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Chapter 9 – ENVIRONMENT AND HEALTH

9.005 – SOLID WASTE POLICY AND AUTHORITY

9.005.005 - Purpose and Authority.

- A. 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.
- B. The regulations in this chapter are established to:
 - 1. 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,
 - 2. Provide for the proper and lawful disposal of waste materials,
 - 3. Provide opportunities, education, and encouragement for recycling,
 - 4. Encourage coordinated solid waste collection, disposal, and recycling programs with the cities located in the County, and
 - 5. Comply with the requirements of applicable laws and regulations.
- C. In carrying out the County's policy, the Director is authorized to:
 - 1. Enforce the provisions of LC 9.010.005 through LC 9.010.055,
 - 2. 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,
 - 3. 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
 - 4. To enforce such rules in accordance with this chapter, provided that:
 - a. Such rules may not be adopted until the haulers have been notified of the proposed rules and given not less than thirty (30) days' opportunity to comment, and
 - b. Written notice of adopted rules is provided to haulers, cities, and other known affected parties at the time of adoption.

(Ordinance 18-01, 3.29.18)

9.005.010 - Definitions.

As used in LC 9.005.005 through LC 9.020.040, the following words and phrases mean:

“Director” means the Director of the Lane County Department of Public Works.

“Disposal Site” means 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

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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" means the Waste Management Division of the Lane County Department of Public Works.

"Enforcement Officer" means a person authorized to enforce provisions of the Lane Code, as defined in LC 5.005.005.

"Generator" means 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" means a person engaged in the business of collecting, transporting or disposing of municipal solid waste generated within Lane County.

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

"Material Recovery Facility" means 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" means 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 (1%) 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" means an individual or entity as defined in LC 1.005.010.

"Program Elements" means 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" means Organic material that can decompose and give rise to foul smelling and offensive products or attract vectors, as defined in OAR 340-093-0030(78).

"Refuse" means 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" means 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" means a person that transports municipal solid waste produced by that person in Lane County.

"Solid Waste" means all putrescible and nonputrescible wastes as defined in OAR 240-093-0030(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 340-093-0030(91)(b).

C. Woody biomass fuel combusted in a licensed facility, as defined in OAR 340-093-0030(91)(c).
(Ordinance 5-92, 6.3.92; Ordinance 1-99, 6.25.99; Ordinance 1-00, 4.12.00; Ordinance 13-07, 1.11.08; Ordinance 18-01, 3.29.18)

9.010 – REGULATIONS AND ENFORCEMENT

9.010.005 - Illegal Dumping and Penalty

- A. 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.
- B. A person is presumed to have participated in illegal dumping in violation of LC 9.010.005A 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 the presumption in this section by providing the County with evidence that establishes that the person was likely not responsible for the illegal dumping of the item in violation of LC 9.010.005A.
- C. Illegal Dumping is a Class A violation, pursuant to ORS Chapter 153. 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.

(Ordinance 13-07, 1.11.08; Ordinance 6-12, 11.17.12; Ordinance 22-02, 2.8.22)

9.010.007 - Illicit Discharge

- A. Definitions. For the purposes of this section, the following words and phrases mean:

“Director” means the Director of the Department of Public Works or the Director’s designee.

“Illicit Discharge” means any discharge to the stormwater system that is not composed entirely of stormwater, as determined by the Environmental Protection Agency Stormwater Phase II Final Rule, as it may be modified from time to time. The following non-stormwater discharges are not categorized by Oregon Department of Environmental Quality (DEQ) to be an Illicit Discharge, unless they become a source of pollutants:

1. A discharge regulated under a separate DEQ National Pollutant Discharge Elimination System (NPDES) permit.
2. A discharge that originates from emergency firefighting activities or fire hydrant flushing.
3. Uncontaminated water line flushing.
4. Landscape irrigation, only if pesticides and fertilizers are applied in accordance with the manufacturer’s instructions.
5. Diverted stream flows.

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6. Uncontaminated ground water infiltration (as defined at 40 CFR § 35.2005(20)) to separate storm sewers.
7. Rising groundwaters.
8. Uncontaminated pumped groundwater.
9. Potable water sources (including potable groundwater monitoring wells and draining and flushing of municipal potable water storage reservoirs).
10. Start up flushing of groundwater wells.
11. Foundation footing and crawlspace drains (where flows are not contaminated [i.e., process materials or other pollutant]).
12. Uncontaminated air conditioning condensation or compressor condensate.
13. Irrigation water, only if pesticides and fertilizers are applied in accordance with the manufacturer's instructions).
14. Springs.
15. Lawn watering.
16. Individual residential car washing.
17. Charity car washing (provided that chemicals, soaps, detergents, steam or heated water are not used. Washing is restricted to the outside of the vehicle, no engines, transmissions or undercarriages).
18. Flows from riparian habitats and wetlands.
19. De-chlorinated swimming pool discharges including hot tubs (heated water must be cooled for at least twelve (12) hours prior to discharge).
20. Street and pavement wash waters (provided chemicals, soaps, detergents, steam or heated water are not used).
21. Routine external building wash-down (provided chemicals, soaps, detergents, steam or heated water are not used).
22. Water associated with dye testing activity.
23. Discharges of treated water from investigation, removal and remedial actions selected or approved by DEQ pursuant to ORS Chapter 465.

"Illicit connection" means:

1. Any surface or subsurface drain or conveyance that allows an illicit discharge to enter the stormwater system, including but not limited to:
 - a. Any conveyances that allow any illicit discharge to enter the stormwater system, and
 - b. Any connections to the stormwater system from indoor drains and sinks. The above activities are considered illicit connections regardless of whether the drain, conveyance, or connection was previously allowed, permitted, or approved by a government agency; or
2. Any drain or conveyance connected from a commercial or industrial land use to the stormwater system that has not been documented in plans, maps, or equivalent records and approved by the County through the Facility Permits process.

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“Non-stormwater Discharge” means any discharge to the public storm drainage, groundwater and surface water systems that is not composed entirely of stormwater.

“Person in Charge of Property” means an owner, agent, occupant, lessee, tenant, contract purchaser, or other responsible person having possession or control of the property or the supervision of a construction project on the property.

“Pollutant” means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, sand, soil, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

“Premises” means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips. The term “premises” shall include recreational vehicles.

“Public Way” means any property over which the public has acquired a right of use or passage through dedication, grant, use, or conduct. Public ways include, but are not limited to, “public roads,” as defined in LC 15.010(41), easements, and drainage ways.

“Recreational Vehicle” means a vehicle designed to be used primarily as temporary living quarters for recreational, camping, travel or seasonal use that either has its own motor power or is mounted on or towed by another vehicle, including, but not limited to camping trailers, fifth wheel trailers, motor homes, travel trailers and truck campers.

“Responsible Person” as defined in LC 5.025.005, and including:

1. The person in charge of property from which the discharge emanates, and
2. The person who directly or indirectly causes the discharge.

“Stormwater Sewer System, Stormwater System, Storm Drainage System” means for purposes of this chapter, a drain and collection system owned, operated, or under the control of Lane County for the sole purpose of collecting naturally occurring precipitation or stormwater runoff, including roads, ditches, channels, pipes, and culverts, catch basins, manholes. The stormwater sewer system is not a combined sewer system and does not include conveyance of any wastewater.

“Storm Water, Stormwater, Stormwater Runoff, Storm Water Runoff” means water that washes off or runs off the land as a result of naturally occurring precipitation, such as a snow or rainstorm, which does not infiltrate into the soil, as determined by the Environmental Protection Agency Stormwater Phase II Final Rule, as it may be modified from time to time.

B. Purpose and Scope. The purpose of this section is to provide for the health, safety, and general welfare of the citizens of the County, protect groundwater and waters of the state to which stormwater systems discharge, through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable under Federal and Oregon law.

C. Applicability:

1. This section applies to illicit discharges and to discharges from illicit connections, when such discharges occur on property located outside the Urban Growth Boundaries of the cities of Springfield and Eugene, as defined in LC 10.600-10 and LC 10.600-20, respectively.
2. For areas within the City of Springfield Urban Growth Boundary, the Lane County Board of Commissioners has adopted the City of Springfield’s illicit discharge regulations as part of Ordinance No. 3-10. Those regulations shall be applied by the City of Springfield within the Springfield Urban Growth Boundary as set forth in LC 10.600-10.

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3. For areas within the City of Eugene Urban Growth Boundary, the Lane County Board of Commissioners has adopted the City of Eugene's illicit discharge regulations as part of Ordinance No. 01-12. Those regulations shall be applied by the City of Eugene within the Eugene Urban Growth Boundary as set forth in LC 10.600-10.
 4. The County retains the right to enforce the adopted regulations in LC 9.010.007C.2 and LC 9.010.007C.3, pursuant to LC 9.010.007E, where compliance cannot be obtained by the cities.
- D. Requirements and Prohibitions.
1. Prohibited Discharges:
 - a. No person may place or cause to be placed in the County Stormwater Sewer System a substance that is harmful to water quality or has a tendency to clog the County Stormwater Sewer System. No person, within the person's ability to control, may permit a substance that is harmful to or has a tendency to clog the County Stormwater Sewer System, to enter the County Stormwater System.
 - b. No person may allow an illicit discharge from his or her premises to flow out, on, or under a public way or public property.
 - c. No person may permit any discharge from an illicit connection to flow out, on, or under a public way or public property.
 2. Exceptions to Prohibited Discharges. Except as provided in LC 9.010.007D.2, no person may discharge or cause to be discharged into the County Storm Water System, any substance other than stormwater:
 - a. Discharges authorized by written approval of the Oregon Department of Environmental Quality or the Director.
 - b. Discharges pursuant to a National Pollutant Discharge Elimination System permit issued on or before March 10, 2004, which are deemed to have received written approval from the Director.
 - c. The foregoing exceptions notwithstanding, the Director may deny or withdraw approval for discharge, including the approval under LC 9.010.007D.2.b, if the Director determines that discharge poses a threat to health, safety, public welfare, or the environment, or is otherwise prohibited by law.
- E. Enforcement.
1. Illicit Discharge is a Class A violation, pursuant to ORS Chapter 153.
 2. A person who violates any provision of LC 9.010.007 is subject to administrative enforcement pursuant to LC Chapter 5 and LC Chapter 15, and abatement pursuant to the nuisance abatement procedures set forth in LC Chapter 9. Abatement or correction under those provisions may include installation of infrastructure as necessary to prevent illicit discharges from entering the public way or public property. 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.

(Ordinance 22-02, 2.8.22)

9.010.010 - Violation of Posted Restrictions of Use.

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A. 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:

1. 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.
2. 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.

B. Definitions. For the purposes of LC 9.010.010, the following words and phrases mean:

“Local Access Road” means any road as so defined in LM 15.010(33).

“County Road” means any County road as defined in LM 15.0101(17).

“Posted Limits of Use” means 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” means 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.

C. Violation of LC 9.010.010 is a Class A violation.

(Ordinance 13-07, 1.11.08)

9.010.015 - Non-Payment of Fees.

A. A person commits the violation of non-payment of fees if the person knowingly fails to pay an established fee as required by LM 60.800.010 at any Lane County solid waste disposal or transfer site.

B. A violation of LC 9.010.015A is a Class C violation.

(Ordinance 13-07, 1.11.08)

9.010.020 - Destruction of Public Property.

A. 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.

B. Violation of LC 9.010.020A is a Class A violation.

(Ordinance 13-07, 1.11.08)

9.010.025 - Interference with Official Duties.

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- A. 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.
- B. Violation of LC 9.010.025A is a Class A violation.

(Ordinance 13-07, 1.11.08)

9.010.030 - Failure to Identify.

- A. 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.
- B. Violation of LC 9.010.030A is a Class A violation.

(Ordinance 13-07, 1.11.08)

9.010.035 - False Information.

- A. 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.
- B. A violation of LC 9.010.035A is a Class A violation.

(Ordinance 13-07, 1.11.08)

9.010.040 - Disposal - Public Place; Private Property.

- A. 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 at the official disposal sites provided by the County, at other disposal sites which have been approved by all appropriate regulatory agencies, or short-term storage as provided in LC 9.010.040B.
- B. 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.

(Ordinance 5-92, 6.3.92)

9.010.045 - 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:

- A. Completely covered on all sides and on the top and bottom thereof and such cover is either a part of or securely fastened to the body of such motor vehicle or trailer; or
- B. 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; or

- C. 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.

(Ordinance 5-92, 6.3.92; Ordinance 18-01, 3.29.18)

9.010.050 - 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:

- A. Hot ashes or other burning material;
- B. Sewage sludge, offal or the contents of septic tanks and pit privies;
- C. Auto bodies or vehicle tires;
- D. Animal carcasses;
- E. Explosives, carbides, chemicals, drugs, and other materials considered to be dangerous;
- F. Household appliances (refrigerators, stoves, washing machine, dryer, etc.);
- G. Motor oil;
- H. Computer monitors and CPUs, laptops, and televisions;
- I. Lead acid batteries; and
- J. Tires.

(Ordinance 18-01, 3.29.18)

9.010.055 - Salvage and Other Orders by Manager.

- A. No person shall salvage at disposal sites unless specifically authorized in writing by the Manager.
- B. 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.

(Ordinance 18-01, 3.29.18)

9.010.060 - Failure to Comply.

Failure to comply with any of the requirements of LC 9.010.040 through LC 9.020.040 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.

(Ordinance 18-01, 3.29.18)

9.015 – URBAN GROWTH AREA RECYCLING REGULATIONS

9.015.005 - Urban Growth Area Recycling Regulations.

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- A. 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 four thousand (4,000) or greater in Lane County must:
1. 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,
 2. 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 LC 9.015.005A.1,
 3. For all educational materials to be provided to customers, provide a copy of the materials to the Division for approval not less than thirty (30) days prior to distribution, and
 4. Provide an annual report, in a form acceptable to the Division, demonstrating compliance with the approved plan.
- B. In addition to the requirements of LC 9.015.005A, 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 fifty thousand (50,000) or greater in Lane County must:
1. 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,
 2. Deliver all loads of construction and demolition debris containing recyclables and ten (10) cubic yards or greater in size to a material handling facility for sorting, and
 3. Offer and provide recycling collection services to all multifamily properties with five (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 five (5) units, the services within the UGB must be the same as provided in the city.
- C. Failure to comply with any of the above provisions is a Class 1 failure to comply.

(Ordinance 18-01, 3.29.18)

9.020 – SOLID WASTE SYSTEM BENEFIT FEE

9.020.005 - Solid Waste System Benefit Fee.

- A. 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.
- B. 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 thirty (30) days after the adoption of the Order.

(Ordinance 1-99, 6.25.99; Ordinance 18-01, 3.29.18)

9.020.010 - Solid Waste System Benefit Fee Collection, Remittance, and Reporting.

- A. 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.
 - 1. 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.
 - 2. 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 is disposed of at County facilities is not subject to the Fee.
- B. 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 twenty-fifth (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.
- C. 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.
- D. 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."

(Ordinance 1-99, 6.25.99; Ordinance 18-01, 3.29.18)

9.020.015 - 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 (7) 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.

(Ordinance 1-99, 6.25.99; Ordinance 18-01, 3.29.18)

9.020.020 - 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.

(Ordinance 1-99, 6.25.99; Ordinance 18-01, 3.29.18)

9.020.025 - 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 9.020.050 through LC 9.020.035 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:

- A. 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.
- B. 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.
- C. The disclosure of general statistics regarding fees collected or business done in the County or portion thereof.
- D. Necessary disclosures in connection with appeals or forced collections as provided in LC 9. 020.005 through LC 9.020.040.

(Ordinance 1-99, 6.25.99; Ordinance 1-00, 4.12.00; Ordinance 18-01, 3.29.18)

9.020.030 - Collection Actions.

Exercise of any remedy by the County under LC 9.020.050 through LC 9.020.040 does not preclude exercise of other remedies.

- A. 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.
- B. 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.

(Ordinance 1-99, 6.25.99; Ordinance 1-00, 4.12.00; Ordinance 18-01, 3.29.18)

9.020.035 - 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 9.020.005 through LC 9.020.030. Failure to comply with any of the requirements of LC 9.020.005 through LC 9.020.030 shall be subject to administrative enforcement pursuant to LC Chapter 5.

LC 9.020.035 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 9.020.005 through LC 9.020.040 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 9.020.005 through LC 9.020.040.

(Ordinance 1-99, 6.25.99; Ordinance 1-00, 4.12.00; Ordinance 18-01, 3.29.18)

9.020.040 - 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 9.020.005 through LC 9.020.040.

(Ordinance 1-99, 6.25.99; Ordinance 1-00, 4.12.00; Ordinance 18-01, 3.29.18)

9.025 – RESTRICTION OF USE OF SOLID FUEL SPACE HEATING DEVICES

9.025.005 - Purpose and Findings.

- A. 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.
- B. 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.
- C. 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.

D. It is the intent of Lane County that the penalty section of this ordinance not take effect until November 1, 1991.

(Ordinance 9-90, 1.18.91; Ordinance 1-10, 6.11.10)

9.025.010 - Definitions.

As used in LC 9.025.005 through LC 9.030.035, the following words and phrases mean:

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

“Green Advisory for Oakridge Area” means a twenty-four (24) hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be less than one hundred (100) micrograms per cubic meter and PM2.5 levels are forecast to be less than twenty (20) micrograms per cubic meter, within the Oakridge Urban Growth Boundary.

“Lane Regional Air Protection Agency” means 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” means the degree to which an emission reduces transmission of light or obscures the view of an object in the background.

“Pellet Stove” means an enclosed solid fuel space heating device designed and operated to burn manufactured solid fuel and having an air-to-fuel ratio greater than thirty-five to one (35 to 1) as determined by the federal test method described in 40 CFR Part 60.534

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

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

“PM2.5” means solid or liquid particulate matter (excluding uncombined water) with an aerodynamic diameter less than or equal to two and one-half (2.5) micrometers.

“PM10” means solid or liquid particulate matter (excluding uncombined water) with an aerodynamic diameter less than or equal to ten (10) micrometers.

“Sole Source of Heat” means 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” means 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 for Eugene-Springfield Area” means a twenty-four (24) hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to one hundred twenty-five

(125) micrograms per cubic meter, or when PM2.5 levels are forecast by LRAPA to be greater than or equal to thirty (30) micrograms per cubic meter within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

“Red Advisory for Oakridge Area” means a twenty-four (24) hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to one hundred twenty-five (125) micrograms per cubic meter, or when PM2.5 levels are forecast by LRAPA to be greater than or equal to twenty-five (25) micrograms per cubic meter within the Oakridge Urban Growth Boundary.

“Visible Emissions” means 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 for Eugene-Springfield Area” means a twenty-four (24) hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to one hundred (100) micrograms per cubic meter but less than one hundred twenty-five (125) micrograms per cubic meter, or when PM2.5 levels are forecast to be greater than or equal to twenty (20) micrograms per cubic meter but less than twenty-five (25) micrograms per cubic meter, within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

“Yellow Advisory for Oakridge Area” means a twenty-four (24) hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to (one hundred) 100 micrograms per cubic meter but less than one hundred twenty-five (125) micrograms per cubic meter, or when PM2.5 levels are forecast to be greater than or equal to twenty-five (25) micrograms per cubic meter but less than (thirty) 30 micrograms per cubic meter, within the Oakridge Urban Growth Boundary.

(Ordinance 9-90, 1.18.91; Ordinance 1-00, 4.12.00; Ordinance 13-03, 10.23.03; Ordinance 1-10, 6.11.10; Ordinance 16-10, 2.9.17)

9.025.015 - Area of Applicability.

Sections LC 9.025.005 through LC 9.025.035 apply to the unincorporated areas within the Eugene, Springfield, and Oakridge Urban Growth Boundaries.

(Ordinance 9-90, 1.18.91; Ordinance 13-03, 10.23.03; Ordinance 16-10, 2.9.17)

9.025.020 - Prohibitions.

- A. Red Advisory. A person in charge of property violates LC 9.025.020A 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.
- B. Visible Emissions Limitations for Eugene-Springfield Area. A person in charge of property violates LC 9.025.020B 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 percent (40%). 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.
- C. Visible Emissions Limitations for Oakridge Area. A person in charge of property violates LC 9.025.020C 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 percent (20%). 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.

- D. Prohibited Materials. A person in charge of property violates LC 9.025.020D 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.

(Ordinance 9-90, 1.18.91; Ordinance 1-00, 4.12.00; Ordinance 13-03, 10.23.03; Ordinance 16-10, 2.9.17)

9.025.025 - Exemption for Economic Need.

Exemption from the requirements of LC 9.025.020 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 administered by Lane County and as established by the United States Department of Energy are exempt from LC 9.025.020 above for Red Advisories. Individual exemptions shall expire on July 1 of each year and must be renewed annually.

(Ordinance 9-90, 1.18.91; Ordinance 1-00, 4.12.00; Ordinance 16-10, 2.9.17)

9.025.030 - Enforcement.

The Board of County Commissioners designates LRAPA and delegates to LRAPA authority to enforce the prohibitions contained in LC 9.025.005 through LC 9.025.035. 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.

(Ordinance 9-90, 1.18.91; Ordinance 1-00, 4.12.00; Ordinance 16-10, 2.9.17)

9.025.035 - Penalties.

A person who violates any provision of LC 9.025.020 is subject to administrative enforcement pursuant to LC Chapter 5, including a monetary penalty of a minimum of fifty dollars (\$50) to a maximum of five hundred dollars (\$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.

(Ordinance 9-90, 1.18.91; Ordinance 1-00, 4.12.00; Ordinance 16-10, 2.9.17)

9.030 – REGULATIONS OF TRAVELERS’ ACCOMODATIONS, RECREATION PARKS, ORGANIZATIONAL CAMPS, PUBLIC SWIMMING POOLS AND BATHHOUSES, RESTAURANTS, COMMISSARIES, MOBILE UNITS AND VENDING MACHINES

9.030.005 - Purpose.

LC 9.030.005 through LC 9.030.020 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, ORS 448.100 and ORS 624.510.

(Ordinance 7-76, 7.9.76; Ordinance 1-00, 4.12.00)

9.030.010 - Definitions.

As used in LC 9.030.005 through LC 9.030.020, the following words and phrases mean:

“County” means the Lane County Department of Health and Human Services.

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

“Rules” means the rules and regulations of the Oregon State Health Division, as adopted in LC 9.030.015.

(Ordinance 7-76, 7.9.76; Ordinance 1-00, 4.12.00)

9.030.015 - 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, ORS 448.005, ORS 624.010 through ORS 624.510, ORS 624.990 and ORS 624.992 as now or hereafter constituted are hereby adopted as part of this sub-chapter and incorporated herein.

(Ordinance 7-76, 7.9.76; Ordinance 1-00, 4.12.00)

9.030.020 - 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 9.030.015 and to eliminate conditions endangering the public health that may exist in these locations.

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.

(Ordinance 7-76, 7.9.76)

9.035 – MINIMUM STANDARDS OF FITNESS FOR RENTAL OCCUPANCY

9.035.005 - Purpose and Scope.

A. The provisions of LC 9.035.005 through LC 9.035.095 are minimum standards adopted for the protection of the health, safety and welfare of the inhabitants of Lane County, and apply to dwellings

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or premises that are rented, leased sublet, or hired out by the owner. These provisions shall be liberally construed to carry out this purpose.

- B. Unless otherwise specifically provided in LC 9.035.095, each provision of LC 9.035.005 through LC 9.035.090 herein applies to all dwellings or portions thereof, used, designed, or intended to be used for human habitation.
- C. Any remedy provided in LC 9.035.005 through LC 9.035.090 herein shall not be construed to be exclusive of any other remedy provided by law.
- D. Fees for services rendered in connection with enforcement of LC 9.035.005 through LC 9.035.090 herein may be established by separate order of the Board of County Commissioners.

(Ordinance 20-72, 10.13.72; Ordinance 6-76, 5.7.76; Ordinance 1-00, 4.12.00)

9.035.010 - Definitions.

As used in LC 9.035.005 through LC 9.035.095, the following words and phrases mean:

“County” means the Lane County Department of Public Works, which is responsible for the administration and enforcement of LC 9.035.005 through LC 9.035.090 herein.

“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.

“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.

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

“Guest” means a person hiring and occupying a room for living or sleeping purposes.

“Guest Room” means a room or rooms used, or intended to be used, by a guest for living or sleeping purposes.

“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.

“Occupant” means any person living, sleeping, cooking or eating in a dwelling.

“Ordinary Minimum Winter Conditions” means fifteen (15) degrees Fahrenheit above the lowest temperature recorded for the area during the preceding ten (10) year period.

“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.

“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.

“Window” means 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.

(Ordinance 20-72, 10.13.72; Ordinance 6-76, 5.7.76; Ordinance 1-00, 4.12.00)

9.035.015 - Water.

- A. Every dwelling shall have supplied water-heating facilities which are properly installed, are maintained in compliance with ORS 447.010 through ORS 447.097 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 one hundred twenty (120) degrees Fahrenheit.
- B. Water used in a dwelling shall be supplied from a community water system, or otherwise from a source approved by the County.
- C. 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.
- D. Every kitchen sink, lavatory and bathtub or shower required under the provisions of LC 9.035.020 and LC 9.035.025 shall be properly connected to both hot and cold water lines.

(Ordinance 20-72, 10.13.72; Ordinance 1-00, 4.12.00)

9.035.020 - Sanitary Plumbing Fixtures.

- A. Every dwelling unit shall have access to a water closet and a lavatory in good working order within a room that 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.
- B. Every dwelling unit shall have access to a bathtub or shower in good working condition within a room that affords privacy to a person within such room.
- C. In dwellings containing one (1) or more guest rooms, there shall be provided a minimum of one (1) water closet, lavatory, and bathtub or shower for every eight (8) guests or fractional number thereof.
- D. 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.

(Ordinance 20-72, 10.13.72)

9.035.025 - 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.

(Ordinance 20-72, 10.13.72)

9.035.030 - 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.

(Ordinance 20-72, 10.13.72)

9.035.035 - 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 seventy (70) degrees Fahrenheit at a point three feet above floor level under ordinary minimum winter conditions. No unvented, open flame heater shall be permitted.

(Ordinance 20-72, 10.13.72)

9.035.040 - Electric Service.

When electric service is available from a power line not more than three hundred (300) feet from a dwelling, every habitable room shall contain at least two (2) separate wall-type electric convenience outlets, or one (1) such convenience outlet and one (1) 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 (1) 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.

(Ordinance 20-72, 10.13.72)

9.035.045 - Lighting, Ventilation and Egress.

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

(Ordinance 20-72, 10.13.72)

9.035.050 - Rubbish and Garbage.

- A. 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.
- B. 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 Protection Agency (LRAPA) serving the entire building, or

any combination of the above facilities. The garbage containers shall be rat proof, insect proof and water tight.

- C. As well as providing garbage and rubbish disposal facilities or containers, all landlords and/or owners of apartment buildings of three (3) or more dwelling units shall be required to provide for the removal of these containers from the premises at least every seven (7) days.

(Ordinance 20-72, 10.13.72)

9.035.055 - 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.

(Ordinance 20-72, 10.13.72)

9.035.060 - 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.

(Ordinance 20-72, 10.13.72)

9.035.065 - 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:

- A. 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.
- B. Storing rubbish, garbage and other refuse in the temporary storage facilities required by LC 9.035.050 and providing for removal of same from the premises at least every seven (7) days except in cases where the owner has agreed to provide these same services, or as provided by LC 9.035.050C.
- C. 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.
- D. Any violation of LC 9.035.015 through LC 9.035.060 caused by a willful act or negligence by the occupant, a member of his family, or his guests.

(Ordinance 20-72, 10.13.72; Ordinance 1-00, 4.12.00)

9.035.070 - 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 the dwelling complies with the requirements of LC 9.035.015 through LC 9.035.065.

(Ordinance 20-72, 10.13.72; Ordinance 1-00, 4.12.00)

9.035.075 - Inspection.

- A. The County has the authority to inspect any dwelling or portion thereof for any violation of LC 9.035.015 through LC 9.035.070.
- B. An inspection shall only be conducted at reasonable times and upon presentation of proper credentials.
- C. An inspection shall be solely for purposes of enforcing these minimum standards and other laws and ordinances related to the maintenance of dwellings.

(Ordinance 20-72, 10.13.72; Ordinance 1-00, 4.12.00)

9.035.080 - Request for Inspection.

- A. 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 (5) 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 9.035.015 through LC 9.035.070.
- B. 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.

(Ordinance 20-72, 10.13.72; Ordinance 1-00, 4.12.00)

9.035.085 - Actions by County.

If any person fails to comply with LC 9.035.015 through LC 9.035.070, the County shall give written notice to the party responsible for compliance with the 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 thirty (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.

(Ordinance 20-72, 10.13.72; Ordinance 1-00, 4.12.00)

9.035.090 - Entry into Dwellings by Inspector.

- A. 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 the requirements 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.
- B. If such entry is refused, the inspector or the inspector's representative shall have recourse to every remedy provided by law to secure entry.

(Ordinance 20-72, 10.13.72; Ordinance 1-00, 4.12.00)

9.035.095 - Exemptions.

- A. None of the provisions of LC 9.035.005 through LC 9.035.095 shall apply to dwellings located wholly within the boundaries of any incorporated city within Lane County.
- B. LC 9.035.005 through LC 9.035.090 shall apply only to dwellings or premises that are rented, leased, let sublet, or hired out by the owner.
- C. LC 9.035.005 through LC 9.035.090 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 thirty (30) consecutive days.
- D. LC 9.035.020 does not apply to mobile homes in mobile home parks as defined in ORS 446.003.

(Ordinance 20-72, 10.13.72; Ordinance 1-00, 4.12.00)

9.040 – SEWER CONNECTION

9.040.005 - Purpose.

LC 9.040.010 through LC 9.040.045 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.

(Ordinance 12-84, 10.26.84; Ordinance 1-00, 4.12.00)

9.040.010 - Definitions.

As used in LC 9.040.005 through LC 9.040.045, the following words and phrases mean:

“Affected Property” means 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 9.040.015 below have been taken.

“Impracticable” means 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” means a sewage disposal system that is deficient in capacity or design to serve the intended use as specified in ORS 454.605 through ORS 454.755 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” means a sanitary sewer available for an affected property with structures thereon that discharge domestic sewage or industrial or trade wastes. The sanitary sewer is available if the point of discharge from the structure lies within one hundred sixty (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 9.040.015 below have both been taken.

(Ordinance 12-84, 10.26.84; Ordinance 1-00, 4.12.00)

9.040.015 - 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.

(Ordinance 12-84, 10.26.84)

9.040.020 - Connection.

Upon a Notice of Sewer Availability:

- A. The sanitary sewer connection to a city sanitary sewerage system must occur in the manner prescribed by the city.
- B. The sanitary sewer connection must occur within eighteen (18) months after service on the owner of the affected property of the notice of sewer availability.
- C. 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.

(Ordinance 12-84, 10.26.84)

9.040.025 - 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.

(Ordinance 12-84, 10.26.84; Ordinance 1-00, 4.12.00)

9.040.030 - Notice.

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

- A. The identity of the property and structure affected,
- B. The date of the cities assessment,
- C. The date of the hearings official determination,
- D. The requirement of this section and any other laws, rules and regulations regulating connection to the city sewerage system,
- E. The public officer who may be contacted for assistance in complying with this notice, and
- F. 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 (4) successive weeks in the newspaper of general circulation within the County shall also be provided.

(Ordinance 12-84, 10.26.84)

9.040.035 - Administration.

The administration and enforcement of this sub-chapter shall be the sole responsibility of the city controlling 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 LC 9.040 or any appeals therefrom. The city shall bring any enforcement action under LC 9.040 in the name of the city.

(Ordinance 12-84, 10.26.84)

9.040.040 - Nuisance.

The failure to connect an affected property to a sanitary sewer in conformity with LC 9.040.020 when required by LC 9.040 shall constitute a public nuisance.

(Ordinance 12-84, 10.26.84)

9.040.045 - Enforcement.

Failure to comply with LC 9.040.020 shall constitute a Class One (1) failure to comply as specified in LC 5.005.040. Each thirty (30) day period of noncompliance shall constitute a separate failure to comply. Enforcement of the sewer connection required in LC 9.040.020 may also occur by civil action in Circuit Court, to either abate the nuisance or compel connection.

(Ordinance 12-84, 10.26.84; Ordinance 1-00, 4.12.00)

9.045 – PUBLIC HEALTH

9.045.005 - 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 9.050.005 through LC 9.060 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.

(Ordinance 1-73, 3.9.73; Ordinance 1-00, 4.12.00; Ordinance 18-03, 5.31.18)

9.050 – VERIFYING DANGER TO PUBLIC HEALTH

9.050.005 - Definitions.

As used in LC 9.050.005 through LC 9.050.015, the following words and phrases mean:

As defined in ORS 222.850, “Danger to Public Health” means a condition:

A. 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:

1. A contaminated or inadequate safe drinking water supply.
2. Inadequate installations for the disposal or treatment of sewage, garbage or other contaminated or putrefying waste.
3. Inadequate improvements for drainage of surface water and other fluid substances or contaminates, or

B. 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” means the Lane County Department of Health and Human Services.

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

“Governing Body” means 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” means the division of the Department assigned responsibility for public health matters.

(Ordinance 1-73, 3.9.73; Ordinance 1-00, 4.12.00; Ordinance 18-03, 5.31.18)

9.050.010 - Purpose.

This sub-chapter is adopted for the following purposes:

- A. Protecting the health, safety and welfare of the people of the County.
- B. Providing a more realistic solution of community health problems.
- C. Increasing public awareness of areas in the County where conditions exist that are conducive to the spread of communicable disease, and

- D. 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.

(Ordinance 1-73, 3.9.73; Ordinance 18-03, 5.31.18)

9.050.015 - Verification of Danger to Public Health.

The Department and governing body will verify the conditions alleged to be causing a danger to public health, when required to do so, pursuant to ORS 222.860.

(Ordinance 1-73, 3.9.73; Ordinance 1-00, 4.12.00; Ordinance 18-03, 5.31.18)

9.055 – SAFE DRINKING WATER PROGRAM

9.055.005 - 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.

(Ordinance 10-74, 8.23.74; Ordinance 18-03, 5.31.18)

9.055.010 - Definitions.

As used in LC 9.055.005 through LC 9.055.025, the following words and phrases mean:

“Danger to Public Health” means 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” means the Lane County Department of Health and Human Services.

“Governing Body” means 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” means water occurring naturally in underground formations that are saturated with water.

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

“Program Element” (“PE”) means 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” means 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 three thousand three hundred (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” means 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 to the County, acting as the Local Public Health Authority. These responsibilities are currently set forth in Program Element #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” means the inspection services provided by the LPHA under contract to the OHA.

“Unregistered System” means a Public Drinking Water system that has not been registered with the Authority.

“Waterborne Disease” means 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.

(Ordinance 10-74, 8.23.74; Ordinance 17-75, 3.12.76; Ordinance 1-00, 4.12.00; Ordinance 18-03, 5.31.18)

9.055.015 - 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.

(Ordinance 18-03, 5.31.18)

9.055.020 - 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 Water 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.

(Ordinance 18-03, 5.31.18)

9.055.025 - Licenses.

- A. 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:

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1. 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, and
 2. The information required on the application is complete and correct.
- B. The Department may revoke a license issued hereunder when it finds the licensee has materially violated any of the requirements of LC 9.055.
- C. 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 9.057.592C.

(Ordinance 10-74, 8.23.74; Ordinance 17-75, 3.12.76)

9.057 – NUISANCE

9.057.570 - Purpose.

The purpose of LC 9.057.570 through LC 9.057.592 is to regulate the accumulation of waste, solid waste, tires, inoperable vehicles and vegetation on public and private property.

(Ordinance 22-02, 2.8.22)

9.057.572 - Exemptions.

Unless specifically provided otherwise, LC 9.057.570 through 9.057.592 does not apply to the following:

- A. Disposal sites operated in compliance with regulations promulgated by the Environmental Quality Commission, Department of Environmental Quality, or other ordinances or regulations of the County.
- B. Outdoor storage of inoperable or unregistered vehicles when the land has a zoning district that permits or conditionally permits outdoor storage of inoperable or used vehicles and the vehicles are stored in accordance with applicable provisions.
- C. Property located within the corporate limits of incorporated cities.

(Ordinance 22-02, 2.8.22)

9.057.574 - Definitions.

As used in LC 9.057.592 through LC 9.030.020, the following words and phrases mean:

“Abandoned Structure” means a vacant structure that is an attractive nuisance.

“Attractive Nuisance” means buildings, structures, or premises that are in an unsecured, derelict or dangerous condition, including but not limited to:

- A. Unguarded machinery, equipment, or other devices that are attractive, dangerous and accessible to children;
- B. Lumber, logs, or pilings placed or stored in a manner so as to be attractive, dangerous and accessible to children;

Lane Code

C. An open pit, quarry, cistern, or other excavation without safeguards or barriers to prevent such places from being used by children; or

D. An open, vacant structure which is attractive, dangerous and accessible to children or which is used for habitation by trespassers. "Attractive Nuisance" does not include authorized construction projects with reasonable safeguards to prevent injury or death to playing children.

"Certificate of Fitness" means a certificate issued for a particular property by the Oregon Health Division following a satisfactory site characterization by a licensed drug laboratory decontamination contractor, sampling and testing by an independent, third party approved by the Oregon Health Division, and any necessary contamination reduction of the property by such licensed contractor. The certificate authorizes removal of the property from the State Building Codes Division's "Unfit for Use" listing and allows reuse of the property.

"Debris" means an accumulation of decomposed animal or vegetable matter, garbage, rubbish, manure, offal, ashes, discarded containers, waste, paper, debris, trash, hay, grass, straw, weeds, litter, rags, or other refuse matter or substance which by itself in conjunction with other substances is deleterious to public health or comfort, or is unsightly, or creates an offensive odor.

"Derelict Structure" means a building or structure that is unfit for human habitation, poses an incipient hazard, or is detrimental to public health, safety, or welfare as a result of one (1) or more of the following conditions:

A. Is unoccupied or unsecured;

B. Is partially constructed;

C. Is an abandoned structure or attractive nuisance;

D. Is in condition of deterioration;

E. Has an infestation of pests;

F. Has doors or windows boarded over; or

G. Other condition that in the opinion of the health officer is detrimental to public health, safety, or welfare.

"Director" means the Director of Public Works, the Director's designee, or the Manager of the Land Management Division, or the Manager's designee.

"Emergency" means a sudden or unexpected occurrence, either the result of human or natural forces, necessitating immediate action to prevent or mitigate significant loss or damage to life, health, property, essential public services, or the environment.

"Imminent Threat" means serious harm that is relatively certain to occur within a short timeframe (immediate as opposed to remote) if the nuisance is not remedied.

"Inoperable Vehicle" means a vehicle which:

A. Has been left on private property for more than thirty (30) days; and

B. Has broken or missing window(s); or broken or missing windshield; or a missing wheel(s), or a missing tire(s); or lacks an engine or will not run; or lacks a transmission or the transmission is inoperable; and

C. The vehicle is over three (3) years old.

D. For purposes of this section, a showing that the vehicle(s) in question is unregistered and, if operated on a public highway of this state, would be in violation of one (1) or more of the following provisions: ORS 815.020, ORS 815.100, ORS 815.125, ORS 815.155, ORS 815.160, ORS 815.170, ORS 815.180, ORS 815.195, ORS 815.235, ORS 815.245 through ORS 815.260, ORS 815.270, and ORS 815.295 constitutes a rebuttable presumption that it is inoperable.

“Motor Vehicle” means a vehicle that is self-propelled or designed for self-propulsion.

“Noxious Vegetation” means:

A. Weeds more than ten (10) inches high.

B. Grass more than ten (10) inches high unless that vegetation is an agricultural crop and does not create a fire hazard or traffic hazard.

C. Poison Oak or Poison Ivy.

D. Tansy Ragwort.

E. Blackberry bushes that extend into a public thoroughfare or across a property line.

F. Thistle.

“Nuisance” means but is not limited to, any annoying, unpleasant, or obnoxious condition or practice causing an unreasonable threat to the public health, safety and welfare, including activities defined as a nuisance in LC 9.057.576 through LC 9.057.590.

“Person” means individuals, corporations, associations, firms, partnerships and joint stock companies.

“Person in Charge of Property” means an owner, agent, occupant, lessee, tenant, contract purchaser, or other responsible person having possession or control of the property or the supervision of a construction project on the property.

“Premises” means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips. The term “premises” shall include recreational vehicles.

“Putrescible Material” means organic material that decomposes and gives rise to foul or offensive odors, or foul or offensive by-products.

“Recreational vehicle” means a vehicle designed to be used primarily as temporary living quarters for recreational, camping, travel or seasonal use that either has its own motor power or is mounted on or towed by another vehicle, including, but not limited to camping trailers, fifth wheel trailers, motor homes, travel trailers and truck campers.

“Repeat Offender” means a responsible person who has caused to come into or continue in existence a nuisance similar to a nuisance for which the person was responsible within the past five (5) years.

“Responsible Person or Person Responsible” as defined in LC 5.025.005, including:

A. The person in charge of property on which the nuisance exists or which abuts a public way where a nuisance exists.

B. The person who directly or indirectly causes the nuisance to come into or continue in existence.

“Rodent-proof” means any building, structure or part thereof is "rodent-proof" when it is constructed of concrete, metal or some equally impermeable material and in a manner that excludes rats and mice.

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“Solid Waste” means all putrescible and non-putrescible waste, including, but not limited to, garbage, rubbish, refuse, ashes, waste paper and cardboard, grass clipping, composts, sewer sludge, residential, commercial, and industrial appliances, equipment and furniture, discarded or inoperable vehicles, vehicle parts or vehicle tires, manure, vegetable or animal solid and semisolid waste and dead animals. The term Solid Waste does not include:

A. Materials used for fertilizer or for other productive purposes on land in the growing and harvesting of crops or the raising of fowl or animals. This exception does not apply to the keeping of animals on land which has been zoned for residential nonagricultural purposes.

B. Septic tank and cesspool pumping or chemical toilet waste.

C. Reusable beverage containers as defined in ORS 459A.725.

D. Source separated principal recyclable materials as defined in ORS Chapter 459 and the Rules promulgated thereunder, which have been purchased or exchanged for fair market value.

“Tire” means the band of material used on the circumference of a wheel which forms the tread that comes in contact with the surface of the road.

“Unfit for Human Habitation” means a building or structure that, as found by the enforcement officer, is unfit for human habitation due to unsanitary conditions, infestation, accumulation of filth or contamination; lack of required ventilation, illumination, or sanitary or heating facilities; or is not connected to approved water or electricity, such that habitation would be injurious to the health, safety, or welfare of the occupants.

“Unfit for Use” means a designation by the Oregon Health Division that means that the property has been found to be, or there are reasonable grounds to believe that the property was, the site of illegal drug manufacture and may be contaminated with hazardous chemicals or substances and therefore is not fit to use until appropriate site assessment and any necessary contamination reduction procedures have been performed by a licensed drug laboratory decontamination contractor.

“Unoccupied” means not legally occupied.

“Unsecured” means unlocked or otherwise open to entry.

“Unregistered Vehicle” means a vehicle without a license plate or with an expired license plate.

“Vegetation” means plant life, including but not limited to, trees, shrubs, flowers, weeds and grass.

“Vehicle” means any device in, upon, or by which any person or property is or may be transported, or drawn upon a public highway, and includes vehicles that are propelled or powered by any means, but does not include a device propelled by human power.

“Waste” means useless unwanted or discarded materials. The fact that materials, which would otherwise come within the definition of Solid Waste or Waste, may from time-to-time have value and thus be utilized, shall not remove them from the definition.

(Ordinance 22-02, 2.8.22)

9.057.576 - Nuisance Vegetation.

Any vegetation that creates the following conditions on any public or private property shall constitute a nuisance and no person responsible shall cause or permit such conditions to exist:

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- A. Vegetation that is a hazard to pedestrian or vehicular use of any sidewalk or street by obstructing passage or vision. The hazards include, but are not limited to:
 - 1. Vegetation that encroaches upon or overhangs a pedestrian way or adjacent parking strip lower than nine feet or encroaches upon or overhangs a street lower than fifteen (15) feet.
 - 2. Vegetation which obstructs motorist or pedestrian view of traffic signs and signals, street lights and name signs, or other safety fixtures or markings placed in the public way.
- B. Vegetation that is an obstruction of access to a use of any public facilities placed within the public way.
- C. Noxious vegetation on public or private property in those areas within Urban Growth Boundaries of incorporated cities or within developed and committed areas designated Community or zoned RR-5, RR-2, RR-1 or RA in the Lane County Rural Comprehensive Plan on August 1, 1987. No owner or person in charge of such property may allow noxious vegetation to be on the property or encroach into the right-of-way of a public thoroughfare abutting on the property.

(Ordinance 22-02, 2.8.22)

9.057.580 - Nuisance Storage of Tires.

The following things, practices or conditions shall constitute a nuisance and no person responsible shall cause or permit such condition to exist:

- A. The storage of four (4) or more used tires on private or public property in those areas within Urban Growth Boundaries of incorporated cities or within developed and committed areas designated Community or zoned RR-5, RR-2, RR-1 or RA in the Lane County Rural Comprehensive Plan on August 1, 1987, unless the tires are used for agricultural or landscaping purposes.
- B. The storage of ten (10) or more used tires on private or public property not described in LC 9.057.580A.1, unless the tires are used for agricultural purposes.
- C. Notwithstanding the above, the storage of tires on private property is permitted if the property owner is conducting a legally operated business that normally deals in tires, or if the tires are completely enclosed within a building and do not constitute a fire hazard or health hazard.

(Ordinance 22-02, 2.8.22)

9.057.582 - Nuisance Vehicle Storage.

The following things, practices or conditions shall constitute a nuisance and no person responsible shall cause or permit such condition to exist:

- A. Storing or permitting to be stored in excess of ninety (90) days within any consecutive twelve (12) month period an unregistered or inoperable vehicle or portion thereof, or two or more unregistered or inoperable vehicles at any one (1) time on any private property in those areas within Urban Growth Boundaries of incorporated cities or within developed and committed areas designated Community or zoned RR-5, RR-2, RR-1 or RA in the Lane County Rural Comprehensive Plan on August 1, 1987, unless the vehicle is completely enclosed within a building, or is not visible from any public way and is located more than two hundred (200) feet from any property line, or unless it is stored on the premises of a business enterprise dealing in used vehicles lawfully conducted within the County.

- B. Storing or permitting the storing of more than three inoperable or more than ten (10) operable vehicles upon private property within the County and not described in LC 9.057.582A, unless the vehicle is completely enclosed within a building, or is not visible from any public way and is located more than two hundred (200) feet from any property line, or unless it is stored on the premises in connection with a lawfully conducted business.

(Ordinance 22-02, 2.8.22)

9.057.584 - Accumulation, Collection, Storage, or Disposal of Solid Waste or Waste.

- A. The following things, practices or conditions shall constitute a nuisance and no person responsible shall cause or permit such condition to exist: Any accumulation, collection, storage, or disposal of solid waste, waste, garbage, liquid waste, refuse, rubbish, sewage sludge, demolition materials or fill dirt, if any of the aforementioned materials are offensive or hazardous to the public health and safety.
- B. The following conditions are presumed to be offensive or hazardous to the public health and safety:
 - 1. Accumulation of any material capable of providing vector or rodent harborage or which may create a fire hazard;
 - 2. Premises that are in such a state or condition as to cause an offensive odor or that are in an unsanitary condition;
- C. This section shall not apply where the person responsible is licensed by lawful authority to conduct the otherwise unpermitted activity.

(Ordinance 22-02, 2.8.22)

9.057.586 - An Abandoned, Discarded, or Unattended Icebox, Refrigerator, or Other Container with a Compartment.

Any abandoned, discarded or unattended icebox, refrigerator or other container with a compartment of more than one and one-half (1.5) cubic feet capacity and an airtight door or lid which locks or fastens automatically when closed and which cannot be easily opened from the inside shall constitute a nuisance and no person responsible shall cause or permit such condition to exist.

(Ordinance 22-02, 2.8.22)

9.057.588 - Derelict Structure.

Derelict structures shall constitute a nuisance, and no person responsible shall cause or permit a derelict structure to exist on any premises.

(Ordinance 22-02, 2.8.22)

9.057.590 - Properties Declared "Unfit for Use" Due to Illegal Drug Manufacturing Contamination.

- A. Property placed on the Oregon Health Division "unfit for use list" pursuant to ORS 453.879 because the property has been used for the manufacture of illegal drugs is considered a nuisance ninety (90) days after the property has been listed and will remain a nuisance until such time as the property

has been issued a "Certificate of Fitness" by the Oregon Health Division. No responsible person may cause or permit a property in such a condition to exist.

- B. A failure to comply with this section shall be cause for a responsible person to be subject to the administrative enforcement procedures set forth in this chapter. The imposition of a penalty does not relieve a responsible person of the duty to abate the nuisance.

(Ordinance 22-02, 2.8.22)

9.057.592 - Enforcement

A. Abatement

1. Notice.

- a. If the Director or the Director's designee is satisfied that a nuisance exists, a notice shall be posted on the premises or at the site of the nuisance, directing the person responsible to abate the nuisance.
- b. At the time of posting, a copy of the notice shall be forwarded by regular and certified mail, postage prepaid, to the person responsible at the last known address of such person. For service by certified mail, service will be deemed made on the date signed by the responsible person. For service by regular mail, service will be deemed received three (3) days after the date mailed if to an address within this state and seven (7) days after the date mailed if to an address outside of this state.
- c. The notice to abate shall contain:
 - (1) A description of the real property, by street address or map and tax lot number, on which the nuisance exists.
 - (2) A direction to abate the nuisance within ten (10) days from the date of the notice.
 - (3) A description of the nuisance.
 - (4) A statement that unless the nuisance is removed, the County may abate the nuisance and the cost of abatement will be charged to the person responsible.
 - (5) A statement that failure to abate a nuisance may warrant imposition of a fine.
 - (6) A statement that the person responsible may protest the order to abate by filing an appeal as provided in LC 9.057.592C.
- d. If the person responsible is not the owner, an additional notice shall be sent to the owner stating that the cost of abatement not paid by the responsible person may be assessed to and become a lien on the property.
- e. An error in the name or address of the person responsible shall not make the notice void, and in such case the posted notice shall be sufficient.

2. Abatement by the Person Responsible.

- a. Within ten (10) days after the posting and receipt of mailing of such notice, the responsible person shall remove the nuisance or file a written appeal requesting a hearing under LC 9.057.592C.

- b. If, on appeal, the Hearings Official determines that a nuisance does in fact exist, the responsible person shall abate the nuisance within ten (10) days after the Hearings Official's determination.
 3. Joint Responsibility. If more than one (1) person is a responsible person, they shall be jointly and severally liable for abating the nuisance or for the costs incurred by the County in abating the nuisance.
 4. Abatement by the County.
 - a. If the nuisance has not been abated by the responsible person within ten (10) days of the date of posting or receipt of the notice of the nuisance where no hearing is requested, or within ten (10) days of the Hearings Official's determination on appeal, the Director or the Director's designee may cause the nuisance to be abated.
 - b. The officer charged with abatement of the nuisance shall have the right at reasonable times to enter into or upon premises to investigate or cause the removal of a nuisance. If access is denied, the officer may obtain an administrative inspection warrant, pursuant to LC 5.025.
 - c. The Director or the Director's designee shall keep an accurate record of the expense incurred by the County in physically abating the nuisance and shall include twenty-five percent (25%) of those expenses for administrative overhead.
 5. Assessment of Costs.
 - a. The Director or the Director's designee, by registered or certified mail, postage prepaid, shall forward to the Person Responsible a notice stating:
 - (1) The total cost of abatement, including the administrative overhead.
 - (2) That the cost as indicated will be assessed to and become a lien against the property unless paid within thirty (30) days from the date of the notice.
 - (3) That if the owner or responsible person objects to the cost of the abatement as indicated, they may file an appeal as provided in LC 9.057.592C.
 - b. If the costs of the abatement are not paid within thirty (30) days from the date of the notice, or the date of the hearings official's determination where an appeal is filed, the costs of abatement shall constitute a lien on the property from which the nuisance was removed or abated.
 - c. The lien shall bear interest at the rate prescribed in ORS 82.010. The interest shall commence to run from the date of recording of the lien.
 - d. An error in the name of the person responsible shall not void the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void; but it shall remain a valid lien against the property.
- B. Summary Abatement.
 1. Authorization.
 - a. If the Director or the Director's designee determines that a nuisance creates an imminent threat to the occupants of the property or to the public health and safety, the County may proceed with summary abatement, as set forth in this section.
 - b. The County may also proceed with summary abatement where the responsible person is a repeat offender.

2. Pre-Abatement Notice.

- a. If the Director or the Director's designee is satisfied that a nuisance creates an imminent threat as set forth in LC 9.057.592B.1.a, then the Director shall cause a notice to be mailed to the responsible person or owner, and posted on the premises or at the site of the nuisance if reasonable under the circumstances.
- b. The notice of summary abatement shall contain:
 - (1) A description of the real property, by street address or map and tax lot number, on which the nuisance exists.
 - (2) A description of the nuisance, and, if authorized under LC 9.057.592B.1.a, an explanation why it constitutes an imminent threat
 - (3) The date the abatement will occur,
 - (4) A statement that the cost of abatement will be charged to the person responsible, and that if not paid, may become a lien on the property.
 - (5) A statement that the dangerous condition may warrant imposition of a fine.

3. Scope of Abatement by County. The County may abate the nuisance to the extent necessary to alleviate the immediate threat, including but not limited to:

- a. Order immediate vacation of the property;
- b. Post the premises as unsafe, substandard, or dangerous;
- c. Board, fence, or secure the building or site;
- d. Raze and grade;
- e. Conduct emergency repairs;
- f. Take any other action appropriate under the circumstances.

4. Post-Abatement Notice.

- a. Following abatement by the County, the Director or the Director's designee shall cause a second notice to be posted and mailed as provided for in LC 9.057.592B.2.a.
- b. The post-abatement notice shall contain:
 - (1) A description of the actions taken by the County and the reasons for the actions;
 - (2) A statement of the costs of abatement, including the administrative fee set forth in LC 9.057.592A.4.c, and that the County intends to collect;
 - (3) A statement that the person responsible may protest the County's actions and/or the assessed costs by filing a written appeal within ten (10) days of the date of the notice.

C. Appeals.

- 1. Appeals shall be filed in writing, by mailing or delivering a written appeal no later than ten (10) calendar days after receipt of the determination or notice being challenged. Failure to file a timely appeal shall constitute a waiver of the right to an appeal hearing.
- 2. Appeals shall contain the following information:

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- a. Name or names of appellant(s);
 - b. A brief statement setting forth the action or decision being appealed;
 - c. A concise statement of the error alleged and the reasons the action or decision was in error;
 - d. The signature of the appellant(s), the appellant(s) telephone number and mailing address;
 - e. The applicable appeal fee.
3. Upon receiving the appeal, the Director or the Director's designee shall:
 - a. Schedule an appeal hearing with the Hearings Official, and
 - b. Provide notice of such hearing.
 4. The appeal hearing shall be conducted pursuant to the procedures set forth in LC 5.005.040B and LC 5.005.040C.
 5. A copy of the final written order resolving the appeal shall be mailed to appellant(s) within ten (10) working days of the hearing.
 6. The written order shall be final and conclusive on the sixty-first (61st) calendar day after the date of mailing of the order.
- D. Cumulative Remedies. The abatement procedures provided by this ordinance are in addition to and not in lieu of any other procedures or remedies provided by law, including administrative remedies provided in LC Chapter 5, as well as equitable relief and damages.

(Ordinance 22-02, 2.8.22)

9.060 – FOOD HANDLER CERTIFICATE

9.060.005 - Definitions.

As used in LC 9.060.005 through 9.060.080, the following words and phrases mean:

“Authority” means the Oregon Health Authority pursuant to ORS Chapter 624.

“Board” means the Lane County Board of Commissioners.

“Communicable Disease” means 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” means the Lane County Department of Health and Human Services.

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

“Diseased Person” means a person afflicted with a communicable disease, as set forth in ORS 624.080.

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

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

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

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

“Food Handler Certificate” means 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” means any establishment licensed by the State where food or drink is prepared for consumption by the public, whether the food or drink is served or consumed on the premises or elsewhere, as defined in ORS 624.010(9).

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

“Temporary Restaurant,” as defined in ORS 624.010(4), ORS 624.010(11), and ORS 624.010(12), means any establishment where food is prepared or served for consumption by the public at public gatherings, entertainment events, food product promotions or other events. Pursuant to ORS 624.038, the term “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.

(Ordinance 5-73, 8.4.73; Ordinance 7-78, 6.9.78; Ordinance 1-00, 4.12.00; Ordinance 18-03, 5.31.18)

9.060.010 - Purpose and Authority.

Pursuant to ORS Chapter 431, ORS Chapter 624, and the Home Rule Charter of Lane County, LC 9.060.005 through LC 9.060.080 are adopted for the purpose of:

- A. Preventing the spread of infectious foodborne disease and establishing a uniform health standard in Lane County for food handlers.
- B. 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.
- C. Insuring that all food handlers possess adequate knowledge of anti-choking procedures as required by ORS Chapter 624 and as described in Lane County publication entitled "Anti-Choking Maneuvers" or in the Red Cross Manual 32-1138.

(Ordinance 5-73, 8.4.73; Ordinance 7-78, 6.9.78; Ordinance 1-00, 4.12.00)

9.060.015 - 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.

(Ordinance 5-73, 8.4.73; Ordinance 18-03, 5.31.18)

9.060.020 - 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.

(Ordinance 5-73, 8.4.73; Ordinance 18-03, 5.31.18)

9.060.025 - 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.

(Ordinance 5-73, 8.4.73; Ordinance 18-03, 5.31.18)

9.060.030 - 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 thirty (30) days of their employment, training in anti-choking procedures. The Director may waive in writing the training requirements of LC 9.060.030 in cases of undue hardship, or where the Director determines that the employee's assignment renders such training impracticable or unnecessary.

(Ordinance 7-78, 6.9.78; Ordinance 18-03, 5.31.18)

9.060.035 - 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 Chapter 624.

(Ordinance 5-73, 8.4.73; Ordinance 18-03, 5.31.18)

9.060.040 - 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.

(Ordinance 5-73, 8.4.73; Ordinance 18-03, 5.31.18)

9.060.045 - 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.

(Ordinance 5-73, 8.4.73; Ordinance 7-78, 6.9.78; Ordinance 1-00, 4.12.00; Ordinance 18-03, 5.31.18)

9.060.050 - Fees.

- A. 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:
 - 1. Food handler certificate.
 - 2. Food handler certificate renewal.
 - 3. Certification of training in anti-choking procedures.
- B. All fees are non-refundable.
- C. Fees may be waived or deferred by the Department upon its determination that a person is financially indigent at the time of application.
- D. The cost of the certificate shall be uniform throughout the County and shall be in the amount set by the Board.

(Ordinance 5-73, 8.4.73; Ordinance 7-78, 6.9.78; Ordinance 18-03, 5.31.18)

9.060.055 - 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.

(Ordinance 5-73, 8.4.73; Ordinance 1-00, 4.12.00; Ordinance 18-03, 5.31.18)

9.060.060 - 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.

(Ordinance 5-73, 8.4.73; Ordinance 7-78, 6.9.78; Ordinance 18-03, 5.31.18)

9.060.065 - 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 (3) years from date of issuance.

(Ordinance 5-73, 8.4.73; Ordinance 18-03, 5.31.18)

9.060.070 - 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.

(Ordinance 5-73, 8.4.73; Ordinance 1-00, 4.12.00; Ordinance 18-03, 5.31.18)

9.060.075 - 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.

(Ordinance 5-73, 8.4.73; Ordinance 18-03, 5.31.18)

9.060.080 - Effective Date.

The provisions of this sub-chapter shall be effective September 1, 1973. All permits issued shall be valid for three (3) years from date of issuance.

(Ordinance 5-73, 8.4.73; Ordinance 7-78, 6.9.78)

9.065 – TOBACCO REGULATIONS

9.065.005 - Definitions.

As used in LC 9.065.005 through LC 9.075.065, the following words and phrases mean:

“County” or “Lane County” means all of Lane County, including incorporated jurisdictions and unincorporated areas.

“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 LC 9.065.005 through LC 9.774.

“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.

“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.

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

“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.

“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.

“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.

(Ordinance 14-19, 1.16.15; Ordinance 15-05, 9.25.15; Ordinance 17-01, 4.13.17; Ordinance 22-01, 2.24.22)

9.070 – RETAIL SALE OF TOBACCO PRODUCTS AND INHALENT DELIVERY SYSTEM

9.070.005 - Purpose and Findings.

Pursuant to ORS Chapter 431A, LC 9.065.005 to LC 9.075.065 are amended for the purpose of improving enforcement of local ordinances and rules, state laws and rules, and federal laws and regulations that govern the retail sale of tobacco products and inhalant delivery systems. LC 9.065.005 to LC 9.075.065 apply to the unincorporated areas of Lane County.

Lane County desires 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.

(Ordinance 14-19, 1.16.15; Ordinance 15-05, 9.25.15; Ordinance 17-01, 4.13.17; Ordinance 22-01, 2.24.22)

9.070.010 - Administration.

The administration and enforcement of this sub-chapter will be determined by an intergovernmental agreement with the authorized Department of the State under section thirteen (13) of Oregon Laws 2021, Chapter 586. The County, acting as the local public health authority, 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.

(Ordinance 22-01, 2.24.22)

9.070.015 - Licensure Requirements.

A person may not make a retail sale of a tobacco product or an inhalant delivery system at or from a premises located in unincorporated Lane County unless the person sells the tobacco product or inhalant delivery system at or from a premises licensed or otherwise authorized under section five (5) or eighteen (18) of Oregon Laws 2021, Chapter 586.

(Ordinance 14-19, 1.16.15; Ordinance 15-05, 9.25.15; Ordinance 17-01, 4.13.17; Ordinance 22-01, 2.24.22)

9.070.020 - Adoption of the Oregon Health Authority Rules, Regulations and Statutes.

The rules and regulations of the Oregon Health Authority and State statutes relative to the regulation of tobacco and inhalant delivery system sales are adopted as part of this sub-chapter and incorporated herein.

(Ordinance 14-19, 1.16.15; Ordinance 15-05, 9.25.15; Ordinance 17-01, 4.13.17; Ordinance 22-01, 2.24.22)

9.075 – TOBACCO RETAIL LICENSING AND SALE REGULATIONS ORDINANCE

9.075.010 - Limits on Eligibility for a Tobacco Retailer License.

- A. WITHIN ONE THOUSAND (1,000) FEET OF ESTABLISHMENTS SERVING CHILDREN. No license will be issued to a Tobacco Retailer located within one thousand (1,000) feet of any school as follows:
1. Except as provided in LC 9.075.010A.2, 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.
 2. A Tobacco Retailer that has been in operation at a location governed by LC 9.075.010A consistently since October 21, 2014, is exempt from the requirements of LC 9.075.010A. A Tobacco Retailer that has been in operation at a location governed by LC 9.075.010A 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 LC 9.075.010A.
- B. 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.

(Ordinance 14-19, 1.16.15; Ordinance 15-05, 9.25.15; Ordinance 22-01, 2.24.22)

9.075.065 - 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:

- A. within any interior space of facilities owned or occupied by Lane County;
- B. on all outside property or grounds owned or occupied by Lane County, including parks, natural areas, parking areas; and
- C. 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.

(Ordinance 17-05, 12.7.17)

9.080 – SEWAGE FACILITIES MANAGEMENT REGULATIONS

9.080.005 - 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:

- A. To provide a management system for the safe and sanitary collection, treatment and disposal of domestic waste for cluster units.
- B. To provide for implementation of sewage facilities in specified areas within Lane County.
- C. To prevent sewage facilities from becoming a financial burden or otherwise a nuisance to those citizens not directly served by such sewage facilities.
- D. To provide a mechanism to permit sewage facilities in New Development Centers.
- E. To assure the financial stability and the operational integrity of sewage facilities approved hereunder.
- F. To protect the health, safety and welfare of the people of Lane County.

(Ordinance 3-78, 3.31.78; Ordinance 1-00, 4.12.00)

9.080.010 - Definitions.

As used in LC 9.080.005 through LC 9.080.080, the following words and phrases mean:

“Approval or Approved” means approved by the Board of County Commissioners.

“Developer” means 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” means 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” means a private corporation that has the legal responsibility of assuring the financial stability and operational integrity of sewage facilities.

“Municipality” means 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” means any person or the heirs, successors or assigns of such person, who purchases or leases one (1) or more units in a subdivision or multiple housing unit project from a developer.

“Sewage Facility” means any device or series of devices constructed for the purpose of collecting, treating or disposing of sewage, or any combination of these.

(Ordinance 3-78, 3.31.78)

9.080.015 - Scope and Applicability.

- A. 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 (4) 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.
- B. 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.
- C. Sewage facilities approved pursuant to this sub-chapter shall be located in the following areas:
 - 1. Rural Service Centers, as identified in the Comprehensive Plan for Lane County;
 - 2. Minor Development Centers, as identified in the Comprehensive Plan for Lane County, which are not incorporated cities;
 - 3. 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;
 - 4. Areas determined by the Board to have identified health problems that an existing government cannot solve.

(Ordinance 3-78, 3.31.78; Ordinance 1-00, 4.12.00)

9.080.020 - 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.

(Ordinance 3-78, 3.31.78)

9.080.025 - 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.

(Ordinance 3-78, 3.31.78; Ordinance 1-00, 4.12.00)

9.080.030 - Management Corporation Provisions.

- A. In the event that there is no municipality that is willing or able to construct and generate sewage facilities, a management corporation may be established for that purpose.
- B. In order to be considered for approval, a management corporation must meet the following conditions.
 - 1. It must be incorporated.
 - 2. It must have officers elected from the purchasers of property served by the management corporation.
 - 3. It must have a constitution and bylaws.
 - 4. 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 that will provide sufficient funds for all sewerage operation maintenance costs and emergencies.
 - 5. 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.
 - 6. 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.
 - 7. 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.
 - 8. 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.
 - 9. 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.

(Ordinance 3-78, 3.31.78)

9.080.035 - 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.

(Ordinance 3-78, 3.31.78)

9.080.040 - Management Corporation Contract.

- A. 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 9.080.030.
- B. The contract shall provide:
1. 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.
 2. 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.
 3. 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.
 4. That, in the event the developer retains possession of individual lots that contribute sewage to the sewer facility, the developer's obligations will include those of a purchaser with respect to those individual lots.
 5. 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.
 6. The right of management to contract with public or private agencies for labor and other services.
 7. 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.
 8. An identification of the portion of the sewage system for which management shall exercise responsibility.
 9. 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.
 10. For the allocation of restoration costs, as required in LC 9.080.060.
 11. For purchaser's right to perform work, if such work is permitted by management.
 12. 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.

(Ordinance 3-78, 3.31.78; Ordinance 1-00, 4.12.00)

9.080.045 - 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.

(Ordinance 3-78, 3.31.78)

9.080.050 - Financial Solvency.

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

- A. An accounting and audit system in accordance with any applicable statutes.
- B. A standard maintenance and operation fee.
- C. Fees for initial construction of sewage facilities.
- D. Establishment of an emergency fund.
- E. Preparation of a rate structure for service beyond routine operation and maintenance.
- F. 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.
- G. Establishment of a method of rate adjustment to maintain adequate funds. Rates shall be reviewed annually and adjusted accordingly.
- H. Provide for the collection of delinquent payments through an acceptable method, including at least a lien on the property.
- I. Establishment of a method of final disbursement of funds and claims at such time as the management system is dissolved.
- J. Establishment of a method of transfer of funds and claims at such time as the management responsibilities are transferred.
- K. Assurance that adequate operation and maintenance funds are available from the initiation of sewage system operation.

(Ordinance 3-78, 3.31.78)

9.080.055 - 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:

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- A. Periodic inspection of facilities to determine efficiency of operation and general condition of equipment.
- B. 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.
- C. Periodic pumping of septic tanks or other storage tanks by licensed tank pumpers.
- D. Periodic maintenance of motors, pumps and related equipment.
- E. Replacement or repair of work or damaged equipment.
- F. Responding to emergencies. Emergency procedures shall include provisions for:
 - 1. Notifying users, Lane County, and appropriate regulatory agencies of the emergency.
 - 2. 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.
 - 3. Making repairs, replacements or modifications of design as required to restore functioning of the system.
 - 4. 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.
- G. Annual reporting of system maintenance and operation to Lane County and appropriate regulatory agencies.

(Ordinance 3-78, 3.31.78; Ordinance 1-00, 4.12.00)

9.080.060 - 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.

(Ordinance 3-78, 3.31.78)

9.080.065 - 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.

(Ordinance 3-78, 3.31.78)

9.080.070 - 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:

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

(Ordinance 3-78, 3.31.78)

9.080.075 - 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:

- A. Evidence that no municipality is willing or able to operate sewage facilities.
- B. Proposed articles of incorporation.
- C. Proposed management contract.
- D. Proposed development for which facilities are planned.
- E. Proposed schedule of implementation.
- F. 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.
- G. Documentation of any necessary reviews and/or approvals by the Oregon Department of Environmental Quality or other appropriate regulatory agencies.
- H. 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.

(Ordinance 3-78, 3.31.78)

9.080.080 - 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.

(Ordinance 3-78, 3.31.78)

9.085 – TREE CONSERVATION AND PROTECTION

9.085.005 - 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.

(Ordinance 14-90D, 11.21.90 [Sunset 11.30.91]; Ordinance 16A-91, 11.20.91 [Sunset 6.1.93]; Ordinance 4-93, 5.19.93 [Sunset 12.1.94]; Ordinance 11-94, 11.22.94 [Sunset 12.1.95]; Ordinance 3-96, 11.1.96)

9.085.010 - Definitions.

As used in LC 9.085.005 through LC 9.085.045, the following words and phrases mean:

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

“City Manager” means the City Manager of the City of Eugene.

“Caliper” means the trunk diameter of young trees, usually measured at six (6) inches above ground level.

“Critical Root Zone” means 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 twelve (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” means 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” means the estimated ratio of live limbs of a tree to its total height.

“Developed Property” means 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)” means the cross-sectional diameter of the trunk of a tree when measured at a point four and one-half (4½) feet above the base of the trunk on the uphill side.

“Forester” means a professional person having a minimum of a four (4) year degree in forestry from an accredited school and having experience in forest land management.

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

“Land Clearance” means 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” means land in the urbanizing area composed of a parcel or a group of contiguous parcels less than ten (10) acres in total area and under one (1) ownership or joint management.

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“Remove,” Removal” means 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” means 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” means any unutilized woody material created by tree removal, pruning, tree thinning, and/or land clearing.

“Stocking” means an expression of the number of trees per acre of any size at any given time.

“Tree Removal Plan” means an approved plan for tree removal that satisfies the requirements of LC 9.085.015 through LC 9.085.040.

“Tree” means any woody perennial plant which, when mature, shall have the following characteristics: a main axis or stem commonly achieving ten (10) feet in height, and capable of being shaped and pruned to develop a branch-free trunk at least nine (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” means 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” means land in the urbanizing area composed of parcel or group of contiguous parcels covering ten (10) or more acres in total area, and under one (1) ownership or joint management.

(Ordinance 14-90D, 11.21.90 [Sunset 11.30.91]; Ordinance 16A-91, 11.20.91 [Sunset 6.1.93]; Ordinance 4-93, 5.19.93 [Sunset 12.1.94]; Ordinance 11-94, 11.22.94 [Sunset 12.1.95]; Ordinance 3-96, 11.1.96)

9.085.015 - Permit Required.

- A. Except for those activities specifically permitted by LC 9.085.020, 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.
- B. All Tree Removal Permits issued under the provisions of this Code shall be available for inspection at the site.
- C. Permits shall fall into one (1) of two categories:
 1. Urbanizing Area (Non-Woodland) Tree Removal Permits: permits issued for the removal of trees on Non-woodlands in the urbanizing area.
 2. Urbanizing Area (Woodland) Tree Removal Permits: permits issued for the removal of trees on Woodlands in the urbanizing area.

(Ordinance 14-90D, 11.21.90 [Sunset 11.30.91]; Ordinance 16A-91, 11.20.91 [Sunset 6.1.93]; Ordinance 4-93, 5.19.93 [Sunset 12.1.94]; Ordinance 11-94, 11.22.94 [Sunset 12.1.95]; Ordinance 3-96, 11.1.96)

9.085.020 - Exemptions.

The requirements and provisions of LC 9.085.025 through LC 9.085.045 do not apply to the following activities:

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- A. In urbanizing areas, the following tree removal activities are exempt from the requirement to obtain a permit:
 - 1. On Woodland parcels, the selective removal of five (5) or fewer trees within any twelve (12) month period on any single acre, as measured by standard forestry practices.
 - 2. On Non-Woodland parcels, the removal of five (5) or fewer trees within any twelve (12) month period on any single acre, as measured by standard forestry practices. Parcels of less than one (1) acre shall be considered one (1) acre in area for purposes of this exemption.
- B. Removal of trees having a trunk diameter of less than eight (8) inches DBH.
- C. 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.
- D. Removal of trees and groundcover that are deemed nuisances under LC 5.020.020.
- E. 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.
- F. 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 9.085.025. Such removal shall be allowable only for property development directly authorized by the planned unit development, subdivision or site review approval action.

(Ordinance 14-90D, 11.21.90 [Sunset 11.30.91]; Ordinance 16A-91, 11.20.91 [Sunset 6.1.93]; Ordinance 4-93, 5.19.93 [Sunset 12.1.94]; Ordinance 11-94, 11.22.94 [Sunset 12.1.95]; Ordinance 3-96, 11.1.96)

9.085.025 - 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 that 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 9.085.040:

- A. 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.
- B. The condition of the trees proposed for removal, as measured by one (1) or more of the following factors, warrants their removal:
 - 1. Evidence of damage and/or disease.
 - 2. Danger of falling.
 - 3. General health and vigor.
 - 4. Roots or crown interface with existing or proposed structures including necessary construction staging areas.
 - 5. Interference with utility services.
 - 6. Interference with solar access.
 - 7. Pedestrian safety and/or vehicular traffic safety.

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8. Establishment of scenic views from the property, in association with approved development activities.
- C. Tree removal shall not adversely affect the environment of the area. Factors to be reviewed include, but are not limited to, the effects on:
1. Scenic qualities of the area with special consideration for ridgeline and hilltop views.
 2. The stability of nearby trees and windbreaks.
 3. Wildlife habitat.
 4. Soil stability.
 5. Surface runoff volumes.
 6. Water quality of receiving waters in the area.
 7. Potential for fire hazard.
 8. Noise.
 9. Windblock.
 10. Other environmental qualities found by the City Manager or designee to be of relevance to the proposal.
- D. The tree removal is necessary in order to construct proposed improvements in accordance with an approved development plan.
- E. The activity will comply with tree removal standards as defined in LC 9.935 below.

(Ordinance 14-90D, 11.21.90 [Sunset 11.30.91]; Ordinance 16A-91, 11.20.91 [Sunset 6.1.93]; Ordinance 4-93, 5.19.93 [Sunset 12.1.94]; Ordinance 11-94, 11.22.94 [Sunset 12.1.95]; Ordinance 3-96, 11.1.96)

9.085.030 - Permit Process.

- A. Permit Required. Except for activities exempted from the requirements and provisions of this ordinance by LC 9.085.020, a tree removal permit shall be required to remove trees from any parcel of land within the urbanizing area.
- B. Decision Authority. Tree removal permits shall be approved, approved with modifications, or denied by the City Manager or his designee.
- C. Site Plan Review Procedure.
 1. 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.
 2. 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 (1) or more of those professional services is required for compliance with LC 9.085.025 criteria or LC 9.085.040 standards.
 3. 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.

D. Decision and Appeal.

1. Unless the applicant agrees to a longer time period, within ten (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 9.085.025.
2. 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.
3. Within ten (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 one hundred dollars (\$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.

E. Appeal Notice and Action.

1. Appeals from the decision of the City Manager shall be heard by the City hearings official.
2. The hearings official shall hold a hearing within twenty (20) calendar days of the receipt of an application to appeal the City Manager's decision.
3. At least ten (10) calendar days prior to the hearing, the City shall mail notice of the hearing to the applicant.
4. Within ten (10) calendar days after the hearing, the hearings official shall render a decision and mail a copy to the applicant.
5. 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.
6. An appeal accepted by the Board shall be heard within thirty (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.
7. At least ten (10) calendar days prior to the hearing, the County shall mail notice of the hearing to the applicant.
8. Within ten (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.

(Ordinance 14-90D, 11.21.90 [Sunset 11.30.91]; Ordinance 16A-91, 11.20.91 [Sunset 6.1.93]; Ordinance 4-93, 5.19.93 [Sunset 12.1.94]; Ordinance 11-94, 11.22.94 [Sunset 12.1.95]; Ordinance 3-96, 11.1.96)

9.085.035 - Permit Requirements.

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 seventy dollars (\$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 twelve (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.

(Ordinance 14-90D, 11.21.90 [Sunset 11.30.91]; Ordinance 16A-91, 11.20.91 [Sunset 6.1.93]; Ordinance 4-93, 5.19.93 [Sunset 12.1.94]; Ordinance 11-94, 11.22.94 [Sunset 12.1.95]; Ordinance 3-96, 11.1.96)

9.085.040 - Tree Removal Standards.

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

- A. General Tree Removal Standards.
 - 1. Wooded areas within twenty-five (25) feet of the high-water mark of riparian zones, natural drainage-ways, wetlands, and other water features shall remain undisturbed.
 - 2. Unless otherwise provided for by an approved site development plan, wooded areas within one hundred (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.
 - 3. All remaining trunks and branches shall be disposed of in a manner approved of by the appropriate fire protection authority.
 - 4. 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 Protection Agency, Oregon Department of Forestry, and local rural fire protection districts), and based on an assessment of criteria including but not limited to:
 - a. Air quality.
 - b. Proximity of the proposed burn to developed areas.
 - 5. 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.
- B. Urbanizing Area (Non-Woodland) Permit Standards. Permit approval shall require compliance with the General Tree Removal Standards in LC 9.085.040A and the following specific standards:
 - 1. 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 9.085.025B.8, as depicted on an approved development plan.
 - 2. 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 9.085.005 through LC 9.085.045.

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Restoration may require grading, grass seeding or replanting trees and must be completed in accordance with an approved schedule.

3. Where appropriate, a diversity of tree species shall be encouraged on the site.
 4. 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).
- C. Urbanizing Area (Woodland) Permit Standards. Permit approval shall require compliance with the General Tree Removal Standards in LC 9.085.040A and the following specific standards:
1. 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 9.085.025B.8, as depicted on an approved development plan.
 2. 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.
 3. Temporary culverts necessary to bridge drainageways shall be removed and the drainageway restored to a reasonably natural condition following the completion of tree removal.
 4. 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 9.085.005 through LC 9.085.045. Restoration may require grading, grass seeding or replanting trees and must be completed in accordance with an approved schedule.
 5. Where appropriate, a diversity of tree species shall be encouraged on the site.
 6. Tree removal operations occurring within one thousand (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).

(Ordinance 14-90D, 11.21.90 [Sunset 11.30.91]; Ordinance 16A-91, 11.20.91 [Sunset 6.1.93]; Ordinance 4-93, 5.19.93 [Sunset 12.1.94]; Ordinance 11-94, 11.22.94 [Sunset 12.1.95]; Ordinance 3-96, 11.1.96)

9.085.045 - Enforcement.

- A. 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 one and one-half (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.
- B. 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 (1) year from the date of the failure to comply.
- C. 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.

Lane Code

- D. Any person aggrieved by a penalty imposed or decision rendered under LC 9.085.045A, LC 9.085.045B, and LC 9.085.045C may appeal the same within the time and manner as set forth in LC 9.085.030D.3 and LC 9.085.030E.

(Ordinance 14-90D, 11.21.90 [Sunset 11.30.91]; Ordinance 16A-91, 11.20.91 [Sunset 6.1.93]; Ordinance 4-93, 5.19.93 [Sunset 12.1.94]; Ordinance 11-94, 11.22.94 [Sunset 12.1.95]; Ordinance 3-96, 11.1.96)

EXHIBIT "A" TO LC CHAPTER 9 (LC 9.085.040)

GENERAL TREE REMOVAL GUIDELINES

- A. The proposed tree removal activity should include provisions for the conservation and protection of trees that are to remain, in accordance with the following:
 - 1. 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 that could result from tree removal or construction activity. This standard shall not apply to commercial thinning or logging activities.
 - 2. 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.
 - 3. 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.
- B. 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.
- C. 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 9.085.025C.1 through LC 9.085.025C.9, these buffers should be twenty (20) feet or more in depth from the property line measuring into the subject property. Within these buffers, existing trees as defined in LC 9.085.010 should be maintained, except for hazard trees that may be removed as they are identified.

(Ordinance 14-90D, 11.21.90 [Sunset 11.30.91]; Ordinance 16A-91, 11.20.91 [Sunset 6.1.93]; Ordinance 4-93, 5.19.93 [Sunset 12.1.94]; Ordinance 11-94, 11.22.94 [Sunset 12.1.95]; Ordinance 3-96, 11.1.96)

EXHIBIT "A" TO LC CHAPTER 9 (LC 9.085.040)

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 thirty-six inches (36") or greater DBH.
 4. Remove all hazard trees.
 5. In no case shall the naturally occurring density of tree areas be reduced below eight (80) square feet per acre or below fifty percent (50%) crown closure, unless the naturally occurring stand is determined to have one hundred percent (100%) crown closure, in which case reduction to less than eighty (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 (5%) of the acreage of any single ownership within the Urbanizing Area in any one (1) 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.

(Ordinance 14-90D, 11.21.90 [Sunset 11.30.91]; Ordinance 16A-91, 11.20.91 [Sunset 6.1.93]; Ordinance 4-93, 5.19.93 [Sunset 12.1.94]; Ordinance 11-94, 11.22.94 [Sunset 12.1.95]; Ordinance 3-96, 11.1.96)

TABLE I OF EXHIBIT "B" TO LC CHAPTER 9 (LC 9.085.040) – Page 2

TABLE I

Tree Diameter (DBH) (in ")	Basal Area/Tree	# Trees/Acre to Maintain 80 sq. ft./Acre	Approximate Spacing Required*
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. An example would be complete crown closure and/or a suppressed understory.	
22	3.140		
24	3.690		
26	4.280		
28	4.910		
30	5.580		
32	6.300		
34	7.070		
36**	7.880		
38	8.730		
40			

* This shall be interpreted to mean Conifers only; all Deciduous trees are excluded.

** All trees thirty-six (36") DBH will remain. However, landowner may make a case to be considered.

(Ordinance 14-90D, 11.21.90 [Sunset 11.30.91]; Ordinance 16A-91, 11.20.91 [Sunset 6.1.93]; Ordinance 4-93, 5.19.93 [Sunset 12.1.94]; Ordinance 11-94, 11.22.94 [Sunset 12.1.95]; Ordinance 3-96, 11.1.96)

EXHIBIT "B" TO LC CHAPTER 9 (LC 9.085.040) – Page 2

TABLE II OF EXHIBIT "B" TO LC CHAPTER 9 (LC 9.085.040) – Page 3

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	

(Ordinance 14-90D, 11.21.90 [Sunset 11.30.91]; Ordinance 16A-91, 11.20.91 [Sunset 6.1.93]; Ordinance 4-93, 5.19.93 [Sunset 12.1.94]; Ordinance 11-94, 11.22.94 [Sunset 12.1.95]; Ordinance 3-96, 11.1.96)

EXHIBIT "B" TO LC CHAPTER 9 (LC 9.085.040) – Page 3

9.090 – EROSION PREVENTION

9.090.005 - 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.

- A. The Eugene Erosion Prevention regulations as adopted by the Lane County Board of Commissioners as part of Ordinance No. 2-04.
- B. Copies of the applicable erosion prevention regulations shall be on file at the Lane County Land Management Division.

(Revised by Ordinance 2-04, 4.9.04)

9.090.010 - 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.

- A. The Springfield erosion prevention regulations as adopted by the Lane County Board of Commissioners as part of Ordinance No. 2-10.
- B. 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, 7.9.10)

9.095 – CLEAR LAKE WATERSHED BOATING REGULATIONS

9.095.005 - Clear Lake Watershed Boating Regulations.

- A. 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.
- B. 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.
- C. Boating shall be allowed on the Lakes, subject to the following restrictions:
 - 1. 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.
 - 2. Motorboat speed within one hundred (100) feet of the water supply inlet on the southwest corner of Clear Lake shall not exceed ten (10) mph.
 - 3. Motorboat operators shall provide regular maintenance of the boat motor so as not to harm the waters of the Lakes.

(Ordinance 6-98, 12.2.98)

9.100 – ENFORCEMENT

9.100.005 - Failure to Comply.

- A. A failure to comply with any provision of this chapter, except LC 9.010.005 through LC 9.010.035, LC 9.025.005 through LC 9.160 and LC 9.085.005, shall constitute a Class 1 failure to comply and shall be handled in accordance with LC Chapter 5.
- B. Any person may sign a County notice of failure to comply with LC 9.010.045.
- C. 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 9.030.005, LC 9.040.040, LC 9.045.005, LC 9.055.005 and LC 9.060.005. 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 9.010.060, LC 9.020.035, LC 9.035.005, or LC 9.040.005. 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 9.095.005.
- D. Each day in which a failure to comply with LC 9.554, LC 9.558, LC 9.560, or LC 9.055.025 continues constitutes a separate failure to comply.
- E. At the expiration of the period set by the County for correction of any failure to comply with LC 9.035.015 through LC 9.035.070, 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.
- F. Violation of LC 9.025.020 shall be subject to the procedures of LC 9.025.030 and the penalty as specified in LC 9.025.035.

(Ordinance 20-72, 10.13.72; Ordinance 5-73, 8.4.73; Ordinance 9-73, 8.15.73; Ordinance 10-74, 8.23.74; Ordinance 7-75, 5.16.75; Ordinance 7-84, 7.27.84; Ordinance 9-90, 1.18.91; Ordinance 6-98, 12.2.98; Ordinance 1-00, 4.12.00; Ordinance 6-00, 7.1.00; Ordinance 13-07, 1.11.08)