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Chapter 9

ENVIRONMENT AND HEALTH

SOLID WASTE POLICY AND AUTHORITY

9.005 Purpose and Authority.

(1) It is policy of Lane County to provide for safe and sanitary accumulation, storage, collection, transportation, disposal and recycling of solid waste, while providing opportunities for its citizens to recycle and divert waste or unwanted materials from the waste disposal stream.

(2) The regulations in this Chapter are established to:

(a) Prohibit and provide for abatement of accumulated solid waste on both public and private property in such a manner so as to prevent a public nuisance, hazard to health, or condition of unsightliness,

(b) Provide for the proper and lawful disposal of waste materials,

(c) Provide opportunities, education, and encouragement for recycling,

(d) Encourage coordinated solid waste collection, disposal, and recycling programs with the cities located in the County, and

(e) Comply with the requirements of applicable laws and regulations.

(3) In carrying out the County's policy, the Director is authorized to:

(a) Enforce the provisions of Lane Code 9.020 through 9.045,

(b) Require that haulers operating within the urban growth boundary of a city conduct their collection, hauling, and recycling operations in accordance with the rules adopted by that city,

(c) Establish such rules as are necessary, in the Director's judgment, to ensure that the County's policy and the requirements of Oregon laws and administrative rules are met, and

(d) To enforce such rules in accordance with this chapter, provided that:

(i) Such rules may not be adopted until the haulers have been notified of the proposed rules and given not less than 30 days' opportunity to comment, and

(ii) Written notice of adopted rules is provided to haulers, cities, and other known affected parties at the time of adoption. *(Revised by Ordinance No. 18-01, Effective 3.29.18)*

9.010 Definitions.

As used in Lane Code sections 9.005 through 9.117, the following words and phrases mean:

Director. The Director of the Lane County Department of Public Works.

Disposal Site. A location used for the lawful disposal or handling of solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, incinerators for solid waste delivered by the public or by a solid waste collection service, and composting plants.; The term disposal site does not include a Material Recovery Facility, a facility subject to the permit requirements of ORS 468B.050 or a landfill site not open to the public or a hauler that is used by a property owner or owner's agent to dispose of soil, rock, concrete or other similar non-decomposable material.

Division. The Waste Management Division of the Lane County Department of Public Works.

Enforcement Officer. A person authorized to enforce provisions of the Lane Code, as defined in LC 5.005(4).

Generator. A person within Lane County that produces municipal solid waste or that pays for municipal solid waste collection or disposal services, whether on that person's behalf or on behalf of another.

Hauler. A person engaged in the business of collecting, transporting or disposing of municipal solid waste generated within Lane County.

Manager. The Manager of the Waste Management Division of the Lane County Department of Public Works, or the Manager's authorized representative.

Material Recovery Facility. A facility permitted by the State of Oregon to accept non-source separated commercial waste for the purpose of extracting the recyclable fraction thereof.

Municipal Solid Waste. All Domestic Solid Waste delivered to any permitted Incinerator, Transfer Station or Municipal Solid Waste Landfill, as those terms are defined in OAR 340-093-0030, excluding:

- (a) Waste containing more than one percent asbestos by weight.
- (b) Inert wastes, as defined in OAR 340-093-0030(55), when used as landfill cover material.
- (c) Material delivered to a permitted construction and demolition landfill as defined in OAR 340-93-0030(27).
- (d) Infectious wastes as defined in OAR 340-93-0030(56).
- (e) Hazardous waste exempted from regulation under 40 CFR 261.4 (b)(1) and 40 CFR 261.5, when managed as hazardous waste.

Person. An individual or entity as defined in LC 1.010.

Program Elements. Those specific services required to promote and implement an opportunity to recycle, as provided in ORS 459A.007 and OAR 340-090-0040.

Putrescible Solid Waste. Organic material that can decompose and give rise to foul smelling and offensive products or attract vectors, as defined in OAR 340-93-0030(78).

Refuse. Rubbish, trash, garbage, vegetable and animal waste, ashes, waste household articles, and other materials ordinarily and customarily hauled off and placed in a dump or landfill.

Salvage. The practice of retrieving reclaimable materials, such as paper, metal, bottles, rags or other objects, from solid waste for the purpose of sale or other use.

Self-hauler. A person that transports municipal solid waste produced by that person in Lane County.

Solid Waste. All putrescible and nonputrescible wastes as defined in OAR 240-93-0030(91). Solid Waste does not include:

- (a) Hazardous waste as defined in ORS 466.005.
- (b) Materials used for fertilizer or for other productive purposes as defined in OAR 340-93-0030(91)(b).
- (c) Woody biomass fuel combusted in a licensed facility, as defined in OAR 340-93-0030(91)(c). *(Revised by Ordinance No. 5-92, Effective 6.3.92; 1-99, 6.25.99; 1-00, 4.12.00; 13-07, 1.11.08; 18-01, 3.29.18)*

REGULATIONS AND ENFORCEMENT

9.020 Illegal Dumping and Penalty

(1) Any person who throws, places, or disposes of, or directs or permits another person to throw, place, or dispose of refuse, electronic waste, yard debris, construction/demolition debris, or hazardous waste upon private land without the permission of the landowner, or upon public lands, public places, or in public waters, other than in receptacles provided for the purpose of collecting such waste, commits the violation of illegal dumping.

(2) A person is presumed to have participated in illegal dumping in violation of LC 9.020(1) where that person's name or other indicia of identity, indicia that would ordinarily denote a person's ownership of the item, such as a name or an addressee on an envelope, is found on an item that has been illegally thrown, placed, or disposed of on public or private land, or in public waters. A person may rebut this presumption by providing the County with evidence that establishes that the person was not likely responsible for the illegal dumping of the item in violation of LC 9.020(1).

(3) Illegal Dumping is a Class A violation. The presumptive fine for the violation of LC 9.020(1) is four hundred and thirty five dollars (\$435.00). However, fines associated with the violation of LC 9.020(1) may range from a minimum of two hundred and twenty dollars (\$220.00) to a maximum of two thousand dollars (\$2,000.00) depending on the severity and nature of the violation. Repeated violations may be subject to the maximum fine even if the individual violations are not severe. Fines are

to be determined by the enforcement officer at the time a violation is identified. *(Revised by Ordinance No. 13-07, Effective 1.11.08; 6-12, 11.17.12)*

9.022 Violation of Posted Restrictions of Use.

(1) A person commits the violation of posted restrictions of use of a County Road or Local Access Road or Public Works Facility if the person does any of the following:

(a) Enters or remains in a Public Works Facility, or on a Local Access Road or County Road and appurtenant right-of-way in violation of the terms of any posted County sign giving notice of the limits of use.

(b) Operates or parks, or causes to be operated or parked, any motor vehicle on a Local Access Road, County Road and appurtenant right-of-way or Public Works Facility in violation of the terms of any posted County sign giving notice of the limits of use.

(2) Definitions. For the purposes of this section 9.022, the following words and phrases have the following ascribed meanings:

Local Access Road. Any road as so defined in ORS 368.001(3) [2005 Ed.]

County Road. Any County road as defined in ORS 368.001 [2005 Ed.]

Posted Limits of Use. Any County sign duly posted at a Public Works Facility, Local Access Road or County Road giving notice of the Board of County Commissioners' order limiting hours, seasons or other conditions of use.

Public Works Facility. Any facility or property operated or managed by the Lane County Public Works Department or any Division thereof, including but not limited to solid waste disposal or transfer sites, road maintenance shops, materials stockpile sites, County parks, and open spaces or areas managed by the Public Works Department for the purpose of wetland or habitat mitigation or enhancement.

(3) Violation of LC 9.022 is a Class A violation. *(Revised by Ordinance No. 13-07, Effective 1.11.08)*

9.023 Non-Payment of Fees.

(1) A person commits the violation of non-payment of fees if the person knowingly fails to pay an established fee as required by LM 60.875 at any Lane County solid waste disposal or transfer site.

(2) A violation of LC 9.023(1) is a Class C violation. *(Revised by Ordinance No. 13-07, Effective 1.11.08)*

9.024 Destruction of Public Property.

(1) Other than duly authorized County employees or agents in the performance of their duties, a person commits the violation of destruction of public property where the person, defaces, damages, destroys or removes a County structure, sign, equipment, facility, plant, tree, wood, soil, gravel, sand, or other substance.

(2) Violation of LC 9.024(1) is a Class A violation. *(Revised by Ordinance No. 13-07, Effective 1.11.08)*

9.026 Interference with Official Duties.

(1) A person commits the violation of interference with official duties if the person obstructs, harasses or interferes with the official duties of an Enforcement Officer.

(2) Violation of LC 9.026(1) is a Class A violation. *(Revised by Ordinance No. 13-07, Effective 1.11.08)*

9.027 Failure to Identify.

(1) A person commits the violation of failure to identify if the person refuses to disclose their identity to an enforcement officer who requests the identification for the purpose of investigating or issuing a violation citation.

(2) Violation of LC 9.027(1) is a Class A violation. *(Revised by Ordinance No. 13-07, Effective 1.11.08)*

9.028 False Information.

- (1) A person commits the violation of giving false information to an enforcement officer if the person knowingly uses or gives a false or fictitious name, address or date of birth to any enforcement officer.
- (2) A violation of LC 9.028(1) is a Class A violation. *(Revised by Ordinance No. 13-07, Effective 1.11.08)*

9.030 Disposal - Public Place; Private Property.

- (1) No person shall place, throw, deposit or otherwise dispose of solid waste in any public place, public road, public park, or on any private property, or in the waters within the County, except as provided in LC 9.030(2), at the official disposal sites provided by the County or at other disposal sites which have been approved by all appropriate regulatory agencies.
- (2) No owner or occupant of private property shall deposit, accumulate, or permit to be deposited or accumulated, putrescible solid waste upon such private property for a period in excess of seven days. Storage of putrescible solid waste shall be in public or private litter receptacles, approved by the Health Officer, or in garbage cans or in securely tied bundles. *(Revised by Ordinance No. 5-92, Effective 6.3.92)*

9.035 Solid Waste Hauling.

No person shall transport or carry solid waste in or on a motor vehicle or trailer, upon a public road in the County, unless such solid waste is either:

- (1) 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
- (2) Securely tied to the body of such motor vehicle or trailer so that no piece, article, item or part of such solid waste is not fastened to the body of such motor vehicle or trailer.
- (3) Contained in the body of the transport vehicle in such a way as not to cause any part of the hauled solid waste to be deposited upon any roadway or driveway in the County. *(Revised by Ordinance No. 5-92, Effective 6.3.92; 18-01, 3.29.18)*

9.040 Deposits Prohibited.

Except under conditions specified by the Manager, no person shall place, deposit or dump, or cause to be placed, deposited or dumped, into any disposal facility at any disposal site, any of the following materials:

- (1) Hot ashes or other burning material;
- (2) Sewage sludge, offal or the contents of septic tanks and pit privies;
- (3) Auto bodies or vehicle tires;
- (4) Animal carcasses;
- (5) Explosives, carbides, chemicals, drugs, and other materials considered to be dangerous;
- (6) Household appliances (refrigerators, stoves, washing machine, dryer, etc.);
- (7) Motor oil;
- (8) Computer monitors and CPUs, laptops, and televisions;
- (9) Lead acid batteries; and
- (10) Tires. *(Revised by Ordinance No. 18-01, Effective 3.29.18)*

9.045 Salvage and Other Orders by Manager.

- (1) No person shall salvage at disposal sites unless specifically authorized in writing by the Manager.
- (2) A person using Lane County disposal sites shall obey all orders of the Manager, Director, and site attendant given for the purpose of carrying out this chapter. *(Revised by Ordinance No. 18-01, Effective 3.29.18)*

9.050 Failure to Comply.

Failure to comply with any of the requirements of LC 9.030 through 9.115 may be subject to administrative enforcement as provided by LC Chapter 5. Failure to comply with a license or other discretionary permit approval issued pursuant to the requirements of any of the sections of this chapter is also subject to administrative enforcement pursuant to LC Chapter 5. *(Revised by Ordinance No. 18-01, Effective 3.29.18)*

URBAN GROWTH AREA RECYCLING REGULATIONS

9.060 Urban Growth Area Recycling Regulations.

(1) Any person or company providing collection of refuse for a fee (or exchange of value) within the area between the city limits and the urban growth boundary (UGB) of any city with a population of 4,000 or greater in Lane County must:

(a) Provide residential and commercial customers with the same program elements adopted by the particular city within each UGB, and comply with the applicable requirements of ORS chapter 459A and OAR chapter 90,

(b) On November 1 of each year, provide to the Division for approval a description of the person or company's proposed plan for compliance with the requirements of each applicable program element contained in OAR 340-090-0040(3). Collection service providers may also use this plan to propose and seek approval for alternate methods of complying with 9.060(1)(a).

(c) For all educational materials to be provided to customers, provide a copy of the materials to the Division for approval not less than 30 days prior to distribution, and

(d) Provide an annual report, in a form acceptable to the Division, demonstrating compliance with the approved plan.

(2) In addition to the requirements of LC 9.115(1), any person or company providing collection of refuse for a fee (or exchange of value) within the area between the city limits and the UGB of any city with a population of 50,000 or greater in Lane County must:

(a) If requested by the County, provide a copy of its residential refuse collection service rate schedule, which will be handled by the County as confidential information pursuant to OAR 340-090-0120,

(b) Deliver all loads of construction and demolition debris containing recyclables and 10 cubic yards or greater in size to a material handling facility for sorting, and

(c) Offer and provide recycling collection services to all multifamily properties with 5 or more housing units, as provided in OAR 340-090-0040(3)(d). In the event that the particular city within the UGB requires recycling collection services for multifamily properties of fewer than 5 units, the services within the UGB must be the same as provided in the city.

(3) Failure to comply with any of the above provisions is a Class 1 failure to comply. *(Revised by Ordinance No. 18-01, Effective 3.29.18)*

SOLID WASTE SYSTEM BENEFIT FEE

9.080 Solid Waste System Benefit Fee.

(1) A Solid Waste System Benefit Fee is imposed for solid waste Management Services provided by the Division. The fee is assessed against the weight of any municipal solid waste generated inside Lane County, and the fee will be collected by the Division from the hauler of such waste. The Fee is a user fee charged to all solid waste generators in Lane County for the provision of services including, but not limited to, waste reduction and recycling services, special and household hazardous waste services and the user convenience/transfer station system.

(2) The Board will establish or adjust the amount of the Fee by Order, which will not exceed the estimated reasonable costs for the County's provision of these services. The Order must state the effective date of the established or adjusted Fee, which may not be less than 30 days after the adoption of the Order. *(Revised by Ordinance No. 1-99, Effective 6.25.99; 18-01, 3.29.18)*

9.085 Solid Waste System Benefit Fee Collection, Remittance, and Reporting.

(1) Collection. For municipal solid waste collected within Lane County and disposed of at County facilities, the Fee will be collected at the disposal facility in the same manner as the disposal fees.

(a) A person hauling its own waste to a disposal site or facility operated by Lane County must pay the Solid Waste System Benefit Fee at the time that disposal fees are paid.

(b) A hauler disposing of municipal solid waste collected within Lane County and disposed of at non-county facilities, must remit the appropriate Solid Waste System Benefit Fee to the County based on the number of tons collected within Lane County. Any municipal solid waste collected outside of Lane County and disposed of at County facilities is not subject to the Fee.

(2) Reporting. Each hauler subject to the Fee must complete a Solid Waste System Benefit Fee report in accordance with instructions and on forms provided by the Division. The report, accompanied by any required payment, must be submitted on or before the 25th day of the month for the preceding month's disposal quantities. The report form may include, but is not limited to, total gross billings and receipts for all collection and disposal services performed within the County, the number of residential and non-residential generators within the hauler's service area, the number of tons collected within the service area and disposed of within and outside the County, and other such information as requested by the Division.

(3) Remittance. Each hauler subject to the Fee for wastes collected within Lane County and disposed of at non-County facilities must remit payment with the monthly report. The Manager may, upon written request of a hauler, allow payment to be made on a different date to accommodate the hauler's billing practices.

(4) Billing Notice. Each hauler subject to the Fee must incorporate in each of its billings sent to Lane County waste generators, the statement with the current fee amount included:

"This billing includes a \$___ per ton Lane County Solid Waste System Benefit Fee charged to all waste generators in Lane County for County-provided waste reduction and recycling, special and household hazardous waste and user convenience/ transfer station services." *(Revised by Ordinance No. 1-99, Effective 6.25.99; 18-01, 3.29.18)*

9.090 Calculation of Solid Waste System Benefit Fee.

If the Manager determines, after review of the Solid Waste System Benefit Fee report, or upon failure of a hauler to submit the Solid Waste System Benefit Fee report, that the hauler has not supplied appropriate information, the Manager may recalculate the hauler's Solid Waste System Benefit Fee in accordance with this subsection. If the Manager finds that the information supplied by the hauler is inaccurate, incomplete or understated, the Manager may, at his or her sole discretion, determine an appropriate amount for the Solid Waste System Benefit Fee due from the hauler. The Manager shall send the hauler a notice, by certified mail, setting forth the recalculated Solid Waste System Benefit Fee amount. The notice shall include a statement of the reasons why the Solid Waste System Benefit Fee has been recalculated. The Manager may base the recalculation on information in County records or on any data currently or previously supplied by the hauler. The written notice shall be deemed received by the hauler three (3) days after the date of mailing, and payment shall be due within ten (10) days of receipt unless appealed. Upon receipt of the notice, the hauler shall have seven (7) days in which to respond. The hauler may, within the seven day response period, request a meeting with the Manager to appeal the amount of the recalculated Solid Waste System Benefit Fee. The Manager shall issue and mail, by certified mail, a written decision to the hauler within three (3) days following such a meeting, and any fees due per the Manager's decision shall be payable within ten (10) days of the Manager's decision. *(Revised by Ordinance No. 1-99, Effective 6.25.99; 18-01, 3.29.18)*

9.095 Examination of Records.

The Manager shall have the right to examine records, including access to computer records, maintained by a hauler. The term "record" shall include, but is not limited to, all accounts of a hauler. The Manager shall be allowed access at all reasonable times to inspect and copy at reasonable cost all business records related to a hauler's collection, transportation and disposal of solid waste to the extent necessary to ensure that all fees required to be collected or paid have been remitted to the Division. Such records shall be maintained by the hauler for no less than six (6) years. *(Revised by Ordinance No. 1-99, Effective 6.25.99; 18-01, 3.29.18)*

9.100 Confidential Character of Information Obtained.

To the extent permitted by law, the Manager or any person having an administrative or clerical duty under the provisions of LC 9.040 through 9.070 shall not disclose or 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 file a Solid Waste System Benefit Fee report, 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. Provided that nothing in this subsection shall be construed to prevent:

(1) The disclosure to, or the examination of records and equipment by another Lane County official, employee or agent for collection of fees for the sole purpose of administering or enforcing any provision of this sub-chapter; or collecting fees imposed hereunder.

(2) The disclosure, after the filing of a written request to that effect, to the fee payer himself or herself, receivers, trustees, executors, administrators assignees, and guarantors, if directly interested, of information as to any paid fees, any unpaid fees or amount of fees required to be collected, or interest and penalties, further provided, however, that the County Counsel approves each such disclosure and that the Manager may refuse to make any disclosure referred to in this paragraph when in his or her opinion the public interest would suffer thereby.

(3) The disclosure of general statistics regarding fees collected or business done in the County or portion thereof.

(4) Necessary disclosures in connection with appeals or forced collections as provided in LC 9.040 through 9.070. *(Revised by Ordinance No. 1-99, Effective 6.25.99; 1-00, 4.12.00; 18-01, 3.29.18)*

9.105 Collection Actions.

Exercise of any remedy by the County under LC 9.040 through 9.070 does not preclude exercise of other remedies.

(1) If a hauler has failed to remit Solid Waste System Benefit Fees to the County in a timely manner, the County may use any available legal remedy to collect the overdue, unpaid Solid Waste System Benefit Fee from the hauler.

(2) If a self-hauler fails to pay the Solid Waste System Benefit Fee to the County in a timely manner, the County may use any available legal remedy to collect the unpaid Solid Waste System Benefit Fee from the self-hauler. *(Revised by Ordinance No. 1-99, Effective 6.25.99; 1-00, 4.12.00; 18-01, 3.29.18)*

9.110 Failure to Comply.

Any person who hauls municipal solid waste and willfully or negligently fails to bill, fails to collect or fails to pay or remit to the Division the Solid Waste System Benefit Fee commits a failure to comply with LC 9.080 through 9.105. Failure to comply with any of the requirements of LC 9.080 through 9.105 shall be subject to administrative enforcement pursuant to LC Chapter 5.

LC 9.067 shall not preclude prosecution for any other violations, misdemeanors or felonies under Oregon law committed by such person while hauling municipal solid waste. The provisions of LC 9.040 through 9.070 are cumulative and are additional limitations upon all other laws and ordinances. The County may recover costs, including staff and other related costs, incurred to enforce compliance with the provisions of LC 9.040 through 9.070. *(Revised by Ordinance No. 1-99, Effective 6.25.99; 1-00, 4.12.00; 18-01, 3.29.18)*

9.115 Injunctive Relief.

The County may institute appropriate actions or proceedings, including application for injunctive relief, action to compel performance or other appropriate actions to prevent, restrain, correct or abate any violation or threatened violation of LC 9.040 through 9.070. *(Revised by Ordinance No. 1-99, Effective 6.25.99; 1-00, 4.12.00; 18-01, 3.29.18)*

RESTRICTION ON USE OF SOLID FUEL SPACE HEATING DEVICES

9.120 Purpose and Findings.

(1) The health, safety and welfare of the citizens of Lane County are adversely affected by the degradation of air quality. Violations of federal ambient air quality standards, as measured by the Lane Regional Air Protection Agency (LRAPA), occur periodically in Lane County.

(2) Wood and other solid fuel combustion for space heating produces particulate matter and other emissions which are physically harmful and aesthetically unpleasant, and which contribute to the degradation of air quality and the violation of federal ambient air quality standards.

(3) Periodic restriction of the use of solid fuel space heating devices will improve air quality. LRAPA has the expertise to determine when such air quality is at such a level that such restriction is necessary to preserve the health, safety and welfare of the citizens of Lane County.

(4) It is the intent of Lane County that the penalty section of this ordinance not take effect until November 1, 1991. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 1-10, 6.11.10)*

9.125 Definitions.

As used herein, the following words and phrases have the meanings ascribed:

Green Advisory for Eugene-Springfield Area. A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be less than 100 micrograms per cubic meter and PM2.5 levels are forecast to be less than 25 micrograms per cubic meter, within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

Green Advisory for Oakridge Area. A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be less than 100 micrograms per cubic meter and PM2.5 levels are forecast to be less than 20 micrograms per cubic meter, within the Oakridge Urban Growth Boundary.

Lane Regional Air Protection Agency. A regional air quality control authority established under the provisions of and with the authority and powers derived from ORS 468.500 et seq. (renumbered 468A.100 through 468A.180 in 1991)

Opacity. The degree to which an emission reduces transmission of light or obscures the view of an object in the background.

Pellet Stove. An enclosed solid fuel space heating device designed and operated to burn manufactured solid fuel and having an air-to-fuel ratio greater than 35-to-1 as determined by the federal test method described in 40 CFR Part 60.534

Person. Any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character.

Person in Charge of Property. An owner, agent, occupant, lessee, tenant, contract purchaser, or other person having possession or control of property.

PM2.5. Solid or liquid particulate matter (excluding uncombined water) with an aerodynamic diameter less than or equal to 2.5 micrometers.

PM10. Solid or liquid particulate matter (excluding uncombined water) with an aerodynamic diameter less than or equal to 10 micrometers.

Sole Source of Heat. A solid fuel space heating device which constitutes the only source of heating in a private residence. A solid fuel space heating device shall not be considered to be the sole source of heat if the private residence is equipped with any permanently-installed furnace or heating system utilizing oil, natural gas, electricity or propane.

Solid Fuel Space Heating Device. Any device designed or operated to burn solid fuel for the heating of the interior of a building, including, but not limited to, solid fuel burning stoves, fireplaces or wood stoves of any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel, and solid fuel burning cooking stoves. "Solid fuel space heating device" does not include natural gas-fired artificial fireplaces.

Red Advisory:

Eugene-Springfield Area. A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to 125 micrograms per cubic meter, or when PM2.5 levels are forecast by LRAPA to be greater than or equal to 30 micrograms per cubic meter within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

Oakridge Area. A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to 125 micrograms per cubic meter, or when PM2.5 levels are forecast by LRAPA to be greater than or equal to 25 micrograms per cubic meter within the Oakridge Urban Growth Boundary.

Visible Emissions. The reduction in transmission light or the obscuring of the view of an object in the background caused by the air pollutants emitted by the heating device. This does not include the visual distortion caused by the heated air emitted by the heating device.

Yellow Advisory:

Eugene-Springfield Area. A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to 100 micrograms per cubic meter but less than 125 micrograms per cubic meter, or when PM2.5 levels are forecast to be greater than or equal to 20 micrograms per cubic meter but less than 25 micrograms per cubic meter, within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

Oakridge Area. A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to 100 micrograms per cubic meter but less than 125 micrograms per cubic meter, or when PM2.5 levels are forecast to be greater than or equal to 25 micrograms per cubic meter but less than 30 micrograms per cubic meter, within the Oakridge Urban Growth Boundary. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 1-00, 4.12.00; 13-03, 10.23.03; 1-10, 6.11.10; 16-10, 2.9.17)*

9.130 Area of Applicability.

These Lane Code sections 9.120 through 9.150 apply to the unincorporated areas within the Eugene, Springfield, and Oakridge Urban Growth Boundaries. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 13-03, 10.23.03; 16-10, 2.9.17)*

9.135 Prohibitions.

(1) Red Advisory. A person in charge of property violates this section 9.135(1) if the person during a Red Advisory operates or allows to be operated a solid fuel space heating device which emits visible emissions into the air outside of the building housing the device unless the person in charge of the property has been granted an exemption to use the device by LRAPA.

(2) Visible Emissions Limitations for Eugene-Springfield Area. A person in charge of property violates this section 9.135(2) if the person operates or allows to be operated a solid fuel space heating device which discharges emissions that are of an opacity greater than forty (40) percent. This provision does not apply to the emissions during the building of a new fire, for a period or periods aggregating no more than ten (10) minutes in any four (4) hour period.

(3) Visible Emissions Limitations for Oakridge Area. A person in charge of property violates this section 9.135(3) if the person operates or allows to be operated a solid fuel space heating device which discharges emissions that are of an opacity greater than twenty (20) percent. This provision does not apply to the emissions during the building of a new fire, for a period or periods aggregating no more than ten (10) minutes in any four (4) hour period.

(4) Prohibited Materials. A person in charge of property violates this section 9.135(4) if the person at any time allows to be initiated or maintained in a solid fuel space heating device the burning of any plastics, wire insulation, petroleum by-products (with the exception of natural-gas-fueled log lighters), petroleum treated materials, rubber products, animal remains, or animal or vegetable matter resulting from the handling, preparation, cooking, or service of food, or of any other material which normally emits dense smoke, noxious odors, or hazardous air contaminants. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 1-00, 4.12.00; 13-03, 10.23.03; 16-10, 2.9.17)*

9.140 Exemption for Economic Need.

Exemption from LC 9.135 above for Red Advisories may be obtained from LRAPA for economic need. Persons in charge of property who satisfy criteria established under the Low Income Energy Assistance Program as administered by the Lane County Housing Authority and as established by the United States Department of Energy are exempt from LC 9.135 above for Red Advisories. Individual exemptions shall expire on July 1 of each year and must be renewed annually. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 1-00, 4.12.00; 16-10, 2.9.17)*

9.145 Enforcement.

The Board of County Commissioners designates LRAPA and delegates to LRAPA authority to enforce the prohibitions contained herein. The investigation, initiations of proceedings, adjudication of a failure to comply and appeal of such are regulated by the adopted administrative and hearing procedures of LRAPA set forth in its Rules and Regulations.

The County retains the right to investigate and enforce the terms of this ordinance. Existing citation, complaint, violation, or failure to comply procedures applicable to the County may be utilized to prosecute such failures to comply. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 1-00, 4.12.00; 16-10, 2.9.17)*

9.150 Penalties.

A person who violates any provision of LC 9.135 above is subject to administrative enforcement pursuant to LC Chapter 5, including a monetary penalty of a minimum of \$50 to a maximum of \$500 for each day in which such failure to comply occurs. This remedy is cumulative and is in addition to any and all other remedies available to Lane County. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 1-00, 4.12.00; 16-10, 2.9.17)*

**REGULATIONS OF TRAVELERS' ACCOMMODATIONS, RECREATION PARKS,
ORGANIZATIONAL CAMPS, PUBLIC SWIMMING POOLS AND BATHHOUSES,
RESTAURANTS, COMMISSARIES, MOBILE UNITS AND VENDING MACHINES**

9.200 Purpose.

LC 9.200 through 9.215 are adopted for the purpose of accepting the delegation by the Administrator of the Oregon State Health Division of said Administrator's authority, responsibilities and functions relating to the regulation of travelers' accommodations, recreation parks, organizational camps, public swimming pools and bathhouses, restaurants, commissaries, mobile units and vending machines, pursuant to ORS 446.425, 448.100 and 624.510. *(Revised by Ordinance No. 7-76, Effective 7.9.76; 1-00, 4.12.00)*

9.205 Definitions.

For the purposes of this sub-chapter, the following words and phrases shall mean:

County. The Lane County Department of Health and Human Services.

Director. The Director of the Lane County Department of Health and Human Services or said Director's delegated representative.

Rules. The rules and regulations of the Oregon State Health Division, as adopted in LC 9.210. *(Revised by Ordinance No. 7-76, Effective 7.9.76; 1-00, 4.12.00)*

9.210 Adoption of the Rules of the Oregon State Health Division.

The rules and regulations of the Oregon State Health Division pertaining to the fee collection, licensing, inspections, enforcement, issuance and revocation of permits and certificates pursuant to ORS Chapter 446, 448.005, 624.010 through 624.510, 624.990 and 624.992 as now or hereafter constituted are hereby adopted as part of this sub-chapter and incorporated herein. *(Revised by Ordinance No. 7-76, Effective 7.9.76; 1-00, 4.12.00)*

9.215 Enforcement of Rules of the Oregon State Health Division.

The County shall utilize all available means necessary to enforce the applicable statutes and rules relating to the regulation of travelers' accommodations, recreation parks, organizational camps, public swimming

pools and bathhouses, restaurants, commissaries: mobile units and vending machines adopted in LC 9.210 and to eliminate conditions endangering the public health existing in these activities.

The Director shall administer the programs necessary to enforce the rules of the Oregon State Health Division and shall conduct administrative hearings for permit, license and certificate denial, suspension or revocation as required by those rules. *(Revised by Ordinance No. 7-76, Effective 7.9.76)*

MINIMUM STANDARDS OF FITNESS FOR RENTAL OCCUPANCY

9.300 Purpose and Scope.

(1) The provisions of this chapter are minimum standards adopted for the protection of the health, safety and welfare of the inhabitants of Lane County, and apply to dwellings or premises which are rented, leased sublet, or hired out by the owner. These provisions shall be liberally construed to carry out this purpose.

(2) Unless otherwise specifically provided in LC 9.400, each provision of LC 9.300 through 9.390 herein applies to all dwellings or portions thereof, used, designed, or intended to be used for human habitation.

(3) Any remedy provided in LC 9.300 through 9.390 herein shall not be construed to be exclusive of any other remedy provided by law.

(4) Fees for services rendered in connection with enforcement of LC 9.300 through 9.390 herein may be established by separate order of the Board of County Commissioners. *(Revised by Ordinance No. 20-72, Effective 10.13.72; 6-76, 5.7.76; 1-00, 4.12.00)*

9.305 Definitions.

(1) County means the Lane County Department of Public Works, which is responsible for the administration and enforcement of LC 9.300 through 9.390 herein.

(2) Dwelling means an enclosed space that is wholly or partly used, or intended to be used, for living or sleeping by human occupants. It includes all hotels, lodging houses and manufactured dwellings as defined in ORS 446.003, and all dwelling units and guest rooms therein and premises thereof.

(3) Dwelling Unit means any room or group of rooms located in a dwelling and forming a single habitable unit with facilities that are used, or intended to be used, for living, sleeping, cooking and eating.

(4) Garbage means animal and vegetable waste resulting from the handling, preparation, cooking, serving and non-consumption of food.

(5) Guest means a person hiring and occupying a room for living or sleeping purposes.

(6) Guest Room means a room or rooms used, or intended to be used, by a guest for living or sleeping purposes.

(7) Habitable Room means a room or enclosed floor space used or intended to be used, for living, sleeping, cooking, or eating purposes; excluding such enclosed spaces as closets, pantries, bath or toilet rooms, service rooms, connecting corridors, laundries, foyers, storage spaces, utility rooms and similar spaces.

(8) Occupant means any person living, sleeping, cooking or eating in a dwelling.

(9) Ordinary Minimum Winter Conditions means 15 degrees Fahrenheit above the lowest temperature recorded for the area during the preceding ten-year period.

(10) Owner means an owner of the freehold of the premises, assignee of rents, receiver, executor, trustee, or any other person directly or indirectly in control of a dwelling.

(11) Rubbish means non-putrescible solid wastes consisting of either of the following:

- (a) Combustible wastes such as paper, cardboard, plastic containers, yard clippings and wood.
- (b) Noncombustible wastes such as tin cans, ashes, glass and crockery.

(12) Window is an opening in a wall expressly for the purpose of admitting light and/or ventilation to the structure and includes a skylight, monitor, glazed door, transom, glass block panel or other light transmitting medium. *(Revised by Ordinance No. 20-72, Effective 10.13.72; 6-76, 5.7.76; 1-00, 4.12.00)*

9.310 Water.

(1) Every dwelling shall have supplied water-heating facilities which are properly installed, are maintained in compliance with ORS 447.010 through 447.145 and the regulations promulgated thereunder, and are capable of heating water to such a temperature and in sufficient quantity to permit an adequate amount of water to be drawn at every sink, washbasin, bathtub or shower at a temperature of not less than 120 degrees Fahrenheit.

(2) Water used in a dwelling shall be supplied from a community water system, or otherwise from a source approved by the County.

(3) A water supply for a dwelling shall be kept free from contamination by a source of water unfit for human consumption and from connection to a drainage system or other secondary water system.

(4) Every kitchen sink, lavatory and bathtub or shower required under the provision of LC 9.315 and 9.320 shall be properly connected to both hot and cold water lines. *(Revised by Ordinance No. 20-72, Effective 10.13.72; 1-00, 4.12.00)*

9.315 Sanitary Plumbing Fixtures.

(1) Every dwelling unit shall have access to a water closet and a lavatory in good working order within a room which affords privacy to a person within such room. However, a pit privy approved by the County shall satisfy the provisions of this section if the public health will not be endangered thereby.

(2) Every dwelling unit shall have access to a bathtub or shower in good working condition within a room which affords privacy to a person within such room.

(3) In dwellings containing one or more guest rooms, there shall be provided a minimum of one water closet, lavatory, and bathtub or shower for every eight guests or fractional number thereof.

(4) All sanitary plumbing fixtures shall be properly connected to a community sewage system, if available, or otherwise to a satisfactory operating sewage system approved by the County. *(Revised by Ordinance No. 20-72, Effective 10.13.72)*

9.320 Kitchen Sink.

Every dwelling unit shall contain a kitchen sink supplied with an adequate amount of heated and unheated safe and potable water and connected to a community or private sewage system approved by the County. In addition, each kitchen must contain counter work space and adequate space for installing an approved cooking appliance. *(Revised by Ordinance No. 20-72, Effective 10.13.72)*

9.325 Plumbing Fixtures.

All water lines, plumbing fixtures, plumbing stacks, vents, drains and waste and sewer lines shall be properly installed, connected and maintained, shall be free from obstructions, leaks and defects and shall be capable of performing their intended function. *(Revised by Ordinance No. 20-72, Effective 10.13.72)*

9.330 Heating Facilities.

Every dwelling unit and guest room shall be provided with heating facilities that are properly installed, are maintained in safe and good working condition, and are capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments located therein to a temperature of 70 degrees Fahrenheit at a point three feet above floor level under ordinary minimum winter conditions. No unvented, open flame heater shall be permitted. *(Revised by Ordinance No. 20-72, Effective 10.13.72)*

9.335 Electric Service.

When electric service is available from a power line not more than 300 feet from a dwelling, every habitable room shall contain at least two separate wall-type electric convenience outlets, or one such convenience outlet and one ceiling or wall-type electric light fixture, however, each room including the water closet compartment, bathroom, laundry room, heating equipment area and exit shall have a minimum of one light fixture. Every such outlet and fixture shall be properly installed, shall be

maintained in good and safe working condition, and shall be connected to the source of electric power in a safe manner. No temporary wiring shall be used. No fixture cords shall lie under rugs or other floor coverings, nor extend through doorways, transoms, or other openings through structural elements. *(Revised by Ordinance No. 20-72, Effective 10.13.72)*

9.340 Lighting, Ventilation and Egress.

(1) Every sleeping room shall have at least one window facing outdoors which can be easily opened from the inside to provide a clear opening of not less than 13 inches in its least dimension and 400 square inches in area.

(2) A bathroom, washroom and room with a water closet shall be well lighted and ventilated, either by window and vent or artificial light and forced air ventilation. *(Revised by Ordinance No. 20-72, Effective 10.13.72)*

9.345 Rubbish and Garbage.

(1) Every dwelling shall be equipped with an adequate number of rubbish containers for the clean, safe, and sanitary storage of rubbish, or an adequate rubbish disposal system.

(2) Every dwelling unit shall be equipped with adequate facilities for the clean, safe and sanitary storage of garbage. These facilities may consist of a sufficient number of garbage containers, or an adequate mechanical garbage disposal unit in the kitchen sink of the dwelling unit, or an incinerator system approved by Lane Regional Air Pollution Authority serving the entire building, or any combination of the above facilities. The garbage containers shall be rat proof, insect proof and water tight.

(3) As well as providing garbage and rubbish disposal facilities or containers, all landlords and/or owners of apartment buildings of 3 or more dwelling units shall be required to provide for the removal of these containers from the premises at least every seven days. *(Revised by Ordinance No. 20-72, Effective 10.13.72)*

9.350 Structure.

The foundation, exterior wall, roof and other exterior surfaces of a dwelling shall be maintained in good condition and repair, structurally sound, free from holes, breaks, loose or rotting boards or timbers and such other conditions that might admit rain, dampness, rodents, vermin, harmful insects or other harmful pests to the interior portions of the wall or into the dwelling. Roof drainage shall be adequate to prevent rain water from causing dampness in the walls or interior portion of a dwelling. *(Revised by Ordinance No. 20-72, Effective 10.13.72)*

9.360 Continuation of Services.

An owner or operator of a dwelling shall not cause a service, facility, equipment or utility required by these minimum standards to be shut off, removed or discontinued from any occupied dwelling, except as may be necessary while an actual repair or alteration is in progress or during an emergency when discontinuance of service is approved by the County.

In the event that any service or utility which the owner or operator has agreed to supply is discontinued, the owner or operator shall take immediate steps to cause the restoration of such service or utility. *(Revised by Ordinance No. 20-72, Effective 10.13.72)*

9.365 Responsibilities of Owners and Occupants.

The owner of a dwelling is responsible for maintaining the dwelling in compliance with the requirements of these minimum standards, except that an occupant is exclusively responsible for:

(1) Using properly every item, facility, piece of equipment or utility provided by the owner for occupant's exclusive use or the exclusive use of the occupant and his family.

(2) Storing rubbish, garbage and other refuse in the temporary storage facilities required by LC 9.345 and providing for removal of same from the premises at least every 7 days except in cases where the owner has agreed to provide these same services, or as provided by LC 9.345(3).

(3) Exterminating or eliminating rodents, infestations of insects, vermin and other pests and their harborages, except termites, when they exist in a single dwelling unit or guest room only or only in other parts of a dwelling provided for his exclusive use or the exclusive use of his family, if the dwelling unit or guest room was free from rodents or infestation at the beginning of his occupancy or at any time thereafter.

(4) Any violation of LC 9.310 through 9.360 caused by a willful act or negligence by the occupant, a member of his family, or his guests. *(Revised by Ordinance No. 20-72, Effective 10.13.72; 1-00, 4.12.00)*

9.370 Lease of Dwellings.

An owner of a dwelling shall not rent, sublet, lease, hire out, or continue to rent, sublet, lease or hire out a dwelling, dwelling unit or guest room unless it complies with the requirements of LC 9.310 through 9.365. *(Revised by Ordinance No. 20-72, Effective 10.13.72; 1-00, 4.12.00)*

9.375 Inspection.

(1) The County has the authority to inspect any dwelling or portion thereof for any violation of LC 9.310 through 9.370.

(2) An inspection shall only be conducted at reasonable times and upon presentation of proper credentials.

(3) An inspection shall be solely for purposes of enforcing these minimum standards and other laws and ordinances related to the maintenance of dwellings. *(Revised by Ordinance No. 20-72, Effective 10.13.72; 1-00, 4.12.00)*

9.380 Request for Inspection.

(1) An owner or occupant of a dwelling may request an inspection by the County of the dwelling or premises he owns or occupies. Upon receiving the request, the County shall inspect the dwelling and give a written report thereon to the requester within five judicial days of the request. The report shall state the portion of the dwelling inspected and shall describe any existing violations of the provisions contained in LC 9.310 through 9.370.

(2) In instances where the owner of a unit or the landlord requests an inspection he will be required to notify the tenant that such request has been made. *(Revised by Ordinance No. 20-72, Effective 10.13.72; 1-00, 4.12.00)*

9.385 Actions by County.

If any person fails to comply with LC 9.310 through 9.370, the County shall give written notice to the party responsible under these minimum standards within three judicial days. Such person, whether owner or occupant, shall be ordered to correct such condition. The County shall set the time limit within which the failure to comply must be corrected, taking into consideration the difficulty of repair and the danger to the health and safety of the occupant or occupants. In no instance shall such time period exceed 30 days without express permission of the County. Any failure to comply with these provisions shall be subject to administrative enforcement pursuant to LC Chapter 5. *(Revised by Ordinance No. 20-72, Effective 10.13.72; 1-00, 4.12.00)*

9.390 Entry into Dwellings by Inspector.

(1) An owner of a dwelling who rents, or allows to be rented or leased, dwelling units or guest rooms therein, is deemed to have consented to the inspection of the building, structure, or premises at reasonable times by an inspector or team of inspectors for purposes of enforcing this chapter. An inspector or team of inspectors, on presentation of proper credentials, have the right against such an owner to enter and inspect the rented or leased premises at reasonable times.

(2) If such entry is refused, the inspector or his authorized representative shall have recourse to every remedy provided by law to secure entry. *(Revised by Ordinance No. 20-72, Effective 10.13.72; 1-00, 4.12.00)*

9.400 Exemptions.

(1) None of the provisions of LC 9.300 through 9.400 shall apply to dwellings located wholly within the boundaries of any incorporated cities within Lane County.

(2) LC 9.300 through 9.390 shall apply only to dwellings or premises which are rented, leased, let sublet, or hired out by the owner.

(3) LC 9.300 through 9.390 shall not apply to any tent, trailer, mobile home or other structure used for recreational purposes that is designed to be transportable and is not attached to the ground, to another structure, or to any utility system on the same premises for not more than 30 consecutive days.

(4) LC 9.315 does not apply to mobile homes in mobile home parks as defined in ORS 446.003. *(Revised by Ordinance No. 20-72, Effective 10.13.72; 1-00, 4.12.00)*

SEWER CONNECTION**9.410 Purpose.**

LC 9.415 through 9.450 below are adopted for the purpose of protecting the public health, promoting the orderly provision of public facilities consistent with the applicable land use plan and meeting the groundwater pollution standards of the Department of Environmental Quality and the Environmental Protection Agency. *(Revised by Ordinance No. 12-84, Effective 10.26.84; 1-00, 4.12.00)*

9.415 Definitions.

Affected Property. Any parcel of improved real property located outside the corporate limits of a city, but inside the Urban Growth Boundary, which presently has access to a city sanitary sewerage system and for which the local government actions as set forth in LC 9.420 below have been taken.

Impracticable. Not possible through lack of legal ability to make the connection or physically impossible. Impracticable does not mean unusually expensive, when, for example, reversing the plumbing or installing a pump is required in a particular connection.

Inadequate Sewage Disposal System. A sewage disposal system that is deficient in capacity or design to serve the intended use as specified in ORS 454.605 through 454.775 and OAR Chapter 340 of the Administrative Rules of the Department of Environmental Quality adopted pursuant thereto and in effect on May 29, 1984.

Sewer Availability. A sanitary sewer is deemed available when an affected property has structures thereon that discharge domestic sewage or industrial or trade wastes and the point of discharge from the structure lies within 160 feet of a city sanitary sewer line, or of a public right-of-way containing such a sewer. A sanitary sewer is not available until the local government actions specified in LC 9.420 below have both been taken. *(Revised by Ordinance No. 12-84, Effective 10.26.84; 1-00, 4.12.00)*

9.420 Local Government Actions.

Before a property is determined to be an affected property, the City Council controlling the sanitary sewerage system must have levied against the property a special benefit assessment for a sanitary sewer and the Lane County hearings official must have determined that the property is serviced by an inadequate sewerage disposal system. *(Revised by Ordinance No. 12-84, Effective 10.26.84)*

9.425 Connection.

Upon a Notice of Sewer Availability:

(1) The sanitary sewer connection to a city sanitary sewerage system must occur in the manner prescribed by the city.

(2) The sanitary sewer connection must occur within 18 months after service on the owner of the affected property of the notice of sewer availability.

(3) Upon connection, all sanitary sewage from the structure shall be discharged into such sewer and thereafter no person shall sever or disconnect the sewer connection without the prior authorization of

the city and the Director of the Land Management Division, Department of Public Works, in the event the structure is outside the corporate limits of the city. *(Revised by Ordinance No. 12-84, Effective 10.26.84)*

9.430 Exception.

If it is impracticable to make the required sanitary sewer connection and the affected property obtains a decision from the Director of the Land Management Division, Department of Public Works, making that finding, connection to the city sanitary sewerage system is not required. Review of the Director's decision shall be as specified in LC Chapter 14, except the notice specified therein need not be fulfilled. *(Revised by Ordinance No. 12-84, Effective 10.26.84; 1-00, 4.12.00)*

9.435 Notice.

Notice of sanitary sewer availability shall be addressed to the owner of the affected property, and it shall include the following information:

- (1) The identity of the property and structure affected,
- (2) The date of the cities assessment,
- (3) The date of the hearings official determination,
- (4) The requirement of this section and any other laws, rules and regulations regulating connection to the city sewerage system,
- (5) The public officer who may be contacted for assistance in complying with this notice, and
- (6) A statement of the owner's right to apply for an exception.

This notice must be personally served upon the owner if a resident of the County, or, if not a resident, then upon the owner's agent or the person in possession of or in charge of the affected property. In addition, a true copy of the notice shall be mailed to the owner if a current owner is known or can be reasonably ascertained, or if not then mailed addressed "General Delivery" to the nearest post office and finally, publication of the notice for four successive weeks in the newspaper of general circulation within the County shall also be provided. *(Revised by Ordinance No. 12-84, Effective 10.26.84)*

9.440 Administration.

The administration and enforcement of this sub-chapter shall be the sole responsibility of the city operating the sanitary sewerage system that serves the affected property. This responsibility includes but is not limited to the preparation of all reports, findings and filings to initiate and prosecute to final determination any administrative or judicial action specified in this sub-chapter or any appeals therefrom. The city shall bring any enforcement action under this sub-chapter in its name. *(Revised by Ordinance No. 12-84, Effective 10.26.84)*

9.445 Nuisance.

The failure to connect an affected property to a sanitary sewer in conformity with LC 9.425 above when required by this sub-chapter shall constitute a public nuisance. *(Revised by Ordinance No. 12-84, Effective 10.26.84)*

9.450 Enforcement.

Failure to comply with LC 9.425 above shall constitute a Class 1 failure to comply as specified in LC 5.040. Each 30-day period of noncompliance shall constitute a separate failure to comply. Enforcement of the sewer connection required in LC 9.425 above may also occur by civil action in Circuit Court, to either abate the nuisance or compel connection. *(Revised by Ordinance No. 12-84, Effective 10.26.84; 1-00, 4.12.00)*

PUBLIC HEALTH

9.500 Public Health

Consistent with the Mission of the Public Health Division of the Lane County Department of Health & Human Services, to promote and protect the long-term health and well-being of individuals, families and our community, the provisions of LC 9.505 through 9.685 set forth the requirements and regulations

related to a Declaration of a Danger to Public Health, the Safe Drinking Water Program, and the issuance of Food Handler Certificates. *(Revised by Ordinance No. 1-73, Effective 3.9.73; 1-00, 4.12.00; 18-03, 5.31.18)*

DECLARATION OF DANGER TO PUBLIC HEALTH

9.505 Definitions.

For the purposes of this sub-chapter, the following words and phrases mean:

Danger to Public Health.

Any condition either:

(1) Which is conducive to the propagation or dissemination of communicable or contagious disease producing organisms and which presents a reasonably clear possibility that the public generally is being exposed to disease causing physical suffering or illness, including a condition such as:

- (a) A contaminated or inadequate safe drinking water supply.
- (b) Inadequate installations for the disposal or treatment of sewage, garbage or other contaminated or putrefying waste.
- (c) Inadequate improvements for drainage of surface water and other fluid substances or contaminates, or

(2) Whereby there are sufficient types and amounts of biological, chemical or physical (including radiological) agents in the water that they are likely to cause human illness, disorders or disability. These include, but are not limited to, pathogenic viruses, bacteria, parasites, toxic chemicals and radioactive isotopes.

Department. The Lane County Department of Health and Human Services.

Environmental Survey. A study conducted by the Oregon Health Authority for the purpose of investigating a suspected danger to health.

Governing Body. The Board of County Commissioners acting as the governing body of the local public health authority in accordance with ORS 431.003.

Public Health Division. The division of the Department assigned responsibility for public health matters. *(Revised by Ordinance No. 1-73, Effective 3.9.73; 1-00, 4.12.00; 18-03, 5.31.18)*

9.510 Purpose.

This sub-chapter is adopted for the following purposes:

- (1) Protecting the health, safety and welfare of the people of the County.
- (2) Providing a more realistic solution of community health problems.
- (3) Increasing public awareness of areas in the County where conditions exist that are conducive to the spread of communicable disease, and
- (4) Preventing the increase of population densities and further development in defined areas with potential dangers to public health until such time as the conditions causing the dangers to public health are resolved. *(Revised by Ordinance No. 1-73, Effective 3.9.73; 18-03, 5.31.18)*

9.525 Declaration of Danger to Public Health.

The Department and Governing Body will verify the conditions alleged to be causing a danger to public health, if requested to do so, in accordance with ORS 222.860. *(Revised by Ordinance No. 1-73, Effective 3.9.73; 1-00, 4.12.00; 18-03, 5.31.18)*

SAFE DRINKING WATER PROGRAM

9.550 Purpose.

Because the provision of safe drinking water is essential to the well-being of County residents, and because waterborne diseases represent an established danger to the public's health, the County has a responsibility to ensure access to safe drinking water under the delegation of authority under the Oregon Drinking Water Quality Act. Such delegation by the Oregon health Authority to Lane County, as the

local public health authority, is permitted under ORS 448.170. *(Revised by Ordinance No. 10-74, Effective 8.23.74; 18-03, 5.31.18)*

9.552 Definitions.

For the purpose of this sub-chapter, the following words and phrases mean:

Danger to Public Health. A condition whereby there are sufficient types and amounts of biological, chemical or physical (including radiological) agents in the water that they are likely to cause human illness, disorders or disability. These include, but are not limited to, pathogenic viruses, bacteria, parasites, toxic chemicals and radioactive isotopes.

Department. The Lane County Department of Health and Human Services.

Governing Body. The Board of County Commissioners acting as the governing body of the local public health authority in accordance with ORS 431.003(3).

Ground Water. Water occurring naturally in underground formations that are saturated with water.

LPHA. Reference to the Local Public Health Authority vested in Lane County under ORS 431 and the OHA Intergovernmental Agreement for the Financing of Public Health Services (the PH FAA).

Program Element (PE). Reference to the description of services provided by County under contract with the Oregon Health Authority (OHA) by means of the PH FAA, as it may be revised.

Public Drinking Water System. The public water systems regulated under this Code, which include community water systems, non-transient non-community water systems, and transient non-community water systems, serving 3,300 or fewer people and using ground water sources only, including those activities specifically listed for State Regulated non-EPA water systems using ground water sources only.

Safe Drinking Water Program (DWP). The Department's responsibilities with respect to the reduction of the incidence and risk of waterborne disease and public exposure to hazardous substances in drinking water, as promulgated by the OHA under the annual Financial Assistance Award (PH FAA) to the County, acting as the Local Public Health Authority (LPHA). These responsibilities are currently set forth in Program Element number 50 of the PH FAA, and must be adhered to by the Department, as they are currently constituted and may be subsequently revised.

Sanitary Water Survey. The inspection services provided by the LPHA under contract to the OHA.

Unregistered System. A Public Drinking Water system that has not been registered with the Authority.

Waterborne Disease. A disease caused by chemical, physical, radiological or biological agents epidemiologically associated with infection, illness or disability that is transported to human beings by water that has been ingested or through contact, as in bathing or other domestic uses. *(Revised by Ordinance No. 10-74, Effective 8.23.74; 17-75, 3.12.76; 1-00, 4.12.00; 18-03, 5.31.18)*

9.553 County Drinking Water Program.

The County will operate a safe Drinking Water Program in accordance with all applicable Statutes, Administrative Rules, and regulations and must remain in full compliance with its delegated duties as the LPHA as authorized by the Oregon Health Authority and as provided for under an intergovernmental agreement with the State. *(Revised by Ordinance No. 18-03, Effective 5.31.18)*

9.562 Program Elements.

The county will provide required services outlined in the Oregon Health Authority Program Element #50: Safe Drinking Water Program. These required services include providing emergency response, performing independent enforcement actions, updating the State Drinking Water Information System (SDWIS) database, providing technical regulator assistance, investigation of water quality alerts, performing water system sanitary surveys, following up on water system significant deficiencies, resolution of priority non compliers and monitoring and reporting violations, enforcement action tracking and follow up and documenting new water systems in the State inventory. These actions will be taken in

conformance and compliance with applicable statutes, administrative rules and the Safe Drinking Water Program Element as per the intergovernmental agreement with the State. *(Revised by Ordinance No. 18-03, Effective 5.31.18)*

9.564 Licenses.

(1) Water treatment, and pump installation contractors shall obtain licenses from the Department prior to engaging in operations as pump installation contractors, or water treatment installation contractors. The Department shall issue such licenses upon finding that:

(a) The requirements of this sub-chapter and all other applicable laws and ordinances have been met, including the passing of any examination required by separate rule.

(b) The information required on the application is complete and correct.

(2) The Department may revoke a license issued hereunder when it finds the licensee has materially violated any of the requirements of this sub-chapter.

(3) When a license has been revoked, the former license holder may appeal the revocation to the Board. Such appeal shall be made in the same manner as appeal of an order entered under LC 9.562(3) above. *(Revised by Ordinance No. 10-74, Effective 8.23.74; 17-75, 3.12.76)*

FOOD HANDLER CERTIFICATE

9.600 Definitions.

For the purposes of this sub-chapter, the following words and phrases mean:

Authority. The Department of the State responsible for the application of ORS 624.

Board. The Lane County Board of Commissioners.

Communicable Disease. Any disease that may cause food-borne illness or may be transmitted from person to person under the conditions encountered in a food establishment.

Department. The Lane County Department of Health and Human Services.

Director. Director of the Lane County Department of Health and Human Services, or Director's duly authorized representative.

Diseased Person. As defined in ORS 624.

Employer. Any individual, sole proprietor, firm, partnership, corporation, company, association, or joint stock association, and any legal successor thereof.

Food. Any article used, or intended to be used, for food, drink, confection or condiment, whether simple or compound, thereof, and for human consumption.

Food Establishment. Any establishment that prepares, handles, offers, serves or makes available, with or without compensation, food for the general public.

Food Handler. A person employed or to be employed in a restaurant or the owner, operator or manager thereof who prepares, serves or handles food. This definition shall not include persons engaged in food handling operations or food manufacturing under the jurisdiction of the State Department of Agriculture.

Food Handler Card. The document carried by food handlers to demonstrate completion of the food handler training program set forth in ORS 624.570.

Food Handler Certificate. A certificate issued by the Department indicating that the holder of the certificate has demonstrated a minimum level of competency in the sanitary preparation, service, storage and handling of food and beverage.

Restaurant. As defined in ORS 624(9), any establishment licensed by the State under ORS Chapter 624 as a restaurant where food or drink is prepared for consumption by the public. Such an establishment is a restaurant, whether the food or drink is served or consumed on the premises or elsewhere.

Rules. Rules adopted by the Board of County Commissioners or Director and incorporated into the Lane Manual.

Temporary Restaurant. As defined in ORS 624(4), (11), and (12), any establishment where food is prepared or served for consumption by the public at public gatherings, entertainment events, food product promotions or other events, and is licensed by the State under ORS Chapter 624. Temporary Restaurant does not include an establishment where food is prepared and served, by a fraternity, social or religious organization, only to its own members and guests or a food product promotion where only a sample of food or foods are offered to demonstrate the characteristics of the food product. *(Revised by Ordinance No. 5-73, Effective 8.4.73; 7-78, 6.9.78; 1-00, 4.12.00; 18-03, 5.31.18)*

9.605 Purpose and Authority.

Pursuant to ORS Chapters 431, 624, and the Home Rule Charter of Lane County, LC 9.600 through 9.690 herein are adopted for the purpose of:

- (1) Preventing the spread of infectious foodborne disease and establishing a uniform health standard in Lane County for food handlers.
- (2) Insuring that all food handlers possess an adequate knowledge of the sanitary principles and practices involved in the preparation, storage and service of foods and beverages.
- (3) Insuring that all food handlers possess adequate knowledge of anti-choking procedures as required in ORS Chapter 624 and described in Lane County publication entitled "Anti-Choking Maneuvers" or in the Red Cross Manual 32-1138. *(Revised by Ordinance No. 5-73, Effective 8.4.73; 7-78, 6.9.78; 1-00, 4.12.00)*

9.610 Adoption of the State Division of Health Rules, Regulations and Statutes.

The rules and regulations of the State Health Authority and State statutes relative to food handlers are adopted as a part of this sub-chapter and incorporated herein. *(Revised by Ordinance No. 5-73, Effective 8.4.73; 18-03, 5.31.18)*

9.620 Notification by Restaurant.

All owners, operators or managers of any restaurant shall inform all food handlers that they must obtain a food handler certificate from the Department within thirty (30) days of their employment. *(Revised by Ordinance No. 5-73, Effective 8.4.73; 18-03, 5.31.18)*

9.625 Time in Which to Acquire Permit.

All food handlers employed in a restaurant must obtain from the Department a food handler certificate within thirty (30) days of their employment. *(Revised by Ordinance No. 5-73, Effective 8.4.73; 18-03, 5.31.18)*

9.627 Time in Which to Acquire Certification of Training in Anti-Choking Maneuvers.

All food handlers employed in a restaurant shall obtain from an agent, certified by the Department or the Department within 30 days of their employment, training in anti-choking procedures. The Director may waive in writing the training requirements of LC 9.627 in cases of undue hardship, or where the Director determines that the employee's assignment renders such training impracticable or unnecessary. *(Revised by Ordinance No. 7-78, Effective 6.9.78; 18-03, 5.31.18)*

9.630 Examination.

Persons making application for a food handler certificate shall demonstrate their knowledge of elementary acceptable sanitary practices in the preparation, service, storage and handling of food and beverages, by satisfactorily passing an oral or written examination conducted by the Department based on the training manual available from the Department, prepared and authorized by the Authority. Any person may take the examination any number of times either in person at the Department office, on-line or at the location of any LPHA authorized to provide training and issue food handler certificates, as provided for under ORS 624. *(Revised by Ordinance No. 5-73, Effective 8.4.73; 18-03, 5.31.18)*

9.635 Notification of Temporary Restaurants.

All owners, operators or managers of any temporary restaurant shall inform all food handlers that prior to commencing actual employment the worker shall have a basic knowledge of the elementary acceptable sanitary practices in the preparation, service, storage and handling of food and beverages as contained in the Authority's training manual," available from the Department or on-line. *(Revised by Ordinance No. 5-73, Effective 8.4.73; 18-03, 5.31.18)*

9.640 Examination for Temporary Restaurant.

Each temporary restaurant must designate a person, either an owner, operator, or manager, who will obtain a food handler certificate of training in anti-choking procedures prior to commencement of actual operations in the preparation, handling and serving of food or beverages. The designated owner, operator, or manager must educate and supervise all temporary food handlers in elementary acceptable sanitary practices in the preparation, service, storage and handling of food and beverages in accordance with the training manual issued by the Authority (available from the Department or on-line). The owner, operator or manager must ensure that an individual certified as having been trained in anti-choking procedures be on duty at all times the temporary restaurant is in operation. *(Revised by Ordinance No. 5-73, Effective 8.4.73; 7-78, 6.9.78; 1-00, 4.12.00; 18-03, 5.31.18)*

9.650 Fees.

(1) For the purpose of partially defraying expenses involved in the training and testing of food handlers, the Department will collect a fee in advance in the amount established by order of the Board for the following applications:

- (a) Food handler certificate.
- (b) Food handler certificate renewal.
- (c) Certification of training in anti-choking procedures.

(2) All fees are non-refundable.

(3) Fees may be waived or deferred by the Department upon its determination that a person is financially indigent at the time of application.

(4) The cost of the certificate shall be uniform throughout the County and shall be in the amount set by the Board. *(Revised by Ordinance No. 5-73, Effective 8.4.73; 7-78, 6.9.78; 18-03, 5.31.18)*

9.660 Revocation of Permit.

A Food Handler Certificate may be revoked by the Department upon reasonable evidence indicating repeated or continuing failure to comply with accepted procedures and practices in the preparation, service, storage, or handling of food or beverage offered for public consumption. *(Revised by Ordinance No. 5-73, Effective 8.4.73; 1-00, 4.12.00; 18-03, 5.31.18)*

9.665 Review.

Any food handler whose certificate has been revoked by the Department may request that the Director conduct an administrative review. The Director shall conduct a review and notify the affected parties within ten (10) days from the revocation of the Director's findings. *(Revised by Ordinance No. 5-73, Effective 8.4.73; 7-78, 6.9.78; 18-03, 5.31.18)*

9.670 Food Handler Certificates.

Food handlers shall furnish and place on file with the person in charge of all food establishment their food handler certificate, as prescribed by the Department. Such certificates shall be kept on file by the employer and open for inspection at all reasonable hours by public health officials. Such certificates shall be returned by the employer to the employees upon termination of employment and shall be valid for three years from date of issuance. *(Revised by Ordinance No. 5-73, Effective 8.4.73; 18-03, 5.31.18)*

9.675 Diseased Persons May Not Work.

In accordance with ORS 624.425, no person, while infected with a communicable disease described in ORS 624.080(1) or who is a carrier of any such disease, who is afflicted with a boil, infected wound, or an acute respiratory infection, may be allowed to work in a food service establishment in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with pathogenic organisms or transmitting disease to other persons. *(Revised by Ordinance No. 5-73, Effective 8.4.73; 1-00, 4.12.00; 18-03, 5.31.18)*

9.680 Certificate Exclusive and Valid Throughout Lane County and the State of Oregon.

The food handler certificate provided by the Department shall be valid in the unincorporated areas of the County and all incorporated cities in the County of Lane, and throughout the State of Oregon, for the period for which it is issued, unless said cities by separate order of their governing body separately elect not to come under the provisions of this ordinance. *(Revised by Ordinance No. 5-73, Effective 8.4.73; 18-03, 5.31.18)*

9.690 Effective Date.

The provisions of this sub-chapter shall be effective September 1, 1973. All permits issued shall be valid for three years from date of issuance. *(Revised by Ordinance No. 5-73, Effective 8.4.73; 7-78, 6.9.78)*

TOBACCO REGULATIONS**9.700 Definitions.**

As used in sections 9.700 through 9.774, the following words or terms have the following meanings:

(1) Arm's Length Transaction means a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither of which is under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for which a significant purpose is avoiding these regulations' sections 9.700 through 9.774 is not an Arm's Length Transaction.

(2) Business means any sole proprietorship, partnership, joint venture, corporation, company, association, or other entity formed for purposes that include profit-making.

(3) County or Lane County means all of Lane County, including incorporated jurisdictions and unincorporated areas.

(4) Department means the Lane County Health & Human Services Department, and any agency or Person designated by the Department to enforce or administer the provisions of sections 9.700 through 9.774.

(5) Electronic Smoking Device means any device that can be used to deliver aerosolized or vaporized nicotine, cannabinoids, or other substances to the person inhaling from the device, including, but not limited to an electronic cigarette, e-cigar, e-pipe, vape pen or e-hookah. Electronic Smoking Device includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. Electronic Smoking Device does not include drugs, devices, or combination products approved for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

(6) Employee means any Person who is employed by any Employer in consideration for direct or indirect monetary wages or profit, or any Person who volunteers services for an Employer.

(7) Employer means any Business or Nonprofit Entity that retains the service of one or more Employees.

(8) Independent Contractor means any Person who is retained with a contract by any Employer in consideration for direct or indirect monetary wages or profit.

(9) Nominal Cost means the cost of any item imposed for the transfer from one person to another for less than the total of: (1) twenty-five percent (25%) of the fair market value of the item exclusive of taxes and government fees; plus (2) all taxes and government fees previously paid and all taxes and government fees still due on the item at the time of transfer.

(10) Non-sale Distribution means to give, furnish, or cause or allow to be given or furnished, wholly or for sampling, within Lane County, a Tobacco Product at no cost or at Nominal Cost to a Person who is not a Tobacco Retailer.

(11) Person means any natural person, Business, employer, nonprofit entity, personal representative, receiver, trustee, assignee, or any other legal entity including a government agency.

(12) Proprietor means a Person with an ownership or managerial interest in a business. An ownership interest is deemed to exist when a Person has a ten percent (10%) or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest is deemed to exist when a Person can or does have or share ultimate control over the day-to-day operations of a business.

(13) Self-Service Display means the open display or storage of Tobacco Products in a manner that is physically accessible in any way to the general public without the assistance of the Tobacco Retailer or employee of the Tobacco Retailer and a direct person-to-person transfer between the purchaser and the Tobacco Retailer or employee of the Tobacco Retailer. A vending machine is a form of Self-Service Display.

(14) Smoking means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. "Smoking" also includes the use of an Electronic Smoking Device.

(15) Tobacco Product means any product that is made from or derived from tobacco, or which contains nicotine or a similar substance, and is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. Tobacco Product also means an Electronic Smoking Device and any component or accessory used in the preparation or consumption of tobacco products, such as filters, rolling papers, pipes, and substances used in electronic smoking devices, whether or not they contain nicotine. Tobacco product does not include drugs, devices, or combination products approved for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

(16) Tobacco Retailer means any Person who sells, offers for sale, or exchanges or offers to exchange for any form of consideration, Tobacco Products. "Tobacco Retailing" means the doing of any of these things. This definition is without regard to the quantity of tobacco, Tobacco Products sold, offered for sale, exchanged, or offered for exchange. *(Revised by Ordinance No. 14-19, Effective 1.16.15; 15-05, 9.25.15; 17-01, 4.13.17)*

Tobacco Products and Person under Age 21

9.705 Purpose and Findings.

In addition to Oregon State regulations on the sale, possession, and use of tobacco and tobacco products, LC 9.700 through 9.774 are enacted to regulate the sale, possession, and use of Tobacco Products in Lane County and unincorporated Lane County to and by persons under 21 years of age.

Lane County passes LC 9.700 through 9.774 out of a desire to promote a wholesome environment where children are encouraged to make healthful choices that allow them to grow up to lead healthy, productive and prosperous lives. Nicotine is a highly addictive toxic substance, the use of which is initiated primarily by young people. Nicotine use is associated with the risk of numerous adverse health consequences, including increased susceptibility of addiction to other drugs of abuse and the use of tobacco, and with serious neurobehavioral problems and nicotine use in children of mothers that use during pregnancy. *(Revised by Ordinance No. 14-19, Effective 1.16.15; 15-05, 9.25.15; 17-01, 4.13.17)*

9.710 Requirements and Prohibitions.

(1) Sale to person under age 21 prohibited. All Persons are prohibited from selling, giving or furnishing, or causing to be sold, given or furnished, a Tobacco Product to a person under 21 years of age in any place within Lane County.

(2) Positive identification required. Tobacco Retailers in Lane County are prohibited from selling, giving or furnishing a Tobacco Product to a person who appears to be under 30 years of age without first examining the holder's government-issued photographic identification to confirm that the recipient is at least 21 years of age.

(3) Posting of sales age signage required. All Tobacco Retailers in Lane County are required to conspicuously post a notice that is clearly visible to the seller and the purchaser at the location where Tobacco Products are available for purchase. The Department will provide a notice that reads "The sale or provision of tobacco products, tobacco paraphernalia, and electronic smoking devices to persons under the age of 21 is prohibited by law" legibly printed in red letters at least one-half inch high.

(4) Self-Service Displays of Tobacco Products are prohibited.

(5) Non-sale Distribution Prohibited. All persons are prohibited from the Non-sale Distribution of any Tobacco Products to a Person who is not a Retailer. *(Revised by Ordinance No. 14-19, Effective 1.16.15; 15-05, 9.25.15; 17-01, 4.13.17)*

9.715 Possession, Distribution and Use by Person Under Age 21.

(1) It is unlawful for any person under 21 years of age to possess, receive, purchase, sell, distribute, use or consume Tobacco Products. It is unlawful for any person under 21 years of age to have personal possession of a Tobacco Product, except when such person under 21 years of age is in a private residence accompanied by such person's parent or legal guardian and with the consent of such parent or legal guardian.

(2) A Youth Decoy, under the terms of LC 9.752(2), may purchase, attempt to purchase or acquire Tobacco Products for the purpose of testing compliance with local law or Tobacco Retailer management policy limiting or regulating the delivery of Tobacco Products to person under 21 years of age.

(3) Notwithstanding the prohibitions of Lane Code 9.715(1) and (2), an individual who is at least 18 years of age may possess, receive, sell, distribute Tobacco Products while lawfully employed as and performing the duties of a Tobacco Retailer. *(Revised by Ordinance No. 14-19, Effective 1.16.15; 15-05, 9.25.15; 17-01, 4.13.17)*

9.720 Non-Retaliation.

Under the County's enforcement efforts, Persons, Tobacco Retailers, and Employers are prohibited from intimidating, threatening any reprisal, or effecting any reprisal, for the purpose of retaliating against another Person that seeks to attain compliance with LC 9.710 to 9.725. *(Revised by Ordinance No. 14-19, Effective 1.16.15; 15-05, 9.25.15)*

9.725 Penalties and Enforcement.

(1) The Department or its authorized designee may conduct random, unannounced inspections at locations where Tobacco Products are distributed to test and ensure compliance with LC 9.710 through 9.720.

(2) A Youth Decoy is exempt from the provisions of LC 9.715(1). A Youth Decoy is a natural person under the age of 21 who:

(a) Is participating in an inspection supervised by a peace officer, code enforcement official, or the Person designated by the Department to monitor compliance with LC 9.752;

(b) Is acting as an agent of a Person designated by the Department to monitor compliance with LC 9.752; or

(c) Is participating in an inspection funded in part, either directly or indirectly through subcontracting, by the Department or the Oregon Health Authority.

(3) All penalty and enforcement provisions within this section are cumulative and in addition to any other remedies available at law or in equity.

(4) Violations of LC 9.710 and 9.720 are punishable by a civil fine per separate violation as follows:

(a) Any Person who commits a violation while not in the course of Tobacco Retailing, a fine not exceeding \$50.

(b) Any non-managerial Employee while in the course of Tobacco Retailing who commits a violation, a fine not exceeding \$50.

(c) Any managerial Employee while in the course of Tobacco Retailing, acting within the course and scope of the person's employment, who violates, or the person has supervisory authority over a person described in LC 9.725(4)(b) who violates within a twenty-four month period: after a first or second violation, a fine not exceeding five hundred dollars (\$500); and after a third or subsequent violation, a fine not exceeding one thousand dollars (\$1,000).

(d) Any Employer or owner of a Tobacco Retailing business who violates or where a person described in LC 9.725(4)(b) or (c) who violates within a twenty-four month period: after a first violation, a \$1,650 fine; after a second violation, a \$4,950 fine; after a third or subsequent violation, a \$4,950 fine for Tobacco Retailers who do not hold a license to sell Tobacco Products. Those in violation will be responsible for all costs associated with prosecutions of violations.

(5) Causing, permitting, aiding, abetting, or concealing a violation of any provision of LC 9.710 to 9.720 constitutes a violation of those sections.

(6) In addition to any other penalty, a Tobacco Retailer who holds a license to sell Tobacco Products who violates any provision of LC 9.710 through 9.720 may be subject to license suspension or revocation.

(7) In addition to other remedies provided by this section 9.725, the County can seek appropriate, equitable relief including but not limited to, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings and injunctive relief.

(8) If a peace officer can see the Tobacco Product in plain sight that the person is in violation of LC 9.715(1), the peace officer may confiscate the Tobacco Product.

(9) Criminal Prosecution. Nothing in this section 9.725 will prohibit Lane County from initiating criminal proceedings for any alleged violation of LC 9.710 through 9.720. *(Revised by Ordinance No. 14-19, Effective 1.16.15; 15-05, 9.25.15; 17-01, 4.13.17)*

Tobacco Retail Licensing and Sale Regulations Ordinance

9.752 Requirements and Prohibitions.

(1) A person commits a violation of these Tobacco Retail Licensing and Sale Regulations (LC 9.752 to 9.774) if the Person knowingly engages in the following conduct:

(a) Selling, offering for sale, or exchanging or offering to exchange for any form of consideration, Tobacco Products in unincorporated Lane County without first obtaining and maintaining a valid Tobacco Retailer's license under LC 9.752 to 9.774 for each location at which that activity is to occur. Tobacco Retailing without a valid Tobacco Retailer's license is a nuisance as a matter of law.

(b) Violating any local, state, or federal law applicable to Tobacco Products or Tobacco Retailing in the course of Tobacco Retailing or in the operation of the business or maintenance of the location for which a license was issued.

(c) Failing to ensure that Employees know how to comply with tobacco control laws. Tobacco Retailers can be held responsible for violations committed by Employees.

(d) Failing to prominently display a Tobacco Retailer license in a publicly visible location at the licensed location.

(e) Failing to examine the government-issued photographic identification and confirm that the holder is at least 18 years of age, before selling or transferring Tobacco Products to a natural person who appears to be under 30 years of age.

(f) Selling, giving, or furnishing, or causing to be sold, given or furnished, a Tobacco Product to a natural person who is younger than 21 years of age.

(g) Permitting a natural person who is younger than 18 years of age to sell, offer for sale, or exchange or offer to exchange for any form of consideration, Tobacco Products.

(h) Engaging in Tobacco Retailing by means of a Self-Service Display.

(i) Without a valid Tobacco Retailer license, including a license that has been suspended or revoked, failing to keep all Tobacco Products out of public view. The public display of Tobacco Products in violation of this subsection constitutes Tobacco Retailing without a valid license under LC 9.772.

(j) Without a valid Tobacco Retailer license, including a license that has been suspended or revoked, displaying any advertisement relating to Tobacco Products that promotes the sale or distribution of such products from the Tobacco Retailer's location or that could lead a reasonable consumer to believe that such products can be obtained at that location.

(k) Engaging in the Non-sale Distribution of Tobacco Products.

(l) Failing to conspicuously post a tobacco health warning approved by the Department in an area visible to all customers.

(m) Failing to conspicuously post signage provided by the Department that discloses current referral information about the Oregon Tobacco Quitline 1-800-QUIT-NOW.

(n) Engaging in Tobacco Retailing within 1000 feet of any school, from other than a fixed retail location in violation of 9.754 below.

(2) Tobacco Retailer's will be eligible for an incentive program reducing the annual license fee by \$75 if they: 1) have no tobacco retail violations in the previous year and 2) use a cash register that reads the magnetic strip on drivers' licenses to verify age. *(Revised by Ordinance No. 14-19, Effective 1.16.15; 15-05, 9.25.15; 17-01, 4.13.17)*

9.754 Limits on Eligibility for a Tobacco Retailer License.

(1) WITHIN 1,000 FEET OF ESTABLISHMENTS SERVING CHILDREN. No license will be issued to a Tobacco Retailer located within 1,000 feet of any school as follows:

(a) Except as provided in subsection (b), no Tobacco Retailer license will be issued within one thousand (1,000) feet of a school as measured by a straight line from the nearest point of the property line of the lot or parcel on which the school is located to the nearest point of the property line of the parcel on which the applicant's business is located. For the purposes of this subsection, a "school" a public kindergarten, elementary, middle, junior high or high school.

(b) A Tobacco Retailer that has been in operation at a location governed by subsection (1) above consistently since October 21, 2014, is exempt from the requirements of section (1) above. A Tobacco Retailer that has been in operation at a location governed by subsection (1) above consistently since October 21, 2014, that would otherwise be ineligible to receive or renew a Tobacco Retailer license due to the creation or relocation of a school is exempt from the requirements of subsection (1) above.

(2) MOBILE VENDING. Tobacco Retailing is only permitted at a fixed location. For example, Tobacco Retailing by natural persons on foot or from vehicles or mobile units is prohibited. *(Revised by Ordinance No. 14-19, Effective 1.16.15; 15-05, 9.25.15)*

9.756 Application Procedure.

Application for a Tobacco Retailer's license must be submitted in the name of each Proprietor proposing to conduct retail tobacco sales and will be signed by each Proprietor or an authorized agent thereof.

(1) It is the responsibility of each Proprietor to be informed regarding all laws applicable to Tobacco Retailing, including those laws affecting the issuance of a Tobacco Retailer's license. The Proprietor will also train all employees in the applicable laws, and is required to provide proof of training with annual recertification.

(2) No Proprietor may rely on the issuance of a license as a determination by the Department that the Proprietor has complied with all laws applicable to Tobacco Retailing. A license issued contrary

to LC 9.758, contrary to any other law, or on the basis of false or misleading information supplied by a Proprietor will be revoked pursuant to LC 9.770. Nothing in LC 9.758 will be construed to vest in any Person obtaining and maintaining a Tobacco Retailer's license any status or right to act as a Tobacco Retailer in contravention of any provision of law.

(3) All applications will be submitted on a form supplied by the Department and will contain the following information:

(a) The name, address, and telephone number of each Proprietor of the business seeking a license.

(b) The business name, address, and telephone number of the single fixed location for which a license is sought.

(c) A single name and mailing address authorized by each Proprietor to receive all communications and notices (the "Authorized Address") required by, authorized by, or convenient to the enforcement of LC 9.752 to 9.774. If an Authorized Address is not supplied, each Proprietor will be understood to consent to the provision of notice at the business address specified in subparagraph (b) above.

(d) Whether or not any Proprietor or any agent of the Proprietor has admitted violating, or has been found to have violated, LC 9.752 to 9.774 and, if so, the dates and locations of all such violations within the previous five years.

(4) Such other information as the Department deems necessary for the administration or enforcement of LC 9.752 to 9.774 as specified on the application form required by this section.

(5) A licensed Tobacco Retailer must inform the Department in writing of any change in the information submitted on an application for a Tobacco Retailer's license within ten (10) business days of a change.

(6) All information specified in an application pursuant to this section is subject to disclosure under the Oregon Public Records Act or any other applicable law, subject to the laws' exemptions. *(Revised by Ordinance No. 14-19, Effective 1.16.15; 15-05, 9.25.15; 17-01, 4.13.17)*

9.758 Issuance of License.

Upon the receipt of a complete application for a Tobacco Retailer's license and the license fee required by LC 9.766, the Department will issue a license to the applicant that demonstrates by substantial evidence that one or more of the following bases for denial does not exist:

(1) The information presented in the application is inaccurate or false. Intentionally supplying inaccurate or false information will be a violation punishable under LC 9.774.

(2) The application seeks authorization for Tobacco Retailing at a location for which LC 9.754 prohibits issuance of Tobacco Retailer licenses.

(3) The application seeks authorization for Tobacco Retailing for a Proprietor to whom LC 9.752 to 9.772 prohibits a license to be issued.

(4) The application seeks authorization for Tobacco Retailing that is prohibited or unlawful pursuant to this Code or that is unlawful pursuant to any other law. *(Revised by Ordinance No. 14-19, Effective 1.16.15; 15-05, 9.25.15)*

9.760 License Renewal and Expiration.

(1) **RENEWAL OF LICENSE.** A Tobacco Retailer's license is invalid if the appropriate fee has not been timely paid in full or if the term of the license has expired. The term of a Tobacco Retailer license is one year. Each Tobacco Retailer will apply for the renewal of his or her Tobacco Retailer's license and submit the license fee no later than thirty days prior to expiration of the term.

(2) **EXPIRATION OF LICENSE.** A Tobacco Retailer's license that is not timely renewed expires at the end of its term. To renew a license not timely renewed pursuant to subparagraph (a), the Proprietor must:

(a) Submit the license fee and application renewal form; and

(b) Submit a signed affidavit affirming that the Proprietor:

(i) Has not sold and will not sell or display any Tobacco Product after the license expiration date and before the license is renewed; or

(ii) Has waited the period of time required by LC 9.772 for Tobacco Retailing without a valid license before seeking renewal of the license. *(Revised by Ordinance No. 14-19, Effective 1.16.15; 15-05, 9.25.15; 17-01, 4.13.17)*

9.762 Licenses Nontransferable.

(1) A Tobacco Retailer's license may not be transferred from one Person to another or from one location to another. A new Tobacco Retailer's license is required whenever a Tobacco Retailing location has a change in Proprietor(s).

(2) Notwithstanding any other provision of LC 9.752 to 9.774, prior violations at a location will continue to be counted against a location and license ineligibility periods will continue to apply to a location unless:

(a) The location has been transferred to new Proprietor(s) in an Arm's Length Transaction; and

(b) The new Proprietor(s) provide the Department with clear and convincing evidence that the new Proprietor(s) have acquired or are acquiring the location in an Arm's Length Transaction. *(Revised by Ordinance No. 14-19, Effective 1.16.15; 15-05, 9.25.15; 17-01, 4.13.17)*

9.764 License Conveys a Limited, Conditional Privilege.

Nothing in LC 9.752 to 9.774 grants any Person obtaining and maintaining a Tobacco Retailer's license any status or right other than the limited conditional privilege to act as a Tobacco Retailer at the location in unincorporated Lane County identified on the face of the license. Nothing in LC 9.752 to 9.774 renders inapplicable, supersedes, or applies in lieu of any other provision of applicable law, including but not limited to, any provision of this Code, or any condition or limitation on smoking in an enclosed place of employment under ORS 433.847 and OAR 333-015-0068 or other federal or local ordinances. Obtaining a Tobacco Retailer's license does not make the Tobacco Retailer a certified smoke shop under ORS 433.847 and OAR 333-015-0068. *(Revised by Ordinance No. 14-19, Effective 1.16.15; 15-05, 9.25.15; 17-01, 4.13.17)*

9.766 Fee for License.

The fee to issue or to renew a Tobacco Retailer's license will be set annually by Order of the Board of Commissioners. The fee will be calculated so as to recover the cost of both the administration and enforcement of this Code, including the cost of issuing the license, administering the license program, Tobacco Retailer education, Tobacco Retailer inspection and compliance checks, documentation of violations, adjudications, convictions, and prosecution of violators. All fees are nonrefundable except as required by law and are permitted to be used exclusively to fund the program. Fees will not be prorated. *(Revised by Ordinance No. 14-19, Effective 1.16.15; 15-05, 9.25.15)*

9.768 Compliance Monitoring.

(1) The Department will monitor compliance with LC 9.752 to 9.774 and may designate any number of additional Persons to assist monitoring compliance. In addition, any peace officer may enforce the penal provisions of LC 9.752 to 9.774.

(2) The Department will endeavor to inspect each Tobacco Retailer at least one time per twelve month period. Nothing in this paragraph creates a right of action in any licensee or other Person against the County, Department or its agents. *(Revised by Ordinance No. 14-19, Effective 1.16.15; 15-05, 9.25.15; 17-01, 4.13.17)*

9.770 Suspension or Revocation of License.

(1) **SUSPENSION OR REVOCATION OF LICENSE FOR VIOLATION.** In addition to any other penalty authorized by law, a Tobacco Retailer's license will be suspended or revoked if any court of competent jurisdiction determines, or the Department finds based on a preponderance of the evidence, after the licensee is afforded notice and an opportunity to be heard, that the licensee, or any of the

licensee's agents or employees, has violated any of the requirements, conditions, or prohibitions of LC 9.710 to 9.774 or has pleaded guilty, "no contest" or its equivalent, or admitted to a violation of any law designated in LC 9.764 above.

(a) Upon a finding by a court or the Department of a first violation of LC 9.710 to 9.772 at a location within any twenty-four month period, the license will be suspended for ten days or a \$1,650 fine imposed.

(b) Upon a finding by a court or the Department of a second violation of LC 9.710 to 9.772 at a location within any twenty-four month period, the license will be suspended for thirty days or a \$4,950 fine imposed.

(c) Upon a finding by a court or the Department of a third violation of LC 9.710 to 9.772 at a location within any twenty-four-month period, the license will be suspended for thirty days.

(d) Upon a finding by a court or the Department of four or more violations of LC 9.710 to 9.772 at a location within any twenty-four month (24) period, the license will be revoked.

(2) **APPEAL OF SUSPENSION OR REVOCATION.** A decision of the Department to suspend or revoke a license is appealable to the Director of the Department and any appeal must be filed in writing with the Director within ten days of mailing of the Department's decision. If such an appeal is timely made, it will stay enforcement of the appealed action. An appeal to the Director is not available for a revocation made pursuant to subsection (3) below.

(3) **REVOCATION OF LICENSE WRONGLY ISSUED.** A Tobacco Retailer's license will be revoked if the Department finds, after the licensee is afforded notice and an opportunity to be heard, that one or more of the bases for denial of a license under Section 9.758 existed at the time application was made or at any time before the license issued. The decision by the Department will be the final decision. Such a revocation will be without prejudice to the filing of a new license application. *(Revised by Ordinance No. 14-19, Effective 1.16.15; 15-05, 9.25.15; 17-01, 4.13.17)*

9.772 Tobacco Retailing Without a Valid License.

(1) In addition to any other penalty authorized by law, if a court of competent jurisdiction determines, or the Department finds based on a preponderance of evidence, after notice and an opportunity to be heard, that any Person has engaged in Tobacco Retailing at a location without a valid Tobacco Retailer's license, either directly or through the Person's agents or employees, the Person will be ineligible to apply for, or to be issued, a Tobacco Retailer's license as follows:

(a) After a first violation of this section at a location within any twenty-four month period, no new license may issue for the Person or the location (unless ownership of the business at the location has been transferred in an Arm's Length Transaction), until thirty days have passed from the date of the violation.

(b) After a second violation of this section at a location within any twenty-four month period, no new license may issue for the Person or the location (unless ownership of the business at the location has been transferred in an Arm's Length Transaction), until ninety days have passed from the date of the violation.

(c) After of a third or subsequent violation of this section at a location within any twenty-four month period, no new license may issue for the Person or the location (unless ownership of the business at the location has been transferred in an Arm's Length Transaction), until two years have passed from the date of the violation.

(2) Tobacco Products offered for sale or exchange in violation of this section are subject to seizure by the Department or any peace officer and will be forfeited after the licensee and any other owner of the Tobacco Products seized is given reasonable notice and an opportunity to demonstrate that the Tobacco Products were not offered for sale or exchange in violation of LC 9.752 to 9.772. The decision by the Department may be appealed under LC 9.770. Forfeited Tobacco Products will be destroyed after all internal appeals have been exhausted and the time in which to seek judicial review pursuant to Oregon law has expired without the filing of a lawsuit or, if such a suit is filed, after judgment in that suit becomes final.

(3) For the purposes of the civil remedies provided in LC 9.774 the following constitute separate violations:

(a) Each day on which a Tobacco Product is offered for sale in violation of LC 9.752 to 9.772; or

(b) Each instance in which an individual retail Tobacco Product distributed, sold, or offered for sale in violation of LC 9.752 to 9.772. *(Revised by Ordinance No. 14-19, Effective 1.16.15; 15-05, 9.25.15; 17-01, 4.13.17)*

9.774 Penalties and Additional Remedies.

(1) The remedies provided by this section are cumulative and in addition to any other remedies available at law or in equity.

(2) Violations of LC 9.752 to 9.772 are punishable by a fine per violation as follows: after a first violation, a \$1,650 fine or suspension of license; after a second violation, a \$4,950 fine or suspension of license; after a third violation, a suspension of license as described in 9.770. Those in violation will be responsible for all costs associated with prosecutions of violations.

(3) Causing, permitting, aiding, abetting, or concealing a violation of any provision of LC 9.752 to 9.772 is punishable according to 9.772 subsection (3) above.

(4) Violations of LC 9.752 to 9.772 are hereby declared to be public nuisances.

(5) In addition to other remedies provided by LC 9.752 to 9.772 or by other law, any violation of LC 9.752 to 9.772 may be remedied by a civil action including, for example, through administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief. *(Revised by Ordinance No. 14-19, Effective 1.16.15; 15-05, 9.25.15; 17-01, 4.13.17)*

9.780 Smoke and Tobacco-free Facilities and Grounds

To promote the long-term health and safety of Lane County employees and the public, except as otherwise allowed by law and Lane Code, smoking and the use of tobacco is not permitted at any time:

(1) within any interior space of facilities owned or occupied by Lane County;

(2) on all outside property or grounds owned or occupied by Lane County, including parks, natural areas, parking areas; and

(3) in vehicles owned by Lane County or in personal vehicles when on County property.

County roads or County-owned rights of way are not subject to any tobacco restrictions contained in this policy. Lane County is committed to providing tobacco use cessation support, and to referring employees, volunteers, clients, visitors and vendors to available cessation resources such as the Oregon Tobacco Quit Line. The County Administrator will establish standards to effectively communicate this policy to employees, vendors, and the public. *(Revised by Ordinance No. 17-05, Effective 12.7.17)*

SEWAGE FACILITIES MANAGEMENT REGULATIONS

9.800 Authority, Intent and Purpose.

Pursuant to Oregon Revised Statutes and the Home Rule Charter of Lane County, this sub-chapter is adopted for the following purposes:

(1) To provide a management system for the safe and sanitary collection, treatment and disposal of domestic waste for cluster units.

(2) To provide for implementation of sewage facilities in specified areas within Lane County.

(3) To prevent sewage facilities from becoming a financial burden or otherwise a nuisance to those citizens not directly served by such sewage facilities.

(4) To provide a mechanism to permit sewage facilities in New Development Centers.

(5) To assure the financial stability and the operational integrity of sewage facilities approved hereunder.

(6) To protect the health, safety and welfare of the people of Lane County. *(Revised by Ordinance No. 3-78, Effective 3.31.78; 1-00, 4.12.00)*

9.805 Definitions.

For purposes of this sub-chapter, the following words and phrases shall mean:

Approval or Approved. Approved by the Board of County Commissioners.

Developer. Any person or the heirs, successors or assigns of such person who owns or proposes or intends to develop a subdivision or multiple housing unit project which is proposed to be, or is served, by sewer facilities.

Management. Any person or his heirs, successors or assigns who forms and operates a management corporation for the purposes of, and under the provisions of this sub-chapter.

Management Corporation. A private corporation which has the legal responsibility of assuring the financial stability and operational integrity of sewage facilities.

Municipality. Any County, city, special service district or other governmental entity having authority to dispose of or treat or collect sewage, industrial wastes, or other wastes, or any combination of two or more of the foregoing acting jointly.

Purchaser. Any person or the heirs, successors or assigns of such person, who purchases or leases one or more units in a subdivision or multiple housing unit project from a developer.

Sewage Facility. Any device or series of devices constructed for the purpose of collecting, treating or disposing of sewage, or any combination of these. *(Revised by Ordinance No. 3-78, Effective 3.31.78)*

9.810 Scope and Applicability.

(1) Any sewage facility constructed after the effective date of this sub-chapter, and not otherwise approved, which is to serve more than a single parcel or more than four individual residential units using a common sewage disposal system, except mobile home parks and tourist and travelers' facilities, shall be operated and maintained by a municipality or by an approved management corporation.

(2) This sub-chapter shall apply to subsurface and alternative systems as defined in ORS 454.605. This sub-chapter shall not apply to sewage facilities constructed or operated in accordance with a waste discharge permit issued by the Oregon Department of Environmental Quality, unless authorized by that Department.

(3) Sewage facilities approved pursuant to this sub-chapter shall be located in the following areas:

(a) Rural Service Centers, as identified in the Comprehensive Plan for Lane County;

(b) Minor Development Centers, as identified in the Comprehensive Plan for Lane County, which are not incorporated cities;

(c) New Development Centers or Planned Unit Developments approved in accordance with this Code, except that such New Development Centers or Planned Unit Developments may not be located within an urban service area or an urban growth boundary of an incorporated city,

(d) Areas determined by the Board to have identified health problems which an existing government cannot solve. *(Revised by Ordinance No. 3-78, Effective 3.31.78; 1-00, 4.12.00)*

9.815 Rules and Fees.

The Board may adopt rules for the administration and implementation of this sub-chapter. The Board may establish fees for the approval and review of proposed and existing sewage facilities under this sub-chapter. *(Revised by Ordinance No. 3-78, Effective 3.31.78)*

9.820 DEQ Compliance.

All proposed or approved sewage facilities shall comply with all applicable provisions of Oregon Revised Statutes and rules and regulations of the Oregon Department of Environmental Quality. *(Revised by Ordinance No. 3-78, Effective 3.31.78; 1-00, 4.12.00)*

9.825 Management Corporation Provisions.

(1) In the event that there is no municipality which is willing or able to construct and generate sewage facilities, a management corporation may be established for that purpose.

(2) In order to be considered for approval, a management corporation must meet the following conditions.

(a) It must be incorporated.

(b) It must have officers elected from the purchasers of property served by the management corporation.

(c) It must have a constitution and bylaws.

(d) There must be financial solvency on a continuous basis through a method of financing construction, maintenance, operation and emergency work related to the sewage facilities, to be exclusive of whatever additional obligations the corporation may assume in other fields. Rates must be set at a level which will provide sufficient funds for all sewerage operation maintenance costs and emergencies.

(e) The corporation must be continuously in operation with regard to its sewerage activities, so long as there is a need for such management service. There must be built into the organization a provision allowing the eventual transfer of its sewerage responsibility to a municipality, should such a transfer become feasible.

(f) There must be a municipality to which control and operation of the management corporation will pass in trusteeship in the event that no persons are willing to serve as officers of the corporation.

(g) Funds collected for sewerage purposes must be kept in a separate account to be used for the sole purpose of carrying out the functions of the sewerage management system.

(h) There shall be provided the power to impose liens against property served to assure the collection of delinquent sewerage debts, and provision for the adjustment of rates from time to time to meet the cost of operation.

(i) In the event the corporation is initially run by a board of trustees, provision should generally be made for an election of corporate officers at the first annual meeting and transfer of control from the initial trustees to the newly elected board of trustees or corporate officers. Control of the management corporation must pass to the purchasers of property served by the sewage facility as rapidly as possible. *(Revised by Ordinance No. 3-78, Effective 3.31.78)*

9.830 Existing Statutes, Rules and Regulations - Conflicts.

The management corporation shall be established and organized in conformance with any applicable statutes, rules and regulations. Any portion of this sub-chapter in conflict with statutes, rules or regulations limiting the authority of any management corporation will not be applicable; however, management may be required to find an acceptable substitute for the inapplicable requirement. *(Revised by Ordinance No. 3-78, Effective 3.31.78)*

9.835 Management Corporation Contract.

(1) The management corporation shall operate through a contract between the management corporation and the developer. The contract shall contain, but need not be limited to, a complete description of all rights, duties, obligations and commitments of management or the management corporation, developer, and purchaser, a description of all maintenance and operation requirements, and all of the elements required by LC 9.825.

(2) The contract shall provide:

(a) An agreement by management to provide maintenance and operation of sewer facilities, provide surveillance of the functioning of sewer facilities, keep records, collect fees, disburse funds, and perform all other duties set forth in these regulations as are assigned to management.

(b) An agreement by developer that, when selling or leasing property, as a condition of sale or lease, he will require the contract of sale, property deed or lease to include a clause wherein the

purchaser agrees, prior to purchaser's signing of a purchase contract, to conform to the provisions of the management corporation contract.

(c) That developer shall provide each purchaser a full and complete copy of the management corporation contract prior to purchaser's signing of a purchase contract.

(d) That, in the event the developer retains possession of individual lots which contribute sewage to the sewer facility, the developer's obligations will include those of a purchaser with respect to those individual lots.

(e) The means of making amendments, additions or deletions by agreement of management, developer and purchaser, and as approved by the Board and other applicable regulatory agencies.

(f) The right of management to contract with public or private agencies for labor and other services.

(g) That management shall employ competent personnel, as determined by the Board and other applicable regulatory agencies, familiar with the maintenance and operation of the type of sewage facilities under its management.

(h) An identification of the portion of the sewage system for which management shall exercise responsibility.

(i) For the establishment of a method for the transfer of authority to another entity acceptable to the regulatory agencies, in the event that such a transfer is necessary.

(j) For the allocation of restoration costs, as required in LC 9.855.

(k) For purchaser's right to perform work, if such work is permitted by management.

(l) That in the event of a property's connecting to an alternate sewage disposal system, the costs of such connection, if any, shall be the obligation of the property owner. *(Revised by Ordinance No. 3-78, Effective 3.31.78; 1-00, 4.12.00)*

9.840 Management Corporation Contract Enforcement.

There must be a municipality which will consent to and accept a role as a third party having standing to enforce provisions of a management corporation contract and further consent to assure the appropriate regulatory agencies in writing that these provisions will be enforced as necessary to assure, and when necessary due to default, provide proper operation, maintenance and financial stability of the sewer facility. *(Revised by Ordinance No. 3-78, Effective 3.31.78)*

9.845 Financial Solvency.

Management shall assure financial solvency of its management responsibilities. Financial arrangements shall include, but not be limited to, the following:

(1) An accounting and audit system in accordance with any applicable statutes.

(2) A standard maintenance and operation fee.

(3) Fees for initial construction of sewage facilities.

(4) Establishment of an emergency fund.

(5) Preparation of a rate structure for service beyond routine operation and maintenance.

(6) Fees for any routine repair work, replacement, emergency work or modification undertaken on behalf of a purchaser's installation, to cover costs of materials and labor, and other proper associated costs.

(7) Establishment of a method of rate adjustment to maintain adequate funds. Rates shall be reviewed annually and adjusted accordingly.

(8) Provide for the collection of delinquent payments through an acceptable method, including at least a lien on the property.

(9) Establishment of a method of final disbursement of funds and claims at such time as the management system is dissolved.

(10) Establishment of a method of transfer of funds and claims at such time as the management responsibilities are transferred.

(11) Assurance that adequate operation and maintenance funds are available from the initiation of sewage system operation. *(Revised by Ordinance No. 3-78, Effective 3.31.78)*

9.850 Maintenance and Operation - Management and Purchaser.

A maintenance and operation manual, specifically suited to the nature of the sewage facility for which management will be responsible, shall be prepared by management. A copy of the manual shall be submitted to Lane County and other appropriate regulatory agencies. The manual shall include, but need not be limited to, schedules and procedures for the following:

- (1) Periodic inspection of facilities to determine efficiency of operation and general condition of equipment.
- (2) Record keeping of inspections, monitoring, work done, conditions found and related matters. Such records shall be maintained by the management corporation and shall be available for inspection by Lane County and appropriate regulatory agencies.
- (3) Periodic pumping of septic tanks or other storage tanks by licensed tank pumpers.
- (4) Periodic maintenance of motors, pumps and related equipment.
- (5) Replacement or repair of work or damaged equipment.
- (6) Responding to emergencies. Emergency procedures shall include provisions for:
 - (a) Notifying users, Lane County, and appropriate regulatory agencies of the emergency.
 - (b) Determining the cause of any major breakdown or of any essentially complete failure of any sewer facility to function as designed. The findings shall be submitted in writing to Lane County and appropriate regulatory agencies.
 - (c) Making repairs, replacements or modifications of design as required to restore functioning of the system.
 - (d) Working with purchaser, Lane County, and appropriate regulatory agencies to prepare and install a substitute system, in the event of irreparable failure of the existing system to meet design requirements.
- (7) Annual reporting of system maintenance and operation to Lane County and appropriate regulatory agencies. *(Revised by Ordinance No. 3-78, Effective 3.31.78; 1-00, 4.12.00)*

9.855 Right to Enter on Purchaser's Property.

Management, Lane County and appropriate regulatory agencies shall have the right to enter upon purchaser's property to perform routine inspections on work and to respond to emergency conditions. *(Revised by Ordinance No. 3-78, Effective 3.31.78)*

9.860 Restoration.

Whenever work is performed by management on purchaser's property, management shall restore all paving, planting, and other features of purchaser's property to its original condition as nearly as possible. Provision for allocation of restoration costs shall be included in the management contract. *(Revised by Ordinance No. 3-78, Effective 3.31.78)*

9.865 Purchaser's Right to Perform Work.

Except in the event of an emergency that demands immediate action, upon notification to the management by the purchaser, management may permit purchaser to perform repairs, replacements, and other work other than routine maintenance and operation on those portions of the sewage system located on purchaser's property. If management permits such work by purchaser, it shall be performed under the following conditions:

- (1) Design, materials, work to be performed, and time for completion shall be directed by management, and shall comply with all applicable regulations.
- (2) Cost of labor and materials shall be borne by purchaser.
- (3) Completed work shall be inspected and approved in writing by management, Lane County, and appropriate regulatory agencies before being placed in service.

(4) Management may correct any improper construction performed by purchaser or require purchaser to make such corrections and may complete any work not finished by purchaser within the time limit set by management, and may bill purchaser for all labor and materials. *(Revised by Ordinance No. 3-78, Effective 3.31.78)*

9.870 Approval of Management Corporations.

All management corporations that are proposed for specific developments shall be subject to review and approval by the Board. Items submitted for review shall include, but need not be limited to:

- (1) Evidence that no municipality is willing or able to operate sewage facilities.
- (2) Proposed articles of incorporation.
- (3) Proposed management contract.
- (4) Proposed development for which facilities are planned.
- (5) Proposed schedule of implementation.
- (6) Certification by the Planning Director that the proposed development is in compliance with the existing comprehensive land use plan, zoning and subdivision ordinances, and other land use regulations applicable to the property, or that the proposed development will be in compliance.
- (7) Documentation of any necessary reviews and/or approvals by the Oregon Department of Environmental Quality or other appropriate regulatory agencies.
- (8) In addition to the above, the Board may require submission of any and all information and materials, including professional services, which it deems necessary to its review of the proposal. *(Revised by Ordinance No. 3-78, Effective 3.31.78)*

9.875 Annual Review.

Approved management corporations established to provide sewage facility Management Services under this sub-chapter shall be subject to an annual review by Lane County. The review will evaluate both operational and financial records for the preceding year to determine compliance with the conditions of approval. Management must submit the appropriate operational and financial records to Lane County for review by the middle of the second month following each anniversary of the corporation. *(Revised by Ordinance No. 3-78, Effective 3.31.78)*

TREE CONSERVATION AND PROTECTION

9.900 Description and Purpose.

It has been found necessary to adopt an ordinance regulating the cutting of trees in the area between the Eugene city limits and the Urban Growth Boundary. Provisions in this ordinance shall apply until such time as the area is annexed into the City of Eugene. *(Revised by Ordinance No. 14-90D, Effective 11.21.90 [Sunset 11.30.91]; 16A-91, 11.20.91 [Sunset 6.1.93]; 4-93, 5.19.93 [Sunset 12.1.94]; 11-94, 11.22.94 [Sunset 12.1.95]; 3-96, 11.1.96)*

9.905 Definitions.

As used in LC 9.910 through LC 9.940 below, the following definitions apply:

Basal Area. The cross-sectional area of a tree, measured at diameter breast height, and expressed in square feet per acre.

City Manager. The City Manager of the City of Eugene.

Caliper. The trunk diameter of young trees, usually measured at 6 inches above ground level.

Critical Root Zone. A circular area surrounding a tree, of which the center is the center of the tree trunk and the radius is the distance from the outside of the trunk to any point 12 times the diameter at breast height (DBH), which points constitute the circumference of the critical root zone. The critical root zone shall extend to a depth of five (5) feet below surface ground level.

Crown Closure or Canopy. An estimated area or space made up of the living limbs and branches of an individual tree. Crown closure is usually expressed as a percentage of the space occupied by the crown or canopy of a tree or trees and is usually stated in terms of crown or canopy density.

Crown Ratio. The estimated ratio of live limbs of a tree to its total height.

Developed Property. A lot or parcel of land upon which a building or other improvements subject to local construction regulations are located or a primary use is established.

Diameter Breast Height (DBH). The cross-sectional diameter of the trunk of a tree when measured at a point 4-1/2 feet above the base of the trunk on the uphill side.

Forester. A professional person having a minimum of a four-year degree in forestry from an accredited school and having experience in forest land management.

Groundcover. Small herbaceous and woody plants such as low-growing shrubs, ferns, mosses, wild flowers, grasses or other types of vegetation which normally cover the ground, provide root stabilization on slopes, slow surface runoff and absorb precipitation.

Land Clearance. The act of removing trees and groundcover in the course of preparing land for development. Land clearance is involved, for example, in road and driveway construction, utility excavation and building pad excavation.

Non-Woodland Area. Land in the urbanizing area composed of a parcel or a group of contiguous parcels less than 10 acres in total area and under one ownership or joint management.

Remove, Removal. Activities which include the cutting of trees and the injury and/or destruction of trees, by whatever method, on any lands subject to these provisions. Removal does not in any context include normal trimming or pruning of trees.

Person. Any individual, firm, partnership, association, corporation, company, organization, or legal entity of any kind, including governmental agencies conducting operations within the city and all tree removal companies and persons removing trees on behalf of others.

Slash. Any unutilized woody material created by tree removal, pruning, tree thinning, and/or land clearing.

Stocking. An expression of the number of trees per acre of any size at any given time.

Tree Removal Plan. An approved plan for tree removal which satisfies the requirements of LC 9.910 through 9.935 below.

Tree. Any woody perennial plant which, when mature, shall have the following characteristics: a main axis or stem commonly achieving 10 feet in height, and capable of being shaped and pruned to develop a branch-free trunk at least 9 feet in height or capable of being pruned in such a manner that the branching will grow parallel with the sidewalk or street.

Urbanizing Area. The area located between the legal city limits of the City of Eugene and the Urban Growth Boundary of the city as adopted by the Eugene-Springfield Metropolitan Area General Plan, as amended.

Woodland. Land in the urbanizing area composed of parcel or group of contiguous parcels covering 10 or more acres in total area, and under one ownership or joint management. *(Revised by Ordinance No. 14-90D, Effective 11.21.90 [Sunset 11.30.91]; 16A-91, 11.20.91 [Sunset 6.1.93]; 4-93, 5.19.93 [Sunset 12.1.94]; 11-94, 11.22.94 [Sunset 12.1.95]; 3-96, 11.1.96)*

9.910 Permit Required.

(1) Except for those activities specifically permitted by LC 9.115 below, no person shall engage in or cause land clearance or tree removal within the urbanizing areas of the City of Eugene without having first obtained a Tree Removal Permit.

(2) All Tree Removal Permits issued under the provisions of this Code shall be available for inspection at the site.

(3) Permits shall fall into one of two categories:

(a) Urbanizing Area (Non-Woodland) Tree Removal Permits: permits issued for the removal of trees on Non-woodlands in the urbanizing area.

(b) Urbanizing Area (Woodland) Tree Removal Permits: permits issued for the removal of trees on Woodlands in the urbanizing area. *(Revised by Ordinance No. 14-90D, Effective 11.21.90 [Sunset 11.30.91]; 16A-91, 11.20.91 [Sunset 6.1.93]; 4-93, 5.19.93 [Sunset 12.1.94]; 11-94, 11.22.94 [Sunset 12.1.95]; 3-96, 11.1.96)*

9.915 Exemptions.

The requirements and provisions of LC 9.920 through LC 9.940 below do not apply to the following activities:

- (1) In urbanizing areas, the following tree removal activities are exempt from the requirement to obtain a permit:
 - (a) On Woodland parcels, the selective removal of five or fewer trees within any 12-month period on any single acre, as measured by standard forestry practices.
 - (b) On Non-Woodland parcels, the removal of five or fewer trees within any 12-month period on any single acre, as measured by standard forestry practices. Parcels of less than one acre shall be considered one acre in area for purposes of this exemption.
- (2) Removal of trees having a trunk diameter of less than 8 inches DBH.
- (3) Any action necessary to remove or alleviate an immediate danger to life or property; to restore utility service; or to reopen a public thoroughfare to traffic.
- (4) Removal of trees and groundcover that are deemed nuisances under LC 5.720.
- (5) Removal of trees or other vegetation necessary to install or maintain improvements on parklands, streets, sewers, or utilities within publicly-owned and dedicated rights-of-way or public utility easements.
- (6) Tree removal within portions of a planned unit development, subdivision, or Site Review for which final approval has been obtained and in accordance with the review criteria contained in LC 9.920 below. Such removal shall be allowable only for property development directly authorized by the planned unit development, subdivision or site review approval action. *(Revised by Ordinance No. 14-90D, Effective 11.21.90 [Sunset 11.30.91]; 16A-91, 11.20.91 [Sunset 6.1.93]; 4-93, 5.19.93 [Sunset 12.1.94]; 11-94, 11.22.94 [Sunset 12.1.95]; 3-96, 11.1.96)*

9.920 Application Review Criteria.

The approval, conditional approval, or denial of a request for all tree removal permits shall be based on findings by the City Manager or designee which indicate evaluation of the following criteria and standards. In addition, specific standards shall be applied to each type of permit as provided for in LC 9.935 below:

- (1) The relationship of the tree removal proposal to accepted forestry practices including commercial thinning and commercial harvesting. Said forestry practice includes such considerations as the number of healthy trees in a given parcel of land will support.
- (2) The condition of the trees proposed for removal, as measured by one or more of the following factors, warrants their removal:
 - (a) Evidence of damage and/or disease.
 - (b) Danger of falling.
 - (c) General health and vigor.
 - (d) Roots or crown interface with existing or proposed structures including necessary construction staging areas.
 - (e) Interference with utility services.
 - (f) Interference with solar access.
 - (g) Pedestrian safety and/or vehicular traffic safety.
 - (h) Establishment of scenic views from the property, in association with approved development activities.
- (3) Tree removal shall not adversely affect the environment of the area. Factors to be reviewed include, but are not limited to, the effects on:
 - (a) Scenic qualities of the area with special consideration for ridgeline and hilltop views.
 - (b) The stability of nearby trees and windbreaks.
 - (c) Wildlife habitat.
 - (d) Soil stability.
 - (e) Surface runoff volumes.

- (f) Water quality of receiving waters in the area.
- (g) Potential for fire hazard.
- (h) Noise.
- (i) Windblock.
- (j) Other environmental qualities found by the City Manager or designee to be of relevance to the proposal.

(4) The tree removal is necessary in order to construct proposed improvements in accordance with an approved development plan.

(5) The activity will comply with tree removal standards as defined in LC 9.935 below. *(Revised by Ordinance No. 14-90D, Effective 11.21.90 [Sunset 11.30.91]; 16A-91, 11.20.91 [Sunset 6.1.93]; 4-93, 5.19.93 [Sunset 12.1.94]; 11-94, 11.22.94 [Sunset 12.1.95]; 3-96, 11.1.96)*

9.925 Permit Process.

(1) Permit Required. Except for activities exempted from the requirements and provisions of this ordinance by LC 9.915 above, a tree removal permit shall be required to remove trees from any parcel of land within the urbanizing area.

(2) Decision Authority. Tree removal permits shall be approved, approved with modifications, or denied by the City Manager or his designee.

(3) Site Plan Review Procedure.

(a) Pre-application Conference. Prior to submission of an application, the applicant shall confer with the City Manager or his designee to review the application requirements.

(b) Professional Services. Prior to making a decision, the City Manager or his designee may require an applicant to employ a licensed landscape architect, forester or other specialist if one or more of those professional services is required for compliance with LC 9.920 criteria or LC 9.935 standards.

(c) Documentation of Approved Plans. After tree removal permit approval, the applicant shall provide the City Manager or his designee with three copies of the approved plan. The City shall mark them "Approved" with the date of the action. The City shall also attach the conditions of approval to the plans.

(4) Decision and Appeal.

(a) Unless the applicant agrees to a longer time period, within 10 working days of receipt of a complete and accurate application, the City Manager or designee shall approve, conditionally approve, or deny an application for a tree removal permit. The City Manager's decision shall be based on the criteria specified in LC 9.920 above.

(b) If the permit includes conditions regarding restoration or replacement of trees, the time within which the restoration or replacement work is to occur shall be set forth on the permit.

(c) Within 10 calendar days of a decision, it may be appealed by the applicant to the permitting agency. The appeal shall be filed with the City Manager on a form to be provided by the City, shall be accompanied by a fee of \$100 and must state specifically how the city manager or his designee failed to properly evaluate the proposed tree removal or make a decision consistent with the applicable criteria.

(5) Appeal Notice and Action.

(a) Appeals from the decision of the City Manager shall be heard by the City hearings official.

(b) The hearings official shall hold a hearing within 20 calendar days of the receipt of an application to appeal the City Manager's decision.

(c) At least 10 calendar days prior to the hearing, the City shall mail notice of the hearing to the applicant.

(d) Within 10 calendar days after the hearing, the hearings official shall render a decision and mail a copy to the applicant.

(e) Appeals from the decision of the hearings official may be heard by the Board of County Commissioners, provided the Board reviews the appeal application and decides to accept it for hearing. The Board is not required to accept an appeal.

(f) An appeal accepted by the Board shall be heard within 30 calendar days of the date the appeal is received by the County, provided that if a Board meeting is not scheduled within the final week of that time period, the appeal shall be heard at the next regularly scheduled Board meeting.

(g) At least 10 calendar days prior to the hearing, the County shall mail notice of the hearing to the applicant.

(h) Within 10 calendar days after the hearing, the Board of County Commissioners shall render a decision and mail a copy to the applicant. The Board of County Commissioners' decision is final. *(Revised by Ordinance No. 14-90D, Effective 11.21.90 [Sunset 11.30.91]; 16A-91, 11.20.91 [Sunset 6.1.93]; 4-93, 5.19.93 [Sunset 12.1.94]; 11-94, 11.22.94 [Sunset 12.1.95]; 3-96, 11.1.96)*

9.930 Permit Requirements.

(1) General Tree Removal Permit Requirements.

(a) A Tree Removal Permit Application and related information shall be submitted by the applicant on forms required by the County. Failure of the applicant to submit a complete application may be cause for denial of the permit request. If not the property owner, the applicant shall provide a signed form by the property owner consenting to the permit request.

(b) The application shall be accompanied by a fee of \$70.

(c) In all cases, the burden of demonstrating that applicable criteria and standards have been or can be satisfied is upon the applicant.

(d) Permit approval shall be valid for a period of 12 months from the date of final approval, unless otherwise provided for by the City Manager or designee.

(e) Conditions of approval may be made a part of the approval action by the City Manager or designee. *(Revised by Ordinance No. 14-90D, Effective 11.21.90 [Sunset 11.30.91]; 16A-91, 11.20.91 [Sunset 6.1.93]; 4-93, 5.19.93 [Sunset 12.1.94]; 11-94, 11.22.94 [Sunset 12.1.95]; 3-96, 11.1.96)*

9.935 Tree Removal Standards.

All tree removal activities shall comply with the following standards, and with the General Guidelines as stated in Exhibit "A." Woodland tree removal activities only shall also comply with Woodland Forest Management Guidelines contained in Exhibit "B."

(1) General Tree Removal Standards.

(a) Wooded areas within 25 feet of the high-water mark of riparian zones, natural drainageways, wetlands, and other water features shall remain undisturbed.

(b) Unless otherwise provided for by an approved site development plan, wooded areas within 100 feet of ridgelines and hilltops shall be protected consistent with the purposes of this ordinance. Hazard trees within ridgeline and hilltop areas shall be removed as they are identified.

(c) All remaining trunks and branches shall be disposed of in a manner approved of by the appropriate fire protection authority.

(d) Burning of slash materials shall be allowed in the area lying between the city limits and the Urban Growth Boundary subject to approval by those regulatory agencies currently governing such burning (Lane Regional Air Pollution Authority, Oregon Department of Forestry, and local rural fire protection districts), and based on an assessment of criteria including but not limited to:

(i) Air quality.

(ii) Proximity of the proposed burn to developed areas.

(e) During tree removal operations, adequate fire suppression equipment, as required by the applicable fire protection authority, shall be maintained on the site. Specific fire protection may be required by the fire protection authority as a condition of approval.

(2) Urbanizing Area (Non-Woodland) Permit Standards. Permit approval shall require compliance with the General Tree Removal Standards in LC 9.935(1) above and the following specific standards:

(a) For undeveloped parcels or for developed lots which have further potential for being partitioned or subdivided, land clearing shall be limited to designed street rights-of-way, utility areas, and areas necessary to the construction of proposed buildings and structures and associated scenic views as provided by LC 9.920(2)(h) above, as depicted on an approved development plan.

(b) All areas disturbed by the tree removal operation shall be restored to their original condition to the extent practicable and consistent with the purposes of LC 9.900 through 9.940. Restoration may require grading, grass seeding or replanting trees and must be completed in accordance with an approved schedule.

(c) Where appropriate, a diversity of tree species shall be encouraged on the site.

(d) Removal operations involving the use of any mechanized or motorized equipment shall be considered equivalent to construction site sounds and shall occur pursuant to Eugene Code Section 9.644(e)(6).

(3) Urbanizing Area (Woodland) Permit Standards. Permit approval shall require compliance with the General Tree Removal Standards in LC 9.935(1) above and the following specific standards:

(a) For woodland areas intended for conversion to urban uses, land clearing shall be limited to designated street right-of-way, utility areas, and areas necessary to the construction of proposed buildings and structures and associated scenic views as provided by LC 9.920(2)(h) above, as depicted on an approved development plan.

(b) For woodland areas intended for continued use as commercial forest land, maintenance of a basal area which provides sufficient canopy cover, reproductive capacity, understory structure and wildlife habitat, in accordance with the provisions of Exhibit "B," shall be maintained within the woodland after harvesting.

(c) Temporary culverts necessary to bridge drainageways shall be removed and the drainageway restored to a reasonably natural condition following the completion of tree removal.

(d) All areas disturbed as a result of tree removal will be restored to their original condition to the extent practicable and consistent with the purposes of LC 9.900 through 9.940. Restoration may require grading, grass seeding or replanting trees and must be completed in accordance with an approved schedule.

(e) Where appropriate, a diversity of tree species shall be encouraged on the site.

(f) Tree removal operations occurring within 1000 feet of any dwelling shall be considered the equivalent of construction site sounds and shall occur pursuant to Eugene Code Section 9.644(e)(6). *(Revised by Ordinance No. 14-90D, Effective 11.21.90 [Sunset 11.30.91]; 16A-91, 11.20.91 [Sunset 6.1.93]; 4-93, 5.19.93 [Sunset 12.1.94]; 11-94, 11.22.94 [Sunset 12.1.95]; 3-96, 11.1.96)*

9.940 Enforcement.

(1) Any person who removes or destroys any trees without having complied with this ordinance shall be subject to a civil penalty in an amount equal to 1.5 times the value of those trees, as computed from the International Society of Arboriculture tree value formula, or a similar method in common use, as determined by the City Manager or designee.

(2) Willful failure to comply with any provision of this code may be grounds for revocation or denial of any building, occupancy, or other permit issued to or applied for by the violator for the subject property, such grounds for revocation or denial not to extend beyond one year from the date of the failure to comply.

(3) In addition to any other remedy or penalty available for enforcing the provisions of this code, the City Manager may institute appropriate administrative or judicial action to enjoin a failure to comply with any provision of this code.

(4) Any person aggrieved by a penalty imposed or decision rendered under LC 9.940(1), (2) and (3) above may appeal the same within the time and manner as set forth in LC 9.925(4)(c) and

9.925(5) above. (Revised by Ordinance No. 14-90D, Effective 11.21.90 [Sunset 11.30.91]; 16A-91, 11.20.91 [Sunset 6.1.93]; 4-93, 5.19.93 [Sunset 12.1.94]; 11-94, 11.22.94 [Sunset 12.1.95]; 3-96, 11.1.96)

GENERAL TREE REMOVAL GUIDELINES

(1) The proposed tree removal activity should include provisions for the conservation and protection of trees which are to remain, in accordance with the following:

(a) Prior to any development, or alteration of grade on a site for which a tree removal permit is required, trees which are not identified for removal should be protected from damage which could result from tree removal or construction activity. This standard shall not apply to commercial thinning or logging activities.

(b) On parcels for which an Urbanizing (Woodland) Tree Removal Permit is required, ribbon enclosures shall be utilized to mark groups of trees within critical root zones, drainage corridors, property line buffers, ridgeline or hilltop leave areas, or other large areas into which tree removal activities or heavy equipment will not encroach.

(c) All land disturbing activity, storage of equipment, building materials, fill soil, and all other materials should be kept within the development area and outside of the protective enclosure.

(2) Shallow-rooted trees which are to remain should be retained in sufficiently large areas and dense stands, and their critical root zone areas protected in such a manner as to protect against windthrow.

(3) Unless waived by written consent of the adjacent property owner(s), the edges of wooded areas along property lines should be maintained as buffers, except where prior development as occurred or future development is approved, including necessary ingress and egress points. Based on the environmental characteristics of the property as measured by the site evaluation factors in LC 9.920(3)(a)-(i), these buffers should be 20 feet or more in depth from the property line measuring into the subject property. Within these buffers, existing trees as defined in LC 9.905 should be maintained, except for hazard trees which may be removed as they are identified.

EXHIBIT "A" TO LC CHAPTER 9 (LC 9.935)

Page 1

(Revised by Ordinance No. 14-90D, Effective 11.21.90 [Sunset 11.30.91]; 16A-91, 11.20.91 [Sunset 6.1.93]; 4-93, 5.19.93 [Sunset 12.1.94]; 11-94, 11.22.94 [Sunset 12.1.95]; 3-96, 11.1.96)

WOODLAND FOREST MANAGEMENT GUIDELINES

A. Purpose. These guidelines are intended to maintain and encourage the growing of trees for future production and to provide for landowners to realize a return on investments in the property and resource. These standards are considered acceptable, provided the landowner uses good judgment; they may be altered provided sound and objective information is supplied to the city manager or designee clearly leading to the conclusion that alternative approaches or outputs are more appropriate.

B. Guidelines.

1. Retain all healthy deciduous trees.
2. Retain all healthy Ponderosa pine trees.
3. Retain all healthy conifers of 36" or greater DBH.
4. Remove all hazard trees.
5. In no case shall the naturally occurring density of tree areas be reduced below 80 square feet per acre or below 50 percent crown closure, unless the naturally occurring stand is determined to have 100 percent crown closure, in which case reduction to less than 80 square feet per acre may be considered on a case by case basis. Trees shall be well dispersed over the site.

6. Table I (Minimum Stocking) and II (Crown spacing) shall be used to achieve compliance with these guidelines.

- 7. Final harvesting or clear-cutting shall not exceed five percent of the acreage of any single ownership within the Urbanizing Area in any one year. For purposes of this calculation, ownerships through which the Urban Growth Boundary passes shall not include lands outside the UGB.
- 8. Buffers and thinning shall be used to protect offsite views of the property.
- 9. In circumstances of natural calamity or disaster (e.g., windstorm causing blow-down), the above guidelines may be waived or exceeded in order to provide for salvage operations.

EXHIBIT "B" TO LC CHAPTER 9 (LC 9.935)

Page 1

(Revised by Ordinance No. 14-90D, Effective 11.21.90 [Sunset 11.30.91]; 16A-91, 11.20.91 [Sunset 6.1.93]; 4-93, 5.19.93 [Sunset 12.1.94]; 11-94, 11.22.94 [Sunset 12.1.95]; 3-96, 11.1.96)

TABLE I

<u>Tree Diameter (DBH) (in ")</u>	<u>Basal Area/Tree</u>	<u># Trees/Acre to Maintain 80 sq. ft./Acre</u>	<u>Approximate Spacing Required*</u>
6	.196	400	10x10
8	.349	230	14x14
10	.545	145	17x17
12	.785	100	20x20
14	1.064	75	24x24
16	1.396	60	27x27
18	1.767	45	31x31
20	2.182	Recommended that a minimum of 2.640 trees per acre be left unless applicant provides sufficient information that would allow fewer trees while maintaining the 80 sq. ft. basal area.	
22	3.140		
24	3.690		
26	4.280		
28	4.910		
30	5.580	An example would be complete crown closure and/or a suppressed understory.	
32	6.300		
34	7.070		
36**	7.880		
38	8.730		
40			

** All trees 36-inch DBH will remain. However, landowner may make a case to be considered.
 * This shall be interpreted to mean Conifers only; all Deciduous trees are excluded.

EXHIBIT "B" TO LC CHAPTER 9 (LC 9.935)

Page 2

(Revised by Ordinance No. 14-90D, Effective 11.21.90 [Sunset 11.30.91]; 16A-91, 11.20.91 [Sunset 6.1.93]; 4-93, 5.19.93 [Sunset 12.1.94]; 11-94, 11.22.94 [Sunset 12.1.95]; 3-96, 11.1.96)

TABLE II

Crown Spacing - Trees Per Acre

43,560 Sq. Ft./Acre = 435.6 Sq. Ft./Tree (22"-Diameter Crown)
100 trees

Diameter Crown (in Feet)	Sq. Ft./ Tree	Trees/ Acre	(Closed Canopy)
10	78.75	553	
15	176.63	247	
20	314.00	139	
25	490.63	89	
30	706.50	62	
35	961.63	45	
40	1,256.00	35	

EXHIBIT "B" TO LC CHAPTER 9 (LC 9.935)

Page 3

(Revised by Ordinance No. 14-90D, Effective 11.21.90 [Sunset 11.30.91]; 16A-91, 11.20.91 [Sunset 6.1.93]; 4-93, 5.19.93 [Sunset 12.1.94]; 11-94, 11.22.94 [Sunset 12.1.95]; 3-96, 11.1.96)

EROSION PREVENTION

9.945 Applicable Erosion Control Prevention Regulations.

Lane County has adopted the following erosion control regulations to be applied by Eugene on urbanizable land within the Eugene Urban Growth Boundary, as set forth in LC 10.600-20.

(1) The Eugene Erosion Prevention regulations as adopted by the Lane County Board of Commissioners as part of Ordinance No. 2-04.

(2) Copies of the applicable erosion prevention regulations shall be on file at the Lane County Land Management Division. *(Revised by Ordinance 2-04, Effective 4.9.04)*

9.946 Applicable Erosion Control Prevention Regulations, City of Springfield UTZ

Lane County has adopted the following erosion control regulations to be applied by the City of Springfield on urbanizable land within the Springfield Urban Growth Boundary as set forth in LC 10.600-10.

(1) The Springfield erosion prevention regulations as adopted by the Lane County Board of Commissioners as part of Ordinance No. 2-10

(2) The Lane County Land Management Division will maintain and make available to the public copies of the applicable erosion prevention regulations. *(Revised by Ordinance 2-10, Effective 7.9.10)*

CLEAR LAKE WATERSHED BOATING REGULATIONS

9.950 Clear Lake Watershed Boating Regulations.

(1) Purpose. The Clear Lake Watershed has been recognized as an area deserving protection in order to maintain high water quality in Clear Lake as a domestic water supply source. The Clear Lake Watershed is made up of properties, a substantial majority of which, are in private ownership. The Clear Lake Watershed Boating Regulations are adopted to protect the water quality of the Watershed, and at the same time, protect the rights of private property owners to make reasonable use of their lands and the adjacent lakes.

(2) **Applicability.** These Clear Lake Watershed Boating Regulations shall apply to parcels or portions of parcels, and all subdivision lots located in whole or in part within the Clear Lake Watershed as defined in LC 16.258(2). For purposes of these Clear Lake Watershed Boating Regulations, “Lakes” shall mean Clear Lake and Collard Lake in western Lane County, Oregon.

(3) Boating shall be allowed on the Lakes, subject to the following restrictions:

(a) Boats shall be sanitized prior to being launched into the lakes to prevent introduction of foreign organisms harmful to the lakes including, but not limited to, eurasian water milfoil.

(b) Motorboat speed within 100 feet of the water supply inlet on the southwest corner of Clear Lake shall not exceed 10 mph.

(c) Motorboat operators shall provide regular maintenance of the boat motor so as not to harm the waters of the Lakes. *(Revised by Ordinance No. 6-98, Effective 12.2.98)*

ENFORCEMENT

9.990 Failure to Comply.

(1) A failure to comply with any provision of this chapter, except LC 9.020 through 9.028, LC 9.120 through 9.160 and 9.900, shall constitute a Class 1 failure to comply and shall be handled in accordance with LC Chapter 5.

(2) Any person may sign a County notice of failure to comply with LC 9.035.

(3) The Director of the Lane County Department of Health and Human Services, or duly authorized representative, may sign notices of failure to comply for LC 9.200, 9.500, 9.550 and 9.600. The Director of the Lane County Department of Public Works, the Manager of the Land Management Division, or their duly authorized representative, may sign a notice of failure to comply for LC 9.117, 9.300, or 9.410. Subject to available resources, the Director of the Department of Public Safety for Lane County, or the Director's authorized representative, may issue a notice of failure to comply for persons not in compliance with LC 9.950.

(4) Each day in which a failure to comply with LC 9.554, 9.558, 9.560, or 9.564 continues constitutes a separate failure to comply.

(5) At the expiration of the period set by the County for correction of any failure to comply with LC sections 9.310 through 9.370, the County shall again inspect the dwelling. If the condition has not been corrected, the responsible owner or occupant may be cited for failure to comply.

(6) Violation of LC 9.135 shall be subject to the procedures of LC 9.145 and the penalty as specified in LC 9.150. *(Revised by Ordinance No. 20-72, Effective 10.13.72; 5-73, 8.4.73; 9-73, 8.15.73; 10-74, 8.23.74; 7-75, 5.16.75; 7-84, 7.27.84; 9-90, 1.18.91; 6-98, 12.2.98; 1-00, 4.12.00; 6-00, 7.1.00; 13-07, 1.11.08)*