N. Duffy, Chief Assistant County Counsel

**DECISION OF THE  
MULTNOMAH COUNTY PLANNING COMMISSION**

In the matter of amending the Action Proceedings  
section of the Multnomah County Zoning Ordinance  
relative to timing of final action, public notice, and  
availability of a staff report.

)  
)  
)  
)

**RESOLUTION  
C 7-97**

**WHEREAS,** Amendments of the text of the Zoning Code may be initiated by request of the Planning Director (MCC 11.15.8405); and

**WHEREAS,** A public hearing shall be held by a majority of the entire Planning Commission on the proposed amendments to the Code; and

**WHEREAS,** The current Action Proceeding section of code includes language inconsistent with statutory requirements or in conflict with the expeditious review of land use applications; and


**WHEREAS,** It is the intent of the Planning Commission to comply with statutory requirements and to clarify local procedural options; and

**WHEREAS,** The Planning Commission conducted a public hearing on February 2, 1998, to accept public testimony on the proposed amendments to the zoning code text; and

**NOW, THEREFORE BE IT RESOLVED** that the Planning Commission hereby recommends that the Board of County Commissioners amend the zoning code as indicated in Section IX of the Staff Report dated December 29, 1997.

Approved this 2nd day of February, 1998

By



Leonard Yoon, Chair  
Multnomah County Planning Commission

## BUDGET MODIFICATION NO.

Non-D 99- #01

(For Clerk's Use) Meeting Date JUN 25 1998Agenda No. R-15

## 1. REQUEST FOR PLACEMENT ON THE AGENDA FOR

6/17/98

DEPARTMENT

Chair's Office

DIVISION

CONTACT

Karyne Dargan

TELEPHON

248-3883, x22457

\* NAME(S) OF PERSON MAKING PRESENTATION TO BOARD

SUGGESTEDAGENDA TITLE

Request to approve a \$765,990 transfer from FY 1998-99 Public Safety Levy Contingency to fund staffing for 40 beds at the Restitution Center (MCRC)

(Estimated Time Needed on the Agenda)

## 2. DESCRIPTION OF MODIFICATION (Explain the changes this Bud Mod makes. What budget does it increase? What do changes accomplish? Where does the money come from? What budget is reduced? Attach additional information if you need more space.)

☒ X

Personnel changes are shown in detail on the attached sheet

Due to documented difficulties at MCRC in getting people into work release beds, which resulted in the 40 extra beds approved in last year's budget not being used, the Board withheld \$765,990 in funds pending resolution of these difficulties and a demonstrated need for these beds. The issues have been resolved and it is the Sheriff's intent to fully utilize this facility to its capacity of 160 beds. This budget modification will increase the Sheriff's budget by \$765,990 and decrease the Public Safety Levy Contingency by a like amount.

## 3. REVENUE IMPACT

(Explain revenues being changed and reason for the change)

N/A

## 4. CONTINGENCY STATUS (to be completed by Budget &amp; Quality)

\$7,742,941 Public SafetyFund Contingency before this modification 6/15/98

Date

After this modification \$6,976,951

Date

Originated By

Date

Beverly Stein6/15/98

Department Director

Date

Bill Fawn6-15-98

Plan/Budget Analyst

Date

David C. Warren6/17/98

Employee Services

Date

Board Approval

Date

NEED ROLL 2015206/23/98

## Non-D 99-01

(Compute on a full-year basis even though this action affects only a part of the fiscal year (FY).)

(Calculate costs/savings that will take place this FY; these should explain the actual dollar amounts changed by this BudMod.)

BudMod1.xls



# MULTNOMAH COUNTY, OREGON

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN  
LISA NAITO  
GARY HANSEN  
DIANE LINN  
SHARRON KELLEY

BUDGET AND QUALITY  
PORTLAND BUILDING  
1120 S.W. FIFTH - ROOM 1400  
P. O. BOX 14700  
PORTLAND, OR 97214  
PHONE (503)248-3883

TO: Board of County Commissioners

FROM: Dave Warren

TODAY'S DATE: June 18, 1998

REQUESTED PLACEMENT DATE: June 25, 1998

SUBJECT: Request to approve a \$765,990 transfer from the FY 1998-99 Public Safety Levy Contingency to Fund Staffing for Forty (40) Beds at the Restitution Center (MCRC)

---

## **I. Recommendation / Action Requested:**

It is recommended that the Board approve Budget Modification Non-D 99-#01. This modification will increase the Sheriff's Office appropriation by \$765,990 to operate forty (40) work release beds at MCRC and decrease the public safety levy contingency by a like amount.

## **II. Background / Analysis:**

The utilization of the number of beds at MCRC filled on a daily was significantly less than the available capacity. As a result, the funding was removed from the budget pending an agreement to address utilization and to document a demonstrated need for these beds. Discussions and agreements concluded after the adoption of the 1998-99 budget have resulted in a need to bring this item before the BCC for approval.

## **III. Financial Impact:**

Budget Modification Non-D 99-#01 will increase the Sheriff's Office appropriation by \$765,990 to operate forty work release beds at MCRC and decrease the public safety levy contingency by a like amount.

## **IV. Legal Issues:**

Funding the operation of forty work release beds is an appropriate expenditure of public safety levy monies. This budget modification will provide a continuity in funding from FY 1997-98, in which the forty beds were funded from the public safety levy, but omitted from the FY 1998-99 Adopted Budget.

## **V. Controversial Issues:**

Due to documented difficulties at MCRC in getting people into work release beds, which resulted in the 40 extra beds approved in FY 1996-97 budget not being used, the Board withheld \$765,990 in funds pending resolution of these difficulties and a demonstrated need for these beds. A resolution of these issues has resulted in the agreement to bring this item back to the BCC for approval.

**VI. Link to Current County Policies:**

N/A

**VII. Citizen Participation:**

N/A

**VIII. Other Government Participation:**

N/A





## Beverly Stein, Multnomah County Chair


Room 1515, Portland Building  
1120 S.W. Fifth Avenue  
Portland, Oregon 97204

Phone: (503) 248-3308  
FAX: (503) 248-3093  
E-Mail: [mult.chair@co.multnomah.or.us](mailto:mult.chair@co.multnomah.or.us)

June 8, 1998

### Memorandum

TO: Sheriff Dan Noelle

FROM: Chair Beverly Stein 

CC: Commissioner Gary Hansen  
Commissioner Sharon Kelley  
Commissioner-elect Diane Linn  
Commissioner-elect Lisa Naito

RE: Sheriff's Budget Request

---

I have received and reviewed your June 1<sup>st</sup> memo. In it, you request that the Board of County Commissioners "not move the \$766,000 from the work release beds at the Multnomah County Restitution Center (MCRC) to fund 'Relapse Prevention and Intervention and Mental Health services for dual diagnosis clients.'"

I am pleased that we have reached agreement over MCRC funding as per our June 2 meeting at the Oregonian. However, I do wish to clarify that no money has been 'moved' from the Restitution Center to fund non-public safety services. The Board took two very distinct budget actions regarding the items you mention.

- In accordance with the 1996 levy and consistent with the County's comprehensive public safety approach, the Board approved an Adult Alcohol and Drug Treatment (A&D) package at just over \$1 million which contains mental health services for clients with dual substance abuse and mental health problems.
- Due to documented difficulties at MCRC in getting people into work release beds, which resulted in the 40 extra beds approved in last year's budget not being used, the Board withheld \$766,000 in funds *pending resolution of these difficulties and a demonstrated need for these beds.*

Although Measure 50 no longer requires us to segregate 1996 levy funds from the general fund, the Board has kept faith with the voters by directing levy funds to public safety services promised in the levy. Services targeted to dual diagnosis clients are only one component of this year's Board-approved A&D package, but these mandatory services are clearly consistent with the type of "intensive intervention" promised in the ballot explanatory statement. This package has in no way affected the possibility of funding work release beds.

Once again, I am glad we have reached agreement over MCRC funds. With the restoration of these extra work release beds, I look forward to the full use of this facility.



## Transaction Detail

Trans ID	Type	FY	Description	Process?	Date	Category	#	Fund	Agcy	Org	Obj	Rev	Amount	#	Fund	Agcy	Org	Pos	FTE	Amount
BMNon_D_01	BM	99	Increase the MCSO's appropriation by \$765,990 to fund staffing for 40 work release beds at MCRC. Reduces the public safety levy contingency by a like amount.	No			1	100	025	3946	5100		322,008	1	100	025	4134	6268	2.000	71,019
							2	100	025	3946	5300		10,417	2	100	025	3946	2029	8.100	283,119
							3	100	025	3946	5400		5,000	3	100	025	3946	6001	1.500	38,889
							4	100	025	3946	5500		79,560	4	100	015	0951	6315	1.000	40,950
							5	100	025	3946	5550		59,563	5	100	015	0951	6001	0.500	14,065
							6	100	025	4134	5100		71,019							
							7	100	025	4134	5400		12,938							
							8	100	025	4134	5500		15,586							
							9	100	025	4134	5550		16,572							
							10	100	025	4134	6120		5,000							
							11	100	025	4134	6140		500							
							12	100	025	4134	6270		61,320							
							13	100	025	4134	6110		7,294							
							14	100	025	4110	6110		28,206							
							15	100	015	0951	5100		55,015							
							16	100	015	0951	5500		9,880							
							17	100	015	0951	5550		6,112							
							18	169	075	9120	7700		-765,990							
							19	400	070	7531		6600	82,247							
							20	400	070	7531	6580		82,247							
							21	169	025	9130	7601		765,990							
							22	100	025	9130		7609	765,990							

## **BOGSTAD Deborah L**

---

**From:** WARREN Dave C  
**Sent:** Thursday, June 25, 1998 4:42 PM  
**To:** BOGSTAD Deborah L  
**Subject:** FW: Clarification of 1997-98 Funding For MCRC

-----Original Message-----

**From:** WARREN Dave C  
**Sent:** Thursday, June 25, 1998 12:24 PM  
**To:** STEIN Beverly E; LINN Diane M; NAITO Lisa H; KELLEY Sharron E; HANSEN Gary D  
**Cc:** NEBURKA Julie Z; MOYER Catherine M; AAB Larry A; DELMAN Mike H; MARCH Steve J; TRACHTENBERG Robert J; WEIT Ramsay; CLAWSON Elyse 001; FARVER Bill M; DARGAN Karyne A  
**Subject:** Clarification of 1997-98 Funding For MCRC

At the Board meeting this morning, I think Sheriff Noelle may have misstated the 1997-98 budget for the Restitution Center in. What I thought I heard him say was that he believed the 1997-98 appropriation resided in the Community Justice budget and that, because Community Justice had not used the 40 beds, staff had not been put in place to handle 160 inmates at MCRC.

For the record, I want to make a clarification. In fact, the full 160 bed appropriation for MCRC was in the 1997-98 Sheriff's budget. No 1997-98 appropriation for MCRC was in Community Justice's budget. The actual usage of beds at MCRC was significantly less than 160 beds. The Chair's budget for 1998-99 removed the funding for 40 beds from the Sheriff's budget request because the beds were not being used.

I believe, but I am less certain, that underutilization of the beds at MCRC allowed the Sheriff's Office to use staff not required at that institution to backfill behind vacancies and absences elsewhere in the Corrections system, reducing overtime requirements overall.

MEETING DATE: JUN 25 1998  
AGENDA NO: R-16  
ESTIMATED START TIME: 10:55

(Above Space for Board Clerk's Use ONLY)

## AGENDA PLACEMENT FORM

SUBJECT: Ordinance enacting code of ordinances

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: June 25, 1998  
AMOUNT OF TIME NEEDED: 10 minutes

DEPARTMENT: ND DIVISION: County Counsel

CONTACT: Thomas Sponsler TELEPHONE #: x22834  
BLDG/ROOM #: 106/1530

PERSON(S) MAKING PRESENTATION: Thomas Sponsler

### ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

### SUGGESTED AGENDA TITLE:

Second reading and enactment of ordinance revising, amending, restating, codifying general ordinances as the Multnomah County Code.

6/26/98 copies to Thomas Sponsler  
6/30/98 copies to Ordinance Distribution  
list

### SIGNATURES REQUIRED:

ELECTED OFFICIAL:  
(OR)  
DEPARTMENT  
MANAGER:

Thomas Sponsler

98 MAY 28 AM 11:26  
CLERK OF  
COUNTY COMMISSIONERS  
MULTNOMAH COUNTY  
OREGON

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277



# OFFICE OF MULTNOMAH COUNTY COUNSEL

THOMAS SPONSLE  
County Counsel

1120 S.W. FIFTH AVENUE, SUITE 1530  
PORTLAND, OREGON 97204-1977


FAX 248-3377  
(503) 248-3138

SANDRA N. DUFFY  
Chief Assistant

SUSAN DUNAWAY  
KATIE GAETJENS  
GERALD H. ITKIN  
JEFFREY B. LITWAK  
STEVEN J. NEMIROW  
MATTHEW O. RYAN  
AGNES SOWLE  
JOHN S. THOMAS  
JACQUELINE A. WEBER  
*Assistants*

## CODE STAFF REPORT

**TO:** Board of County Commissioners

**FROM:** Thomas Sponsler  
County Counsel 

**DATE:** May 20, 1998

**RE:** Ordinance Enacting Code of Ordinances

---

1. Action Requested:

Enact ordinance that revises Multnomah County Code of Ordinances

2. Introduction:

This ordinance reorganizes, revises, and updates the existing Multnomah County Code. The last Code revision was in 1990. In the new Code the ordinances are arranged in chapters based on county functions and departments. This Volume I contains the general ordinances of the county. Volume II will contain county ordinances relating to planning and land use.

3. Analysis:

The new Code Volume I:

- Adds new definitions to Chapter 1
- Groups all provisions relating to the Board in Chapter 3
- Retains election provisions in separate Chapter 5
- Groups general county administration sections in Chapter 7
- Places county personnel provisions in Chapter 9

- Groups county taxes in Chapter 11; specific fees are in chapters where county services are described
- Animal control provisions are in Chapter 13
- All sections relating to the Sheriff are in Chapter 15
- Juvenile and Adult Justice sections are in Chapter 17
- Library provisions are in Chapter 19
- All sections relating to the Health Department are in Chapter 21
- Community and Family Services provisions are in Chapter 23
- New provisions for the public guardian are placed with the Aging and Disability Services sections in Chapter 25
- Sections relating to Environment and Property are in Chapter 27
- Building Regulations are in Chapter 29

4. Financial Impact:

No direct impact. Over time the new Code should increase efficiency of county operations

5. Legal Issues:

None. Generally continues existing county law. Some clarification and correction of references to current county departments and other laws.

6. Controversial Issues:

None.

7. Link to Current County Policies:

Should make it easier to connect county benchmarks and policies to specific code provisions.

8. Citizen Participation:

None.

9. Collaboration:

Drafts of this ordinance have been circulated, reviewed and discussed with representatives of each county department. All departments provided comments and suggestions. This project could not have been accomplished without the support, assistance and cooperation of many county employees.

MEETING DATE: MAY 28 1998  
AGENDA NO: R-2  
ESTIMATED START TIME: 9:30

(Above Space for Board Clerk's Use ONLY)

**AGENDA PLACEMENT FORM**

SUBJECT: Ordinance enacting code of ordinances

BOARD BRIEFING:

DATE REQUESTED: \_\_\_\_\_

REQUESTED BY: \_\_\_\_\_

AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING:

DATE REQUESTED: May 28, 1998

AMOUNT OF TIME NEEDED: 30 minutes

DEPARTMENT: ND

DIVISION: County Counsel

CONTACT: Thomas Sponsler

TELEPHONE #: x22834

BLDG/ROOM #: 106/1530

PERSON(S) MAKING PRESENTATION: Thomas Sponsler

ACTION REQUESTED:

☐ INFORMATIONAL ONLY   ☐ POLICY DIRECTION   ☒ APPROVAL   ☐ OTHER

SUGGESTED AGENDA TITLE:

Ordinance revising, amending, restating, codifying general ordinances a Multnomah County Code.

SIGNATURES REQUIRED:

ELECTED OFFICIAL: \_\_\_\_\_

(OR)

DEPARTMENT  
MANAGER: \_\_\_\_\_

*Thomas Sponsler*

CLERK OF  
COUNTY COMMISSIONERS  
98 MAY 20 PM 2:00  
MULTNOMAH COUNTY  
OREGON

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277



THOMAS SPONSLER  
*County Counsel*

SANDRA N. DUFFY  
*Chief Assistant*

OFFICE OF  
MULTNOMAH COUNTY COUNSEL

1120 S.W. FIFTH AVENUE, SUITE 1530  
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MATTHEW O. RYAN  
AGNES SOWLE  
JOHN S. THOMAS  
JACQUELINE A. WEBER  
*Assistants*

Deb - FYI

April 22, 1998

William J. Carroll, Vice President  
Municipal Code Corp.  
1700 Capital Circle, SW  
Tallahassee, FL 32316

RE: Contract No. 500443-1  
Termination of Contract

Dear Mr. Carroll:

This letter is to serve as notice that Multnomah County is terminating the above-referenced contract on June 1, 1998, pursuant to paragraph 5 of the June 17, 1994 contract (copy enclosed) as extended by letter on August 21, 1997 (copy enclosed).

The County will be hiring a legislative paralegal to prepare code revisions in connection with the County Website and placing the code online.

Thank you for your good service over the years.

Very truly yours,

THOMAS SPONSLER, COUNTY COUNSEL  
FOR MULTNOMAH COUNTY

By Sandra Duffy  
Sandra N. Duffy  
Chief Assistant County Counsel

Cc Deb Bogstad, Clerk of the Board

H:admin/duffy/code/140 WmCarroll





# MULTNOMAH COUNTY OREGON

OFFICE OF COUNTY COUNSEL  
1120 S.W. FIFTH AVENUE, SUITE 1530  
P.O. BOX 849  
PORTLAND, OREGON 97207-0849  
(503) 248-3138  
FAX 248-3377

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN, CHAIR  
DAN SALTZMAN  
GARY HANSEN  
TANYA COLLIER  
SHARRON KELLEY

COUNTY COUNSEL  
THOMAS SPONSLER  
CHIEF ASSISTANT  
SANDRA N. DUFFY

ASSISTANTS  
SUSAN DUNAWAY  
KATIE GAETJENS  
GERALD H. ITKIN  
STEVEN J. NEMIROW  
MATTHEW O. RYAN  
AGNES SOWLE  
JOHN S. THOMAS  
JACQUELINE A. WEBER

## FORMER COUNTY COUNSEL

CHARLES S. EVANS  
(1974 - 1975)

GEORGE M. JOSEPH  
(1975 - 1977)

JOHN B. LEAHY  
(1977 - 1987)

LAURENCE KRESSEL  
(1987 - 1996)

August 13, 1997

A. Lawton Langford  
Municipal Code Corporation  
Post Office Box 2235  
1700 Capital Circle, S.W.  
Tallahassee, Florida 32316-2235

Dear Mr. Langford:

Multnomah County wishes to extend the current contract, for an additional one year period, however, as one of many cost saving devices required by Measure 50 (a property tax limitation passed by Oregon voters) we will only want 125 copies at \$22 per page, a modification to paragraph three of the contract dated June 17, 1994.

If the extension of the contract on the same terms except for the aforementioned changes is acceptable, please sign the extension clause below and return it to us for our files.

Sincerely,

THOMAS SPONSLER, COUNTY COUNSEL  
FOR MULTNOMAH COUNTY, OREGON

*Sandra N. Duffy*  
Sandra N. Duffy  
Chief Assistant County Counsel

Extension of the Looseleaf Supplement Service agreement from February 1, 1997 to February 1, 1998, approved this 20<sup>th</sup> day of August, 1997.

By:

Title:

\\Data\Admin\Duffy\Municipal Code Corp.ltr.doc

Municipal  
Code  
Corporation



August 21, 1997

Ms. Sandra N. Duffy  
Chief Assistant County Counsel  
Multnomah County  
P. O. Box 849  
Portland, Oregon 97207-0849

Dear Ms. Duffy:

Thank you for your letter of August 13, extending the current contract for updating the Multnomah County Code. In accordance with your request, the extension clause has been signed and is enclosed.

We appreciate the opportunity to be of continued service to Multnomah County. If at any time I may be of assistance, please do not hesitate to call.

Sincerely,

A. Lawton Langford  
President/CEO

e-mail: [lawton@mail.municode.com](mailto:lawton@mail.municode.com)

ALL/js

enc.

## CODE SUPPLEMENT CONTRACT

**THIS CONTRACT** is between **MULTNOMAH COUNTY**, acting by and through its Department of County Counsel, hereafter called **COUNTY**, and Municipal Code Corporation, a Florida Corporation, hereafter called **CONTRACTOR**.

### THE PARTIES AGREE:

1. DESCRIPTION OF SERVICES. CONTRACTOR will provide the following:

A) Provide Looseleaf Supplement Service as described in Part II of the Contract dated May 22, 1990 between the parties. A copy of Part II is attached hereto as Exhibit A.

B) 200 copies of the Multnomah County Code Supplement for the period March 1, 1992 through February 1, 1994, will be provided. Future Supplements will be provided at six month intervals for periods ending in the last day of February and August each year.

2. RENEWAL. COUNTY shall have the right to renew this contract for four additional one year terms by notice in writing to CONTRACTOR mailed not less than 30 days before the end of each contract period. Renewals shall be conditioned upon agreement of the parties upon a price per page for each renewal period.

3. COMPENSATION. COUNTY will pay CONTRACTOR for 200 copies of the republished County Code at \$24.00 per page. In no event shall compensation exceed the sum of \$10,000 during the first year of this contract or any renewal thereof.

4. TERM. The CONTRACTOR'S services will begin on February 1, 1994, and terminate when completed, but no later than February 1, 1995.

5. TERMINATION.

A) This contract may be terminated by mutual consent of both parties, or by either party upon thirty (30) days notice, in writing, and delivered by certified mail or in person.

B) The COUNTY, by written notice of default, may terminate this agreement if CONTRACTOR fails to provide any part of the services described herein within the time specified for completion of that part or any extension thereof.

C) Upon termination before completion of the services, payment to CONTRACTOR shall be prorated to and include the day of termination and shall be in full satisfaction of all claims by CONTRACTOR against COUNTY under this agreement.

D) Termination under any provision of this paragraph shall not affect any right,

obligation or liability of CONTRACTOR or COUNTY which accrued prior to termination.

6. CONTRACT DOCUMENTS. This Contract consists of this contract document and Exhibit A.

DATED this 17 day of June, 1994.

MULTNOMAH COUNTY

Department of County Counsel

By Larry Kressel by JLD

CONTRACTOR

MUNICIPAL CODE CORPORATION

By Alan L. Bay, Pres.

Contractor's ID No. 59-0649026

REVIEWED:

LAURENCE KRESSEL, COUNTY COUNSEL  
FOR MULTNOMAH COUNTY, OREGON

By John L. DuBay  
John L. DuBay  
Chief Assistant County Counsel

**MULTNOMAH COUNTY, OREGON**

**CODE OF ORDINANCES**

**VOLUME I**

Second draft manuscript current through  
Ordinance 905, passed 4-23-98

**AMERICAN LEGAL PUBLISHING CORPORATION**

432 Walnut Street Cincinnati, Ohio 45202-3909 (513) 421-4248

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**MULTNOMAH COUNTY  
CODE OF ORDINANCES  
TABLE OF CONTENTS**

**VOLUME I: GENERAL CODE**

**CHARTER**

[Reserved]

**Chapter**

- 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**

[Chapters 33 through 43 contained in Volume II: Land Use]

**PARALLEL REFERENCES**

References to Oregon Revised Statutes  
References to 1990 Code of Ordinances  
References to Resolutions  
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## **CHARTER**

[Reserved pending Charter revisions.]



## CHAPTER 1: GENERAL PROVISIONS

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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

### Section

#### *General Provisions*

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#### *Cross-reference:*

*Board of Commissioners, see Charter §§ 3.10 through 3.75*

*Citizen Involvement Committee, see Charter § 3.75*

*General grant of powers; powers vested in Board, see Charter §§ 2.10 and 2.20*

*Ordinances, see Charter §§ 5.10 through 5.50*

#### *Statutory reference:*

*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 1976; Ord. 268, passed 1981; Ord. 289, passed 1981; Ord. 518, passed 1986; Ord. 807, passed 1994; Ord. 861, passed 1996; Ord. 875, passed 1997)

### § 3.102 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)

### § 3.103 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)

### § 3.104 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)

### § 3.105 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 County 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 OBDP 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

#### *Vacancies in Office*

- 5.001 Title
- 5.002 Definitions
- 5.003 Vacancy in office
- 5.004 Filling of vacancy
- 5.005 Designation of interim Chair,  
Auditor or Sheriff
- 5.006 Appointment by Board
- 5.007 Election to fill vacancy
- 5.008 Nomination to fill vacancy
- 5.009 Special runoff election

#### *Initiative and Referendum*

- 5.100 Definitions
- 5.101 Prospective petition
- 5.102 Ballot title; appeal
- 5.103 Petition and circulation requirements
- 5.104 Filing and percentage requirements;  
verification
- 5.105 Measures referred by Board
- 5.106 Election dates
- 5.107 Election notice and procedure
- 5.108 State law applies

#### *Cross-reference:*

*Elections, see Charter §§ 11.10 through 11.50*

#### *Statutory reference:*

*Conduct of elections, see ORS, Ch. 254*

#### § 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 county governing body, 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

### GENERAL PROVISIONS

#### *General Provisions*

- 7.001 Support Department
- 7.002 Dishonored check fees
- 7.003 Accounting fees
- 7.004 Information fees
- 7.005 Interest fees
- 7.006 Purchasing and handling fees
- 7.007 Administrative rules; Chair authorized to adopt

#### *Risk Management*

- 7.100 Policy
- 7.101 Risk management fund
- 7.102 Risk management function
- 7.103 Risk assessment and loss prevention
- 7.104 Authority

#### *County Counsel*

- 7.200 Office established
- 7.201 Duties
- 7.202 Relationship to county

#### *Cross-reference:*

*Auditor, see Charter § 8.10*

#### *Statutory reference:*

*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*

#### **§ 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. Provided, 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 1979)

**§ 7.007 ADMINISTRATIVE RULES; CHAIR AUTHORIZED TO ADOPT.**

The Chair is authorized to adopt executive or administrative procedures, rules or regulations 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

### Section

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

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*State Tort Claims Act, see ORS 30.260*

*Transfer of public employees, see ORS 236.605*

*Workers' compensation, see ORS, Ch. 656*

**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, Sheriff and district attorney.

**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 Executive.

**PERSONNEL RULE.** A prescribed guide, established by the Chair, for conduct or action in order to implement and maintain the provisions of this chapter.

**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 the Chair.

#### **§ 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 grievance 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 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 1974)

#### **§ 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) Counsel retained by the Board under state law;

(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 positions and in positions exempt from the classified service. 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 handicapped 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 County Commission 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 County Commission 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 (a total of seven);

(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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### ***Cross-reference:***

*Auditor, see Charter § 8.10*

### ***Statutory reference:***

*Assessment of property for taxation, see ORS, Ch. 308*

*Collection of property taxes, see ORS, Ch. 311*

*County financial administration, see ORS, Ch. 294*

*Equalization of property taxes, see ORS, Ch. 309*

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*Levy of property taxes; tax reduction, see ORS, Ch. 310*

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*Property taxation generally, see ORS, Ch. 306*

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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  $\frac{3}{4}$  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 § 5.30.190) (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.

**TAXADMINISTRATOR.** 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 § 5.50.270) (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 § 5.50.100) (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 § 5.50.100) (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 filing 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 § 5.60.250) (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 administer the 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 1999 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 § 5.60.715) (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

### Section

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#### *Statutory reference:*

*Animal control; exotic animals; dealers, see ORS, Ch. 609*  
*Predatory animals, see ORS, Ch. 610*

### **GENERAL PROVISIONS**

#### **§ 13.001 TITLE.**

This chapter may be cited as the Animal Control Law.  
( '90 Code § 8.10.005) (Ord. 156, passed 1978)

**§ 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 1978; 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 1978; 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 1978; 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 1978)

## **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 1978; 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 1978; 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 1978; 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 1978; 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 1978; 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 1978; 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 1978; 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 1978; 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 1978; 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 1978; 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 1978; 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 1978; 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 1978; 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. 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 1978; 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 causes 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. 279, 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 unproductive; 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*

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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 nitrojelley, 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-weighted 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 § 2.70.305) (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.** A parent, 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)

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)

## **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

### **§ 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 curblin 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*

- 21.001 Department established; functions
- 21.002 Fees

#### *State Law Delegation*

- 21.100 Policy and purpose; delegation of enforcement to county
- 21.101 Adoption of rules of administrative procedure
- 21.102 Judicial review; form of notice

#### *Swimming Pools*

- 21.150 Swimming pool license fee
- 21.151 Swimming pool and spa plan review fees

#### *Community Health Council*

- 21.300 Council established
- 21.301 Council bylaws

#### *Emergency Medical Services*

- 21.400 Title
- 21.401 Purpose
- 21.402 Definitions
- 21.403 License required
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- 21.405 License types
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- 21.407 License requirements
- 21.408 Application for license
- 21.409 Inspection
- 21.410 Issuance of license
- 21.411 Denial of application; license revocation
- 21.412 License term
- 21.413 Renewal

- 21.414 Notification of change in circumstances
- 21.415 Ambulance identification; advertisement
- 21.416 Prohibited activities
- 21.417 Medical direction and supervision
- 21.418 On-line medical control
- 21.419 EMS Medical Advisory Board
- 21.420 Training and education
- 21.421 EMS program office; administration
- 21.422 System quality management and improvement
- 21.423 EMS first response
- 21.424 Emergency ambulance service area
- 21.425 Exclusive emergency ambulance service contract
- 21.426 Reassignment
- 21.427 Ambulance charges for service
- 21.428 Contract Compliance and Rate Regulation Committee
- 21.429 Rate adjustment procedure
- 21.430 Production of documents
- 21.431 Orders
- 21.432 CRC rate review procedures
- 21.433 Appeals to the Board
- 21.434 CRC contract compliance review procedures
- 21.435 Ambulance dispatch
- 21.436 Code-3 or Priority 1 calls
- 21.437 Communications
- 21.438 Hospital availability; ambulance diversion
- 21.439 Mass casualty incidents (MCI)
- 21.440 Special responses
- 21.441 Violations
- 21.442 Appeals
- 21.443 Effect of filing a hearing request

***Food Services***

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- 21.601 Food handler's certificate required
- 21.602 Immediate possession of certificate required
- 21.603 Food handler's certificate; course of study
- 21.604 Form of certificate
- 21.605 Certificate fees
- 21.606 Term of food handler's certificate
- 21.607 Compulsory physical examination
- 21.608 False statements prohibited
- 21.609 Prohibitions
- 21.610 Food service license fee
- 21.611 Food service plan review
- 21.612 Payment of license fees, reinspection fees; delinquency
- 21.613 Bed and breakfast facilities; food service license fees

***Tourist Facilities***

- 21.650 Tourist and travelers facilities license fees
- 21.651 Bed and breakfast facilities; tourist accommodations license fee

***Refuse***

- 21.700 Title and area of application
- 21.701 Refuse hauling regulations
- 21.702 Dumping and littering prohibited
- 21.703 Reward
- 21.704 Hearings officer
- 21.705 Complaint
- 21.706 Notice of hearing
- 21.707 Answer; default
- 21.708 Hearing
- 21.709 Review
- 21.710 Administration and enforcement
- 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 § 8.35.100) (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 § 6.33.075) (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 § 8.75.520) (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 made 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

#### *General Provisions*

- 23.001 Department of Community and Family Services established

#### *Mental Health Advisory Committee*

- 23.100 Title  
23.101 Committee established; functions  
23.102 Membership  
23.103 Meetings  
23.104 Officers  
23.105 Conflicts of interest

#### *Statutory reference:*

*Alcohol and drug abuse, see ORS, Ch. 430*  
*Child welfare services, see ORS, Ch. 418*  
*Children and family services, see ORS, Ch. 417*  
*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

### Section

#### *General Provisions*

25.001 Department established

#### *Public Guardian*

25.100 Findings

25.101 Office of public guardian

#### *Adult Care Homes*

#### *Part 1: General Provisions*

25.200 Title; area of application

25.201 Findings

25.202 Purpose

25.203 Definitions

25.204 Residents' Bill of Rights

25.205 License required; application

25.206 License

25.207 License fee

25.208 License not transferable

25.209 Standards for operation

25.210 Inspections

25.211 Complaints

25.212 Sanctions

25.213 Institution of legal proceedings

25.214 Appeals and hearings review

25.215 Civil cause of action

25.216 Intergovernmental agreements

25.217 Administration and enforcement

#### *Part 2: Adoption of Administrative Rules*

25.250 Initiation of rule adoption

25.251 Approval of form; filing

25.252 Contents of notice of intent to adopt

25.253 Publication of notice

25.254 Review and comment period

25.255 Rule adoption

25.256 Postponement of action

25.257 Request for public hearing

25.258 Notice of public hearing; contents

25.259 Notice of public hearing; publication

25.260 Public hearing; action on rule; filing

25.261 Appeal to the Board

25.262 Appeal request; contents

25.263 Commissioner request for review

25.264 Hearing date

25.265 Notice of appeal hearing

25.266 Hearing procedure

25.267 Temporary rules

25.268 Requirements for temporary rules

25.269 Effective date of temporary rule

25.270 Duration of temporary rule

25.999 Penalty

#### *Statutory reference:*

*Abuse of the elderly and incapacitated, see  
ORS, Ch. 124*

*Adult foster homes, see ORS 443.705*

*Mentally retarded; developmentally disabled,  
see ORS, Ch. 427*

*Protective proceedings, see ORS, Ch. 125*

*Senior and disability services, see ORS,  
Ch. 410*

### **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 § 8.91.035) (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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**Statutory reference:**

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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)

## FEEES

### § 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 curb 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.]



<i>Chemical</i>	<i>Entry to Sewer (mg/l)</i>	<i>Receipt at Plant (mg/l)</i>
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 § 8.70.240) (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.]

<i>Table of Equivalent Dwelling Units</i>		
<i>Occupancy</i>	<i>Unit Measure</i>	<i>Equivalent Dwelling Units</i>
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	10 students	1
Elementary (grades 1-6)	15 students	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 31: BUILDING REGULATIONS

### Section

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- 29.001 Title; area of application
- 29.002 Policy
- 29.003 Adoption of state Building Code by reference
- 29.004 Building code board of appeals; membership; duties
- 29.005 Powers of board of appeals
- 29.006 Determination of buildings as unsafe
- 29.007 Notice to owner of unsafe building; contents
- 29.008 Limited use of unsafe building
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- 29.010 Fees
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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 § 9.10.010) (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. LCDL 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 § 11.60.1805) (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 § 11.60.510) (Ord. 162, passed 1978)







# Multnomah County Sheriff's Office

12240 N.E. GLISAN ST., PORTLAND, OREGON 97230


DAN NOELLE  
SHERIFF(503) 255-3600  
TTY (503) 251-2484

## MEMORANDUM

---

TO: Sandy Duffy

cc: Chair Beverly Stein  
Commissioner Gary Hansen  
Commissioner Sharron Kelley  
Commissioner Diane Linn  
Commissioner-Elect Lisa Naito  
Tom Sponsler

FROM: Sheriff Dan Noelle 

DATE: June 11, 1998

SUBJECT: County Code

---

I realize that County Counsel has been working hard on re-organizing the County Code. I have recently become aware, however, that some sections regarding responsibilities of the Sheriff's Office may not have made it into the proposed revised code. I am, therefore, requesting that final adoption of the code be delayed until my staff has an opportunity to research the issue and, if necessary, propose changes.

Thank you for consideration.

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**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

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

4  
5 Section 5: An emergency is declared to exist because it is necessary and  
6 in the public interest that the Code take effect as soon as possible at the  
7 beginning of the next fiscal year. This ordinance shall take effect at 12:01  
8 a.m. on July 1, 1998.  
9

10  
11 FIRST READING:

May 28, 1998

12 SECOND READING AND ENACTMENT:

June 25, 1998



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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*Sharon Kelley*  
for Beverly Stein, Chair  
Multnomah County, Oregon

REVIEWED:

COUNTY COUNSEL  
FOR MULTNOMAH COUNTY, OREGON

*Thomas Sponsler*  
Thomas Sponsler, County Counsel

**MULTNOMAH COUNTY, OREGON**

**CODE OF ORDINANCES**

**VOLUME I**

**AMERICAN LEGAL PUBLISHING CORPORATION**

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CODE OF ORDINANCES  
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**PARALLEL REFERENCES**

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## **CHARTER**

**[Reserved pending Charter revisions.]**



## CHAPTER 1: GENERAL PROVISIONS

### Section

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- 1.012 Certification of code revisions

### § 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

### Section

#### *General Provisions*

- 3.001 Administrative procedures adopted by reference
- 3.002 Compensation

#### *Contract Review Board*

- 3.100 Local contract review board
- 3.101 Legislative staff
- 3.102 Administrative information
- 3.103 Board rules regarding staff
- 3.104 Expenses of Board and legislative staff

#### *Citizen Involvement Committee*

- 3.250 Purpose and authority
- 3.251 Committee established; membership
- 3.252 Structure of citizen involvement process
- 3.253 Office of Citizen Involvement
- 3.254 Cooperation with the Office of Citizen Involvement

#### *Budget Advisory Committees*

- 3.300 Purpose
- 3.301 Committees established
- 3.302 Membership
- 3.303 Conflict of interest
- 3.304 Compensation
- 3.305 Duties
- 3.306 Central Citizen Budget Advisory Committee

#### *Public Safety Coordinating Council*

- 3.350 Membership
- 3.351 Duties

### *Oregon Business Development Fund Projects*

- 3.600 Application
- 3.601 Notice of hearing
- 3.602 Hearing by Board
- 3.603 Criteria for approval

#### *Cross-reference:*

*Board of Commissioners, see Charter §§ 3.10 through 3.75*

*Citizen Involvement Committee, see Charter § 3.75*

*General grant of powers; powers vested in Board, see Charter §§ 2.10 and 2.20*

*Ordinances, see Charter §§ 5.10 through 5.50*

#### *Statutory reference:*

*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 ODBF 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

#### *Vacancies in Office*

- 5.001 Title
- 5.002 Definitions
- 5.003 Vacancy in office
- 5.004 Filling of vacancy
- 5.005 Designation of interim Chair,  
Auditor or Sheriff
- 5.006 Appointment by Board
- 5.007 Election to fill vacancy
- 5.008 Nomination to fill vacancy
- 5.009 Special runoff election

#### *Initiative and Referendum*

- 5.100 Definitions
- 5.101 Prospective petition
- 5.102 Ballot title; appeal
- 5.103 Petition and circulation requirements
- 5.104 Filing and percentage requirements;  
verification
- 5.105 Measures referred by Board
- 5.106 Election dates
- 5.107 Election notice and procedure
- 5.108 State law applies

#### *Cross-reference:*

*Elections, see Charter §§ 11.10 through 11.50*

#### *Statutory reference:*

*Conduct of elections, see ORS, Ch. 254*

#### § 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

### GENERAL PROVISIONS

#### *General Provisions*

- 7.001 Support Department
- 7.002 Dishonored check fees
- 7.003 Accounting fees
- 7.004 Information fees
- 7.005 Interest fees
- 7.006 Purchasing and handling fees
- 7.007 Chair Executive Rules

#### *Risk Management*

- 7.100 Policy
- 7.101 Risk management fund
- 7.102 Risk management function
- 7.103 Risk assessment and loss prevention
- 7.104 Authority

#### *County Counsel*

- 7.200 Office established
- 7.201 Duties
- 7.202 Relationship to county

#### *Cross-reference:*

*Auditor, see Charter § 8.10*

#### *Statutory reference:*

*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*

### § 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

### Section

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*Workers' compensation, see ORS, Ch. 656*

**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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#### ***Cross-reference:***

*Auditor, see Charter § 8.10*

#### ***Statutory reference:***

*Assessment of property for taxation, see ORS, Ch. 308*

*Collection of property taxes, see ORS, Ch. 311*

*County financial administration, see ORS, Ch. 294*

*Equalization of property taxes, see ORS, Ch. 309*

*Foreclosure of property tax liens, see ORS, Ch. 312*

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*Property taxation generally, see ORS, Ch. 306*

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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  $\frac{3}{4}$  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 filing 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 administer the 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 1999 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

### Section

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#### *Statutory reference:*

*Animal control; exotic animals; dealers, see ORS, Ch. 609*  
*Predatory animals, see ORS, Ch. 610*

### **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 causes 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 unproductive; 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*

*Sheriffs, see ORS, Ch. 206*

***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-weighted 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.** A parent, 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)

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)

## **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

### **§ 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*

- 21.001 Department established; functions
- 21.002 Fees

#### *State Law Delegation*

- 21.100 Policy and purpose; delegation of enforcement to county
- 21.101 Adoption of rules of administrative procedure
- 21.102 Judicial review; form of notice

#### *Swimming Pools*

- 21.150 Swimming pool license fee
- 21.151 Swimming pool and spa plan review fees

#### *Community Health Council*

- 21.300 Council established
- 21.301 Council bylaws

#### *Emergency Medical Services*

- 21.400 Title
- 21.401 Purpose
- 21.402 Definitions
- 21.403 License required
- 21.404 Exemptions
- 21.405 License types
- 21.406 Ambulance staffing
- 21.407 License requirements
- 21.408 Application for license
- 21.409 Inspection
- 21.410 Issuance of license
- 21.411 Denial of application; license revocation
- 21.412 License term
- 21.413 Renewal

- 21.414 Notification of change in circumstances
- 21.415 Ambulance identification; advertisement
- 21.416 Prohibited activities
- 21.417 Medical direction and supervision
- 21.418 On-line medical control
- 21.419 EMS Medical Advisory Board
- 21.420 Training and education
- 21.421 EMS program office; administration
- 21.422 System quality management and improvement
- 21.423 EMS first response
- 21.424 Emergency ambulance service area
- 21.425 Exclusive emergency ambulance service contract
- 21.426 Reassignment
- 21.427 Ambulance charges for service
- 21.428 Contract Compliance and Rate Regulation Committee
- 21.429 Rate adjustment procedure
- 21.430 Production of documents
- 21.431 Orders
- 21.432 CRC rate review procedures
- 21.433 Appeals to the Board
- 21.434 CRC contract compliance review procedures
- 21.435 Ambulance dispatch
- 21.436 Code-3 or Priority 1 calls
- 21.437 Communications
- 21.438 Hospital availability; ambulance diversion
- 21.439 Mass casualty incidents (MCI)
- 21.440 Special responses
- 21.441 Violations
- 21.442 Appeals
- 21.443 Effect of filing a hearing request

*Food Services*

- 21.600 Definitions
- 21.601 Food handler's certificate required
- 21.602 Immediate possession of certificate required
- 21.603 Food handler's certificate; course of study
- 21.604 Form of certificate
- 21.605 Certificate fees
- 21.606 Term of food handler's certificate
- 21.607 Compulsory physical examination
- 21.608 False statements prohibited
- 21.609 Prohibitions
- 21.610 Food service license fee
- 21.611 Food service plan review
- 21.612 Payment of license fees, reinspection fees; delinquency
- 21.613 Bed and breakfast facilities; food service license fees

*Tourist Facilities*

- 21.650 Tourist and travelers facilities license fees
- 21.651 Bed and breakfast facilities; tourist accommodations license fee

*Refuse*

- 21.700 Title and area of application
- 21.701 Refuse hauling regulations
- 21.702 Dumping and littering prohibited
- 21.703 Reward
- 21.704 Hearings officer
- 21.705 Complaint
- 21.706 Notice of hearing
- 21.707 Answer; default
- 21.708 Hearing
- 21.709 Review
- 21.710 Administration and enforcement
- 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 made 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

#### *General Provisions*

- 23.001 Department of Community and Family Services established

#### *Mental Health Advisory Committee*

- 23.100 Title  
23.101 Committee established; functions  
23.102 Membership  
23.103 Meetings  
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23.105 Conflicts of interest

#### *Statutory reference:*

*Alcohol and drug abuse, see ORS, Ch. 430*

*Child welfare services, see ORS, Ch. 418*

*Children and family services, see ORS, Ch. 417*

*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

### Section

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#### *Statutory reference:*

*Abuse of the elderly and incapacitated, see  
ORS, Ch. 124*

*Adult foster homes, see ORS 443.705*

*Mentally retarded; developmentally disabled,  
see ORS, Ch. 427*

*Protective proceedings, see ORS, Ch. 125*

*Senior and disability services, see ORS,  
Ch. 410*

### **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 curb 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 sewerage 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.]



<i>Chemical</i>	<i>Entry to Sewer (mg/l)</i>	<i>Receipt at Plant (mg/l)</i>
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 ( $\frac{1}{4}$  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.]

<i>Table of Equivalent Dwelling Units</i>		
<i>Occupancy</i>	<i>Unit Measure</i>	<i>Equivalent Dwelling Units</i>
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	10 students	1
Elementary (grades 1-6)	15 students	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

### Section

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- 29.003 Adoption of state Building Code by reference
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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

(The designation "NC" means not codified in the 1998 code.)

### *1990 Code Section*

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3.10.202	9.006

<i>1990 Code Section</i>	<i>1998 Code Section</i>
3.10.210 - 3.10.265	NC
3.10.270	9.009
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3.10.300	9.007, 9.403
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3.10.310 - 3.10.430	NC
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5.60.720	11.528
5.60.730	11.599
5.60.800	NC
5.60.820	NC
5.60.840	11.529
5.60.850	11.530
Ch. 5.70	NC
Ch. 5.80	NC
Ch. 5.90	NC
Ch. 5.91	NC
6.20.105	15.100
6.20.110	15.101
6.20.115	15.102
6.20.120	15.103
6.20.130	15.120
6.20.140	15.120
6.20.150	15.104
6.20.160	15.105
6.20.170	15.106

## Multnomah County - Table of Parallel References

<i>1990 Code Section</i>	<i>1998 Code Section</i>
6.20.180	15.107
6.20.190	15.108
6.20.200	15.109
6.20.210	15.110
6.20.220	15.111
6.20.230	15.112
6.20.240	15.113
6.20.250	15.114
6.20.250	15.115
6.20.260	15.116
6.20.270	15.117
6.20.280	15.118
6.20.290	15.119
6.20.300	NC
6.20.990	NC
Ch. 6.30	NC
Ch. 6.31	NC
Ch. 6.32	NC
6.33.005	21.400
6.33.010	21.401
6.33.015	NC
6.33.020	21.402
6.33.030	21.403
6.33.035	21.404
6.33.040	21.405
6.33.043	21.406
6.33.045	21.407
6.33.050	21.408
6.33.055	21.409
6.33.060	21.410
6.33.065	21.411
6.33.070	21.412
6.33.075	21.413
6.33.080	21.414
6.33.085	21.415
6.33.090	21.416
6.33.095	21.441
6.33.096	21.999
6.33.098	21.442
6.33.099	21.443
6.33.100	21.417
6.33.105	21.418
6.33.110	21.419
6.33.115	21.420
6.33.200	21.421

*1990 Code Section**1998 Code Section*

6.33.300	21.422
6.33.400	21.423
6.33.450	21.424
6.33.455	21.425
6.33.460	21.426
6.33.500	21.427
6.33.505	21.402
6.33.510	21.428
6.33.515	21.429
6.33.515	21.430
6.33.520	21.431
6.33.525	21.432
6.33.530	21.433
6.33.535	21.434
6.33.600	21.435
6.33.625	21.436
6.33.650	21.437
6.33.655	21.438
6.33.700	21.439
6.33.750	21.440
Ch. 6.40	NC
6.50.005	15.725
6.50.010	15.726
6.50.020	15.727
6.50.030	15.728
6.50.040	NC
6.50.050	15.729
6.50.060	15.731
6.50.070	15.730
6.50.080	NC
6.50.990	NC
Ch. 6.60	NC
6.65.010	15.750
6.65.015	15.751
6.65.020	15.752
6.65.025	15.760
6.65.030	15.753
6.65.035	15.754
6.65.040	15.755
6.65.045	15.756
6.65.050	15.757
6.65.055	15.758
6.65.060	15.759
6.65.065, 6.65.070	NC
Ch. 6.70	NC

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*1990 Code Section**1998 Code Section*

6.81.005	15.300
6.81.010	15.301
6.81.020	15.302
6.81.030	15.303
6.81.040	15.304
6.81.050	15.305
6.81.060	15.306
6.81.070	15.307
6.81.080	15.308
6.81.090	15.309
6.81.100	15.310
6.81.110	15.311
6.81.120	15.312
6.81.130	NC
6.81.140	15.313
6.81.150	15.314
6.81.160	15.315
7.10.010	15.800
7.10.025	15.801
7.10.050	15.802
7.10.075	15.803
7.10.100	15.804
7.10.125	15.805
7.10.150	15.806
7.10.175	15.807
7.10.200	15.808
7.10.225	15.809
7.10.250	15.810
7.10.275	15.811
7.10.300	15.812
7.10.325	15.813
7.10.350	15.814
7.10.990	NC
7.15.010	15.600
7.15.020	15.601
7.15.030	15.602
7.15.040	15.603
7.20.005	15.225
7.20.010	15.226
7.20.020	15.227
7.20.030	15.236
7.20.040	15.236
7.20.050	15.228
7.20.060	15.229
7.20.070	15.230
7.20.080	15.231
7.20.090	15.232
7.20.100	15.233

*1990 Code Section**1998 Code Section*

7.20.110	15.234
7.20.120	15.235
7.20.130	NC
7.20.300 - 7.20.340	NC
7.20.990	NC
7.25.010	15.250
7.25.020	15.251
7.25.030	15.252
7.25.040	15.258
7.25.050	15.258
7.25.060	15.253
7.25.070	15.254
7.25.080	15.255
7.25.090	15.256
7.25.100	15.257
7.25.110	NC
7.25.990	NC
7.30.005	15.265
7.30.010	15.266
7.30.020	15.267
7.30.030	15.274
7.30.040	15.268
7.30.050	15.269
7.30.060	15.270
7.30.070	15.271
7.30.080	15.272
7.30.090	15.273
7.40.100	15.325
7.40.200	15.326
7.40.300	15.327
7.40.900	NC
7.41.015	15.328
7.41.020	15.329
7.41.030	15.330
7.41.040	NC
7.41.900	NC
7.45.100	15.050
7.45.200	15.051
7.45.900	15.999
Ch. 7.50	NC
7.51.005	15.700
7.51.010	15.701
7.51.015	15.702
7.51.020	15.703
7.51.025	15.704

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*1990 Code Section**1998 Code Section*

7.51.030	NC
7.51.035	15.705
7.51.040	15.706
7.51.045	15.707
7.51.050	15.708
7.51.055	15.709
7.51.060	15.710
7.51.065	15.711
7.51.070	15.712
7.51.075	15.713
7.51.080	15.714
7.70.100	15.650
7.70.150	15.651
7.70.200	15.652
7.70.250	15.653
7.70.300	15.654
7.70.350	15.655
7.70.360	15.656
Ch. 7.71	NC
Ch. 7.75	NC
7.80.010	15.550
7.80.020	15.551
7.80.030	15.552
7.80.040	15.553
7.80.041	15.554
7.80.045	15.555
7.80.050	15.556
7.80.055	15.557
7.80.060	15.558
7.80.070	15.559
7.80.080	15.560
7.80.090	NC
7.85.005	15.350
7.85.010	NC
7.85.011	15.351
7.85.020	NC
7.85.021	15.352
7.85.025	NC
7.85.026	15.353
7.85.030	NC
7.85.031	15.354
7.85.035	NC
7.85.036	15.355
7.85.040 - 7.85.050	NC
7.90.050	NC

*1990 Code Section**1998 Code Section*

7.90.100	15.450
7.90.150 - 7.90.990	NC
7.95.100	17.300
8.10.005	13.001
8.10.010	13.002
8.10.020	13.003
8.10.030	13.500
8.10.035	13.501
8.10.036	13.502
8.10.037	13.503
8.10.038	13.504
8.10.040	13.505
8.10.045	13.506
8.10.050	13.507
8.10.054	13.508
8.10.055	13.509
8.10.056	13.510
8.10.057	13.511
8.10.060	13.100
8.10.070	13.101
8.10.075	NC
8.10.080	13.102
8.10.085	NC
8.10.090	13.103
8.10.100	13.150
8.10.110	13.151
8.10.120	13.152
8.10.130	13.153
8.10.140, 8.10.145	NC
8.10.150	13.300
8.10.155	13.301
8.10.160	13.302
8.10.170	13.303
8.10.180	13.304
8.10.190	13.305
8.10.191	13.306
8.10.192	13.307
8.10.200	NC
8.10.210	13.308
8.10.220	13.512
8.10.230	NC
8.10.240	13.005
8.10.250	NC
8.10.260	13.004
8.10.265	13.400

## Multnomah County - Table of Parallel References

*1990 Code Section**1998 Code Section*

8.10.270	13.401
8.10.271	13.402
8.10.275	13.403
8.10.280	13.404
8.10.285	13.405
8.10.290	13.406
8.10.900, 8.10.910	NC
8.30.010	21.600
8.30.050	21.601
8.30.100	21.602
8.30.150	21.603
8.30.200	21.604
8.30.250	21.605
8.30.300	21.606
8.30.350	21.607
8.30.400	21.608
8.30.450	21.609
8.30.900	21.999
8.35.100	21.100
8.35.200	21.101
8.35.300	NC
8.35.400	21.102
8.40.010	23.100
8.40.020	NC
8.40.030	23.101
8.40.040	23.102
8.40.050	23.103
8.40.060	23.104
8.40.070	23.105
8.40.080	NC
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Ch. 8.50	NC
8.60.100	21.300
8.60.200	21.301
8.60.200, App.	NC
8.70.010	27.750
8.70.020	27.751
8.70.030	27.752
8.70.040	27.753
8.70.050	27.754
8.70.060	27.755
8.70.070	27.756
8.70.080	27.757
8.70.100	27.758
8.70.110	27.759



*1990 Code Section**1998 Code Section*

8.70.120	27.760
8.70.130	27.761
8.70.140	27.762
8.70.150	27.763
8.70.160	27.764
8.70.170	27.765
8.70.180	27.766
8.70.190	27.767
8.70.210	27.768
8.70.220	27.769
8.70.230	27.770
8.70.240	27.771
8.70.250	27.772
8.70.260	27.773
8.70.270	27.774
8.70.280	27.775
8.70.290	27.776
8.70.300	27.777
8.70.310	27.778
8.70.320	27.779
8.70.330	27.780
8.70.340	27.781
8.70.350	27.782
8.70.360	27.783
8.70.365	27.783
8.70.370	27.785
8.70.380	27.786
8.70.390	27.787
8.70.400	27.788
8.70.410	27.789
8.70.420	27.790
8.70.430	27.791
8.70.440	NC
8.70.450	27.792, 27.999
8.70.460	27.793
8.70.470	NC
8.70.480	27.794
8.70.490	NC
8.75.050	21.700
8.75.100	21.701
8.75.110	21.999
8.75.200	21.702
8.75.210	21.999
8.75.300	21.703
8.75.400	21.710

## Multnomah County - Table of Parallel References

*1990 Code Section**1998 Code Section*

8.75.500	21.704
8.75.510	21.705
8.75.520	21.706
8.75.530	21.707
8.75.540	21.708
8.75.550	21.709
8.75.560	21.711
8.80.115	27.300, 27.301
8.80.990	27.999
8.85.005	27.600
8.85.010	27.601
8.85.020	27.602
8.85.030	27.603
8.85.040	27.604
8.85.050	27.605
8.85.090	27.606
8.85.090	27.999
8.91.005	25.200
8.91.010	25.201
8.91.015	25.202
8.91.020	25.203
8.91.025	25.217
8.91.030	25.204
8.91.035	25.205
8.91.040	25.206
8.91.045	25.207
8.91.050	25.208
8.91.055	25.209
8.91.060	25.210
8.91.065	25.211
8.91.070	25.212
8.91.075	25.999
8.91.080	25.213
8.91.085	25.214
8.91.090	25.215
8.91.140	NC
8.91.150	25.216
8.91.160	25.250
8.91.165	25.251
8.91.170	25.252
8.91.175	25.253
8.91.180	25.254
8.91.185	25.255
8.91.190	25.256
8.91.195	25.257

*1990 Code Section**1998 Code Section*

8.91.200	25.258
8.91.205	25.259
8.91.210	25.260
8.91.215	25.261
8.91.220	25.262
8.91.225	25.263
8.91.230	25.264
8.91.235	25.265
8.91.240	25.266
8.91.245	25.267
8.91.250	25.268
8.91.255	25.269
8.91.260	25.270
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9.10.005	29.001
9.10.020	29.002
9.10.030	29.003
9.10.040	29.004
9.10.050	29.005
9.10.060	29.006
9.10.070	29.007
9.10.080	29.008
9.10.090	29.009
9.10.100	29.010
9.10.110	29.011
9.20.005	29.100
9.20.020	29.101
9.20.030	29.102
9.20.040	29.103
9.20.050	29.104
9.20.060	29.105
9.20.070	29.106
9.30.005	29.200
9.30.015	29.201
9.30.030	29.202
9.30.040	29.203
9.30.050	29.204
9.30.060, 9.30.070	NC
9.30.080	29.205
9.30.090	29.206, 29.999
9.30.100	29.207
9.40.005	29.300
9.40.010	29.302
9.40.020	29.303
9.40.030	29.304

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9.40.040	29.305
9.40.050	29.301
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Ch. 10.15	NC
Ch. 10.20	NC
10.50.005	15.850
10.50.010	15.851
10.50.020	15.852
10.50.040	15.853
10.50.060	15.854
10.50.080	15.855
10.50.100	15.856
10.50.120	15.857
10.50.140	15.858
10.50.160	NC
10.50.900	NC
Ch. 11.05	(See Vol. II)
11.08.010 - 11.08.260	NC
11.08.510	NC
11.08.520	3.600
11.08.530	3.601
11.08.540	3.602
11.08.550	3.603
Ch. 11.10	(See Vol. II)
Ch. 11.12	(See Vol. II)
Ch. 11.15	(See Vol. II)
11.20.100	29.400
11.20.200	29.401
Ch. 11.30	NC
Ch. 11.45	(See Vol. II)
11.60.005	29.500
11.60.010	29.501
11.60.020	NC
11.60.030	29.502
11.60.040	29.503
11.60.050	29.504
11.60.060	29.505
11.60.070	29.506
11.60.080	29.507
11.60.090	29.530
11.60.100	29.531
11.60.110	29.532
11.60.120	29.533
11.60.130	29.534
11.60.140	29.535

<i>1990 Code Section</i>	<i>1998 Code Section</i>
11.60.150	29.536
11.60.160	29.537
11.60.170	29.538
11.60.180	29.539
11.60.190	29.540
11.60.200	29.541
11.60.210	29.542
11.60.220	29.543
11.60.230	29.544
11.60.240	29.545
11.60.250	29.546
11.60.260	29.547
11.60.270	29.547
11.60.280	29.549
11.60.290	29.550
11.60.300	29.560
11.60.310	29.561
11.60.320	29.562
11.60.325	29.563
11.60.330	29.564
11.60.333	29.565
11.60.336	29.566
11.60.340	29.567
11.60.350	29.568
11.60.360	29.569
11.60.370	29.570
11.60.380	29.571
11.60.390	29.572
11.60.400	29.573
11.60.410	29.574
11.60.420	29.575
11.60.430	29.575
11.60.440	29.577
11.60.450	29.578
11.60.460	29.579
11.60.470	29.580
11.60.480	29.581
11.60.485	29.582
11.60.488	29.583
11.60.490, 11.60.500	NC
11.60.510	29.508
11.60.990	29.999
11.80.010	27.100
11.80.020	27.101
11.80.030	27.102

**Multnomah County - Table of Parallel References*****1990 Code Section******1998 Code Section***

11.80.040  
11.80.050  
11.80.060  
11.80.070  
11.80.080  
11.80.090  
Ch. 11.85  
Ch. 11.86  
11.90.010  
11.90.020  
11.90.030  
11.90.035  
11.90.040  
11.90.050  
11.90.060

27.103  
27.104  
27.105  
27.106  
27.107  
27.108  
NC  
NC  
27.200  
27.201  
27.202  
27.203  
27.204  
27.205  
27.206

MEETING DATE: June 25, 1998  
AGENDA #: R-17  
ESTIMATED START TIME: 11:05 AM

(Above Space for Board Clerk's use only)

### AGENDA PLACEMENT FORM

SUBJECT: Resolution Establishing Fees and Charges for the Multnomah County Code

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: Thursday, June 25, 1998  
AMOUNT OF TIME NEEDED: 1 minute

DEPARTMENT: Non-Departmental DIVISION: County Counsel

CONTACT: Thomas Sponsler TELEPHONE #: 248-3138, ext. 22834  
BLDG/ROOM #: 106/1530

PERSON(S) MAKING PRESENTATION: Thomas Sponsler

#### ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

#### SUGGESTED AGENDA TITLE:

Resolution Establishing Fees and Charges for Chapter 7,  
Administration, of the Multnomah County Code

*6/26/98 copies to Tom Sponsler*

#### SIGNATURES REQUIRED:

ELECTED OFFICIAL: \_\_\_\_\_  
(OR)

DEPARTMENT MANAGER: Thomas Sponsler

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions? Call the Board Clerk @ 248-3277

98 JUN 19 PM 3:58  
MULTNOMAH COUNTY  
OREGON  
BOARD OF  
COUNTY COMMISSIONERS



OFFICE OF  
MULTNOMAH COUNTY COUNSEL

THOMAS SPONSER  
*County Counsel*

SANDRA N. DUFFY  
*Chief Assistant*

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JEFFREY B. LITWAK  
STEVEN J. NEMIROW  
MATTHEW O. RYAN  
AGNES SOWLE  
JOHN S. THOMAS  
JACQUELINE A. WEBER  
*Assistants*

## SUPPLEMENTAL STAFF REPORT

TO: Board of County Commissioners

FROM: Office of County Counsel

DATE: June 22, 1998

RE: Resolution Establishing Fees and Charges for Chapter 7,  
Administration, of the Multnomah County Code

98 JUN 22 AM 10:33  
MULTNOMAH COUNTY  
OREGON  
COUNTY COMMISSIONERS

1. Recommendation/Action Requested:

Adoption of the Resolution establishing fees and charges for Chapter 7, Administration of the Multnomah County Code.

2. Background/Analysis:

The Board of County Commissioners is expected to adopt a new code of ordinances for Multnomah County which revises, amends, restates, codifies and repeals existing Multnomah County Code provisions and certain general ordinances. That recodification has repealed county fees and charges for each of the county departments. The setting and charging of these fees is an administrative function of the policies set in the ordinances codified in the Multnomah County Code. Administrative implementation of the code is appropriately adopted by Resolution.



3. Financial Impact:

The fees and charges are not being changed. The fees and charges which were in the County Code are simply being readopted through Resolution. There is no financial impact.

4. Legal Issues:

None.

5. Controversial Issues:

None.

6. Link to Current County Policies:

This provides an appropriate mechanism to implement County policies adopted by Ordinances and codified in the Multnomah County Code.

7. Citizen Participation:

Notification of the Board meeting on June 25, 1998, at which the Resolution is expected to be adopted was given in the normal course. Citizens can comment on the Resolution at the Board meeting.

8. Other Government Participation:

None.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 98-83

A RESOLUTION ESTABLISHING FEES AND CHARGES FOR CHAPTER 7,  
ADMINISTRATION, OF THE MULTNOMAH COUNTY CODE

The Board of County Commissioners Finds:

Chapter 7, Administration, of the Multnomah County Code provides that the Board shall establish certain fees and charges by resolution.

THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS RESOLVES:

1. The fees and charges for Chapter 7, Administration, of the Multnomah County Code are set as follows:

Section 7.002. DISHONORED CHECK FEES.

The fee for processing a dishonored check, draft or money order is \$25.00.

Section 7.005. INTEREST FEES.

The interest rate on receivables is 1.5% per month.

Section 7.006: PURCHASING AND HANDLING FEES.

The fee for purchasing and stores services is 10% of the value of goods purchased and handled.

2. This resolution takes effect on July 1, 1998.

ADOPTED, this 25th day of June, 1998.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

for Sharon Hilley  
Beverly Stein, Chair



THOMAS SPONSLER, COUNTY COUNSEL  
FOR MULTNOMAH COUNTY, OREGON

By Sandra N. Duffy  
Sandra N. Duffy  
Chief Assistant County Counsel

MEETING DATE: June 25, 1998

AGENDA #: R-18

ESTIMATED START TIME: 11:05 AM

(Above Space for Board Clerk's use only)

### AGENDA PLACEMENT FORM

SUBJECT: Resolution Establishing Fees and Charges for the Multnomah County Code

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: Thursday, June 25, 1998  
AMOUNT OF TIME NEEDED: 1 minute

DEPARTMENT: Non-Departmental DIVISION: County Counsel

CONTACT: Thomas Sponsler TELEPHONE #: 248-3138, ext. 22834  
BLDG/ROOM #: 106/1530

PERSON(S) MAKING PRESENTATION: Thomas Sponsler

#### ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

#### SUGGESTED AGENDA TITLE:

Resolution Establishing Fees and Charges for Chapter 11,  
Revenue and Taxation, of the Multnomah County Code

*6/26/98 copies to Tom Sponsler*

#### SIGNATURES REQUIRED:

ELECTED OFFICIAL: \_\_\_\_\_  
(OR)

DEPARTMENT MANAGER: Thomas Sponsler

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions? Call the Board Clerk @ 248-3277

1000  
COUNTY COMMISSIONERS  
98 JUN 19 PM 3:27  
MULTNOMAH COUNTY  
OREGON



# OFFICE OF MULTNOMAH COUNTY COUNSEL

THOMAS SPONSER  
*County Counsel*

SANDRA N. DUFFY  
*Chief Assistant*

1120 S.W. FIFTH AVENUE, SUITE 1530  
PORTLAND, OREGON 97204-1977

FAX 248-3377  
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JEFFREY B. LITWAK  
STEVEN J. NEMIROW  
MATTHEW O. RYAN  
AGNES SOWLE  
JOHN S. THOMAS  
JACQUELINE A. WEBER  
*Assistants*

## SUPPLEMENTAL STAFF REPORT

TO: Board of County Commissioners

FROM: Office of County Counsel

DATE: June 22, 1998

RE: Resolution Establishing Fees and Charges for Chapter 11, Revenue and Taxation, of the Multnomah County Code

98 JUN 22 AM 10:33  
 COUNTY COMMISSIONERS  
 MULTNOMAH COUNTY  
 OREGON

1. Recommendation/Action Requested:

Adoption of the Resolution establishing fees and charges for Chapter 11, Revenue and Taxation, of the Multnomah County Code.

2. Background/Analysis:

The Board of County Commissioners is expected to adopt a new code of ordinances for Multnomah County which revises, amends, restates, codifies and repeals existing Multnomah County Code provisions and certain general ordinances. That recodification has repealed county fees and charges for each of the county departments. The setting and charging of these fees is an administrative function of the policies set in the ordinances codified in the Multnomah County Code. Administrative implementation of the code is appropriately adopted by Resolution.

3.           Financial Impact:

The fees and charges are not being changed. The fees and charges which were in the County Code are simply being readopted through Resolution. There is no financial impact.

4.           Legal Issues:

None.

5.           Controversial Issues:

None.

6.           Link to Current County Policies:

This provides an appropriate mechanism to implement County policies adopted by Ordinances and codified in the Multnomah County Code.

7.           Citizen Participation:

Notification of the Board meeting on June 25, 1998, at which the Resolution is expected to be adopted was given in the normal course. Citizens can comment on the Resolution at the Board meeting.

8.           Other Government Participation:

None.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 98-84

A RESOLUTION ESTABLISHING FEES AND CHARGES FOR CHAPTER 11,  
REVENUE AND TAXATION, OF THE MULTNOMAH COUNTY CODE

The Board of County Commissioners Finds:

Chapter 11, Revenue and Taxation, of the Multnomah County Code provides that the Board shall establish certain fees and charges by resolution.

THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS RESOLVES:

1. The fees and charges for Chapter 11, Revenue and Taxation, of the Multnomah County Code are set as follows:

Section 11.002. FEES FOR PUBLICATIONS AND RECORDS.

The fees for copies of publications and records shall be the actual cost of reproducing the records.

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

The fees for duplications of records of the Board shall be the actual cost of reproduction.

Section 11.306: LICENSE REQUIRED (motor vehicle rental license fee).

The motor vehicle rental license fee is \$50.

2. This resolution takes effect on July 1, 1998.

ADOPTED this 25th day of June, 1998.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

for Sharon Kelley  
Beverly Stein, Chair



THOMAS SPONSER, COUNTY COUNSEL  
FOR MULTNOMAH COUNTY, OREGON

Sandra N. Duffy  
Sandra N. Duffy  
Chief Assistant County Counsel

MEETING DATE: June 25, 1998  
AGENDA #: R-19  
ESTIMATED START TIME: 11:05 AM

(Above Space for Board Clerk's use only)

### AGENDA PLACEMENT FORM

SUBJECT: Resolution Establishing Fees and Charges for the Multnomah County Code

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: Thursday, June 25, 1998  
AMOUNT OF TIME NEEDED: 1 minute

DEPARTMENT: Non-Departmental DIVISION: County Counsel

CONTACT: Thomas Sponsler TELEPHONE #: 248-3138, ext. 22834  
BLDG/ROOM #: 106/1530

PERSON(S) MAKING PRESENTATION: Thomas Sponsler

#### ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

#### SUGGESTED AGENDA TITLE:

Resolution Establishing Fees and Charges for Chapter 13,  
Animal Control, of the Multnomah County Code

*6/26/98 copies to Tom Sponsler*

#### SIGNATURES REQUIRED:

ELECTED OFFICIAL: \_\_\_\_\_  
(OR)

DEPARTMENT MANAGER: Thomas Sponsler

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions? Call the Board Clerk @ 248-3277

98 JUN 19 PM 3:27  
MULTNOMAH COUNTY  
OREGON  
BOARD OF  
COUNTY COMMISSIONERS



# OFFICE OF MULTNOMAH COUNTY COUNSEL

THOMAS SPONSER  
*County Counsel*

SANDRA N. DUFFY  
*Chief Assistant*

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AGNES SOWLE  
JOHN S. THOMAS  
JACQUELINE A. WEBER  
*Assistants*

## SUPPLEMENTAL STAFF REPORT

TO: Board of County Commissioners

FROM: Office of County Counsel

DATE: June 22, 1998

RE: Resolution Establishing Fees and Charges for Chapter 13, Animal Control, of the Multnomah County Code

98 JUN 22 AM 10:33  
MULTNOMAH COUNTY  
OREGON

1. Recommendation/Action Requested:

Adoption of the Resolution establishing fees and charges for Chapter 13, Animal Control, of the Multnomah County Code.

2. Background/Analysis:

The Board of County Commissioners is expected to adopt a new code of ordinances for Multnomah County which revises, amends, restates, codifies and repeals existing Multnomah County Code provisions and certain general ordinances. That recodification has repealed county fees and charges for each of the county departments. The setting and charging of these fees is an administrative function of the policies set in the ordinances codified in the Multnomah County Code. Administrative implementation of the code is appropriately adopted by Resolution.



3.           Financial Impact:

The fees and charges are not being changed. The fees and charges which were in the County Code are simply being readopted through Resolution. There is no financial impact.

4.           Legal Issues:

None.

5.           Controversial Issues:

None.

6.           Link to Current County Policies:

This provides an appropriate mechanism to implement County policies adopted by Ordinances and codified in the Multnomah County Code.

7.           Citizen Participation:

Notification of the Board meeting on June 25, 1998, at which the Resolution is expected to be adopted was given in the normal course. Citizens can comment on the Resolution at the Board meeting.

8.           Other Government Participation:

None.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 98-85

A RESOLUTION ESTABLISHING FEES AND CHARGES FOR CHAPTER 13,  
ANIMAL CONTROL, OF THE MULTNOMAH COUNTY CODE

The Board of County Commissioners Finds:

Chapter 13, Animal Control, of the Multnomah County Code provides that the Board shall establish certain fees and charges by resolution.

THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS RESOLVES:

1. The fees and charges for Chapter 13, Animal Control, of the Multnomah County Code are set as follows:

Section 13.004: SPAYING AND NEUTERING ENCOURAGED.

The amount set aside by the Board from revenue generated from pet licensing to cover the cost of the county's public educational, spaying and neutering programs is \$25,000.

Section 13.404: REGULATION OF POTENTIALLY DANGEROUS DOGS.

(G) Fees for licensing dangerous dogs are:

Level 1:	\$ 50.00
Levels 2 and 3:	\$100.00
Level 4:	\$150.00

The review fee for a request for reclassifying a dangerous dog is: \$ 40.00

Section 13.501: NOTICE OF INFRACTION.

Appeal fee: \$ 25.00

Section 13.506: RELEASE FOR ADOPTION.

The spay/neuter deposit: Maximum of \$45.00.

Section 13.508: APPEALS.

The fee for appealing a notice or decision under this chapter is \$25.00.

Section 13.511: IMPOUNDMENT PENDING APPEAL.

Impoundment appeal deposit: \$100.

Section 13.512: FEES.

Fees imposed under this section are:

		<u>One Year</u>	<u>Two Year</u>	<u>Three Year</u>
(A)	Pet Licenses:			
(1)	Dogs:			
(a)	Fertile	\$35.00	\$70.00	\$105.00
(b)	Sexually unproductive	12.00	19.00	26.00
(2)	Cats:			
(a)	Fertile	30.00	60.00	90.00
(b)	Sexually unproductive, first in household	8.00	14.00	19.00
(c)	Sexually unproductive, subsequent in same household	5.00	10.00	15.00
(3)	License replacement	5.00		
(B)	Facilities License:			
(1)	Dogs		85.00	
(2)	Cats		85.00	
(3)	Exotic, wild, or dangerous animal facility		150.00	
(4)	Facility fees:			
(a)	1-10 animals		70.00	
(b)	>10 animals		110.00	
(C)	County shelter rates:			
(1)	Impoundment fee, dogs		50.00	
(2)	Impoundment fee, cats		30.00	
(3)	Animals other than livestock		8.00	
(4)	Daily care for any portion of a 24-hour period from time of impoundment:			
(a)	Dogs		15.00	
(b)	Cats		8.00	
(c)	Livestock		15.00	
(d)	Other animals		8.00	
(e)	Special care (per veterinary orders)		3.00	
(5)	Veterinary fees		25.00	
(6)	Disposal fees:			
(a)	Euthanasia and disposal		25.00	
(b)	Dead animal disposal		15.00	
(c)	Release of unwanted animals by owner or keeper		15.00	
(d)	Release of two or more animals by owner or keeper		25.00	

(7)	Adoption fees:	
(a)	Dogs:	
	(i)	Fertile 80.00
	(ii)	Sterile 40.00
(b)	Cats:	
	(i)	Fertile 60.00
	(ii)	Sterile 35.00
(D)	Livetrapp rental:	
(1)	Cat trap deposit fee (per trap)	35.00
(2)	Cat trap weekly rental fee	5.00
(3)	Dog trap deposit fee	200.00
(4)	Dog trap weekly rental fee	10.00
(E)	Appeal hearing:	
(1)	Fee	25.00
(2)	Boarding deposit	100.00
(F)	Stray Livestock fees:	
(1)	Hourly fee (per person)	45.00
(2)	Mileage fee (per mile, per vehicle)	0.315
(G)	Potentially dangerous dog classification fees:	
(1)	Level 1 (per year)	50.00
(2)	Level 2 and Level 3 (per year)	100.00
(3)	Level 4 (per year)	150.00
(H)	Declassification:	
(1)	Fee	40.00

2. This resolution takes effect on July 1, 1998.

ADOPTED this 25th day of June, 1998.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

for Sharon Kelly  
Beverly Stein, Chair

REVIEWED

THOMAS SPONSER, COUNTY COUNSEL  
FOR MULTNOMAH COUNTY, OREGON

By Sandra Duffy for  
Matthew O. Ryan  
Assistant County Counsel

MEETING DATE: June 25, 1998

AGENDA #: R-20

ESTIMATED START TIME: 11:05 AM

(Above Space for Board Clerk's use only)

## AGENDA PLACEMENT FORM

SUBJECT: Resolution Establishing Fees and Charges for the Multnomah County Code

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: Thursday, June 25, 1998  
AMOUNT OF TIME NEEDED: 1 minute

DEPARTMENT: Non-Departmental DIVISION: County Counsel

CONTACT: Thomas Sponsler TELEPHONE #: 248-3138, ext. 22834  
BLDG/ROOM #: 106/1530

PERSON(S) MAKING PRESENTATION: Thomas Sponsler

### ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

### SUGGESTED AGENDA TITLE:

Resolution Establishing Fees and Charges for Chapter 15,  
Sheriff, of the Multnomah County Code

*6/26/98 copies to Tom Sponsler*

### SIGNATURES REQUIRED:

ELECTED OFFICIAL: \_\_\_\_\_  
(OR)

DEPARTMENT MANAGER: Thomas Sponsler

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions? Call the Board Clerk @ 248-3277

98 JUN 19 PM 3:27  
MULTNOMAH COUNTY  
OREGON  
BOARD OF  
COUNTY COMMISSIONERS



# OFFICE OF MULTNOMAH COUNTY COUNSEL

THOMAS SPONSER  
*County Counsel*

SANDRA N. DUFFY  
*Chief Assistant*

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MATTHEW O. RYAN  
AGNES SOWLE  
JOHN S. THOMAS  
JACQUELINE A. WEBER  
*Assistants*

## SUPPLEMENTAL STAFF REPORT

TO: Board of County Commissioners

FROM: Office of County Counsel

DATE: June 22, 1998

RE: Resolution Establishing Fees and Charges for Chapter 15, Sheriff, of the Multnomah County Code

98 JUN 22 AM 10:33  
MULTNOMAH COUNTY  
OREGON  
COUNTY CLERK  
JULIA A. BROWN

1. Recommendation/Action Requested:

Adoption of the Resolution establishing fees and charges for Chapter 15, Sheriff, of the Multnomah County Code.

2. Background/Analysis:

The Board of County Commissioners is expected to adopt a new code of ordinances for Multnomah County which revises, amends, restates, codifies and repeals existing Multnomah County Code provisions and certain general ordinances. That recodification has repealed county fees and charges for each of the county departments. The setting and charging of these fees is an administrative function of the policies set in the ordinances codified in the Multnomah County Code. Administrative implementation of the code is appropriately adopted by Resolution.

3.           Financial Impact:

The fees and charges are not being changed. The fees and charges which were in the County Code are simply being readopted through Resolution. There is no financial impact.

4.           Legal Issues:

None.

5.           Controversial Issues:

None.

6.           Link to Current County Policies:

This provides an appropriate mechanism to implement County policies adopted by Ordinances and codified in the Multnomah County Code.

7.           Citizen Participation:

Notification of the Board meeting on June 25, 1998, at which the Resolution is expected to be adopted was given in the normal course. Citizens can comment on the Resolution at the Board meeting.

8.           Other Government Participation:

None.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 98-86

A RESOLUTION ESTABLISHING FEES AND CHARGES FOR  
CHAPTER 15, SHERIFF, OF THE MULTNOMAH COUNTY CODE

The Board of County Commissioners Finds:

Chapter 15, Sheriff, of the Multnomah County Code provides that the Board shall establish certain fees and charges by resolution.

THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS RESOLVES:

1. The fees and charges for Chapter 15, Sheriff, of the Multnomah County Code are set as follows:

Section 15.002. Fees of Multnomah County Sheriff's Office:

- (A) Record copy request—may include agency reports, accident reports, law enforcement reports, law enforcement deputy file/notebook entries, administrative documents (e.g. memoranda, special orders, etc.) booking records, visitors cards, etc.: \$ 10.00
- (1) Additional pages: \$ 2.00 per page
- (2) If the record is on file, the fee charged under section (A) includes a copy of a document five or fewer pages in length.
- (3) The fee charged under section (A) is not refundable, even though the record requested is not on file or otherwise cannot be located.
- (4) The sheriff will not charge the fee as provided in section (A) to an alleged victim of a crime listed on a law enforcement record
- (B) Archive Record Request \$13.00 per ½ hour search time
- (C) Standard File Search: \$35.00 per search
- (D) Custom File Search: Actual costs for programming and computer usage time.



(E)	Administrative Procedures Manual Publications:	\$50.00 per subscription \$25.00 for annual updates
(F)	Filing letter of subrogation:	\$10.00
(G)	Photograph reprinting, per incident/accident:	
	First 4x5 print:	\$ 8.50
	Each additional print:	\$ 0.50
	Other sizes:	\$ 8.00 per request plus actual cost.
(H)	Notary services (see ORS 194.164(1) and OAR 160-100-400):	
	(1) Taking an acknowledgment	\$ 5.00
	(2) Taking a verification upon an oath or affirmation	\$ 5.00
	(3) Certifying a copy of a document:	\$ 5.00
	(4) Witnessing or attesting a signature:	\$ 5.00
	(5) Protesting commercial paper, except a check drawn on an insolvent financial institution	\$ 5.00
	(6) Administering an oath or affirmation, without signature:	\$ 1.00
	(7) Taking a deposition, each page	\$ 1.00
	(8) All other notarial acts not specified in subsections (1) through (7) above:	\$ 1.00
(J)	Tow charge reimbursement:	Cost of Tow
(K)	Video Imaging reproduction:	
	(1) Color image	\$ 8.50
	(2) Black and white image	\$ 6.00
(L)	Video tape reproduction	\$ 45.00
(M)	Audio tape reproduction	\$ 45.00
(N)	Explosives permit approval	\$ 15.00

- (O) Firearms licenses (see ORS 166.291(5))
- |  |          |
|--|----------|
| (1) Concealed handgun license – new:   | \$ 65.00 |
| (2) Concealed handgun license-duplicate or change of address:  | \$ 15.00 |
| (3) Concealed handgun license-renewal:   | \$ 50.00 |
| (4) Safety education course:   | \$ 20.00 |
| (5) Dealer fee for background check:   | \$ 15.00 |
| (6) The fee required under subsection (5) above shall be the obligation of the firearm dealer and shall be charged with respect to requests for background checks received by the sheriff on or after the effective date of Ordinance No. 646. The sheriff shall pursue all appropriate legal remedies upon a failure of a dealer to submit a required fee, but shall not refuse to conduct a background check for that reason. The fee shall be annually reviewed by the sheriff, who shall report to the board on the sufficiency of the fee to cover the costs of conducting the required checks. |          |
- (P) Civil Process fee (see ORS 21.410; 23.360(2))
- |  |          |
|--|----------|
| (1) Service upon judgment debtor of court order authorizing sale of residence or property homestead:   | \$ 20.00 |
| (2) Mailing letter of intent to sell, levying on real property, preparing notice of judicial sale, submit notice to publication and mailing notice to judgment debtor and others as requested: | \$131.00 |
| (3) Seizure and sale of personal property  | \$130.00 |
| (4) Service of notice process:   | \$ 20.00 |
| (5) Enforcement of other writs:  | \$ 47.00 |
| (6) Service of provisional process order:  | \$ 47.00 |
| (7) Processing distraint warrant:  | \$ 6.25  |
| (8) Eviction:  | \$ 47.00 |
| (9) Delivery of writ of garnishment:   | \$ 9.50  |
| (10) Posting premises levied upon with notice of sale:   | \$ 20.00 |

(11) Publication of Notice of Sale:	At current publication rate
(12) Mailing of presale notice:	At current postage rate
(13) Posting of after-sale notice:	\$ 5.00
(14) Mailing of after-sale notice to judgment debtor:	\$ 4.25

Section 15.105.      Application for License (towing services).

Towing – application fee:	\$ 45.00
---------------------------	----------

Section 15.106.      Proof of Insurance Required.

Personal injury/one person	\$100,000.00
Personal injury/one accident or incident	\$300,000.00
Property damage	\$100,000.00
Cargo	\$ 7,500.00

Section 15.110.      Denial or Revocation of License.

Towing--reapplication fee:	\$ 35.00
----------------------------	----------

Section 15.111.      Renewal of License.

Renewal fee per towing vehicle:	\$ 45.00
---------------------------------	----------

Section 15.112.      Notification of Change of Circumstances.

Towing – inspection fee:	\$ 25.00
--------------------------	----------

Section 15.201.      Applications. (Wrecker)      \$ 15.00

Section 15.306.      Secondhand Dealer Permit Fees:

Occasional:	\$ 25.00
Occasional – renewal:	\$ 25.00
All others:	\$150.00
All others – renewal:	\$ 75.00
Temporary	Free

Section 15.401.      Liquor license fees:

Original application:	\$100.00
Change in ownership/location/privilege:	\$ 75.00
Renewal	\$ 50.00

Section 15.703.      Alarm permit fees:

New robbery or burglary permit:	\$ 12.00
Failure to obtain permit within 30 days of system becoming operative, or delinquency in renewing permit:	\$ 25.00

Section 15.704. Excessive false alarms, fines:

2nd and 3rd false alarms, each:	\$ 50.00
4th and any additional, each:	\$100.00
Late fee (30 days delinquent)	\$ 25.00

Section 15.755. Denial or revocation of license (Adult Entertainment):

Reinstatement application fee for revoked license:	\$ 35.00
--	----------

Section 15.757. License Fees and Renewal (Adult Entertainment):

Adult bookstore or adult theater annual license fee:	\$180.00
--	----------

Section 15.856. Disposition of Vehicle (Off-Road Vehicles):

Disposition by court:	\$ 50.00
-----------------------	----------

2. This resolution takes effect on July 1, 1998.

ADOPTED this 25th day of June, 1998.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

for *Sharon Kelly*  
Beverly Stein, Chair

REVIEWED:

THOMAS SPONSER, COUNTY COUNSEL  
FOR MULTNOMAH COUNTY, OREGON

By *Jacqueline A. Weber*  
Jacqueline A. Weber  
Assistant County Counsel

MEETING DATE: June 25, 1998  
AGENDA #: R-21  
ESTIMATED START TIME: 11:05 AM

(Above Space for Board Clerk's use only)

### AGENDA PLACEMENT FORM

SUBJECT: Resolution Establishing Fees and Charges for the Multnomah County Code

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: Thursday, June 25, 1998  
AMOUNT OF TIME NEEDED: 1 minute

DEPARTMENT: Non-Departmental DIVISION: County Counsel

CONTACT: Thomas Sponsler TELEPHONE #: 248-3138, ext. 22834  
BLDG/ROOM #: 106/1530

PERSON(S) MAKING PRESENTATION: Thomas Sponsler

#### ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

#### SUGGESTED AGENDA TITLE:

Resolution Establishing Fees and Charges for Chapter 17,  
Juvenile and Adult Community Justice, of the Multnomah County Code

6/26/98 copies to Tom Sponsler

#### SIGNATURES REQUIRED:

ELECTED OFFICIAL: \_\_\_\_\_  
(OR)

DEPARTMENT MANAGER: Thomas Sponsler

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions? Call the Board Clerk @ 248-3277

98 JUN 19 PM 3:28  
MULTNOMAH COUNTY  
OREGON  
COUNTY CLERK'S OFFICE



# OFFICE OF MULTNOMAH COUNTY COUNSEL

THOMAS SPONSER  
*County Counsel*

SANDRA N. DUFFY  
*Chief Assistant*

1120 S.W. FIFTH AVENUE, SUITE 1530  
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JACQUELINE A. WEBER  
*Assistants*

## **SUPPLEMENTAL STAFF REPORT**

TO: Board of County Commissioners

FROM: Office of County Counsel

DATE: June 22, 1998

RE: Resolution Establishing Fees and Charges for Chapter 17, Juvenile and Adult Community Justice, of the Multnomah County Code

12:43:37 PM  
JUN 22 1998  
MULTNOMAH COUNTY  
OREGON

1. **Recommendation/Action Requested:**

Adoption of the Resolution establishing fees and charges for Chapter 17, Juvenile and Adult Community Justice, of the Multnomah County Code.

2. **Background/Analysis:**

The Board of County Commissioners is expected to adopt a new code of ordinances for Multnomah County which revises, amends, restates, codifies and repeals existing Multnomah County Code provisions and certain general ordinances. That recodification has repealed county fees and charges for each of the county departments. The setting and charging of these fees is an administrative function of the policies set in the ordinances codified in the Multnomah County Code. Administrative implementation of the code is appropriately adopted by Resolution.

3.           Financial Impact:

The fees and charges are not being changed. The fees and charges which were in the County Code are simply being readopted through Resolution. There is no financial impact.

4.           Legal Issues:

None.

5.           Controversial Issues:

None.

6.           Link to Current County Policies:

This provides an appropriate mechanism to implement County policies adopted by Ordinances and codified in the Multnomah County Code.

7.           Citizen Participation:

Notification of the Board meeting on June 25, 1998, at which the Resolution is expected to be adopted was given in the normal course. Citizens can comment on the Resolution at the Board meeting.

8.           Other Government Participation:

None.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION ESTABLISHING FEES AND CHARGES FOR  
CHAPTER 17, JUVENILE AND ADULT JUSTICE, OF THE MULTNOMAH  
COUNTY CODE

The Board of County Commissioners Finds:

Chapter 17, Juvenile and Adult Justice, of the Multnomah County Code provides that the Board shall establish certain fees and charges by resolution.

THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS RESOLVES:

1. The fees and charges for Chapter 17, Juvenile and Adult Justice, of the Multnomah County Code are set as follows:

Section 17.002. ALTERNATIVE CORRECTIONS PROGRAM; FEE.

Multnomah County community corrections shall charge a fee of \$25.00 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.

Section 17.100. MARRIAGE LICENSES; FEES.

A fee of \$10.00 shall be charged for the issuance of a marriage license in addition to that fee prescribed by subsection (7) of ORS 205.320. Fees collected pursuant to this section shall be used to finance the cost of conciliation services provided under ORS 107.510 to 107.610.

Section 17.101. DOMESTIC RELATIONS SUIT; FILING FEE.

(A) The Multnomah County portion of the fee for filing a domestic relations suit in the circuit court of Multnomah County shall be \$150.00. 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 of \$150.00 shall be assessed in domestic relations suits in the circuit court of Multnomah 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.



BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 98-87

A RESOLUTION ESTABLISHING FEES AND CHARGES FOR  
CHAPTER 17, JUVENILE AND ADULT COMMUNITY JUSTICE, OF THE  
MULTNOMAH COUNTY CODE

The Board of County Commissioners Finds:

Chapter 17, Juvenile and Adult Community Justice, of the Multnomah County Code provides that the Board shall establish certain fees and charges by resolution.

THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS RESOLVES:

1. The fees and charges for Chapter 17, Juvenile and Adult Community Justice, of the Multnomah County Code are set as follows:

Section 17.002. ALTERNATIVE CORRECTIONS PROGRAM; FEE.

Multnomah County community corrections shall charge a fee of \$25.00 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.

Section 17.100. MARRIAGE LICENSES; FEES.

A fee of \$10.00 shall be charged for the issuance of a marriage license in addition to that fee prescribed by subsection (7) of ORS 205.320. Fees collected pursuant to this section shall be used to finance the cost of conciliation services provided under ORS 107.510 to 107.610.

Section 17.101. DOMESTIC RELATIONS SUIT; FILING FEE.

(A) The Multnomah County portion of the fee for filing a domestic relations suit in the circuit court of Multnomah County shall be \$150.00. 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 of \$150.00 shall be assessed in domestic relations suits in the circuit court of Multnomah 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 of \$150.00 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.

Section 17.102. PARENTING EDUCATION PROGRAM; FEE FOR PARTICIPATION.

(A) A fee of \$35.00 shall be collected from each parent participating in the parenting education program of the department of juvenile and adult community justice, family court services. Fees collected pursuant to this section shall be used to finance the cost of the parent education program.

(B) The department of juvenile and adult community justice, family court services shall establish policy and procedures whereby persons who are in financial difficulty may apply for a deferral of the fee, a waiver of the fee, or both.

2. This resolution takes effect on July 1, 1998.



ADOPTED this 25th day of June, 1998.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

Sharon Hilley  
for Beverly Stein, Chair

THOMAS SPONSER, COUNTY COUNSEL  
FOR MULTNOMAH COUNTY, OREGON

By Jacqueline A. Weber  
Jacqueline A. Weber  
Assistant County Counsel

MEETING DATE: June 25, 1998  
AGENDA #: R-22  
ESTIMATED START TIME: 11:05 AM

(Above Space for Board Clerk's use only)

### AGENDA PLACEMENT FORM

SUBJECT: Resolution Establishing Fees and Charges for the Multnomah County Code

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: Thursday, June 25, 1998  
AMOUNT OF TIME NEEDED: 1 minute

DEPARTMENT: Non-Departmental DIVISION: County Counsel

CONTACT: Thomas Sponsler TELEPHONE #: 248-3138, ext. 22834  
BLDG/ROOM #: 106/1530

PERSON(S) MAKING PRESENTATION: Thomas Sponsler

#### ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

#### SUGGESTED AGENDA TITLE:

Resolution Establishing Fees and Charges for Chapter 21,  
Health, of the Multnomah County Code

6/26/98 copies to Tom Sponsler

#### SIGNATURES REQUIRED:

ELECTED OFFICIAL: \_\_\_\_\_  
(OR)

DEPARTMENT MANAGER: Thomas Sponsler

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions? Call the Board Clerk @ 248-3277

98 JUN 19 PM 3:28  
MULTNOMAH COUNTY  
OREGON  
COUNTY CLERK'S OFFICE



# OFFICE OF MULTNOMAH COUNTY COUNSEL

THOMAS SPONSER  
*County Counsel*

SANDRA N. DUFFY  
*Chief Assistant*

1120 S.W. FIFTH AVENUE, SUITE 1530  
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GERALD H. ITKIN  
JEFFREY B. LITWAK  
STEVEN J. NEMIROW  
MATTHEW O. RYAN  
AGNES SOWLE  
JOHN S. THOMAS  
JACQUELINE A. WEBER  
*Assistants*

## SUPPLEMENTAL STAFF REPORT

TO: Board of County Commissioners

FROM: Office of County Counsel

DATE: June 22, 1998

RE: Resolution Establishing Fees and Charges for Chapter 21, Health, of the Multnomah County Code

98 JUN 22 AM 10:34  
 MULTNOMAH COUNTY  
 OREGON  
 COUNTY CLERK'S OFFICE

1. Recommendation/Action Requested:

Adoption of the Resolution establishing fees and charges for Chapter 21, Health, of the Multnomah County Code.

2. Background/Analysis:

The Board of County Commissioners is expected to adopt a new code of ordinances for Multnomah County which revises, amends, restates, codifies and repeals existing Multnomah County Code provisions and certain general ordinances. That recodification has repealed county fees and charges for each of the county departments. The setting and charging of these fees is an administrative function of the policies set in the ordinances codified in the Multnomah County Code. Administrative implementation of the code is appropriately adopted by Resolution.

3.           Financial Impact:

The fees and charges are not being changed. The fees and charges which were in the County Code are simply being readopted through Resolution. There is no financial impact.

4.           Legal Issues:

None.

5.           Controversial Issues:

None.

6.           Link to Current County Policies:

This provides an appropriate mechanism to implement County policies adopted by Ordinances and codified in the Multnomah County Code.

7.           Citizen Participation:

Notification of the Board meeting on June 25, 1998, at which the Resolution is expected to be adopted was given in the normal course. Citizens can comment on the Resolution at the Board meeting.

8.           Other Government Participation:

None.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 98-88

A RESOLUTION ESTABLISHING FEES AND CHARGES FOR  
CHAPTER 21, HEALTH, OF THE MULTNOMAH COUNTY CODE

The Board of County Commissioners Finds:

Chapter 21, Health, of the Multnomah County Code provides that the Board shall establish certain fees and charges by resolution.

THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS RESOLVES:

1. The fees and charges for Chapter 21, Health, of the Multnomah County Code are set as follows:

Section 21.150. SWIMMING POOL LICENSE FEE.

First three pools, each:	\$220.00
Each additional pool:	\$120.00

Section 21.151. SWIMMING POOL AND SPA PLAN REVIEW FEES.

Plan review	\$750.00
Renewal of construction permit	\$ 50.00

Section 21.408. APPLICATION FOR LICENSE (EMS)

Each ambulance:	\$250.00
-----------------	----------

Section 21.605. CERTIFICATE FEES

- (A) All food handlers trained under MCC 21.603 shall pay the health department a \$5.00 fee for the issuance of an original food handler's certificate.
- (B) All other food handlers shall pay the health department a \$7.00 fee for the issuance of an original food handler's certificate.
- (C) All food handlers shall pay the health department a \$2.00 fee for the issuance of a replacement certificate.

Section 21.610. FOOD SERVICE LICENSE FEE.

For the services of the department of health in connection with issuance of food service licenses, the department shall collect a fee from every applicant, at the time of application.

The following fee structure shall apply for full-service restaurants, limited-service restaurants, or commissary licenses issued or applied for between January 1 and September 30:

Seating capacity 0 – 15	240.00
Seating capacity 16 – 50	325.00
Seating capacity 51 – 150	390.00
Seating capacity over 150	465.00
Limited-service restaurants	240.00
Commissaries servicing 1-5 mobile units and/or 1-50 vending machines	240.00
Commissaries servicing 6 or more mobile units and/or 51 or more vending machines	375.00

Where there are more than two food service facilities located at the same address and licensed to the same licensee, the license fee shall be the amount listed above for the first two largest facilities and one-half the amount for each additional facility.

The following fee structure shall apply for full-service restaurants, limited-service restaurants, or commissary licenses issued or applied for between October 1 and December 31:

Seating capacity 0 – 15	120.00
Seating capacity 16 – 50	162.50
Seating capacity 51 – 150	195.00
Seating capacity over 150	232.50
Limited-service restaurants	120.00
Commissaries servicing 1-5 mobile units and/or 1-50 vending machines	120.00
Commissaries servicing 6 or more mobile units and/or 51 or more vending machines	187.50

Where there are more than two food service facilities located at the same address and licensed to the same licensee, the license fee shall be the amount listed above for the first two largest facilities and one-half the amount for each additional facility.

For the following special food service facilities, the following fees shall be charged for licenses issued or applied for:

Temporary restaurants:	
1 day	\$ 65.00
2-4 days	110.00
5 or more days	125.00

Non-potentially hazardous temporary restaurant: Selling only non-potentially hazardous food as defined in OAR 333-150-000 for a period of 1-30 days	\$ 65.00
Seasonal full-service, commissaries or limited-service restaurants operating six months or less	120.00
Sundries shops: Selling only pre-wrapped food without the use of reusable utensils	130.00
Warehouses	150.00
Mobile units as defined by OAR 333-162-0020	
Class I, II and III	135.00
Class IV	220.00
Combined Facilities Sundries: Selling individually, pre-wrapped foods and whole fruits with single service utensils in a facility that holds a pool/spa or travelers' accommodations license from the department of health:	100.00
Vending Machines:	
1-10 units	140.00
11-20 units	270.00
21-30 units	415.00
31-40 units	480.00
41-50 units	550.00
51-75 units	685.00
76-100 units	825.00
101-250 units	1,095.00
251-500 units	2,050.00
501-750 units	3,295.00
751-1,000 units	4,120.00
1,001-1,500 units	5,495.00
1,500-2,000 units	5,495.00 plus
	\$1.00 for each unit
	over 2,000 units

The following fee structure shall apply for sundries shops, combined facilities sundries, mobile units, warehouses or vending machines issued or applies for between October 1 and December 31:

Sundries Shops: Selling only pre-wrapped food without the use of reusable utensils	\$65.00
Warehouses	75.00



Mobile units as defined by OAR 333-162-0020	
Class I, II and III	67.50
Class IV	110.00

Combined Facilities Sundries: Selling individually, pre-wrapped foods and whole fruits with single service utensils in a facility that holds a pool/spa or travelers' accommodations license from the department of health: 50.00

Vending Machines:

1-10 units	70.00
11-20 units	135.00
21-30 units	207.50
31-40 units	240.00
41-50 units	275.00
51-75 units	342.50
76-100 units	412.50
101-250 units	547.50
251-500 units	1,025.00
501-750 units	1,647.50
751-1,000 units	2,060.00
1,001-1,500 units	2,747.50
1,500-2,000 units	2,747.50 plus \$.50 for each unit over 2,000 units

Section 21.611. FOOD SERVICE PLAN REVIEW

Mobile unit plan review	
Class I, II or III	\$120.00
Class IV	200.00
Major remodeling	355.00
New construction	
0-50 seats	355.00
Over 50 seats	500.00

The definition of mobile unit plan review, major remodeling and new construction shall be established by department administrative policy.

Section 21.612. PAYMENT OF LICENSE FEES, REINSPECTION FEES; DELINQUENCY.

(G) Temporary license on intermittent basis	\$125.00 per month for first four months of operation within a calendar year
	\$40.00 per month for the remainder of the year

(I)	Late processing fee	\$50.00
(K)	Increased frequency inspection	\$120.00 for each additional inspection
(L)	Relocation fee	\$50.00

Section 21.613.      BED AND BREAKFAST FACILITIES; FOOD SERVICE  
LICENSE FEES.

Annual license fee	\$130.00
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Section 21.650.      TOURIST AND TRAVELERS FACILITIES LICENSE FEES.

Tourist and travelers facilities and recreation parks:

1-25 units:	\$175.00
26-50 units:	205.00
51-75 units:	250.00
76-100 units	265.00
101 units and over:	265.00 plus \$1.00 per unit over 100 units
Picnic parks:	65.00
Organizational camps:	125.00
Day camps	80.00

Section 21.651.      BED AND BREAKFAST FACILITIES; TOURIST  
ACCOMMODATIONS LICENSE FEE.

Annual license fee	\$65.00
--------------------	---------

Section 21.708.      HEARING.

Deposit for each witness  
subpoenaed for hearing      \$15.00

2.      This resolution takes effect on July 1, 1998.

ADOPTED this 25th day of June, 1998.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

for Sharon Kelly  
Beverly Stein, Chair

REVIEWED:

THOMAS SPONSLER, COUNTY COUNSEL  
FOR MULTNOMAH COUNTY, OREGON

By Sandra Dwyer for  
Katie Gaetjens  
Assistant County Counsel

MEETING DATE: June 25, 1998  
AGENDA #: R-23  
ESTIMATED START TIME: 11:05 AM

(Above Space for Board Clerk's use only)

### AGENDA PLACEMENT FORM

SUBJECT: Resolution Establishing Fees and Charges for the Multnomah County Code

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: Thursday, June 25, 1998  
AMOUNT OF TIME NEEDED: 1 minute

DEPARTMENT: Non-Departmental DIVISION: County Counsel

CONTACT: Thomas Sponsler TELEPHONE #: 248-3138, ext. 22834  
BLDG/ROOM #: 106/1530

PERSON(S) MAKING PRESENTATION: Thomas Sponsler

#### ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

#### SUGGESTED AGENDA TITLE:

Resolution Establishing Fees and Charges for Chapter 25,  
Aging and Disability Services, of the Multnomah County Code

*6/26/98 copies to Tom Sponsler*

#### SIGNATURES REQUIRED:

ELECTED OFFICIAL: \_\_\_\_\_  
(OR)

DEPARTMENT MANAGER: \_\_\_\_\_

*Thomas Sponsler*

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions? Call the Board Clerk @ 248-3277

6/26/98  
COUNTY CLERK'S OFFICE  
98 JUN 19 PM 3:28  
MULTNOMAH COUNTY  
OREGON



# OFFICE OF MULTNOMAH COUNTY COUNSEL

THOMAS SPONSER  
*County Counsel*

SANDRA N. DUFFY  
*Chief Assistant*

1120 S.W. FIFTH AVENUE, SUITE 1530  
PORTLAND, OREGON 97204-1977

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STEVEN J. NEMIROW  
MATTHEW O. RYAN  
AGNES SOWLE  
JOHN S. THOMAS  
JACQUELINE A. WEBER  
*Assistants*

## SUPPLEMENTAL STAFF REPORT

TO: Board of County Commissioners

FROM: Office of County Counsel

DATE: June 22, 1998

RE: Resolution Establishing Fees and Charges for Chapter 25, Aging and Disability Services, of the Multnomah County Code

98 JUN 22 AM 10:34  
MULTNOMAH COUNTY  
OREGON  
COUNTY COMMISSIONERS

1. Recommendation/Action Requested:

Adoption of the Resolution establishing fees and charges for Chapter 25, Aging and Disability Services, of the Multnomah County Code.

2. Background/Analysis:

The Board of County Commissioners is expected to adopt a new code of ordinances for Multnomah County which revises, amends, restates, codifies and repeals existing Multnomah County Code provisions and certain general ordinances. That recodification has repealed county fees and charges for each of the county departments. The setting and charging of these fees is an administrative function of the policies set in the ordinances codified in the Multnomah County Code. Administrative implementation of the code is appropriately adopted by Resolution.

3. Financial Impact:

The fees and charges are not being changed. The fees and charges which were in the County Code are simply being readopted through Resolution. There is no financial impact.

4. Legal Issues:

None.

5. Controversial Issues:

None.

6. Link to Current County Policies:

This provides an appropriate mechanism to implement County policies adopted by Ordinances and codified in the Multnomah County Code.

7. Citizen Participation:

Notification of the Board meeting on June 25, 1998, at which the Resolution is expected to be adopted was given in the normal course. Citizens can comment on the Resolution at the Board meeting.

8. Other Government Participation:

None.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 98-89

A RESOLUTION ESTABLISHING FEES AND CHARGES FOR  
CHAPTER 25, AGING AND DISABILITY SERVICES, OF THE  
MULTNOMAH COUNTY CODE

The Board of County Commissioners Finds:

Chapter 25, Aging and Disability Services, of the Multnomah County Code provides that the Board shall establish certain fees and charges by resolution.

THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS RESOLVES:

1. The fees and charges for Chapter 25, Aging and Disability Services, of the Multnomah County Code are set as follows:

Section 25.207. LICENSE FEE (Adult Care Homes).

Per bed per year:	\$ 40.00
Up to a maximum of:	\$200.00
Approval of resident manager:	\$ 25.00
Approval of substitute caregiver:	\$ 10.00

2. This resolution takes effect on July 1, 1998.

ADOPTED this 25th day of June, 1998.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

for Sharon Healey  
Beverly Stein, Chair

REVIEWED:

THOMAS SPONSER, COUNTY COUNSEL  
FOR MULTNOMAH COUNTY, OREGON

By Sandra Duff for  
Katie Gaetjens  
Assistant County Counsel

MEETING DATE: June 25, 1998  
AGENDA #: R-24  
ESTIMATED START TIME: 11:05 AM

(Above Space for Board Clerk's use only)

### AGENDA PLACEMENT FORM

SUBJECT: Resolution Establishing Fees and Charges for the Multnomah County Code

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: Thursday, June 25, 1998  
AMOUNT OF TIME NEEDED: 1 minute

DEPARTMENT: Non-Departmental DIVISION: County Counsel

CONTACT: Thomas Sponsler TELEPHONE #: 248-3138, ext. 22834  
BLDG/ROOM #: 106/1530

PERSON(S) MAKING PRESENTATION: Thomas Sponsler

#### ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

#### SUGGESTED AGENDA TITLE:

Resolution Establishing Fees and Charges for Chapter 27,  
Environment and Property, of the Multnomah County Code

6/26/98 copies to Tom Sponsler

#### SIGNATURES REQUIRED:

ELECTED OFFICIAL: \_\_\_\_\_  
(OR)

DEPARTMENT MANAGER: Thomas Sponsler

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions? Call the Board Clerk @ 248-3277

5.14.98  
COUNTY COMMISSIONERS  
98 JUN 19 PM 3:28  
MULTNOMAH COUNTY  
OREGON





OFFICE OF  
MULTNOMAH COUNTY COUNSEL

THOMAS SPONSER  
*County Counsel*

SANDRA N. DUFFY  
*Chief Assistant*

1120 S.W. FIFTH AVENUE, SUITE 1530  
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STEVEN J. NEMIROW  
MATTHEW O. RYAN  
AGNES SOWLE  
JOHN S. THOMAS  
JACQUELINE A. WEBER  
*Assistants*

**SUPPLEMENTAL STAFF REPORT**

TO: Board of County Commissioners

FROM: Office of County Counsel

DATE: June 22, 1998

RE: Resolution Establishing Fees and Charges for Chapter 27,  
Environment and Property, of the Multnomah County Code

98 JUN 22 AM 10:34  
MULTNOMAH COUNTY  
OREGON  
COUNTY CLERK'S OFFICE

1. Recommendation/Action Requested:

Adoption of the Resolution establishing fees and charges for Chapter 27, Environment and Property, of the Multnomah County Code.

2. Background/Analysis:

The Board of County Commissioners is expected to adopt a new code of ordinances for Multnomah County which revises, amends, restates, codifies and repeals existing Multnomah County Code provisions and certain general ordinances. That recodification has repealed county fees and charges for each of the county departments. The setting and charging of these fees is an administrative function of the policies set in the ordinances codified in the Multnomah County Code. Administrative implementation of the code is appropriately adopted by Resolution.

3.           Financial Impact:

The fees and charges are not being changed. The fees and charges which were in the County Code are simply being readopted through Resolution. There is no financial impact.

4.           Legal Issues:

None.

5.           Controversial Issues:

None.

6.           Link to Current County Policies:

This provides an appropriate mechanism to implement County policies adopted by Ordinances and codified in the Multnomah County Code.

7.           Citizen Participation:

Notification of the Board meeting on June 25, 1998, at which the Resolution is expected to be adopted was given in the normal course. Citizens can comment on the Resolution at the Board meeting.

8.           Other Government Participation:

None.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 98-90

A RESOLUTION ESTABLISHING FEES AND CHARGES FOR  
CHAPTER 27, ENVIRONMENT AND PROPERTY, OF THE MULTNOMAH  
COUNTY CODE

The Board of County Commissioners Finds:

Chapter 27, Environment and Property, of the Multnomah County Code provides  
that the Board shall establish certain fees and charges by resolution.

THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS RESOLVES:

1. The fees and charges for Chapter 27, Environment and Property, of the  
Multnomah County Code are set as follows:

Section 27.052. MISCELLANEOUS PERMIT FEES.

See Exhibit A attached.

Section 27.053. PLAN REVIEW AND INSPECTION OF  
UNDERGROUND INSTALLATIONS AND STREET INTERSECTIONS.

See Exhibit B attached

Section 27.054: ROAD VACATION APPLICATION.

Feasibility study:	\$200.00
Application:	120% of estimated costs
Minimum:	\$1,000.00 plus \$65.00 for posting

Section 27.055. STREET AND ROAD WIDENING PERMITS.

(B) The construction permit deposit schedule for engineering, design, project  
management, and administration shall be as follows:

Project Cost as Estimated by the County	Deposit
Minimum Deposit	\$800.00
\$4,000.00 to \$10,000.00	20%
\$20,000.00 to \$50,000.00	\$2,000.00 plus 12.0% over \$10,000.00
\$50,000.00 and over	\$6,800.00 plus 10.0% over \$50,000.00

Section 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 following are deposits only. 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.

Project cost as Estimated by the county	Deposit
Minimum deposit	\$800.00
\$4,000.00 to \$10,000.00	\$20%
\$10,000.00 to \$50,000.00	\$2,000.00 plus 12.0% over \$10,000.00
\$50,000.00 and over	\$6,800.00 plus 10.0% over \$50,000.00

Section 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 of \$25.00 or 15 percent of the permit fee, whichever is greater; provided that the fee for review of applications for permits to construct one-or two-family dwellings shall not exceed \$25.00. 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 equal to the greater of \$25.00 or 35 percent of the building permit fee, to be collected at the time the permit is issued, provided, however, that no fee for zoning inspection of one- and two-family dwellings shall exceed \$25.00. Zoning inspection fees are payable upon permit issuance.

Section 27.060.

FILING OF MAP SURVEYS.

A fee of \$100.00 shall accompany each filing of a map of survey.

Section 27.061.

FEES FOR CERTAIN DOCUMENTS; PUBLIC LAND  
CORNER PRESERVATION ACCOUNT.

Document filing fee:	\$3.00
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Section 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 Oregon, 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) A deposit for the following county surveyor functions 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 Multnomah 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.
- (1) Partition Plat Review, the deposit shall be:

Base Deposit	\$480.00 plus
Survey filing Fee	\$100.00
  - (2) Pre-monumented Plat Review, the deposit shall be:

Base Deposit	\$700.00 plus
Survey Filing Fee	\$100.00 plus
Per Lot, Tract, or Parcel	\$ 35.00 each, plus

Per gross acre of the subdivision if the average  
Lot size exceeds 15,000 sq. ft                      \$ 31.00 per acre

(3) Post-Monumented Plat Review, the deposit shall be:

An estimate by the county surveyor based on the complexity of the  
plat at 120 percent of the estimate; the minimum deposits shall be:

Base Deposit	\$795.00 plus
Survey Filing Fee	\$100.00 plus
Per Lot, Tract, or Parcel	\$45.00 each, plus

Per gross acre of the subdivision if the average  
lot size exceeds 15,000 sq. ft.                      \$31.00 per acre

(4) For Condominium Plat Review, the deposit shall be:

Base Deposit	\$770.00 plus
Each Building	\$105.00 each, plus
Survey Filing Fee	\$100.00

(5) For Condominium Plat Amendment Review, the  
deposit shall be:

Base Deposit	\$500.00 plus
Survey Filing Fee	\$100.00

- (C) Posting of street vacations in accordance with  
ORS 271.230(2)                      \$ 65.00
- (D) Review, Approval, and Posting of Affidavits  
of correction                      \$ 45.00 plus county  
clerk's recording fee
- (E) For services required by ORS 100.115 in connection with reclassification or  
withdrawal of variable property from unit ownership as provided in ORS  
100.115(1) or (2), or removal of property from any condominium plat as  
provided in ORS 100.600(2), the fee will be \$150.00.
- (F) In accordance with ORS 92.070(5), (1997), relating to the reestablishment  
of Subdivision Plat Monuments and the review and recordation of the  
required surveyor's affidavit in support thereof, the affidavit recording fee  
shall be \$100.00 plus the county clerk's recording fee.
- (G) In accordance with ORS 100.115(6), (1997), relating to Declaration  
Amendment Review service, the fee shall be \$100.00 plus the county  
clerk's recording fee.

Section 27.064.

BOOK OF RECORDS.

Minimum per roll of 16mm:	\$12.00
Minimum per roll for 35mm microfilm:	\$15.00
Minimum for microfiches:	\$ 2.00

Section 27.065.

MAP REPRODUCTIONS AND LOANS.

For the services of the department of General Services in reproducing and loaning maps, fees shall be charged in accordance with the following schedules:

Standard Weight	Blackline	Sepia
1/4 Section		
30 inches x 36 inches	\$3.00	\$5.00
600 Scale		
21 inches x 33 inches	\$2.00	\$3.00
Plat		
18 inches x 24 inches	\$2.00	\$2.00
1,000 Scale		
13 inches x 21 inches	\$1.00	\$2.00

Photostat copy where no tracing exists: \$5.00

Office duplicator copy of a portion of a map: \$1.50

For loaning sepia or plat tracing, 48-hour  
limit excluding weekends and holidays: \$0.50 each

Each additional 48 hours excluding weekends and holidays: \$2.00 each

Condominium hardboard and tracing recording: \$9.00 per page.

Section 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 of \$1.00 per page, provided that where printouts or appraisal cards are requested and provided for more than one tax year or for any tax year other than the current year, the division shall charge an additional fee of \$1.00 for each such year.

(B) For the division's services in gathering, preparing or providing nonstandard information upon the 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 the following fees for copies provided by it:

Assessment roll—microfiche	\$ 80.00
Property owners index—microfiche	20.00
Property address index—microfiche	20.00
Sales ratio tape—magnetic tape	100.00
Sales data—microfiche, per month	50.00
Individual copies of microfiche:	
First copy	10.00
Each additional copy	1.00
Assessment roll-magnetic tape	750.00
Tax bill file—magnetic tape	250.00
AT-42 COBOL subroutine—magnetic tape	50.00
Data dictionary	25.00
Merged recording indices—microfiche	80.00
Appraisal characteristics—microfiche	130.00
Record indexing fee, per document	1.00
Real property tax statements (2nd, 3rd and delinquent billings	3.00

Section 27.605. PERMITS.

Ammonia storage: \$25.00

Section 27.783. SEWER USER SERVICE CHARGES.

Per equivalent dwelling unit,  
    per month: \$14.00  
Pumping, per 1,000 cubic feet  
    water consumption per month: \$0.50 to \$2.00

Section 27.784. SENIOR CITIZENS RATE

Per month: \$7.00

Section 27.788. CONNECTION FEES.

(A) The following fees for connection with a public sewer inside or outside the district shall become effective November 1, 1984, and shall be based on equivalent dwelling units and shall be as follows:

(1) Residential Users:

(a) Single-family unit connection fee,  
    October 1, 1984: \$1,100.00  
(b) Multifamily unit connection fee:  
    (i) First living unit: \$1,100.00  
    (ii) Each additional living unit: \$ 935.00

(2) Nonresidential users: The formula for computing the connection fee for a nonresidential user shall be equal to the equivalent dwelling units multiplied



by \$1,100.00. Equivalent dwelling units shall be determined by table 2 of MCC 8.70.360.

- (3) Combined dwelling units and others: Where both dwelling units and other occupancies are combined on the same property, the charges for sanitary connection shall be at the living unit rate for the dwelling units required in subsection (A)(1)(b) of this section, plus the rates given in (A)(2) for the nonresidential users of the property.

Section 27.790.

EXTRA-STRENGTH INDUSTRIAL WASTE.

- (D) *Extra-strength rates.* Effective October 1, 1984:

BOD, per pound	\$0.097
Suspended solids, per pound	\$0.106

- (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) Except as provided in subsection (F)(2)[sic], fees for industrial waste discharge permits shall be \$75.00 for each permit and \$50.00 for each renewal of a permit. However, permit renewals which involve new or additional discharges from those in the preceding permit shall have a fee of \$75.00. Where a permit is issued as a result of a violation, the permit fee shall be \$150.00. 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. The fee to each account for five days of sampling is \$500.00 per sample, per sampling point. The fee for one day's resampling is \$125.00 per sample, per sampling point.

2. This resolution takes effect on July 1, 1998.

ADOPTED this 25th day of June, 1998.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

for *Sharon Kelley*  
Beverly Stein, Chair

REVIEWED:

THOMAS SPONSLER, COUNTY COUNSEL  
FOR MULTNOMAH COUNTY, OREGON

*Sandra N. Duffy*  
Sandra N. Duffy  
Chief Assistant County Counsel

## Section 27.052. MISCELLANEOUS PERMIT FEES

### Miscellaneous permit fees.

The following fees shall be charged for permits:

- (A) For overweight or overdimensional moves, except for moves as specified in MCC 5.10.215(B), either single trip or annual permit, the fee shall be \$8.00. Future fee increases by the Oregon Department of Transportation shall automatically increase the county's fee for this service to the same level, without action of the board of county commissioners.
- (B) For building and structure move permits issued under authority of ORS 483.502 to 483.536. All permittees shall post a deposit of \$1,000.00 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 \$115.00. For structures exceeding the above-dimensions the non-refundable permit fee shall be \$145.00. Inspection fees to 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 \$75.00 for a normal work-day, and \$350.00 for holidays and week-ends.
- (C) For permits issued for manholes for storm and sanitary sewers, the fee shall be \$30.00 per manhole.
- (D) For permits issued for canopies, awnings and marquees a fee of \$40.00 shall be charged.
- (E) For permits issued for construction or reconstruction of driveway approaches the fees shall be:
  - (1) \$90.00 first driveway approach.
  - (2) \$60.00 each additional driveway approach inspected at the same time as first approach.
- (3) Common accessway permit fees for plan review and inspection shall be \$120.00 or \$0.06 per square foot of common accessway, whichever is greater. The above fee will include the first driveway approach fee under section 5.10.215(E).
- (4) \$90.00 for agriculture approaches.
- (5) \$90.00 for temporary logging approaches.
- (F) For permits issued for sewer connections the fee shall be \$1200.00 per connection.
- (G) For a drilling or boring test hole permit the fee shall be \$84.00 each.
- (H) For curb drain outlet construction or reconstruction, including drainage connections to catchbasins, a fee of \$20.00 shall be charged.
- (I) For sidewalk construction or reconstruction the fee shall be \$0.25 per square foot with a minimum fee of \$10.00. For curb construction or reconstruction the fee shall be \$0.35 per lineal foot with a minimum fee of \$10.00.
- (J) The fee to release advertising benches picked up within the right-of-way shall be \$50.00 per bench.
- (K) For any excavation, construction, reconstruction, repair, removal, abandonment, placement or use within the right-of-way, except where otherwise provided in MCC 5.10.200 to 5.10.260, the permit fee shall be a minimum of \$50.00.
- (L) For material filling or excavating within the public right-of-way the permit fee shall be \$50.00.

- (M) For underground storm or sanitary sewer construction, reconstruction or repair permits, including property service and laterals not maintained by the county, the fees shall be:

<i>Length of Conduit Constructed, Reconstructed, Repaired or Exposed for Repair</i>	<i>Fee</i>
0—50 feet	\$50.00
51—100 feet	60.00
101—200 feet	70.00
201—300 feet	75.00
301—400 feet	80.00
401—500 feet	85.00
501 feet and over	\$85.00 plus \$0.07 per foot over 500 feet

Conduit diameters exceeding 24 inches shall be assessed a surcharge onto the above rates of \$0.01 per foot of diameter per foot of length.

- (N) If work is commenced on a project requiring a permit without first securing the permit, the fee shall be double the fee established in this section. If the fee required by this subsection 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.
- (O) A permit deposit for each permit authorizing work under ORS 374.305 not covered in this section shall be 120 percent 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 Multnomah 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 \$50.00.
- (P) Permits under this section shall be issued without charge when a permit is required as a direct result of a county public works improvement.

- (Q) For temporary closure of any street or any portion of a street the fee shall be \$84.00. [Ord. 126 § 9 (1976); Ord. 195 § 6 (1979); Ord. 256 § 2 (1980); Ord. 278 § 3 (1981); Ord. 367 § 1 (1983) (court of appeals held that payment of fee for permit by utility companies was in violation of ORS 758.010 on May 16, 1984, supreme court denied petition for review August 8, 1984, court of appeals decision became enforceable September 10, 1984); Ord. 467 § 2 (1985); Ord. 826 § 2(A)—(H) (1995)]

Cross references—Building permit fees, 9.10.100; electrical permit fees, 9.20.070; plumbing permit fees, 9.30.100; permit for construction in right-of-way, 11.60.070.

# SECTION 27.053. PLAN REVIEW AND INSPECTION OF UNDERGROUND INSTALLATIONS AND STREET INTERSECTIONS

## EXHIBIT B

### Fees for 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:

<i>Estimated or Bid Construction Cost</i>	<i>Fee</i>
\$ 0.00—\$ 1,000.00	\$50.00
1,000.00— 5,000.00	\$50.00 plus 1.25% over \$1,000.00
5,000.00— 10,000.00	\$100.00 plus 1.00% over \$5,000.00
10,000.00— 15,000.00	\$150.00 plus 0.90% over \$10,000.00
15,000.00— 20,000.00	\$195.00 plus 0.80% over \$15,000.00
20,000.00— 25,000.00	\$235.00 plus 0.70% over \$20,000.00
25,000.00— 30,000.00	\$270.00 plus 0.60% over \$25,000.00
30,000.00— 35,000.00	\$300.00 plus 0.50% over \$30,000.00
35,000.00— 40,000.00	\$325.00 plus 0.40% over \$35,000.00

<i>Estimated or Bid Construction Cost</i>	<i>Fee</i>
40,000.00— 45,000.00	\$345.00 plus 0.30% over \$40,000.00
45,000.00— 50,000.00	\$360.00 plus 0.20% over \$45,000.00
50,000.00 and over	\$370.00 plus 0.74% over \$50,000.00

(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 of the department, 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 county executive/chairman of the board of county commissioners whenever a cost estimate is adjusted by him 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 \$40.00 plus \$0.10 per foot of line.

(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 a minimum of \$40.00 plus \$10.00 for each acre or fraction thereof within the development area. 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 percent 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 Multnomah 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 of \$40.00 will be charged.

(H) Plans shall be reviewed by Multnomah 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 Multnomah 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.

[Ord. 126 § 10 (1976); Ord. 826 § 2(I), (J) (1995)]

Cross references—Land divisions, ch. 11.45; street standards, ch. 11.60.

MEETING DATE: June 25, 1998

AGENDA #: R-25

ESTIMATED START TIME: 11:05 AM

(Above Space for Board Clerk's use only)

## AGENDA PLACEMENT FORM

SUBJECT: Resolution Establishing Fees and Charges for the Multnomah County Code

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: Thursday, June 25, 1998  
AMOUNT OF TIME NEEDED: 1 minute

DEPARTMENT: Non-Departmental DIVISION: County Counsel

CONTACT: Thomas Sponsler TELEPHONE #: 248-3138, ext. 22834  
BLDG/ROOM #: 106/1530

PERSON(S) MAKING PRESENTATION: Thomas Sponsler

### ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

### SUGGESTED AGENDA TITLE:

Resolution Establishing Fees and Charges for Chapter 29,  
Building Regulations, of the Multnomah County Code

*6/26/98 copies to Tom Sponsler*

### SIGNATURES REQUIRED:

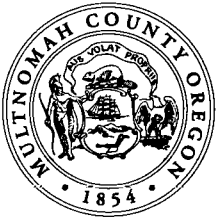
ELECTED OFFICIAL: \_\_\_\_\_  
(OR)

DEPARTMENT MANAGER: Thomas Sponsler

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions? Call the Board Clerk @ 248-3277

CLERK OF  
COUNTY COMMISSIONERS  
98 JUN 19 PM 3:33  
MULTNOMAH COUNTY  
OREGON



# OFFICE OF MULTNOMAH COUNTY COUNSEL

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GERALD H. ITKIN  
JEFFREY B. LITWAK  
STEVEN J. NEMIROW  
MATTHEW O. RYAN  
AGNES SOWLE  
JOHN S. THOMAS  
JACQUELINE A. WEBER  
*Assistants*

## **SUPPLEMENTAL STAFF REPORT**

TO: Board of County Commissioners

FROM: Office of County Counsel

DATE: June 22, 1998

RE: Resolution Establishing Fees and Charges for Chapter 29, Building Regulations, of the Multnomah County Code

98 JUN 22 AM 10:34  
MULTNOMAH COUNTY  
OREGON  
COUNTY COMMISSIONERS

1. Recommendation/Action Requested:

Adoption of the Resolution establishing fees and charges for Chapter 29, Building Regulations, of the Multnomah County Code.

2. Background/Analysis:

The Board of County Commissioners is expected to adopt a new code of ordinances for Multnomah County which revises, amends, restates, codifies and repeals existing Multnomah County Code provisions and certain general ordinances. That recodification has repealed county fees and charges for each of the county departments. The setting and charging of these fees is an administrative function of the policies set in the ordinances codified in the Multnomah County Code. Administrative implementation of the code is appropriately adopted by Resolution.

3. Financial Impact:

The fees and charges are not being changed. The fees and charges which were in the County Code are simply being readopted through Resolution. There is no financial impact.

4. Legal Issues:

None.

5. Controversial Issues:

None.

6. Link to Current County Policies:

This provides an appropriate mechanism to implement County policies adopted by Ordinances and codified in the Multnomah County Code.

7. Citizen Participation:

Notification of the Board meeting on June 25, 1998, at which the Resolution is expected to be adopted was given in the normal course. Citizens can comment on the Resolution at the Board meeting.

8. Other Government Participation:

None.



BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 98-91

A RESOLUTION ESTABLISHING FEES AND CHARGES FOR CHAPTER 29,  
BUILDING REGULATIONS, OF THE MULTNOMAH COUNTY CODE

The Board of County Commissioners Finds:

Chapter 29, Building Regulations, of the Multnomah County Code provides that the Board shall establish certain fees and charges by resolution.

THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS RESOLVES:

1. The fees and charges for Chapter 29, Building Regulations, of the Multnomah County Code are set as follows:

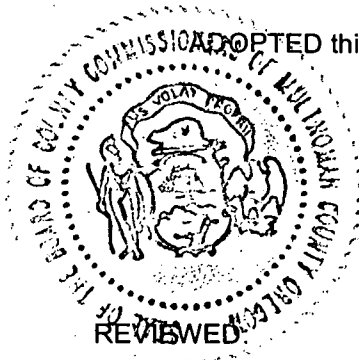
<u>Section 29.010.</u>	FEES (Building Code).	See Exhibit A attached.
<u>Section 29.106.</u>	FEES (Electrical Code).	See Exhibit B attached.
<u>Section 29.207:</u>	FEES (Plumbing Code).	See Exhibit C attached.
<u>Section 29.401.</u>	FEE FOR REVIEW AND APPROVAL (Condominiums)	
Condominiums, plat and floor plan:		\$500.00 Plus \$50.00 per building
Buildings greater than two stories or 20 units:		Actual cost of review

2. This resolution takes effect on July 1, 1998.

ADOPTED this 25th day of June, 1998.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

for *Sharon Kelley*  
Beverly Stein, Chair



THOMAS SPONSLER, COUNTY COUNSEL  
FOR MULTNOMAH COUNTY, OREGON

*Sandra N. Duffy*  
Sandra N. Duffy  
Chief Assistant County Counsel

# Section 29.010. FEES (Building Code)

## Exhibit A:

### § 29.010 FEES.

building code, the fees in this subchapter shall prevail.

The fees shall apply under this subchapter in addition to those provided in the state building code. Where conflicts occur with fees provided in the state

(A) Building permit fees shall be charged based on the total valuation of work to be performed.

Total Valuation of Work to be Performed	Fees
\$1.00 to \$500.00	\$15.00
\$501.00 to \$2,000.00	\$15.00 for the first \$500.00, plus \$1.90 for each additional \$100.00 or fraction thereof, to and including \$2,000.00
\$2,001.00 to \$25,000.00	\$43.50 for the first \$2,000.00, plus \$7.60 for each additional \$1,000.00 or fraction thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$218.30 for the first \$25,000.00, plus \$5.70 for each additional \$1,000.00 or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$360.80 for the first \$50,000.00, plus \$3.80 for each additional \$1,000.00 or fraction thereof, to and including \$100,000.00
\$100,001.00 and up	\$550.80 for the first \$100,000.00, plus \$3.20 for each additional \$1,000.00 or fraction thereof

(B) Exempt area fire and life safety plan review and inspection: 40 percent of the required building permit fee.

(C) Requested inspection fees. Requested inspections that are not part of the regular inspection program will be made as soon as practical after payment to the building official of the fee specified below:

(1) Single- and two-family dwellings (occupancy class R3) . . . . \$100.00

(2) Apartment houses (occupancy class R1) (plus \$7.00 for each dwelling unit in excess of three) . . . . 160.00

(3) Hotels (occupancy class R1) (plus \$5.00 for each sleeping room in excess of five) . . . . 160.00

(4) All other occupancies one and two stories in height up to 10,000 square feet (plus \$7.00 for each additional 1,000 square feet) . . . . 160.00

(5) All other occupancies three stories in height and above (plus \$20.00 for each story in excess of three) . . . . 160.00

(D) Demolition of structure . . . . 40.00

## Fee List

(E) Temporary permit or temporary certificate of occupancy . . . . 50.00

(F) Hearing fee, board of appeals:

(1) One- and two-family dwellings . . . . 50.00

(2) All other buildings . . . . 100.00

(G) Certificate of occupancy (new permit not required) . . . . 50.00

(H) Automatic sprinkler system:

(1) Minimum charge . . . . 40.00

(2) Per sprinkler head for first 100 . . . . 0.50

(3) Per sprinkler head in excess of first 100 . . . . 0.30

(I) Heating and ventilating fees under the Uniform Mechanical Code. The minimum permit fee under this subsection shall be \$23.00.

(1) New single- and two-family residences. The following fees for each dwelling unit shall include all heating and ventilating installations within or attached to the building at the time of occupancy.

(a) Conditioned floor space under 1,000 square feet: \$29.00 each.

(b) Conditioned floor space under 2,000 square feet: \$42.00 each.

(c) Conditioned floor space 2,000 square feet or more: \$52.00 each.

(2) Residential permit fees (other than (1) above). The following fees are for single-family and two-family dwellings (R-3 and S.R. occupancies) and each individual dwelling within an apartment building, condominium building, hotel or motel (R-1 occupancy), which is individually heated and/or air conditioned. Central mechanical systems in

multifamily buildings or appliances and systems not identified in this subsection shall be assessed fee(s) in accordance with paragraph (3).

(a) Furnaces: For the installation, relocation, or replacement of each furnace:

(i) Forced air or gravity type furnace . . . . 13.00

(ii) Floor furnace . . . . 10.00

(iii) Vented wall furnace or recessed wall heater . . . . 10.00

(IV) Room heater (non-portable) . . . . 13.00

(b) Woodstoves: For the installation, relocation or replacement of each woodstove, fireplace stove or factory built fireplace (including hearth and wall shield) . . . . 23.00

(c) Chimney vent: For the installation, relocation, or replacement of each factory built chimney or appliance vent . . . . 9.00

(d) Boiler: For the installation, relocation, or replacement of each boiler (water heater), not exceeding 120 gallons, water temperature of 210 degrees Fahrenheit, for 200,000 Btu input . . . 13.00

(e) Air handler or heat exchanger: For the installation, relocation, or replacement of each air handler or heat exchanger . . . . 10.00

(f) Heat pumps: For the installation, relocation, or replacement of ducted heat pump (including compressor, exchanger, and ducts attached thereto) . . . . 21.00

(g) Air conditioners: For the installation, relocation, or replacement of each condensing or evaporating air conditioner (except portable type) . . . . 10.00

## Multnomah County - Fee List

(h) Ventilation fan: For the installation, relocation, or replacement of each ducted ventilation fan . . . . 5.00

(i) Range hood: For the installation, relocation, or replacement of each domestic range hood, including duct . . . . 10.00

(j) Gas piping: For the installation, relocation, or replacement of gas piping:

(i) One to four outlets . . . .  
6.00

(ii) Each additional outlet . . . .  
1.00

(3) Commercial permit fees. Any equipment or system regulated by this code and not classified residential under paragraph (1) or (2) of this section shall be assessed permit fee(s) in accordance with the following:

Valuation of Work	Permit Fee
\$1.00 to \$1,000.00	\$23.00
\$1,001.00 to \$10,000.00	\$23.00 plus \$1.35 for each additional \$100.00 over \$1,000.00
\$10,001.00 to \$100,000.00	\$144.50 plus \$8.30 for each additional \$1,000.00 over \$10,000.00
\$100,001.00 and up	\$891.50 plus \$5.70 for each additional \$1,000.00 over \$100,000.00

[Text continues on next page.]

## Fee List

(4) Administrative fees. An administrative fee, equal to 65 percent of the permit fee, shall be added to each permit fee for every permit issued. The administrative fee shall cover the cost of plan and specification review, permit processing and recording, and applicable state surcharges.

(5) Additional plan review fees. An additional plan review fee may be assessed whenever plans are incomplete, revised, or modified to the extent that additional review is required.

Additional plan review fee  
(minimum charge \$30.00): \$50.00/hour.

(6) Reinspection fees. A reinspection fee may be assessed whenever additional inspections are required due to, but not limited to, failure to provide access to the equipment, work incomplete and not ready for inspection, failure to have approved plans on the job, deviations from the approved plans, etc. In those instances where a reinspection fee has been assessed no additional inspection of the work will be performed, nor will the certificate of occupancy be issued, until required fees are paid.

Reinspection fee (minimum charge  
\$30.00): \$50.00/hour.

(7) Replacement of a hot water heater in kind shall not require a heating and ventilation permit when the hot water heater installation is the only work requiring such a permit. Such permit is covered under the plumbing permit.

(J) Charge for partial permits. When complete plans and specifications are not available, the building official may issue partial permits to assist in the commencement of the work, provided that a partial permit charge is paid to the building official. The number of partial permits issued shall not exceed six on any individual project, except that in special circumstances the building official may allow this number to be exceeded. Partial building permits issued under this section shall be subject to a \$250.00 charge for each permit so issued.

(K) Inspection outside of normal business hours. A fee of \$50.00 per hour or fraction thereof shall be charged for inspections outside of normal business hours.

('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)

Section 29.106. FEES (Electrical Code)

Exhibit B

§ 29.106 FEES.

(A) *Plan review.*

(1) A plan checking fee shall be paid at the time of permit application. Fees for plans shall be 25 percent of the total electrical permit fee.

(2) A fee of \$50.00 per hour, with a minimum charge of \$30.00 for the first half hour or fraction thereof, shall be charged for additional plan reviews required by changes, additions, or revisions to approved plans.

(B) *Permits.*

(1) The minimum permit fee shall be \$33.00 unless otherwise stated in this chapter.

(2) Residential wiring (exclusive of service):

Residence wiring less than 1,000 square feet  
..... \$ 45.00

Residence wiring less than 2,000 square feet  
..... 68.00

Residence wiring over 2,000 square feet . .  
.. 90.00

Electric heat installation in existing  
residence ..... 33.00

(3) Service installations:

Temporary construction service up to 200  
amperes . . . . 33.00

Temporary construction service 201--600  
amperes . . . . 56.00

Temporary construction service 601--3,000  
amperes (temporary construction services do not  
require plan submittal) . . . . 90.00

Service not over 100 amperes . . . . 45.00

Service over 100 amperes, but not more  
than 200 amperes . . . . 68.00

Service over 200 amperes, but not more  
than 400 amperes . . . . 90.00

Service over 400 amperes, but not more  
than 600 amperes . . . . 135.00

Service over 600 amperes, but not more  
than 800 amperes . . . . 158.00

Service over 800 amperes, but not more  
than 1,200 amperes . . . . 203.00

Service over 1,200 amperes, but not more  
than 3,000 amperes . . . . 249.00

Service over 3,000 amperes . . . . 249.00

Plus \$45.00 for each 1,000 amperes or  
fraction thereof over 3,000 amperes

Service over 600 volts . . . . 338.00

(4) Commercial and industrial feeders:

Installation of, alteration or relocation of  
distribution feeders:

Not more than 100 amperes . . . . 33.00

Over 100 amperes, but not more than 200  
amperes . . . . 45.00

Over 200 amperes, but not more than 400  
amperes . . . . 68.00

Over 400 amperes, but not more than 600  
amperes . . . . 84.00

Over 600 amperes, but not more than 800  
amperes . . . . 102.00

Over 800 amperes, but not more than 1,200  
amperes . . . . 135.00

Over 1,200 amperes, but not more than  
3,000 amperes . . . . 170.00

Feeder over 3,000 amperes . . . . 170.00

Plus \$33.00 for each 1,000 amperes in  
excess of 3,000 amperes

Feeder over 600 volts . . . . 156.00

After the ten largest feeders, each feeder  
shall be charged 50 percent of the above rate.

(5) Miscellaneous (exclusive of service):

Each farm building other than residence . .  
. . 33.00

Each irrigation pump . . . . 33.00

Each electrical sign or outline lighting  
circuit . . . . 33.00

Each swimming pool (including bonding) .  
. . . 56.00

Each low energy system . . . . 33.00

Each alarm system . . . . 33.00

(6) Branch circuits (shall be additional to plan  
check, service, and feeder fees):

One new circuit; alteration or extension . .  
. . 32.00

Two new circuits; alteration or extension .  
. . . 42.00

Each circuit over two circuits . . . . 5.00

Each circuit in excess of 50-ampere rating  
. . . . 42.00

(7) Requested inspections that are not a part of  
the regular inspection program will be made as soon  
as practical after payment to the building official of  
the fee specified below:

Single- and two-family dwellings  
(occupancy class R3) . . . . 100.00

Apartment houses (occupancy class R1)  
(plus \$7.00 for each dwelling unit in excess of three)  
. . . . 160.00

Hotels (occupancy class R1) (plus \$5.00 for  
each sleeping room in excess of five) . . . . 160.00

All other occupancies one and two stories in  
height up to 10,000 square feet (plus \$7.00 for each  
additional 1,000 square feet) . . . . 160.00

All other occupancies three stories in height  
and above (plus \$20.00 for each story in excess of  
three) . . . . 160.00

(8) For any inspection not covered elsewhere in  
this chapter, or for a pre-permit onsite consultation,  
the fee shall be \$50.00 per hour. The minimum  
charge shall be \$30.00.

(9) Whenever any work for which a permit is  
required by this chapter has been commenced without  
first obtaining said permit, a special investigation  
shall be made before a permit may be issued for such  
work.

(10) An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this chapter. The minimum investigation fee shall be the same as the permit fee set forth in this section but not less than \$150.00. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this chapter, nor from any penalty prescribed by law.

Exception: Electrical work of an emergency nature, for which a permit application with appropriate permit fees is submitted to the permit office within 48 hours, exclusive of Saturdays, Sundays and holidays, after the work was performed.

(11) A fee of \$50.00 per hour or fraction thereof, with a minimum charge of three hours, shall be charged for inspections outside of normal business hours.



# Section 29.207. FEES (Plumbing Code)

## Exhibit C

### § 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. 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.

(B) Where an application is made and a plan is required, in addition to the fees under subsection (C) of this section, the applicant shall pay a plan review fee equal to 25 percent of the permit fee. Payment shall be made at the time of application.

(C) Before a permit may be issued for the installation, renovation, alteration or repair of a plumbing or drainage system, fees in accordance with the following table shall be paid:

(1) New construction for a single-family dwelling and duplex, each unit with one bathroom . . . \$235.00

(2) New construction for a single-family dwelling and duplex, each unit with two bathrooms . . . 317.00

(3) New construction for a single-family dwelling and duplex, each unit with three bathrooms . . . 374.00

(4) For repair, remodel or new construction with more than three bathrooms, per fixture . . . 17.00

plus water service, raindrains, sanitary and storm sewer fees in accordance with subsection (8) of this section.

(5) Mobile home service connections (sewer, water and storm), per space . . . 42.00

(6) Commercial/industrial. The fee shall be \$16.00 per fixture, plus any water service, sanitary and storm fees as required by subsection (8) of this section.

(7) Multifamily and multiplex rowhouses. The fee shall be \$17.00 per fixture, plus water service, raindrains, sanitary and storm sewers as required in subsection (8) of this section.

(8) Water service/sanitary/storm sewer/raindrains:

(a) Water service (first 100 feet or fraction thereof) . . . 47.00

(b) Water service (each additional 100 feet or portion thereof) . . . 36.00

(c) Building sewer (first 100 feet or fraction thereof) . . . 47.00

(d) Building sewer (each additional 100 feet or fraction thereof) . . . 36.00

(e) Building storm sewer or rain drain (first 100 feet or fraction thereof) . . . 47.00

(f) Building storm sewer or rain drain (each additional 100 feet or fraction thereof) . . . 36.00

(9) Miscellaneous:

(a) Sewer cap . . . 47.00

(b) Replacement water heater (includes electrical and/or mechanical heating fee for an in-kind replacement) . . . 15.00

(c) For replacement of existing water supply lines, drain lines or conductors within the building:

(i) Single-family residence:

\$35.00 minimum first floor

\$14.00 for each additional floor

(ii) Commercial/industrial structure:

\$35.00 for up to the first five fixture branches

Each additional fixture branch shall be \$8.00 (fixture branch shall include both hot and cold water)

(d) Each solar unit . . . . 42.00

(e) Minimum fee . . . . 35.00

(D) Special inspection.

(1) Prefabricated structural site inspection, the fee shall be 50 percent of applicable category (includes site development and connection of the prefabricated structure).

(2) Requested inspections that are not part of the regular inspection program will be made as soon as practical after payment to the building official of the fee specified below:

(a) Single- and two-family dwellings (occupancy class R3) . . . . 100.00

(b) Apartment houses (occupancy class R1) (plus \$7.00 for each dwelling unit in excess of three) . . . . 160.00

(c) Hotels (occupancy class R1) (plus \$5.00 for each sleeping room in excess of five) . . . . 160.00

(d) All other occupancies one and two stories in height up to 10,000 square feet (plus \$7.00 for each additional 1,000 square feet) . . . . 160.00

(e) All other occupancies three stories in height and above (plus \$20.00 for each story in excess of three) . . . . 160.00

(E) Plumbing permit fees shall be doubled if installation is commenced prior to issuance of a permit, except that this provision will not apply to proven emergency installations when a permit is obtained within 24 hours, excluding Saturdays, Sundays and holidays.

(F) A fee of \$50.00 per hour, with a minimum charge of \$30.00 for the first half hour or fraction thereof, shall be charged for reinspections for which no fee is specifically indicated.

(G) The minimum charge for any permit issued pursuant to this section shall be \$29.00.

(H) A fee of \$50.00 per hour or fraction thereof shall be charged for inspections outside of normal business hours.

(I) A fee of \$50.00 per hour, with a minimum charge of \$30.00 for the first half hour or fraction thereof, shall be charged for additional plan reviews required by changes, additions, or revisions to approved plans.

MEETING DATE: June 25, 1998  
AGENDA #: R-26  
ESTIMATED START TIME: 11:06

(Above Space for Board Clerk's use only)

### AGENDA PLACEMENT FORM

SUBJECT: Ordinance Amending MCC 7.201 Relating to the Office of County Counsel

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: Thursday, June 25, 1998  
AMOUNT OF TIME NEEDED: 10 minutes

DEPARTMENT: Non-Departmental DIVISION: Chair Beverly Stein

CONTACT: Jacquie Weber TELEPHONE #: 248-3138  
BLDG/ROOM #: 106/1530

PERSON(S) MAKING PRESENTATION: County Counsel Jacqueline A. Weber

#### ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

#### SUGGESTED AGENDA TITLE:

Ordinance Amending MCC 7.201 Relating to the  
Office of County Counsel

#### SIGNATURES REQUIRED:

ELECTED OFFICIAL: \_\_\_\_\_

*Beverly Stein*

(OR)

DEPARTMENT

MANAGER: \_\_\_\_\_

*Bill Finner*

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions? Call the Board Clerk @ 248-3277

CLERK OF COUNTY COMMISSIONERS  
JUN 17 PM 5:16  
MULTI-NOMINATING COUNTY  
OREGON



## Beverly Stein, Multnomah County Chair

Room 1515, Portland Building  
1120 S.W. Fifth Avenue  
Portland, Oregon 97204

Phone: (503) 248-3308  
FAX: (503) 248-3093  
E-Mail: [mult.chair@co.multnomah.or.us](mailto:mult.chair@co.multnomah.or.us)

# **SUPPLEMENTAL STAFF REPORT**

TO: Board of County Commissioners

FROM: Bill Farver *Bill Farver*

DATE: June 17, 1998

RE: Appointment of Outside Counsel for Elected Officials

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1. **Recommendation/Action Requested:**

Approval of amendment clarifying and expanding the circumstances under which advisory counsel can be obtained by County elected officials.

2. **Background/Analysis:**

Sheriff Noelle requested an outside advisory opinion on the authority of the Board of County Commissioners to designate Community Justice as the administrative authority in charge of the planned secure alcohol and drug facility. After making the request, the Sheriff asked Bullard, Korshoj, Smith, and Jernstedt to give him an opinion. County Counsel then informed the Sheriff that under the current ordinance, County Counsel could not authorize outside counsel.

As part of the agreement between the Sheriff and the Chair concerning a proposal before the Charter Review, Beverly Stein agreed to seek approval from the Board to provide the Sheriff with authority to obtain outside counsel. As explained in the memo from Jacquie Weber, the current ordinance does the following:

Under Multnomah County's current ordinance, the Board has delegated to county counsel the authority to employ outside counsel on behalf of the county when county counsel deems it appropriate or necessary. It further provides that no county elected official or other county official shall be represented by counsel other than county counsel, with one exception; a majority of the Board may employ outside legal counsel on a specific matter.



Under this ordinance, there is no authority for an elected county official to retain outside counsel to advise them on county issues. The proposed amendment would expand that authority to all County elected officials to request outside counsel by using the process outlined above – i.e. the Board must approve the request and authorize payment.

3. Financial Impact:

The Sheriff may have incurred up to \$15,000 in legal fees which the Board is being asked to ratify. Future costs will be determined by the Board on a case by case basis.

4. Legal Issues:

Counsel Jacquie Weber researched how other counties handle this issue. Her conclusion is that:

Of the counties surveyed, the ultimate authority to retain counsel rests with the governing board, either pursuant to statute, or ordinance. Given that Multnomah County is governed by charter, the board may by ordinance retain the sole authority to appoint legal counsel, or delegate that authority in whole or in part.

Her memo is attached.

5. Controversial Issues:

The Sheriff is submitting an alternative proposal, which would allow him to obtain outside counsel without needing Board approval or financial authorization. He is also seeking ratification authority, which would extent beyond the costs incurred in the original advisory opinion from Bullard.

6. Link to Current County Policies:

This action is part of the agreement between the Chair and Sheriff which led them jointly to request the Charter Commission to withdraw consideration of an amendment which would have asked voters to decide whether adult community corrections functions would be moved under the Sheriff's office.

7. Citizen Participation:

NA

8. Other Government Participation:

NA



# OFFICE OF MULTNOMAH COUNTY COUNSEL

THOMAS SPONSER  
*County Counsel*

SANDRA N. DUFFY  
*Chief Assistant*

1120 S.W. FIFTH AVENUE, SUITE 1530  
PORTLAND, OREGON 97204-1977

FAX 248-3377  
(503) 248-3138

SUSAN DUNAWAY  
KATIE GAETJENS  
GERALD H. ITKIN  
JEFFREY B. LITWAK  
STEVEN J. NEMIROW  
MATTHEW O. RYAN  
AGNES SOWLE  
JOHN S. THOMAS  
JACQUELINE A. WEBER  
*Assistants*

## MEMORANDUM

To: Chair Stein

Cc: Sheriff Noelle  
Commissioner Kelley  
Commissioner Hansen  
Commissioner Linn  
Commissioner Elect Naito

From: Jacqueline A. Weber *JAW*  
Assistant County Counsel

Date: June 15, 1998

Subject: Proposed Amendment to County Counsel Ordinance

In conjunction with the proposed amendment to the county counsel ordinance, you requested that we survey other counties as to how they deal with requests for outside legal counsel by elected county officials. You have also asked for a legal analysis of the effect of a legal opinion, whether issued by county counsel, or by authorized outside legal counsel.

### CURRENT ORDINANCE

Under Multnomah County's current ordinance, the Board has delegated to county counsel the authority to employ outside counsel **on behalf of the county** when county counsel deems it appropriate or necessary. It further provides that no county elected official or other county official shall be represented by counsel other than county counsel, with one exception; a majority of the Board may employ outside legal counsel on a specific matter. Under this ordinance, there is no authority for an elected county official to retain outside counsel to advise them on county issues.

### STATUTORY AUTHORITY

State law provides for the appointment of county counsel by the board of each county, to serve at the pleasure of the board. ORS 203.145 provides in pertinent part:

- (2) Unless otherwise provided by county charter or legislation enacted pursuant thereto, the board of each county may appoint a person or persons licensed to practice law in the State of Oregon as counsel to advise the board and other county officers, to render

services in connection with legal questions of a civil nature arising in the discharge of their functions, to prosecute violations of county law as defined by ORS 203.810, and to provide such additional services as the board determines. Counsel shall serve at the pleasure of the board, on a full-time or part-time basis, and be compensated in the manner and amounts the board determines.

This statute by its terms does not govern Multnomah County, which is a charter county that has enacted specific legislation regarding county counsel.

#### SURVEY OF OTHER COUNTIES

I have surveyed 5 other Oregon counties, Washington, Clackamas, Marion, Lane, and Jackson, regarding the circumstances under which they may retain outside counsel, and how the authority to make that decision is delegated.

Clackamas County and Marion County have no ordinance, administrative rule, resolution or other written procedure. They are presumably governed by ORS 203.145 set out above. Jackson County has a very general ordinance, which does not address the issue at all.

Lane County, which is a charter county, has adopted by ordinance rules relating to sources of legal services. County Counsel is designated to provide legal advice on civil matters to the Board of Commissioners and to county departments. Outside legal counsel is authorized where (1) County Counsel determines that an ethical conflict of interest exists, in which case County Counsel's determination is then referred to the Board; (2) where County Counsel does not have the expertise to handle a particular legal matter; (3) where appropriate under the Tort Claims Act; or (4) upon approval of the Board of a request for a private attorney. The ordinance also provides that in any case where a private attorney is retained County Counsel shall authorize payment from appropriate budgeted funds not to exceed \$2,500. If it is necessary to exceed this amount, the fee agreement is handled through the normal contract process.

Washington County established the office of County Counsel and appointed a County Counsel to act as its chief legal advisor pursuant to ORS 203.145, supra, which provides for the appointment of legal counsel by the board of the county. In addition, the Board passed a Resolution identifying the functions and responsibilities of county counsel. The Resolution deals with the issue of appointment of outside legal counsel as follows:

RESOLVED AND ORDERED, from time to time, it may be necessary for the County to acquire outside legal assistance and/or representation and in such cases County Counsel, unless precluded by conflict of interest or otherwise, shall provide the following services:

- 1) Provide consultation as to the necessity and appropriateness of outside legal counsel; and
- 2) Provide advice as to the selection of outside legal counsel; and
- 3) Monitor performance of outside legal counsel performance and provide necessary and appropriate assistance;

The Resolution does not give any indication how Washington County would deal with a request for outside legal counsel to advise a county elected official on county issues.

## CONCLUSION

Of the counties surveyed, the ultimate authority to retain counsel rests with the governing board, either pursuant to statute, or ordinance. Given that Multnomah County is governed by charter, the Board may by ordinance retain the sole authority to appoint legal counsel, or delegate that authority in whole or in part.

## EFFECT OF LEGAL ADVICE/OPINION

You have asked what would be the effect of a County Counsel opinion that differs from or is in conflict with an advisory opinion provided by outside legal counsel. A legal opinion provided to the county, whether by County Counsel, or by authorized outside counsel, is not binding on the county. Its purpose is to provide analysis of applicable law to specific facts at issue, and to assess likely outcomes and risks in following a particular course of action. This provides guidance upon which policy makers, or the Board on legislative matters, can make an informed decision. A legal opinion does not have legally binding effect. Therefore, conflicting legal opinions on the same subject would simply provide differing information for the policy makers to evaluate.



BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY OREGON

ORDINANCE NO. \_\_\_\_\_

An Ordinance amending MCC 7.201 relating to the Office of County Counsel.

(Stricken language in brackets [ ] is to be deleted; **Bold** language is new.)

Multnomah County ordains as follows:

Section 1. Amendment

MCC 7.201 (M) shall be amended as follows:

(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, **and a majority of the entire Board may authorize a board member, sheriff, district attorney or auditor to retain outside legal counsel to advise the elected county official on a specific county matter. The Board shall specify the amount of the elected official's budget that may be appropriated for this purpose.** With these exceptions no county elected official, board, commission, committee, department director or employee shall employ or be represented by counsel other than the County Counsel.

Section 2. Ratification.

The Board hereby ratifies the Sheriff's action in retaining the law firm of Bullard, Korshoj, Smith & Jernstedt to provide legal advice to the Sheriff on the issue of the Sheriff's authority as it relates to the county's proposed secure residential alcohol and drug treatment facility. This ratification applies to legal advice rendered on the stated issue up to and including June 15, 1998. In addition, the Board hereby authorizes the Sheriff to pay Bullard, Korshoj,

1 Smith & Jernstedt for services rendered up to and including June 15, 1998. Said payment shall  
2 be made out of the Sheriff's budget.

3 Section 3. Effective Date.

4 This Ordinance shall be come effective on \_\_\_\_\_.

5 APPROVED this 2nd day of July, 1998, being the date of its second reading before the  
6 Board of County Commissioners for Multnomah County, Oregon.  
7

8 BOARD OF COUNTY COMMISSIONERS  
9 FOR MULTNOMAH COUNTY, OREGON

10  
11 \_\_\_\_\_  
12 Beverly Stein, Chair

13 REVIEWED:

14 THOMAS SPONSLER, COUNTY COUNSEL  
15 FOR MULTNOMAH COUNTY, OREGON

16 By   
17 Jacqueline A. Weber, Assistant County Counsel  
18  
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20  
21  
22  
23  
24  
25  
26

MEETING DATE: JUN 25 1998  
AGENDA NO: R-27  
ESTIMATED START TIME: 11:16

(Above Space for Board Clerk's Use ONLY)

### AGENDA PLACEMENT FORM

SUBJECT: AMENDMENT TO ORDINANCE MCC 7.201 (M)

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: JUNE 25, 1998  
AMOUNT OF TIME NEEDED: 15 MINUTES

DEPARTMENT: MCSO DIVISION: \_\_\_\_\_

CONTACT: DAN NOELLE TELEPHONE #: 251-2400  
BLDG/ROOM #: 313/105

PERSON(S) MAKING PRESENTATION: SHERIFF DAN NOELLE

#### ACTION REQUESTED:

[ ] INFORMATIONAL ONLY [ ] POLICY DIRECTION [X] APPROVAL [ ] OTHER

#### SUGGESTED AGENDA TITLE:

Amendment of Ordinance MCC 7.201 (M) relating to the Office of County Counsel regarding employment of outside legal counsel on behalf of the county when County Counsel deems necessary or appropriate to do so. A majority of the entire board, or the elected sheriff, may also employ outside legal counsel for a specific county matter.

#### SIGNATURES REQUIRED:

ELECTED OFFICIAL: Dan Noelle  
(OR)  
DEPARTMENT  
MANAGER: \_\_\_\_\_

CLERK  
COUNTY COMMISSIONERS  
98 JUN 17 AM 10:03  
MULTNOMAH COUNTY  
OREGON

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277

# **SUPPLEMENTAL STAFF REPORT**

TO: Board of County Commissioners

FROM: Sheriff Dan Noelle

DATE: June 16, 1998

RE: Amendment to Ordinance MCC 7.201 (M)

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1. Recommendation/Action Requested:  
Request approval of Board of County Commissioners to amend Ordinance MCC 7.201 (M).
2. Background/Analysis:  
This amendment to the current county ordinance comes out of an agreement between the Sheriff and the Chair just prior to a meeting with the Charter Review Committee. The ordinance will assist the Sheriff in obtaining legal advice on complex issues. Occasionally it is important to receive legal advice on how to shape the questions in order to obtain clarity from the legal analysis. The agreement between the Chair and the Sheriff was that this would be used rarely and when used would be paid for out of the Sheriff's Budget. The Sheriff has currently incurred some legal expenses with the firm of Bullard, Korshoj, Smith and Jernstedt prior to County Counsel advising him that he was prohibited from obtaining that legal advice.
3. Financial Impact:  
Costs would be covered under the Sheriff's budget under professional services.

4.       Legal Issues:  
Creates some complexity for County Counsel probably best described by County Counsel. During the passage of ordinance MCC 7.201 the Board of County Commissioners held out for their ability to do the same thing.
5.       Controversial Issues:  
None
6.       Link to Current County Policies:  
None
7.       Citizen Participation:  
None
8.       Other Government Participation:  
None

1 BEFORE THE BOARD OF COUNTY COMMISSIONERS

2 FOR MULTNOMAH COUNTY OREGON

3 ORDINANCE NO. \_\_\_\_\_

4  
5 An Ordinance amending MCC 7.201 relating to the Office of County Counsel.

6 (Stricken language in brackets [ ] is to be deleted; **Bold** language is new.)

7  
8 Multnomah County ordains as follows:

9 Section 1. MCC 7.201 (M) shall be amended as follows:

10 (M) Employ outside legal counsel on behalf of the county when the County  
11 Counsel deems it necessary or appropriate to do so. A majority of the entire  
12 board, **or the elected sheriff**, may also employ outside legal counsel for a  
13 specific county matter. With this exception no county elected official, board,  
14 commission, committee, department director or employee shall employ or be  
15 represented by counsel other than the County Counsel.  
16  
17  
18

19 Section 2. Ratification

20 The Board hereby ratifies the Sheriff's action in retaining the law firm of  
21 Bullard, Korshoj, Smith & Jernstedt to provide legal advice to the Sheriff on the  
22 issue of the Sheriff's authority as it relates to the County's proposed secure  
23 residential alcohol and drug treatment facility. This ratification applies to legal  
24 advice rendered on the stated issue up to and including June 15, 1998. In addition,  
25 the Board authorizes the Sheriff to pay Bullard, Korshoj, Smith & Jernstedt for  
26

1 services rendered up to and including June 15, 1998. The Board also authorizes  
2 the Sheriff to continue to retain the services of Bullard, Korshoj, Smith & Jernstedt  
3 to advise him on issues related to the proposed secure residential alcohol and drug  
4 treatment facility.  
5

6 Section 3. Effective Date  
7

8 This Ordinance shall become effective on \_\_\_\_\_.

9 APPROVED this \_\_\_\_\_ day of July, 1998, being the date of its second  
10 reading before the Board of County Commissioners for Multnomah County,  
11 Oregon.  
12

13 BOARD OF COUNTY COMMISSIONERS  
14 FOR MULTNOMAH COUNTY, OREGON  
15

16 \_\_\_\_\_  
17 Beverly Stein, Chair

18 REVIEWED:

19 THOMAS SPONSER, COUNTY COUNSEL  
20 FOR MULTNOMAH COUNTY, OREGON  
21

22 By \_\_\_\_\_

23 Jacqueline A. Weber, Assistant County Counsel  
24  
25  
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