

W.S.d.

IN THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

ORDINANCE NO. 6-05

IN THE MATTER OF AMENDING CHAPTER 4 OF LANE CODE TO ADD PROVISIONS FOR A LANE COUNTY GROSS RECEIPTS TAX, TO DEDICATE THE REVENUES, TO ADOPT ADMINISTRATION AND COLLECTION PROVISIONS, TO RENUMBER DIFFERENTIAL TAX PROVISIONS, AND TO SET AN EFFECTIVE DATE (LC 4.500 through 4.562)

The Board of County Commissioners of Lane County ordains as follows:

Chapter 4 of Lane Code is hereby amended by deleting, substituting, and adding new sections as follows:

DELETE THESE SECTIONS

4.500 through 4.510
as located on pages 4-19 through 4-20
(a total of 2 pages)

None

INSERT THESE SECTIONS

4.005 through 4.015
as located on pages 4-1
(a total of 1 page)

4.500 through 4.562
as located on pages attached
(a total of 18 pages)

Said sections are attached hereto and incorporated herein by reference. County Counsel shall conform the Code to reflect the options selected by the Board at the time of enactment from the options shown on page 18. The purpose of this substitution and addition is to add provisions for a Lane County gross receipts tax, to dedicate the revenues, to adopt administration and collection provisions, to renumber Differential Tax provisions, and to set an effective date (LC 4.500 through 4.562).

ENACTED this _____ day of _____ 2005.

Chair, Lane County Board of Commissioners

Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 10/18/05 Lane County

Teresa Smith
OFFICE OF LEGAL COUNSEL

Chapter 4

TAXES

DIFFERENTIAL TAXES

4.005 Definitions.

In addition to the general definitions included in LC 1.010, the following definitions apply:

Incorporated Cities. The area encompassed by the cities of Coburg, Cottage Grove, Creswell, Dunes City, Eugene, Florence, Junction City, Lowell, Oakridge, Springfield, Veneta, Westfir and any other city incorporated pursuant to ORS Chapter 221.

Special District. The area encompassed by any district, as defined in ORS 198.010-198.955, and duly organized under state law. *(Revised by Ordinance No. 9-95, Effective 11.3.95)*

4.010 Geographic Tax Classification.

The Board may, upon making the findings required by LC 4.510 below, adopt a measure or refer a measure to the electors which provides a different tax burden on one class of taxpayers than is imposed upon another class of taxpayers. Any class of taxpayers so determined by the Board shall be identified on a geographical basis, and may include distinctions, as substantiated by the findings, among incorporated cities, special districts, and areas outside the boundaries of cities or districts. *(Revised by Ordinance No. 9-95, Effective 11.3.95)*

4.015 Required Findings.

Any difference in tax burden imposed within separate geographic boundaries within Lane County, Oregon shall meet the following criteria:

(1) Differences in services to be provided in different geographic areas must be real and substantial.

(2) Geographic boundaries shall be drawn so that services provided within designated areas are qualitatively different from services provided within other geographical areas.

(3) Services provided within the different geographical areas must be unique.

(4) Any differences in tax burdens shall be based upon the actual costs of providing services and administration. *(Revised by Ordinance No. 9-95, Effective 11.3.95)*

LANE COUNTY TRANSIENT ROOM TAX

4.100 Title.

This subchapter may be referred to as the Lane County Transient Room Tax. *(Revised by Ordinance No. 8-73, Effective 9.14.73)*

4.105 Definitions.

In addition to the general definition included in LC 1.010, the following definitions apply:

Accrual Accounting. A system whereby the operator enters the rent due from a transient on the records when the rent is earned whether or not it is paid.

LANE COUNTY GROSS RECEIPTS TAX CODE

4.500. Title.

This subchapter (LC 4.500 to 4.562) may be referred to as the Lane County Gross Receipts Tax Code.

4.501. Definitions.

In addition to the general definitions included in LC 1.010, the following definitions apply to the Lane County Gross Receipts Tax Code, unless the context requires otherwise:

Appeals Board. The hearings body designated by the Board of Commissioners to review taxpayer appeals from final determinations by the Tax Administrator.

Business. All activities in the County that produce revenue, gain, benefit, or advantage, directly or indirectly.

Casual or isolated sale. A sale made by a person who is not engaged in the business of selling the type of property involved on a routine or regular basis.

Engaging in business. Any conducting of business, either directly or indirectly. The County expressly intends that engaging in business include any activity sufficient to establish nexus for purposes of applying the tax under the laws and the Constitutions of the United States and the State of Oregon. Nexus is presumed to continue as long as the taxpayer benefits from the activity that constituted the original nexus generating contact or subsequent contacts.

Extracting. Engaging in any of the following activities that are carried on for sale or commercial or industrial purposes: mining, quarrying, taking or producing coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or other natural resource product; felling, cutting or taking timber, Christmas trees or other natural products; or, taking fish, shellfish, or other sea or inland water foods or products.

Extractor. A person who, directly or indirectly, engages in the business of extracting.

Gross income of the business. The value resulting from engaging in business. "Gross income of the business" includes gross proceeds of sales, compensation from the rendition of services, gains realized from trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, without deduction for any direct or indirect costs or losses relating to the business. However, "gross income of the business" does not include any amounts that may be deducted pursuant to LC 4.505.

Gross proceeds of sales. The consideration that is received or accrued by a person from the sale of property or intangibles or the provision of services in the County,

without deduction for any direct or indirect costs or losses relating to the property, intangibles or services.

Gross receipts. The sum of a person's gross income of the business, plus the value of the products manufactured by that person, plus the value of products extracted by that person.

Indirectly. Accomplishing something by contracting or arranging for that thing to be done by another.

Internal Revenue Code. The United States Internal Revenue Code as it exists on the date of enactment of the Lane County Gross Receipts Tax Code.

Lane County Gross Receipts tax rules. The administrative rules promulgated by the Tax Administrator pursuant to LC 4.553.

Lane County Gross Receipts tax. The tax imposed by the Lane County Gross Receipts Tax Code.

Manufacturer. A person who, directly or indirectly, engages in the business of manufacturing.

Manufacturing. The application of labor, skill or processes to materials or ingredients in a way that produces a new, different or more useful substance or article of tangible personal property for sale or commercial or industrial use. "Manufacturing" also includes the creation of intellectual property and the production of software.

Notice. Written notice given by any means authorized in the Lane County Gross Receipts tax rules. The Lane County Gross Receipts tax rules shall indicate when notice given by a particular means is deemed to be received.

Person. An individual, corporation, partnership, association or any other legal entity.

Public safety system programs. Programs that are designed to protect citizens from the effects of, or to reduce, criminal activity. Public safety system programs include but are not limited to activities that are listed under "Programs and Services to Achieve Goals" in the executive summary of the "Lane County Public Safety Task Force Final Report – October, 2005," and other preventative and reactive public safety services, such as adult and youth corrections, crime prevention, prosecution, detention, supervision, mental health services, alcohol and drug treatment, victim services, drug court, interagency narcotics enforcement, patrol, investigation and arrest, and related support services.

Received. A communication will be considered received by the Tax Administrator on the postmark date affixed by the United States Postal Service on the communication if the communication is mailed, and on the date shown on the Tax Administrator's date stamp if the communication is delivered by hand or sent by facsimile, the date shown as the date of

receipt in the County's electronic records if the communication is by electronic mail, or as otherwise provided in the Lane County Gross Receipts tax rules.

Reporting Period. The three-month periods beginning with the first days of January, April, July or October of each calendar year.

Tax Administrator. The person designated by the Board of Commissioners to act as Tax Administrator under the Lane County Gross Receipts Tax Code.

Tax Year. The calendar year.

Tax. The Lane County Gross Receipts tax.

Taxpayer. Any person who is required to pay the Lane County Gross Receipts tax.

Value of Products. The measure of economic activity that is used to determine the Lane County Gross Receipts tax on manufacturing under LC 4.503(1)(b) and on extracting under LC 4.503(1)(c). "Value of products" is the sum of the "gross proceeds of sales" for manufactured or extracted products, plus all subsidies and bonuses received with respect to the extraction, manufacture, or sale of those products. However, if products are not sold, or are transported outside the County prior to sale, or are sold in such a way that the stated consideration from the sale does not reflect the true value of the products, the value of products shall be equal to the sum of the fair market values of the products, estimated based on comparable sales of comparable products, plus any subsidies and bonuses. "Value of products" does not include any amounts that are deductible under LC 4.505.

Value. The total value, measured in United States dollars, of all consideration, including money, credits, rights, or other property, that is received or accrued by a person, and the fair market value of products that are manufactured or extracted.

4.502. Dedication and Purpose.

(1) The Lane County gross receipts tax is imposed solely to raise revenues for the purposes described in this section.

(2) Dedication. All revenue collected from the Lane County gross receipts tax shall be credited to the Public Safety Dedicated Tax Fund. Interest earned on the Public Safety Dedicated Tax Fund shall also be credited to the Public Safety Dedicated Tax Fund. The Public Safety Dedicated Tax Fund shall be a dedicated, special fund, and amounts credited to the Public Safety Dedicated Tax Fund shall be used only:

- (a) To pay costs and expenses of public safety system programs; and,
- (b) To pay costs and expenses of administering and collecting the Lane County gross receipts tax.

(3) Initial goals. Amounts credited to the Public Safety Dedicated Tax Fund during the first five years shall be used primarily for programs and services directed towards achieving the following four goals:

- (a) Significantly reducing illegal drug production, dealing and use, especially methamphetamine, through targeting illegal drug producers, dealers, users, and property criminals;
- (b) Reducing family violence;
- (c) Enhancing effective treatment programs to help adults and juveniles addicted to drugs and alcohol; and
- (d) Providing effective prevention programs to reduce future crime.

(4) Property Tax Relief. The Lane County permanent authorized property tax rate is \$1.2793 per \$1000 of assessed value. In FY 2006-07, Lane County shall provide property tax relief by refraining from levying at least \$1.00 per \$1000 of assessed value of that rate, unless the Lane County gross receipts tax is not then in effect or is not being collected at or near projected levels. If the Lane County gross receipts tax is then in effect but is not being collected at or near projected levels, Lane County shall provide reduced property tax relief that is proportionate to the projected, reduced collections of the Lane County gross receipts tax in FY 2006-07. In subsequent fiscal years the Lane County Budget Committee and Board of County Commissioners shall determine and provide a proportionate level of property tax relief, after taking into consideration the revenues that are available for the County public safety system programs, including but not limited to the Secure Rural Schools and Community Self-Determination Act of 2000, Public Law 106-308, and the County's goal of stabilizing its public safety system programs.

4.503. Tax Imposed; Payment Dates; Filing.

(1) Except as otherwise specifically provided in the Lane County Gross Receipts Tax Code, there is imposed on each person an excise tax equal to ___ percent [__ %] of the sum of:

- (a) The gross income of the business of each person that occurs within the County; plus,
- (b) The value of the products manufactured within the County by each person who is a manufacturer; plus,
- (c) The value of the products extracted within the County by each person who is an extractor.

(2) The tax imposed by LC 4.503(1) shall apply to gross receipts of persons commencing April 1, 2006.

(3) The tax imposed by LC 4.503(1) shall be calculated for each reporting period. Returns shall be filed and Lane County gross receipts taxes shall be paid as provided in LC 4.559.

4.504. . Credits.

(1) Persons who engage in business activities that are within the purview of two or more subsections of LC 4.503(1) shall be taxable under each applicable subsection.

(2) Notwithstanding anything to the contrary in the Lane County Gross Receipts Tax Code, if imposition of the County's tax would place an undue burden upon interstate commerce or violate other requirements of the Constitutions of the United States or the State of Oregon, a taxpayer shall be allowed a credit to the extent necessary to preserve the validity of the County's tax, and still apply the County tax to as much of the taxpayer's activities as may be subject to the County's taxing authority. To take the credit authorized by this subsection (2), a taxpayer must be able to document that the amount of tax sought to be credited was paid upon the same gross receipts used in computing the tax against which the credit is applied.

(3) Persons required to pay a tax on gross income under 4.503(1)(a) shall be allowed a credit against that tax for any taxes paid in connection with manufacturing under LC 4.503(1)(b), but only if the manufactured products were sold within the County. The amount of this credit shall not exceed the tax liability arising under LC 4.503(1)(a) with respect to the manufactured products.

(4) Persons required to pay a tax on gross income under 4.503(1)(a) shall be allowed a credit against that tax for any taxes paid in connection with extraction under LC 4.503(1)(c), but only if the extracted products were sold within the County. The amount of this credit shall not exceed the tax liability arising under LC 4.503(1)(a) with respect to the extracted products.

(5) Persons required to pay a tax on manufacturing under LC 4.503(1)(b) shall be allowed a credit against those taxes for any taxes paid in connection with extraction under LC 4.503(1)(c), but only if the extracted products were manufactured within the County. The amount of this credit shall not exceed the tax liability arising under LC 4.503(1)(b) with respect to those manufactured products.

4.505. Deductions.

Gross income of the business and value of products shall not include:

(1) Amounts:

(a) From the sale of a fee interest in real estate.

(b) From the storage, withdrawal, use, sale, distribution, importation or receipt of motor vehicle fuel or any other product used for the propulsion of motor vehicles.

(c) From the sale, service or furnishing of transient lodging;

(d) By foreign or alien insurance companies.

(e) From transporting persons or property for hire in interstate commerce.

(f) From air charter services exempt under federal statutes.

(g) That the Constitution of the United States, the laws of the United States, the Constitution of the State of Oregon, or the laws of the State of Oregon either:

(i) Prohibit the County from taxing as provided in the Lane County Gross Receipts Tax Code; or,

(ii) Prohibit the county from using the proceeds of the Lane County gross receipts tax for the purposes described in LC 4.502.

The Tax Administrator shall prepare, maintain and make available to the general public a description of the amounts and values that have been determined to be deductible under LC 4.505(1)(g).

(2) Amounts received by any person for work performed in the capacity of an employee or servant. This subsection does not allow a deduction for work performed as an independent contractor. The distinction between an employee and an independent contractor shall be made based on the principles that are used to make that distinction under the Internal Revenue Code.

(3) Amounts received or accrued by a nonprofit organization that is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, but only to the extent that the amounts are not gross income derived by the organization from any unrelated trade or business as defined in Section 513 of the Internal Revenue Code.

(4) The value of products manufactured or extracted by a nonprofit organization that is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, but only to the extent that the value was not produced as part of an unrelated trade or business as defined in Section 513 of the Internal Revenue Code.

(5) Amounts which are paid from the Public Safety Dedicated Tax Fund described in LC 4.502 to a person for goods or services.

(6) Amounts received or accrued or value of products extracted or manufactured if those amounts or values were obtained by an individual or a trustee for one or more individuals as a result of activities that have no commercial or industrial purpose, such as gifts and inheritances, and the manufacture or extraction of products solely for use or consumption by the individual and members of the individual's family.

(7) Amounts received or accrued from casual or isolated sales.

(8) Amounts received solely on behalf of another in a disclosed agency capacity.

(9) Amounts received from the rental of real estate.

(10) Amounts that are apportioned to business conducted outside the County pursuant to rules promulgated by the Tax Administrator.

4.506. Exemptions.

The following persons are exempt from the Lane County Gross Receipts tax:

(1) The United States of America, the State of Oregon and any other State of the United States, the County and any other county, cities, public schools, special districts, peoples' utility districts and other units of local government.

(2) Any person during a calendar year in which the person's gross receipts are less than two hundred fifty thousand dollars (\$250,000.00).

4.507. Accounting Conventions

In computing the tax liability under the Lane County Gross Receipts Tax Code, the taxpayer must report using the accounting method it employs in its regular books and records. A taxpayer who maintains a general ledger on an accrual basis and files federal tax returns on an accrual basis shall report under the Lane County Gross Receipts Tax Code on an accrual basis. Any other taxpayer shall report on a cash basis unless that taxpayer demonstrates to the Tax Administrator that the taxpayer maintains accurate accrual basis records, and that reporting on an accrual basis will not allow that taxpayer to evade payment of amounts due under the Lane County Gross Receipts Tax Code.

4.508. Rules of Construction and Presumptions.

The Lane County Gross Receipts tax is intended to tax all persons engaging in business uniformly and fairly, and to maximize revenues that are available for the purposes described in LC 4.502. To achieve these goals:

(1) The provisions of the Lane County Gross Receipts Tax Code and the Lane County Gross Receipts tax rules relating to the imposition of the Lane County Gross Receipts tax and defining such terms as "business," "engaging in business,"

“extracting,” “extractor,” “gross proceeds of sales,” “gross income of the business,” “manufacturer,” “manufacturing,” “taxpayer,” “value of products,” and “value” shall be construed liberally;

(2) The provisions of the Lane County Gross Receipts Tax Code and the Lane County Gross Receipts tax rules relating to exemptions, deductions and credits shall be construed narrowly; and,

(3) Unless the Lane County Gross Receipts Tax Code clearly and explicitly provides to the contrary:

(a) All persons engaging, directly or indirectly, in any activity within the County shall be rebuttably presumed to be engaging in business.

(b) All revenues, amounts and values reasonably allocable to each person shall be rebuttably presumed to be gross receipts of that person and subject to the Lane County Gross Receipts tax.

(4) Each person shall have the burden of establishing that it is not a taxpayer, that revenues, amounts and values reasonably allocable to that person are not gross receipts, or that those revenues, amounts and values qualify for an exemption, deduction or credit provided by the Lane County Gross Receipts Tax Code.

(4) The County intends that the Lane County Gross Receipts tax be a tax on persons engaging in business and that payment of the tax be a cost of engaging in business in the County. The County does not intend that the Lane County gross receipts tax be construed as a tax or fee upon purchasers or customers.

ADMINISTRATION AND COLLECTION OF LANE COUNTY GROSS RECEIPTS TAX

4.550. Administration.

The Board of Commissioners shall determine the most appropriate means of providing for collection and administration of the tax either through employment of County personnel, or through contract with a private or governmental entity.

4.551. Authority.

(1) The Tax Administrator is hereby authorized, on behalf of the County, to exercise all supervisory and administrative authority with regard to the administration, enforcement and collection of the tax, including but not limited to administrative return processing, auditing, determinations, collection, penalties and interest, protests and appeals.

(2) The Tax Administrator shall have access to and maintain all tax filings and records with respect to the administration, enforcement and collection of the tax on behalf of the County.

(3) The Tax Administrator may, upon request, interpret the application of the tax, in general or for a specific set of circumstances.

(4) The Tax Administrator is authorized to enter into informal disposition of controversies regarding the tax by written stipulation or agreed written settlement.

4.552. Lane County Gross Receipts tax rules, procedures and forms.

(1) The Tax Administrator may adopt, amend and repeal administrative rules that clarify and implement the provisions of the Lane County Gross Receipts Tax Code.

(a) Except as provided in LC 4.552(2), prior to the adoption, amendment, or repeal of any rule, the Tax Administrator shall give notice of intended rulemaking by:

(i) Mailing (by ordinary or electronic mail) copies of the notice of intended rulemaking to those persons whose names are on the mailing list described in LC 4.552(3).

(ii) Providing notice at least two weeks prior to the proposed effective date of the rule to the general public in the manner determined by the Tax Administrator. Notice may be given under this section by publication on the County's website.

(b) The notice shall describe the proposed rule, indicate where a copy of the proposed rule may be obtained, and describe how affected persons may comment on the proposed rule.

(2) The Tax Administrator may adopt, amend, or suspend a rule for a period of up to one hundred and eighty (180) days without prior notice or hearing, if the Tax Administrator:

(a) Determines that the action is desirable to protect the public interest or avoid unfair treatment; and,

(b) Mails, within two weeks after the temporary rule is adopted, (by ordinary or electronic mail) a notice describing the temporary rule to those persons whose names are on the mailing list described in LC 4.552(3); and,

(c) Gives notice to the general public that the temporary rule has been adopted within two weeks after the temporary rule is adopted, in the manner determined by the Tax Administrator. Notice may be given under this subsection by publication on the County's website.

(3) The Tax Administrator shall establish a mailing list for persons who wish to be notified of proposed rulemaking under the Lane County Gross Receipts Tax Code, and shall provide and make available to the public a form allowing a person to request being placed on the mailing list. Any person filing a properly completed form with the Tax Administrator shall be placed on the mailing list promptly, and shall thereafter be given notice of any proposed rulemaking under the Lane County Gross Receipts Tax Code. No failure to give notice to any person on the mailing list shall invalidate any rulemaking action. The Tax Administrator shall maintain a record of all requests to be placed on the mailing list, and all mailings made to persons on the mailing list. The list shall be a public record; however, the home addresses, telephone numbers or electronic mail addresses of persons on the list shall be exempt from disclosure unless the public interest requires disclosure in the particular instance.

(4) The Tax Administrator may prescribe and make available to the public returns and other forms to be used and procedures to be followed in connection with the administration and payment of the Lane County gross income tax.

4.553. Returns and Other Documents.

(1) Any return, statement or other document provided regarding the tax shall be on forms approved by the Tax Administrator, if forms are available.

(2) The making or filing of any return, statement or other document or a copy thereof, shall constitute a certification by the individual doing so that the statements contained therein are true and that any copy filed is a true copy.

(3) Except as provided by the Tax Administrator, returns shall be filed quarterly by each person who is obligated to pay the Lane County gross income tax.

4.554. Records, Confidentiality and Disclosure.

(1) The County shall be the sole owner of all filed information regarding the tax. The County Administrator, the Tax Administrator, and their designees, shall have access to all taxpayer information.

(2) Except as otherwise provided herein or otherwise required by law, it shall be unlawful for the County Administrator, Tax Administrator, any employee or agent of the Tax Administrator, the County, or any elected official, employee, or agent of the County, or any other person who has acquired information pursuant to LC 4.554(3) or 4.554(5), to divulge, release or make known in any manner any financial information submitted or disclosed to the County by taxpayers in connection with the administration and payment of a tax. Nothing in this section shall be construed to prohibit:

(a) the disclosure of the names and addresses of any persons or entities who have filed a return, or

(b) the disclosure of general statistics in a form which does not identify the financial information of individual taxpayers.

(3) The Tax Administrator may disclose and give access to information described in LC 4.554(1) and LC 4.554(2) to an authorized representative of the State Department of Revenue, or any local government of the state imposing taxes upon or measured by gross or net receipts or income or real or personal property value, for the following purposes: to inspect the tax return of a taxpayer; to obtain an abstract or copy of the return; to obtain information concerning any item contained in any return; or to obtain information of any financial audit of the tax returns of any taxpayer. Such disclosure and access shall be granted only if the laws, regulations and practices of such other jurisdiction maintain the confidentiality of such information at least to the extent provided by LC 4.554(2).

(4) Upon the request of a taxpayer or an authorized representative of the taxpayer, the Tax Administrator shall provide copies of any tax return information filed by the taxpayer that is in the Tax Administrator records. The Tax Administrator may charge a reasonable fee for such copies.

(5) The Tax Administrator may also disclose and give access to information submitted or disclosed to the County by taxpayers in connection with the administration and payment of a tax to:

(a) The County Counsel, his or her assistants or employees, or other legal representatives of the County, to the extent disclosure or access is necessary for the performance of duties of advising or representing the County regarding the tax.

(b) Other County employees, agents or officials of the County, to the extent the Tax Administrator deems disclosure or access necessary for such employees, agents or officials to perform their duties relating to the administration of the tax.

(6) The Tax Administrator shall take reasonable steps to assure that anyone to whom disclosure is made is advised of these provisions and any penalties for violation thereof.

4.555. Examination of Books, Records, or Persons; Record Retention.

(1) The Tax Administrator may examine any books, papers, records, electronic records, memoranda, or any other document regardless of the form of storage, including but not limited to state and federal income or excise tax returns and real or personal property tax information, to ascertain the correctness of any tax return or to make an estimate of any tax. The Tax Administrator shall have the authority, after notice to the affected person, to:

(a) Require the attendance of any person required to file a return regarding the tax, or officers, agents or other persons with knowledge of the person's income or operations, at any reasonable time and place the Tax Administrator may designate.

(b) Take testimony, with or without the power to administer oaths to any person required to be in attendance, and

(c) Require proof for the information sought, necessary to carry out the provisions of the tax.

(2) The Tax Administrator shall designate the employees who shall have the power to administer oaths. The employees so designated shall be notaries public of the State of Oregon.

(3) Every taxpayer required to file a return regarding the tax shall keep and preserve for not less than seven (7) years such documents and records, including state and federal income or excise tax returns, accurately supporting the information reported on the taxpayer's return and calculation of the tax for each year.

4.556. Taxpayer Representation.

(1) No person shall be recognized as representing the taxpayer in regard to any matter relating to the tax of such taxpayer without written authorization of the taxpayer or unless the Tax Administrator determines from other available information the person has authority to represent the taxpayer.

(2) No employee or official of the County, the Tax Administrator or any public agency or entity authorized to collect the tax, shall represent any taxpayer (other than himself or herself) before the Tax Administrator or before the Appeals Board. This restriction against taxpayer representation shall continue for two years after termination of employment or official status.

(3) Members of the Appeals Board shall not represent any taxpayer (other than the member himself or herself) before the Appeals Board. No member of the Appeals Board shall participate in any matter before the Appeals Board if the appellant is a client of the member or the member's firm.

4.557. Protests and Appeals.

(1) Any determination by the Tax Administrator may be protested by the taxpayer. Notice of the protest must be received by the Tax Administrator within thirty (30) days after the notice of determination was given to the taxpayer. The protest shall state the name and address of the taxpayer and an explanation of the grounds for the protest.

(a) The Tax Administrator shall respond within thirty (30) days after the protest is filed with the Tax Administrator with either a revised determination or a final determination. The Tax Administrator's determination shall include the reasons for the determination and state the time and manner for appealing the determination.

(b) The time to file a protest or the time for the Tax Administrator's response may be extended by the Tax Administrator, for good and sufficient cause. Requests for extension of time to file a protest must be received prior to the expiration of the original 30-day protest deadline. Notice shall be given to the taxpayer if the Tax Administrator's deadline to file a protest is extended.

(2) Any final determination by the Tax Administrator may be appealed by the taxpayer to the Appeals Board. Any taxpayer wishing to appeal must give the Tax Administrator notice of the appeal within thirty (30) days after the final determination was given to the appellant. The notice of appeal shall state the name and address of the appellant and include a copy of the final determination.

(3) Within ninety (90) days after the final determination was given to the taxpayer, the appellant shall file with the Appeals Board a written statement containing:

(a) The reasons the Tax Administrator's determination is incorrect;
and

(b) What the correct determination should be.

(4) Failure to file such a notice or a written statement within the time permitted shall be deemed a waiver of any objections, and the appeal shall be dismissed.

(5) Within one hundred and fifty (150) days after the final determination was given to the taxpayer, the Tax Administrator shall file with the Appeals Board a written response to the appellant's statement. A copy of the Tax Administrator's response shall be promptly given to the appellant.

(6) The appellant shall be given not less than fourteen (14) days notice of the hearing date and location. The appellant and the Tax 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.

(7) Decisions of the Appeals Board shall be in writing, state the basis for the decision and be signed by the Appeals Board chair.

(8) The decision of the Appeals Board shall be final on the date it is issued and no further administrative appeal shall be provided.

(9) The filing of an appeal with the Appeals Board shall temporarily suspend the obligation to pay any tax that is the subject to the appeal pending a final decision by the Appeals Board.

4.558. Deficiencies, Refunds and Minimum Payments.

(1) Deficiencies.

(a) The Tax Administrator shall give notice of deficiency within three years after a tax return is filed. However, if the Tax Administrator determines that a tax return omits or understates by more than twenty-five percent (25.00%) the taxpayer's gross receipts, the Tax Administrator may give notice of deficiency at any time within five years after a tax return is filed.

(b) The limitations to the giving of notice of a deficiency provided in LC 4.558(1)(a) shall not apply to a deficiency resulting from false or fraudulent returns, or in cases where no return has been filed.

(2) Refunds.

(a) If the Tax Administrator determines that the amount of the tax due is less than the amount theretofore paid, the excess shall be refunded to the taxpayer who paid the tax, together with interest for the period described in LC 4.561(5) at the rate established under ORS 305.220.

(b) No refund shall be allowed or made after three years from the time the return was filed, or two years from the time the tax or a portion thereof was paid, whichever period expires the later, unless before the expiration of such period a claim for refund is filed by the taxpayer in compliance with the tax rules, nor shall a refund claimed on an original return be allowed or made in any case unless the return is filed within three years of the due date, excluding extensions, of the return in respect of which the tax might have been credited. If a refund is disallowed for the tax year during which excess tax was paid for any reason set forth in this paragraph, the excess shall not be allowed as a credit against any tax occurring on a return filed for a subsequent year.

(3) Notwithstanding LC 4.558(1), if no tax return is filed, the Tax Administrator may determine the tax due at any time based on the best information available to the Tax Administrator. The tax shall be assessed and subject to penalties and interest from the date it should have been paid as provided in LC 4.559 in accordance with LC 4.561 and 4.562. The Tax Administrator shall send notice of the determination and assessment to the person who failed to file the tax return.

(4) In cases where no tax return has been filed, there shall be no time limit for a notice of deficiency or the assessment of the tax, penalty and interest due.

(5) The Tax Administrator is authorized to adopt Lane County gross receipts tax rules that specify the minimum refund the County is obligated to pay. The minimum shall be the amount that the Tax Administrator determines would not be cost-effective for the County to process and pay.

4.559. Payment; Return Due Date; Extensions.

(1) All Lane County Gross Receipts taxes on gross receipts for each reporting period shall be paid on the last day of the month that follows the end of the reporting period.

(2) Tax returns shall be on forms provided or approved by the Tax Administrator. All tax returns shall be filed on the last day of the month following the end of the reporting period covered by the return.

(3) Each person whose gross receipts in a calendar year exceed \$200,000.00 shall file a Lane County Gross Receipts tax return on a form approved by the Tax

Administrator. If the person's gross receipts are less than \$250,000.00 no tax shall be due as provided in LC 4.506(2)

(4) The Tax Administrator may, for good and sufficient cause, grant extensions for filing returns, except that no extension may be granted for more than six (6) months beyond the initial due date. This extension does not extend the time to pay the tax.

(5) The Tax 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.

(6) The Tax Administrator shall also develop and make available any other forms necessary for the efficient administration of the tax collection process.

(7) The Tax Administrator is authorized to permit annual payments rather than quarterly payments for taxpayers whose taxes on a calendar year basis are low enough that in the sole opinion of the Tax Administrator annual collection is more cost effective for both the County and the taxpayer.

4.560. Application of Payments.

(1) Taxes received shall first be applied to any penalty, then to interest accrued, then to the tax due.

(2) Any payment of tax received by the Tax Administrator shall first be applied to underpayments of any tax due for any prior quarter of the tax year.

4.561. Interest.

(1) Interest shall be collected on any unpaid tax at the rate established under ORS 305.220 computed from the original due date of the tax to the fifteenth day of the month following the date of payment.

(2) If a person fails to file a tax return on the prescribed date, or any extension thereof granted under LC 4.559, the Tax Administrator may determine the tax based on the best information available to the Tax Administrator. If the Tax Administrator determines the tax due, the Tax Administrator shall assess appropriate penalties and interest and shall send notice to such person of the determination and assessment.

(3) Interest at the rate specified in LC 4.561(1) above shall accrue on unpaid taxes from their original due date without regard to any extension of the filing date.

(4) The Tax Administrator shall not waive payment of, or reduce any interest amounts properly assessed in accordance with this section unless the waiver or reduction is made in accordance with an administrative rule adopted by the Tax Administrator pursuant to LC 4.552(1) or LC 4.552(2) or is made in connection with the settlement of a controversy pursuant to LC 4.551(4).

(5) When, under a provision of the Lane County gross receipts tax code, a taxpayer is entitled to a refund of a portion or all of a tax paid to the Tax Administrator, no interest shall be paid if the refund is made within four months after the tax was paid. If the refund is made more than four months after the tax was paid the taxpayer shall receive simple interest on the amount refunded from the date which is four months after the tax was paid to the date on which the County sends the refund to the taxpayer.

4.562. Penalty

(1) A penalty shall be assessed if a person:

- (a) Fails to file a tax return or extension request at the time required under LC 4.559, or
- (b) Fails to pay a tax when due,
- (c) The penalty under LC 4.562(1) shall be calculated as:
 - (i) Five percent (5%) of the total tax liability, but not less than five dollars (\$5), if the filing or payment is late by less than four (4) months;
 - (ii) An additional penalty of twenty percent (20%) of the total tax liability if the filing or payment is late by four (4) months or more; and
 - (iii) An additional penalty of one hundred percent (100%) of the total tax liability if the filing or payment is late by three (3) or more tax years.

(2) In addition to the penalty described in LC 4.562(1), the Tax Administrator may impose a civil penalty of up to \$500 for each of the following violations of the tax:

- (a) Failure to file any tax return within ninety (90) days after the Tax Administrator gives notice pursuant to LC 4.558(3) to file;
- (b) Failure to pay any tax within ninety (90) days after the Tax Administrator gives notice that payment is required pursuant to LC 4.558(3); or
- (c) Failure to take any action required by the Tax Administrator that is specified in a notice given pursuant to LC 4.555 within ninety (90) days after that notice is given.

(3) The Tax Administrator may impose a civil penalty under LC 4.562(2) only if the Tax Administrator gave notice of the potential for assessment of civil penalties for failure to comply or respond in the original notice.

(4) The Tax Administrator may waive or reduce any penalty determined under LC 4.562(1) or 4.562(2) for good cause, according to and consistent with written policies.

(5) Violation of LC 4.554 is punishable, upon conviction thereof, by a fine not exceeding \$1,000 or by imprisonment for a period not exceeding twelve (12) months, or by both fine and imprisonment. In addition, any official or employee of the County convicted for violation of LC 4.554 shall be dismissed from employment and shall be barred from holding any position of employment or office for a period of five (5) years thereafter. Any agent of the County shall, upon conviction, be ineligible for participation in any County contract for a period of five (5) years thereafter.

GROSS RECEIPTS TAX OPTIONS

Option	Code Section	Tax Rate	Property Tax Relief \$1/1000	\$250,000 Exemption	Programs Included	FY06-07 Projected Program Costs	Net Tax Receipts	Workable Option Over 5 Years?
A	Delete LC 4.502(4), 4.506(2), last sentence 4.559(3)	0.14%	-	-	Task Force Only	\$24.5	626.5	Yes
B	Delete LC 4.506(2), last sentence of 4.559(3)	0.32%	Yes	-	TF + PS Depts	63.1	67.5	Yes
C	Delete LC 4.502(4)	0.15%	-	Yes	Task Force Only	24.5	27.0	Yes
D	As is	0.26%	Yes	Yes	Task Force Only	24.5	50.4	Yes
E	As is	0.34%	Yes	Yes	TF + PS Depts	63.1	67.7	Yes

FOOTNOTES:

Insert Tax Rate for option chosen in LC 4.503(1)

The Tax Rate builds in a modest allowance for exemptions, deductions, and rate differentials for future Board action.

Property Tax Relief is predicated upon renewal of the federal Secure Rural Schools & Community Self Determination Act of 2000.

Workable Options include sufficient revenue to cover all program and administrative costs over a five-year period, including uncollectibles.

The estimated cost to purchase 50 beds from a new Springfield Jail is \$1.5 mil. This cost is NOT included in the above matrix. To add this option, add 0.01% to the above rates and insert sum LC 4.503(1).

At right margin indicates changes
Bold indicates material being added
~~Strikethrough~~ indicates material being deleted
~~.500-.500~~

Lane Code
Chapter 4

4.105-4.105

TAXES

DIFFERENTIAL TAXES

4.500005 Definitions.

In addition to the general definitions included in LC 1.010, the following definitions apply:

Incorporated Cities. The area encompassed by the cities of Coburg, Cottage Grove, Creswell, Dunes City, Eugene, Florence, Junction City, Lowell, Oakridge, Springfield, Veneta, Westfir and any other city incorporated pursuant to ORS Chapter 221.

Special District. The area encompassed by any district, as defined in ORS 198.010-198.955, and duly organized under state law. *(Revised by Ordinance No. 9-95, Effective 11.3.95)*

4.505010 Geographic Tax Classification.

The Board may, upon making the findings required by LC 4.510 below, adopt a measure or refer a measure to the electors which provides a different tax burden on one class of taxpayers than is imposed upon another class of taxpayers. Any class of taxpayers so determined by the Board shall be identified on a geographical basis, and may include distinctions, as substantiated by the findings, among incorporated cities, special districts, and areas outside the boundaries of cities or districts. *(Revised by Ordinance No. 9-95, Effective 11.3.95)*

4.510015 Required Findings.

Any difference in tax burden imposed within separate geographic boundaries within Lane County, Oregon shall meet the following criteria:

(1) Differences in services to be provided in different geographic areas must be real and substantial.

(2) Geographic boundaries shall be drawn so that services provided within designated areas are qualitatively different from services provided within other geographical areas.

(3) Services provided within the different geographical areas must be unique.

(4) Any differences in tax burdens shall be based upon the actual costs of providing services and administration. *(Revised by Ordinance No. 9-95, Effective 11.3.95)*

LANE COUNTY TRANSIENT ROOM TAX

4.100 Title.

This subchapter may be referred to as the Lane County Transient Room Tax. *(Revised by Ordinance No. 8-73, Effective 9.14.73)*

4.105 Definitions.

In addition to the general definition included in LC 1.010, the following definitions apply:

LC 4.500 through 4.562 is all new text, so no legislative format is provided.