2018

Lincoln County Code

LCC

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1 through 500

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CERTIFICATE OF LEGAL COUNSEL

Pursuant to LCC 0.140, Wayne Belmont, County Counsel, Kristin H. Yuille, Assistant County Counsel, and M Gerard Herbage, Assistant County Counsel hereby certify that we have compared each section in this publication of the Lincoln County Code with the original section in each original ordinance and that, with the exception of changes specifically authorized by LCC 0.130 and other changes specifically authorized by ordinance, the sections in this published edition of the Lincoln County Code are correctly copied.

Dated this 1st day of August, 2018.

/s/ Wayne Belmont, County Counsel,
/s/ Kristin H. Yuille, Assistant County Counsel
/s/M. Gerard Herbage, Assistant County Counsel
Office of Lincoln County Legal Counsel
225 W Olive Street, Room 110, Newport, OR 97365
Voice: (541) 265-4108
Facsimile: (541) 265-4176
Email: kyuille@co.lincoln.or.us

LCC ON THE INTERNET

The Lincoln County Code is also on the Internet and can be viewed on-line, or downloaded, without charge, at the County's website, where it is available in Adobe ".pdf" format: www.co.lincoln.or.us/counsel

CODIFICATION NOTE

Lincoln County Code chapters 2 through 9 were enacted and codified by 1981 Ordinance 155. Lincoln County Code chapter 10 was enacted and codified by 1982 Ordinance 171. Lincoln County Code chapter 1 was enacted and codified by 1984 Ordinance 209. Lincoln County Code chapter 0 was enacted and codified by 1993 Ordinance 319. The legislative history references in brackets following a code section within a chapter reflect legislative action subsequent to that chapter's original enactment and codification. This form of legislative notation follows the format of Oregon Revised Statutes (ORS) (which was enacted and recodified in 1953).

Every section of each ordinance enacted by the Lincoln County Board of Commissioners has been codified into the Lincoln County Code except repealed and superseded sections, severance clauses, emergency clauses, adding clauses, ordinances transferring a particular piece of property (which are recorded in the deed records), specialized mapping ordinances (which are codified on those specialized maps), zoning map ordinances (including superseded maps and zone map amendments, which are codified on the zone maps; *see* Ordinances 465, 463, 462, 461, 460, 458, 457, 452, 451, 448, 447, 440, 436, 434, 433, 432, 431, 429, 427, 426, 421, 412, 411, 410, 409, 402, 388, 386, 385, 384, 382, 379, 378, 377, 374, 363, 362, 361, 358, 356, 351, 346, 343, 337, 334, 329, 328, 327, 317, 314, 311, 310, 309, 306, 304,302, 298, 293, 292, 291, 287, 284, 283, 282, 281, 272, 267, 264, 260, 257, 256, 253, 252, 248, 247, 244, 243, 242, 239, 237, 234, 229, 227, 223, 217, 214, 212, 210, 206, 203, 193, 192, 187, 183, 182, 176, 175, and 168), and road name ordinances (which are codified on the addressing maps; *see* Ordinances 315, 305, 303, 295, 294, 289, 276, 275, 266, 259, 258, 246, 238, 233, 228, 226, 222, 221, 220, and 213). Certain Ordinances also are specifically excluded from incorporation into the Code; *see e.g.* Ordinances 472, 475, 479, 483, 484, 491, and 492.

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2018 Lincoln County Code (LCC)

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COMPREHENSIVE PLAN

1.0001 Title and Purpose

Chapter One shall be known and may be cited or pleaded as the Lincoln County Comprehensive Plan and Zoning Regulations. This chapter applies to all that area of Lincoln County subject to county jurisdiction under the provisions of ORS 215.130 and subsequent amendments to the Oregon Revised Statutes. The purpose of this chapter is to promote the public health, safety and general welfare and to implement the goals and policies of the Lincoln County Comprehensive Plan, LCC 1.0005 to 1.0190.

1.0005 Introduction

The comprehensive plan is a statement of Lincoln County's overall policies regarding the nature of future growth and development in the County. This policy reflects a consideration of the County's problems and needs as well as its social, environmental and economic values. The purpose of comprehensive planning is to allow the public to make decisions in advance about the development of the County and the use and conservation of its resources. The resulting plan is a document upon which public agencies and private firms and individuals can rely so their decisions and investments can be made with confidence. People buying homes can do so, assured that their community will grow and develop in an orderly fashion. Businesses can invest in new sites, confident that they can be used for their intended purpose and that needed services will be provided. Public investments in water systems, sewer systems, schools, roads, etc., can be made in an orderly and cost effective manner. At the same time, the comprehensive plan is not intended to be a static document; rather it is intended to be dynamic in nature. Periodic review and revision is a necessary part of the planning process in order to respond to changing social and economic needs and circumstances. The Lincoln County Comprehensive Plan consists of five primary elements: The Comprehensive Plan Inventory; the Comprehensive Plan Policies; the Comprehensive Plan Maps; the Lincoln County Transportation System Plan adopted pursuant to LCC 1.0138 and the Bayshore Dune Management Plan and Foredune Management Plan (Bayshore Plan) adopted pursuant to LCC 1.0108. The Comprehensive Plan Inventory provides the background information, data and other factual base material concerning the social, economic and environmental resources of the County. The Comprehensive Plan Policies are the formal binding policy statements which direct future growth and development and which are derived from the problems and needs identified in the Comprehensive Plan Inventory. The Comprehensive Plan Maps assign land use designations to all areas of the County in accordance with the requirements of the Comprehensive Plan Policies. It should be emphasized that these three elements of the County Comprehensive Plan must be considered together in analyzing a specific application of the plan. For example, the policy provisions for Forest Lands are in response to resources and conflicts identified in the inventory, and are in turn applicable to those resources defined in the inventory and delineated on the plan maps. In order to provide a better understanding of this linkage between the inventory and policy elements of the Comprehensive Plan, the relevant conclusions of the various inventory sections have been summarized below:

(1) **Urbanization**:

The County's urbanization policies are based on factual base material contained in the relevant cities' comprehensive plan. This material includes information on population projections, housing needs and projections, and overall urban land needs. Based on the information, policies

establishing urban growth boundaries and joint management procedures have been adopted. For detailed information on particular urban growth boundaries, the appropriate city plans should be consulted.

(2) **Air, Land and Water Quality**:

The air, land and water quality inventory details existing and potential sources of pollution in Lincoln County. Air quality in Lincoln County exceeds minimum standards set by the EPA. There are some waste discharges in Lincoln County affecting air quality; however air quality is remaining the same or improving slightly. Water quality in Lincoln County is described as generally good. Some moderate sedimentation problems exist on portions of some watersheds; in addition some periodic non-compliance with temperature standards occurs as a result of low summer flows and over appropriation. According to the inventory, air, land and water quality problems in the County are relatively minor and are currently adequately regulated by existing state and federal pollution control programs.

(3) **Natural Hazards**:

A variety of natural hazards are identified and detailed in the inventory. They include steep slopes, landslide areas, high water table, weak foundation soils, active sand areas, stream and ocean flooding and coastal erosion. Most natural hazards common to Lincoln County are of such a nature and scale that large scale engineering or structural solutions are not practical. Zoning and performance standard requirements are the primary techniques available for hazard mitigation.

(4) **Forest Lands**:

Approximately 87 percent of the total land area of Lincoln County is forest land. Of this 550,000 acres, roughly 80 percent is in either industrial or public ownership. The primary use of the majority of these forest lands is commercial wood fiber production. Secondary uses include wildlife production, outdoor recreation, domestic watersheds and livestock grazing. Existing ownership patterns, historical use trends, and past and current management practices for private non-industrial forest lands indicates that parcels of 40 to 50 acres comprise the large majority of ownerships and that parcels in this size range are compatible with the conservation of forest lands for forest uses.

(5) **Agricultural Lands**:

The analysis considers available sources of data on farms in Lincoln County including the 1979 Census of Agriculture, the S.C.S. Farm Plans, and the Farm Deferral Information. Comparisons are made of all these sources and they are found to be representative samples of agriculture and commercial agriculture in the County. These sources indicate that different size parcels may be appropriate for different types of activities. Average acreages of commercial farm uses were as follows: crops, 28 acres; pasture, 55 acres; wooded pastures, 34 acres; farm wood lots, 41 acres; overall average, 81 acres. The diversity of these averages preclude a county-wide minimum lot size. The two step approach is suggested using the above information as a guideline and more detailed information applied to the guideline area which is mapped and determined in the study. Use of a Commercial Viability Rating System is proposed as a system to provide for the continuation of the commercial agriculture if the person is able to have similar types and averages of activities as 75 percent of the surrounding farms on Farm Deferral within the guideline area. This result is obtained when a minimum rating of 36 points is achieved.

(6) **Estuarine Resources**:

In terms of both economic and social value, estuaries are among the most valuable of the County's natural resources. Among their many valuable functions, estuaries serve as a nursery for

many commercially important ocean fish and as a migration route for anadromous fish (steelhead and salmon). Crustaceans occur in immense numbers and are important in the diet of young fish which in turn are food for higher carnivores. Open water, eel grass and tide flats provide the food and shelter requirements of a significant portion of the migratory birds using the coastal portion of the Pacific Flyway. Of particular importance are the estuarine marsh and tide flat communities which, through their role in nutrient regeneration and cycling of organic matter, provide a significant portion of the primary productivity upon which many major marine food webs are based. These estuarine wetlands serve a number of other important functions including: providing water storage capacity that counteracts tidal surges and upstream flood runoff; serving as settling and filtering basins for silt, organic material and other pollutants; providing breeding, resting and feeding grounds and escape cover for many forms of fish and wildlife. Estuaries are also extremely important for navigation and shipping, commercial fishery support facilities, commercial aqua culture operations, recreational boating and fishing and other economically important activities which require some alteration of the estuary. Because the delicate balance and operation of an estuary is dependent on the interrelationships of complex natural processes, estuaries represent a very fragile environment. Seemingly modest alterations to the processes that govern them can cause major changes in their biophysical character. For this reason, the potential for resource degradation as a result of competing uses is high. Since estuaries have such high economic and social values, it is of critical importance to establish estuarine management practices that will provide for development of estuarine-dependent resources in a manner compatible with conservation and enhancement of estuarine environments.

(7) **Coastal Shorelands**:

The coastal shorelands planning area includes lands contiguous to the Pacific Ocean and tidal rivers and streams. While the interior portions of the County are largely devoted to public and private commercial timber production, those parts of the land mass adjacent to the ocean and major rivers are devoted to a variety of uses, many of which are unique. Many of the principal economic activities in Lincoln County are directly dependent on sound management of shore land areas. Tourism flourishes in the County almost solely because of the appeal of the ocean, the beaches and the estuaries. Preservation of the scenic qualities of these resources as well as public shore land access is obviously crucial if tourists are to continue to be attracted to the area. The fishing industry is dependent on sound management of shoreline areas. Industrial needs such as processing, moorage, boat repair and construction must be provided for in the limited shore land area. At the same time, areas of coastal waters and adjacent lands which are crucial for the maintenance of marine food webs must be soundly managed. Other features unique to the shore lands such as coastal hazard areas and significant coastal habitat areas also require special management provisions.

(8) **Beaches and Dunes**:

Lincoln County has extensive ocean beaches, as well as several smaller areas of dunes. Numerous dune forms are present, including areas of older stabilized dunes, conditionally stable dune forms, active fore dunes and inter dune areas (deflation plains). Lincoln County's dune areas are relatively small, and other dune resources such as dune habitats and dune aquifers are present, but not substantial. Major portions of Lincoln County's dune areas, such as Bayshore and Salishan spits, are committed to residential development.

(9) **Open Space**:

The inventory concludes that a more than ample supply of open space exists in the planning area. Because the plan restricts residential densities on forest, agricultural and other rural lands, and maintains existing parks and public open space, no conflicts exist for lands needed and desirable for open space.

(10) **Mineral and Aggregate Resources**:

The large majority of the County's known aggregate reserves occur on forest or agricultural lands, where no significant conflicts exist. Some deposits do occur in areas where potential conflicts from other uses could arise. These have been analyzed, consequences have been assessed and conflicts resolved. This resolution has generally taken the form of either permitting in full or prohibiting the conflicting use.

(11) **Energy Sources**:

Energy sources in Lincoln County are confined to some potential low-head hydro-electric sites and some potential wind power generating sites. These sites all occur in areas where no conflicting uses exist.

(12) **Fish and Wildlife Habitats**:

Fish and wildlife habitats of various types occur throughout the County. Many of these habitat areas occur on forest or agricultural lands. Normal forestry and farming activities conducted in accordance with existing regulatory authorities do not conflict with these habitats. Some significant habitats do occur in areas designated for higher intensity developments, and potential conflicts exist. The inventory examines these conflicts and their consequences and concludes that such conflicting uses should be specifically limited through the use of clear and objective standards.

(13) **Significant Natural Areas**:

The Nature Conservancy Data Summary for Lincoln County identified some 52 sites which might be considered for designation as significant natural areas. Through a process of further detailed evaluation, this original inventory was refined to a list of 15 candidate natural areas. Each of these 15 sites has been assessed in detail in terms of location, quality and quantity of resource potential conflicts, etc. Specific programs to resolve conflicts have been proposed on a site-by-site basis.

(14) **Outstanding Scenic Views and Sites**:

Areas of outstanding scenic value have been identified through the use of historic documents, citizen recommendations, and field surveys. Some of these areas are in portions of the County designated for forest and agricultural uses which would not conflict with scenic qualities. Other scenic resources are in areas with potential land use conflicts. The analysis of consequences for these areas suggests that these conflicts should be limited through the use of implementing standards.

(15) **Water Resources**:

Water resources are among Lincoln County's most abundant natural resources. These resources occur throughout the County; potential conflicts are numerous and varied. However, existing regulatory programs which control point and nonpoint source pollution, wetland alterations and other conflicting uses are adequate to resolve conflicts.

(16) **Historic and Cultural Areas and Sites**:

Historic and cultural sites have been inventoried on a site by site basis, and the nature of the historic or cultural values of each site has been analyzed. Numerous sites have been identified for which potential conflicting uses exist. Based on an analysis of the consequences of alternative

courses of action, the inventory concludes that it is not desirable to either fully permit or totally prohibit these uses, but rather programs should be developed to in some way limit conflicting uses.

(17) **Potential and Approved Oregon Recreation Trails**:

Lincoln County has only two formally recognized potential state recreation trails (trails for which specific routes have been selected) and no formally approved trails. The Oregon Coast Hiking Trail follows the Lincoln County beaches, with some overland portions around sections of coastal headland areas. Some conflicts have been identified with this trail route in certain areas designated for residential use. The Oregon Coast Bicycle Route follows public right-of-ways for its entire length in Lincoln County, and no conflicts have been identified with this trail route.

(18) **Scenic Waterways**:

The Alsea and Siletz Rivers in Lincoln County are on both the State and Federal lists of potential scenic waterways, but neither has been studied for formal designation. While no conflicting uses exist in terms of consideration for scenic waterway status, conflicts have been identified for portions of the scenic corridor areas along each of these rivers. Implementary measures to limit these conflicts have been recommended.

(19) **Economy**:

All the evidence examined suggests strongly that Lincoln County's economy will grow relatively rapidly through 2000 and beyond. Specifically, it is projected that the County's total employment will increase at an average compound annual growth rate between 3.9 and 4.4 percent, or from 13,259 in 1977 to a low of about 32,000 and a high of about 35,000 in 2000. The analysis showed that the County's total employment increased at an average compound annual growth rate of about 4.8 percent from 9,560 to 13,250 during the 1970-1977 period. Three major assumptions underlie these conclusions. First, it is projected that a mild increase and then a mild decrease in employment in forest-related industries will occur. For example, it is expected that Lincoln County's employment in lumber and wood products in 2000 will be slightly over 1,000 employees compared to 920 employees in 1977. Second, the County's employment in fish-related employment will increase between 270 percent and 459 percent by 2000, with the largest increase stemming from the on-shore impacts of the new 200-mile fishing zone. Third, the County's employment in tourist and recreation related employment should increase between 300 percent and 340 percent by 2000, thus contributing roughly 68 percent of the total increase in employment in Lincoln County during the 1977 to 2000 period. The analysis suggests this increase will stem largely from growth in the Willamette Valley's employment increasing at an average annual compound growth rate greater than 3.0 percent during the 1977 to 2000 period.

(20) **Transportation**:

Transportation in Lincoln County centers primarily on the use of the private automobile. It is anticipated that this reliance will continue, and the focus of transportation planning for the planning period will be on design, improvement and maintenance of public roads and highways. Mass transit opportunities in Lincoln County appear to be extremely limited during the planning period. The small number of potential users and their low concentration combine to make any such project economically unsound. It is likely that the importance of air travel will increase during the planning period, commensurate with projected population increases. The probability of commercial air service to the Newport area is anticipated and plans for significant improvements at the airport are being formulated. Rail service and commercial shipping activities are both confined to serving industrial wood products operations in the Newport-Toledo area.

In 2011-12, Lincoln County participated in a planning process that addressed transportation and land use issues in South Beach, an area south of the Yaquina Bay Bridge that includes land both within the City of Newport and outside city limits, within Lincoln County. A significant amount of new development in the Newport area is expected in this area. Forecasted traffic volumes along US 101 are anticipated to result in greater congestion levels, particularly during the summertime peak. However, traffic growth is likely to be high enough that significant congestion also will be experienced at other times of the year. The limited state funding available for bridge improvement and replacement causes the Yaquina Bay Bridge to become the major constraint in the operation of the transportation system south of the bridge.

Newport and Oregon Department of Transportation (ODOT), in consultation with Lincoln County, have worked together to identify a transportation system and management strategy that will support future community development in South Beach. The strategy includes alternative mobility standards for US 101, strategic improvements to the state highway and to the local street system and a variety of improvements to the pedestrian and bicycle system. A South Beach Transportation Overlay Zone (SBTOZ) has been created that creates a Trip Budget Program to track vehicle trips generated by future development. The City has adopted the SBTOZ and Trip Budget Program to track the trips from future development so that the planned transportation system will be able to serve future land use needs. The County will rely upon the City's adopted Transportation System Plan (TSP) to identify the necessary and appropriate improvements to the transportation system. The County will participate in the SBTOZ and Trip Budget Program by notifying the City of land use approvals for all development proposed on lands within the SBTOZ. This process will provide the City of Newport with the means to ensure that trips are available in the City's Trip Budget Program to support developments in South Beach. [2013 o. 470 §1]

(21) **Energy**:

Increasing population coupled with reliance on increasingly scarce energy resources necessitates expanded efforts for conservation and more efficient use of energy. Local governments can encourage efficient energy use and conservation through a variety of methods including seeking funding sources for alternative energy development, encouraging residents to utilize conservation programs, providing public information and education on energy related matters and encouraging energy efficient design in housing and other types of developments.

(22) **Housing**:

The problem of providing both adequate and affordable housing has become an issue of national concern. Housing problems in Lincoln County largely parallel national trends. Overall vacancy rates in the County are very low; this coupled with rapidly escalating building costs and interest rates has driven acreage housing costs to levels beyond the income capabilities of many County residents. Fewer and fewer families are able to afford ownership of a single family residence, still the overwhelming preference of most households. The County's role in providing areas for needed housing is projected to be relatively small during the planning period (as compared to areas within incorporated cities). However, in existing rural communities and other rural residential areas, the provision of opportunities for affordable housing will be emphasized.

(23) **Recreation**:

The physical setting of Lincoln County holds a great deal of potential for outdoor oriented recreation. An extensive network of state, federal and locally managed outdoor recreation facilities are available. They provide access to the larger water bodies and dramatic scenery for tourists and residents alike. The potential for year round recreation is limited somewhat by climate, topography

and drainage conditions. Needs for all-weather or indoor recreation facilities are apparent to satisfy recreational demand in cooler winter months.

(24) **Public Facilities**:

Historically, few if any public facilities were available in the rural areas of Lincoln County. As demand for recreational development increased, various services have developed in the unincorporated areas. Through the formation of special districts, water, fire protection and in some cases, sanitary sewer services has been provided. The delivery of these services has been localized, and the networks have developed in a largely uncoordinated fashion. In some cases, levels of development have exceeded service capabilities and attendant problems have ensued. The need for overall comprehensive plan policies to guide the future development and delivery of services in these rural areas is identified. [2008 o.456 §1; 2012 o.466 §1]

1.0010 Land Use Planning Goals

Land use planning goals:

(1) To identify activities, issues and problems of land use.

(2) To ensure that all growth is orderly and efficient.

(3) To establish a land use planning process and policy framework as a basis for all decisions and actions related to the use of land, and to assure an adequate factual basis for such decisions and actions.

1.0015 Land Use Planning Policies

Land use planning policies:

(1) The Comprehensive Plan for Lincoln County shall be filed in the office of the County Clerk and available in the County Planning Department and may be available at city halls and libraries throughout the County.

(2) The inventory information shall be referenced in the plan and shall be available for use and inspection in the Planning Department. Additional copies of inventory information may be distributed to city halls and libraries throughout the County.

(3) Lincoln County shall maintain a planning process to coordinate federal agency, state agency, county, city and special district plans which are to be consistent with this comprehensive plan.

(4) All departments of county government shall work together to encourage orderly and efficient patterns of growth,

(5) The County shall review the entire plan at least every five years to determine the need for revision and updating.

(6) If revisions are required as a part of the overall review and update process, the comprehensive plan text and/or map shall be amended by ordinance using the following procedure:

(a) All plan revisions shall be reviewed by the appropriate citizen committees. The committees shall be notified of the proposed plan revisions by the County and shall be given the opportunity to submit committee reports containing findings, recommendations and possible alternatives, and invited to attend public hearings.

(b) Proposed plan revisions shall then be presented to the Planning Commission for a public hearing, after which a recommendation shall be made to the Board of County Commissioners.

(c) The Board of County Commissioners may affirm, deny or table matters or refer matters back to the Planning Commission for further action.

(7) Lincoln County plan designations would allow for less intensive uses which do not preclude future planned land uses.

(8) Lincoln County shall develop and adopt standards to buffer incompatible land uses.

(9) Lincoln County supports incorporation of smart growth principles into decision-making processes. Smart growth concepts include promoting transit-oriented development, mixed-use development, minimum street connectivity standards, minimum densities, and minimum floor-area ratios and parking standards. [2008 o.456 §4]

1.0020 Intergovernmental Coordination Policies

The County shall work with all local, state and federal agencies districts owning and managing property within Lincoln County to assure coordinated comprehensive planning:

(1) Pursuant to the federal consistency requirements of the Coastal Zone Management Act (Section 307), all state and federal permits for activities affecting land use within Lincoln County shall be reviewed by the County for compliance with the comprehensive plan before the permit is granted.

(2) The County shall maintain communication with local, state and federal agencies which may include the exchange of maps, data and other appropriate information.

(3) During all comprehensive plan updates and revisions, the County shall encourage the participation of affected local, state and federal agencies and districts.

1.0025 Citizen Involvement Policies

(1) There shall be a continued effort to involve citizens and citizen advisory committees (CACs) in all phases of the planning process. The committee for citizen involvement (CCI) shall continue to assist in developing and implementing the Lincoln County Citizen Involvement Program (CIP).

(2) A systematic written procedure shall be established by the County to derive comments from the Citizens Advisory Committees to the Planning Commission and governing body. The procedure shall show which party is to be addressed at each level of planning.

(3) The facts and rationale upon which planning decisions are made shall be provided to the affected citizens advisory committees, and to others upon request.

(4) Citizens Advisory Committee recommendations and the response to those recommendations shall be part of the Planning Commission files.

1.0030 Urbanization Policies

(l) Lincoln County shall work with citizens and cities of Lincoln County in the establishment, maintenance and amendment of urban growth boundaries. Establishment and change of the boundaries shall be based upon consideration of the following factors:

(a) Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals;

(b) Need for housing, employment opportunities, and livability;

(c) Orderly and economic provision for public facilities and services;

(d) Maximum efficiency of land uses within and on the fringe of the existing urban area;

(e) Environmental, energy, economic and social consequences;

(f) Retention of agricultural land as defined, with Class VI the lowest priority; and

(g) Compatibility of the proposed urban uses with nearby agricultural activities.

(2) Public facilities and services extended to lands outside urban growth boundaries shall be appropriate for, and limited to, rural types and levels.

(3) Outside of urban growth boundaries, Lincoln County shall provide only rural levels and types of public facilities and services.

(4) Developments within urban growth boundaries, but outside of city limits shall be allowed only when the property owner has agreed to accept and pay for (now or at some future date at the discretion of the service provider) service extension, installation, and hook up fees at levels equal to those required within the city. Public facilities (water, sewer and streets) design shall be approved by the city, special district or other private service provider prior to final approval.

(5) Land use decisions affecting urban growth areas outside city limits shall be made after the affected city is given the opportunity to make a recommendation. The city and county plans shall be coordinated for these areas.

(6) Within city urban growth boundaries, subdivisions and partitions shall be to the city's urban densities as set out in the city's plan designation for the affected property or be at interim densities of five acres or greater so long as lots do not interfere with efficient urbanization.

(7) Within urban growth boundaries and outside of city limits, the Lincoln County land use designations shall apply prior to annexations. After annexations, the city land use designations shall apply.

(8) Lincoln County shall comment on proposed annexations when cities have provided a description of the proposed area annexation to the County ten days prior to applicable public hearings.

(9) Lincoln County shall coordinate with cities and special districts on plans, public facility extensions and urban services delivery. Where necessary this will be done through intergovernmental agreement.

1.0040 Air, Land, and Water Quality Goals

Air, land, and water quality goals:

(1) To improve the quality of air, land and water resources.

(2) To secure sufficient water resources to support future growth.

(3) To not exceed the carrying capacity of the County's water resources.

(4) To ensure the safe and sanitary disposal of solid waste.

(5) To ensure that land use will not degrade the quality of air, land and water resources.

(6) To coordinate planning within river basins.

1.0045 Air, Land, and Water Quality Policies

(1) Lincoln County shall work to solve identified air, land, and water quality problems, with other counties and with:

(a) The Lincoln County Soil and Water Conservation District in coordinating land and water management.

(b) The Oregon Water Resources Department to determine water availability and its allocation.

(c) The Department of Environmental Quality and the Environmental Protection Agency to determine standards to monitor air noise, land and water quality.

(d) The Department of Forestry to enforce the Forest Practices Act.

(e) Local citizens and jurisdictions.

(2) Lincoln County shall work with state and federal agencies to assure that pesticides and herbicides are not dispersed in quantities and in a manner so as to adversely affect human health and property of its citizens.

(3) Lincoln County shall strongly discourage the siting of nuclear power generation plants within the County due to the presence of high water tables, low water flows, and many geologic faults within the County.

(4) Lincoln County shall strongly discourage the disposal of nuclear waste within the County due to the presence of high water tables, low water flows, and many geologic faults within the County.

(5) Lincoln County shall require that disposal of chemical waste dumps in the County so as to assure that no future uses of such sites results in danger to human health, life and property.

(6) The Lincoln County Solid Waste Advisory Committee shall develop and maintain a solid waste disposal management plan.

(7) Lincoln County shall recognize the authority and responsibility of the Oregon Department of Environmental Quality to manage the waste and process discharges of all existing and future development. Lincoln County shall require conformance with all applicable state and federal regulations regarding waste and process discharges prior to approval of any development.

(8) Lincoln County shall cooperate in the identification and monitoring of known aquifers. The quality of aquifers capable of augmenting domestic water supplies shall be protected.

(9) Lincoln County shall consider participation in the Cool Counties Climate Stabilization Declaration through the National Association of Counties. [2008 o.456 §6]

1.0050 Natural Hazards Goals

Natural hazard goals:

(1) To identify and evaluate areas where natural hazards are known or suspected to exist.

(2) To protect life and property from natural disasters and hazards.

(3) To provide appropriate safeguards for land uses in areas of natural hazards.

1.0055 Natural Hazard Policies

(1) Lincoln County shall require the provision of adequate safeguards before permitting development in identified areas of known or suspected natural hazards. In regard to forest operations on forest lands, the Oregon Forest Practices Act is to provide such safeguards.

(2) Except for beach front protective structures regulated by state permitting agencies, Lincoln County shall require site investigation reports from a registered professional geologist or certified engineering geologist prior to consideration of development requests in areas of known or suspected geologic hazards. Forest operations shall be subject only to the requirements of the Forest Practices Act.

(3) Lincoln County shall require developments in areas subject to flooding to comply with the requirements of the U.S. Department of Housing and Urban Development (HUD) Flood Insurance Program.

(4) Lincoln County shall maintain maps of identified geologic hazards which shall be available to the public. Presently available are:

(a) Environmental Geology of Lincoln County, Department of Geology and Mineral Industries, 1973, with quadrangle maps; and

(b) Environmental Hazard Inventory, Coastal Lincoln County, RNKR Associates, 1977, with 1"-400' photo mapping of coast.

(5) "Areas of Natural Disaster and Hazards" are areas that are subject to natural events that are known to result in death or endanger the works of man, such as stream flooding, ocean flooding, ground water, erosion and deposition, landslides, earthquakes, weak foundation soils and other hazards unique to local or regional areas.

1.0060 Forest Land Goals

Forest land goals: To conserve forest land for forest uses.

1.0065 Forest Land Policies

(1) Forest land shall be retained for the production of wood fiber and other forest uses.

(2) Lincoln County shall provide for compatible uses on forest lands.

(3) Lincoln County shall recognize the Oregon State Department of Forestry as the regulatory agency for forest management practices. Lincoln County shall cooperate with the Oregon State Department of Forestry to ensure that application of forest management practices are consistent with the Oregon Forest Practices Act.

(4) Lincoln County shall protect existing forest uses from encroachment of incompatible forest uses.

(5) Forest lands within designated urban growth boundaries shall be considered urbanizable upon a showing of need for such use.

(6) Lincoln County will recognize the need for ownership consolidation in maximizing the forest objectives of individual forest land owners and will encourage and cooperate in the process of land exchanges between the various owners.

(7) Lincoln County shall allow residences in association with forest uses within forest zones.

(8) Lincoln County may permit non-forest residences on single units of ownership within forest zones. The location of such residences shall be compatible with forest management activities on adjacent properties.

(9) Lands identified in the inventory as forest lands shall be designated on the comprehensive plan maps as forest lands unless lands are determined to be committed to or needed for non-forest uses.

1.0070 Agricultural Lands Goals

Agricultural lands goals:

(1) To preserve and maintain agricultural lands.

(2) To conserve and improve the existing commercial agricultural enterprise within the area.

1.0075 Agricultural Lands Policies

(1) Lincoln County shall designate, preserve and maintain agricultural land for farm use consistent with existing and future needs for agricultural products, forest and open space.

(2) Lincoln County shall convert agricultural land to urbanizable land only after considering all of the following factors:

(a) Environmental, social, economic and energy consequences.

(b) Demonstrated need consistent with LCDC Goals.

(c) Unavailability of an alternative suitable location for the requested use.

(d) Compatibility of the proposed use with related agricultural land.

(e) The retention of Class I-IV soil in farm use.

(f) The requirement for an exception to the Statewide Goals.

(3) Lincoln County shall ensure that designated agricultural lands are protected from encroachment of incompatible land use.

(4) Where rural residences can be accommodated on land within agricultural areas not suited for agriculture or commercial timber production, such residences shall be allowed if they pose no threat of conflict with prevailing farm and forest practices.

(5) Lincoln County shall allow one residence for farm purposes outright on lands designated for agricultural use when the parcel is found to be appropriate for the continuation of the existing commercial agricultural enterprises in the area.

(6) Lincoln County shall review the location of additional residences for farm helpers or family members assisting in farm operations on lands designated for agricultural use.

(7) Lincoln County shall adopt an agricultural conservation zone that shall conform to ORS chapter 215.

(8) Lincoln County shall establish lot sizes appropriate for the continuation of the existing commercial agriculture.

(9) Lincoln County shall define farm use as set out in ORS chapter 215.

(10) Lincoln County shall define agricultural lands as set out in the State-Wide Planning Goal on Agricultural Lands.

1.0080 Estuarine Resource Goals

(1) To recognize and protect the unique environmental, economic and social values of each estuary and associated wetlands.

(2) To protect, maintain, and where appropriate develop and where appropriate, restore the long term environmental, economic and social values, diversity and benefits of Lincoln County's estuaries.

1.0085 Estuarine Resource Policies

(1) Lincoln County shall work with appropriate local, state and federal agencies and other interested parties in developing overall management programs for the County's estuaries.

(2) Lincoln County's overall management plan for each estuary shall include the following policy elements:

(a) Because Lincoln County's estuaries represent an economic resource of regional importance, overall management of each estuary shall ensure adequate provision for development at a level of intensity consistent with the overall Oregon Estuary Classification and according to the following general priorities (from highest to lowest):

(A) Water dependent uses requiring an estuarine location.

(B) Water related uses which do not degrade or reduce natural estuarine resources and value.

(C) Non-dependent, non-related uses which do not alter, degrade or reduce estuarine resources or values and are compatible with existing committed uses.

(b) Because Lincoln County's estuaries support a variety of vitally important natural resource values, the overall management of each estuary shall include adequate provision for both conservation and preservation of natural resources.

(c) Because Lincoln County's estuaries represent a recreational resource of both local and statewide importance. management of each estuary shall protect recreational values and ensure public access to the estuary.

(3) Lincoln County shall establish the following kinds of estuarine management units:

(a) **Natural Management Units**: Natural management units are those areas which are needed to assure the protection of significant fish and wildlife habitats, of continued biological productivity within the estuary, and of scientific, research, and educational needs, These shall be managed to preserve the natural resources in recognition of dynamic, natural, geological and evolutionary processes. Unless exceptions are provided for, such areas shall include, at a minimum, all major tracts of salt marsh, tide flats, and sea grass and algae beds. Natural management units shall be designated in all estuaries. Permissible uses in natural areas shall be undeveloped low-intensity water-dependent recreation, research and educational observation, navigational aides, such as beacons and buoys; protection of habitat, nutrient fish, wildlife and aesthetic resources, and passive restoration measures, and where consistent with the resource capabilities of the area and the purposes of this management unit, aqua culture, communication facilities, and active restoration measures. **Management Objective**: To preserve, protect and where appropriate enhance these areas for the resource and support values and functions they provide.

(b) **Conservation Management Units**: In all estuaries except those in the overall Oregon Estuary Classification which are classed for preservation, areas shall be designated for long-term uses of renewable resources that do not require major alteration of the estuary except for the purpose of restoration. These areas shall be managed to conserve the natural resources and benefits. These shall include areas needed for maintenance and enhancement of biological productivity, recreational and aesthetic uses, and aqua culture. They shall include tracts of significant habitat smaller or of less biological importance than those in paragraph (a) of this subsection, and oyster and clam beds. Partially altered areas or estuarine areas adjacent to existing development of moderate intensity shall also be included in this classification unless otherwise needed for preservation or development consistent with the overall Oregon Estuary Classification. Permissible uses in conservation areas shall be those allowed in subparagraph (a) of this subsection, active restoration measures, aqua culture, and communication facilities. Where consistent with resource capabilities of the area and the purposes of this management unit, high-intensity water dependent recreation, maintenance dredging of existing facilities, minor navigational improvements, mining and mineral extraction, water-dependent uses requiring occupation of water surface area by means other than fill, and bridge crossing, shall be appropriate. **Management Objective**: To conserve, protect and, where appropriate, enhance renewable estuarine resources for long term uses and to manage for uses which do not substantially degrade the natural or recreational resources or require major alterations of the estuary.

(c) **Development Management Unit**: In estuaries classified in the overall Oregon Estuary Classification for development, development management units shall be designated for navigation and other identified needs for public, commercial and industrial, water dependent uses, consistent with the level of development or alteration allowed by the Oregon Estuary Classification. Such areas shall include deep-water areas adjacent or in proximity to the shoreline, navigation channels,

sub tidal areas for in-water disposal of dredged material and areas of minimal biological significance needed for uses requiring alteration of the estuary. Permissible uses in areas managed for water-dependent activities shall be navigation and water-dependent commercial and industrial uses. Where consistent with the resource capabilities and the purposes of this management unit, water related and non-dependent, non-related uses not requiring fill, mining and mineral extraction, and activities identified in paragraphs (a) and (b) of this subsection, shall be appropriate. **Management Objective**: To provide for water dependent and water related development.

1.0090 Coastal Shoreland Goals

Coastal shoreland goals:

(1) To identify coastal shore lands.

(2) To identify appropriate uses in coastal shorelands.

(3) To recognize the value of coastal shore lands for protection and maintenance of water quality, fish and wildlife habitat, water dependent uses, economic resources, and recreation and aesthetics.

1.0095 Coastal Shoreland Policies

(1) Lincoln County shall establish a Coastal Shorelands Boundary and determine appropriate uses within.

(2) The shoreland boundary shall be defined to include areas as follows:

(a) Lands which are directly affected by hydraulic action of the coastal water body, including the 100 year floodplains and lands which limit and control hydraulic action;

(b) Areas of geologic instability which may affect or may be affected by adjacent coastal waters;

(c) Identified headlands;

(d) Identified areas of exceptional scenic or aesthetic qualities including lands within the state park system; and

(e) Identified areas of significant shoreland and wetland biological habitats.

(3) Lincoln County shall allow coastal shoreland uses according to the following general priorities (from highest to lowest):

(a) Uses which maintain the integrity of estuaries and coastal waters;

(b) Water-dependent uses;

(c) Water-related uses;

(d) Non-dependent/non-related uses which retain flexibility of future use and do not prematurely or inalterably commit shore lands to more intensive uses.

(4) For shorelands identified in the inventory as major marshes, significant wildlife habitat, headlands, areas having exceptional aesthetic resources or historic and archaeological sites, Lincoln County shall adopt land use designations and standards which are consistent with the protection of natural values.

(5) Shorelands in rural areas other than those identified in Policy 4, above, shall be designated as appropriate for:

(a) Farm uses;

(b) Forest uses;

(c) Private and public water-dependent recreation developments;

(d) Aquaculture, where consistent with the adjacent estuarine management unit;

(e) Water-dependent and water-related commercial and industrial uses upon a finding that such uses satisfy a need which cannot be accommodated on shore lands in urban and urbanizable areas;

(f) Subdivisions and major and minor partitions upon a finding that such uses satisfy a need that cannot be accommodated at other upland locations or in urban or urbanizable areas and are compatible with the objectives or protecting wildlife habitat and riparian vegetation;

(g) Single-family residences on existing lots when compatible with objectives of protecting wildlife habitat and riparian vegetation.

(6) Lincoln County recognizes that shore land policies and estuarine policies need to be closely coordinated. Shore land uses shall be compatible with the management unit designation on contiguous estuarine areas.

(7) Lincoln County shall require the maintenance and, where appropriate, restoration of riparian vegetation in coastal shore land areas, consistent with water-dependent uses. For forest operations within the shore lands boundary, tile maintenance and restoration of riparian vegetation shall be governed by the Forest Practices Act.

(8) Lincoln County shall protect shore lands identified as dredged material disposal sites from land uses which would prevent their use for dredged material disposal.

(9) Lincoln County shall protect identified mitigation sites from land uses which would prevent their ultimate use for restoration or enhancement of the estuarine ecosystem.

(10) Lincoln County shall protect shore lands in urban or urbanizable areas which are especially suited for water-dependent development from uses which would commit those shore lands to non-water dependent uses.

(11) Policies concerning natural hazards relating to the shore land boundary shall apply to land areas adjacent to coastal lakes. Riparian vegetation policies relating to estuarine shore lands shall apply to such vegetation surrounding coastal lakes. For coastal lakes in rural areas, land use densities will be determined on the basis of carrying capacity, with particular care being taken to ensure that subsurface sewage disposal systems do not degrade water quality of the adjacent water bodies.

1.0100 Beaches and Dunes Goals

Beaches and dunes goals:

(1) To protect, conserve and, where appropriate, restore, the beaches and dunes of Lincoln County.

(2) To ensure that development will be designed to minimize adverse environmental effects.

(3) To ensure that development will be adequately protected from any geological hazards, wind erosion, undercutting, ocean flooding and storm waves.

1.0105 Beaches and Dunes Policies

(1) Lincoln County shall base land use decisions in beach and dune areas, other than older stabilized dunes, on specific findings which shall include the following:

(a) The type of use proposed and the adverse effects it might have on the site and adjacent areas;

(b) Temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation;

(c) Methods for protecting the surrounding area from any adverse effects of the development; and

(d) Hazards to life, public and private property, and the natural environment which may be caused by the proposed use.

(2) Lincoln County shall recognize the authority of the Division of State Lands and the Oregon Department of Transportation to regulate the placement of beach front protective structures, such as bulkheads, sea walls, rip-rap and similar protective structures. The above agencies' findings for such permits shall address and comply with Lincoln County Beach and Dune Policies 3 and 4 below, and shall address the following:

(a) Hazards, as well as benefits, to life, public and private property, and the natural environment which may be caused by the proposed use; and

(b) Temporary and permanent sand stabilization programs and the planned maintenance of new and existing vegetation; and

(c) Methods and techniques designed to minimize adverse impacts on the site and surrounding area; and

(d) The necessity for beach front protective structures.

(3) Beachfront protective structures will be designed to minimize impacts on the beach on either side of the beach zone line and on beach erosion and accretion patterns.

(4) Beachfront protective structures may be permitted only where development existed on January 1, 1977, unless an exception to Statewide Planning Goal 18, implementation requirement 5, has been adopted as part of the comprehensive plan.

(5) Lincoln County shall rely on the State Parks and Recreation Division to regulate beach sand removal.

(6) Lincoln County may allow sand removal from the dune system upon a finding that the resulting natural processes of the dune form will not adversely affect property on or off the site.

(7) Lincoln County shall cooperate with the State Parks and Recreation Division to ensure that construction of access to beach areas observes sound conservation practices and to protect existing public easements through beach and dune areas.

(8) Lincoln County shall cooperate with the State Parks and Recreation to provide adequate parking, disposal and sanitary facilities at heavily used beach access points.

(9) Lincoln County shall seek local, state and federal funds to study the availability of ground water resources in dune areas. Lincoln County shall review study recommendations and establish management standards that recognize the ground water resource potential.

(10) Lincoln County shall allow construction on or alteration of dune forms only as follows:

(a) On built and committed sand dune areas identified in the Inventory, including the Siletz and Alsea sand spits. Such development shall be designed to minimize adverse environmental effects with adequate protection from geologic hazards, wind erosion, undercutting or ocean flooding and storm waves.

(b) On older stabilized and conditionally stabilized dunes not subject to under cutting or ocean wave overtopping.

(c) On active dune forms, deflation plains and inter dune areas not subject to ocean flooding.

(d) On other inter dune areas not identified above if alteration of the dune forms will not adversely affect property on or off the site.

(11) Lincoln County shall encourage the stabilization of those active dunes that pose threat to public or private property.

(12) Lincoln County shall cooperate with the Oregon State Department of Fish and Wildlife to protect significant wildlife habitat in beach and dune areas as identified in the Lincoln County Plan Inventory and designated on Plan and Zone maps.

(13) Prior to development, Lincoln County shall require an approved revegetation and sand stabilization plan that is to be followed during and after development.

(14) Except for beach front protective structures regulated by state permitting agencies, Lincoln County shall establish development standards consistent with the recommendations of the RNKI Environmental Hazard Inventory and Department of Geology and Mineral Industries Bulletin 81.

(15) Lincoln County shall work with the State Parks and Recreation Division to prohibit vehicles from Lincoln County's identified sensitive dune areas.

(16) Lincoln County shall work with the State Parks and Recreation Division to regulate removal of driftwood.

(17) Lincoln County shall maintain maps of known geological hazards which shall be available to the public.

(18) Lincoln County shall work with the Oregon State Parks and Recreation Division to allow foredunes to be breached only to replenish sand supply in inter dune areas, or on a temporary basis in an emergency action such as fire control, cleaning up oil spills, draining farm lands, or alleviating flood hazards, and only if the breaching and restoration is consistent with sound principles of conservation.

(19) Lincoln County shall work with the Department of Environmental Quality and Water Resource Department to regulate ground water quality and to ensure ground water draw down does not lead to loss of stabilizing vegetation on dune forms or intrusion of salt water into water supplies.

(20) Lincoln County shall review all proposed actions which may result in the alteration of any beach or any active or conditionally stable dune form in the following manner:

(a) Ocean front lots: Site specific geotechnical analysis by qualified registered professional geologist or engineering geologist except when the only known or suspected hazard is coastal recession and minor slope sloughing which can be compensated for with adequate setbacks as set out in Environmental Hazard Inventory, RNKR, 1977.

(b) Sand areas: Except for beach front protective structures which are regulated by state permitting agencies, a detailed geotechnical analysis shall be required for active or conditionally stable dune forms and for areas of high ground water.

(21) Construction and alteration in beach and dune areas shall be designed and located so as to minimize vegetation removal and exposure of stable and conditionally stable areas to erosion. [1988 o.274 §1]

1.0108 Adoption of Bayshore Dune Management Plan

(1) The Bayshore Dune Management Plan and Foredune Management Plan (Bayshore Plan) dated February 7, 2012 is hereby adopted and made a part of the Lincoln County Comprehensive Plan. The Bayshore Plan, which includes the background report and management strategy are incorporated herein as if fully set forth. Copies of the Bayshore Plan shall be placed in the Lincoln County Clerk's Office and kept in the Department of Planning and Development Offices.

(2) To the extent that provisions of the Bayshore Plan and the newly adopted provisions of the Lincoln County Code, LCC 1.1385 Foredune Management Overlay Zone, or subsequent amendments to the Bayshore Plan and/or LCC 1.1385, diverge from other provisions of this Chapter, the Bayshore Plan and LCC 1.1385 shall supersede those inconsistent provisions. [2012 o.466 §3; 2017 o.500 §2]

Note: Pursuant to Ordinance # 500, adopted by the Lincoln County Board of Commissioners on November 1, 2017, the Bayshore Dune Management Plan is modified as follows:

1. Notwithstanding any other provision of the Lincoln County Code (LCC) Chapter One, Land Use Planning and the Bayshore Foredunes Management Plan adopted by Ordinance #466 as amended by Ordinance #473 and #477 (including but not limited to LCC 1. 0108 and LCC 1.1385) the boundaries of the Management Plan planning area (Figure 2) and the Management Units in the Planning Area (Figures 3A-B) and Figures 10, 14, 20, 23 and 27 and any other references to boundaries of the planning area whether in text, figures, or appendices are hereby amended as follows:

> the easterly boundary of the management units is now the west right-of-way line along NW Oceania Drive (moved from its former location on the east right-of-way line of NW Oceania Drive)

2. Any elements of the plan portraying or containing a description of the boundaries of the Dune Management Plan not specifically identified in Section 1 above shall be superseded by the change in boundaries. The Lincoln County GIS Department is hereby authorized to prepare a new official map of the boundaries of the Planning Area reflecting this change.

1.0110 Open Spaces, Scenic and Historic Area Goals

Open spaces, scenic and historic area goals:

(1) To conserve open space in rural and urban environments.

(2) To protect identified mineral and aggregate deposits.

(3) To protect fish and wildlife habitats.

(4) To evaluate the importance of preserving ecologically and scientifically significant natural areas, as identified in the inventory.

(5) To consider the effects of proposed development on scenic areas.

(6) To preserve and protect areas of historic, archaeological and cultural significance.

1.0115 Open Spaces, Scenic and Historic Area Policies

(1) Lincoln County shall inventory the location, quality and quantity of the following types of significant sites:

(a) Land needed or desirable for open space;

(b) Mineral and aggregate resources;

(c) Energy sources;

(d) Fish and wildlife areas and habitats;

(e) Ecologically and scientifically significant natural areas;

(f) Outstanding scenic views and sites;

(g) Water areas, wetlands, watersheds and ground water resources;

(h) Wilderness areas;

(i) Historic areas, sites, structures and objects;

(j) Cultural areas;

(k) Potential and approved Oregon recreation trails; and

(L) Potential and approved federal wild and scenic waterways and state scenic waterways.

(2) Lincoln County shall identify conflicting uses for inventoried natural resources.

(3) Where no conflicting uses have been identified, Lincoln County shall manage inventoried natural resources so as to retain their original character.

(4) Where conflicting uses are identified for inventoried natural resources, Lincoln County shall determine the economic, social, environmental and energy consequences of either allowing or not allowing the conflicting use or uses.

(5) Lincoln County shall develop programs to resolve identified conflicts with inventoried natural resources. These programs shall be based upon an evaluation of the economic, social, environmental and energy consequences of alternative courses of action. Such programs shall:

(a) Preserve the inventoried resource;

(b) Allow the conflicting use or uses in full; or

(c) Specifically limit the conflicting use or uses through the application of clear and objective standards.

(6) The results and conclusions of application of the procedures and requirements of the policies contained in subsections (1) through (5) of this section shall be set forth in the Goal 5 element of the Comprehensive Plan Inventory. Change to the Goal 5 Inventory element shall be accomplished through the plan amendment process.

(7) As new information concerning the location, quality and quantity of the resources listed in the policy described in subsection (1) of this section becomes available, such information shall be incorporated into the Comprehensive Plan Inventory. Priority shall be given to resources for which inadequate information is currently available (mineral and aggregate sites, archaeological sites, recreation trails, and scenic waterways).

(8) The adequacy of the Forest Practices Act (FPA) to protect certain Goal 5 resources is being studied by the Land Conservation and Development Commission (LCDC), Goal 5 Inventory. The findings shall be used by the County to determine if there are certain Goal 5 resources which are not adequately protected by the FPA. For such resources, programs to achieve the Goal shall be developed by the time of the next plan update.

(9) The groundwater resource within Otter Rock Water District Wellhead Protection area, as identified in the Comprehensive Plan Inventory, has been determined to be a significant Goal 5 resource. Lincoln County shall implement and maintain appropriate land use regulations within this area which reduce the risk of groundwater contamination.

(10) Any changes in land use designations or zoning for the area within the Otter Rock Water District Wellhead Protection Area shall comply with the requirements of Statewide Planning Goal 5 and OAR 660, Division 23. [1999 o.389 §3]

1.0120 Ocean Resource Goals

Ocean resource goals:

(1) To understand the impacts and relationships of ocean activities to ocean resources.

(2) To ensure proper management and protection of ocean resources.

1.0125 Ocean Resource Policies

(1) Lincoln County shall work with all local, state and federal agencies which have planning permit or review authority over coastal land and water.

(2) Lincoln County may review proposals to determine impacts of outer continental shelf oil, gas, mineral or other fisheries development.

(3) Lincoln County shall work with state and federal agencies for development of ocean resources.

(4) Lincoln County shall work to minimize on-shore impacts of offshore development where possible.

1.0130 Economic Goals

(1) To establish an economic planning process in the county.

(2) To support and encourage the expansion of existing industrial and commercial activities in appropriate locations.

(3) To support and encourage the creation of new industrial and commercial activities in appropriate locations.

(4) To recognize the environmental and developmental constraints in expansion of industrial, commercial, and residential activities.

(5) To improve the average wage in the county.

(6) To improve the quality of employment opportunities in Lincoln County.

1.0135 Economic Policies

(1) Lincoln County shall designate suitable lands for the creation and expansion of industrial and commercial activities.

(2) Lincoln County shall monitor employment on a systematic and periodic basis as a prime tool in estimating population change and land use demand.

(3) Lincoln County shall encourage, through the possible use of incentives, the location of preferred industrial activities in areas suited to and capable of supporting those activities and land uses.

(4) Lincoln County shall encourage the development of facilities supportive of the vocational and higher educational needs of the community.

(5) Lincoln County shall work with the State of Oregon to recognize host recreation county's need for greater support than other counties for public facility improvements to continue to meet the regional recreation needs.

(6) Lincoln County shall encourage the use of local contractors.

(7) Lincoln County shall encourage labor intensive commercial and industry.

(8) Lincoln County shall work with cities, port districts and the Administrative District 4 Council of Governments in the maintenance and support of the overall economic development plan to establish clear and concise long range economic goals.

(9) Lincoln County shall work with the cities, port and special districts to promote commerce and industry.

(10) When conflicting land uses are proposed, the alternatives shall be evaluated based upon economic, social, energy, and environmental costs and benefits.

1.0138 Adoption of Lincoln County Transportation System Plan

(1) The Lincoln County Transportation System Plan, consisting of Volume 1 (Plan) and Volume 2 (Appendixes, Tables and Figures), is hereby adopted and made a part of the Lincoln County Comprehensive Plan. The Plan, Volumes 1 and 2, are incorporated herein as if fully set

forth. Copies of the Plan, Volumes 1 and 2, shall be placed in the Lincoln County Clerk's Office and kept in the Department of Planning and Development's offices.

(2) To the extent that provisions in the Lincoln County Transportation System Plan diverge from this Chapter or subsequent amendments to the Comprehensive Plan, this Chapter or subsequent amendments to the Comprehensive Plan shall supersede those inconsistent provisions. [2008 o.456 §3]

(3) Lincoln County recognizes the South Beach Transportation Overlay Zone (SBOTZ) as adopted in the City of Newport Transportation System Plan as applying to county lands within the zone boundaries. [2013 o.470 §2]

1.0140 Transportation Goals

Transportation goals:

(1) To plan for a safe, convenient and economic transportation system.

(2) To provide an efficient and aesthetically pleasing system of public roads.

(3) To develop a transportation system which enhances the County's economy.

(4) To encourage energy conserving transportation modes.

(5) To conserve energy in transportation.

1.0145 Transportation Policies

(1) Lincoln County shall coordinate its transportation plans with state transportation plans, and the city comprehensive plans.

(2) The Lincoln County Road Committee shall recommend capital improvement plans for road construction, major road improvements and maintenance. Priorities shall be established on the basis of road condition, road capacity, traffic volume and effectiveness toward reducing accidents.

(3) Lincoln County shall review improvements to the state highway system within the county for consistency with this plan.

(4) Lincoln County shall classify roads as major and minor arterials, collectors and residential streets and designate county and public roads.

(5) Major arterials shall provide regional access between communities and areas of the county and state.

(6) Access to major arterials shall be via fully improved streets except where no alternative exists. Developments adjacent to arterials shall provide through access via collector or residential streets to adjacent developable lands.

(7) In response to applications for highway access permits for abutting properties from the State of Oregon, Lincoln County shall respond with the following condition: "This highway access permit shall be valid only as long as alternative access from a collector or local street is not available. Upon development or improvement of a collector or local street, this permit shall be terminated and the driveway shall be abandoned."

(8) Adequate setbacks from arterial and collector roads shall be required in order to provide for future purchase of additional right-of-way.

(9) Existing rights-of-way shall be used where appropriate and future needed rights-of-way shall be designated to improve the safety of vehicular circulation within the county.

(10) Lincoln County shall work to preserve existing rights-of-way that have been identified as having future potential as transportation corridors.

(11) Lincoln County shall adopt minimum standards for road construction, improvements and maintenance for county and public roads.

(12) Lincoln County shall work with road districts through inter-governmental agreements to provide programs for improvement and continual maintenance.

(13) Lincoln County shall work with existing road districts to ensure improvement of public roads to minimum county standards.

(14) Lincoln County may share in public road maintenance and improvement with abutting property owners. The County share shall be based upon benefit, road use, classification and priority of the County road capital improvement plan.

(15) A condition of final development approval shall be that public roads providing access to proposed development be improved to minimum County standards.

(16) Lincoln County shall initiate vacation or closure of county or public roads which are no longer necessary for access or which cannot be maintained as determined by the County Engineer except where such roads abut the ocean.

(17) Lincoln County may reduce county roads to public road status.

(18) Set-backs for development shall provide for the planned right-of-way width.

(19) The establishment of private road rights-of-way to accommodate land partitioning shall be to minimum county road standards except when no further partitioning or subdividing is possible.

(20) Lincoln County shall encourage the improvement of existing airports.

(21) Lincoln County shall work with citizens, the Department of Transportation Aeronautics Division, and cities to develop zones which designate surrounding land uses compatible with airports.

(22) Development of heliports, except for emergency use, shall be restricted to commercial, industrial, forest, and agricultural areas and residential areas where the approach and departure occur over areas where there is no potential for residential use.

(23) The Lincoln County Airport Advisory Committee shall advise the County on all land use matters pertinent to airport and aircraft safety.

(24) Lincoln County shall encourage:

(a) Improved transportation choices including opportunities for those who are aged or incapable due to physical or mental disorder;

(b) Establishment of a commuter airline service;

(c) Improvement and maintenance of marine facilities, where appropriate, such as docks, jetties and channels; and

(d) Designation and improvement of pedestrian and bicycle routes.

(25) Lincoln County shall promote the expansion of the railway system capability.

(26) Lincoln County shall review proposals to locate high voltage electrical transmission lines and high volume natural gas or oil pipelines. The review shall take into consideration land uses along and adjacent to these transmission corridors, weighing public benefit, environmental safety and the economics of alternative proposals.

(27) Transmission lines and pipelines serving and linking residential, commercial, and industrial users shall be located along common corridors where feasible.

(28) Lincoln County shall encourage the licensing of bicycles by State of Oregon to increase revenues for bike way facilities.

(29) Lincoln County shall encourage the Oregon Department of Transportation to widen and improve valley access highways.

(30) Lincoln County shall require designation of car pool parking areas as part of access management plan for intersections near major collectors.

(31) Permanent access to that portion of NE Harney Street between NE 32nd Street and NE 36th Street shall be limited to lands within the City of Newport Urban Growth Boundary. Access to lands outside the Urban Growth Boundary shall be limited to temporary access for forest management purposes.

(32) Lincoln County shall support programs providing transportation choices and reduction of single-occupancy vehicle trips.

(33) Lincoln County shall work to improve mass transit and inter-city transit links. [1998 o.379 § 2; 2008 o.456 §5]

(34) Lincoln County supports optimizing the transportation system in Newport's South Beach area between the Yaquina Bay Bridge and SE 62nd Street through improvements to US 101 and the local transportation system as identified in the City of Newport's Transportation System Plan (TSP). The capacity of the Yaquina Bay Bridge is expected to continue to be the major constraint in the operation of the transportation system south of the bridge, and funding for a new or expanded facility is not likely in the foreseeable future. [2013 o.470 § 3]

(35) Lincoln County supports adoption of alternative mobility standards by the Oregon Transportation Commission on US 101 at the future signalized intersections of Southeast 35th Street, Southeast 40th Street and Southeast 50th Street/South Beach State Park to accommodate planned community development in Newport's South Beach area. These standards will allow a higher level of congestion than would be acceptable without the alternative standards. The alternative standards will support economic development and reduce the costs of total transportation system improvements associated with development in South Beach. [2013 o.470 § 3]

(36) Lincoln County shall participate in monitoring the transportation impacts of development in South Beach by noticing the City of development proposals outside City limits, within the City of Newport's adopted South Beach Transportation Overlay Zone (SBTOZ). The County shall coordinate with the City of Newport through the development approval process to ensure that County-approved trips are recorded in the City's SBTOZ Trip Budget Program. Documentation of compliance with the SBTOZ Trip Budget program, as adopted in the City of Newport TSP, will be required prior to County development approval. [2013 o.470 § 3]

(37) Lincoln County will use the City of Newport's adopted TSP to identify necessary and appropriate improvements to the transportation system in Newport's South Beach area. [2013 o.470 § 3]

(38) Lincoln County, in coordination with the City of Newport, shall continue to engage Oregon Department of Transportation (ODOT) in conversations regarding future project planning and funding that would lead to improvements to, and possibly replacement of, the Yaquina Bay Bridge. The County is supportive of finding long-term solutions sufficient to address existing capacity and structural limitations that affect the bridge's ability to carry vehicles and pedestrians. [2013 o.470 § 3]

1.0150 Energy Goals

Energy goals:

(1) To conserve energy.

(2) To manage and control land uses developed on the land to maximize the conservation of all forms of energy, based on sound economic principles.

1.0155 Energy Policies

(1) Lincoln County shall consider and employ methods of conserving energy in all public buildings and facilities.

(2) Lincoln County shall actively seek various funding sources for development of alternative energy facilities.

(3) Lincoln County shall encourage residents to utilize federal, state and private energy conservation programs such as weatherization and home rehabilitation.

(4) Lincoln County shall encourage the use of planned developments where appropriate to decrease the amount of energy expended for development.

(5) Lincoln County shall develop standards for solar and wind easements which ensure access to these resources for structures which could rely on these energy sources.

(6) Lincoln County shall review proposals for on-shore and offshore location of major energy production or storage facilities for consistency with the Comprehensive Plan.

(7) Lincoln County shall encourage the establishment and public awareness of an energy conservation and alternative energy resource library.

(8) Lincoln County shall encourage alternative sources of energy and alternative means of construction to conserve energy.

(9) Lincoln County shall encourage subdivision and planned unit development plat design which optimize the potential for solar and wind power.

1.0160 Housing Goals

Housing goals:

(1) To assist in providing housing.

(2) To provide opportunities for a variety of housing choices, including low and moderate income housing to meet the needs, desires, and financial capabilities of all Lincoln County residents.

(3) To make housing more efficient.

1.0165 Housing Policies

(1) Lincoln County shall cooperate with interested cities in creating a county wide housing task force made up of citizens and policy makers, with a professional staff capability which if funds are available shall:

(a) Make known the scope and content of existing energy conservation and housing rehabilitation programs and encourage the use of these programs by assisting public and private groups and individuals in obtaining loan and grant monies; and

(b) Develop a plan for housing assistance which shall:

(A) Increase the amount of decent and affordable housing, including rentals;

(B) Increase the amount of lower-cost rental housing available to the elderly; and

(C) Decrease the proportion of their income which the elderly spend for housing.

(2) Lincoln County shall make the provisions of the Residential Landlord and Tenant Act (RLTA), ORS chapter 90, available to the public.

(3) Lincoln County shall designate suitable land area to meet rural residential needs.

1.0170 Recreation Goals

Recreational goals:

(1) To provide for recreation facilities for both residents and visitors in Lincoln County.

(2) To maintain the region as a tourist recreation area.

1.0175 Recreation Policies

(1) Public park areas with direct access to highways shall be designated for regional use. Lincoln County shall work with the State Parks Division and the Highway Division to improve access to regional park area.

(2) Lincoln County shall encourage the State of Oregon to develop state owned land located near or along the oceanfront with good public access for recreational use.

(3) Lincoln County shall ensure that all public beach accesses are clearly marked. Access areas shall be evaluated for improvements for proper parking and beach trails as part of the County's yearly budget process.

(4) Lincoln County shall work with private land owners, local agencies and the state to provide improved river access for fishing and recreation.

(5) Lincoln County shall concentrate its park personnel, funding and development in the noncoastal areas with a high-priority for facilities for county residents.

(6) Proposed oceanfront developments shall dedicate areas for public beach accesses in low bank areas consistent with county standards.

(7) Lincoln County shall work with local citizens as well as the State Parks Division to designate and improve park areas for community park use.

(8) Lincoln County shall consider the relationship of transportation to recreation in planning.

(9) Lincoln County shall diversify recreation opportunities within the County and shall include opportunities and facilities for the physically handicapped where appropriate.

(10) Lincoln County shall work with citizens, and local and state agencies to develop a system of trails using public lands and rights-of-way.

(11) Lincoln County shall coordinate its recreational planning and programming efforts with the Statewide Comprehensive Outdoor Recreation Plan and the private sector and others engaged in planning and providing recreational facilities and opportunities and utilize existing facilities prior to construction of new facilities.

(12) Lincoln County shall petition the State of Oregon to assist in obtaining public recreational facilities and other improvement funds for host recreation counties such as Lincoln County.

(13) Lincoln County shall review and coordinate the development of all parks.

(14) Subject to County and State standards recreation parks shall be compatible uses in all areas.

(15) Lincoln County shall encourage outdoor recreation activities which are compatible with the primary land uses.

1.0180 Public Facilities Goals

Public facilities goals:

(1) To maintain a respect for human needs and individual freedom while exercising those controls which are in the best interests of the total county population.

(2) To promote, on an equitable basis, the highest level of services the citizens are willing to support.

(3) To achieve intergovernmental harmony and improved public service through closer cooperation with other units of government operating in the County.

(4) To encourage the public, quasi-public and private county services and related facilities which maintain and insure the safety, health and welfare.

1.0185 Public Facilities Policies

(1) Lincoln County, with the cooperation of others shall prepare a program, units of government, of coordination, and where possible, facility sharing to maximize the use of available public resources of both the County and other units of government.

(2) Lincoln County shall encourage a quality system of public, semi-public and private facilities services that includes:

(a) Adequate fire and policies protection service and facilities;

(b) Convenient locations for facilities used frequently by citizens;

(c) Solid waste disposal facilities which meet existing and future needs;

(d) Recycling facilities in accordance with identified needs; and

(e) Properly located sanitary landfills.

(3) Lincoln County shall work with and encourage the Lincoln County School District in the provision of educational services for the citizens of the County. Lincoln County shall:

(a) Encourage the development of physical facilities which offer an atmosphere conducive to learning and development. This includes the replacement, improvement and expansion of facilities to accommodate present and future student needs. Such facilities should be conveniently located, and well designed, or facilities related to the activities and needs of the County.

(b) Encourage the provision of adequate site facilities which are useful both to students and the general County. Coordinate educational facility site development with city and county recreation and community programs to enhance the potential advantages of shared use.

(c) Encourage the development of programs relating to basic education, adult continuing education, special education, and vocational training.

(4) Lincoln County shall encourage the development of a system of health facilities which is located with regard to population distribution.

(5) Lincoln County shall encourage the provision of general hospital facilities to meet present and future health needs, developed in coordination with local hospital districts.

(6) Lincoln County shall encourage the development of specialized medical and health care programs to meet the needs of the County's population.

(7) Lincoln County shall coordinate and promote a standardized street address numbering system.

(8) The overall land use classification system shall include the following categories:

(a) **Rural Community Centers and Rural Service Centers**:

(A) Rural Community Centers and Service Rural Centers shall be defined on the basis of population, a history of settlement, the existence of commercial/industrial facilities, adequate public services and facilities and permanent commitment to residential land use, consistent with the requirements of OAR Chapter 660, Division 22.

(B) Rural Community Centers shall be delimited by Rural Community Boundaries.

(C) Those public and private services and facilities considered appropriate for Rural Community Centers and Rural Service Center designation shall include but not be limited to community water systems, sanitary sewerage (or approved subsurface or alternative waste disposal systems), rural fire protection, rural police protection, energy, communications and emergency services.

(D) Residential density within Rural Community Centers shall ensure that cumulative development:

(i) Will not result in public health hazards or adverse environmental impacts that violate state and federal water quality regulations; and

(ii) Will not exceed the carrying capacity of the soil or of existing water supply resources and sewer services.

(E) Subdivisions shall be encouraged within Rural Community Centers.

(b) **Dispersed Residential**:

(A) Dispersed Residential areas are committed to residential use and shall be defined on the basis of population and as areas having a historic land use pattern of low density settlement with few if any public services and facilities either existing or planned.

(B) Those public services and facilities considered appropriate for Dispersed Residential areas shall be limited to existing services and facilities and those services and facility improvements that are needed for the maintenance of the existing low density residential uses.

(C) Water systems shall be individual or approved community water systems. Sewerage shall be by means of individual on-site subsurface disposal, community drain fields or spray irrigation of effluent disposal systems. Dispersed Residential areas shall be served by rural fire protection districts where available. Where rural fire protection districts are not established, special performance standards shall be applied to ensure adequate protection of the surrounding natural resources.

(9) Lincoln County shall review the siting of all major proposed public utility facilities, such as power substations and transmission lines.

(10) Lincoln County shall encourage the State of Oregon to assist the County in obtaining public facility and other improvement funds for host recreation counties such as Lincoln County.

(11) Forest and agricultural lands may be designated for the siting of public facility use with the following findings:

(a) There is a need for a new public facility in the area;

(b) Alternative sites for the proposed facility were examined and found to be less suitable;

(c) Social, environmental, economic and energy consequences of locating a new facility on the agricultural or forest lands were identified and considered before the site was chosen; and

(d) The facility use is found to be compatible with other adjacent forest or agricultural uses.

(12) Future school sites shall be reviewed by the County to ensure compatibility with surrounding land uses.

(13) All existing school sites shall be designated for school use.

(14) Lincoln County shall rely on the Lincoln County School District for the provision of public education.

(15) Lincoln County shall work with the Lincoln County School District in planning and implementation of needed facilities and improvements. Facilities and improvements needed for public education are as set out in the Comprehensive Building Plan of the Lincoln County School District as approved May 1979, and amended December 16, 1980.

(16) Lincoln County in coordination with affected service districts, shall determine the type, level, and extent of sewer and water facilities necessary to support planned development in Rural Community Centers and Rural Service Centers by the first plan update.

(17) Lincoln County supports the Big Rock Creek Dam project as a source of water for Lincoln County.

(18) Lincoln County shall work with public water systems (OAR 333-42-200 to 250) to identify improvements necessary to provide an adequate water supply in accordance with the Oregon Drinking Water Quality Act.

(19) Lincoln County shall encourage the aggregation of water systems. The Lincoln County Water Facilities Development Plan, HGE, 1974, should be updated as set out in the Inventory to coordinate facility development with plan designations.

(20) Lincoln County shall require certification of an adequate water supply prior to final approval in all development including source of supply, reservoir capacity and line size consistent with OAR chapter 333, as updated.

(21) Lincoln County shall review building permits for an adequate water supply.

(22) Rural fire protection districts shall be encouraged to expand service boundaries to include lands designated for residential use. [2004 o.430 §1]

1.0190 Plan Designations

The purpose of plan designations is to define and set down on maps what the citizens and property owners of Lincoln County consider to be appropriate uses of the land. These designations are the conclusions wrought from the consideration of facts and information presented and evaluated through the process of developing this comprehensive plan. The following plan designations are set out on the Lincoln County Comprehensive Plan Maps.

(1) **Forest Lands**: Forest lands represent nearly 90 percent of Lincoln County, and are its major resource. These are mainly held in large ownership patterns and covered by commercial stands of Douglas fir, true fir, hemlock, cedar, and spruce. Uses such as raising and harvesting of the forest crop and existing recreation facilities are primary. Secondary uses such as new recreation facilities, public and private utilities, and dwellings may be included by county review.

(2) **Agricultural Lands**: Agricultural lands represent nearly 2 percent of the lands in Lincoln County. These ownerships lie along the river and creek valleys and are mainly used for grazing and small gardens with some commercial agriculture. The primary use of these properties is intended to be agricultural to maintain their current resource value. Uses such as agriculture, forestry, dwellings necessary for farm use and existing public recreation facilities are primary. Secondary uses such as farm help residences, quarrying, new recreation facilities, and similar uses may be included by County review.

(3) **Dispersed Residential**: Dispersed residential areas are located on marine terraces and valley floors. Residential use densities shall be as necessary for on-site sewer disposal and water supply. Uses such as forestry, farming and rural residential subdivisions, and existing public recreation facilities, quarrying, sanitary landfills, government uses and similar uses may be included by County review.

(4) **Rural Community Centers:** Rural Community Center is an overlay designation intended to identify and establish the boundaries of unincorporated communities pursuant to OAR 660, Division 22. Rural community centers are existing service communities where small lots have been platted, commercial services have developed and community facilities are located. These are areas where utility systems may be present or would be appropriate in the future to solve identified problems. These factors indicate a need for a certain level of residential growth to accomplish and pay for needed improvements. The Rural Community Center designation may also be applied to unincorporated communities where an exception to Goal 14 has been authorized. Plan designations within Rural Community Centers may provide for uses such as residential, public uses and facilities, and commercial and industrial activities limited to those which are existing or are small scale and low impact, or are uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area. In communities where an exception to Goal 14 has been authorized, commercial and industrial uses of any scale and intensity may be provided for, consistent with the acknowledged exception.

(5) **Rural Service Center:** Rural service centers are areas where commercial or industrial uses have developed which provide goods and services to the surrounding rural areas or to persons traveling through the area, and also include some residential development. Commercial and industrial activities should be limited to those which are existing or necessary for providing goods and services to the surrounding rural area or to persons traveling through the area, or which are small scale and low impact.

(6) **Suburban Residential**: Building and facilities must be in place at the time of adoption of this plan or be inside of an established Urban Growth Boundary to acquire this designation. If a small residential lot lies along an improved road between two lots with buildings it is also considered committed. Water must be available either by individual or community system. These represent the minimum; if more facilities are present then the area is further justified as built and committed. Primary uses are single-family residential, multi-family residential where urban facilities and services are available, and existing public recreation facilities. Secondary uses such as community facilities, new public recreation facilities, government uses and similar uses may be included by County review.

(7) **General Commercial**: This area is provided to accommodate the normal range of business activities and meet the day-to-day needs of the community. Uses such as retail store, repair shop, barber shop, beauty shop, motel, community hall are primary. Secondary uses such as service stations or drive-ins and outdoor amusement centers may be included by County review.

(8) **Industrial**: This area is provided to accommodate the more intensive and large scale commercial enterprises and industrial uses. Uses such as implement sales, storage or repairs, lumber or building materials sales and storage, and tire sales and repair are primary. Uses which require special standards such as quarrying, pulp mill, gas or petroleum manufacturing, airport, and auto wrecking may be included by County review.

(9) **Water Dependent**: The water dependent designation shall apply to coastal shore lands in urbanizable areas which are especially suited for water-dependent uses. In order to protect these valuable shore land areas, uses shall be limited to commercial, industrial or public uses which can be carried out only on, in, or adjacent to water areas because they require access to the water body for water-borne transportation, recreation, energy production, or source of water.

(10) **Water Dependent/Water Related**: The water dependent/water related designation is intended to recognize the unique values of certain coastal shore land areas consistent with the

priority of uses set forth in the coastal shore lands policy element. This designation shall apply to shore land areas which may be suitable for a mixture of water-dependent and water-related uses. Uses which are consistent with the designation of the adjacent coastal water body and are water-dependent or water-related, as defined in the Lincoln County Estuary Management Plan, are primary.

(11) **Coastal Shorelands**: Coastal shore lands is an overlay designation which applies to areas within the Coastal Shorelands Boundary, as defined in Coastal Shorelands policy element. Within this designation when such uses are found to be consistent with the additional policies of this designation.

(12) **Estuarine Management Units**: The estuarine management unit designation applies to estuarine areas below the head of tide and includes estuarine waters, tidelands and submerged lands up to Mean Higher High Water (MHHW) and tidal marshes inland to the line of non-aquatic vegetation. This designation is assigned in order to recognize and protect the unique environmental, economic and social values of each of the County's estuaries and associated wetlands. The estuarine management unit designation is further defined into "natural," "conservation," and "development" areas as specified in the Estuarine Resources policy element. Uses are as set forth in the Lincoln County Estuary Management Plan. [2004 o.430 §1]

1.1102 Interpretation

The provisions of this chapter shall be held to be minimum requirements. Wherever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the more restrictive, or that imposing the higher standards, shall govern.

1.1110 Rules of Construction

(1) For the purposes of this chapter, all words, terms and expressions contained herein shall be interpreted in accordance with the following rules of construction, unless the context requires otherwise:

(a) The particular controls the general;

(b) The word "shall" is mandatory, and the word "may" is permissive;

(c) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular;

(d) The words "used for" or "occupied for" include the words "intended for," "designed for," "arranged to be used for," "erected for," "constructed for," "reconstructed for," "repaired for," "moved for," "structurally altered for" or "extended for the purpose of;"

(e) The word "person" includes a "firm," "association," "organization," "partnership," "trust," "company" or "corporation," as well as an "individual;" and

(f) Any word or term not defined herein shall be used with a meaning of common standard use. Any words, terms, or phrases not defined herein shall be construed according common, ordinary, and accepted meaning.

(2) The Board shall have the authority and duty to interpret and enforce the provisions of this chapter.

1.1115 Definitions

As used in this Chapter:

(1) "**Access**" means the way or means by which pedestrians or vehicles enter and leave property.

(2) "**Accessory structure or accessory use**" means a structure or use incidental and subordinate to the main use of a property and located on the same lot as the main use.

(3)(a) "**Accessory home occupation**" means an occupation or business conducted within a residence and meeting the following criteria:

(A) No persons other than residents of the dwelling are employed;

(B) No more than 5 persons are employed;

(C) The occupation or business is conducted entirely within the residence or residential accessory structure;

(D) No more than 600 square feet of floor area is devoted to the business or occupation;

(E) There is no outward appearance of the occupation or business other than an accessory sign permitted by LCC 1.1405 (3)(e)(A);

(F) Client or customer visits are limited to no more than 5 per day;

(G) Only incidental on-site retail sales are conducted;

(H) There is no outside storage of equipment, goods or commodities associated with the occupation or business; and

(I) Shipping or delivery of products or supplies is limited to small parcel services provided by United States Postal Service, United Parcel Service, FedEx, or other similar services customarily providing delivery to residential addresses.

(b) Accessory home occupations are accessory to any permitted residential use and are not subject to conditional use review.

(4) "**Alley**" means a minor way for secondary access to properties which abut other streets.

(5) "**Agricultural land**" means land of predominantly Class I, II, III and IV soils as identified in the Soil Capability Classification System of the United States Soil Conservation Service, and other lands which are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, technological and energy inputs required, or accepted farming practices. Also, lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands.

(6) "**Areas of shallow flooding**" means areas where the base flood depth is between one to three feet, a clearly defined channel does not exist and the path of flooding is not determinable. Areas of shallow flooding are identified on the FIRM as zone "A-O."

(7) "**Areas of special flood hazard**" means land in the floodplain where a one percent or greater chance of flooding in any given year occurs.

(8) "**Automobile wrecking yard**" means any property used for the dismantling or wrecking of used motor vehicles, machinery, or trailers, or the storage or sale of dismantled, obsolete, or wrecked motor vehicles, machinery, or trailers, or their parts.

(9) "**Base flood**" means a flood having a one percent chance of being equaled or exceeded in any given year.

(10) "**Bed and breakfast inn**" means a structure designed for and occupied as a single-family residence in which no more than two sleeping rooms are provided on a daily or weekly basis for the use of no more than a total of six travelers or transients at any one time for a charge or fee paid, or to be paid, for the rental or use of these facilities.

(11) "**Block**" means an area of land within a subdivision which may be bounded on all sides by streets, railroad rights-of-way, unsubdivided land, water courses, or any combination thereof.

(12) "**Boathouse**" means a facility attached to a floating device for the purpose of sheltering a boat or boats and generally enclosed on the sides and top.

(13) "**Board**" means the Lincoln County Board of Commissioners.

(14) "**Breakaway walls**" means walls which are not part of the structural support of the building and which are designed to break away under flood conditions without damage to the structural integrity of the building or any building to which they might be carried by flood waters.

(15) "**Build**" means to create by assembling basic elements, such as foundations, floors, walls, roofs, plumbing and wiring systems, by following step-by-step construction procedures.

(16) "**Building**" means a structure built or assembled for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

(17) "**Clinic**" means a building utilized by persons licensed by the State of Oregon to treat or analyze medical or surgical needs of humans or animals.

(18) "**Coastal flood zone**" means areas subject to high velocity ocean waters, including but not limited to storm surge or tsunamis. Coastal flood zones are identified on FIRM maps as V zone.

(19) "**Commission**" means the Lincoln County Planning Commission.

(20) "**Common property**" means a lot or lots, together with the improvements thereon, the use and enjoyment of which are shared by owners and occupants of individual building sites in a Planned Unit Subdivision or standard subdivision.

(21) "**Community center**" means a facility owned and operated by a governmental agency or a non-profit community organization, provided that the primary purpose of the facility is for recreation, social welfare, community improvement, or public assembly, and further provided that no permanent commercial eating or drinking facilities shall be operated on the premises.

(22) "**Comprehensive Plan**" means the adopted comprehensive plan for Lincoln County as defined in ORS 197.015(4).

(23) "**Comprehensive Plan Inventory**" means written and mapped information which comprises the factual base for the Lincoln County Comprehensive Plan and which is adopted by resolution of the Board.

(24) "**County**" means the County of Lincoln, State of Oregon.

(25) "**Cross section**" means a profile of the ground surface perpendicular to the center line of a stream or tidal estuary.

(26) "**Development within areas of special flood hazard**" means any man-made change or improvement involving buildings, structures, mining, dredging, filling, grading, paving, excavation or drilling that alters in any way the flood plain.

(27) "**Director**" means the Lincoln County Planning Director or the director's duly authorized representatives.

(28) "**Dock**" means a floating moorage facility constructed perpendicular or parallel to the shoreline, or a fixed facility designed or designated for the loading or unloading of trucks or railroad cars.

(29) "**Dwelling unit**" means a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, sanitation and only one cooking area.

(a) A "**single family dwelling**" means a structure of which all habitable portions thereof are connected structurally and comprise one dwelling unit, including but not limited to factory built dwellings, mobile homes and site built dwellings.

(b) A "**two family dwelling**" means a structure of which all habitable portions thereof are connected structurally and comprise two dwelling units including but not limited to factory built dwellings, mobile homes and site built dwellings.

(c) A "**multi-family dwelling**" means a structure of which all habitable portions thereof are connected structurally and comprise three or more dwelling units, including, but not limited to, factory built dwellings, mobile homes and site built dwellings.

(30) "**Easement**" means a right of usage of real property granted for a specific purpose by an owner to specific persons, firms, corporations, or the public.

(31) "**Factory built dwelling**" means a dwelling unit built substantially or entirely at a place other than the residential site, meeting County and State building code requirements, and including, but not limited to, prefabricated or modular homes, but excluding mobile homes.

(32) "**Family**" means an individual or two or more persons related by blood or marriage or a group of not more than five persons, excluding servants, who need not be related by blood or marriage, living together in a dwelling unit.

(33) "**Farm use**" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or by the feeding, breeding management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" includes the preparation and storage of the products raised on such land for human use and animal use and disposal by marketing or otherwise. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultural Christmas trees as defined in ORS chapter 215.

(34) "**Fence**" (sight obscuring) consists of either a continuous fence, wall, evergreen planting, or combination thereof, constructed or planted so as to effectively screen a particular use from view.

(35) "**FIRM**" means the Flood Insurance Rate Maps issued by the Federal Insurance Administration and adopted by Lincoln County, that delineate both the area of special flood hazard and risk premium zones.

(36) "**Flag lot**" means a lot, the major portion of which has access to a public road by means narrow strip of land called the "staff."

(37) "**Floodplain**" means the area adjoining a stream, estuary, or ocean that is subject to inundation by the base flood discharge.

(38) "**Floodway**" means the normal stream channel and that adjoining area needed to convey the waters of a base flood while causing less than one foot increase in flood elevation.

(39) "**Floodway fringe**" means the area of the flood plain lying outside of the floodway.

(40) "**Floodway map**" means the floodway boundary and floodway maps issued by the Federal Insurance Administration which delineate the regulatory floodway and floodway fringe boundaries for the base flood.

(41) "**Floor area**" means the sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings, but not including:

(a) Attic space providing headroom of less than seven feet.

(b) Basement, if the floor above is less than six feet above grade.

(c) Uncovered steps or fire escapes.

(d) Private garages, carports, or porches.

(e) Accessory water towers or cooling towers.

(f) Accessory off-street parking or loading spaces.

(42) "**Ground level grade**" means the average elevation of the finished ground elevation at the centers of all walls of a building.

(43) "**Habitable floor**" means any floor usable for working, sleeping, eating, cooking, recreation, or other living purpose.

(44) "**Health Department**" means the County Health Officer and the County Health Officer's duly designated representatives.

(45) "**Height of building**" means the vertical distance from grade to the highest point of a roof.

(46) "**Home occupation**" means an occupation or profession carried on within a dwelling, or a residential accessory structure, by a resident of the dwelling, where such occupation or profession is secondary to the main use of the property as a residence and which is not an accessory home occupation.

(47) "**Home owner's association**" means an incorporated, non-profit corporation to operate under recorded land agreement through which:

(a) Each lot owner in a Planned Unit Subdivision or other described land area is automatically a member; and

(b) Each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property.

(48) "**Hospital**" means an establishment which provides sleeping and eating facilities to persons receiving medical, obstetrical, or surgical care with nursing service on a continuous basis.

(49) "**Junk yard**" means any property utilized for breaking up, dismantling, sorting, storing, distributing, buying, or selling of any scrap, waste material, junk, or used equipment or machinery of any nature.

(50) "**Kennel**" means a lot or building which provides for the keeping of four or more dogs, cats, or animals, at least four months of age, where such animals are kept commercially for board, propagation, training, or sale.

(51) "**Livestock**" means domestic animals and fowl of types customarily raised or kept on farms for profit or other purposes. This definition does not include household pets such as dogs and cats.

(52) "**Lodge**" means a structure or group of related structures wherein transient eating or sleeping accommodations are provided in connection with outdoor recreation activities.

(53) "**Lot**," as used in LCC 1.1101 through 1.1999, but excepting LCC 1.1371 to 1.1375, means an area of land with fixed boundaries, used or intended to be used by a single use and its accessory uses and not divided by any public road or alley. "Lot," as used in LCC 1.3210 through 1.3270, means a unit of land created by a division of land.

(a) A "**corner lot**" is a lot abutting on two or more streets, other than an alley, at their intersections.

(b) An "**interior lot**" is a lot other than a corner lot.

(c) A "**lot area**" is the total horizontal area within the lot lines of a lot exclusive of public roads.

(d) A "**lot depth**" is the average horizontal distance between the front lot line and the rear lot line.

(e) A "**lot width**" is the average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

(54) "**Lot line**" is the property line bounding a lot.

(a) A "**front lot line**" is the property line separating the lot from the street, other than an alley. In the case of a corner lot, the shortest property line along a street, other than an alley; or, in a case where the lot does not front directly upon a public street, that lot line toward which most houses in the immediate area face.

(b) A "**rear lot line**" is a property line which is opposite and most distant from the front lot line. In the case of an irregular, triangular, or other shaped lot, a line ten feet in length, within the lot, parallel to and at a maximum distance from the front lot line.

(c) A "**side lot line**" is any property line not a front or rear lot line.

(55) **"Manufactured dwelling"** has the meaning given that term in ORS 446.003.

(56) "**Major partition**" means a partition of land wherein one or more of the parcels created does not have direct frontage on an existing public road, excepting that partitions creating parcel, solely for the purpose of forest use, farm use or mining operations shall not be considered major partitions.

(57) "**Marina**" means a commercial boat launch, moorage or similar facility which may include dry or wet boat storage, boat houses and related commercial activities.

(58) "**Mean sea level (NGVD)**" means the average height of the sea at all stages of tide.

(59) "**Minor partition**" means a partition of land wherein all of the parcels created have direct frontage on an existing public road or are created solely for the purpose of forest use, farm use, or mining operations.

(60) "**Mobile home**" means a dwelling unit or units, designed for long-term occupancy; designed to be transported after fabrication on its own wheels; providing plumbing or electrical connections for attachment to outside systems; and having a mobile home license or "X" number

(a) A "**single wide mobile home**" is a mobile home which is constructed and transported to its site as a single frame unit. A single wide may have extension or tilt out areas, but remains as a single frame unit after set-up.

(b) A "**multi-wide mobile home**" is a mobile home which is constructed and transported to its site as two or more frame units which are structurally connected on-site to form one or more dwelling units.

(61) "**Mobile home park**" means a lot providing water, sewage disposal and electrical hook-ups for two (2) or more mobile homes occupied for living or sleeping purposes, regardless of whether a charge is made for such accommodations.

(62) "**New construction**," as used in LCC 1.1386 through 1.1394 and LCC 1.1810(6), means structures for which the start of construction commenced on or after September 3, 1980, or new additions to the exterior of existing structures for which the start of construction commenced on or after September 3, 1980.

(63) "**Nonconforming use**" means the use of a structure or land, or structure and land in combination, which was lawfully established in compliance with all applicable ordinances and laws, but which, because of the application of a subsequent zoning ordinance, no longer conforms to the use requirements for the use zone in which it is located.

(64) "**Outdoor recreation activity**" includes fishing, camping, swimming, clam digging, hunting, boating, hiking, bicycling, horseback riding and similar outdoor activities engaged in for leisure and recreation.

(65) "**Outdoor recreation development**" includes those public or private structural or other improvements customarily found in connection with outdoor recreation activities. Such improvements may include picnic parks or organizational camps as defined in ORS chapter 446, and similar types of facilities. Such development may also include recreation parks as defined in ORS Chapter 446, provided that only minimal levels of improvements are provided. Outdoor recreation development does not include high intensity recreational development such as marinas or recreational vehicle parks providing full hook-ups or commercial services. Outdoor recreation development does not include commercial amusement uses such as miniature golf courses, go-cart tracks and similar uses.

(66) "**Parcel**" means a unit of land that is created by partitioning land.

(67) "**Parking space**" means an off-street enclosed or unenclosed surfaced area of not less than 20 feet by eight feet in size, exclusive of maneuvering and access area, permanently reserved for the temporary storage of one automobile, connected with a street or alley which affords ingress and egress for automobiles.

(68) "**Partition**" means either an act of partitioning land or an area or tract of land partitioned as defined in this chapter.

(69) "**Partition land"** means to divide an area or land into two or three parcels within a calendar year. "Partition land" does not include:

(a) A division or divisions of land resulting from lien foreclosures, divisions of land resulting from foreclosure of recorded contracts for the sale of real property and divisions of land resulting from the creation of cemetery lots;

(b) An adjustment of a property line by the relocation of a common boundary where an additional parcel is not created and where the existing unit of land reduced in size is not reduced below the minimum lot size established by the applicable use zone;

(c) The division of land resulting from the recording of a subdivision or condominium plat; or

(d) A sale or grant to a public agency or public body for state highway, county road, city street or other right-of-way purposes, if the road or right-of-way complies with the comprehensive plan and ORS 215.283(2)(p) through (r). However, any property divided by the sale or grant of property for state highway, county road, city street or other right of way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned**.**

(70) "**Performance agreement**" means a bond executed by a surety company licensed in the State of Oregon, or other security acceptable to the Board, to insure the completion of the conditions of approval of any land use action.

(71) "**Person**" means every natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government or any other group or combination acting as a unit.

(72) "**Pier**" means a fixed moorage facility constructed outward from the shoreline.

(73) "**Planned Unit Subdivision**" means a land in which the individual building sites may be reduced in size but are compensated by area used in common for recreational or other open space purposes. Planned Unit Subdivisions involving dwelling or commercial units may incorporate detached, semi-detached, attached, single-story, or multi-storied units or any combination of the aforementioned. Such projects may also involve religious, cultural, recreational and commercial uses and purposes.

(74) "**Planning Division**" means the Lincoln County Planning Director and the director's duly designated representatives.

(75) "**Plat**" and "**replat**" mean a final diagram, drawing, or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

(76) "**Professional office**" means an office occupied by doctors, dentists, accountants, attorneys, optometrists, architects, professional engineers or surveyors, or persons engaged in similar occupations.

(77) "**Recreational vehicle**" and "**R.V.**" mean a vacation trailer or other wheeled mobile unit, with or without motive power, which is designed for temporary human occupancy and

licensed as either a motor home, recreational trailer, or camper by the Oregon Motor Vehicles Division, or similar units licensed by another state.

(78) "**Recreational vehicle park**" means a park intended, designed or utilized for temporary occupancy by recreational vehicles or other similar portable devices, and accompanied by other accessory uses as needed.

(79) "**Reserve strip**" means a strip of land usually one foot in width, across the end of a street or alley which shall be under the ownership of the County to insure street extensions where needed.

(80) "**Right-of-way**" means a strip of land within which is located a passageway, as conveyed for a specific purpose.

(81) "**Road**" and "**street**" mean a public or private way created to provide vehicular access to one or more lots, parcels, areas, or tracts of land, excluding a private way that is created to provide access to such land in conjunction with its use for forestry, mining, or agricultural purposes.

(a) A "**public road**" is a road dedicated for public use.

(b) A "**private road**" is a road created by easement.

(c) An "**arterial highway**" and "**major highway**" are streets designed to carry traffic from one community to another, to carry traffic to and from major traffic generators and to carry through traffic.

(d) A "**collector street**" and "**secondary street**" are streets designed to carry traffic between minor streets and the arterial system, to function as primary traffic carriers within a neighborhood, to carry traffic to local traffic generators, and in commercial and industrial areas, provide access to commercial and industrial properties.

(e) A "**minor street**" is a street designed to provide access to abutting residential property with only incidental service to through traffic.

(f) A "**cul-de-sac**" and "**dead end street**" are minor streets with only one outlet which provides a vehicular turn-around.

(82) "**Sign**" has the meaning provided in LCC 1.1405.

(83) "**Skirt**" means a durable all-weather material having a finished exterior surface surrounding a mobile home and effectively screening the under-carriage from view.

(84) "**Solid waste**" has the meaning given that term in LCC 2.1005(14).

(85) "**Solid waste disposal site**" has the meaning given that term in LCC 2.1005(5).

(86) "**Step-backwater analysis**" means an engineering analysis developed by the Army Corps of Engineers to evaluate hydrostatic and hydrodynamic forces and titled HEC-2 Water Surface Profiles, Generalized Computer Profile.

(87) "**Street**" has the same meaning as "road."

(88) "**Structural alteration**" means any change to the supporting members of a building including foundations, bearing walls, or partitions, columns, beams or girders, or any structural change in the roof or in the exterior walls.

(89) "**Structure**" means something constructed or built and having a fixed base on, or fixed connection to, the ground or another structure. A "structure," as used in LCC 1.1395 (floodplain), means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a mobile home. "Structure," for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as mobile home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include

building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

(90) "**Subdivide land**" means to divide an area or tract of land into four or more lots within a calendar year when such an area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of a year.

(91) "**Subdivision**" means an area or tract of land divided into four or more lots within a calendar year.

(92) "**Substantial improvement**" means any repair, reconstruction, or improvement of a structure which exceeds 50 percent of the true cash value of the structure.

(93) "**Tentative plan**" means a diagram including any writings showing the general design of a proposed partition, together with other information the proposed partition may require.

(94) "**Transfer station**" means a fixed or mobile facility, normally used as an adjunct of a solid waste collection and disposal system or resource recovery system, between a collection route and disposal site, including, but not limited to a large hopper, railroad gondola or barge.

(95) "**Use**" means the purpose for which a structure is designed, arranged or intended or for which land is maintained or occupied.

(96) "**Wharf**" means a fixed moorage parallel to the shoreline continuously thereto.

(97) "**Yard**" means an open space on a lot which is unobstructed from the ground upward, except as otherwise provided in this ordinance.

(a) A "**front yard**" is a yard between side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of a building. Any yard meeting this definition and abutting on a street other than an alley, shall be considered a front yard.

(b) A "**rear yard**" is a yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line, or the mean higher high water line or ordinary high water line when applicable, to the nearest part of a building.

(c) A "**side yard**" is a yard between the front and rear yard measured horizontally and at right angles from the side lot line to the nearest point of a building.

(d) A "**street side yard**" is a yard on a corner lot that is adjacent to a street between the front yard and the rear lot line measured horizontally and at right angles from the side lot line to the nearest point of a building. [1985 o.231 §1; 1997 o.369 §1; 2006 o.438 §1; 2009 o.461 §1]

1.1120 Conformance to Chapter Requirements

(1) All state, county, and local officials, departments and employees vested with authority to issue permits, licenses, certificates shall adhere to and require conformance with the provisions of this chapter.

(2) No land shall be used and no building or structure or part thereof shall be erected, constructed, reconstructed, located, moved, extended, enlarged, structurally altered, or used or occupied, except in conformity with this code.

(3) No person shall locate, construct, maintain, repair, alter, or use a building or other structure or use or transfer land in violation of this code.

1.1125 Violation

(1) It shall be unlawful for any person to violate any provision of this chapter, to permit or maintain any such violation, to refuse to obey any provision hereof, or to fail or refuse to comply

with any such provision except as variation may be allowed under this chapter. Violations of this chapter shall be prosecuted, remedies pursued, and penalties assessed pursuant to LCC chapter 10.

(2) Any use which is established, operated, erected, moved, altered, enlarged, or maintained contrary to this chapter shall be and is hereby declared to be unlawful and a public nuisance, and the Board may, in addition to other remedies provided by law, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent and temporarily or permanently enjoin, abate, or remove the violation. Abatement may be pursued pursuant to LCC chapter 10.

1.1130 Inspection and Right of Entry

Whenever any official, department, or employee of the county shall have cause to suspect a violation of any provision of this chapter or when necessary to investigate an application for or revocation of any county approval under any of the procedures prescribed in this chapter, officials responsible for enforcement or administration of this chapter, or their duly authorized representative, may enter on any site or into any structure for the purpose of investigation, provided they do so in a reasonable manner. No secured building may be entered without consent of owner or occupant. No owner, occupant, or agent thereof shall, after reasonable notice and opportunity to comply, refuse such entry.

1.1135 Severability

Each section, sentence, clause, and phrase hereto is declared severable. If any section, sentence, clause, or phrase of this chapter is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this chapter.

1.1201 Planning Commission Membership

The requirement for membership, qualifications, voting and participation for the Lincoln County Planning Commission shall be as follows:

(1) **Membership**: The Lincoln County Planning Commission shall consist of 13 members appointed by the Lincoln County Board of Commissioners.

(2) **Terms and Categories of Membership**:

(a) Of the 13 members of the Planning Commission, nine commissioners shall be regular members, three commissioners shall be alternate members and one commissioner shall be an ex-officio member.

(b) The terms of regular and alternate members shall be four years. The term of the ex-officio member shall be one year.

(3) **Qualifications**: All Planning Commission members shall be citizens of Lincoln County and the ex-officio shall be a high school senior student.

(4) **Voting and Participation in Decision Making**: Only regular members of the Lincoln County Planning Commission shall vote on matters before the Commission unless a regular member or members are not present. If nine regular members are not present, alternate members shall participate after appointment by the chairperson and have full authority to vote as if a regular member. In no case shall more than nine regular or alternate members vote on a decision before the Commission. The ex-officio member shall be allowed to participate in the decision making process of the Commission but may not vote on any official matter before the Commission.

(5) **Removal from the Planning Commission**: Members of the Lincoln County Planning Commission shall only be removed for cause as set forth in the bylaws adopted by resolution of the Planning Commission.

(6) **Application**: Except as otherwise provided for in this section, the provisions of ORS chapter 215 shall apply to the membership and operation of the Lincoln County Planning Commission.

1.1205 Application Procedures

Petitions, applications, and appeals provided for in this chapter shall be made on forms prescribed by the division. Applications shall be accompanied by plans, specifications, and such other information as specified on the application form. An application shall be deemed complete 30 days after receipt by the division, unless the applicant receives prior written notice from the division that the application is incomplete. An applicant may apply at one time for all approvals and amendments required by this chapter for a development project. County action on a consolidated application is subject to the time limitations provided in ORS 215.428. [1995 o.255 §1]

1.1210 Review Procedures

The review of applications received under the provisions of this chapter shall be conducted according to the following procedures:

(1) **Procedure for action by the division on ministerial applications not subject to notification requirements**:

(a) The property owner or authorized agent shall submit an application to the division.

(b) Upon determination that the application is complete, the division may refer the application to affected cities, districts, local, state or federal agencies for comments.

(c) Within 10 days of determining an application complete, or such longer period as mutually agreed to by the division and the applicant, the division shall approve, deny or, at the director's discretion, refer the application to the Planning Commission for consideration.

(d) The applicant shall be notified in writing of the division's action.

(e) All actions of the division may be appealed to the Planning Commission or other hearings body designated by the Board of Commissioners pursuant to LCC 1.1267.

(2) **Procedure for action by the division on applications for permits as defined in ORS 215.402(4):**

(a) The property owner or authorized agent shall submit an application to the division.

(b) Upon determination that the application is complete, the division may refer the application to affected cities, districts, and local, state or federal agencies for comments, and shall refer the application to the Oregon Department of Transportation and other public agencies providing transportation facilities and services that may be impacted by the application.

(c) Within 30 days of determining an application complete, or such longer period as mutually agreed to by the division and the applicant, the division shall approve, deny or, at the director's discretion, refer the application to the Planning Commission for consideration at a public hearing.

(d) Notice of a decision of the division to approve or deny an application shall:

(A) Be provided to the applicant and the owners of record of property on the most recent tax assessment roll of Lincoln County:

(i) Within 500 feet of the boundaries of the subject property in A-C and T-C zones.

(ii) Within 250 feet of the subject property in all other zones.

(B) Be provided to any neighborhood or community organization recognized by the Board of Commissioners and whose boundaries include the subject property;

(C) Be provided to the Oregon Department of Transportation if the Oregon Department of Transportation has responded to the agency referral provided in accordance with paragraph (b) of subsection (2) of this section;

(D) Explain the nature of the decision and the use or uses which could be authorized;

(E) List the applicable criteria from this chapter that apply to the subject decision;

(F) Set forth the street address or other easily understood information identifying the location of the subject property;

(G) State that a copy of the application, all documents relied upon by the applicant, and the applicable criteria are available for inspection at the division office at no cost and can be provided at a reasonable cost;

(H) State that a copy of the division's staff report and record of decision is available for inspection at no cost and can be provided at a reasonable cost;

(I) Provide the name and telephone number of the division staff person to contact for additional information; and

(J) Provide an explanation of the procedure and deadline for appealing the decision to the Planning Commission or designated hearings body for a public hearing.

(3) **Procedure for action on applications or appeals subject to public hearing requirements:**

(a) The property owner, agent or other party shall submit an application or appeal to the division.

(b) Within five days of determining the application or appeal complete, the division shall schedule the matter for public hearing before the Planning Commission or designated hearings body.

(c) Upon determination that the application or appeal is complete, the division may refer the application to affected cities, districts, and local, state or federal agencies for comments, and shall refer the application to the Oregon Department of Transportation and other public agencies providing transportation facilities and services that may be impacted by the application.

(d) Notice for, and conduct of, public hearings provided for in this section shall be in accordance with LCC 1.1250 and 1.1255.

(e) Decisions of the Planning Commission or designated hearings body may be appealed to the Board of Commissioners pursuant to LCC 1.1268. [1995 o.255 §2; 2008 o.456 § 7]

1.1215 Effective Date of Decision

The effective date of a decision of the Division is the date of the letter notifying the applicant of the Division's action. The effective date of a decision of the Planning Commission is the date of adoption of findings of fact. The effective date of a decision of the Board is the date of the recording of the final order and findings of fact.

1.1220 Fees

(1) For the purpose of defraying the cost of processing applications, fees shall be paid to the Planning Division upon the filing of an application.

(2) A fee schedule for applications provided for in this chapter shall be set by order of the Board of Commissioners after review and recommendation by the Planning Commission. An annual review of the fee schedule shall occur during the month of January, with recommendations for changes made by the Department of Planning and Development. The Planning Commission shall consider the proposed changes at a public hearing and, upon conclusion of the hearing, shall make a recommendation regarding the proposed changes to the Board of Commissioners. [1991 o.300 § 1; 1993 o.313 § 1]

1.1225 Amendments

The purpose of LCC 1.1225 to 1.1235 is to describe general requirements and criteria to be considered in reviewing an application for an amendment to the provisions of this chapter. An amendment may be made to the text of the Lincoln County Comprehensive Plan (LCC 1.0001 to 1.0190), Zoning and Land Division Regulations (LCC 1.1101 to 1.3270), the Comprehensive Plan and Zoning Maps, or to the related land use ordinances incorporated into this chapter by reference. An amendment may be accomplished in either a legislative or quasi-judicial manner as follows:

(1) Legislative amendments may be made only for the establishment of policy. Such an amendment may be initiated only by the Board or the Commission. A person may petition the Board or the Commission to initiate such a legislative amendment but may not initiate the amendment by making direct application. Such amendments shall be made only after a public hearing has been held pursuant to LCC 1.1250.

(2) Quasi-judicial amendments may be made only for the application of established policy to specific properties in the county. Such amendments may be initiated by the Board, the

Commission, or by the application of an owner of land or agent thereof. An application for an amendment by an owner or agent shall be made in accordance with the application procedure specified in LCC 1.1205. All quasi-judicial amendments shall be subject to the public hearing requirements of LCC 1.1250 and 1.1255. [1995 o.255 §3]

1.1230 Legislative Amendments

(1) A legislative amendment shall be made only by the Board after review and recommendation by the Commission and after public hearing held pursuant to LCC 1.1250. Proceedings initiated by the Board shall be by resolution and shall be referred to the Commission for public hearing. The Division shall set the date for the hearing and provide for notice pursuant to LCC 1.1250. The Commission shall make recommendations to the Board upon completion of the hearing.

(2) Proceedings initiated by the Commission shall be by resolution directing the Planning Director to set the date of the public hearing before the Commission and provide for notice as provided in LCC 1.1250. The Commission shall make a recommendation to the Board upon completion of the hearing.

(3) Findings required to be made by the Board and the Commission for legislative amendments are as follows:

(a) Establish that the amendment will be consistent with the Comprehensive Plan goals and policies.

(b) Establish that there is a public need for the requested change and that the public need will be met by the change.

(c) Establish that the amendment will be consistent with all other provisions of this Chapter and in conformance with the Statewide Planning Goals and all other applicable statutes and regulations.

1.1235 Quasi-Judicial Amendments

A quasi-judicial amendment to the Comprehensive Plan and Zoning Maps may be authorized provided that the proposal satisfies all applicable requirements of this Chapter and also provided that the applicant, in a quasi-judicial hearing, demonstrates that the change is in accord with the Comprehensive Plan goals and policies or the Statewide Planning Goals and that:

(1) There has been a substantial change in the character of the area since zoning was adopted and which warrants changing the zone;

(2) Zoning previously adopted for the area was in error; or

(3) There is a public need for the change being sought.

1.1240 Findings

Findings made by the decision-making body in justification of any action authorized pursuant to this chapter shall be made in writing and shall be provided to the applicant and to parties establishing testimony on the record of any hearing. Findings shall be made which are consistent and in conformance with the applicable regulations of this chapter. The division shall make a record of any public hearing before the Planning Commission and assist in drafting findings upon request by the Commission. [1995 o.255 §4]

1.1245 Intent to Rezone; Purpose and Procedure

It is the purpose and intent of this Section to provide additional procedures for small tract zone map amendments to insure the public interest is considered as certain developments occur. These provisions may be invoked at any time during zone-change hearings and appeal process.

(1) **Resolution of Intent to Rezone**:

If, after consideration of the findings and recommendations of the Planning Commission, the Board determines that the public interest will be best served by this rezoning or any portion thereof, the Board may indicate its approval in concept of the rezoning by the adoption of a "resolution of intent to rezone" said property. This resolution may include any conditions, stipulations or limitations which the Board feels necessary to insure the public interest.

(2) **Resolution of Intent Binding**:

The adoption of this resolution of Intent to Rezone by the governing body shall make this a binding commitment on the County.

(3) **Site Development and Operation**:

Other than for residential development, property proposed to be developed under a resolution of intent to rezone shall be managed to insure compliance with the following conditions:

(a) That storage of merchandise and supplies be contained entirely within a building;

(b) That the proposed use continuously meet State D.E.Q. standards for air and water quality and noise emissions;

(c) That vehicle parking and maneuvering areas be hard surfaced and maintained dust free;

(d) That on-site drainage be designated to protect adjoining properties and public rights-of-way from increased storm runoff; and

(e) Any other conditions that the Board feels necessary to protect the public interest.

(4) **Site Plan**:

The Board may require under a resolution of intent to rezone a site plan which shall be binding upon the property. Upon approval of the Board, property having an approved site plan under these provisions shall be plainly marked as "subject to approved site plan" on the official zoning map of Lincoln County. Any approved site plan may be amended or a variance therefrom obtained, or the property may be released from the restrictions of such site plan by resolution of the Board on recommendation from the Planning Commission after a public hearing as set forth in LCC 1.1250. No other changes shall be made constituting a departure from the approved site plan except by amendment or variance as herein provided unless the property has been released from the site plan.

(5) **Site Plan Composition**:

Where a site plan is required pursuant to this Section, it shall include:

(a) Location of existing property boundaries, existing and proposed buildings, structures, accesses, off-street parking and loading spaces and landscaping;

(b) Topography, existing and proposed;

(c) Mechanical roof facilities if subject property is so oriented as to become part of the view from adjacent properties; and

(d) Architectural perspective, layout and all elevations drawn without exaggeration, except where noted including locations, area and design of signs and all landscaping.

(6) **Change of Zone**:

The fulfillment of all conditions, stipulations and limitations contained in the resolution of intent to rezone on the part of the applicant, shall be required prior to the governing body effecting

the ordinance change. Upon completion of compliance action by the applicant, the Board shall enact the ordinance changing the zone.

(7) **Resolution of Intent Void upon Failure to Comply**:

The failure of the applicant to substantially meet any or all conditions, stipulations or limitations contained in a resolution of intent to rezone, including the time limit placed in the resolution, shall render said resolution null and void, unless an extension is granted by the Board upon recommendation of the Planning Commission.

1.1250 Notice of Public Hearings

(1) Legislative Hearings:

Notice of hearings for legislative amendments shall consist of a statement specifying the date, time, place and general subject of the hearing published in a newspaper of general circulation in the county at least 10 days prior to the hearing. In addition, notice shall be provided in accordance with ORS 215.503 and 215.513, unless such notice is not required under ORS 215.508.

(2) Quasi-Judicial Hearings:

Notice of quasi-judicial hearings for the consideration of applications and appeals provided for in this chapter shall:

(a) Be provided in writing to the applicant and to the owners of record of property on the most recent tax assessment roll of Lincoln County:

(A) Within 500 feet of the boundaries of the subject property in A-C and T-C zones.

(B) Within 250 feet of the subject property in all other zones.

(b) Be provided to any neighborhood or community organization recognized by the Board of Commissioners and whose boundaries include the subject property;

(c) Explain the nature of the decision and the use or uses which could be authorized;

(d) List the applicable criteria from this chapter that apply to the subject application;

(e) Set forth the street address or other easily understood information identifying the location of the subject property;

(f) State the date, time and location of the hearing;

(g) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at the division office at no cost and can be provided at a reasonable cost;

(h) State that a copy of the division's staff report is available for inspection at no cost and can be provided at a reasonable cost seven days prior to the hearing;

(i) Provide the name and telephone number of the division staff person to contact for additional information; and

(j) Include a general explanation of the requirements for submission of testimony and the conduct of hearings;

(k) State that failure to raise an issue in the hearing, either in person or in writing, or failure to provide statements or evidence sufficient to afford the hearings body an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue; and

(L) Be mailed at least 20 days prior to the hearing.

(3) The failure of a property owner to receive notice as provided for in this section shall not invalidate the subject hearing proceeding provided that the division can demonstrate by affidavit that such notice was given. [1995 o.255 §5; 1997 o.368 §1]

1.1252 Notice of Exception to Statewide Planning Goals

Actions involving the consideration of exceptions to the Statewide Planning Goals shall be subject to the notice and hearing requirements of LCC 1.1250 and 1.1255. In addition, the required notice of public hearing shall specifically note the exceptions to be considered and shall summarize the issues in an understandable manner. [1995 o.255 §6]

1.1255 Conduct of Quasi-Judicial Public Hearings

Any quasi-judicial public hearing required by or provided for in this chapter shall be conducted in accordance with the following requirements:

(1) **Staff Report:**

At least seven days prior to the hearing, the division shall provide to the hearings body and make available to the public for inspection or purchase a report detailing the nature of the request and the applicable criteria of this chapter.

(2) **Application Materials:**

All application materials, documents or other evidence submitted by or on behalf of the applicant for any land use approval shall be provided to the division and made available to the public.

(3) **Pre-Hearing Statement:**

At the commencement of the hearing, a statement shall be made by the hearings body or staff to those in attendance that:

(a) Lists that applicable substantive criteria;

(b) States that testimony and evidence must be directed toward the criteria described in paragraph (a) of this subsection or other criteria in this chapter the party believes to apply to the subject request; and

(c) States that failure to raise an issue accompanied by statements or evidence sufficient to afford the hearings body and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue.

(4) **Presentation of Testimony:**

Unless otherwise provided for by the hearings body, the order of presentation of testimony shall be as follows:

(a) Staff report.

(b) Presentation by the applicant or, in the case of an appeal of a prior decision, the appellant.

(c) Additional testimony by other parties in support of the application or appeal.

(d) Testimony by opponents or, in the case of an appeal, the respondent.

(e) Applicant's or, in the case of an appeal, appellant's, rebuttal arguments.

(5) **Continuances:**

The hearings body may continue any hearing as deemed necessary to receive additional arguments or testimony or for further consideration of any evidence or testimony. A continuance may be provided for by the hearing body on its own motion or may be requested by a party. Any continuance or extension of the record requested by an applicant shall result in a corresponding extension of the time limitations of ORS 215.248. If the hearings body grants a continuance, the hearing shall be continued to a date, time, and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence and testimony. If new written evidence is presented at the

continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence or testimony for the purpose of responding to the new written evidence. No additional notice need be given of the continued hearing.

(6) **Holding Open the Hearing Record:**

Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The hearings body shall grant such a request by continuing the hearing pursuant to subsection (5) of this section or leaving the record open for additional written evidence or testimony. If the record is left open for additional written evidence or testimony, the record shall be left open for at least seven days. Any participant may file a written request with the division for an opportunity to respond to new evidence or testimony submitted during the period the record was left open. If such a request is filed, the hearings body shall reopen the record pursuant to subsection (7) of this section.

(7) **Reopening the Hearing Record:**

The hearings body may, on its own motion, or upon request of a party, reopen the record of any hearing previously concluded. When a hearing record is reopened to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony, or criteria for decision making which apply to the subject application or appeal.

(8) **Time Limitations of ORS 215.428:**

Any continuance or extension of the record shall be subject to the time limitations of ORS 215.428 unless the continuance or extension is requested or agreed to by the applicant.

(9) **Final Arguments:**

Unless waived by the applicant, the hearings body shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence.

(10) **Definitions:**

For purposes of this section:

(a) "Argument" means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by the proponent to a decision. "Argument" does not include facts.

(b) "Evidence" means facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards believed by the proponent to be relevant to a decision by the hearings body. [1995 o.255 §7; 1997 o.368 §2]

1.1260 [repealed 1995 o.255 §10]

1.1265 Appeals

The hearing body may retain authority to dismiss an appeal for failure to follow the requirements of this chapter.

1.1267 Appeals of Decisions of Planning Division

Where it is alleged that there is an error in any procedure or decision of the division, an appeal may be made to the Commission or such other hearings body as may be designated by order

of the Board. An appeal of a ministerial decision of the division made pursuant to LCC 1.1210(1) shall be filed within 10 days of the effective date of the decision. An appeal of a decision of the division on a permit made pursuant to LCC 1.1210(2) shall be filed within 15 days of the effective date of the decision. In the event that the final day for the filing of an appeal falls on a Saturday, Sunday or legal holiday, the period for the filing of an appeal shall be extended through the next working day. An appeal of a division decision shall be filed with the division and shall be accompanied by a written statement of the grounds for the appeal and any required filing fee. In the event that the party filing the appeal prevails at the initial hearing or upon subsequent appeal, the fee for the initial appeal of the division decision shall be refunded. Fees required for the filing of appeals of decisions of the division shall not apply to the Department of Land Conservation and Development nor to neighborhood or community groups recognized by the Board and whose boundaries include the property subject to the decision. Upon receipt of an appeal, the division shall schedule a public hearing before the Commission or other hearings body as designated by order of the Board. Public notice of the hearing shall be in accordance with LCC 1.1250. [1995 o.255 §8]

1.1268 Appeals of Commission or Hearing Body Decisions

Where it is alleged that there is an error in any procedure or decision made by the Commission or hearings body, an appeal therefrom may be made to the Board. Such an appeal shall be filed with the division within 15 days of the subject decision of the Commission or hearings body. In the event that the subject decision falls on a Saturday, Sunday or legal holiday, the period for the filing of an appeal shall be extended through the next working day. An appeal of a Commission or hearings body decision subject to review by the Board pursuant to this section shall be filed on a form prescribed by the division and shall be accompanied by any required filing fee. When an appeal is filed, within 10 days of such filing, the division shall provide to the Board the record of the proceedings and decision of the Commission or hearings body. The Board shall hold a public hearing on the appeal. The decision of the Board on an appeal shall be recorded within 45 days of receiving the record of the subject decision, unless a longer period of time is stipulated to by the parties. [1995 o.255 §9]

1.1270 Board Review

Review by the Board at a public hearing shall be accomplished in accordance with its own adopted rules of procedure and the requirements of this chapter. The Board may continue its hearing to gather additional evidence or to consider the application more completely pursuant to this chapter.

1.1275 Review on Record

Unless otherwise provided by the Board under LCC 1.1280, the review of the decision of the Commission by the Board shall be confined to the record of the proceeding, which shall include:

(1) All materials, pleading, memoranda, stipulations, and motions submitted by any party to the proceeding and received or considered by the commission as evidence;

(2) All materials submitted by the division with respect to the application;

(3) The transcript or tape of the public hearing of the commission;

(4) The findings and action of the commission and the notice of review; and

(5) Argument confined to the record by the parties or their legal representatives at the time of review before the Board.

1.1280 De Novo Hearing

(1) The Board may, at its option, whether or not upon a motion of a party, hold a *de novo* hearing or admit additional testimony and other evidence, if it is satisfied that the testimony or other evidence could not have been presented upon initial hearing and action. In deciding this admission, the Board shall consider:

(a) Prejudice to parties.

(b) Convenience of locating the evidence at the time of initial hearing.

(c) Surprise to opposing parties.

(d) When notice was given to other parties as to the attempt to admit.

(e) The competency, relevancy, and materiality of the proposed testimony and other evidence.

(2) Upon a decision to admit additional testimony or evidence or to hear the entire matter *de novo*, the presentation of such testimony and evidence shall be governed by the procedures applicable to the presentation of such matters as provided in the Board's rules of procedure.

1.1285 Board Action

(1) The Board may affirm, modify or reverse all or part of the action of the commission or may remand the matter for additional review or information.

(2) The Board may, on its own motion, review any decision of the Division or the Commission pursuant to the review procedures in LCC 1.1270 to 1.1280. Such motion shall be made within 15 days of the effective date of the decision to be reviewed.

ZONES

1.1301 Classification of Zones

For the purposes of LCC 1.1301 through 1.1399 the following zones are hereby established in the County:

	Abrev/Desig	Map/Desig
(1) **Residential Zones**:		
(a) Residential R-1	R-1	R-1
(b) Residential R-1-A	R-1-A	R-1-A
(c) Residential R-2	R-2	R-2
(d) Residential R-3	R-3	R-3
(e) Residential R-4	R-4	R-4
(2) **Rural Residential Zones**:		
(a) Rural Residential RR1-2	RR-2	RR-2
(b) Rural Residential RR-5	RR-5	RR-5
(3) **Commercial Zones**:		
(a) Tourist Commercial C-T	C-T	C-T
(b) Retail Commercial C-1	C-1	C-1
(c) General Commercial C-2	C-2	C-2
(4) **Industrial Zones**:		
(a) Planned Industrial I-P	I-P	I-P
(5) **Marine Zones**:		
(a) Marine Waterway M-W	M-W	M-W
(b) Planned Marine M-P	M-P	M-P
(6) **Resource Zones**:		
(a) Agricultural Conservation A-C	A-C	A-C
(b) Timber Conservation T-C	T-C	T-C
(7) **Public Facilities**:		
(a) Public Facilities P-F	P-F	P-F
(8) **Special Zones**:		
(a) Planned Development P-D	P-D	P-D
(b) Coastal Shorelands Overlay C-S	C-S	C-S
(c) Dredge Material Disposal Overlay DMDS	DMDS	DMDS
(9) **Flood Plain Management**:		
(a) Floodway Overlay F-W	F-W	F-W
(b) Flood Fringe Overlay F-F	F-F	F-F
(c) Coastal Flood Overlay V	V	V
(d) Shallow Flooding Overlay A-O	A-O	A-O

[2000 o.396 §3]

1.1303 Location of Zones

(1) The boundaries for the zones listed in LCC 1.1301 through 1.1399 are indicated on maps entitled "Lincoln County Comprehensive Plan and Zoning Maps," originals of which are on file in the office of the Lincoln County Clerk. Said maps are hereby incorporated into and made a part of this chapter.

(2) Zone boundaries, zone modifications, additions or reclassifications may be made at subsequent times and shall be made by amendment to this chapter, in accordance with the provisions of this chapter.

1.1310 Residential Zone R-1

In an R-1 zone, the following regulations shall apply:

(1) **Uses Permitted Outright**:

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599 and 1.1901 to 1.1999:

(a) A one-family dwelling unit excluding single wide mobile homes;

(b) Duplex on a corner lot each unit fronting on a separate street;

(c) A recreational vehicle or other approved temporary housing to be used for dwelling purposes during the construction of a single-family residential dwelling unit for which a building permit has been issued. The use shall not exceed a period of one year;

(d) Farm and forest use: Livestock and primary processing or forest products are prohibited;

(e) Beach front protective structures.

(2) **Conditional Use Permitted**:

The following uses and their accessory uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699 and 1.1901 to 1.1999:

(a) Cemetery;

(b) Church, non-profit religious or philanthropic use;

(c) Community center;

(d) Day nursery, nursery school-kindergarten, day care center, or similar facility;

(e) Governmental structure or use of land;

(f) Home occupation;

(g) Hospital, nursing home, retirement home or similar facility;

(h) Golf course and ancillary uses, but excluding golf driving range, miniature golf course or similar facility;

(i) Mobile home park;

(j) Private, non-commercial recreation club, such as archery, swimming or tennis;

(k) Private school;

(L) Public park, playground, swimming pool or similar recreation facility;

(m) Public or private utility facility;

(n) Radio or television transmitter or tower;

(o) Temporary real estate office;

(p) Excavating, filling, dredging or wetland drainage;

(q) Single-wide mobile home;

(r) Recreational vehicle park;

(s) Keeping of livestock;

(t) Pilings, piers, docks, and similar in-water structures;

(u) Heliports;

(v) Transfer stations;

(w) Bed and breakfast inns.

(3) **Standards**:

Except as provided in LCC 1.1400 to 1.1499, 1.1501 to 1.1599, l.1601 to l.1699, and l.1901 to 1.1999 the following standards shall apply:

(a) **Lot Size and Dimensions**:

The minimum lot size and dimensions shall be as follows:

(A) The minimum lot area shall be 6,000 square feet for a single family dwelling unit and 10,000 square feet for a duplex when a lot is served by both a public or community water supply system and public or community sewage disposal system and is within a Rural Community Boundary or Urban Growth Boundary.

(B) The minimum lot area shall be 15,000 square feet per dwelling unit when a lot is served by either a public or community water source, or public or community sewage disposal system and is within a Rural Community Boundary.

(C) The minimum lot area per dwelling unit shall be 2 acres when a lot is not served by either a public or community sewage disposal or water supply system or is outside of Rural Community Boundary.

(D) The depth to width ratio shall not exceed 2 1/2 to 1 on lots less than 25,000 square feet and 3 1/2 to 1 on lots 25,000 square feet or larger.

(E) Within urban growth boundaries where a division will not be to planned urban densities, the minimum lot size shall be 5 acres. A finding that the lot configuration and location of dwellings will not preclude extension of sewer, water or roads for future urbanization will be required prior to approval. Comments from the affected city will be required as part of all applications.

(F) Within urban growth boundaries, a division to planned urban densities may be allowed when an agreement for future services is signed by affected city and developer and recorded with the deed.

(b) **Yards**:

The minimum yard requirements shall be as follows:

(A) The front yard shall be a minimum of 20 feet.

(B) Each side yard shall be a minimum of either five feet or one foot for each three feet of building height, whichever requirement is greater.

(C) The street side yard shall be a minimum of 20 feet and may be decreased at the rate of one foot per additional two feet of setback from the front lot line, except that such setback shall not be less than 10 feet.

(D) The rear yard shall be a minimum of 10 feet, except that on a corner lot it shall be a minimum of either five feet or one for each three feet of building height, whichever requirement is the greater.

(c) **Special Setbacks**:

(A) No structure shall be located closer than 30 feet from the right-of-way of any State Highway. No structure shall be located closer than 30 feet from the right-of-way of any collector or arterial street which has a right-of-way width of less than 60 feet.

(d) **Building Height**:

No building shall exceed a height of 30 feet.

(e) **Lot Coverage**:

Buildings shall not occupy more than 30 percent of the total lot area. [1986 o.231 §1; 2000 o.396 §1]

1.1315 Residential Zone R-l-A

In an R-l-A zone the following regulations shall apply:

(1) **Uses Permitted Outright**:

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:

(a) A use permitted outright in the R-l zone, but excluding duplexes on corner lots.

(2) **Conditional Uses Permitted**:

The following uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

(a) A use permitted as a conditional use in the R-l zone, excluding single-wide manufactured dwellings and bed and breakfast inns.

(3) **Standards**:

Except as provided in LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999, the following standards shall apply:

(a) **Dimensional Standards**:

Standards for lot size and dimensions, yards, special setbacks, building height and lot coverage for the R-1 zone shall apply.

(b) **Standards for Manufactured Dwellings**:

Manufactured dwellings placed in the R-1-A zone shall be subject to the following standards:

(A) The manufactured dwelling shall be multi-wide and shall enclose a floor area of not less than 1000 square feet.

(B) The manufactured dwelling shall be placed on a permanent foundation, fully enclosed at the perimeter.

(C) The manufactured dwelling shall have a roof with a nominal pitch of three feet in height for each twelve feet in width.

(D) The manufactured dwelling shall have no unpainted or uncoated metal siding.

(E) The manufactured dwelling shall be certified by the manufacturer to have an exterior envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single family dwellings under the state building code as defined in ORS 455.010. Evidence demonstrating that the manufactured dwelling meets "Super Good Cents" energy efficiency standards is deemed to satisfy this requirement without further certification from the manufacturer. [1985 o.231 §1; 1994 o.331 §1; 1994 o.339 §1]

1.1320 Residential Zone R-2

In an R-2 zone the following regulations shall apply:

(1) **Uses Permitted Outright**:

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:

(a) A use permitted outright in the R-1 zone.

(b) Two-family dwelling.

(2) **Conditional Uses Permitted**:

The following uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

(a) A use permitted as a conditional use in the R-1 zone.

(b) Recreational vehicle on an individual lot.

(3) **Standards**:

Except as provided in LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999 the following standards shall apply:

(a) **Lot Size and Dimensions**:

The minimum lot size and dimensions shall be as follows:

(A) Standards for single family dwelling units shall be the same as in the R-1 zone.

(B) The minimum lot area shall be 10,000 square feet for a two-family dwelling when a lot is served by both a public or community water supply system, and public or community sewage disposal system.

(C) The minimum lot area per dwelling unit shall be 15,000 square feet when a lot is served by either a public or community water supply system, or a public or community sewage disposal system.

(D) The minimum lot area per dwelling unit shall be two acres when a lot is not served by either a public or community sewage disposal or water supply system.

(E) The depth to width ratio shall not exceed 2 1/2 to 1 on lots less than 25,000 square feet and 3 1/2 to 1 on lots 25,000 square feet or larger.

(b) **Yard, Lot Coverage, Building Height, Special Setbacks**:

The yard, lot coverage, building height and special setbacks shall be the same as required in the R-1 zone.

1.1330 Residential Zone R-3

In an R-3 zone the following regulations shall apply:

(1) **Uses Permitted Outright**:

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:

(a) A use permitted outright in the R-2 zone.

(b) Multi-family dwelling.

(2) **Conditional Uses Permitted**:

The following uses and their accessory uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

(a) A use permitted as a conditional use in the R-2 zone.

(b) Mobile home park.

(3) **Standards**: Except as provided in LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999, the following standards shall apply:

(a) **Lot Size and Dimensions**:

The minimum lot sizes and dimensions shall be as follows:

(A) Lot size requirements for a single family dwelling shall be the same as in the R-1 zone.

(B) For all other dwellings, the minimum lot area per dwelling unit shall be as follows:

(i) The minimum lot area per dwelling unit shall be 5,000 square feet when a lot is served by both a public or community water supply system and sewage disposal system;

(ii) The minimum lot area per dwelling unit shall be 15,000 square feet when a lot is served by either a public or community water supply system, or a public or community sewage system.

(iii) The minimum lot area per dwelling unit shall be two acres when a lot is not served by either public or community sewage or water supply system.

(C) The depth to width ratio shall not exceed 2 1/2 to 1 on lots less than 25,000 square feet and 3 1/2 to 1 on lots 25,000 square feet or larger.

(b) **Lot Coverage**:

Buildings shall not occupy more than 35 percent of the total lot area.

(c) **Yard, Building Height, Special Setbacks**:

The yard, building height and special setbacks requirements which apply in the R-1 zone shall apply.

1.1340 Residential Zone R-4

In an R-4 zone the following regulations shall apply:

(1) **Uses Permitted Outright**:

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.7599, and 1.1901 to 1.1999:

(a) A use permitted outright in the R-3 zone.

(2) **Conditional Uses Permitted**:

The following uses and their accessory uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999.

(a) A use permitted as a conditional use in the R-3 zone.

(b) Clinic.

(c) Club, lodge, or fraternal organization.

(d) Hotel, motel, or resort, when served by a public or community sewer system, with accessory commercial uses provided that:

(A) They are located within the main building or buildings.

(B) They are limited to gift shops, eating and drinking establishments, and similar facilities.

(C) They do not exceed ten percent of the total floor area of the main use.

(e) Private museum, art gallery, or similar facility.

(f) Professional office.

(3) **Standards**:

Except as provided in LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699 and 1.1901 to 1.1999 the following standards shall apply:

(a) **Lot Size and Dimensions**:

The minimum lot size and dimensions shall be as follows:

(A) Standards for single family dwelling units shall be the same as in the R-1 zone.

(B) The minimum lot area per dwelling unit shall be 2,500 square feet when a lot is served by both a public or community water supply system and sewage disposal system.

(C) The minimum lot area per dwelling unit shall be 15,000 square feet when a lot is served by either a public or community water supply system, or a public or community sewage disposal system.

(D) The minimum lot area per dwelling unit shall be at least 2 acres when a lot is not served by either a public or community sewage or water supply system.

(E) The depth to width ratio shall not exceed 2 1/2 to 1 on lots less than 25,000 square feet and 3 1/2 to 1 on lots 25,000 square feet or larger.

(F) Hotels, motels or resorts outside of Urban Growth Boundaries or acknowledged Goal 14 exception areas shall be limited to no more than 35 units.

(b) **Yards, Special Setbacks**:

Yards and special setbacks shall be the same as required in the R-1 zone.

(c) **Building Height**:

No building shall exceed a height of 35 feet.

(d) **Lot Coverage**:

Buildings shall not occupy more than 40 percent of the total lot area. [2004 o.430 §3]

1.1345 Rural Residential Zone RR-2

In the RR-2 zone the following regulations shall apply:

(1) **Use Permitted Outright**:

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599 and 1.1901 to 1.1999:

(a) One single-family dwelling unit, including single-wide mobile home.

(b) Farm and forest use.

(c) A recreational vehicle or other approved temporary housing to be used for dwelling purposes, during the construction of a single-family residential dwelling unit for which a building permit has been issued. The use shall not exceed a period of one year.

(d) Beachfront protective structures.

(2) **Conditional Uses Permitted**:

The following uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699 and 1.1901 to 1.1999:

(a) Cemetery.

(b) Church, non-profit religious or philanthropic center.

(c) Community center.

(d) Day nursery, nursery school-kindergarten, day care center, or similar facility.

(e) Governmental structure or use.

(f) Home occupation.

(g) Nursing home, retirement home or similar facility.

(h) Golf course and ancillary uses, but excluding golf driving range, miniature golf course or similar facility.

(i) Private school.

(j) Public or private utility facility.

(k) Radio or television transmitter or tower.

(L) Recreational vehicle park.

(m) Transfer station.

(n) Excavating, filling, dredging or wetland drainage.

(o) Recreational vehicle on an individual lot.

(p) Aquaculture facilities.

(q) Mining.

(r) Boarding of horses for profit.

(s) Pilings, piers, docks, and similar in-water structures.

(t) Heliports.

(u) Bed and breakfast inns.

(3) **Standards**:

Except as provided in LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699 and 1.1901 to 1.1999 the following standards shall apply:

(a) **Lot Size**:

The minimum lot size shall be two acres per dwelling unit.

(b) **Yards, Special Setbacks**:

Yards and special setbacks shall be the same as required in the R-l zone.

(c) **Height**:

No structure shall exceed 30 feet in height.

(d) **Lot Width to Depth Ratio**:

Lots shall have an average width to depth ratio not in excess of 1 to 3 1/2. [1985 o.231 §1; 2000 o.396 §2]

1.1355 Rural Residential Zone RR-5

In the RR-5 zone the following regulations shall apply

(1) **Uses Permitted Outright**:

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:

(a) One single-family dwelling unit.

(b) Farm and forest use.

(c) A recreational vehicle or other approved temporary housing to be used for dwelling purposes, during the construction of a single-family residential dwelling unit for which a building permit has been issued. The use shall not exceed a period of one year.

(d) Beachfront protective structures.

(2) **Conditional Uses Permitted**:

The following uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

(a) Cemetery.

(b) Church, non-profit religious or philanthropic center.

(c) Community center.

(d) Day nursery, nursery school-kindergarten, day care center, or similar facility.

(e) Governmental structure or use.

(f) Home occupation.

(g) Nursing home, retirement home or similar facility.

(h) Golf course and ancillary uses, but excluding golf driving range, miniature golf course or similar facility.

(i) Private school.

(j) Public or private utility facility.

(k) Radio or television transmitter or tower.

(L) Transfer station.

(m) Excavating, filling, dredging or wetland drainage.

(n) Recreational vehicle on an individual lot.

(o) Aquaculture facilities.

(p) Mining.
(q) Boarding of horses for profit.
(r) Pilings, piers, docks, and similar in-water structures.
(s) Heliports.
(t) Recreational vehicle park.
(u) Bed and Breakfast Inns.
(3) **Standards**:
Except as provided in LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999 the following standards shall apply:
(a) **Lot Size**:
The minimum lot size shall be 5 acres.
(b) **Yards, Special Setbacks**:
Yards and special setbacks shall be the same as required in an R-l zone.
(c) **Height**:
No structure shall exceed 30 feet in height.
(d) **Lot Width to Depth Ratio**:
Lots shall have an average width to depth ratio not in excess of 1 to 3 1/2. [1985 o.231 §1]

1.1357 Rural Residential Zone RR-10
In the RR-10 zone the following regulations shall apply
(1) **Uses Permitted Outright**:
The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:
(a) One single-family dwelling unit.
(b) Farm and forest use.
(c) A recreational vehicle or other approved temporary housing to be used for dwelling purposes, during the construction of a single-family residential dwelling unit for which a building permit has been issued. The use shall not exceed a period of one year.
(d) Beachfront protective structures.
(2) **Conditional Uses Permitted**:
The following uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:
(a) Cemetery.
(b) Church, non-profit religious or philanthropic center.
(c) Community center.
(d) Day nursery, nursery school-kindergarten, day care center, or similar facility.
(e) Governmental structure or use.
(f) Home occupation.
(g) Nursing home, retirement home or similar facility.
(h) Golf course and ancillary uses, but excluding golf driving range, miniature golf course or similar facility.
(i) Private school.
(j) Public or private utility facility.
(k) Radio or television transmitter or tower.
(L) Transfer station.

(m) Excavating, filling, dredging or wetland drainage.
(n) Recreational vehicle on an individual lot.
(o) Aquaculture facilities.
(p) Mining.
(q) Boarding of horses for profit.
(r) Pilings, piers, docks, and similar in-water structures.
(s) Heliports.
(t) Recreational vehicle park.
(u) Bed and Breakfast Inns.
(3) **Standards**:
Except as provided in LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999 the following standards shall apply:
(a) **Lot Size**:
The minimum lot size shall be 10 acres.
(b) **Yards, Special Setbacks**:
Yards and special setbacks shall be the same as required in an R-l zone.
(c) **Height**:
No structure shall exceed 30 feet in height.
(d) **Lot Width to Depth Ratio**:
Lots shall have an average width to depth ratio not in excess of 1 to 6. [2006 o.439 §2]

1.1360 Tourist Commercial Zone C-T
In a C-T zone the following regulations shall apply:
(1) **Uses Permitted Outright**:
The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:
(a) A use permitted outright in the R-4 zone.
(b) Automobile service station, including minor repair provided it is conducted entirely within an enclosed building.
(c) Barber or beauty shop.
(d) Boat launching or moorage facility, marina, boat charter service.
(e) Car wash.
(f) Clinic.
(g) Club, lodge, or fraternal organization.
(h) Food store.
(i) Gift shop.
(j) Hotel, motel, or resort, when served by a public or community sewer system.
(k) Indoor commercial amusement or recreation establishment such as bowling alley, theater, or pool hall.
(L) Laundromat.
(m) Office.
(n) Private museum, art gallery, or similar use.
(o) Restaurant, bar, or tavern.
(p) Retail sale of sporting goods, or bait.
(2) **Conditional Uses Permitted**:

The following uses and their accessory uses may be permitted, subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

(a) A use permitted as a conditional use in the R-4 zone.

(b) Recreational vehicle park.

(c) Outdoor recreation development.

(d) Outdoor commercial amusement or recreation establishment such as miniature golf course or drive-in theater, but not including uses such as race track or automobile speedway.

(e) Automobile repair garage provided all repair shall be conducted entirely within an enclosed building.

(f) Signs, advertising.

(g) Heliport.

(h) Pilings, piers, docks, and similar in water structures.

(i) Mini-storage.

(3) **Standards**:

Except as provided in LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999 the following standards shall apply:

(a) Residential uses shall be subject to lot size, dimension, coverage, yard, and building height and special setback standards of the R-4 zone.

(b) All yards abutting a lot in a residential zone shall be a minimum of ten (10) feet.

(c) No structure shall be located closer than 30 feet from the right-of-way of any state highway, nor 30 feet from the right-of-way of any collector or arterial street.

(d) No building shall exceed a height of 35 feet.

(e) Outdoor storage shall be screened with a sight-obscuring fence.

(f) Non-residential uses outside of Urban Growth Boundaries or acknowledged Goal 14 exception areas shall be limited to a building or buildings not exceeding 4,000 square feet of floor space.

(g) Non-residential uses outside of Urban Growth Boundaries, acknowledged Goal 14 exception areas, Rural Community Centers, or Rural Service Centers shall be limited to a building or buildings not exceeding 3,500 square feet of floor space.

(h) Notwithstanding paragraphs (f) and (g) of this subsection, any conforming use existing as of the effective date of this amendment may be expanded in floor area up to thirty percent, provided other applicable dimensional standards are met.

(i) Hotels, motels or resorts within Rural Community Centers or Rural Service Centers not subject to an acknowledged Goal 14 exception shall be limited to no more than 35 units. Hotels, motels or resorts outside of Urban Growth Boundaries, Goal 14 exception areas, Rural Community Centers, or Rural Service Centers shall be limited to no more than 25 units. [2004 o.430 §4]

1.1361 Retail Commercial Zone C-1

In a C-1 zone the following regulations shall apply:

(1) **Uses Permitted Outright**:

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:

(a) A use permitted outright in the R-4 zone.

(b) Retail store or shop such as food store, drug store, apparel store, hardware store, furniture store, or similar establishment.

(c) Repair shop for the type of goods offered for sale in those retail trade establishments permitted in a C-1 zone provided, all repair and storage shall occur entirely within an enclosed building.

(d) Personal or business service establishment such as barber or beauty shop, laundry or dry cleaning establishment, tailor shop, or similar establishment.

(e) Clinic.

(f) Financial institution.

(g) Club, lodge, or fraternal organization.

(h) Hotel, when served by a public or community sewer system.

(i) Indoor commercial amusement or recreation establishment such as bowling alley, theater, or pool hall.

(j) Mortuary.

(k) Newspaper office, print shop.

(L) Office.

(m) Private museum, art gallery, or similar facility.

(n) Restaurant, bar, or tavern.

(o) Beachfront protective structures.

(2) **Conditional Uses Permitted**:

The following uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, l.1601 to 1.1699, and 1.1901 to 1.1999:

(a) A use permitted as a conditional use in the R-4 zone.

(b) Recreational vehicle park.

(c) Outdoor commercial amusement or recreation establishment such as miniature golf course or drive-in theater, but not including uses such as race track or automobile speedway.

(d) A use permitted outright or a conditional use permitted in the C-1 zone with drive-in service facilities such as an automobile service station or a drive-in restaurant.

(e) Signs, advertising.

(f) Heliport.

(g) Pilings, piers, docks, and similar in water structures.

(h) Mini-storage.

(3) **Standards**:

Except as provided in LCC 1.140 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999 all standards which apply in the C-T zone shall apply in the C-1 zone. [2004 o.430 §5]

1.1362 General Commercial Zone C-2

In a C-2 zone the following regulations shall apply:

(1) Uses Permitted Outright: The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:

(a) A use permitted outright in the C-1 zone.

(b) Automobile, truck, or trailer sales, service, storage, rental, or repair.

(c) Boat launching or moorage facility, marine boat charter service.

(d) Boat or marine equipment sales, service, storage, rental, or repair.

(e) Cabinet or similar woodworking shop.

(f) Cold storage or ice processing plant.

(g) Feed or seed store.

(h) Implement, machinery, or heavy equipment sales, service, storage, or rental.

(i) Laboratory for experiment or research.

(j) Lumber or building materials sales and storage.

(k) Machine, welding, sheet metal, or similar metal working shop.

(L) Outdoor commercial amusement or recreation establishment such as miniature golf course or drive-in theater, but not including uses such as race track or automobile speedway.

(m) Plumbing, heating, electrical, or paint contractors' storage, repair, or sales shop.

(n) Processing, packing, or storage of food or beverage, excluding those products involving distillation, fermentation, rendering of fats or oils or slaughtering.

(o) Tire sales, repair, retreading, or vulcanizing.

(p) Truck terminal, freight depot.

(q) Upholstery shop.

(r) Warehouse or storage area.

(s) Wholesale establishment.

(2) **Conditional Uses Permitted**:

The following uses and their accessory uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

(a) A use permitted as a conditional use in the C-1 zone.

(b) Animal hospital.

(c) Heliport.

(d) Pilings, piers, docks, and similar in water structures.

(e) Mini-storage.

(3) **Standards**:

Except as provided in this subsection and in LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999 the standards which apply in the C-1 zone shall apply.

(a) All yards abutting a lot in a residential zone shall be a minimum of 20 feet.

(b) Outdoor storage abutting or facing a street or highway or a lot. in a residential zone shall be screened with a sight-obscuring fence

1.1364 Planned Industrial Zone I-P

In an I-P zone the following regulations shall apply:

(1) **Uses Permitted Outright**:

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:

(a) Farm use.

(b) Forestry, including the management, production, and harvesting of forest products and of related natural resources in forest areas and including rock extraction and processing for use in forest access roads.

(c) Residence for caretaker or night watchman.

(d) Beachfront protective structures.

(2) **Conditional Uses Permitted**:

The following uses and their accessory uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

(a) A use involving manufacture, research, repair, assembly, processing, fabricating, packing, distribution, warehousing, wholesaling, mini-storage, or storage provided that the use does not create a public nuisance, noise, smoke, odor, or dust, or because it constitutes a fire, explosion, or other physical hazard.

(b) Heliports and related uses.

(c) Animal hospital.

(d) Automobile, truck, or trailer sales, service, storage, rental, or repair.

(e) Automobile speedway, race track.

(f) Automobile wrecking yard, junk yard.

(g) Boat launching or moorage facility, marina, boat charter service.

(h) Boat or marine equipment sales, service, storage, rental, or repair.

(i) Extraction and processing of rock, sand, gravel, or other earth product.

(j) Feed or seed store.

(k) Governmental structure or use of land.

(L) Implement, machinery, heavy equipment sales, service, storage, rental or repair.

(m) Lumber or building materials sales and storage.

(n) Newspaper office, printing shop.

(o) Plumbing, heating, electrical, or paint contractors' storage, repair, or sales shop.

(p) Public park, playground, golf course, or similar recreation area.

(q) Public utility facility.

(r) Radio or television transmitter or tower.

(s) Restaurant, bar, or tavern.

(t) Solid waste transfer station.

(u) Solid waste debris site or facility complying with LCC 2.1035 (8). A conditional use permit issued pursuant to this paragraph shall be reviewed for compliance by the Planning Division every three years on or about each three year anniversary from the date of issuance. The compliance review shall include, but is not limited to, a site visit and a review of any complaints received. The Planning Division shall refer any non-compliance to the Commission for possible initiation of proceedings to revoke the conditional use permit in accordance with LCC 1.1605. Every conditional use permit issued pursuant to this paragraph shall contain the following statement: NOTICE: This conditional use permit is subject to a mandatory compliance review every three years from the date of issuance.

(v) Tire sales, repair, retreading, or vulcanizing.

(w) Signs, advertising.

(x) Bank and similar lending institutions.

(y) Theater/performing arts center.

(z) Pilings, piers, docks, and similar in-water structures.

(3) **Prohibited Uses**:

The following uses are prohibited:

(a) Cement, lime gypsum, or plaster of Paris manufacturer.

(b) Explosives storage or manufacture.

(c) Fertilizer manufacture.

(d) Gas manufacture.

(e) Glue manufacture.

(f) Petroleum or petroleum refining.

(g) Pulp mill.

(h) Rendering plant.

(i) Smelting or refining of metallic ore.

(j) Other uses similar to the above.

(4) **Standards**:

Except as provided in LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999 the following standards shall apply:

(a) All yards abutting a lot in a residential zone shall be a minimum of 20 feet.

(b) No structure shall be located closer than 30 feet from the right-of-way of any State highway or any collector or arterial street.

(c) No building height limitation for nonresidential structures.

(d) Outdoor storage abutting or facing a street or highway or a lot in a residential zone shall be screened with a sight-obscuring fence.

(e) Except as otherwise allowed by ORS Chapter 197, uses in the I-P zone outside of Urban Growth Boundaries shall be limited to a building or buildings not exceeding 40,000 square feet of floor space.

(f) Notwithstanding paragraph (e) of this subsection, any conforming use existing as of the effective date of this amendment may be expanded in floor area up to thirty percent, provided other applicable dimensional standards are met.

(5) **Special Standards**:

The following procedure shall apply to all conditional uses. The Planning Division or the Planning Commission shall seek to determine whether:

(a) A proposed use is suitable for the property in question, considering the long-range industrial potential for the zone, and further considering that piece-meal development of the zone may limit the possibility for meeting this potential.

(b) Setbacks of buildings, parking and loading areas, and storage areas or development should be increased or decreased. For properties within Urban Growth Boundaries, the setbacks may be based on the standards used for industrial properties within the city limits.

(c) Special landscaping, screening, and/or fencing requirements are appropriate.

(d) Any additional conditions need to be met to insure compatibility of the proposed use with existing and future development in the surrounding area. [1998 o.375 §2; 2004 o.430 §6; 2015 o.481 §1]

1.1367 Marine Waterway Zone M-W

In an M-W zone the following regulations shall apply:

(1) **Uses Permitted Outright**:

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:

(a) A permitted use as specified in the Lincoln County Estuary Management Plan, Lincoln County Ordinance number 184, which is hereby incorporated into this chapter by reference.

(b) Beachfront protective structures

(2) **Conditional Uses Permitted**:

The following uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

(a) A conditional use as specified in the Lincoln County Estuary Management Plan, Lincoln County Ordinance number 184.

(3) **Special Standards**:

In taking action on a conditional use application, the Planning Division or the Planning Commission shall seek to determine whether:

(a) The use is compatible with the management objective and policies of the management unit classification.

(b) The use complies with all policies specific to the individual management unit.

(c) Any additional conditions are needed to insure compatibility of the area's proposed use with existing and future development in the surrounding area.

1.1368 Planned Marine Zone M-P:

In an M-P zone the following regulations shall apply:

(1) **Uses Permitted Outright**:

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:

(a) A use permitted outright in the adjacent M-W zone.

(2) **Conditional Uses Permitted**:

The following uses and their accessory uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

(a) A conditional use permitted in the adjacent M-W zone.

(3) **Standards**:

Except as provided in LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999 the following standards shall apply:

(a) **Yards**:

All yards abutting a lot in a residential zone shall be a minimum of 20 feet.

(b) **Setbacks**:

No structure shall be located closer than 30 feet from the right-of-way of any State Highway or any collector or arterial street.

(c) **Height**:

No building in the M-P zone shall exceed a height of 45 feet.

(d) **Fencing**:

Outdoor storage abutting or facing a street or highway or a lot in a residential zone shall be screened with a sight obscuring fence.

1.1371 Definitions for LCC 1.1372 to 1.1375

As used in LCC 1.1372 to 1.1375:

(1)(a) "High value farmland" means:

(A) Land in a tract composed predominantly of soils that are classified capability Class II, whether irrigated or not irrigated;

(B) Tracts of land growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture taken prior to November 3, 1993. As used in this subparagraph,

"specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees or vineyards, but not including seed crops, hay, pasture or alfalfa; or

(C) Tracts which include land used in conjunction with a dairy operation on January 1, 1993, and which are composed predominantly of the following soils in Class III and Class IV, or a combination of the following soils and soils described in subparagraph (A) of this paragraph:

(i) Subclassification IIIw (Brenner and Chitwood).

(ii) Subclassification IVe (Winema).

(iii) Subclassification IVw (Coquille).

(b) Soil classes and ratings used in this subsection are those of the Soil Conservation Service in its most recent publication for that class or rating prior to November 3, 1993.

(2) "Lot" means a unit of land created by subdividing land as defined in ORS 92.010.

(3)(a) "Parcel" means a unit of land not created solely to establish a separate tax account and:

(A) Created by partitioning land as defined in ORS 92.010;

(B) In compliance with all applicable planning, zoning, partitioning and subdivision ordinances and regulations; or

(C) Created by deed or land sales contract if there were no applicable planning, zoning, partitioning, or subdivision ordinances or regulations. As used in this subparagraph, "created by" means a unit of land specifically described in the deed or land sales contract, or a remnant unit of land resulting from such deed or land sales contract.

(b) As used in this subsection, a lot or parcel remains a discrete lot or parcel notwithstanding that it has been conveyed or described separately as two or more units of land in a single recorded deed or land sales contract.

(4) "Tract" means one or more contiguous lots or parcels under the same ownership. [1994 o.247 §2; 2000 o.397 §1; 2002 o.416 §1]

1.1373 Agricultural Conservation Zone A-C

In an A-C zone, the following regulations shall apply:

(1) **Uses Permitted Outright**:

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599 and 1.1901 to 1.1999:

(a) Farm use as defined in ORS 215.203.

(b) Other buildings customarily provided in conjunction with farm use.

(c) Propagation and harvesting of a forest product.

(d) Creation, restoration and enhancement of wetlands.

(e) A winery as defined in ORS 215.452.

(f) Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead.

(g) Climbing and passing lanes within a highway right of way existing as of July 1, 1987.

(h) Reconstruction or modification of public roads and highways, not including the addition of travel lanes, where no removal or displacement of structures would occur, and no new land parcels would be created.

(i) Temporary public road and highway detours that will be abandoned and restored to original condition when no longer needed.

(j) Minor betterment of existing public roads and highway related facilities, such as maintenance yards, weigh stations and rest areas within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.

(k) Alteration, restoration or replacement of a lawfully established dwelling subject to subsection 4(i) of this section.

(L) Fire service facilities providing rural fire protection services.

(m) Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505.

(n) Onsite filming and activities accessory to onsite filming for 45 days or less within a one year period as provided for in ORS 215.306.

(o) Firearms training facility in existence on September 9, 1995.

(2) **Conditional Uses Permitted**:

The following uses and their accessory uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

(a) One single family dwelling customarily provided in conjunction with farm use, subject to subsections (4)(g) and (5) of this section.

(b) One single family dwelling not provided in conjunction with farm use, subject to subsections (4)(g) and (6) of this section.

(c) One single family dwelling, subject to subsection (4)(g), on a tract of record, meeting the following qualifications as outlined below. The director shall notify the County Assessor of any decision to permit a dwelling under this subsection:

(A) The lot or parcel on which the dwelling is to be sited was lawfully created and was acquired by the present owner prior to January 1, 1985, or by devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.

(B) The tract upon which the dwelling is to be sited does not include another dwelling.

(C) The lot or parcel upon which the dwelling is to be sited is not on high value farmland except as provided in paragraphs (K) and (L) in this subsection.

(D) The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.

(E) The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law.

(F) If the tract on which the dwelling is to be sited consists of more than one lot or parcel, all lots and parcels within the tract shall be consolidated into a single lot or parcel.

(G) As used in subparagraph (A) of this paragraph, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner, or a business entity owned by any one or combination of these family members.

(H) When the lot or parcel on which the dwelling will be sited lies within an area designated in the comprehensive plan as habitat of big game, the siting of the dwelling is consistent with the

limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.

(I) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed.

(J) Notwithstanding the requirements of LCC 1.373(2)(c)(C), a single-family dwelling may be sited on high-value farmland if:

(i) It meets the other requirements of LCC 1.373(2)(a) and LCC 1.373(2)(b).

(ii) The lot or parcel is protected as high-value farmland as defined in OAR 660-033-0020(8)(a).

(iii) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use.

(iv) The dwelling will comply with the provisions of LCC 1.1630(1).

(v) The dwelling will not materially alter the stability of the overall land use pattern in the area by applying the standards set forth in LCC 1.373(6).

(K) Notwithstanding the requirements of LCC 1.373(2)(c)(C), a single-family dwelling may be sited on high-value farmland if:

(i) It meets the other requirements of LCC 1.373(2)(a) and LCC 1.373(2)(b);

(ii) The tract on which the dwelling will be sited is identified in OAR 660-033-0020(8)(c) or (d); Not high-value farmland defined in LCC 1.1371(1); and twenty-one acres or less in size; and

(iii) The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or

(iv) The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary; or

(v) The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The governing body of a county must interpret the center of the subject tract as the geographic center of the flag lot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flag lot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary: “Flaglot” means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract. “Geographic center of the flaglot” means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.

(L) An approved single-family dwelling under this Section may be transferred by a person who has qualified under this Section to any other person after the effective date of the land use decision.

(M) The county shall provide notice of all applications for lot of record dwellings on high value farmland to the State Department of Agriculture. Notice shall be provided in accordance with land use regulations and shall be mailed at least 20 calendar days prior to the public hearing.

(d) A farm help dwelling, subject to LCC 1.630(25) and subsection (4)(g) of this section.

(e) An accessory farm dwelling for year-round and seasonal farm workers subject to provisions of ORS 215.278 and LCC 1.1373(4)(g).

(f) Utility facilities necessary for public service, excluding commercial utility facilities for the purpose of generating power for public use by sale and transmission towers over 200 feet in height. A facility is necessary if it must be situated in an A-C zone in order for the service to be provided.

(g) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property and is listed on the National Register of Historic Places subject to subsection (4)(g).

(h) Processing, as defined by ORS 517.750, of aggregate into asphalt or Portland cement, except that asphalt production shall not be permitted within two miles of a producing vineyard of 40 acres or more which is planted as of the date that the application for asphalt production is filed.

(i) Dog training classes or testing trials subject to ORS 215.283(l)(x).

(j) A winery subject to ORS 215.452.

(k) Land application of reclaimed or process water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an EFU zone subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251.

(l) Utility facility service lines and accessory facilities or structures that end of the point where the utility service is received by the customer and that are located on one or more of the following:

(A) A public right of way;

(B) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or

(C) The property to be served by the utility.

(m) Minor betterment of existing public road and highway related facilities such as maintenance yards, weight stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.

(n) A site for the take off and landing of model aircraft as provided for in ORS 215.283(1)(t).

(o) Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month period is subject to review by a county planning commission under ORS 433.763.

(p) Churches and cemeteries in conjunction with churches, subject to subsection 4(f).

(3) **Additional Conditional Uses Permitted that are Subject to OAR 660-33-0130(5)**:

The following uses and their accessory uses may be permitted subject to applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

(a) Propagation, cultivation, maintenance, and harvesting of aquatic species or insect species that are not under the jurisdiction of the State Fish and Wildlife Commission.

(b) Residential home as defined in ORS 197.660 in an existing dwelling, subject to subsection (4)(g).

(c) Commercial activities in conjunction with farm use including the processing of farm crops into biofuel, but excluding activities in conjunction with a marijuana crop and subject to subsection (4)(commercial uses).

(d) Home occupation subject to LCC 1.1630(6).

(e) Dog kennels, except that such uses are prohibited on high value farmland.

(f) Operations for the production of geothermal resources and oil and gas as defined in ORS 520.005.

(g) Operations conducted for the mining, crushing or stockpiling of mineral, aggregate and other subsurface resources subject to ORS 215.298.

(h) Personal use airports and heliports, including associated hangars and maintenance and service facilities, subject to LCC 1.1630(24).

(i) Private parks, playgrounds, hunting and fishing preserves and campgrounds, subject to LCC 1.1630(23). Such uses are prohibited on high value farmland, except that existing private parks on high value farmland may be expanded subject to paragraph (h) of subsection (4) of this section.

(j) Public Parks and playgrounds, subject to LCC 1.163(23) limited to those uses specified under OAR 660-034-0035 or OAR 660-034-0040, whichever is applicable.

(k) Community centers owned by a governmental agency or nonprofit community organization and operated primarily by and for residents of the local rural community, subject to subsection (4)(f) of this section. Community centers may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and education counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.

(l) Golf courses, subject to subsections (4)(f) and (4)(h) of this section, except that such uses are prohibited on high value farmland as defined in LCC 1.1371(1).

(m) Transmission towers over 200 feet in height.

(n) Commercial utility facilities for the purpose of generating power for public use by sale. A power generation facility shall not preclude more than 12 acres of high value farmland or 20 acres of other land from commercial farm use unless an exception is approved pursuant to OAR chapter 660, division 4. A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval.

(o) A site for the disposal of solid waste approved by a city or county governing body and for which a permit has been granted by the Department of Environmental Quality under ORS

459.245, including the equipment, facilities, and buildings necessary for its operation. This use is not permitted on high value farmland except as provided for in subsection (4)(h).

(p) Construction of additional passing and travel lanes requiring the acquisition of right of way, but not resulting in the creation of new land parcels.

(q) Reconstruction or modification of public roads and highways involving the removal or displacement of structures, but not resulting in the creation of new land parcels.

(r) Improvement of public roads and highway related facilities such as maintenance yards, weigh stations, and rest areas, where additional property or right of way is required, but not resulting in the creation of new land parcels.

(s) Operations for the extraction and bottling of water.

(t) A medical hardship dwelling, subject to LCC 1.630 (28).

(u) Primary processing of forest products, subject to LCC 1.630(27).

(v) Public or private schools, including all buildings essential to the operation of a school. No such use may be authorized within three miles of an urban growth boundary as provided for in subsection (4)(f) of this section, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4. Further, no such use may be authorized on high value farmland, except that existing public or private schools on high value farmland may be expanded subject to subsection (4)(h) of this section.

(w) Processing, as defined by ORS 517.750, of aggregate into asphalt or Portland cement, except that asphalt production shall not be permitted within two miles of a producing vineyard of 40 acres or more which is planted as of the date that the application for asphalt production is filed.

(x) Parking of up to seven log trucks.

(4) Use Standards

(a) A farm on which a processing facility is located must provide at least one-quarter of the farm crops processed at the facility. A farm may also be used for an establishment for the slaughter, processing or selling of poultry or poultry products pursuant to ORS 603.038. If a building is established or used for the processing facility or establishment, the farm operator may not devote more than 10,000 square feet of floor area to the processing facility or establishment, exclusive of the floor area designated for preparation, storage or other farm use. A processing facility or establishment must comply with all applicable siting standards but the standards may not be applied in a manner that prohibits the siting of the processing facility or establishment. A county may not approve any division of a lot or parcel that separates a processing facility or establishment from the farm operation on which it is located.

(b) A facility for the primary processing of forest products shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in subsection (1) of this section. Such facility may be approved for a one-year period that is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this Section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this Section mean timber grown upon a tract where the primary processing facility is located.

(c) To qualify for a relative farm help dwelling, a dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. However, farming of a marijuana crop may not be used to

demonstrate compliance with the approval criteria for a relative farm help dwelling. The farm operator shall continue to play the predominant role in the management and farm use of the farm. A relative farm help dwelling must be located on the same lot or parcel as the dwelling of the farm operator and must be on real property used for farm use.

(d) Dog training classes or testing trials conducted outdoors, or in farm buildings that existed on January 1, 2013, are limited as follows:

(A) The number of dogs participating in training does not exceed 10 per training class and the number of training classes to be held on-site does not exceed six per day; and

(B) The number of dogs participating in a testing trial does not exceed 60 and the number of testing trials to be conducted on-site does not exceed four per calendar year.

(e) Farming of a marijuana crop, and the gross sales derived from selling a marijuana crop, may not be used to demonstrate compliance with the approval criteria for a primary farm dwelling.

(f) For uses subject to the following three-mile setback standard:

(A) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.

(B) Any enclosed structures or group of enclosed structures described in subsection (f)(A) within a tract must be separated by at least one-half mile. For purposes of this Subsection, “tract” means a tract that is in existence as of June 17, 2010.

(C) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this ordinance.

(g) Where a single-family dwelling is permitted in the A-C zone, the landowner shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

(h) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law. An existing golf course may be expanded consistent with the requirements of subsection (3)(L) and LCC 1.630(26).

(i) Standards for the alteration, restoration or replacement of a lawfully-established dwelling:

(A) A lawfully established dwelling may be altered, restored or replaced if, when an application for a permit is submitted, the permitting authority finds to its satisfaction, based on substantial evidence that the dwelling to be altered, restored or replaced has, or formerly had:

i. Intact exterior walls and roof structure;

ii. Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

iii. Interior wiring for interior lights;

iv. A heating system; and

v. The dwelling was assessed as a dwelling for purposes of ad valorem taxation for the previous five property tax years, or, if the dwelling has existed for less than five years, from that time.

vi. Notwithstanding subsection i(A)(v), if the value of the dwelling was eliminated as a result of either of the following circumstances, the dwelling was assessed as a dwelling until such time as the value of the dwelling was eliminated:

1. The destruction (i.e, by fire or natural hazard), or demolition in the case of restoration, of the dwelling; or

2. The applicant establishes to the satisfaction of the permitting authority that the dwelling was improperly removed from the tax roll by a person other than the current owner. "Improperly removed" means that the dwelling has taxable value in its present state, or had taxable value when the dwelling was first removed from the tax roll or was destroyed by fire or natural hazard, and the county stopped assessing the dwelling even though the current or former owner did not request removal of the dwelling from the tax roll.

(B) For replacement of a lawfully established dwelling under subsection (1)(k):

(i) The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:

1. Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or

2. If the dwelling to be replaced is, in the discretion of the permitting authority, in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued; and

3. If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the permitting authority for the new location.

(ii) The applicant must cause to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.

(iii) As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the Director places a statement of release in the deed records of the county to the effect that the provisions of 2013 Oregon Laws, chapter 462, Section 2 and ORS 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.

(C) A replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.

(i) The siting standards of subsection D(iii) apply when a dwelling qualifies for replacement because the dwelling:

1. Formerly had the features described in subsection (4)(i)(A);

2. Was removed from the tax roll as described in subsection 4(i)(B); or

3. Had a permit that expired as described under subsection (4)(D)(iii).

(ii) The replacement dwelling must be sited on the same lot or parcel:

1. Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot or parcel; and

2. If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.

(iii) Replacement dwellings that currently have the features described in subsection 4(i)(A) and that have been on the tax roll as described in subsection 4(i)(A)(v) may be sited on any part of the same lot or parcel.

(D) A replacement dwelling permit that is issued under (1)(k):

(i) Is a land use decision as defined in ORS 197.015 where the dwelling to be replaced:

1. Formerly had the features described in subsection 4(i)(A); or

2. Was removed from the tax roll as described in subsection 4(i)(B);

(ii) Is not subject to the time to act limits of ORS 215.417; and

(iii) If expired before January 1, 2014, shall be deemed to be valid and effective if, before January 1, 2015, the holder of the permit:

1. Removes, demolishes or converts to an allowable nonresidential use the dwelling to be replaced; and

2. Causes to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.

(j) A farm stand may be approved if:

(A) The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and

(B) The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.

(5) **Requirements for Dwellings Customarily Provided in Conjunction with Farm Use**:

(a) On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

(A) The parcel on which the dwelling will be located is at least 160 acres;

(B) The subject tract is currently employed for farm use, as defined in ORS 215.203;

(C) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and

(D) Except for an accessory farm dwelling, there is no other dwelling on the subject tract.

(b) On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

(A) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced in each of the last two years or three of the last five years, or in an average of three of the last five years, the farm operator earned the lower of the following:

(i) At least $22,500 in gross annual income from the sale of farm products; or

(ii) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of $10,000 or more according to the 1992 Census of Agriculture, Oregon and

(iii) Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may be used.

(B) Except for an accessory farm dwelling, there is no other dwelling on the subject tract; and

(C) The dwelling will be occupied by a person or persons who produced the commodities which generated the grossed income described in subparagraph (A) of this paragraph; and

(D) In determining the gross income required by subsection 5(b)(A):

(i) The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;

(ii) Only gross income from land owned, not leased or rented, shall be counted; and

(iii) Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may be used.

(c) On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

(A) The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least $10,000 in annual gross sales that are located within a study area which includes all tracts wholly or partially within one mile from the perimeter of the subject tract;

(B) The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in subparagraph (A) of this paragraph;

(C) The subject tract is currently employed for a farm use, as defined in ORS 215.203, at a level capable of producing the annual gross sales required in subparagraph (B) of this paragraph;

(D) The subject lot or parcel on which the dwelling is proposed is not less than 10 acres;

(E) Except for the seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract; and

(F) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock at a commercial scale; and

(G) If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by subparagraph (C) of this paragraph.

(H) In determining the gross sales capability required by subsection (c):

(i) The actual or potential cost of purchased livestock shall be deducted from the total gross sales attributed to the farm or ranch tract;

(ii) Only actual or potential sales from land owned, not leased or rented, shall be counted; and

(iii) Actual or potential gross farm sales earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.

(d) In order to identify the commercial farm or ranch tracts to be used in paragraph (c) of this subsection, the potential gross sales capability of each tract in the study area including the subject tract must be determined, prepared by the County pursuant to OAR 660-033-0135(2)(c).

(e) On land identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

(A) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced at least $80,000 in gross annual income from the sale of farm products in the last two years or three of the last five years.

(B) There is no other dwelling on the subject tract; and

(C) The dwelling will be occupied by a person or persons who produced the commodities which generated the gross income described in subparagraph (A) of this paragraph.

(D) In determining the gross income required by subsection (5)(b)(A):

(i) The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;

(ii) Only gross income from land owned, not leased or rented, shall be counted; and

(iii) Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.

(f) A dwelling customarily provided in conjunction with farm use shall be located on a lawfully created lot or parcel.

(g) Additional Farm Income Standards:

(A) For the purpose of subsections (c) or (e), noncontiguous lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross income requirements. Lots or parcels in eastern or western Oregon may not be used to qualify a dwelling in the other part of the state.

(B) Prior to the final approval for a dwelling authorized by subsections (c) or (e) that requires one or more contiguous or non-contiguous lots or parcels of a farm or ranch operation to comply with the gross farm income requirements, the applicant shall complete and record with the county clerk the covenants, conditions, and restrictions form provided by the county (Exhibit A to OAR Chapter 660 Division 33). The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling and shall preclude:

(i) All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215; and

(ii) The use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.

(C) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located;

(h) Commercial Dairy Farm Standards:

A dwelling may be considered customarily provided in conjunction with a commercial dairy farm and capable of earning the gross annual income requirements by subsection (A) above, subject to the following requirements:

(A) The subject tract will be employed as a commercial dairy as defined in subsection (G);

(B) The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy;

(C) Except for an accessory farm dwelling, there is no other dwelling on the subject tract;

(D) The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm use activities necessary to the operation of the commercial dairy farm;

(E) The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and

(F) The Oregon Department of Agriculture has approved the following:

(i) A permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and

(ii) A Producer License for the sale of dairy products under ORS 621.072.

(G) As used in this Section, "commercial dairy farm" is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by subsections (a) or (c), whichever is applicable, from the sale of fluid milk.

(i) Relocated Farm Operations.

A dwelling may be considered customarily provided in conjunction with farm use if:

(A) Within the previous two years, the applicant owned and operated a different farm or ranch operation that earned the gross farm income in each of the last five years or four of the last seven years as required by subsection (a) or (c), whichever is applicable;

(B) The subject lot or parcel on which the dwelling will be located is:

(i) Currently employed for the farm use that produced in each of the last two years or three of the last five years, or in an average of three of the last five years the gross farm income required by subsection (a) or (c), whichever is applicable; and

(ii) At least the size of the applicable minimum lot size under section (9);

(C) Except for an accessory farm dwelling, there is no other dwelling on the subject tract;

(D) The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in subsection (A), and

(E) In determining the gross income required by subsection (A):

(i) The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and

(ii) Only gross income from land owned, not leased or rented, shall be counted.

(6) **Requirements for Dwellings Not Provided in Conjunction With Farm Use**:

Dwellings not provided in conjunction with farm use may be authorized upon findings that:

(a) The dwelling or activities associated with the dwelling will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on nearby lands devoted to farm or forest use;

(b) Non-farm dwelling suitability standards.

(A) The dwelling, including essential or accessory improvements or structures, is situated upon a lot or parcel, or, in the case of an existing lot or parcel, upon a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A new parcel or portion of an existing lot or parcel shall

not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and

(B) A new parcel or portion of an existing lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then it is not "generally unsuitable." A new parcel or portion of an existing lot or parcel is presumed to be suitable if it is composed predominantly of Class I-IV soils. Just because a new parcel or portion of an existing lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or

(C) If the lot or parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable". If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soils capable of producing 50 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land.

(c) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, the director or commission shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying standards set forth in OAR 660-033-0130(4)(a)(D). If the application involves the creation of a new parcel for the nonfarm dwelling, the director or commission shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying standards set forth in OAR 660-033-0130(4)(a)(D) ; and

(d) The dwelling will be located on a lawfully created lot or parcel.

(e) If a single-family dwelling is established on a lot or parcel as set forth in subsection (2)(c), no additional dwelling may later be sited under the provisions of this Section.

(7) **Requirements for Conditional Uses Subject To OAR 660-33-130(5)**:

Approval of uses subject to the requirements of this subsection requires findings that such uses:

(a) Will not force a significant change in a accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(b) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.

(8) **Additional Tax Payment Requirements**:

Any conditional use approval for a non-farm use in the A-C zone shall require as a condition that, prior to final permit approval, verification be provided from the Lincoln County Assessor that any additional taxes imposed on the change in use have been paid.

(9) **Lot Size Standards**:

(a) The minimum lot size shall be 80 acres.

(b) Land divisions creating parcels of less than 80 acres may be permitted for non-farm uses authorized in accordance with subsection (2) or (3) of this section, except residential uses. Such new parcels shall be the minimum size needed to accommodate the authorized use. No new parcels for non-farm uses may be created until after the subject use has been authorized in accordance with subsections (2) or (3) of this section.

(c) A division of land to create up to two new parcels smaller than the minimum size established under subsection (a), each to contain a dwelling not provided in conjunction with farm use, may be permitted if:

(A) The remaining lot or parcel not containing the dwelling meets the minimum 80 acre parcel size of the A-C zone; or

(B) The remaining lot or parcel not containing the dwelling is consolidated with an adjoining lot or parcel which together meet the 80 acre minimum parcel size of the A-C zone; or

(C) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;

(d) New parcels created for dwellings not in conjunction with farm use shall be a minimum of two acres.

(10) **Dimensional Standards**:

(a) The front yard shall be a minimum of 20 feet.

(b) Each side yard shall be a minimum of five feet, or one foot for each three feet of building height, whichever is greater.

(c) The rear yard shall be a minimum of 10 feet, except that on a corner lot it shall be a minimum of either five feet, or one foot for each three feet of building height, whichever is greater.

(d) No structure shall be located closer than 30 feet from the right of way of any state highway, and no structure shall be located closer than 30 feet from the right of way of any arterial or collector street which has a right of way width of less than 60 feet.

(e) No dwelling or residential accessory structure shall exceed a height of 30 feet. [1994 o.247 §3; 2000 o.377 §2; 2001 o.416 §2; 2017 o.499 §1]

1.1375 Timber Conservation Zone T-C

In a T-C zone the following regulations shall apply:

(1) **Uses Permitted Outright**:

The following uses and their accessory uses are permitted outright, subject to applicable siting criteria, other applicable provisions of this section, and applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:

(a) Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash.

(b) Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.

(c) Physical alterations to the land auxiliary to forest practices, including but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities.

(d) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.

(e) Farm use as defined in ORS 215.203.

(f) Local distribution lines, such as electric, telephone and natural gas, and accessory equipment, such as electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals, or equipment which provides service hookups, including water service hookups.

(g) Temporary portable facility for the primary processing of forest products. The facility shall not be placed on a permanent foundation and shall be removed at the conclusion of the forest operation requiring its use.

(h) Temporary forest labor camps limited to the duration of the forest operation requiring the use.

(i) Exploration for, and production of, geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head as defined in ORS chapters 517 and 520.

(j) Caretaker residences for public parks and fish hatcheries.

(k) Private hunting and fishing operations without any accommodations.

(l) Exploration for mineral and aggregate resources as defined in ORS chapter 517.

(m) Towers and fire stations for forest fire protection.

(n) Widening of roads within existing rights-of-way in conformance with the transportation element of acknowledged comprehensive plans, including public road and highway projects as described in ORS 215.213(1)(l) through (o) and ORS 215.283(1)(k) through (n).

(o) Water intake facilities, canals and distribution lines for farm irrigation and ponds.

(p) Uninhabitable structures accessory to fish and wildlife enhancement.

(q) Alteration, restoration or replacement of a lawfully established dwelling that:

(A) Has intact interior walls and roof structure;

(B) Has indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;

(C) Has interior wiring or interior lights;

(D) Has a heating system; and

(E) In the case of replacement, is removed, demolished or converted to a permitted nonresidential use within 90 days of completion of the replacement dwelling.

(2) **Conditional Uses Permitted**:

The following uses may be permitted subject to provisions of subsection (3) of this section and applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

(a) Permanent facility for the primary processing of forest products.

(b) Permanent logging equipment repair and storage.

(c) Log scaling and weigh stations.

(d) Disposal site for solid waste approved by the governing body of a city or county or both and for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.

(e) Private parks and campgrounds.

(f) Public parks, limited to those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.

(g) Mining and processing of oil, gas, or other subsurface resources, as defined in ORS chapter 520, and not otherwise permitted under paragraph (i) of subsection (1) of this section, such

as compressors, separators and storage serving multiple wells, and mining and processing of aggregate and mineral resources as defined in ORS chapter 517.

(h) Television, microwave and radio communication facilities and transmission towers.

(i) Fire stations for rural fire protection.

(j) Utility facilities for the purpose of generating power. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR 660, Division 4;

(k) Aids to navigation and aviation.

(L) Water intake facilities, related treatment facilities, pumping stations, and distribution lines.

(m) Reservoirs and water impoundments.

(n) Firearms training facility.

(o) Cemeteries.

(p) Private seasonal accommodations for fee hunting operation, subject to subsections (3), (6) and (7) of this section and the following requirements:

(A) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code.

(B) Only minor incidental and accessory retail sales are permitted.

(C) Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission.

(q) New electric transmission lines with right-of-way widths of up to 100 feet as specified in ORS 772.210. New distribution lines, such as gas, oil and geothermal, with rights-of-way 50 feet wide or less in width.

(r) Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.

(s) Home occupations.

(t) Medical hardship dwelling.

(u) Expansion of existing airports.

(v) Public road and highway projects as described in ORS 215.213(2)(p) through (r) and ORS 215.283(2)(p) through (r).

(w) Private accommodations for fishing occupied on a temporary basis, subject to subsections (3), (6) and (7) of this section, and the following requirements:

(A) Accommodations limited to no more than 15 guest rooms, as that term is defined in the Oregon Structural Specialty Code;

(B) Only minor incidental and accessory retail sales are permitted;

(C) Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and

(D) Accommodations must be located within 1/4 mile of fish bearing Class I waters.

(x) Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations.

(y) One single-family dwelling on a tract meeting the following qualifications:

(A) The lot or parcel on which the dwelling is to be sited was lawfully created and was acquired by the present owner prior to January 1, 1985, or by devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985. As used in this subparagraph, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister,

sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner, or a business entity owned by any one or combination of these family members.

(B) The tract upon which the dwelling is to be sited does not include another dwelling.

(C) If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.

(D) The tract is composed of soils not capable of producing 5,000 cubic feet per year of commercial tree species.

(E) The tract is located within 1,500 feet of a maintained public road as defined in ORS 368.001 that is either paved or surfaced with rock, but not including United States Forest Service and Bureau of Land Management roads.

(F) If the lot or parcel on which the dwelling will be sited lies within an area designated in the comprehensive plan as major big game range, the siting of the dwelling shall be consistent with the limitations on density set forth in the comprehensive plan for the protection of the major big game range.

(G) If the tract on which the dwelling is to be sited consists of more than one lot or parcel, all lots and parcels within the tract shall be consolidated into a single lot or parcel.

(z) One single family template dwelling, subject to the provisions of subsection (5) of this section.

(aa) One single family dwelling on a tract of 160 or more contiguous acres and located on a lawfully created lot or parcel or at least 200 acres in one ownership that are not contiguous but are within Lincoln County, Lane County, Benton County, Polk County or Tillamook County and are zoned for forest use. A deed restriction shall be filed pursuant to subsection (6)(h) of this section for all parcels that are used to meet the acreage requirements of this subsection.

(bb) Youth camp as provided for in LCC 1.1630(33).

(cc) Storage structures for emergency supplies to serve communities and households that are located in tsunami inundation zones identified on the applicable Tsunami Inundation Map (TIM) published by the Oregon Department of Geology and Mineral Industries, as provided for in LCC 1.1630(34).

(3) **Limitations on Conditional Uses**:

The Planning Director or Commission shall determine whether a use other than a dwelling authorized by subsection (2) of this section meets the following requirements. These requirements are designed to make the use compatible with forest operations and agriculture, and to conserve values found on forest lands:

(a) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;

(b) The proposed use will not significantly increase fire hazard, significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel; and

(c) For uses authorized pursuant to paragraphs (e), (m), (s), (t) and (w) of subsection (2) of this section, a written statement is recorded with the deed or written contract with the county or its equivalent executed by the land owner which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and rules.

(4) **Lot Size Standards**:

(a) The minimum lot size shall be 80 acres.

(b) Land divisions creating parcels less than 80 acres in size may be approved:

(A) For uses which have been authorized in accordance with paragraphs (i) and (j) of subsection (1) and paragraphs (a) through (n) of subsection (2) of this section. Such parcels shall be the minimum size necessary to accommodate the authorized use.

(B) To allow the establishment of a parcel for an existing dwelling, subject to the following requirements:

(i) The parcel established shall be not larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall be no larger than 10 acres;

(ii) The dwelling was lawfully established prior to June 1, 1995;

(iii) The remaining parcel, not containing the dwelling, is 80 acres or more in size or is consolidated with another parcel, and together the parcels are 80 acres or more in size;

(iv) The remaining parcel, not containing the dwelling, is not entitled to a dwelling; and

(v) The applicant landowner records in the deed records of the county a restriction applicable to the remaining parcel not containing the dwelling which prohibits the placement of any new dwellings on the parcel, and is irrevocable unless a statement is signed by the director indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to forest land; and

(vi) The applicant landowner records in the deed records of the county a statement declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

(C) To allow the division of a lot or parcel if:

(i) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;

(ii) Each dwelling currently complies with the criteria for a replacement dwelling under LCC 1.1375(1)(q);

(iii) None of the dwellings was approved under a statute, administrative rule or land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the lot or parcel;

(iv) At least one dwelling is located on each lot or parcel created;

(v) Not more than one of the lots or parcels created is less than two acres or greater than five acres in size; and

(vi) The landowner of a lot or parcel created under this subparagraph provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the lot or parcel has been recorded in the county deed records. A restriction imposed under this subsubparagraph shall be irrevocable unless a statement of release is signed by the director indicating that the land use regulations applicable to the subject lot or parcel have been changed so that the lot or parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use.

(D) To facilitate a forest practice as defined in ORS 527.620, provided that there are unique, property specific characteristics present on the subject property that require an amount of land smaller than 80 acres in order to conduct the forest practice. The resultant parcels:

(i) May not result in a parcel of less than 35 acres, unless the purpose of the land division is to facilitate an exchange of lands involving a governmental agency, or to allow transactions where at least one participant is a person with a cumulative ownership of at least 2,000 acres of

forest land;

(ii) Are not eligible for the siting of a new dwelling;

(iii) May not be counted for purposes of authorizing a template dwelling pursuant to subsection (5) of this section; and

(iv) May not be used to justify re-designation or rezoning of any land zoned T-C or A-C.

(E) To allow a division to create two parcels if the division is for the purpose of allowing a provider of public parks or open space or a not-for-profit land conservation organization to purchase one of the resulting parcels, subject to the following:

(i) A parcel created by a division authorized by this subsection that is not purchased by a provider of public parks or open space or not-for-profit land conservation organization that contains a dwelling shall be large enough to support continued residential use.

(ii) A parcel created by a division authorized by this subsection that is not purchased by a provider of public parks or open space or not-for-profit land conservation organization that does not contain a dwelling is eligible for the siting of a dwelling as may be authorized under subsection (2) of this section.

(iii) For the parcel purchased by the provider of public parks or open space or not-for-profit land conservation organization, the purchaser shall record in the deed records of Lincoln County an irrevocable deed restriction prohibiting the siting of a dwelling on the parcel or development of the parcel for any purpose other than park or conservation use, and prohibiting the owner or successors in interest from pursuing a cause of action or claim of relief alleging injury from farming or forest practices for which a claim or action is not allowed ORS 30.936 or 30.937.

(iv) If a division of land authorized under this subsection results in the disqualification of a parcel for special assessment described in ORS 308A.718 or the withdrawal of a parcel from designation as riparian habitat under ORS 308A.365, the owner must pay the additional taxes as provided under ORS 308A.371 or 308A.700 to 308A.733 before final approval of the land division.

(F) For division of a lot or parcel that is partially within an acknowledged urban growth boundary where one of the parcels created is bounded by and outside of the urban growth boundary, provided that:

(i) If the parcel includes a dwelling, the parcel shall be large enough to support continued residential use;

(ii) If the parcel does not contain a dwelling, it is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

(iii) The parcel may not be considered in approving or denying an application for any other dwelling;

(iv) The parcel may not be considered in approving a re-designation or rezoning of forest lands, except to allow a public park, open space or other natural resource use; and

(v) The owner of the parcel records with the county clerk irrevocable deed restriction prohibiting the owner and all successors in interest from pursuing a cause of action or claim of relief alleging injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.

(c) The director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under the restrictions imposed by subsubparagraph (v) of subparagraph (B) of paragraph (b) of this subsection and of parcels that do not qualify for division under the

restrictions imposed under subsubparagraph (vi) of subparagraph (C) of this subsection. The record shall be readily available to the public for inspection.

(d) A landowner allowed a land division under subsection (b) of this section shall sign a statement that shall be recorded in the deed records of Lincoln County, declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

(e) Property line adjustments that result in the separation of a temporary hardship dwelling or any accessory structure or land area devoted to a home occupation from the parcel containing the primary dwelling are prohibited.

(5) **Template Dwellings**:

(a) Tracts Not Abutting a Public Road or Perennial Stream and Tracts of Less Than 60 Acres Which Abut a Perennial Stream:

A template dwelling may be approved on a tract which does not abut a road or perennial stream, or which abuts a perennial stream and is less than 60 acres in size, and meets the following qualifications:

(A) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the subject tract; and

(B) At least three dwellings existed on January 1, 1993, anywhere on the other lots or parcels described in subparagraph (A) of this paragraph.

(b) Tracts of Less Than 60 Acres Which Abut a Public Road:

A non-forest dwelling to be sited on a tract which is less than 60 acres in size and which abuts a road that existed on January 1, 1993, shall meet the following qualifications:

(A) All or part of 11 other lots or parcels that existed on January 1, 1993, are within either a 160 acre square centered on the subject tract or a 160 acre rectangle 1/4 mile wide and one mile long, centered on the subject tract and, to the maximum extent possible, aligned with the road; and

(B) At least three other dwellings existed on January 1, 1993, on the other lots or parcels described in subparagraph (A) of this paragraph.

(c) Tracts of 60 Acres or Greater Which Abut a Public Road or Perennial Stream:

A template dwelling may be approved on a tract which is 60 acres or greater in size and which abuts a road or perennial stream and meets the following qualifications:

(A) All or part of 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre rectangle 1/4 mile wide and one mile long centered on the subject tract and, to the maximum extent possible, aligned with the road or stream;

(B) At least three other dwellings existed on January 1, 1993, on the other lots or parcels described in subparagraph (A) of this paragraph. At least one of the three dwellings shall be on the same side of road or stream as the subject tract, and shall be either partially or wholly within the 160 acre rectangle or within 1/4 mile of the edge of the subject tract but not outside the length of the 160 acre rectangle; and

(C) If a road crosses the subject tract, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling.

(d) Lots or parcels within urban growth boundaries shall not be counted toward satisfying the qualification requirements for any dwelling permitted under this subsection.

(e) No dwelling may be permitted under this subsection on any tract which includes a dwelling.

(f) If the lot or parcel upon which a dwelling permitted under this subsection is to be sited is part of a tract, no additional dwellings may be permitted on any other lot or parcel within the tract. Deed restrictions shall be established pursuant to and in accordance with subsection (6) of this section.

(g) All dwellings permitted under this subsection shall be located on a lawfully created lot or parcel.

(6) **General Requirements for All Dwellings**:

In addition to the other applicable requirements of this chapter and this section, all dwellings authorized in the T-C zone shall be subject to the following conditions:

(a) The director shall notify the county assessor of any decision to approve a dwelling in the T-C zone.

(b) Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules.

(c) The planning department shall notify the county assessor of the above condition at the time the dwelling is approved.

(d) The property owner shall submit a stocking survey report to the county assessor and the assessor shall verify that the minimum stocking requirements have been met by the time required by Department of Forestry Rules.

(e) Upon notification by the assessor the Department of Forestry shall determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the department determines that the tract does not meet those requirements, the department shall notify the owner and the assessor that the land is not being managed as forest land. The assessor shall then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax.

(f) The applicant shall provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices Rules, OAR chapter 629. For purposes of this subsection, evidence of a domestic water supply means:

(A) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water;

(B) A water use permit issued by the Water Resources Department for the use described in the application; or

(C) Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.

(g) If road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the United States Bureau of Land Management, or the United States Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.

(h) For dwellings which are approved on a tract consisting of more than one lot or parcel, the applicant shall provide copies of covenants and restrictions which:

(A) Are set forth on a form prescribed by the division and recorded in the deed records of the county;

(B) Prohibit the location of any additional dwellings on any lot or parcel which is a part of the tract; and

(C) Are irrevocable, unless a statement of release is signed by the director and the Director of the Department of Land Conservation and Development.

(i) Enforcement of the covenants and restrictions required by this section may be undertaken by the Department of Land Conservation and Development or by Lincoln County.

(j) Failure to follow the covenants and restrictions requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants and restrictions.

(k) The director shall maintain a copy of the covenants and restrictions filed in the county deed records pursuant to this section and a map or other record depicting tracts which do not qualify for the siting of a dwelling under the covenants and restrictions. This map or other record shall be available to the public in the division office.

(L) Upon authorization of a dwelling in the T-C zone, the landowner shall execute and record in the deed records of Lincoln County a document binding on the landowner and the landowner's successors in interest prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.396 or 30.397.

(7) **Siting and Fire Protection Standards for Dwellings**:

The following siting fire protection standards shall apply to all new dwellings:

(a) Dwellings and structures shall be sited on the subject lot or parcel so that:

(A) They have the least impact on nearby or adjoining forest lands;

(B) The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;

(C) The amount of forest land used to site access roads, service corridors, the dwelling and structures is minimized; and

(D) The risks associated with wildfire are minimized. The division or commission may impose conditions on any dwelling approval which are deemed necessary to ensure conformance with the standards contained in this paragraph, including, but not limited to, requiring increased setbacks from adjoining properties, siting on that portion of a property least suitable for growing trees, or clustering near existing dwellings or roads.

(b) Dwellings shall have fire retardant roofs rated Class A in accordance with UL 790 or ASTM E108.

(c) Dwellings shall be sited on slopes of 40 percent or less.

(d) A primary fire break no less than 30 feet wide shall be provided and maintained. The primary firebreak may include a lawn, ornamental shrubbery or individual or groups of trees separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed.

(e) A secondary firebreak cleared of all dead fuels shall be provided and maintained. The size of the secondary firebreak shall be:

(A) On slopes of less than 10 percent, 50 feet beyond the primary firebreak.

(B) On slopes of 11 to 25 percent, 75 feet beyond the primary firebreak.

(C) On slopes of 26 to 40 percent, 100 feet beyond the primary firebreak.

(D) On slopes greater than 40 percent, 150 feet beyond the primary firebreak.

(f) All chimneys shall be equipped with a spark arrester.

(g) If a dwelling is to be located on a parcel that is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included in the nearest such district.

(h) If a dwelling is to be located on a lot or parcel that is not within a fire protection district, either:

(A) The applicant shall provide evidence that residential fire protection is provided to the property by contract and that such contracted service is comparable to that generally provided by fire protection districts in the rural areas of the county; or

(B) On site fire protection means are provided. Such means shall consist of:

(i) Fire sprinkling system or systems;

(ii) On-site water storage and pumping equipment. Such a water supply shall consist of a swimming pool, pond, lake or similar body of water and at all times contains at least 4,000 gallons or a stream with a minimum flow of one CFS. Road access shall be provided to within 15 feet of the water's edge for fire fighting equipment and shall provide a turnaround for fire fighting equipment; or

(iii) Other methods which provide at least a comparable level of protection to that contained in subsubparagraphs (i) and (ii) of this subparagraph, and which are reasonable given site conditions.

(8) **Fire Safety Design Standards for Roads**:

The following standards apply to all roads and driveways which access uses permitted under subsection (1) of this section or approved under subsection (2) of this section, except for private roads accessing only commercial forest uses:

(a) Width: Access roads serving three or fewer dwellings shall have a 12 foot improved width and a 20 foot horizontal clearance. Access roads serving more than three dwellings shall have a 16 foot improved width and a 20 foot horizontal clearance.

(b) Construction: Access roads must be improved with an all weather surface. Roads, bridges and culverts shall be designed and maintained to support a minimum gross vehicle weight (GVW) of 50,000 pounds. If bridges or culverts are involved in the construction of a road or driveway, written verification of compliance with the 50,000 pound GVW standard shall be provided by a professional engineer, registered in Oregon.

(c) Vertical Clearance: Access roads shall have an unobstructed vertical clearance of not less than 13.5 feet.

(d) Turnarounds: Dead end roads over 150 feet in length shall provide a turnaround adequate for emergency vehicles.

(e) Turnouts: Access roads greater than 400 feet in length shall have turnouts at a maximum spacing of one-half the length of the access road or 400 feet, whichever is less. Turnouts shall be required more frequently where visibility is limited. Turnouts shall be an all weather surface at least 10 feet wide and 40 feet long.

(f) Road Grade: Road grades shall not exceed 12 percent, except that a maximum of 15 percent may be permitted on pitches less than 200 feet long. Variations from these standards may be granted by the fire service having responsibility for the area when topographic conditions make

these standards impractical and where the local fire protection district states that their fire fighting equipment can negotiate the proposed road grades.

(g) The applicant shall provide an as-built certification stamped by a licensed professional engineer registered in the State of Oregon verifying that road safety design standards set forth in this section have been met.

(9) **Dimensional Standards**:

(a) The front yard shall be a minimum of 20 feet.

(b) Each side yard shall be a minimum of five feet, or one foot for each three feet of building height, whichever is greater.

(c) The rear yard shall be a minimum of 10 feet, except for that on a corner lot the rear yard shall be a minimum of either five feet, or one foot for each three feet of building height, whichever is greater.

(d) No structure shall be located closer than 30 feet from the right of way of any state highway, and no structure shall be located closer than 30 feet from the right of way of any arterial or collector street which has a right of way width of less than 60 feet.

(e) No dwelling or residential accessory structure shall exceed a height of 30 feet. [1994 o.347 §4; 2000 o.397 §3; 2001 o.408 §1; 2001 o.416 §3; 2017 o.499 §1]

1.1377 Public Facilities Zone P-F

In a P-F zone, the following regulations shall apply:

(1) **Uses Permitted Outright**

The following existing uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:

(a) Public parks and playgrounds, swimming pools, golf courses or similar recreation facility intended for use by the public.

(b) Public schools and associated facilities.

(c) Hospitals.

(d) Government use.

(e) Solid waste disposal site.

(f) Beach front protective structures.

(2) **Conditional Uses Permitted**

Expansion of existing facilities that would substantially increase overall capacity or the conversion of one outright use to another may be permitted when authorized in accordance with the provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699 and 1.1901 to 1.1999.

(a) Public park and playground, golf course, swimming pool or similar recreation facility.

(b) Public schools and associated facilities.

(c) Hospitals.

(d) Government use.

(e) Solid waste disposal site.

(f) Conversion of one outright use to another outright use.

1.1379 Public Park Master Plan Zone PMP

(1) Purpose:

The purpose of the PMP Zone is to facilitate the development, maintenance and enhancement of state and local public parks. The PMP zone is intended to provide for the

implementation of state park master plans adopted by the Oregon Parks and Recreation Department pursuant to OAR chapter 736, division 18, and ORS 390.180, and local park master plans adopted by the Lincoln County Board of Commissioners pursuant to OAR chapter 660, division 34.

(2) Uses Permitted Outright:

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599 and 1.1901 to 1.1999:

(a) All land uses, facilities and improvements set forth in the applicable state park master plan adopted by the Oregon Parks and Recreation Department pursuant to OAR chapter 736, division 18, and ORS 390.180, including "minor variations" of such uses as defined in OAR 736-018-0040.

(b) All land uses, facilities and improvements set forth in the applicable local park master plan adopted by the Lincoln County Board of Commissioners pursuant to OAR chapter 660, division 34. [2016 o.486 §1]

1.1380 Planned Development (PD)

(1) Purpose:

The purpose of the planned development procedure is to encourage and promote creativity and innovation in site planning, design and development through the application of flexible land development standards. Application of the planned development procedure is intended to:

(a) Allow for and encourage development designs which provide suitable recognition of the physical, topographic, cultural, historical and natural resource values and constraints present on a particular site;

(b) Permit greater flexibility in the siting of buildings and other physical improvements and in the mixing of housing types and other compatible non-residential uses in order to accomplish desirable design objectives; and

(c) Ensure that development occurs in a manner consistent with the intent and purpose of the goals and policies of the comprehensive plan.

(2) General Requirements:

The following requirements shall govern planned developments:

(a) A planned development may be established in any zone other than a T-C zone or an A-C zone.

(b) Notwithstanding the provisions of the applicable use zone or zones, on land subject to an approved planned development, only those uses, structures and other forms of development which have been set forth and authorized in a preliminary development plan approved in accordance with the provisions of this section may be established.

(c) A planned development may include any uses permitted outright or conditionally in any zone, except that uses permitted only in an I-P, or M-P zone shall not be permitted in an R-1, R-2, R-3, R-4, C-1, C-2, C-T, or M-W zone.

(d) Overall residential density shall be as provided for in the applicable use zone or zones. Density shall be computed based on the total gross land area of the subject property, excluding area devoted to commercial or other nonresidential uses.

(e) No building shall exceed a height of 45 feet.

(f) For a planned development in a residential zone, the total land area devoted to

industrial and commercial uses, including required off street parking, other than hotel, motels, trailer parks, resorts, and similar accommodations, shall not exceed five percent of the total land area of the development. Any commercial and industrial uses shall be directly related in purpose and function to the remainder of the planned development.

(g) In a residential zone, where commercial or industrial uses are being developed in conjunction with residential uses, construction of the commercial or industrial uses shall not be initiated until 25 percent of the residential units have been developed.

(h) Yards, setbacks, lot area, lot coverage and similar dimensional requirements may be reduced, adjusted or otherwise modified consistent with the design objectives of the proposed development.

(i) In the event of a conflict between any applicable use zone provision and the allowances, limitations or requirements of an approved preliminary plan, the approved preliminary plan shall control.

(3) Preliminary Plan:

The initial step in the establishment of a planned development shall be the submission of a preliminary plan, which shall be reviewed and acted upon in accordance with the provisions of this section:

(a) Preliminary Plan Review Procedure: The procedure for application and review of a preliminary plan of a planned development shall be as set forth in LCC 1.1210 (3).

(b) Content of the Preliminary Plan: Application for preliminary plan approval of a planned development shall include, in addition to the forms prescribed by the division, a preliminary plan consisting of the following:

(A) A site plan map or maps depicting all proposed residential and nonresidential land uses, including typical architectural detail, and also including location of all proposed lot or parcel boundaries, if the proposal involves a division of land, all proposed roads and pedestrian access, location of significant natural features such as wetlands, stream courses, environmental hazards, and fish and wildlife habitat areas, location of any proposed open space, recreation areas or other common elements, and approximate topography with contour intervals of not more than 10 feet.

(B) A written narrative describing the character of the proposed development, the manner in which it has been designed to conform to the purpose of the planned development procedure, including detailed discussion of how the proposal conforms to the requirements of paragraph (c) of this subsection, proposed methods of providing sewer, water and other utility services, the method proposed for ownership and maintenance of private common areas, buildings, structures, roads or other facilities, proposed covenants, restrictions and bylaws of any homeowners association, and the proposed time schedule of development, including plans for phasing, if any.

(C) Other maps or narrative materials needed to determine compliance with any applicable provisions of this chapter, as determined by the division.

(c) Preliminary Plan Approval Criteria: Approval by the planning commission of a preliminary plan of a planned development shall be based on findings that the following criteria are satisfied:

(A) All of the applicable general requirements in LCC 1.1450(2) are met;

(B) The proposed development will not be inconsistent with the comprehensive plan provisions or zoning objectives for the area;

(C) The proposed development will provide the following amenities or protections at a

higher level than would otherwise be provided under conventional land development procedures: Protection of significant natural and cultural features and resources, such as historical, scientific and cultural resources, fish and wildlife habitats, stream corridors, riparian areas, and wetlands; maintenance, enhancement or establishment of natural vegetation, especially indigenous plant communities; protection of scenic and aesthetic qualities; and creation of a high quality built environment which harmonizes with the natural and physical features of the site and includes design features such as suitably located open space, recreation facilities, and other public and common facilities, and also includes pedestrian oriented development which reduces reliance on automobile travel, provision of solar access or similar measures to promote energy conservation, or avoidance of risks and costs associated with environmental hazards.

(D) In acting to approve a preliminary plan, the commission may impose any conditions or limitations it finds necessary to achieve compliance with any provisions of this chapter.

(d) Time Limit on Preliminary Plan Approval: Approval of a preliminary plan in accordance with this section is valid for a period of two years, unless a longer period of time is specifically authorized by the commission.

(e) Time Extension on Preliminary Plan Approval: Approval of a preliminary plan of a planned development may be extended beyond the two year or other approved period upon request. Requests for time extensions shall be made to the division on a form prescribed by the division. Requests for time extensions shall be considered and acted upon in accordance with LCC 1.1210(1). In considering a request for a time extension, the director or commission may consider to what extent any required improvements have been constructed or completed, whether there have been any changes in circumstances or in applicable code or statutory requirements which could have affected the original approval, and whether additional conditions or requirements could be imposed on the preliminary plan approval which would satisfactorily address any deficiencies resulting from changed circumstances or code or statutory requirements. In granting a request for a time extension, the director or the commission may impose such additional conditions or requirements as are considered appropriate. A time extension shall be for a period of one year. Not more than three time extensions of a preliminary plan approval may be granted.

(4) Final Plan:

Upon completion of all conditions and requirements of a preliminary plan of a planned development, application may be made for final plan approval, in accordance with the provisions of this section:

(a) Final Plan Review Procedure: The procedure for application and review of a request for final plan approval of a planned development shall be as set forth in LCC 1.1210(1).

(b) Certifications Required for Final Plan Approval: Requests for final plan approval of a planned development shall be accompanied by the following certifications:

(A) A copy of all covenants and restrictions.

(B) Copies of legal documents required for dedication of public facilities or for the creation of a homeowner's association.

(C) The certification, performance agreement or statement regarding the availability of water and sewerage services.

(D) As-built certifications for all required roads and utilities unless otherwise guaranteed by a performance agreement.

(E) If the planned development involves a division of land, the certifications required by

LCC 1.1337(7).

(F) Other certifications required as a condition of the preliminary plan approval.

(c) Final Plan Approval Criteria: The director or commission shall approve a final plan of a planned development, provided that:

(A) The submitted final plan is in substantial conformance with the approved preliminary plan; and

(B) All of the certifications required by paragraph (b) of this subsection have been submitted in proper form. [1997 o.367 § 1]

1.1381 Coastal Shorelands (CS) Overlay Zone

(1) **Purpose**

The purpose of the Coastal Shorelands Overlay Zone is to recognize the value of coastal shore lands for the protection and maintenance of water quality, fish and wildlife habitat, water dependent uses, economic resources, recreation and aesthetics. The C-S zone, in conjunction with various underlying zones, implements the Coastal Shorelands policies contained in the Lincoln County Comprehensive Plan.

(2) **Application**

The provisions of the C-S zone shall apply to all areas identified as within the Coastal Shorelands boundary on the Lincoln County Comprehensive Plan and zoning maps. The provisions of the C-S zone are to be applied in conjunction with the provisions of the underlying zone. Where the provisions of the C-S zone and the underlying zones conflict, the more restrictive provisions shall apply.

(3) **Permitted**

In a C-S overlay zone any of the outright or conditional uses authorized in the underlying zone may be permitted, subject to the applicable provisions of LCC 1.1400 to 1.1499, 1.1500 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999 and the additional provisions of this overlay zone.

(4) **Procedure**

Applicants requesting approval for land use actions within the areas subject to the provisions of the C-S zone shall submit, along with any application, a detailed site plan and/or written statement demonstrating how the proposed activities will conform to each of the applicable standards contained in the C-S zone. Planning Division or Planning Commission review of such applications shall proceed in accordance with the applicable provisions of this chapter.

(5) **Standards**

The following standards will be applied in reviewing an application for a land use action in the C-S zone:

(a) **Riparian Vegetation**

(A) Permanent removal of riparian vegetation shall be permitted only in conjunction with a use which requires direct access to water.

(B) Except as provided in subparagraph (A) of this paragraph, no development which would result in a permanent destruction of vegetation within the riparian vegetation boundary as defined in the Comprehensive Plan Inventory may be permitted.

(C) Temporary removal of riparian vegetation may be permitted subject to a revegetation plan approved by the County which specifies:

(i) Temporary stabilization methods; and

(ii) The method and timing of permanent revegetation with native species.

(b) **Significant Wildlife Habitat and Major Marshes**

(A) No residential, commercial, or industrial development shall be permitted in major marshes or significant wildlife habitat as identified in the Comprehensive Plan Inventory.

(B) Fill or removal activities shall not be permitted in major marshes as identified in the Comprehensive Plan Inventory except that fill or removal may be permitted for maintenance, restoration or repair of existing public roads or highways, public utility transmission lines, or similar public facilities, if:

(i) The amount of fill and removal is limited to that necessary to reasonably accomplish the use; and

(ii) Project impacts, taken as a whole, including any required mitigation, are found to be consistent with the maintenance of the identified natural values of the site.

(C) Development proposed adjacent to a major marsh or significant wildlife habitat shall be located no closer than 50 feet from the marsh or habitat area.

(D) Low intensity structural developments such as hiking trails, platforms for wildlife viewing or similar types of educational, scientific or recreational uses may be permitted under the following conditions:

(i) Such development shall not act as a barrier to fish or wildlife species.

(ii) Such development shall not result in major disturbances or displacement of fish or wildlife species.

(iii) Such development shall not alter a water course.

(iv) Such development shall not result in a permanent destruction of wetland vegetation.

(c) **Coastal Headlands and Exceptional Aesthetic Resources:**

(A) Development on coastal headlands or in areas of exceptional aesthetic quality shall not substantially alter the scenic character of the area.

(B) Development on coastal headlands shall not substantially alter the natural vegetative cover.

(d) **Historic and Archaeological Sites:**

(A) Development on identified archaeological sites shall be conducted in a manner so as to minimize site disturbances and prevent irreversible loss of archeological resources.

(B) Development on historic sites, as identified in the Comprehensive Plan Inventory, shall not diminish the value of such sites historic resources.

(C) Alterations to identified structures shall be conducted in a manner so as to maintain the historic value of such structures.

(e) **Land Divisions:**

Subdivisions and major or minor partitions may be permitted on lands outside of urban growth boundaries only upon findings that:

(A) Such uses satisfy a need which cannot be accommodated at other upland locations or in urban or urbanizable areas; and

(B) Such uses will be consistent with the provisions of this section to protect significant habitats and riparian vegetation.

(f) **Shoreland Stabilization:**

(A) Shoreline stabilization procedures shall be confined to those areas where:

(i) Active erosion is occurring which threatens existing uses or structures; or

(ii) New development or redevelopment of water dependent or water related uses requires protection for maintaining the integrity of upland structures or facilities.

(B) The following, in order, are the preferred methods of shoreline stabilization:

(i) Vegetative or other non-structural.

(ii) Vegetated rip rap.

(iii) Unvegetated rip rap.

(iv) Bulkheads or sea walls.

Structural shoreline stabilization methods shall be permitted only where a higher priority method is not feasible.

(C) Materials to be used must be clean and of a non-erodible quality that will allow long-term stability and minimize maintenance. Materials which could create water quality problems or which will rapidly deteriorate are not permitted.

(D) Minor modification of the bankline profile may be permitted on a case-by-case basis. These alterations shall not be for the purpose of gaining additional upland area.

(E) Shoreline stabilization structures shall be designed and located so as to minimize impacts on aquatic life and habitat, circulation and flushing characteristics, and patterns of erosion and accretion. [1993 o.316 § 1]

1.1384 Dredged Material Disposal Site (DMDS) Overlay Zone

(1) **Purpose:**

The purpose of the DMDS Overlay Zone is to protect dredged material disposal sites from incompatible development prior to their being needed for disposal of dredged spoils.

(2) **Permitted Uses:**

In a DMDS Overlay Zone, any of the outright or conditional uses authorized in the underlying zone may be allowed, subject to the applicable provisions and standards of this chapter and the additional provisions of this section.

(3) **Standards:**

Any outright or conditional use in a DMDS Overlay Zone shall conform to the following standards:

(a) The proposed use will not prevent future use of the site for dredged material disposal; or

(b) Alternative disposal sites or methods of disposal are available to accommodate projected dredged needs as set forth in the Lincoln County Dredged Material Disposal Plan, Lincoln County Ordinance # 182, hereby incorporated into this chapter by reference.

(4) **Procedure:**

In a DMDS Overlay Zone, the Lincoln County Planning Commission, Planning Director, and Building Official, shall not approve a land development or building permit which would prevent future use of a site for dredged material disposal until:

(a) All affected Port Districts established pursuant to ORS chapter 777 have been notified of the proposed development permit by return receipt mail;

(b) A period of 90 days has elapsed from the delivery date of the notice set forth above; and

(c) The County has determined that adequate alternative disposal sites or methods of disposal are available to accommodate projected dredged needs as set forth in the Lincoln County Dredged Material Disposal Plan, Ordinance # 182.

(5) **Zoning Maps:**

The dredged material disposal sites, as provided for in the Lincoln County Dredged Material Disposal Plan, Ordinance # 182, shall be recorded on the official zoning maps of Lincoln County as provided in Section II of this Ordinance # 209.

1.1385 Foredune Management Overlay Zone

(1) **Purpose:**

The purpose of the Foredune Management Overlay Zone is to implement the management strategy, monitoring and maintenance program and other components as specified in the Bayshore Dune and Foredune Management Plan (Bayshore Plan) adopted under LCC 1.0108. The overall objectives of the foredune management strategy for Bayshore, located on the Alsea Spit, listed in order of descending priority are:

(a) To maintain or improve on the ability of the foredune to protect properties from ocean flooding and wave erosion;

(b) To minimize the inundation of improvements by accumulation of wind-blown sand;

(c) To maintain and improve public access to the beach; and

(d) To maintain, or restore ocean views.

(2) **Applicability:**

The provisions of this section shall apply to the area delineated in Figure 2 of the Bayshore Plan, encompassing seven (7) Management Units located along the seaward edge of the Alsea Spit and one Management Unit (MU8) at the tip of the spit fronting on the Alsea Bay.

(3) **Definitions:**

As used in this section:

(a) "Dune nourishment" means augmentation of the natural sediment supply within a foredune area.

(b) "Foredune grading" means alteration of the foredune area through sand transfer or removal of sand by mechanical means in order to accomplish view grading and/or preventative grading.

(c) "Infrastructure grading" means removal of sand which is physically inundating roadways, beach accesses, septic systems, and underground utilities, thereby causing damage, impeding vehicular and pedestrian movements, and otherwise interfering with service provision and operations related to the impacted infrastructure systems.

(d) "Management Unit" means a discrete segment of foredune area identified, described and numbered as a Management Unit in the Bayshore Plan.

(e) "Preventative grading" means the removal of sand which threatens to inundate a structure from the immediate vicinity of the structure.

(f) "Qualified Professional" means either an Oregon Registered Geologist or Certified Engineering Geologist, with experience working on Pacific Northwest beaches.

(g) "Remedial grading" means removal of sand from a developed lot which is physically inundating a structure and causing damage or preventing access to the structure, or removal of sand from a vacant lot which is threatening to inundate adjoining lots.

(h) "Sand Removal" means the mechanical movement of sand to alternative disposal areas outside the Foredune Management Area.

(i) "Sand Transfer" means the mechanical or natural movement of sand within and between management units.

(j) "View grading" means grading of dune areas for the purpose of restoring, obtaining, or maintaining views from existing structures.

(4) **Uses:**

In areas subject to the provisions of this section, all uses permitted under the provisions of the underlying zone are permitted, subject to the additional requirements and limitations of this section. Notwithstanding any contrary provisions of LCC 1.1930, the following activities are also permitted, subject to the requirements and limitations of this section:

(a) Foredune grading.

(b) Infrastructure grading.

(c) Remedial grading on individual developed or vacant lots.

(d) Dune nourishment.

(e) Vegetation planting, stabilization and maintenance.

(f) Sand fencing.

(g) Sand transfer.

(5) **Prohibited Uses:**

The following uses and activities are prohibited in the Foredune Management Overlay Zone:

(a) Sand removal, except transfers between and within Management Units consistent with the Bayshore Plan: Management Strategy.

(b) Dune grading below the elevations established in the Bayshore Plan: Management Strategy.

(6) **Dune Grading Permit Required:**

(a) In the Foredune Management Overlay Zone, no foredune grading may be undertaken unless a Foredune Grading Permit has been obtained from Lincoln County.

(b) In the Foredune Management Overlay Zone, no remedial grading, or infrastructure grading may be undertaken unless a Remedial/Infrastructure Grading Permit has been obtained from Lincoln County.

(7) **Foredune Grading Permits:**

(a) Procedure:

(A) Application, review, decision and appeals for Foredune Grading Permits shall be conducted in the manner provided for in LCC 1.1210(2). In acting to approve an application for a Foredune Grading Permit, the Planning Division or the Planning Commission may impose, in addition to the conditions specifically set forth herein, any conditions determined to be necessary to ensure that authorized grading, restoration and maintenance activities will be consistent with the policies and requirements for the affected Management Units as set forth in the Bayshore Plan.

(B) Foredune Grading Permits shall be valid for a period five (5) years from the date of issuance.

(C) Foredune Grading Permits may be renewed as follows:

(i) Prior to the expiration of the permit, the permitee shall submit a written request to the Planning Division for renewal of the permit. Such a request may be accompanied by a report prepared by a Qualified Professional as defined in Section 1.1385(3)(f) who establishes, based on current conditions, that the grading, restoration and maintenance activities authorized by the permit are consistent with the policies and requirements for the affected Management Units as set forth in the Bayshore Plan. If not prepared by a Qualified Professional as defined in Section 1.1385(3)(f), the permittee shall submit a certification that the grading, restoration and maintenance activities authorized by the permit are consistent with the policies and requirements for the affected Management Units as set forth in the Bayshore Plan, acknowledge that the certification was not

prepared by a Qualified Professional as defined in Section 1.1385(3)(f) and acknowledge that the permittee assumes responsibility for actions taken pursuant to the permit.

(ii) Review, decision and appeal for requests for renewal of Foredune Grading Permits shall be undertaken in accordance with LCC 1.1210(2). In acting upon a request for renewal of a Foredune Grading Permit, the Planning Division or the Planning Commission may impose, in addition to the conditions specifically set forth herein, any conditions determined to be necessary to ensure that authorized grading, restoration and maintenance activities will be consistent with the policies and requirements for the affected Management Units as set forth in the Bayshore Foredune Management Plan.

(iii) If beach and foredune conditions change to such an extent during the permit period that renewal of an existing foredune grading permit is not appropriate, then a new permit application, including a new grading plan and permit conditions, is required. The Qualified Professional as defined in Section 1.1385(3)(f) may make this determination in the report specified in (i) above. [2014 o.473 §2]

(b) Foredune Grading Plan

Applications for Foredune Grading Permits shall be accompanied by a Foredune Grading Plan. Foredune Grading Plans may be prepared by a Qualified Professional as defined in Section 1.1385(3)(f) or the permittee who shall submit a certification that the grading, restoration and maintenance activities authorized by the permit are consistent with the policies and requirements for the affected Management Units as set forth in the Bayshore Plan, acknowledge that the certification was not prepared by a Qualified Professional as defined in Section 1.1385(3)(f) and acknowledge that the permittee assumes responsibility for actions taken pursuant to the permit. Foredune Grading Plans shall contain at least the following information, set forth in sufficient detail to establish that the proposed grading, restoration and maintenance activities will be consistent with the policies and requirements for the affected Management Units as set forth in the Bayshore Plan:

(A) Narrative describing the proposed work;

(B) Plan view and elevations expressed in NAVD 88 of existing conditions in the work area;

(C) Plan view and elevations expressed in NAVD 88 of proposed modifications in the work area, demonstrating general consistency with grading profiles for the Management Unit(s) in which the work is to be performed;

(D) Identification of needed remedial and/or infrastructure grading within the project area and a description of how such grading will be integrated into the proposed work;

(E) Surveyed profiles for subarea grading designs sufficient to establish a baseline for monitoring;

(F) Revegetation plans consistent with the specific Management Unit recommendations;

(G) Monitoring and maintenance plan for the work area consistent with the requirements of this section;

(H) Identification of the person(s) responsible for supervising the project; and

(I) Identification of sand disposal area(s).

(c) Foredune Grading Permit Decision Criteria:

A decision to approve a Foredune Grading Permit shall be based on the following findings:

(A) The proposed grading, restoration, monitoring and maintenance plan encompasses an entire Management Unit or a contiguous segment of not less than 400 feet, as measured along the statutory vegetation line;

(B) The proposed grading will not reduce the height of any foredune below four feet above the V-zone Base Flood Elevation;

(C) The plan incorporates, to the extent practicable, all needed remedial and infrastructure grading within the project area; and

(D) The proposed grading, restoration, monitoring and maintenance plan is consistent with the policies and requirements for the affected Management Units as set forth in the Bayshore Plan.

(d) Foredune Grading Permit Conditions

In addition to any conditions imposed pursuant to sub-section (7)(a)(A), all Foredune Grading Permits shall be subject to the following conditions:

(A) Sand removal is prohibited. Transfers between and within Management Units is permitted in accordance with the approved Foredune Grading Plan;

(B) No foredune shall be reduced in height to less than four feet above the V-zone Base Flood Elevation;

(C) Except as provided for in subsection (D) grading shall be conducted only between February 1 and April 1, or between October 1 and October 31;

(D) Grading may be conducted at any time if it is determined that adequate temporary stabilization measures can be provided prior to permanent revegetation provided for in subsection (E).

(E) Upon completion of authorized grading activities, any required temporary stabilization shall be established. Permanent revegetation shall be accomplished in accordance with the approved Foredune Grading Plan;

(F) Within 30 days of completion of the initial grading and revegetation, the permitee shall submit to the director a written statement from a qualified professional as defined in Section 1.1385(3)(f) or the permittee that the project has been completed in conformance with the provisions of the Foredune Grading Plan;

(G) Within one year of completion of the initial grading and revegetation, and annually thereafter during the time within which the permit remains valid, the permitee shall submit a monitoring report prepared by a qualified professional defined in Section 1.1385(3)(f) or the permittee that shall include:

(i) Profiles of the project area;

(ii) Photographic documentation of the current condition of the project area;

(iii) Recommendations for any vegetation maintenance needs, including repair of vegetation, replanting of blow out areas, and fertilization;

(iv) Recommendations for any needed shaping of the foreslope and/or maintenance grading of the foredune crest;

(v) Recommendations for any remedial or infrastructure grading;

(vi) Recommendations for the placement of sand fencing; and

(vii) Specified time frames for performing recommended maintenance activities;

(H) All maintenance activities and treatments recommended in the annual monitoring report required by this subsection shall be completed by the permitee within the time frames set forth in the report.

(8) **Remedial/Infrastructure Grading Permits**:

Pursuant to Section 7(c)(C) of this Section, where practicable, all remedial and infrastructure grading shall be established as part of a foredune grading permit. In cases where needed remedial and infrastructure grading cannot be accomplished as part of a foredune grading permit, such grading may be permitted in accordance with this subsection.

(a)Procedure:

(A) Application, review, decision and appeals for Remedial/Infrastructure Grading Permits shall be conducted in the manner provided for in LCC 1.1210(1). In acting to approve an application for a Remedial/Infrastructure Grading Permit, the Planning Director or the Planning Commission may impose, in addition to the conditions specifically set forth herein, any conditions determined to be necessary to ensure that authorized grading, restoration and maintenance activities will be consistent with the policies and requirements for the affected Management Units as set forth in the Bayshore Plan.

(B) Remedial/Infrastructure Grading Permits for remedial grading shall authorize grading on a single lot or parcel only, except for infrastructure grading within dedicated road right of ways which may be authorized for all or any portion of a road right of way.

(C) Remedial/Infrastructure Grading Permits shall be valid for a period one year from the date of issuance.

(D) Remedial/Infrastructure Grading Permits may be renewed prior to the date of expiration upon written request of the permittee and a determination by the Planning Division that all applicable conditions have been complied with.

(b) Remedial/Infrastructure Grading Permit Conditions

In addition to any conditions imposed pursuant to sub-section (8)(a)(A), all Remedial/Infrastructure Grading Permits shall be subject to the following conditions:

(A) All remedial and infrastructure grading activities shall be performed in a manner that avoids alteration of the existing height of the foredune and does not significantly damage existing vegetation;

(B) All sand removed from a property during remedial grading shall be moved up and over the foredune seaward of the building and shall be accomplished in a manner that minimizes disturbance to existing dune height, vegetation, and the beach;

(C) Only one disposal access shall be allowed on the property for the purpose of pushing sand up and over the foredune seaward of the structure. The access shall be limited to the minimum width necessary to accommodate the equipment being used and in no case wider than 8 feet. Upon completion of the project, the access shall be re-contoured to the height of the existing adjacent dune;

(D) On properties where the foredune has been previously lowered below the undisturbed foredune height on the rear (seaward) yard, the foredune shall be allowed to build up and no grading is allowed;

(E) Permanent stabilization of any portion of the foredune disturbed by remedial sand removal activities shall be accomplished through planting, fertilization, and maintenance of European beachgrass. Beach grass shall be planted at a spacing of 18 inches and carried out between November 1 and April 1. After initial planting and fertilization, stabilization shall include follow-up fertilization. Planting shall also include the re-contoured area used for the disposal access road. Documentation of revegetation efforts shall be provided to the Planning & Development Department within 10 days after planting has been completed;

(F) Remedial grading adjacent to structures shall be limited to the following:

(i) Rear yard: (Rear yard is the yard seaward of the structure). Sand may be removed to the level of the top of the sill of the foundation within 10 feet of the building, or the base of an existing deck. From the 10-foot line, all grading shall slope upward to where it intersects the ground surface of the existing dune at a ratio of 2:1 (horizontal:vertical).

(ii) Side yards: Sand may be removed to the level of the top sill of the foundation within 10 feet of the building (if possible). From the 10-foot line, sand grading shall slope upward at a ratio of 2:1.

(iii) Front yard: All sand that is landward of the building may be removed down to the sill level of the foundation, provided removal does not create slopes of more than 2:1 with adjacent properties. Grading may not lower the front yard below the level of adjacent streets or roads except to clear sidewalks or driveways; and

(G) Remedial grading on vacant lots shall conform to the following requirements:

(i) Vacant lots shall, at a minimum, be graded to alleviate sand sloughing hazards to adjoining properties by grading the slopes of the vacant lots so they do not exceed gradients of 2:1 (horizontal:vertical). Such minimal grading is expected to require regular maintenance to maintain a maximum slope of 2:1.

(ii) Vacant lots should optimally be graded to elevations that are similar to adjoining lots but in no case shall be lowered below an elevation which is 4 feet above the BFE for the relevant management unit.

(iii) A site-specific plan should be prepared specifying where the sand will be placed on the beach or lower seaward side of the foredune.

(iv) Vegetation Stabilization: Graded areas shall be stabilized with vegetation after completion of grading as indicated below:

1. Planting and fertilization for vacant lots and associated disposal areas shall be carried out during rainy months between November 1 and April 1 in accordance with specifications in the Bayshore Plan, except that approved disposal areas within the typical tidal range need not be vegetated.

2. Barriers should be constructed around graded vacant lots to prevent trampling of the planted areas. [2012 o.466 §5; 2014 o.473 §2; 2014 o.477 §2]

1.1386 through 1.1394 [repealed 1987 o.255 §1]

1.1395 Flood Hazard Overlay Zone

(1) **Purposes:**

The purposes of the Flood Hazard Zone are to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas, all in accordance with LCDC Statewide Planning Goal 7 and Lincoln County Comprehensive Plan Natural Hazard Policies. The regulation of uses within this zone is intended to:

(a) Protect human life and health;

(b) Protect property and structures;

(c) Minimize public costs for flood control projects;

(d) Minimize public costs of rescue and relief efforts associated with flooding;

(e) Minimize business interruptions due to flooding;

(f) Minimize damage to public facilities and utilities including water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood hazard areas;

(g) Maintain a stable tax base by providing for appropriate use and development of areas of flood hazard;

(h) Make the designation of property subject to flood hazards a matter of public record; and

(i) Qualify Lincoln County for participation in the National Flood Insurance Program.

(2) **Area Affected:**

The provisions of this section shall apply to all areas of special flood hazard [*as*] identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Lincoln County and Incorporated Areas" dated December 18, 2009, with accompanying Flood Insurance Rate Maps (FIRM). **"**The Flood Insurance Study for Lincoln County and Incorporated Areas" and the accompanying FIRM dated December 18, 2009 are hereby adopted by reference and made a part of this section.

(3) **Uses:**

In areas subject to the provisions of this section, all uses permitted under the provisions of the underlying zone may be permitted, subject to the additional requirements and limitations of this section. Notwithstanding the provisions of the underlying zone, the nonpermanent placement of a recreational vehicle on an individual lot between April 15 and October 15, subject to the provisions of subsection (13) of this section, shall be permitted as an outright use in areas subject to the provisions of this section.

(4) **Permits:**

(a) No structure or manufactured dwelling shall he erected, located, altered, improved or enlarged, and no other new development, including but not limited to grading, mining, excavation and filling, shall occur on lands within any area of special flood hazard unless a Floodplain Development Permit specifically authorizing the proposal has been obtained from Lincoln County.

(b) Application, review and appeals for Floodplain Development Permits shall be initiated and conducted in the manner provided for in LCC 1.1210, and shall also include evaluation to determine that all necessary permits have been obtained from all federal, state, and local governmental agencies from which prior approval is required.

(5) **County Records:**

(a) The Director shall obtain and maintain on file the actual elevation (in relation to NAVD 88) of the lowest floor, including basement, of all new or substantially improved structures in areas subject to the provisions of this section. In zones V and V1-30 the actual elevation of the lowest horizontal structural member, excluding pilings or columns, shall be obtained and maintained on file.

(b) For all new or substantially improved floodproofed structures in areas subject to the provisions of this section, the Director shall obtain and maintain on file the actual elevation[,] **(**in relation to NAVD 88)[,] of the flood proofing, and shall also maintain the flood proofing certifications required pursuant to subparagraph (C) of paragraph (c) of subsection (6) of this section.

(c) Notwithstanding paragraphs (a) and (b) of this subsection, there shall be no requirement to obtain and maintain on file the actual elevation of the lowest floor, or of flood proofing measures, for new or substantially improved structures in areas where specific base flood elevations are not known.

(6) **Development Standards for FIRM Zones A, AE and A-0:**

The following standards shall apply to all new construction, substantial improvement or other development in areas within FIRM Zones A, A1-30 and A-0:

(a) All new construction and substantial improvement**,** including manufactured dwellings**,** shall be anchored to prevent flotation, collapse, and lateral movement of the structure, and shall be constructed with flood resistant materials, utilizing methods and practices to minimize flood damage.

(b) All new and substantially improved residential structures shall have the lowest floor, including the basement, elevated to at least one foot above the base flood elevation. All new and substantially improved manufactured dwellings shall have the lowest floor, including the basement, elevated to at least eighteen (18) inches above the base flood elevation. In FIRM Zone A-0, the base flood elevation shall be defined as 12 inches above the highest adjacent grade. Except as otherwise provided in paragraph (c) of subsection (5) of this section, elevation of the lowest floor shall be documented with a survey certified by a State of Oregon Registered Professional Engineer or Professional Land Surveyor. For purposes of this section, an unfinished garage used solely for parking or storage**,** either attached or detached, may be considered a nonresidential structure.

(c) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated at least one foot above the base flood elevation, with proper documentation as set forth in paragraph (b) of this subsection or, together with attendant utility and sanitary facilities, shall:

(A) The structure and uses therein shall be of types which have a low flood damage potential, such as unfinished garages and pole buildings used solely for parking and storage, and unfinished storage buildings;

(B) Have structural components capable of withstanding hydrostatic and hydrodynamic loads, effects of buoyancy, flood depths pressures, velocities and other factors associated with the base flood; and

(C) Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied.

(d) Notwithstanding the provisions of paragraph (c) of this subsection, nonresidential structures utilizing flood proofing methods which permit the entry of floodwaters may be authorized, provided the following requirements are met:

(A) The structure and uses therein shall be of types which have a low flood damage potential, such as pole buildings used for parking and storage, and unfinished storage buildings;

(B) The contents and interior finish materials of the structure shall be of types which are neither hazardous nor vulnerable to loss under conditions of flooding;

(C) The structure shall have structural components capable of withstanding hydrostatic and hydrodynamic loads, effects of buoyancy, flood depths, pressures, velocities and other factors associated with the base flood;

(D) The structure shall be designed to allow for the automatic entry and exit of floodwaters in accordance with paragraph (g) of this subsection; and

(E) The owner shall be provided notice by the Planning Division that placement of a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25.00 per $100.00 of insurance coverage.

(e) All manufactured dwellings shall be placed on a permanent foundation and shall be anchored to resist flotation, collapse and lateral movement by providing tie downs and anchoring as specified in the Oregon Manufactured Dwelling and Park Specialty Code.

(f) Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be designed or located so as to prevent water from entering or accumulating within components during conditions of flooding.

(g) For all new construction and substantial improvements that are elevated, fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall he no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters. Fully enclosed areas below the lowest floor of elevated buildings are usable solely for the parking of vehicles, building access, or storage in an area other than a basement.

(h) For structures on slopes within FIRM Zone A-0, adequate drainage paths around the structures to guide floodwaters around and away from proposed structures are required.

(i) All subdivision proposals shall be designed to minimize flood damage, shall provide adequate drainage, and shall have public utilities and facilities constructed to minimize flood damage.

(j) New construction or substantial improvement may be exempted from the requirements of this subsection upon review and approval by the Director of an acceptable elevation survey, certified by a State of Oregon Registered Professional Engineer or Professional Land Surveyor, which demonstrates that the lowest grade adjacent to the proposed structure is above the base flood level.

(7) **Development Standards for FIRM Zones V and VE:**

The following standards shall apply to all new construction, substantial improvement, and other development in areas within FIRM zones V and VE:

(a) All buildings or structures shall be located landward of the mean high tide line.

(b) All new or substantially improved structures shall be elevated on pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor, excluding pilings or columns, is elevated to at least one foot above the base flood level. Elevation of the lowest horizontal member shall be certified by a registered professional engineer or professional land surveyor.

(c) Pile or column foundations and structures attached thereto shall be anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (100 year mean recurrence interval).

(d) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of paragraphs (b) and (c) of this subsection.

(e) All space below the lowest floor shall be either free of obstruction to the free flow of water or constructed with nonsupporting breakaway walls, open wood lattice work or insert screening intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system.

For purposes of this section, breakaway walls shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot may be permitted only if a registered engineer or architect certifies that the designs proposed meet the following conditions:

(A) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

(B) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water loads acting simultaneously on all building components, both structural and nonstructural. Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (100 year mean recurrence interval).

(f) All space below the lowest floor shall be usable solely for parking of vehicles, building access or storage.

(g) No fill shall be used for structural support.

(h) Sand dunes shall not be altered so as to increase potential flood damage.

(8) **Floodway Requirements:**

In areas identified as floodway on the FIRM, the following restrictions, in addition to the requirements of subsection (6) of this section shall apply:

(a) No development shall be permitted that would result in any increase in base flood levels. Encroachment is prohibited, including fill, new construction, substantial improvement and other development, unless certification by a Registered Professional Engineer is provided which demonstrates through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment will cause no measurable increase in flood levels (water surface elevations) during a base flood discharge.

(b) Pursuant to Section 3-2.4.2 of the Oregon Manufactured Dwelling and Parks Specialty Code as enacted by OAR 918-500-020, new installation of manufactured dwellings is prohibited except where such installation is replacing an existing, lawfully placed manufactured dwelling and the installation complies with all other applicable provisions of this section.

(9) **Procedure When Base Flood Elevation Data is Not Available:**

(a) For the purposes of administering the provisions of this section in areas where detailed base flood elevation data has not been provided by FEMA, the Director shall obtain, review and utilize any base flood elevation and floodway data available from federal, state and local sources, and may exercise local judgment based on historical data.

(b) In areas where detailed base flood elevation data has not been provided by FEMA, all proposals for subdivisions or other new developments greater than 50 lots or five acres, whichever is less, shall provide detailed base flood elevation data and floodway data.

(10) **Watercourse Relocation:**

(a) Prior to approving any relocation or substantial alteration of a watercourse, the Director shall provide mailed notice of the proposal to adjoining communities and to the Department of Land Conservation and Development Floodplain Coordinator. Copies of such notice shall also be provided to the Federal Insurance Administration.

(b) No relocation or substantial alteration of a watercourse shall be permitted unless a detailed hydraulic analysis, certified by a Registered Professional Engineer, is provided which demonstrates that:

(A) The flood carrying capacity for the altered or relocated portion of the watercourse will be maintained;

(B) The area subject to inundation by the base flood discharge will not be increased; and

(C) The alteration or relocation will cause no measurable increase in base flood levels.

(11) **Utilities:**

(a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;

(b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems, and discharge from the systems, into flood waters; and

(c) On-site waste disposal systems shall be located to avoid impairment of the systems, or contamination from the systems, during flooding.

(12) **Review of Building Permits:**

Where elevation data is not available, applications for building permits shall be reviewed to ensure that proposed construction will be reasonably safe from flooding. The review should include, but is not limited to, evaluation of historical data, high water marks, and photographs of past flooding, where available. Failure to elevate at least two feet above grade may result in higher flood insurance rates.

(13) **Recreational Vehicles:**

A recreational vehicle placed in accordance with subsection (3) of this section shall:

(a) Be located on site fewer than 180 consecutive days;

(b) Be fully licensed for highway use;

(c) Be on its wheels or jacking system;

(d) Be attached to the site only by quick disconnect type utilities and security devices; and

(e) Have no permanently attached additions. [1987 o.255 §2; 1997 o.366 §1; 2009 o.461 §2]

SPECIAL REQUIREMENTS

1.1401 Clear-Vision Areas

A clear-vision area shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad.

(1) A clear-vision area shall consist of a triangular area, two sides of which are lot lines measured from the corner intersection of the street lot lines for a distance specified in subsection (3) of this section or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection and so measured, and the third side of which is a line across the corner of the lot joining the non-intersecting ends of the other two sides.

(2) A clear-vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding 2.5 feet in height, measured from the top of the curb or, where no curb exists, from the established street center line grade, except that trees exceeding this height may be located in this area, provided all branches and foliage are removed to a height of eight feet above grade.

(3) The following measurements shall establish clear-vision areas:

(a) In a rural or residential zone the minimum distance shall be 30 feet, or, at intersections including an alley, 10 feet.

(b) In all other zones where yards are required, the minimum distance shall be 15 feet or, at intersections including an alley, 10 feet, except that when the angle of intersection between streets, other than an alley, is less than 30 degrees, the distance shall be 25 feet.

1.1405 Sign Requirements

(1) **Scope:**

Every sign erected, altered or relocated within unincorporated Lincoln County shall conform to the provisions and requirements of this section. Except as otherwise provided in this subsection, every sign erected, altered or relocated within unincorporated Lincoln County shall conform to the provisions and requirements of this section. This section does not apply to:

(a) The display of a national or state flag.

(b) Traffic and street signs erected and maintained by a road authority as defined in ORS 801.445.

(c) Trespass signs posted in accordance with ORS 164.245 to 164.270.

(d) The display of a temporary interior window sign.

(e) Temporary holiday decorations.

(2) **Definitions:**

As used in this section:

(a) “Accessory sign” means a sign which is accessory to and in conjunction with an established main use of land.

(b) “Advertising sign” or “lot sign” means a sign which is the main use of lot or parcel on which it is located and is not accessory to or in conjunction with any other use.

(c) “Free standing sign” means a sign which is supported by a separate independent structure and is not attached to or supported by any other building or structure.

(d) “Nonconforming sign” means a sign which was erected legally but which does not comply with currently applicable sign restrictions and regulations.

(e) “Projecting sign” means a sign which is attached to the wall or roof of a building and which projects above the lowest part of the roof or more than 12 inches beyond the surface of the wall of the building to which it is attached.

(f) “Sign” means an identification, description, illustration, statement, display, or device which is affixed to or represented, directly or indirectly, upon a building, structure, or land, and which is intended to accomplish communication.

(g) “Size” means the aggregate area of all sign display surfaces located on a single structure, but excluding posts and base that are without attached identification, description or illustration. Two surfaces parallel and back to back on the same structure shall be considered a single display surface.

(h) “Temporary sign” means any sign which is not permanently installed or affixed to any sign structure or building, and is accessory to an event, lease, rental or sale of limited, fixed duration.

(i) “Wall sign” means a sign attached to or painted on a wall of a building with a display surface which projects no more than 12 inches from the surface of the wall and not above the lowest roof of the building to which it is attached.

(3) **General Requirements:**

(a) No permanent sign shall be placed in or extend over a required side yard or street right-of-way or within 10 feet of the front property line in a required front yard.

(b) There shall be no moving or flashing signs.

(c) Light from a sign shall be directed away from a residential use or zone and shall not be located so as to distract motorists.

(d) Where it can be demonstrated that directional signs are needed for directing or controlling vehicular access, or where such signs are required as a condition of approval for public safety, such signs may be permitted in addition to any other signs permitted by this section. Such signs shall be placed at each motor vehicle entrance or exit, shall not exceed nine square feet in size and six feet in height, and shall not restrict required site distances.

(e) In the R-1, R-2, R-3, RR1-2, RR-5, A-C and T-C zones, one accessory sign shall be allowed and shall be limited to the following size:

(A) A sign not exceeding two square feet in size accessory to a single family dwelling or a home occupation.

(B) A sign not exceeding 32 square feet in size accessory to any other permitted or conditional use in the zone.

(f) In the R-4, C-1, C-T, M-P, I-P and P-F zones accessory signs are allowed. Not more than one projecting sign or free standing sign may be permitted per lot. The sign or signs shall not exceed a total aggregate area of 200 square feet or one square foot for every foot of lot frontage along streets, other than alleys, whichever is less. No sign shall exceed 35 feet in height measured from road level, and display surfaces shall not be greater than twelve 12 feet in height nor 25 feet in width.

(g) In the PMP zone, accessory signs are allowed in accordance with the applicable state park master plan adopted by the Oregon Parks and Recreation Department pursuant to OAR chapter 736, division 18 and ORS 390.180, or the local park master plan adopted by the Lincoln County Board of Commissioners pursuant to OAR chapter 660, division 34.

(4) **Advertising and Lot Signs:**

In the C-1, C-2, C-T, and I-P zones, advertising signs and lot signs may be allowed. In addition to the applicable requirements of LCC 1.1601 to 1.1630, advertising signs and lot signs must conform to the following standards:

(a) Signs must be 500 feet apart on the same side of a road and 250 feet apart on opposite sides of a road.

(b) Signs shall not exceed 35 feet in height measured from road level, and display surfaces shall not be greater than 12 feet in height nor 25 feet in width.

(5) **Temporary Signs:**

In addition to the allowances for signs provided by this section, not more than two temporary signs of not more than 12 square feet each may be established on any lot or parcel for a period of not more than 90 days in any single calendar year, or for any period of time during which the property is for sale, lease or rent.

(6) **Nonconforming Signs:**

(a) A nonconforming sign or sign structure shall not be moved, structurally altered or enlarged in any manner, unless such movement, alteration or enlargement would bring the sign into conformity with the requirements of this section.

(b) Any nonconforming sign or sign structure may be maintained with ordinary care.

(7) **Maintenance and Appearance of Signs:**

All signs, together with all of their supports, braces, guys, and anchors, shall be kept in good repair and maintained in a safe condition. All signs shall be maintained in a neat, clear and attractive condition.

(8) **Abandoned Signs:**

Any sign shall be removed when the associated land use has discontinued or when the sign is no longer properly repaired or maintained as required by this section. [1997 o.369 §2; 2016 o.486 §2]

1.1415 Off-Street Parking and Off-Street Loading Requirements

At the time a structure is erected or enlarged or the use of an existing structure is changed, off street parking spaces, loading areas and access thereto shall be provided as set forth in this section unless greater requirements are established. If such facilities have been provided in connection with an existing use, they shall not be reduced below the requirements of this section.

(1) Requirements for types of buildings and uses not specifically listed herein shall be determined by the Planning Commission, based upon the requirements of comparable uses listed.

(2) In the event several uses occupy a single structure or parcel of land, the total requirements shall be the sum of the requirements of the several uses computed separately.

(3) Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operations do not overlap, provided that satisfactory legal evidence is presented to the Planning Commission in the form of deeds, leases or contracts to establish the joint use.

(4) Off-street parking spaces for dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located not farther than 500 feet from the building or use they are required to serve, measured in a straight line from the building.

(5) Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons, and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.

(6) Areas used for standing and maneuvering of vehicles shall have durable and dustless surfaces improved to minimum public road standards, maintained adequately for all weather use, and be so drained as to avoid flow of water across public sidewalks.

(7) Except for parking to serve dwelling uses, parking and loading areas adjacent to or within residential zones or adjacent to residential uses shall be designed to minimize disturbance to residents by the erection, between the uses, of a sight-obscuring fence or not less than five feet in height except where vision clearance is required.

(8) Parking spaces along the outer boundaries of a lot shall be contained by a curb or bumper rail at least four inches high and set back a minimum of four and one-half feet from the property line.

(9) Artificial lighting which may be provided for parking areas shall not create or reflect substantial glare in a residential zone or on any adjacent dwelling.

(10) Required off-street parking areas shall not be provided in the required front or street side yard areas in a residential zone.

(11) Groups of more than four parking spaces shall be served by a driveway so that no backing movements or other maneuvering within a street, other than an alley, will be required.

(12) A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than 25 students.

(13) Buildings or structures which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of a particular use.

(14) Off-street parking space requirements:

(a) Dwelling, one-family: One space per dwelling unit.

(b) Dwelling, two-family-or multi-family: One and one-half spaces per dwelling unit.

(c) Mobile home park: Three spaces for each two trailer spaces.

(d) Motel, hotel or resort: One space for each guest accommodation.

(e) Hospital: Three spaces for each two beds.

(f) Nursing home or similar institution: One space for each three beds.

(g) Church, club or similar place of assembly: One space for each six seats, or one space for each 50 square feet of floor area used for assembly.

(h) Library: One space for each 300 square feet of floor space.

(i) Dance hall, skating rink or similar commercial amusement enterprise: One space for each 100 square feet of floor area.

(j) Bowling alley: Five spaces for each 200 square feet of floor area.

(k) Retail store, eating and drinking establishment: One space for each 200 square feet of floor area.

(L) Service or repair shop retail store handling bulky merchandise such as automobiles and furniture: One space for each 600 square feet of floor area.

(m) Bank, office: One space for each 300 square feet of floor area.

(n) Medical and dental clinic: One space for each 200 square feet of floor area.

(o) Warehouse, storage and wholesale business: One space for each 2,000 feet of storage area.

(p) Manufacturing establishment: One space for each 1,000 square feet of floor area.

(q) Stables: One space for each three horse stalls.

1.1417 Bicycle Parking Requirements

(1) Required bicycle parking spaces shall be provided in designated areas marked and reserved for bicycle parking only.

(2) Each required bicycle parking space shall be equipped with a rack designed to permit secure bicycle locking.

(3) Required bicycle parking spaces shall be located no further from the building or use served than the required off-street automobile parking.

(4) Bicycle parking space requirements:

(a) Retail commercial, bank, office, restaurant, commercial amusement, church, club or similar place of assembly, library: One space for each 10 automobile parking spaces, with a minimum of one space.

(b) Public or private schools: One space for every 10 students.

(c) Multi-family dwellings: One space for each dwelling unit.

(d) Transit transfer station or park and ride lot: One space for each 10 automobile parking spaces. [2008 o.456 § 11]

1.1419 Pedestrian Circulation

Multi-family and commercial uses within urban growth boundaries and rural community centers shall provide for safe and convenient pedestrian circulation in accordance with the following standards:

(1) Accessways shall connect all building entrances.

(2) Accessways shall connect required off-street parking areas to building entrances, to adjoining public streets, to adjoining transit stops, and to adjoining retail or public uses.

(3) As used in this section, "accessway" means a hard surfaced path that provides pedestrian and or bicycle passage either between streets or from a street to a building or other destination such as a school, park, or transit stop. Accessways include a walkway and additional land, if any, on either side of the walkway, in the form of an easement or right-of-way, to provide clearance and separation between the walkway and adjacent uses. Accessways through parking lots shall be physically separated from adjacent vehicle parking or parallel vehicle traffic by curbs or similar devices. Where accessways cross driveways, they shall be raised, paved or marked in a manner which provides convenient access for pedestrians. [2008 o.456 § 12]

1.1420 Setbacks Adjacent to Timberlands

Lot depths and setback requirements of lots created after June 25, 1980, and adjacent to Timber Conservation Zones shall be at least 50 feet greater than normal requirements therefor.

1.1425 Distance from Property Line

In areas where a side or rear yard is not required and a structure is not to be erected at the property line, it shall be set back at least three feet from the property line.

1.1430 Exterior Lighting

Exterior lighting for uses in commercial and industrial zones shall not be located in such a manner so as to face or shine directly onto a lot in a residential zone, street or highway.

1.1435 General Provisions Regarding Accessory Uses

An accessory use shall comply with all requirements for a principal use, except as specifically allowed to the contrary, and shall comply with the following limitations:

(1) An accessory structure or use shall only be approved provided the principal use has been established.

(2) An accessory structure not used for human habitation and separated from the main building may be located in the required rear and side yard, except that it may not be located in the required street side yard of a corner lot, provided it is not closer than five feet to a property line.

(3) A mobile home may be stored on an individual lot subject to obtaining approval letter from the Division and subject to the following:

(a) Storage period shall not exceed one year.

(b) No utilities other than electric shall be connected.

(4) A mobile home may be occupied as a temporary dwelling in conjunction with an existing dwelling providing that a medical hardship is determined to exist and the following standards are met:

(a) That the dwelling complies with residential setback requirements.

(b) That a "Mobile Home Placement Permit" be approved prior to locating the mobile home.

(c) The medical hardship shall be confirmed on a yearly basis by a letter from a medical doctor licensed in the State of Oregon.

(d) Upon cessation of the medical hardship, the mobile home will be removed from the property and if necessary, the septic system abandoned in a manner approved by the county sub-surface sanitarian.

(5) Fences, hedges, and walls may be located within required yards, but shall not exceed three and one-half feet in height in any required yard which abuts a street other than an alley.

1.1440 Mobile Home Provisions

(1) Mobile homes approved for placement on individual lots are subject to the following standards:

(a) Mobile homes must be placed in accordance with Oregon State mobile home set-up standards (OAR 814-23-005 through 080)

(b) The dwelling unit must be skirted.

(c) Other conditions may be required by the Planning Division or by the Planning Commission in order to insure compatibility with surrounding area development.

(2) A mobile home may be stored on an individual lot subject to obtaining approval letter from the Division and subject to the following:

(a) Storage period shall not exceed one year.

(b) No utilities other than electric shall be connected.

1.1445 Authorization of Similar Uses

(1) **Purpose**:

The purpose of this section is to provide for land uses not specifically listed in any use zone but which are similar in character, scale and performance to the permitted or conditional use specified in a particular zone.

(2) **Review Criteria**:

A similar use may be authorized by the Planning Commission at a public hearing in accordance with the requirements of LCC 1.1250, provided that the Commission establishes that the proposed use meets the following criteria:

(a) The use is not listed specifically in any use zone.

(b) The use is similar in character, scale and performance to one or more of the permitted or conditional uses listed in the use zone in which it is proposed.

(c) The use is not of the same general type or similar to any uses specifically listed in another zone.

Any similar use authorized by the Planning Commission shall conform to the applicable standards and requirements of the use zone in which it is located, including any requirement for Conditional Use review as set forth in LCC 1.1601 to 1.1630.

(3) **Procedure**:

(a) A property owner may initiate a request for authorization of a similar use by filing an application with the Planning Division on forms prescribed by the Division.

(b) The Planning Commission shall consider a request for authorization of a similar use at a public hearing in accordance with the requirements of LCC 1.1210(3).

1.1501 Projections from Buildings

(1) Architectural features such as cornices, eaves, canopies, sunshades, gutters, signs, chimneys and flues shall not project into any required yard more than one foot for each two feet of yard width. Unroofed landings, porches, and stairs may project into any required yard providing the following conditions are met:

(a) No portion except for guardrails shall extend above the floor level of a habitable room.

(b) No such projection shall obstruct a stairway.

(c) No such projection shall extend more than one-third the distance from the exterior wall to the property line.

(2) Projections such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flagpoles, wind generators and other similar objects not used for human occupancy are not subject to the building height limitations of this ordinance. Such projections shall have a lateral projection no greater than eight feet.

1.1510 General Exceptions to Lot Size Requirements

If a legally created lot does not meet the lot size requirements of the zone in which the property is located, the lot may be occupied by a use permitted in the zone subject to the other requirements of the zone, except that, residential use shall be limited to a single family dwelling.

1.1520 General Exceptions to Yard Requirements

The following exceptions to residential yard requirements are authorized for a lot in any zone:

(1) The required front or rear yard need not exceed the existing or probable average of the front or rear yards of dwellings on all lots within 100 feet on both sides of the proposed dwelling. On vacant parcels within 100 feet, standard yard requirements shall be used in determining the average.

(2) When an attached or detached garage is to be built on a lot having an average elevation at least 10 feet higher or lower than street level, the front of the garage may be located to within five

feet of the front property line or at the point where the ground elevation is five feet higher or lower than the street level, whichever is greater. The garage and driveway shall be constructed in such a manner as to minimize traffic hazards resulting from maneuvering onto or off of an adjacent street.

1.1530 Authorization of Transportation Facilities

Except as otherwise provided by LCC 1.1367 and 1.1381, the following transportation facilities are permitted in all use zones:

(1) Operation, maintenance, and repair of existing transportation facilities identified in the Lincoln County Transportation System Plan, such as road, bicycle, pedestrian, port, airport and rail facilities, and major regional pipelines and terminals.

(2) Facilities and improvements permitted outright under ORS 215.213(1)(j) through (m) and 215.283(1)(h) through (k). [2008 o.456 § 9]

CONDITIONAL USES

1.1601 Purpose

Certain types of uses require special consideration prior to their being permitted in a particular zone. The reasons for requiring such special consideration include, among others, the size of the area required for the full development of such uses, the nature of the traffic problems incidental to operation of the uses, and the effect such uses have on any adjoining land uses and on the growth and development of the County as a whole. All uses permitted conditionally possess unique and special characteristics making impractical their inclusion as outright uses in many of the various zones herein defined. Location and operation of designated conditional uses shall be subject to review and authorized only by issuance of a Conditional Use Permit. The purpose of review shall be to determine that the characteristics of any such use shall not be unreasonably incompatible with the type of uses permitted in surrounding areas, and for the further purpose of establishing such conditions as may be reasonable so that the basic purposes of this Chapter shall be served. Nothing herein shall be construed to require the granting of a conditional use permit.

1.1605 Authorization to Grant, Deny or Revoke Conditional Use Permit

(1) Conditional uses listed in LCC 1.1301 through 1.1394 may be permitted, enlarged, or altered upon authorization by the Planning Division or by the Planning Commission in accordance with the standards and procedures as set forth herein.

(2) In approving a conditional use request or the modification of a conditional use, the Planning Division or Planning Commission may impose, in addition to those standards and requirements expressly specified by this Section, additional conditions which are considered necessary to protect the best interests of the surrounding area or the County as a whole. These conditions may include, but are not limited to the following:

(a) Increasing the required lot size or yard dimensions.

(b) Limiting the height of buildings.

(c) Controlling the location and number of vehicle access points.

(d) Increasing the street width.

(e) Increasing the number of required off-street parking spaces.

(f) Limiting the number, size, location, and lighting of signs.

(g) Requiring fencing, screening, landscaping, diking, or other facilities to protect adjacent or nearby property.

(h) Designating sites for open space.

(i) Setting a time limit for which the conditional use is approved.

(j) Site reclamation upon discontinuance of use.

(3) In the case of a use existing prior to February 12, 1974, and classified in this chapter as a conditional use or a non-conforming use, change in use or in lot area or an alteration of structure shall conform with the requirements for conditional use.

(4) The Planning Commission may require or authorize the Planning Division to require that the applicant for a conditional use furnish the County with a performance bond of up to the value of the cost of the improvements to be guaranteed by such bond, in order to ensure that the conditional use is completed according to the plans as approved by the Planning Commission or the Planning Department.

(5) Any permit granted hereunder shall be subject to revocation by the Planning Commission if it is ascertained thereby that the application includes or included any false information, or if it is determined that the conditions of approval have not been complied with or are not being maintained, or the conditional use becomes detrimental to public health, safety, or welfare.

(6) In order to consider revocation of a conditional use permit, the Planning Commission shall hold a public hearing as prescribed under LCC 1.1210(3) in order for the permit holder to show cause why such permit should not be revoked.

(7) If the Planning Commission finds that the conditions of permit approval have not been complied with or are not being maintained, a reasonable time may be given for rectification, and if corrections are not made within that time, revocation of the permit shall become effective 15 days after the time specified.

(8) Reapplication for conditional use approval cannot be made within one year after revocation or denial, except that the Planning Commission may permit a new application if in its opinion new evidence or a change in circumstances warrant.

1.1610 Procedure for Taking Action on a Conditional Use Application

(1) A property owner may initiate a request for a conditional use by filing an application with the Planning Division, using forms prescribed by the Division.

(2) Upon receipt of a completed application, the Planning Division may take action on a conditional use request in accordance with LCC 1.1210(2).

(3) If the conditional use has more than routine significance, as determined by the Planning Division, a public hearing may be set for Planning Commission consideration of the request in accordance with the requirements of LCC 1.1250.

1.1615 Building Permit for an Approved Conditional Use

Building permits for all or any portion of a conditional use shall be issued only on the basis of the plan as approved by the Planning Division or the Planning Commission. Any substantial change in the approved plan shall be submitted to the Planning Division or the Planning Commission as a new application for a conditional use.

1.1620 Time Limit on a Conditional Use Approval

(1) Approval of a conditional use authorizing a dwelling in the A-C or T-C zones shall be void four years after the effective date of the decision if the authorized development action is not initiated in that period. Approval of any other conditional use shall be void two years after the effective date of the decision if the authorized development action is not initiated in that period. As used in this subsection, "initiated" means that on-site sewage disposal construction permits, building permits or other necessary approvals have been secured and exercised or maintained valid or, if no such approvals are required, that the authorized use has been established.

(2) The division may grant one extension period of 24 months for dwelling approvals in the A-C or T-C zones, or of 12 months for any other conditional use approval if:

(a) The applicant submits a written request for an extension of time in which to initiate the development;

(b) The request is received by the division prior to the expiration of the approval period;

(c) The applicant states the reasons that prevented the commencing or continuation of development within the approval period; and

(d) The division determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.

(3) Additional extensions in conformance with the standards and time periods set forth in subsection (2) of this section may be authorized by the division where the applicable criteria for the decision have not changed.

(4) The granting of an extension pursuant to this section is an administrative decision, is not a land use decision as described in ORS 197.015, and is not subject to appeal as a land use decision. [1994 o.347 §5; 2001 o.416 §4]

1.1630 Standards and Procedures Governing Conditional Uses

In addition to the standards of the zone in which the conditional use is located and the other standards of this chapter, conditional uses shall meet the following standards:

(1) **General standards**:

In addition to the other applicable standards of this section, all conditional uses, except for dwellings authorized in the T-C and A-C zones, shall comply with the following requirements:

(a) The site under consideration is suitable for the proposed use considering:

(A) The size, design and operating characteristics of the use.

(B) The adequacy of transportation access to the site.

(C) The natural and physical features of the site such as general typography, natural hazards, natural resource values, and other features.

(b) The proposed use is compatible with existing and projected uses on surrounding lands, considering the factors in paragraph (a) of this subsection.

(2) **Standards for motels, hotels, lodges and resorts**:

(a) The minimum lot area per guest unit shall be 1500 square feet if the property is served by both a public or community water supply system and sewage disposal system.

(b) The minimum lot area per guest unit shall be 2500 square feet if the property is served by a public or community water supply system but not a public or community sewage disposal system.

(c) The minimum lot area per guest unit shall be 12,000 square feet if the property is not served by a public or community water supply system.

(3) **Special setback requirements**:

(a) Buildings and pens, which are a part of kennels and animal hospitals, and active recreation use areas which are a part of outdoor commercial amusement or recreation establishments shall be located no closer than 75 feet from a residential zone, street or highway.

(b) Clubs, lodges, or fraternal organizations in an R-4 zone, and community swimming pools and buildings housing recreational facilities in a residential zone, shall be located no closer than 30 feet from any other lot in a residential zone.

(4) **Standards for public utility facilities**, such as electric substation or transformer, public or community domestic water supply reservoir or pumping station, public or community sewage disposal plant or pumping station, radio or television tower or transmitter, or governmental structure or use of land:

(a) In a residential zone, all equipment and material storage shall be within an enclosed building.

(b) Workshops shall not be permitted in a residential, C-1 or C-T zone.

(c) Public utility facilities shall be screened where practical and provided with landscaping.

(d) The minimum lot size requirement may be waived on finding that the waiver will not result in noise or other detrimental effect to adjacent or nearby property.

(5) **Standards for recreational vehicles located on individual lots**:

(a) Approval of such will not set a trend or encourage a pattern of development incompatible with surrounding area development.

(b) The lot must be served by a water system and a sewerage disposal system approved by the County Sanitarian.

(c) The recreational vehicle may be required to be surrounded by a sight-obscuring fence to a height of six feet above ground.

(d) A time limit not to exceed five years shall be established, after which time reapplication for conditional use permit approval shall be required.

(e) Upon compliance with the above and any additional conditions which the Planning Division or Planning Commission feels necessary to insure compatibility with surrounding area development, a building permit/mobile home placement permit must be obtained.

(6) **Standards for home occupation**:

All home occupations in all zones shall comply with the following standards:

(a) The home occupation shall be secondary to the main use of the property for residential purposes.

(b) No home occupation involving on-site retail sales shall be permitted.

(c) No window display and no sample commodities displayed outside the building shall be permitted.

(d) Home occupations shall not interfere with existing or permitted uses on surrounding or nearby lands.

(e) A home occupation shall not generate traffic or congestion or demand for parking to an extent incompatible with the primary purpose of the zone in which it is located or with the purposes of zones of surrounding or nearby lands.

(f) Nothing in this section shall authorize the construction of any structure or building not otherwise permitted in the zone in which a home occupation is to be established. Accessory structures to be erected for the purpose of housing a home occupation shall not exceed the home occupation square footage limitation of the zone in which it is located.

(g) For purposes of identifying a home occupation, one unlighted sign not to exceed two square feet may be permitted. Such sign shall not be located in a required front or street side yard.

(h) All home occupations approved after October 4, 1983, shall be reviewed annually for the purpose of ensuring compliance with applicable conditions and standards.

(i) The existence of a home occupation shall not constitute nor contribute to the justification for a zone change.

Standards provided in paragraphs (k) through (o), in addition to the standards provided in paragraphs (a) through (i), shall apply to all home occupations in R-1A, R-1, R-2, R-3, R-4, and RR-1-2 zones:

(k) No persons other than residents of the dwelling located on the subject property shall be engaged in the home occupation, and in no event shall the number of persons engaged in the home occupation exceed five.

(L) No outside storage of goods, commodities or waste materials associated with the home occupation shall be permitted.

(m) The home occupation shall be contained entirely within the subject property dwelling or a residential accessory structure. Area devoted to the home occupation shall not exceed a total floor area of 600 square feet.

(n) Home occupations permitted in residential zones shall be limited to the following types, subject to all applicable standards:

(A) Professional office or clinic.

(B) Personal service establishment, such as barber, beautician, tailor, cobbler, and gunsmith.

(C) Home appliance or electronic service or repair.

(D) Artist or craft studio.

(E) Small scale manufacture or assembly.

(F) Other uses similar in character, scale and performance to those listed in subparagraphs (A) through (E) of this paragraph.

(o) The following are specifically prohibited from being established as home occupations in residential zones:

(A) Storage, service or repair of automobiles, trucks, trailers, heavy equipment, boats or marine equipment.

(B) Machine, welding, sheet metal or similar metal working shop.

(C) Cabinet or woodworking shop.

(D) Plumbing, building, electrical or paint contractor's storage or repair shop.

(E) Auto wrecking yard or other salvage yard.

(F) Tire repair, retreading or vulcanizing.

(G) Restaurant, bar or tavern.

Standards provided in paragraphs (p) through (x), in addition to the standards provided in paragraphs (a) through (i), shall apply to all home occupations in T-C, A-C, RR-5 and RR-10 zones:

(p) The home occupation shall employ no more than five full or part-time employees, inclusive of the primary owner or operator.

(q) The home occupation shall be operated by a resident of the property upon which it is located.

(r) Total floor area devoted to the home occupation, either of a dwelling, an accessory structure, or the aggregate of both, shall not exceed 1,600 square feet.

(s) Outside area devoted to storage or other activities associated with the home occupation shall not exceed 1,600 square feet, exclusive of required off-street parking.

(t) All outside storage and parking areas shall be completely screened from adjoining properties and roadways by a sight obscuring fence or vegetative barrier.

(u) One off-street parking space shall be provided for each employee other than household residents.

(v) In the course of normal operation, the home occupation shall generate no noise, dust, odor or vibration detectable beyond the boundaries of the subject property.

(w) Home occupations permitted in A-C, T-C, RR-5 and RR-10 zones shall be limited to the following types, subject to all applicable standards:

(A) All uses permitted as home occupations in R-1, R-2, R-3, R-4 and RR-1-2 zones.

(B) Automobile, equipment, boat or marine equipment service or repair provided all such service and repair is conducted within an enclosed building.

(C) Machine, welding, sheet metal or similar metal working shop.

(D) Cabinet or woodworking shop.

(E) Uses similar in scale, character and performance to those listed in subparagraphs (A) through (D) of this paragraph.

(x) The following uses are specifically prohibited from being established as home occupations in T-C, A-C RR-5 and RR-10 zones:

(A) Auto wrecking yards or other salvage yard.

(B) Truck terminal or depot.

(C) Restaurant, bar or tavern.

(7) **Standards for mobile home parks**:

A mobile home park may be permitted as a conditional use when it meets the requirements of the Oregon Department of Commerce (OAR chapter 814) and the following additional standards of Lincoln County:

(a) Mobile home parks shall have:

(A) A minimum size of one acre.

(B) A minimum number of four spaces.

(b) Mobile home spaces shall have:

(A) A minimum length of 40 feet.

(B) A minimum width of 30 feet.

(C) A maximum coverage of 75 percent.

(D) A minimum of two parking spaces.

(E) Clearly-defined boundaries marked by a fence, planting, or other suitable means.

(F) Electricity, potable water, and an approved means of sewage disposal.

(c) Mobile homes shall have the following setbacks:

(A) A minimum distance of 25 feet from public street rights-of-way.

(B) A minimum distance of 10 feet from all non-street property lines.

(C) A minimum distance of 10 feet from community or service buildings.

(D) A minimum distance of 20 feet from other mobile homes.

(d) Accessory buildings or structures, including community and service buildings, carports, cabanas, and ramadas, but excluding signs and fences, shall be at least 25 feet from public street rights-of-way.

(e) Streets within mobile home parks shall have:

(A) A minimum width of 20 feet if parking is prohibited and 30 feet if parking is permitted on one side.

(B) Well-drained, durable and dustless surfaces improved to minimum public road standards, or other approved surface and maintained in good condition.

(C) Direct access to a public street.

(D) Illumination of not less than one foot candle.

(f) Walkways not less than three feet wide and illumination of not less than one foot candles may be required to provide pedestrian access from mobile home spaces to community and service buildings. All walkways shall be well drained and have durable and dustless surfaces.

(g) Play areas shall be required in parks where mobile home spaces are less than 4000 square feet and children under 14 are permitted. Play areas shall have at least 100 square feet per

mobile home spaces, but regardless of the number of mobile home spaces, shall be no less than 2500 square feet. Play areas shall be restricted to that use and protected from all streets, driveways, and parking areas by a fence, or the equivalent thereof, at least 30 inches in height.

(h) Screening consisting of a sight-obscuring fence, buffer strip of vegetation, or both, may be required along all property lines.

(i) Occupants of a mobile home park shall be provided with receptacles for garbage.

(j) Mobile home parks proposed to be located within urban growth boundaries shall be required to conform to all ordinance standards of the adjoining city.

(8) **Standards for recreational vehicle parks**:

A recreational vehicle park may be permitted as a conditional use when it meets the requirements of ORS chapter 446 and the Administrative Rules of the State of Oregon, OAR chapter 333. In addition, the following minimum standards shall apply:

(a) Minimum size of R.V. park: One acre.

(b) Minimum width of R.V. space: 30 feet.

(c) Minimum length of R.V. space: 40 feet.

(d) Minimum distance between R.V. and street right-of-way: 10 feet.

(e) Minimum distance between R.V. and all other property lines: Five feet.

(f) Minimum distance between R.V.'s: 15 feet.

(g) Minimum distance between R.V. and community or service buildings: 10 feet.

(h) Each access road connecting with a public street shall have a surface width of at least 30 feet for a distance of 40 feet as measured from the intersection of the public road. All other roads shall have a surface width of at least 20 feet. All access roads and parking areas and walkways shall be surfaced to minimum County road standards and well drained. Walkways not less than three feet wide may be required to be provided from trailer spaces to community and service buildings. All access roads and walkways shall be well lighted.

(i) Developed recreation areas shall be provided which contain a minimum of 2,500 square feet or 200 square feet per R.V. space, whichever requirement is the greater.

(j) All areas not used for R.V. spaces, motor vehicle parking, traffic circulation, or service or community buildings shall be completely and permanently landscaped. The landscaping shall be maintained in good condition.

(k) A sight-obscuring fence, buffer strip of vegetation, or both, may be required on every side of a R.V. park.

(9) **Standards for auto wrecking yard or junk yard**:

(a) The auto wrecking yard or junk yard shall be fully enclosed by a sight-obscuring fence, free of advertising, maintained in good condition, not less than six feet in height, and of a design approved by the Planning Director.

(b) All automobiles, wrecked or otherwise, shall be kept inside the fenced area at all times, except that vehicles belonging to customers may be parked outside the fence while at the establishment or business.

(c) All sales, display, storage, repair, or other handling of products, merchandise, equipment, and other articles shall occur from within an enclosed building or from within the fenced area.

(10) **Standards for solid waste disposal site**:

Solid waste disposal facilities shall meet the performance and permitting requirements of the Department of Environmental Quality under ORS 459.245, shall meet the requirements of 1.1373(3)(o) or 1.1375(2)(d) and shall comply with the following requirements.

(a) The facility shall be designed to minimize conflicts with existing and permitted uses allowed under plan designations for adjacent parcels as outlined in policies of the Comprehensive Plan.

(b) The facility must be of a size and design to minimize noise or other detrimental effects when located adjacent to farm, forest and grazing dwellings(s) or a residential zone.

(c) The facility does not constitute an unnecessary fire hazard. If located in a forested area, the County shall condition approval to ensure that minimum fire safety measures will be taken, which may include but are not limited to the following:

(A) The area surrounding the facility is kept free from litter and debris.

(B) Fencing will be installed around the facility, if deemed appropriate to protect adjacent farm crops or timber stand.

(C) If the proposed facility is located in a forested area, construction materials shall be fire resistant or treated with a fire retardant substance and the applicant will be required to remove forest fuels within [30 feet] of structures.

(d) The facility shall adequately protect fish and wildlife resources by meeting minimum Oregon State Department of Forestry regulations.

(e) Access roads or easements for the facility shall be improved to the County's Transportation System Plan standards and comply with grades recommended by the Public Works Director.

(f) Road construction for the facility must be consistent with the intent and purposes set forth in the Oregon Forest Practices Act to minimize soil disturbance and help maintain water quality.

(g) Hours of operation for the facility shall be limited to [8 am – 7 pm].

(h) Comply with other conditions deemed necessary.

(i) Submitted plans and specifications shall contain sufficient information to allow the county staff or Planning Commission to set standards pertaining to:

(A) Appropriate use of the land.

(B) Setbacks from the property line.

(C) Location of vehicular access points and road development standards.

(D) Public safety considerations.

(E) Adverse impacts on surrounding properties.

(j) If the solid waste disposal area is located less than 300 feet from a residential zone or a state highway, sight-obscuring screening shall be provided.

(k) All areas used for solid waste disposal shall be located no closer than 100 feet from a property line.

(L) The property shall be fenced to prevent blowing paper and debris and to control access to the property by pedestrians and vehicles.

(m) The standards of this subsection apply to all solid waste disposal sites, including but not limited to those regulated under LCC chapter 2, and facilities exempted from regulation under LCC 2.1035(8).

(11) **Standards for solid waste transfer stations**:

(a) Solid waste transfer stations shall be fenced to prevent blowing paper and debris, and to control access.

(b) Site-obscuring screening shall be provided.

(c) Facilities and storage shall be located no closer than 30 feet from any property line.

(d) Hours of operation shall be established.

(e) Operation shall be conducted to prevent seepage, excess noise and odor.

(f) Submitted plans and specifications shall contain sufficient information to allow the county staff or Planning Commission to set standards pertaining to:

(A) Appropriate use of the land.

(B) Setbacks from the property line.

(C) Location of vehicular access points and road development standards.

(D) Public safety considerations.

(12) **Standards for extraction and processing of rock, sand, gravel, or other earth products**:

(a) Submitted plans and specifications shall contain sufficient information to allow the county staff or Planning Commission to set standards pertaining to:

(A) The most appropriate use of the land.

(B) Setback from the property line.

(C) Location of vehicular access points.

(D) Protection of pedestrians and vehicles through the use of fencing.

(E) Prevention of the collection and stagnation of water at all stages of the operation.

(F) Rehabilitation of the land upon termination of the operation.

(b) Any processing of earth products commonly associated with the excavation of minerals, rocks, sand, or gravel, such as the use of crushing, sorting, or washing equipment, shall not be permitted in commercial, residential or marine zones. In zones where processing is permitted, it shall be located no closer than 200 feet from a lot in a residential, commercial or marine zone.

(c) Mining equipment and access roads shall be constructed, maintained, and operated in such a manner as to eliminate, as far as is practicable, noise, vibration, or dust which are injurious or substantially annoying to persons living in the vicinity or to crops or livestock being raised in the vicinity.

(d) Asphalt plants, concrete products manufacture, cement plants, and similar uses often associated with extraction of earth products shall not be permitted in conjunction with extraction operations in a rural zone.

` (e) Mining, crushing or stockpiling of aggregate and other mineral and subsurface resources which is allowed only in the A-C zone, are subject to the following:

(A) A land use permit is required for mining more than one thousand (1,000) cubic yards of material or excavation preparatory to mining of a surface area of more than one (1) acre.

(B) A land use permit for mining of aggregate shall be issued only for a site included on the mineral and aggregate inventory in the Lincoln County Comprehensive Plan.

(13) **Standards for uses involving wetland filling, dredging, draining, disposal of dredging spoils, and similar activities, or construction of wharfs, bulkheads or similar devices**:

(a) In a Marine Waterway (M-W) Zone, all uses and activities shall be subject to the standards set forth in the Lincoln County Estuary Management Plan, Ordinance #184.

(b) Evidence shall be provided that the applicant has complied with, or fully intends to comply with, all standards of the Department of Environmental Quality, the Division of State Lands and all other agencies having interests or ordinances applicable to the property in question.

(c) The activity shall not represent a source of water pollution to any nearby tidelands, marshlands, rivers, streams, or other waterways used for the raising, production, or preservation of marine life or other natural resources.

(d) Any filling or dredging activity shall not substantially alter the course of any channel or the natural movement of any waters, result in increased flood hazards, or cause the formation of appreciable bottom or sludge deposits deleterious to marine life.

(e) Any fill or dredging spoil area shall be deposited behind a watertight berm to avoid any sloughing and to stabilize the area.

(f) If a fill is proposed of which any portion falls below mean higher high water or mean high water plus six feet, whichever is highest, and which is adjacent to or having potential access to a navigable waterway, the developer shall designate on the plan a portion of the parcel to remain unfilled for possible off-channel moorage or similar use. The size of the area to remain unfilled shall be determined on the basis of the need generated by proposed or anticipated uses on the fill, and shall be not less than 20 percent of that portion of the parcel lying below the highest above-mentioned elevation. The location and design of the unfilled portion shall be approved by Planning Division or Planning Commission.

(g) Applications for a permit for filling, dredging, or similar activities shall include:

(A) The source of the applicant's right to fill or dredge.

(B) The purpose of the proposed operation.

(C) The legal description of the area where the operation will take place.

(D) The depth to which dredging or filling is to take place and the proposed angle of slope.

(E) The manner is which material will be dredged or used for fill and the type of material to be used.

(F) The method to be used to stabilize the dredge or fill area.

(G) A map showing the plan of dredging or filling and the uses proposed for the area.

(H) The time when the project is scheduled to begin and to be completed.

(I) In taking action, the Planning Director, County staff or the Planning Commission may consult any state, federal, or local agency it feels appropriate for consultation and advice.

(14) **Standards for uses involving construction, addition, or reconstruction of piers, docks, boathouses, or similar facilities**:

(a) In a Marine Waterway (M-W) Zone, all uses and activities shall be subject to the standards set forth in the Lincoln County Estuary Management Plan, Ordinance #184.

(b) Evidence shall be provided that the applicant has complied with or fully intends to comply with all standards of the Department of Environmental Quality, the Division of State Lands and all other agencies having interests or ordinances applicable to the property in question.

(c) The facility or any use related to it shall not allow any water pollution to occur to any nearby tidelands, marshlands, rivers, streams, or other waterways used for the raising, production, or preservation of marine life or other natural resources.

(d) The facility shall not substantially alter the course of any channel or the natural movement of any waters or result in increased flood hazards, or the formation of appreciable bottom or sludge deposits deleterious to marine life and shall meet all of the following requirements:

(A) No dock, pier or similar facility shall extend into any watercourse more than 25 feet from ordinary low water line nor 50 feet from ordinary high water line, unless it can be shown that such extension is necessary and will not increase flood hazards or create other problems such as the deterioration or destruction of marine life or wildlife habitat as a result of the extension.

(B) No dock, pier or similar facility shall extend into the navigable channel any distance greater than required for safe moorage and shall be designed so as to minimize potential flood hazard and loss of navigable waterway area.

(C) No pier, dock or similar facility shall extend into any watercourse more than five percent of the width thereof as measured perpendicular from the mean low water line on one side of the watercourse to the mean low water line on the opposite side.

(e) No plumbing facilities for the handling of domestic or industrial waste shall be a part of the facility unless approved by the Health Department.

(f) Application for a permit for a pier, dock, bulkhead, boathouse, or similar facility shall include:

(A) The source of the applicant's right to construct the facility.

(B) The purpose of the facility.

(C) The legal description of the area where the facility will be located.

(D) A map and drawings, showing the plan for construction of the facility. Such plan shall include a vicinity map drawn to scale showing location and design of similar facilities and other development within 250 feet of the parcel upon which the improvement is proposed.

(E) The time when the project is scheduled to begin and to be completed.

(g) Plans for moorage facilities shall meet the following requirements:

(A) In new subdivisions tentatively approved after February 12, 1974, docks having less than 10 moorage spaces will be approved only in the instance that no other public or private means of launching or moorage is available or can be developed within 1000 feet of the site in question.

(B) Facilities being proposed in areas where it is likely that additional similar structures will be desired shall be designed to be combined into joint facilities wherever possible.

(C) The design of moorages must provide sheer logs or similar devices for fending debris. Such improvements need not be maintained during periods where there is no danger of flood water.

(D) Docks shall have the long dimension running parallel to the channel unless future development will result in pier construction or moorages being connected, necessitating facility design perpendicular to the channel.

(E) The width of those portions of such facilities dimension required to provide safe access and moorage.

(F) One dock shall not be closer to another than the length of the shorter structure or 25 feet whichever distance is greater.

(G) The number of ramps, fenders and other land connections, and the number of piling and other projection below the surface of the water shall be minimized.

(H) Walkways shall be provided on only one side of individual moorages unless it can be satisfactorily shown that walkways are necessary on both sides. Walkways and breakwaters shall have a width not greater than required to provide safe moorage and access thereto.

(h) Each dock, boathouse, or similar facility shall have the U.S. Army Corps of Engineers permit number permanently affixed to the outboard side of the facility in a clearly visible location prior to requesting final Planning Division inspection for conditional use permit issuance.

(i) No owner of a dock or similar facility shall exercise any proprietary rights on the water surrounding such structure. Violations of such will be considered a failure to maintain the Conditional Use approval requirements.

(j) Recognition of potential flood hazards as well as the need to protect the visual attractiveness of the waterway shall be shown in design and exterior materials used in construction of docks, piers, boathouses and similar facilities.

(k) In taking action on a Conditional Use request, the Planning Division or the Planning Commission may consult any State, Federal or local agency it feels appropriate for consultation and advice.

(15) **Standards for outdoor recreation developments**:

(a) Permanent residency shall be limited to caretakers, proprietors or other personnel required to operate the outdoor recreation development.

(b) All recreational vehicle spaces shall be screened from roadways, streams or creeks by sight obscuring vegetation.

(c) Materials used in all improvements shall be of a nature compatible with the surrounding area.

(d) Recreational vehicle spaces, camp or cabin sites shall have a maximum density of four spaces or sites per acre.

(e) Outdoor recreation development areas devoted to spaces or sites shall not exceed ten acres per development.

(f) Plans for water supply and sewage disposal improvements must be approved by the State Health Division and the Department of Environmental Quality respectively prior to the issuance of a building permit.

(g) The total number of a combination of the above accommodations shall not exceed the allowable density of any of the accommodations developed independently.

(16) **Standards for livestock**:

(a) The minimum lot area requirement for the keeping of horses, cows, sheep, goats or swine is 40,000 square feet.

(b) The minimum lot area requirement for the keeping of chickens, ducks, geese, pigeons, and rabbits is 5,000 gross square feet.

(c) Adequate fencing to contain the animals is required and must be located no closer than 100 feet from any other residence in other than RR1-2, RR-5, A-C or T-C zones; for horses, cows, sheep, goats, or swine, and 25 feet from any other residence for rabbits and fowl.

(d) The total number of animals, other than their young under the age of six months, allowed on a lot or parcel shall be limited by the sum of the minimum square footage requirement for each animal as listed below never to exceed the square footage of the lot or parcel meeting the fencing requirements and which is fenced. The Planning Division or Planning Commission for cause, such as soil factors, terrain, density or surrounding residential properties, may require greater minimums for each animal. Net land per animal:

(A) Horses or cows: One animal for the first 40,000 square feet, and one animal per 15,000 square feet thereafter, except for supervised stables boarding horses for profit within enclosed structures which shall provide land area requirement only for horses to be kept in pastures.

(B) Sheep, goats, or swine: One animal for the first 20,000 square feet, and one animal per 10,000 square feet thereafter.

(C) Rabbits: One per 10 square feet, caged.

(D) Fowl: One per 10 square feet, penned.

(e) Adequate animal shelters are required for horses, cows, goats, sheep or swine and must be located no closer than 70 feet from the street, or attached to the part of the dwelling opposite the street, and no closer than 70 feet from any other property line.

(f) Adequate animal shelters are required for fowl and rabbits and must be located no closer than 40 feet from the street (or attached to the part of the dwelling opposite the street).

(g) All animal feeds other than hay shall be stored in metal containers or other rodent-proof containers.

(h) All animal wastes and carcasses must be taken care of in a manner so that a health hazard does not exist.

(i) The Planning Division or Planning Commission may for cause restrict or permit the type or sex of animal permitted.

(j) Conditional use applications should be for maximum allowable animals.

(17) **All conditional uses within an A-C Zone shall be reviewed as required in ORS chapter 215**.

(18) **Additional standards for uses in the South Beach I-P zone**:

(a) Access to Highway 101 shall be conditioned on use of alternative road as access when available and closure of Highway 101 access.

(b) Buildings shall be located such that alternative access is not precluded.

(c) Areas visible from Highway 101 shall have visual screening. Visual screening shall include revegetation and may include sight-obscuring fence or berm.

(d) The applicant shall develop a drainage plan which is approved by the County Engineer as part of a coordinated drainage plan.

(19) **Standards for heliports**:

(a) There shall be provisional approval from the Oregon Department of Transportation, Aeronautics Division.

(b) Applicable noise standards of the Oregon Department of Environmental Quality shall be met.

(20) **Standards for mini-storage**:

(a) The mini-storage operation design including signs, structure elevations, painting, plot plan, and materials shall be submitted for review.

(b) Each individual space for rent or sale shall be less than 500 square feet.

(c) Mini-storage shall be limited to dead storage. Outside storage shall be limited to boats, recreational vehicles, and similar vehicles placed within a designated dust-free surfaced area surrounded by a sight-obscuring six foot fence.

(d) Yards shall be permanently landscaped and yard dimensions adjacent to residential zones shall be the same as within the residential zone.

(e) One parking space for each 25 cubicles located at the project office shall be required for use of prospective clients.

(f) All structures shall be fenced and be visually screened. Visual screening shall include permanent re-vegetation which will grow to a height of five feet within four years.

(g) The traffic lane shall be twelve feet wide, and have a ten foot parking lane except where the traffic lane does not serve storage cubicles. All areas providing for vehicle access, parking and movement shall be improved to minimum public road standards.

(h) Change of use to another use such as retail sales or repair services shall require reapplication and conformity to applicable state laws and ordinances.

(i) An on-site caretaker or 24-hour on-site manager may be permitted.

(j) There shall be only one access from each adjacent street.

(k) Outside lighting may be required for all structures.

(21) **Standards for single-wide mobile homes in the R-1 zone**:

(a) Approval of such shall not set a trend or encourage a pattern of growth incompatible with surrounding area development.

(b) All placement and siting standards of Section 1.1440 shall be complied with.

(22) **Standards for bed and breakfast**:

(a) Bed and breakfast facilities shall be restricted to single-family residences.

(b) No more than five sleeping rooms shall be available for the accommodation of facility visitors.

(c) Occupancies shall be limited to no more than 15 days in any 30-day period.

(d) Breakfast shall be the only meal provided to bed and breakfast guests.

(e) The exterior of the building shall maintain a residential appearance from all aspects.

(f) No materials or commodities shall be delivered to or from the residence that are of such a bulk or quantity as to create congestion.

(g) The bed and breakfast facility shall be operated in such a manner so as not to cause unreasonable disturbance to area residents.

(h) Two off-street parking spaces shall be provided for owners or operators with one additional space for each authorized guest room. Off-street parking shall be provided in accordance with standards set forth in LCC 1.1415.

(23) **Standards for parks and campgrounds in the A-C and T-C zones**:

(a) Campgrounds shall be utilized for overnight temporary use for vacation, recreational, or emergency purposes, but not for residential purposes. Camp sites may be occupied by tents, travel trailers, or recreational vehicles.

(b) Campgrounds authorized in the T-C zone shall not include intensively developed recreational uses such as swimming pools, tennis courts, or commercial amusement uses or commercial services such as retail stores or gas stations.

(c) Individual camp sites may not include utility connections for recreational vehicles or travel trailers. Central comfort stations and similar central facilities may be permitted.

(d) Area devoted to park or campground development shall not exceed 10 acres per development.

(e) Developed camp sites shall not exceed 40 sites per development.

(f) Visitor lodging and retreat facilities are allowed if authorized in a state park master plan adopted by the Oregon Parks and Recreation Department (OPRD): historic lodges, houses or inns and the following associated uses in a state park retreat area only:

(A) Meeting halls not exceeding 2000 square feet of floor area;

(B) Dining halls (not restaurants).

(24) **Standards for personal use airports**:

(a) Personal use airports or helipads shall be restricted, except for aircraft emergencies, to use by the owner, by commercial aviation activities in conjunction with agriculture, and infrequent and occasional use by invited guests.

(b) No aircraft may be based on a personal use airport other than those owned or controlled by the owner of the facility.

(c) Exceptions to the limitations on permitted activities contained herein may be allowed subject to a specific waiver action by the State Aeronautics Division authorizing the activity.

(25) **Standards for farm help dwellings**:

(a) Farm help dwellings shall be located on the same lot or parcel as the dwelling of the farm operator.

(b) Occupancy of farm help dwellings shall be limited to grandparents, stepgrandparents, grandchildren, parents, stepparents, children, brothers, sisters, sibling, stepsibling, niece, nephew or first cousin of the farm operator or the farm operator's spouse.

(c) Farm help dwellings shall be occupied by persons whose assistance in the management of the existing commercial farming operation is required by the farm operator. As used in this paragraph, "farm operator" means the person primarily and predominantly responsible for performing the work and making the day-to-day decisions in the management of the farm operation.

(26) **Standards for golf courses in the A-C zone**:

(a) Golf courses in the A-C zone shall be limited to nine hole or 18 hole regulation courses, or some combination thereof, consistent with the following:

(A) A regulation nine hole course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards and a par of 32 to 36 strokes.

(B) A regulation 18 hole course is generally characterized by a site of about 120 to 150 acres of land, has playable distance of 5,000 to 7,200 yards and a par of 64 to 73 strokes.

(b) Golf course facilities not meeting the provisions of paragraph (a) of this subsection, including, but not limited to, executive courses, par three courses, pitch and putt courses, miniature golf courses, driving ranges and similar facilities, are not permitted in the A-C zone.

(c) Accessory uses to golf courses shall be limited to those either necessary for the operation and maintenance of the course, or those which provide goods or services customarily provided to golfers at a golf course. Accessory uses may include parking, maintenance facilities, cart storage and repair, clubhouse, restrooms, lockers and showers, food and beverage service, pro shop, and practice or driving range. Accessory uses do not include sporting facilities unrelated to golf, such as swimming pools, tennis courts, weight rooms, commercial uses oriented to persons other than golf course patrons, or housing.

(d) Accessory uses shall be limited in size and orientation to serve the needs of golf course patrons.

(e) Accessory uses which provide commercial services, such as food and beverage service and pro shop, shall be located in the main clubhouse and not in a separate building.

(27) **Standards for primary processing of forest products in the A-C zone**:

(a) Primary processing consists of the use of a portable chipper or stud mill or similar methods of initial treatment of a forest product in order to enable its shipment to market. As used in this paragraph, "forest product" means timber grown upon the tract where the processing facility is to be located.

(b) Processing facilities shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in ORS 215.203(2).

(c) Processing facilities shall be portable and temporary in nature.

(d) Approvals for primary processing facilities shall authorize operation for a period of not more than one year. Such approvals may be extended for subsequent periods of not more than one year.

(28) **Standards for temporary hardship dwellings in A-C and T-C zones**:

One manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building may be allowed in conjunction with an existing dwelling as a temporary use for the term of the hardship suffered by the existing resident or relative, subject to the following:

(a) Hardship dwellings may only be authorized in conjunction with an existing dwelling.

(b) A hardship dwelling may only be authorized based upon a hardship suffered by the resident of the subject property or a relative as defined in ORS 215.283.

(c) The hardship dwelling shall be connected to the same subsurface sewage disposal system as the primary dwelling, unless this system is found to be inadequate for such use by the On-Site Waste Management Division, or the dwelling can be connected to a public sewer.

(d) The existence of the medical hardship shall be confirmed on a yearly basis by a physician.

(e) Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use.

(f) As used in this section "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.

(29) **Standards for Wireless Communication Facilities**:

All wireless communication facilities to be authorized as conditional uses shall comply with the following standards:

(a) As used in this subsection, "wireless communication facility" means an unstaffed facility for the transmission and/or reception of radio frequency signals, usually consisting of an equipment cabinet or other enclosed structure containing electronic equipment, a support structure, and antennae or other transmission and reception devices.

(b) Wireless communication facilities shall be sited in accordance with the following priorities, in order of their preference:

(A) Co-location by placement of antennae or other transmission and reception devices on an existing tower, building or other structure such as a utility pole or tower, water tank or similar facility.

(B) Use of mini cell or similar alternate technology whereby transmission and reception devices are placed on existing structures or placed on new structures which are consistent in height with and sited similarly to types normally found in the surrounding area, such as telephone, electrical, or light poles.

(C) Siting of a new tower in a visually subordinate manner. As used in this subparagraph, "visually subordinate" means the relative visibility of a wireless communication facility where that facility does not noticeably contrast with the surrounding landscape. Visually subordinate facilities may be partially visible, but not visually dominant in relation to their surroundings as viewed from residences, highways or other public vantage points.

(D) Siting of a new tower in a visually dominant location, but employing concealment technology. As used in this subparagraph, "concealment technology" means technology through which a wireless communication facility is designed to resemble an object present in the natural environment or to resemble a building of a type typically and customarily found in the area.

(c) Applicants proposing the siting of wireless communication facilities through means other than co-location shall demonstrate why higher priority alternatives for providing the specific, proposed wireless service are not feasible. As used in this paragraph, "not feasible" means that the proposed wireless communication service cannot be provided in a reasonable, practicable and cost effective manner. Factors that may render an alternative not feasible may include:

(A) Existing buildings or towers are structurally inadequate to accommodate the proposed facility, and cannot be reasonably retrofitted.

(B) The alternative would cause radio frequency interference that would materially impair the functioning of existing or planned equipment at the tower or site, and such interference cannot be reasonably mitigated.

(C) The alternative cannot provide the radio frequency coverage required to provide the proposed service.

(D) The alternative is precluded by law, rule, regulation, contract or other legal authority.

(30) **Standards for the propagation cultivation, maintenance and harvesting of aquatic or insect species in the A-C zone**:

(a) Insect species shall not include any species under quarantine by State Department of Agriculture or the United States Department of Agriculture.

(b) The director shall provide notice of any application for conditional use approval to the State Department of Agriculture at least 20 days prior to an administrative decision under LCC 1.1210 (2) or initial public hearing under LCC 1.1210 (3).

(31) **Standards for farm stands in the A-C zone**:

(a) Structures shall be designed and used for the sale of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area.

(b) Retail sales of other incidental items and/or fee based activity to promote the sale of farm crops and livestock sold at the farm stand are permitted provided that the revenues from sale of incidental items and fee based promotional activity do not exceed 25 per cent of the total annual sales of the farm stand.

(c) A farm stand shall not include structures designed for occupancy as a residence or for activity other than the sale of farm crops and livestock, and may not include structures for banquets, public gatherings or public entertainment.

(d) As used in this section, "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area.

(e) As used in this subsection, "processed crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.

(f) As used in this Section, "local agricultural area" includes Oregon.

(32) **Standards for facilities for processing of farm crops in the A-C zone**:

(a) Facilities shall be located on a farm operation that provides at least one quarter of the farm crops processed at the facility.

(b) Building floor area devoted to processing shall not exceed 10,000 square feet, exclusive of floor area designated for preparation, storage or other farm use.

(c) Facilities must comply with all applicable siting standards. However, standards may not be applied in a manner that prohibits the siting of the processing facility or establishment.

(d) County may not approve any division of a lot or parcel that separates a processing facility or establishment from the farm operation on which it is located.

(33) Standards for youth camps in the T-C zone:

As authorized in the T-C zone, a youth camp is a facility owned or operated by either a state or local government, or a non-profit corporation as defined under ORS 65.001, for the purposes of providing outdoor recreational and educational experiences primarily for the benefit of persons twenty-one years of age and under. Youth camps do not include any manner of juvenile detention center or facility. Youth camps shall comply with the following standards:

(a) The maximum number of overnight participants that may be accommodated shall not exceed 350 persons including staff, except that this maximum number may be exceeded for up to eight nights in a calendar year.

(b) Overnight stays for adult programs primarily for persons over twenty-one years of age (excluding staff) may be permitted, but shall not exceed 10% of the total nights of operation.

(c) A youth camp shall not interfere with the exercise of legally established water rights.

(d) A youth camp shall be located on a lot or parcel of at least 40 acres in size.

(e) A youth camp shall be located in a forested setting appropriate to ensure a primarily outdoor experience without depending upon the use or natural characteristics of adjacent and nearby land.

(f) Youth camp structures shall be set back a minimum of 250 feet from adjacent property lines and public roads, except that a lesser setback may be permitted if:

(A) The proposed setback will not result in conflicts with commercial resource management practices;

(B) The proposed setback will not significantly increase safety hazards associated with vehicular traffic; and,

(C) The proposed setback will provide an appropriate buffer for nearby and adjacent lands from the visual and audible aspects of youth camp activities.

(g) Youth camps shall not be served by a sewer system as defined in OAR 660-011-0060 (1)(f).

(h) Recreational facilities shall be limited to passive improvements such as open areas suitable for ball fields, volleyball courts, soccer fields, archery or shooting ranges, hiking and biking trails, horseback riding or swimming that can be provided in conjunction with the site's natural environment. One swimming pool may be permitted if no lake or other water feature suitable for aquatic recreation is located on or adjacent to the subject property. Intensively developed facilities such as tennis courts, gymnasiums and golf courses are not permitted.

(i) Covered areas that are not fully enclosed such as pavilions and riding arenas may be permitted.

(j) Primary cooking and eating facilities shall be provided in a single building. Secondary cooking and eating facilities may be provided in other buildings that primarily accommodate other youth camp activities, except that no such cooking or eating facilities shall be permitted in buildings primarily serving as sleeping quarters.

(k) Sleeping quarters may include cabins, tents or other structures. Sleeping quarters may include lavatories, but bathing or kitchen facilities are not allowed in sleeping quarters.

(L) Up to three camp activity buildings may be permitted in addition to primary cooking and eating facilities and sleeping quarters.

(m) Accessory buildings necessary for the operation of the camp, including but not limited to buildings for administrative services, equipment and supply storage, maintenance services, and first aid and infirmary services, may be permitted.

(n) One caretaker's residence may be permitted if there are no other dwellings on the subject property.

(o) Youth camps shall comply with the siting and fire protection standards of LCC 1.1375 (7).

(p) Applications for authorization of a youth camp shall include a fire safety protection plan which shall describe how the following fire safety measures will be provided:

(A) Fire prevention measures;

(B) On-site pre-suppression and suppression measures; and

(C) Establishment and maintenance of fire safe assembly areas for camp participants.

(q) On-site fire suppression measures shall include at a minimum:

(A) At least 1000 gallon mobile water supply that can access all areas of the camp;

(B) A minimum 30 gallon-per-minute water pump with sufficient hose and nozzles; and

(C) A sufficient number of firefighting hand tools; and

(D) Trained personnel capable of operating all fire suppression equipment at the camp during designated periods of fire danger.

(r) An equivalent level of fire suppression may be authorized in the alternative to subparagraph (q) based on the Oregon Department of Forestry (ODF) Wildfire Hazard Zone rating system, the response time of the effective wildfire suppression agencies, and consultation with ODF personnel if the camp is located in an area protected by ODF and not served by a structural fire protection provider.

(s) The requirements for on-site fire suppression measures contained in subparagraph (q) may be waived if a proposed youth camp is located in an area served by structural fire protection service and the provider of that service informs Lincoln County in writing that on-site fire suppression at the camp is not needed.

(t) Approval of a youth camp requires that the land owner sign and record in the deed records of Lincoln County a document binding on the owner, or operator of the camp if different than the owner, and the owner's or operator's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

(34) Standards for storage structures for emergency supplies in the T-C zone:

(a) Upon application for conditional use approval for the placement of emergency supply structures in the T-C zone, the Director shall provide written notification of such application to the Lincoln County Sheriff's Office, Emergency Management.

(b) Structures shall be located outside the tsunami inundation zone and consistent with evacuation maps prepared by the Oregon Department of Geology and Mineral Industries (DOGAMI) or other evacuation plans adopted by a local government entity.

(c) Structures may be authorized in the T-C zone only if locations within an urban growth boundary cannot reasonably accommodate the structures.

(d) Sites where the structures could be co-located with an existing use authorized under LCC 1.1375 (2) shall be preferred; applications for sites not co-located with other uses shall demonstrate that such co-location is not reasonably practicable.

(e) Structures shall be limited to a number and size no greater than necessary to accommodate the anticipated emergency needs of the population to be served.

(f) The structures shall be managed by a local government entity for the single purpose of providing for the temporary emergency support needs of the public. [1985 o.231 §1; 1987 o.262 §1; 1990 o. 288 §1; 1994 o.347 §6; 1998 o.375 §3; 2001o.415 §1; 2001 o.416 §4; 2017 o.499 §1]

NON-CONFORMING USES

1.1701 Non-Conforming Uses

(1) **Definitions**:

(a) The use of any building, structure or land which is lawful at the time of the enactment of any zoning ordinance, regulation or amendment thereto, and is not permitted by the zoning ordinance, regulation or amendment, shall be considered a "nonconforming use," and may be continued.

(b) As used in this section, "alteration" of a non-conforming use or structure includes:

(A) A change in the use of no greater adverse impact to the neighborhood; and

(B) A change in the structure or physical improvements of no greater adverse impact to the neighborhood.

(2) **Alteration**:

Alteration of a non-conforming use may be permitted in accordance with subsection (5) of this section to reasonably continue the use. Alteration of a non-conforming use shall be permitted when necessary to comply with any lawful requirement for alteration in the use. A change of ownership, control or occupancy of a non-conforming use shall be permitted.

(3) **Restoration and Replacement**:

Restoration or replacement of any non-conforming use shall be permitted when made necessary by fire, other casualty or natural disaster, and shall be commenced within one year from the occurrence of the fire, casualty or natural disaster.

(4) **Interruption and Abandonment**:

A non-conforming use interrupted or abandoned for a period of more than one year may not be resumed.

(5) **Alteration Approval**:

Any proposal for the alteration of a nonconforming use, except an alteration necessary to comply with a lawful requirement or an alteration made for the purpose of replacement or restoration under subsection (3) of this section, shall require application and review pursuant to LCC 1.1210(2). [1995 o.354 §1]

VARIANCES

1.1801 Authorization to Grant or Deny Variances

The Planning Commission or Planning Department may authorize variances from the requirements of LCC 1.1310 to 1.1940 where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of these requirements would cause an undue or unnecessary hardship. No variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located, or to increase building height more than ten percent higher than is otherwise permitted, except to complete a story of which more than half falls within the allowable height limit of that zone, or to allow construction of a structure one story higher than the finished ground elevation on the highest side of the structure. In granting a variance the Planning Director or Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and otherwise achieve the purposes of this chapter.

1.1810 Circumstances for Granting a Variance

A variance may be granted only in the event that all of the following circumstances are found to exist:

(1) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to February 12, 1974, topography, or other circumstances over which the applicant has no control.

(2) The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess.

(3) The variance would not be materially detrimental to the purposes of this chapter, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any county plan or policy.

(4) The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.

(5) The hardship does not arise from a violation of the provisions of this chapter.

(6) A request for a variance to the flood plain standards, LCC 1.1386 through 1.1394, in addition to the above, shall conform to the following:

(a) A variance may be granted for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the Oregon Statewide Inventory of Historic Sites and Buildings without regard to LCC 1.1810(6)(b) through (e).

(b) A variance shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(c) A variance may be issued for new construction or substantial improvement to be erected on a lot of one-half acre or less in size when contiguous to and surrounded by lots with existing structures constructed below the base flood level.

(d) The variance shall only be issued upon:

(A) A showing of good and sufficient cause;

(B) A determination that failure to grant the variance would result in exceptional hardship to the applicant;

(C) A determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances; and

(D) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(e) If a variance is issued under the provisions of this subsection, except under paragraph (a) of this subsection, and allows construction below the base flood level, then the Planning Division shall:

(A) Notify the applicant in writing over the signature of the Planning Director that:

(i) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage; and

(ii) Such construction below the base flood level increases risks to life and property.

(B) File in deed records, Lincoln County Clerk's Office, notification of issuance of the variance, which shall contain the following at a minimum:

(i) Assessor's map and tax lot number of the property to which the variance is issued;

(ii) Legal description of the property as shown on the latest deed or land sales contract;

(iii) Findings, conclusions, limitations, and description of the variance;

(iv) The statements contained in subparagraph (A) of this paragraph;

(v) Date that the variance was issued; and

(vi) Signature of the Planning Director, which signature shall be notarized.

(7) New construction which consists of minor additions to the exterior of an existing structure which do not constitute substantial improvement, and which do not violate the intent of either the County or Federal Flood Plain Management Programs may be granted a variance to the elevation requirements of LCC 1.1395 under the provisions of subsections (1) through (5) of this section without being subject to the provisions of subsection (6) of this section.

1.1820 Time Limit on a Variance

Authorization of a variance shall be void after one year unless substantial construction pursuant thereto has taken place. However, the Planning Division or Commission may extend authorization for an additional period not to exceed one year, on request.

1.1830 Variance Procedure

(1) A property owner may initiate a request for a variance by filing an application with the Planning Division on forms prescribed by the Division.

(2) Upon receipt of a completed application, the Planning Division may take action on a variance request in accordance with LCC 1.1210(2).

(3) If the variance has more than routine significance as determined by the Planning Division, a public hearing may be set for Planning Commission consideration of the request in accordance with the requirements of LCC 1.1210(3).

DEVELOPMENT GUIDELINES

1.1910 Intent

The intent of development guidelines is to provide procedures necessary to secure the desirable attributes of the county from depletion and otherwise protect against hazardous or otherwise undesirable developments. "Development", as used in LCC 1.1910 to 1.1940, means the act, process or result of developing, but excludes those forest operations and associated activities which are governed by the Oregon Forest Practices Act and Rules.

1.1915 Scope

Development guidelines shall apply to those areas of concern as described in the following sections and identified on the Comprehensive Plan and Zoning maps and the Comprehensive Plan Inventory for Lincoln County.

1.1920 Procedure

The following procedure shall be followed in determining the suitability and desirability of development being proposed in areas of concern as described in this section:

(1) **Application:**

Applicants requesting approval of land use actions in areas subject to the provisions of this section shall be required to submit, along with any application for a building permit or other development, a detailed site plan and/or written statement demonstrating how the proposed activity takes into account each of the applicable considerations and conforms to each applicable standard specified in this section.

(2) **Review:**

Statements and diagrams of recognition of considerations and conformance with standards submitted along with requests for development will be reviewed in the following manner:

(a) **Building Permits Approval:** For development proposed which has impact only to the immediate area, as determined by the Planning Division, the above mentioned statements and diagrams will be reviewed by the Planning Division as part of the Building Permit approval procedures. If the proposed development appears to adequately recognize the applicable considerations and conforms to all applicable standards outlined above, the Building Permit will be approved. If questions are raised regarding recognition of considerations or conformance with standards, a meeting date shall be set by the Planning Division with the request or to discuss the areas of question. If such questions can be resolved satisfactorily, the Building Permit will be approved. For development proposed which has an impact greater than the surrounding vicinity, as determined by the Planning Division, or for development proposed which the Planning Division cannot satisfactorily resolve questions regarding recognition of considerations, the requests will be referred to the County Planning Commission for resolution.

(b) **Other Approvals:**

Statements and diagrams of considerations and standards for subdivisions, land partitioning, conditional uses, rezones, and other development activities which do not require building permit approval shall be reviewed by the Planning Division for those activities which have an impact only to an immediate area. If the Planning Division determines such considerations are satisfactorily recognized, requests will be approved for those decisions which this Chapter authorizes. If such a proposal is determined by the Planning Division to have an impact greater than the surrounding

vicinity; if the Planning Division is not authorized to make a decision on the matter; or if agreement is not reached between the request or and the Planning Division that the considerations have been satisfactorily recognized, the item will be referred to the Planning Commission for resolution.

1.1925 Geologic Hazards

The following development guidelines are applicable to hazards identified in Bulletin 81, State Department of Geology and Mineral Industries, Environmental Geology of Lincoln County, 1973, or Environmental Hazard Inventory, RNKR Associates, 1978, or by other means:

(1) **Purpose:**

Various geological formations have different characteristics with respect to suitability for development because of faults, flood or landslide potential, high ground water, stream bank, beach or headland erosion, and other factors. The following development guidelines have been prepared in order that geologic hazards will be recognized and the losses resulting therefrom will be lessened.

(2) **Areas of Concern:**

The primary areas of concern are active landslides, high ground water, beach erosion and others. Such hazards are identified in the RNKR Environmental Hazard Inventory, RNKR Associates, 1978, Environmental Geology of Lincoln County, DOGAMI, 1973, or may be determined by other means. Maps included in these studies are a part of the Lincoln County Comprehensive Plan Inventory and are available at the Department of Planning and Development.

(3) **Standards:**

The following shall be required in areas of geologic hazards as identified:

(a) **Ocean Front Lots:**

Setbacks from the shoreline for structures shall be based on identified recession rates in accordance with formulas set forth in Environmental Hazard Inventory, PNKR, page 35. Deviations from required shore front setbacks may be permitted upon submission of a site specific geotechnical analysis prepared by a registered geologist or certified engineering geologist which specifies adequate safeguards to compensate for the reduced setback.

(b) **Geologically Recent Landslides:**

A site specific geotechnical analysis prepared by a registered geologist or certified engineering geologist is required for all development requests on lands within 100 feet of a geologically recent landslide. The geotechnical analysis shall identify the nature and extent of the hazard or hazards present and shall provide specific recommendations for measures adequate to safeguard the proposed development from the identified hazard or hazards.

(c) **Massive Ancient Landslides:**

Major developments such as subdivisions or Planned Developments shall require a site specific geotechnical analysis as specified in paragraph (b) of this subsection. Other developments which require extensive cuts, fills, excavation, road construction or other major modifications to existing land forms shall also require a geotechnical analysis as specified in paragraph (b) of this subsection.

(d) **High Groundwater Areas:**

For development of three or more parcels of less than two acres a detailed geotechnical or engineering analysis shall be required except where sewer is already available, to identify the extent of the problem and establish the feasibility of developing with individual on-site subsurface sewage disposal systems. Cumulative adverse off-site environmental impacts shall be measured to

determine acceptable levels of development in order to avoid ground water contamination and avoid problems for adjoining or down-slope properties. Any proposed subdivision or partitioning in areas identified as potentially having potable ground water in quantities capable of augmenting local domestic water supplies shall be required to establish that the proposed development will not degrade the water quality to the extent that it renders such water unsuitable for domestic use.

(e) **Weak Foundation Soils:**

In areas known to have weak foundation soils for construction of buildings and roads, a detailed soils analysis shall be made by a qualified soils expert. The analysis shall include a recommendation to overcome identified limitations prior to development approval.

1.1930 Beaches and Dunes

The following development guidelines are applicable in beach and dune area identified in the Beaches and Dunes of the Oregon Coast, CC & DC, 1975, and further identified in Environmental Hazard Inventory, Coastal Lincoln County, RNKR Associates, 1977, or by other means:

(1) **Purpose:**

Sand areas may be subject to wind erosion, wave undercutting, ocean flooding and storm waves. The following development guidelines have been prepared in order that sand area characteristics will be recognized and the development appropriate.

(2) **Areas of Concern:**

Areas designated in the Lincoln County Comprehensive Plan Inventory as sand areas.

(3) **Standards:**

The following standards shall be applied in the review of land use actions in all identified sand areas.

(a) Except for the Alsea and Siletz sand spits uses on active foredunes, conditionally stable dunes subject to ocean undercutting or wave overtopping and interdune areas (deflection plains) subject to ocean flooding shall be limited to hiking trails, platforms for wildlife viewing and similar low intensity educational, recreational or open space uses.

(b) A revegetation plan is required prior to development. Building construction shall be designed and located to minimize vegetation removal, dune form alteration and exposure to erosion. The plan shall consider the following:

(A) The type of use proposed and the adverse effects it might have on the site and adjacent areas;

(B) Temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation;

(C) Methods for protecting the surrounding area from any adverse effects of the development; and

(D) Hazards to life, public and private property, and the natural environment which may be caused by the proposed use.

(c) **Foredunes:**

Foredunes shall be breached only to replenish sand supply in interdune areas, or on a temporary basis in an emergency, such as fire control, cleaning up oil spills, draining farm lands, and alleviating flood hazards, and only if the breaching and restoration after breaching is accomplished under the supervision of a qualified sand expert.

(d) **Groundwater Areas:**

(A) Prior to approval of uses proposed in areas identified in the Comprehensive Plan Inventory as potentially having potable ground water in quantities capable of augmenting local domestic water supplies, the applicant shall provide a report by the Oregon Department of Environmental Quality (DEQ) or other acceptable authority that the use shall not degrade water quality below DEQ's standards.

(B) Prior to approval of development using ground water sources, a technical report shall be provided by the applicant which demonstrates that the use will not draw down ground water to levels which would lead to loss of stabilizing vegetation or intrusion of saltwater into water supplies.

1.1935 Scenic Areas, Historic and Archaeological Sites, and Fish and Wildlife Habitats

The following development guidelines shall apply to scenic areas, historic and archaeological sites and fish and wildlife habitats as identified in the Lincoln County Comprehensive Plan Inventory:

(1) **Purpose:**

The scenic, historic and fish and wildlife resources of Lincoln County make it a desirable location to visit and in which to reside. These resources are of importance to the citizens of the county for environmental, social, and economic reasons. The following development guidelines are established to ensure that the viability of such resources is not destroyed.

(2) **Areas of Concern:**

Areas designated in the Lincoln County Comprehensive Plan Inventory as having value as scenic, historic or fish and wildlife resources shall be subject to the provisions of this section.

(3) **Considerations:**

The following list indicates the considerations which shall be recognized in the review of land use actions in areas subject to the provisions of this section:

(a) **Scenic Areas:**

(A) Maintaining natural vegetation whenever possible.

(B) Landscaping areas where vegetation is removed and erosion might result.

(C) Screening unsightly land uses, preferably with natural vegetation or landscaping.

(D) Limiting rights-of-way widths and numbers of roads intersecting scenic roadways to the minimum needed to safely and adequately serve the uses to which they connect.

(E) Limiting signs in size and design so as not to distract from the attractiveness of the area.

(F) Siting developments to be compatible with surrounding area development, and recognizing the natural characteristics of the location.

(G) Limiting excavation and filling only to those areas where alteration of the natural terrain is necessary, and revegetating such areas as soon as possible.

(H) Protecting vistas and other views which are important to be recognized because of their limited number and importance to the visual attractiveness of the area.

(I) Concentrating commercial developments in areas where adequate parking and public services are available, and discouraging strip commercial development.

(b) **Fish and Wildlife Habitats:**

(A) Protecting water quality and minimizing structural encroachment into natural waterways and drainage ways.

(B) Maintaining natural riparian vegetation. Riparian vegetation as used in this paragraph means naturally occurring vegetation within 50 lineal feet of a body of water as measured along the existing grade.

(C) Reestablishment of vegetation in riparian areas when disturbance is unavoidable.

(D) Minimizing filling, drainage and channelization in wetland areas.

(E) Providing for the maximum practicable amount of open space in development.

(F) Maintaining existing native upland vegetation.

(G) Retaining large dead trees (snags) when safety considerations permit.

(H) Protecting perching trees and maintaining low intensity uses within 150 meters of pigeon mineral springs.

(I) Protection of trees within the primary nest zone (the area encompassed by the boundary drawn to enclose all nests) or heron rookeries.

(J) Maintaining natural vegetation within 100 meters of the primary nest zones of heron rookeries.

(K) Preservation of trees and maintenance of low intensity uses within a 100 meter radius of eagle and osprey nests.

(L) Protection of old growth trees within 400 meters of existing eagle and osprey nests.

(M) Locating dwellings as close as practical to roads, other dwellings and other existing development in areas of major big game range.

(N) Minimizing road buildings excavation and other construction activities in areas of major big game range.

1.1940 Airport Areas

The following development guidelines are applicable to those areas in close proximity to airports within the county, and particularly in approach pattern areas:

(1) **Purpose:**

Since airports are an important community asset and investment, they must be protected form encroaching incompatible uses which may subsequently have a deleterious effect on the expansion or future operation of the facility. These development guidelines have been prepared in order to achieve the potential of all airports. The operation of airports should not be placed in jeopardy or be limited by future standards that would be enacted to provide for the safety and health of structures and inhabitants when they should initially have been limited or prevented from locating in close proximity to the airport facility.

(2) **Areas of Concern:**

At the present time there are four public airport or landing facilities in the county which warrant the provision of some means of protection. They are located at Siletz Bay, Toledo, Newport, and Waconda Beach. Areas of concern around each of these facilities are delineated on County Zoning Maps. Private landing strips and heliports are not delineated but may still be subject to applicable restrictions.

(3) **Standards:**

The following standards shall apply in airport areas:

(a) **Airport Area Height Limitations:**

Except as otherwise provided in this section, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow to a height in excess of the applicable height herein established. Such height limitations shall be established in accordance with regulations of

the Federal Aviation Administration relating to objects affecting navigable airspace, 14 CFR Part 77.

(b) **Use Restrictions:**

Regardless of any other provisions of this section, no use may be made of land or water within any area covered by this section in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

(c) **Marking and Lighting:**

The owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by Lincoln County to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the airport owner.

(d) **Future Uses:**

Except for the exceptions provided in paragraph (e) of this subsection, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any airport area unless approved by the Lincoln County Planning Commission or Planning Division through a conditional use permit. Each application shall indicate the purpose for which the approval is desired, with sufficient detail to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the approval may be granted. No permit for a use inconsistent with the provisions of this section shall be granted.

(e) **Exceptions:**

(A) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than 50 feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

(B) In areas lying within the limits of the approach zones but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 50 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

(C) In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no approval shall be required for any tree or structure less than 50 feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

(D) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any height limits established by this section.

(f) **Existing Uses:**

No approval shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation, than it was on June 25, 1980, or than it is when the application for a permit is made.

(g) **Variances:**

Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property not in accordance with the regulations prescribed in this section, may apply to the Planning Division or Commission for a variance from such regulations in accordance with LCC 1.1801 through 1.1830. The application for variance shall be accompanied by a determination from the Federal Aviation Administration and the Aeronautics Division of the Department of Transportation as to the effect of the proposal on operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances may be allowed where the requirements of LCC 1.1810 have been met and it is found that the relief granted will not be contrary to the public interest and will not create a hazard to air navigation. Additionally, no application for variance to the requirements of this section may be considered by the Planning Commission or Planning Department unless a copy of the application has been furnished to the airport owner for comment as to the aeronautical effects of the variance. Failure of the airport owner to respond to the request for comments shall not prevent Lincoln County from acting on its own to grant or deny the application.

(h) **Land Uses Within Airport Areas:**

All structures and uses within the airport areas shall conform to the requirements of regulations of the Federal Aviation Administration relating to objects affecting navigable airspace, 14 CFR Part 77, and to other federal and state laws regulating structural height, smoke, steam or dust and other hazards to flight, air navigation, or public health, safety and welfare. Within the various airport areas, certain uses are compatible and certain uses are not because of possible negative effects on either the airport or the use. Such effects on the airport may include danger to property or life from accident, noise, and vibration. Because of these factors, the special airport zones have been further limited or restricted as follows:

(A) **Approach Zones:**

(i) The following uses are prohibited except as required for airport use:

(aa) Places of public assembly.

(bb) Residential density greater than one unit per five acres.

(cc) Retirement homes and other residential institutions.

(dd) Hospitals.

(ee) Schools.

(ff) Aggregate extraction where ponding and birds pose a strike hazard.

(gg) Above ground power lines within clear zones.

(hh) Storage of hazardous material as defined by the National Fire Protection Association.

(ii) Communications towers.

(jj) Solid waste disposal sites.

(kk) Commercial or industrial use with potential operations hazards such as electrical interference, high intensity lighting, smoke, glare, noise, and other hazards.

(ii) All other uses as listed in the underlying zone with a hold-harmless agreement and navigational easement.

(B) **Clear Zones:**

(i) The clear zone shall be free of any construction or obstacle and shall be minimally used by people.

(ii) Agriculture which does not attract birds is compatible, but no structures are allowed.

(iii) Above ground power lines are prohibited.

(iv) Airport clear zones are subject to the conditions as shown in the airport's master plan.

(C) **Moderate Noise Impact Zone (LDN 55+):**

(i) Schools, hospitals, nursing homes, theaters, auditoriums, residential development and all other places of public assembly shall have noise insulation in accordance with Oregon Department of Environmental Quality standards and recommendations.

(ii) Housing shall be oriented such that screening with fences, berms or other treatment reduce awareness of the airport.

(D) **Substantial Noise Impact Zone (LDN 65+):**

(i) Airport terminal with appropriate insulation.

(ii) Hangars.

(iii) Other airport related uses only.

1.1945 Otter Rock Wellhead Protection Area

The following Development Guidelines shall apply to the Otter Rock Water District Wellhead Protection Area as identified in the Lincoln County Comprehensive Plan Inventory:

(1) Purpose:

The groundwater resource within the Otter Rock Water District Wellhead Protection Area has been identified as a significant Goal 5 resource. This resource provides the sole source of drinking water to the community of Otter Rock. This resource is of critical importance to property owners and residents of Otter Rock for both public health and economic reasons. The following development guidelines are established to reduce the risk of contamination of this groundwater resource.

(2) Areas of Concern:

Lands within the Otter Rock Water District Wellhead Protection Area, as identified and mapped in the Lincoln County Comprehensive Plan Inventory, shall be subject to the provisions of this section.

(3) Standards:

The following standards shall be applied to all proposed development within the Otter Rock Water District Wellhead Protection Area:

(a) Where a public or community sewage disposal system which can serve a proposed sewage flow is both legally and physically available, as defined in OAR 340-071-0160, installation of on-site sewage disposal systems is prohibited.

(b) Notwithstanding the provisions of the underlying use zone, the minimum lot area per dwelling unit shall be 5 acres when a lot is not served by a public or community sewage disposal system.

(c) Home occupations or other conditional uses which involve the use of hazardous or toxic materials are hereby determined to be incompatible with existing uses (groundwater protection) on surrounding lands, and are prohibited as failing to comply with LCC 1.1630(1)(b).

(d) The Division shall provide written notice to the Otter Rock Water District of all land use applications within the wellhead protection area at least 20 days prior to issuing a decision on such applications. [1999 o.389 §2]

1.1950 Agate Beach Landfill and Transfer Station

The following development guidelines are intended to implement Statewide Planning Goal 11 and OAR 660-011-0060 for the Agate Beach Landfill and the Solid Waste Transfer station currently operated by Thompson's Sanitary Service, Inc., on land described as Tax Lots 1300,

1300-21, 1300-22, and 1305, Assessor's Map 10-11-17. These guidelines are applicable only if the aforementioned property is located outside the Newport Urban Growth Boundary.

(1) Purpose:

The purpose of these guidelines is to allow extension of sewer service outside the Newport Urban Growth Boundary (UGB) to allow leachate from the closed Agate Beach Landfill and the existing solid waste transfer station to be collected and transported to the Newport Wastewater Treatment facility located inside the Newport UGB. This connection is necessary to comply with plans approved by the Department of Environmental Quality (DEQ) under closure permit # 373 for the Agate Beach Landfill, and with DEQ mandated operational requirements for the transfer station.

(2) Restrictions:

Sewer service shall not be extended beyond the subject property outside the UGB. Sewer service to the subject property shall be limited to serving leachate collection and transmission facilities.

(3) Applicability:

The procedures required in LCC 1.1920 shall not apply to any development on the subject property. The guidelines shall only preclude use and extension of sewer service except as authorized herein. Nothing in these guidelines shall prohibit other uses authorized under applicable planning and zoning designations, ongoing closure activities related to the closed landfill, or ongoing operational activities related to the solid waste transfer station. [1999 o.390 §2]

1.1955 Traffic Impact Mitigation

The following development guidelines shall apply to the review of development proposals identified as creating substantial increases in traffic or creating other potentially adverse impacts or burdens on transportation facilities:

(1) Purpose: The following development guidelines implement OAR 660-012-0045(2)(e), which requires a process to apply conditions to development proposals in order to protect and minimize adverse impacts to transportation facilities. This section establishes the standards for when a proposal must be reviewed for potential traffic impacts through a traffic impact study, the standards for approval or denial of an application based on the level of traffic impacts identified in a traffic impact study, and the authority to impose conditions or limitations on a proposed development as needed to mitigate adverse traffic impacts.

(2) Standards: The following standards shall apply to any application filed with the division pursuant to LCC 1.1210(2) or 1.1210(3):

(a) Applications Requiring Traffic Impact Study: A traffic impact study is required for any application identified in this section which the county engineer determines may result in operational or safety problems or which will have one or more of the following impacts:

(A) An increase in site traffic generation of 500 or more average daily trips or 100 hourly vehicle trips as determined in accordance with the latest edition of the Trip Generation manual, published by the Institute of Transportation Engineers;

(B) An increase in use of adjacent streets by 10 or more vehicles per day exceeding 20,000 pound gross vehicle weight;

(C) A proposed approach location does not meet the standards set forth in LCC 6.025 or is located where vehicles entering or leaving the property are restricted; or

(D) A change in internal traffic patterns that may cause safety problems, such as back up onto a highway or traffic crashes in the approach area.

(b) A required traffic impact study shall be prepared by a professional engineer licensed in the State of Oregon in accordance with applicable Oregon Administrative Rules.

(c) The study area for a required traffic impact study shall evaluate all collector and arterial intersections impacted by 50 or more peak hour vehicle trips generated by the proposed land use.

(d) A required traffic impact study for an amendment shall evaluate the use with the highest trip generation potential that could be permitted by the proposed amendment.

(e) For applications impacting a state highway, a required traffic impact study shall be prepared in the manner set forth in OAR 734 division 051.

(f) Approval Criteria: When a traffic impact study is required, approval of the subject application requires satisfaction of the following criteria:

(A) Conditions resulting from the proposed development, including any mitigation measures, will meet county's level-of-service standard of "D" or volume-to-capacity ratio of 0.90 and, if a state highway is impacted, the standards of OAR 734-051 for impacted state highways; and

(B) The proposed site design and traffic and circulation design and facilities, for all transportation modes, including any mitigation measures, are designed to:

(i) Minimize negative impact on all applicable transportation facilities;

(ii) Accommodate and encourage non-motor vehicular modes of transportation to the extent practicable; and

(iii) Provide the most direct, safe and convenient routes practicable between on-site destinations, and between on-site and off-site destinations.

(g) Conditions of Approval: In approving any application subject to this section, the director or commission may impose any conditions or requirements found necessary to achieve compliance with the purpose and standards of this section, including but not limited to:

(A) Dedication of land for streets, transit facilities, or other transportation facilities; and

(B) Improvements such as paving, curbing, installation of or contribution to turn lanes or traffic signals, or construction of streets that serve the proposed use. [2008 o.456 §10]

LAND DIVISIONS

1.3210 Purpose

As authorized by law, including ORS chapters 92 and 215, the following requirements and standards relating to the division of land apply to all land within the unincorporated area of the County. These regulations have the following objectives:

(1) To allow for the proper location of utilities.

(2) To specify the width, location and improvement of public and private streets and roads.

(3) To provide for adequate sewage disposal.

(4) To provide for adequate water supplies.

(5) To provide for drainage facilities.

(6) To reduce danger from geologic hazards, floods, fire and pollution.

(7) To otherwise secure the objectives of the Lincoln County Comprehensive Plan. [1994 o.336 §1]

1.3215 Approval of Subdivisions

(1) No plat or replat of a subdivision of land shall be recorded or have any validity unless and until it has the approval of Lincoln County as provided for in this chapter.

(2) No person shall dispose of, transfer, or sell any lot in any subdivision until final approval is obtained and the plat of that subdivision recorded.

(3) No person shall negotiate to sell any lot in any subdivision until a tentative plan of that subdivision has been approved.

(4) The director shall not approve a building permit for any lot in a subdivision until the subdivision has been granted final approval and the plat of the subdivision has been recorded. [1994 o.336 §2]

1.3220 Approval of Partitions

(1) A partition of land shall not be valid until it has been approved as provided in this chapter. No person shall convey any interest in a parcel in any partition or replat of a partition until the plat of the partition has been recorded as provided for in this chapter. A person may negotiate to sell any parcel in a partition or replat of a partition upon approval of the tentative plan of the partition.

(2) The Director shall not approve a building permit for any parcel in a partition or replat of a partition until the partition or replat has been granted final approval and the plat has been recorded.

(3) When the Director determines that continuous partitioning of a tract of land may occur in subsequent years, the Director may refer the application to the Planning Commission, for a determination as to whether the development should be subject to the Subdivision requirements of this chapter. [1994 o.336 §3]

1.3223 Approval of Property Line Adjustments

No person shall accomplish a property line adjustment without having first secured the approval of Lincoln County as provided for in this chapter. [1994 o.336 §5]

1.3225 Approval of Street or Road Creations

(1) No person shall create a street or road for the purpose of partitioning an area or tract of land without the approval of Lincoln County as provided for in this chapter.

(2) No instrument dedicating land to public use shall have any validity unless such instrument bears the approval of Lincoln County as accepting such dedication. [1994 o.336 §6]

1.3230 General Requirements and Minimum Standards of Design and Development

The following are the minimum requirements and standards to which subdivisions, partitions and replats must conform before approval.

(1) **Conformity to the Comprehensive Plan:**

All subdivisions, partitions and replats shall conform to the Comprehensive Plan, and zoning regulations for Lincoln County. However, lawfully created lots or parcels which do not conform to the current lot size, width to depth or other dimensional standards required by zoning may be re-platted without regard to these standards, except that the degree to which such lots or parcels do not conform to one or more applicable standards shall not be increased.

(2) **Relation to Adjoining Street System:**

(a) A subdivision or partition shall provide for the continuation of existing and projected streets and roads. If, in the opinion of the Division or the Commission, topographic or other site conditions make such continuation or conformity impractical, exceptions may be made.

(b) When a tract is divided into lots or parcels of a size which could allow for further re-division under current zoning, the Planning Division or Commission may require an arrangement of lots and streets such as to permit a later redivision in conformance with the street requirements and other requirements contained in this chapter.

(c) Within urban growth boundaries and rural community centers, block lengths between interconnecting streets shall not exceed 600 feet.

(3) **Access:**

A subdivision, partition or replat shall provide each lot or parcel with not less than 25 feet of frontage on a public or private road or street, except that where necessitated by adverse sight distances or other factors, greater frontage may be required.

(4) **Private Streets:**

(a) No street or road which connects existing public streets or which would serve as a collector from existing public or private streets shall be approved as a private street.

(b) The establishment of a private street shall not be allowed if it will deny the public access to public areas such as beaches or parks.

(c) No road or street shall be approved as a private road in a case where such a road or street presently is or will in the future be needed to provide access to development on adjacent properties or to serve as a collector for other subdivisions or partitions in the area.

(d) All private streets or roads established for the purpose of subdividing, partitioning or replatting land shall be surveyed and monumented.

(e) Right-of-way widths and improvements on private roads serving two or more lots or parcels shall be the same as those for public roads providing access to similar developments. Private roads serving only one parcel shall be exempt from standards for improvements.

(5) **Road Right-of-Way Requirements:**

(a) Type of Road	Right-of-Way Width
Arterials and collectors	60 to 80 feet
Local roads and streets	50 feet
All other roads	50 feet

(b) Where topographical requirements necessitate either cuts or fills for the proper grading of roads, additional right-of-way or slope easements may be required.

(6) **Street Design and Improvements:**

(a) All plans and specifications for street and road improvements shall be prepared by an engineer licensed in the State of Oregon.

(b) The layout of streets shall give suitable recognition to surrounding topographical conditions in accordance with the purpose of this chapter.

(c) Street improvements shall conform to the following requirements:

(A) Width: Outside of urban growth boundaries and rural community centers, roads serving three or fewer dwellings shall have a 12 foot improved width and a 20 foot horizontal clearance, and roads serving more than three dwellings shall have a 16 foot improved width and a 20 foot horizontal clearance. Within urban growth boundaries and rural community centers, roads with no on-street parking shall have a 20 foot improved width, roads with parking provided on one side of the street shall have a 24 foot improved width, and roads with parking provided on both sides of the street shall have a 28 foot improved width.

(B) Construction: Roads must be improved with an all weather surface in accordance with generally accepted engineering practices. Roads, bridges and culverts shall be designed and maintained to support a minimum gross vehicle weight of 50,000 pounds. If bridges or culverts are involved in the construction of a road or driveway, written verification of compliance with the 50,000 pound gross vehicle weight standard shall be provided by the designing engineer.

(C) Vertical Clearance: Roads shall have an unobstructed vertical clearance of not less than 13.5 feet.

(D) Turnarounds: Dead end roads over 150 feet in length shall provide a turnaround adequate for emergency vehicles.

(E) Turnouts: Roads with less than 20 feet of improved width and greater than 400 feet in length shall have turnouts at a maximum spacing of one-half the length of the access road or 400 feet, whichever is less. Turnouts may be required more frequently where visibility is limited. Turnouts shall be an all weather surface at least 10 feet wide and 40 feet long.

(F) Road Grade: Road grades shall not exceed 12 percent, except that a maximum of 15 percent may be permitted on pitches less than 200 feet long. Roads with grades exceeding eight percent shall be surfaced with asphaltic concrete or other hard surfacing approved by the Public Works Director. Variations from these standards may be granted by the fire service having responsibility for the area when topographic conditions make these standards impractical and where the local fire protection district states that their fire fighting equipment can negotiate the proposed road grades.

(G) Curve Radii: Curve centerline radii shall be not less than 225 feet.

(H) The applicant shall provide an as-built certification stamped by a licensed professional engineer registered in the State of Oregon verifying that road design standards set forth in this section have been met.

(I) Applicants seeking modifications to the above standards in accordance with subsection (18) of this section shall provide an alternative road design meeting the standards set forth in the

American Association of State Highway and Transportation Officials (AASHTO) manual or other acceptable design principles and construction specifications consistent with generally accepted engineering practices.

(d) All bridges shall have a 30 year minimum life expectancy and shall be constructed to load limit standards approved by the County Director of Public Works.

(e) All roads proposed to be developed within a city's urban growth boundary shall be developed to the standards of the city where such standards require greater levels of improvements than the standards contained herein.

(f) Improvements to arterial and collector streets shall include sidewalks and bikeways.

(7) **Street Intersections:**

(a) Streets shall intersect one another at an angle as near to a right angle as is practical considering the topography of the area and previous adjacent layout.

(b) Intersections shall be designed so that no danger to the traveling public is created as a result of staggered intersections; in no case shall intersections be offset less than 100 feet.

(8) **Cul-de-Sacs and Turn-a-Rounds:**

(a) In general, dead-end (cul-de-sac) streets in partitions or subdivisions with an average lot size of under one acre shall not exceed 400 feet in length.

(b) Approved turn-a-rounds shall be provided on all dead-end streets.

(9) **Utility Easements:**

Where alleys are not provided, easements of not less than six feet in width may be required on each side of the rear line or side line for necessary utility lines, wires, conduits, storm and sanitary sewers, gas and water. Easements of the same or greater widths may be required along boundary lines or across lots where necessary for the extension of utility lines, waterways, and walkways and to provide necessary drainage ways or channels.

(10) **Public Access Ways:**

Within urban growth boundaries and rural community centers, the land divider shall dedicate to the public access ways 10 to 20 feet in width to connect to cul-de-sacs, to pass through oddly shaped or unusually long blocks, to provide for networks of public paths according to adopted plans or to provide access to schools, parks, beaches, shopping areas, employment centers, transit stops or other public areas, of such design and location as reasonably required to facilitate public use and provide safe and convenient pedestrian access.

(11) **Lots and Parcels:**

(a) Every lot or parcel shall front on a street and the frontage of each shall be not less than 25 feet unless a greater frontage is necessitated by adverse sight distance or other conditions.

(b) Each side line shall be as close to perpendicular to the adjacent street line or radial to a curved street line as possible.

(c) Lots or parcels with double frontage shall not be permitted unless in the opinion of the Director or the Commission, an odd shaped tract or existing topography makes such lots unavoidable.

(d) Where lots are to be platted using a "flag lot" configuration, the staff of the flag shall not be considered in computing the width to depth ratio.

(12) **Parks and Open Space:**

In a subdivision of 10 acres or more, the Planning Commission may require the subdivider to provide up to five percent of the subdivision area for park and recreation purposes. These areas

shall be of a design and location acceptable to the Planning Commission, based on the suitability of the area for park and recreation purposes.

(13) **Partial Development:**

If a proposed subdivision or partition area includes only part of the tract owned by the subdivider, the Planning Commission or Division may require a sketch of the tentative layout or streets in the remainder of that tract.

(14) **Duplication of Names:**

Subdivision plat names shall be subject to the approval of the County Surveyor. The name of a tentative plan must not duplicate the name used in any other legally recorded subdivision in Lincoln County, except for the words, "town", "city", "place", "court", "addition", or similar words, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name or unless the party files and records the consent of the party that platted the subdivision bearing that name. All subdivision plats must continue the lot numbers and, if used, the block numbers of the subdivision plat of the same name last filed. On or after January 1, 1992, any subdivision submitted for final approval shall not use block numbers or letters unless such subdivision is a continued phase of a previously recorded subdivision, bearing the same name that has previously used block numbers or letters.

(15) **Water:**

No partition, subdivision or replat shall receive final approval unless the county has received and accepted:

(a) A certification by the owner or superintendent of a publicly or privately owned domestic water supply system, that water is available to the boundary line of each and every lot or parcel depicted in the proposed subdivision or partition;

(b) A performance agreement, bond, contract or other assurance that a domestic water supply system will be installed to the boundary line of each and every lot or parcel depicted in the proposed partition or subdivision; or

(c) Where a community or public water supply system is not available, a statement signed by the applicant that water service will not be provided to any lot or parcel depicted in the partition or subdivision. In a residential subdivision or partition, the proposed source of domestic water to be developed by the buyer, whether off or on-site, spring, well, or other source, shall be included in the statement.

(16) **Sewer:**

No partition or subdivision shall receive final approval unless the county has received and accepted:

(a) A certification by the owner or superintendent of a publicly or privately owned sewage disposal system that sewerage service is available to the boundary line of each and every lot depicted in the proposed subdivision or partition;

(b) A performance agreement, bond, contract or other assurance that a sewage disposal system will be installed by or on behalf of the developer to the boundary line of each and every lot depicted in the proposed subdivision or partition; or

(c) Where no community sewerage service is available, the Department of Environmental Quality or the Lincoln County On-Site Waste Management Division shall approve the proposed methods of sewage disposal.

(17) **Phase Development:**

Subdivisions or partitions may be platted in phases. Plans for phase development shall be set forth as a part of the tentative plan application. When submitted for final approval, each phase must conform in all respects to the conditions of tentative approval.

(18) **Modifications:**

The Director or Commission may grant modifications to the standards contained in LCC 1.3230. Modifications shall be requested by the applicant as part of the tentative plan application. A modification may be granted provided that:

(a) There are practical difficulties in meeting the required standard or demonstrable aesthetic advantages in modifying the required standard;

(b) The basic intent and purpose of the requirement to be modified would still be served; and

(c) The granting of the modification would not be contrary to or conflict with any other provision of the Lincoln County Code. [1994 o.336 §7; 2008 o.356 §13]

1.3235 [repealed 1994 o.336 §14]

1.3237 Procedure for Subdividing, Partitioning or Replatting Land

(1) **Pre-Application Conference:**

Prior to submitting a tentative plan of a subdivision, partition or replat, the applicant shall confer with the Planning Division staff regarding the requisites of the tentative plan application and the applicable standards and criteria of this chapter.

(2) **Tentative Plan Application and Review:**

The procedure for application and review of the tentative plan of a subdivision, partition or replat, shall be as set forth in LCC 1.1210(2).

(3) **Time Limit on Tentative Approval:**

Approval of a tentative plan of a partition, subdivision or replat is valid for a period of two years from the effective date of the approval, unless a phasing plan or other larger time frame has been authorized as a part of the tentative plan approval. If no request for final approval or time extension has been received within the tentative approved time limit, the tentative plan approval shall expire.

(4) **Time Extension on Tentative Approval:**

Approval of a tentative plan may be extended beyond the two year or other approved period upon request. Requests for time extensions shall be made to the division on a form prescribed by the division. Requests for time extensions shall be considered and acted upon in accordance with LCC 1.1210(1). In considering a request for a time extension, the Director or Commission may consider the following:

(a) To what extent any required improvements have been constructed or completed.

(b) Whether there have been any changes in circumstances or in applicable code or statutory requirements which could have affected the original approval.

(c) Whether additional conditions or requirements could be imposed on the tentative approval which would satisfactorily address any deficiencies resulting from changed circumstances or code or statutory requirements. In granting a request for a time extension, the Director or the Commission may impose such additional conditions or requirements as are considered appropriate. A time extension shall be for a period of one year. Not more than three time extensions of a tentative approval may be granted.

(5) **Revision of Tentative Plan:**

If an approved tentative plan is to be substantially revised, such revision shall be filed as a new application for tentative plan approval.

(6) **Performance Agreements:**

(a) The County may accept, in lieu of the completion of road, utility or other improvements required by a tentative approval, a performance agreement executed by the developer with the Board for the purpose of guaranteeing the completion of such improvements.

(b) The form of guarantee provided by such an agreement shall be subject to the approval of the Board.

(c) Any performance agreement entered into pursuant to this section shall require the completion of the guaranteed improvements within a specified time period. Such time period may be extended at the discretion of the Board.

(d) Cost estimates for improvements to be guaranteed by a performance agreement shall be provided by the developer. All cost estimates shall be reviewed by the Director of Public Works who shall provide a recommendation on the adequacy of such estimates to the Board.

(7) **Certifications Required for Final Approval:**

Requests for final approval of a subdivision, partition or re-plat shall be accompanied by the following:

(a) A copy of all covenants and restrictions.

(b) Copies of legal documents required for dedication of public facilities or for the creation of a homeowner's association.

(c) The certification, performance agreement or statement regarding the availability of water and sewerage services.

(d) As-built certifications for all required roads and utilities unless otherwise guaranteed by a performance agreement.

(e) A plat and one exact copy meeting the requirements of LCC 1.3242 and ORS 92.050 to 92.100, unless an exception is provided for by LCC 1.3242(6).

(f) Where a plat is not required pursuant to 1.3242(6), descriptions of the parcels prepared and stamped by a registered professional land surveyor. The boundaries between the newly created parcels shall be related to a physically existing public land survey corner monument or to a physically existing monumented lot, parcel or boundary corner of a recorded subdivision, partition or condominium plat.

(g) A preliminary title report, lot book report, subdivision guaranty report or equivalent documentation of the ownership of the subject property, issued not more than 30 days prior to the date the final plat is submitted for final approval. Such a report shall also identify all easements of record.

(h) Copies of deeds, conveyances or other recorded documents pertaining to any easements which the platted property is subject to.

(i) A copy of filed survey of the perimeter boundaries of the subject property, complying with ORS 209.250, or a statement from the County Surveyor waiving such requirement. Such survey shall have been filed not less than 30 days prior to the granting of final approval.

(j) Such other information as is deemed necessary by the Director to verify conformance with the conditions of tentative approval

(8) **Procedure for Final Approval**:

(a) The procedure for application and review of a request for final approval of a subdivision, partition or replat shall be as set forth in LCC 1.1210(1). All such applications shall be accompanied by the certifications set forth in LCC 1.3237(7).

(b) Upon the granting of final approval, the Director shall sign the plat and its exact copy.

(c) Upon signing, the Director shall deliver the plat and its exact copy to the County Surveyor. The surveyor shall review the plat for conformance with the requirements of LCC 1.3242 and the provisions of ORS 92.050 to 92.100.

(d) Upon approval of the County Surveyor, plats shall be circulated for signing to the following officials:

(A) The County Treasurer, whose signature shall certify that all taxes on the property have been paid;

(B) The County Assessor, whose signature shall certify that the plat is signed by the owner or owners of record;

(C) For subdivision plats, the Chair or Vice Chair of the County Commission whose signature shall certify that the plat is approved by them.

(e) Upon signing by the required county officials, plats shall be delivered to the County Clerk for recording.

(f) The signature of the Director on a final plat shall be valid for a period of one year. If a plat has not been recorded within one year of the date of the Director's signature, the final approval of the plat by the Director, in accordance with LCC 1.3237(8) shall expire, and a new request for final approval shall be required. [1994 o.336 §9]

1.3240 [repealed 1994 o.336 §14]

1.3242 Plat Requirements

(1) **Requirements of Survey and Plat:**

The surveys and plats of all subdivisions, partitions, and replats shall be made by a registered professional land surveyor and shall conform to the requirements of ORS chapter 92 and the plat standards of the Lincoln County Surveyor.

(2) **County Roads:**

When an area or tract of land to be subdivided or partitioned adjoins a county road, that portion of the county road right-of-way adjoining the plat shall be surveyed and monumented, unless such requirement is waived by the Director of Public Works.

(3) **Encroachment or Hiatus:**

In the event that any encroachment, hiatus or property line discrepancy exists on the property to be platted, such encroachment, hiatus or discrepancy shall be clearly shown on the plat.

(4) **Elevation Bench Marks:**

Where required, the location, name and elevation of any elevation bench marks shall be indicated on the face of the plat. The name, year, and elevation of the bench mark upon which the elevation is based shall also be shown.

(5) **Easements:**

All recorded and proposed easements will be shown on the plat, along with the following information:

(a) The specific location and size by dimensions or description.

(b) If previously recorded, the County Clerk's recording reference.

(c) The purpose or type of easement and whether it is a public or private easement and, if private, state who benefits from the easement. Any public or private easement to be created, or any other restriction made, shall be noted in the declaration. Public easements shall include language in the declaration which dedicates the easement to the use of the public.

(6) **Exceptions:**

Parcels in excess of ten acres created by partition need not be surveyed, monumented, or shown on a partition plat. [1994 o.336 §10]

1.3245 [repealed 1994 o.336 §14]

1.3247 Standards and Procedures for Property Line Adjustments

(1) Tentative Approval

(a) The procedure for application, review and tentative approval of property line adjustments shall be as set forth in LCC 1.1210(1).

(b) A property line adjustment shall be tentatively approved provided that:

(A) No additional lots or parcels will be created; and

(B) Except as provided for in subparagraph (H) of this paragraph, the subject lots, parcels or tracts of land will not be reduced in size to below the minimum area required by the applicable use zone; and

(C) The proposed lots, parcels or tracts of land as adjusted will comply with any required width to depth ratio as set forth in the applicable use zone; and

(D) The proposed property line adjustment will not reduce any yard or other setback below that required under applicable zoning; and

(E) The proposed property line adjustment will not reduce the street or road frontage of the subject lots or parcels to below that required by this chapter; and

(F) The proposed property line adjustment will not reduce below the required minimum any setback for an existing on-site sewage disposal system or approved replacement area; and

(G) Except as provided for in subparagraph (H) of this paragraph, where the original lots, parcels or tracts do not conform to lot size, street frontage width to depth or yard requirements, any proposed property line adjustment shall not increase the degree of non-conformity.

(H) An existing lot or parcel in size may be reduced in size below the minimum area required by the applicable use zone through a property line adjustment provided that the adjustment would not result in the creation of the potential for additional land divisions under existing zoning and:

(i) The lot or parcel to be reduced in size is developed with residential, commercial or industrial structural improvements;

(ii) The reduction in size is necessary to resolve a boundary discrepancy, hiatus or encroachment;

(iii) The reduction in size is necessary to comply with an applicable yard, setback, or other dimensional standard established by this chapter or other applicable law; or

(iv) The reduction in size results from acquisition or condemnation for right-of-way or other public purpose.

(c) Tentative approval of a property line adjustment is valid for a period of one year. If no request for final approval or request for a time extension is received by the Planning Division

within one year of the date of a tentative approval, the tentative approval shall expire. A tentative approval may be extended by the division for a period of one year upon request of the applicant.

(2) **Final Approval:**

(a) The procedure for application, review and final approval of property line adjustments shall be as set forth in LCC 1.1210(1).

(b) Final approval of a property line adjustment shall be granted upon submittal of the following:

(A) A copy of a filed survey of the property line adjustment complying with ORS 209.250 and in substantial conformance with the tentative approval, except that a survey is not required if:

(i) All lots, tracts or parcels affected are greater than 10 acres; or

(ii) The property line adjustment consists of the relocation of a common boundary of lot in a subdivision or a parcel in a partition and the adjusted property line is a distance of even width along the common boundary.

(B) If a survey is not required pursuant to subparagraph (A) of this paragraph, a description of the adjusted property line prepared and stamped by a registered professional land surveyor. The adjusted property line shall be described in relation to a physically existing Public Land Survey corner monument or to a physically existing monumented lot, parcel or boundary corner of a recorded subdivision, partition or condominium plat.

(C) Copies of recorded conveyances conforming to the tentatively approved property line adjustment and containing the names of the parties, the description of the adjusted line, references to original recorded documents and signatures of all parties with proper acknowledgment.

(D) Such other documentation as may be required by the Director to verify conformance with any requirements or conditions of the tentative approval. [1994 o.336 §11]

1.3250 [repealed 1994 o.336 §14]

1.3252 Property Line Adjustments in Subdivisions and Partitions

(1) Except as provided for in subsection (2) of this section, all property line adjustments within recorded plats shall be accomplished by replatting in accordance with LCC 1.3237.

(2) Property lines within a recorded plat may be adjusted in accordance with the procedure for property line adjustments set forth in LCC 1.3247, rather than by replatting, when the director determines that:

(a) The property line or lines to be adjusted will not result in a substantial reconfiguration of the affected lots or parcels; and

(b) All of the other requirements for property line adjustments set forth in LCC 1.3247 will be met. [1994 o.336 §12]

1.3255 [repealed 1994 o.336 §14]

1.3260 [repealed 1994 o.336 §14]

1.3265 [repealed 1994 o.336 §14]

1.3270 [repealed 1994 o.336 §14]

CHAPTER 2

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[1] Added and conformed by authority of LCC 0.130.

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[2] Added and conformed by authority of LCC 0.130.

2.005 through 2.050 [repealed 1998 o.383 §1]

2.055 [1993 o.313 §2; repealed 1998 o.383 §1]

INVENTORY SEARCHES

2.075 [repealed 2006 o.442 §6]

2.080 Purpose

LCC 2.080 to 2.090 are meant to apply exclusively to the process for conducting an inventory of the personal property in an impounded vehicle and the personal possessions of a person in police custody and shall not be interpreted to affect any other statutory or constitutional rights that police officers may employ to search persons or search or seize possessions for other purposes. [2006 o.442 §2]

2.082 Definitions

For the purpose of LCC 2.080 to 2.090:

(1) "Valuables" means:

(a) Cash money of an aggregate amount of $50 or more; or

(b) Individual items of personal property with a value of $500 or more.

(2) "Open container" means a container which is unsecured or incompletely secured in such a fashion that the container's contents are exposed to view.

(3) "Closed container" means a container whose contents are not exposed to view.

(4) "Police custody" means either:

(a) The imposition of restraint as a result of an 'arrest' as that term is defined at ORS 133.005(1);

(b) The imposition of actual or constructive restraint by a police officer pursuant to a court order;

(c) The imposition of actual or constructive restraint by a police officer pursuant to ORS Chapter 430, or Chapter 419B; or

(d) The imposition of actual or constructive restraint by a police officer for purposes of taking the restrained person to an approved facility for the involuntary confinement or detaining of persons pursuant to Oregon Revised Statute or this Code.

(5) "Police officer" means any police officer employed or acting at the direction of or in collaboration with the Lincoln County Sheriff's Office. [2006 o.442 §3]

2.086 Inventories of Impounded Vehicles

(1) The contents of all vehicles impounded by a police officer will be inventoried. The inventory shall be conducted before constructive custody of the vehicle is released to a third-party towing company except under the following circumstances:

(a) If there is reasonable suspicion to believe that the safety of either the police officer(s) or any other person is at risk, a required inventory will be done as soon as safely practical; or

(b) If the vehicle is being impounded for evidentiary purposes in connection with the investigation of a criminal offense, the inventory will be done after such investigation is completed.

(2) The purpose for the inventory of an impounded vehicle will be to:

(a) Promptly identify property to establish accountability and avoid spurious claims to property;

(b) Assist in the prevention of theft of property;

(c) Locate toxic, flammable or explosive substances; or

(d) Reduce the danger to persons and property.

(3) Inventories of impounded vehicles will be conducted according to the following procedure:

(a) An inventory of personal property and the contents of open containers will be conducted throughout the passenger and engine compartments of the vehicle including, but not limited to, accessible areas under or within the dashboard area, in any pockets in the doors or in the back of the front seat, in any console between the seats, under any floor mats and under the seats;

(b) In addition to the passenger and engine compartments as described above, an inventory of personal property and the contents of open containers will also be conducted in the following locations:

(A) Any other type of unlocked compartments that are a part of the vehicle including, but not limited to, unlocked vehicle trunks and unlocked car- top containers; and

(B) Any locked compartments including, but not limited to, locked vehicle trunks, locked hatchbacks and locked car-top containers, if either the keys are available to be released with the vehicle to the third-party towing company or an unlocking mechanism for such compartment is available within the vehicle.

(c) Unless otherwise provided in LCC 2.080 to 2.090, closed containers located either within the vehicle or any of the vehicle's compartments will not be opened for inventory purposes, except a closed container in the vehicle or vehicle compartment will have its contents inventories when:

(A) The closed container is to be placed in the immediate possession of such person at the time that person is placed in the secure portion of a custodial facility, police vehicle or secure police holding room;

(B) Such person requests that the closed container be with them in the secure portion of a police vehicle or a secure police holding room; or

(C) The closed container is designed for carrying money and/or small valuables on or about the person including, but not limited to, closed purses, closed coin purses, closed wallets and closed fanny packs.

(d) Upon completion of the inventory, the police officer will complete a report as directed by the Sheriff.

(e) Any valuables located during the inventory process will be listed on a property receipt. A copy of the property receipt will either be left in the vehicle or tendered to the person in control of the vehicle if such person is present. The valuables will be dealt with in such manner as directed by the Sheriff. [2006 o.442 §4]

2.090 Inventories of Persons in Police Custody

(1) A police officer will inventory the personal property in the possession of a person taken into police custody and such inventory will be conducted whenever:

(a) Such person will be either placed in a secure police holding room or transported in the secure portion of a police vehicle; or

(b) Custody of the person will be transferred to another law enforcement agency, correctional facility, or "treatment facility" as that phrase is used in ORS 426.460 or such other lawfully approved facility for the involuntary confinement of persons pursuant to Oregon Revised Statute.

(2) The purpose of the inventory of a person in police custody will be to:

(a) Promptly identify property to establish accountability and avoid spurious claims to property;

(b) Fulfill the requirements of ORS 133.455 to the extent that such statute may apply to certain property held by the police officer for safekeeping;

(c) Assist in the prevention of theft of property;

(d) Locate toxic, flammable or explosive substances;

(e) Locate weapons and instruments that may facilitate an escape from custody or endanger law enforcement personnel; or

(f) Reduce the danger to persons and property.

(3) Inventories of the personal property in the possession of such persons will be conducted according to the following procedures:

(a) An inventory will occur prior to placing such person into a holding room or a police vehicle, whichever occurs first. However, if reasonable suspicion to believe that the safety of either the police officer(s) or the person in custody or both are at risk, an inventory will be done as soon as safely practical prior to the transfer of custody to another law enforcement agency or facility.

(b) To complete the inventory of the personal property in the possession of such person, the police officer will remove all items of personal property from the clothing worn by such person. In addition, the officer will also remove all items of personal property from all open containers in the possession of such person.

(c) A closed container in the possession of such person will have its contents inventoried only when:

(A) The closed container is to be placed in the immediate possession of such person at the time that person is placed in the secure portion of a custodial facility, police vehicle or secure police holding room;

(B) Such person requests that the closed container be with them in the secure portion of a police vehicle or a secure police holding room; or

(C) The closed container is designed for carrying money and/or small valuables on or about the person including, but not limited to, closed purses, closed coin purses, closed wallets and closed fanny packs.

(4) Valuables found during the inventory process will be noted by the police officer in a report as directed by the Sheriff.

(5) All items of personal property neither left in the immediate possession of the person in custody nor left with the facility or agency accepting custody of the person, will be handled in the following manner:

(a) A property receipt will be prepared listing the property to be retained in the possession of the respective police department and a copy of that receipt will be tendered to the person in custody when such person is released to the facility or agency accepting custody of such person;

(b) The property will be dealt with in such manner as directed by the Sheriff.

(6) All items of personal property neither left in the immediate possession of the person in custody nor dealt with as provided in subsection (5) of this section, will be released to the facility or agency accepting custody of the person so that they may:

(a) Hold the property for safekeeping on behalf of the person in custody, and

(b) Prepare and deliver a receipt, as may be required by ORS 133.455, for any valuables held on behalf of the person in custody. [2006 o.442 §5]

2.100 through 2.210 [1983 o.198 §1; repealed 1996 o.364 §1]

2.215 [1983 o.198 §1; repealed 1994 o.333 § 8]

2.220 [1983 o.198 §1; repealed 1994 o.333 § 8]

2.225 [1983 o.198 §1; repealed 1996 o.364 §1]

2.230 through 2.255 [1982 o.171 §1; 1982 o. 173 §1; repealed 1983 o. 198 §1]

SUBSURFACE SEWAGE DISPOSAL

2.405 Purpose

LCC 2.405 through 2.445 are enacted for the purpose of ensuring that adequate and safe sewage disposal installations are provided to dispose of all liquid wastes in a manner which will minimize conditions that may cause stream and ground water pollution, endanger the water supply, create a nuisance, or endanger the public health.

2.410 Definitions

As used in LCC 2.405 to 2.445, unless the context requires otherwise:

(1) "Construct" means installing, altering, repairing, or extending.

(2) "Environmental manager" means the person appointed by the Board to administer subsurface sewage disposal.

(3) "Sewage disposal service" means:

(a) The construction of subsurface sewage disposal systems, alternative sewage disposal systems, or any part thereof;

(b) The pumping out or cleaning of subsurface sewage disposal systems, alternative sewage disposal systems, or nonwater-carried sewage disposal facilities;

(c) The disposal of materials derived from the pumping out or cleaning of subsurface sewage disposal systems, or nonwater-carried sewage disposal facilities;

(d) Grading, excavating, and earth-moving work connected with the operations described in paragraph (a) of this subsection, except streets, highways, dams, airports, or other heavy construction projects and except earth-moving work performed under the supervision of a builder or contractor in connection with and at the time of the construction of a building or structure; or

(e) The construction of drain and sewage lines from five feet outside a building or structure to the service lateral at the curb or in the street or alley or other disposal terminal holding human or domestic sewage.

(4) "On-site sewage disposal system" means any installed or proposed sewage disposal facility including, but not limited to, a standard subsurface, alternative, experimental, or nonwater--carried sewage disposal system, installed, or proposed to be installed, on land of the owner of the system, or on other land upon which the owner of the system has the legal right of installation.

2.415 Violations

(1) No person shall construct a subsurface sewage disposal system except in compliance with ORS chapter 454 and rules promulgated thereunder.

(2) No person shall habitate on or utilize land except in compliance with ORS chapter 454 and rules promulgated thereunder.

2.420 Unlawful Construction or Utilization a Nuisance

Construction of a subsurface sewage disposal system or utilization of land without an authorized subsurface sewage disposal system in violation of LCC 2.415 shall be deemed a nuisance.

2.425 Fees

(1) A fee schedule for applications for permits, licenses, and services provided for in ORS chapter 454 shall be set by order of the Board of Commissioners which shall be subject to amendment from time to time. An annual review of the fee schedule shall occur during the month of January with the recommendations for changes made by the Department of Planning and Development. The Board shall consider the proposed changes as a discussion item at an open public meeting at least 13 days prior to the date of adoption of an order changing the fee schedule.

(2) The fee schedule shall also include fees for renewals, evaluation reports and feasibility soils and studies. [1991 o.299 § 1; 1993 o.313 §3]

2.445 Penalties

Violation of any provision of LCC 2.405 to 2.445 is punishable pursuant to LCC chapter 10. [1982 o.171 §1]

2.605 Animal Bites

(1) When an animal susceptible to rabies bites a person, and the animal is suspected of rabies, the bite shall be immediately reported to the law enforcement agency with jurisdiction in the area and to the Lincoln County Public Health Officer.

(2) For the purpose of this chapter, a dog is suspected of rabies if it does not have a current rabies vaccination. [1998 o.380 §1]

2.607 Quarantine

(1) Upon receipt of a report required by LCC 2.605, the law enforcement agency shall promptly investigate the report and, if verified, shall cause the animal to be quarantined in compliance with OAR 333-019-0345(4)(b), and shall promptly notify the Lincoln County Public Health Officer of the time, place, and manner of quarantine. If the owner of the animal refuses to permit quarantine, the law enforcement officer shall immediately notify the Lincoln County Public Health Officer, who shall utilize the procedure provided by ORS 433.355 to force quarantine.

(2) A decision to quarantine a dog pursuant to this section does not by itself constitute a decision to impound pursuant to ORS 609.090(1). If a dog is also impounded pursuant to ORS 609.090(1) for allegedly having bitten a person, the law enforcement officer shall prepare and forward a report as required by LCC 2.720(3). [1998 o.380 §3]

2.610 Quarantine Order

(1) Upon receipt of a report required by LCC 2.605, the Lincoln County Public Health Officer shall investigate the report. If the report is verified, and the animal has not been quarantined as provided in LCC 2.607(1), the health officer shall issue an order of quarantine in the form provided by LCC 2.615 and the law enforcement agency with jurisdiction in the area shall promptly quarantine the animal in compliance with the order and OAR 333-019-0345(4)(b), and promptly notify the Lincoln County Public Health Officer of the time, place, and manner of quarantine. If the owner of the animal refuses to permit quarantine, the law enforcement officer shall immediately notify the Lincoln County Public Health Officer, who shall utilize the procedure provided by ORS 433.355 to force quarantine.

(2) Upon being notified that an animal has been quarantined pursuant to LCC 2.607(1) or 2.610(1), the Lincoln County Public Health Officer shall determine whether the head of the quarantined animal must be submitted to the Oregon Public Health Laboratory as required by OAR 333-019-0345(4)(b)(B). If the Public Health Officer so determines, the Public Health Officer shall immediately take all actions as necessary under LCC 2.620, ORS chapter 433, and OAR 333-019-0345. [1998 o.380 §4]

2.615 Quarantine Form

An Order of Quarantine shall be in the following form:

BEFORE THE PUBLIC HEALTH OFFICER
FOR THE COUNTY OF LINCOLN

In the Matter of	)	
	)	
THE QUARANTINE OF AN	)	ORDER OF QUARANTINE
ANIMAL SUSPECTED OF	)	No._____
RABIES	)	

WHEREAS, it has been reported to the Lincoln County Public Health Office that the following described animal:
_____ has bitten the following victim: _____
address: _____, city of _____ , state of _____,
county of: _____, telephone # _____,
on the _____ day of _____, _____; and

WHEREAS, the owner of the animal is: _____
address: _____, city of _____ , state of _____,
county of: _____, telephone # _____; and

WHEREAS, pursuant to ORS chapter 433 and LCC 2.605 to 2.620, the above described animal should be quarantined for the purpose of determining whether or not the animal has rabies; therefore,

IT IS HEREBY ORDERED as follows:

1. That the Lincoln County Animal Control Officer impound the above described animal and isolate said animal at _____ for a period of _____ days from the date of this order.

2. That the owner of the above described animal may recover the animal on the _____ day of _____, _____.

DATED this _____ day of _____, _____.

_____
Public Health Officer

The above described animal was released to _____
on the _____ day of _____, _____.

_____
(person releasing animal)

_____
(person receiving animal)

2.620 Order to Destroy Animal

When it is necessary for the public health and safety, the Lincoln County Public Health Officer may order the destruction of an animal suspected of rabies for the examination of body tissue.

2.705 Dog Licenses and Fees

(1) Dogs are required to be licensed in Lincoln County in accordance with this section and the provisions of ORS 609.100. Licenses may be purchased through the Lincoln County Animal Shelter.

(2)(a) Except as provided in paragraph (b) of this subsection, wolf-dog hybrids are subject to all dog and animal control laws, ordinances, and rules that would otherwise apply to dogs.

(b) Animals declared by the owner to be wolf-dog hybrids must be licensed, but are exempt from the requirement for rabies vaccination. In the event that a rabies vaccine becomes licensed for use in wolf-dog hybrids, this exception will no longer apply.

(3) As provided in ORS chapter 609, fees for licenses shall be collected by the animal control officer, animal shelter, and appointed agent of the animal shelter, in amounts set by order of the Board of Commissioners. [1981 o.167 §1; 1993 o.313 §4; 1998 o.380 §5]

2.710 Proof of Sterilization

In order to obtain the reduced license fee for a spayed or neutered dog, proof of sterilization shall be required in the form of a letter or receipt from a licensed veterinarian or publicly operated animal shelter.

2.712 Report of Rabies Vaccinations

(1) A veterinarian, and any person operating under the authority of a veterinarian, who inoculates a dog against rabies in Lincoln County shall report that inoculation to the Lincoln County Health and Human Services Department.

(2) The Department may adopt rules or policies to facilitate the reporting required under subsection (1) of this section, and may share reported information with the Lincoln County Animal Shelter. [2006 o.443 §2]

2.715 Penalties

In addition to any other remedies under law, failure to procure a license in accordance with ORS 609.100 and LCC 2.705 shall be deemed a violation of county laws, enforceable under LCC chapter 10 and punishable upon conviction by a fine of not more than $100. This fine shall be separate from and in addition to required licensing fees and penalties established by Board order under LCC 2.705. [1990 o.286 §1]

2.720 Procedure and Disposition of Dog Impounded for Killing, Wounding, Injuring, or Chasing a Person or Livestock

(1) For purposes of this section:

(a) "Animal Control Officer" means the Lincoln County Animal Control Officer or any Lincoln County Sheriff's Deputy performing the functions of the Lincoln County Animal Control Officer.

(b) “Dog Judge” means the Lincoln County Legal Counsel, the Assistant Lincoln County Legal Counsel, or their duly appointed designee.

(c) “Livestock” has the meaning provided in ORS 609.125.

(d) “Shelter Manager” means the Lincoln County Animal Shelter Manager, or any Lincoln County Sheriff's Deputy performing the functions of the Lincoln County Animal Shelter Manager.

(2)(a) In accordance with ORS 609.015, the following provisions of ORS 609.030 and 609.040 to 609.110 shall not apply in Lincoln County, and the provisions of this section shall apply in lieu of those sections:

(A) ORS 609.090(3), as applied to dogs that have been impounded for killing, wounding, injuring, or chasing a person, pet, or domestic animal; and

(B) ORS 609.090(7) and (8), as applied to dogs that have been impounded for killing, wounding, injuring, or chasing a person, pet, or domestic animal.

(b) In accordance with ORS 609.135, no provision of ORS 609.155, 609.158, 609.163, 609.166, and 609.167 shall apply in Lincoln County, and the provisions of this section shall apply in lieu of those sections, except for the following sections, which are mandatory in accordance with ORS 609.135: ORS 609.156, 609.158(4), 609.162 and 609.168.

(3) If a dog has been impounded pursuant to ORS 609.090(1) or ORS 609.155(1) for allegedly having killed, wounded, injured, or chased a person, pet, domestic animal, or livestock, the Animal Control Officer or other impounding law enforcement agency shall cause a report of that incident to be promptly filed with the Dog Judge. In addition to all other matters deemed relevant by the Animal Control Officer or other impounding law enforcement agency, the report shall specifically identify the names and mailing addresses of the owner of the dog and all alleged victims and interviewed witnesses.

(4) (a) (A) Except as provided in subparagraph (B) of this paragraph, upon receipt of a report described in subsection (3) of this section relating to allegations that a dog has killed, wounded, injured, or chased a person, pet, or domestic animal, the Dog Judge shall promptly set a hearing on the matter, and shall issue a notice of that hearing to all persons identified in the report as the dog owner, victim, witness, or law enforcement officer. The notice shall state the date, time, and location for the hearing, and shall include a copy of the report. The notice shall be mailed by regular first class mail.

(B) If the Animal Control Officer or other impounding law enforcement agency has issued a citation and summons to Circuit Court in addition to the impoundment, as authorized by ORS 609.090(1), then the Dog Judge shall be divested of all jurisdiction over the matter, and disposition of the impounded dog or dogs shall be left for determination by the Circuit Court in accordance with ORS 609.990.

(b) Upon receipt of a report described in subsection (3) of this section relating to allegations that a dog has killed, wounded, injured, or chased livestock, the Dog Judge shall issue a notice as required by ORS 609.156. The notice shall be mailed by regular first class mail.

(5) A hearing conducted by the Dog Judge pursuant to this section shall be informal and open to the public. No rules of evidence or civil procedure shall apply to the conduct of the hearing. The Dog Judge may establish reasonable parameters for the conduct of the hearing to ensure an orderly and complete presentation of the evidence. Upon request of a party, or upon the Dog Judge's own motion, the Dog Judge may elect to tape record the hearing.

(6) Upon completion of the hearing, the Dog Judge shall promptly issue written findings of fact and disposition order.

(7) If the Dog Judge finds that the allegations have not been proven by a preponderance of the evidence, then the Dog Judge shall enter an order directing release of the dog to the owner of the dog, without payment by the owner of any accumulated impound fees, but with full compliance with all licensing and vaccination requirements of ORS chapter 609 and 433.

(8) (a) If the Dog Judge finds that the allegations have been proven by a preponderance of the evidence, and the incident relates to the killing, wounding, injuring, or chasing of a person, pet, or domestic animal, then the Dog Judge shall determine whether to order that the dog be killed, or placed on probation in accordance with subsection (9) of this section. In making such a determination, the Dog Judge shall consider all relevant factors described in ORS 609.093 and any other factors that the Dog Judge may deem relevant.

(b) If the Dog Judge finds that the allegations have been proven by a preponderance of the evidence, and the incident relates to the killing, wounding, injuring, or chasing of livestock, then the Dog Judge shall issue an order in compliance with ORS 609.158(4), 609.162, and 609.168.

(9) If the Dog Judge releases the dog on probation as described in subsection (8)(a) of this section, the Dog Judge:

(a) Shall impose the following conditions of probation:

(A) That the dog and the person to whom the dog is to be released comply with all dog control laws and conditions of probation;

(B) That the term of probation shall last for a period of five years from the date of release of the dog;

(C) That the dog be immediately licensed and vaccinated in accordance with ORS chapters 609 and 433, if the dog is not already licensed and vaccinated;

(D) That upon probable cause to believe that there has been any violation of the probation, the dog may be immediately impounded by the Animal Control Officer pending a probation revocation hearing as described in subsection (11) of this section; and

(E) That the person to whom the dog is to be released sign an acceptance of all conditions of probation.

(b) May impose one or more of the following conditions of probation:

(A) That accrued impound fees, or a portion of the accrued impound fees, be paid by or on behalf of the person to whom the dog is to be released on probation; and

(B) Any other condition that is reasonably related to ensuring the welfare and safety of the victim, or the public.

(10) A certified true copy of the findings and order shall be forwarded to the Shelter Manager for execution of the order. The Dog Judge shall also forward a copy of the order, by regular first class mail, to each person to whom notice of the hearing was sent and who was also present at the hearing, and to any other person present at the hearing who specifically requests a copy of the order.

(11)(a) If a dog has been impounded pursuant to subsection (9)(a)(d) of this section, or pursuant to an order issued under subsection (8)(b) of this section, for allegedly having violated a condition of probation, the Animal Control Officer or other investigating law enforcement agency shall forward a report of that incident to the Dog Judge, who shall set a hearing on that matter, issue notice of the hearing, and conduct a hearing in the manner described in subsections (4) and (5) of this section.

(b) If the Dog Judge finds that the probation violation allegation has not been proven by a preponderance of the evidence, the Dog Judge shall order the probation to be continued and the dog to be released to the owner of the dog, without payment by the owner of any accumulated impound fees, but with full compliance with all licensing and vaccination requirements of ORS chapter 609 and 433.

(c) If the Dog Judge finds that the probation violation allegation has been proven by a preponderance of the evidence, the Dog Judge shall determine whether to order that the dog be killed, or continued on probation subject to all previous conditions of probation, and any additional conditions of probation imposed by the Dog Judge. In making such a determination, the Dog Judge shall consider all relevant factors described in ORS 609.093 and any other factors that the Dog Judge may deem relevant. [1996 o.360 §2; 1998 o.380 §6; 1999 o.391 §1; 2000 o.399 §1]

2.730 Keeping Exotic Animal Prohibited; Exception

(1) In accordance with the authority granted in ORS 609.205, the keeping of an exotic animal is prohibited in Lincoln County.

(2) The prohibition provided in subsection (1) of this section does not apply to the keeping of an exotic animal pursuant to a permit under ORS 609.335 that was first issued prior to December 27, 2006.

(3) As used in this section, "exotic animal" has the meaning provided in ORS 609.305. [2006 o.444 §2]

SOLID WASTE DISPOSAL SERVICES

2.1000 Purpose, Policy, and Scope

(1) In order to protect the health, safety, and welfare of the people of the county and to provide a solid waste management program, it is declared to be the public policy in the county to regulate solid waste management to:

(a) Provide for a coordinated solid waste management program and administration with cities within the county and with other counties or cities under existing and future regional programs;

(b) Provide standards, regulations, and franchising to ensure the safe and sanitary accumulation, storage, collection, transportation, and disposal or resource recovery of solid wastes and ensure maintenance of solid waste collection, resource recovery, and disposal service;

(c) Encourage research, studies, surveys, and demonstration projects to develop a safe, sanitary, efficient, and economical solid waste management system;

(d) Provide for research, development, promotion of, and public education in technologically and economically feasible resource recovery, including, without limitation, recycling and reuse by and through the franchisees and other persons;

(e) Eliminate duplication of service or routes to conserve energy and material resources, reduce air pollution, noise pollution, truck traffic, and increase efficiency, thereby minimizing consumer cost for solid waste disposal and costs to the county in providing basic services;

(f) Encourage the use of the capabilities and expertise of private industry and encourage volunteer efforts in accomplishing the purposes of this title;

(g) Provide equitable classes of rates to classes of users of solid waste services that are just, fair, reasonable, and adequate to provide necessary services to the public, justify investment in solid waste management systems, and provide for equipment and systems modernization to meet environmental service requirements and current technology;

(h) Minimize the cost and burden of regulation, administration, and enforcement;

(i) Provide for public input in solid waste management; and

(j) Carry out local government responsibility and authority for solid waste management under ORS chapter 459 and carry out the mandate for waste reduction under 1979 Oregon Laws, chapter 773; and

(k) Provide financial security for the repayment of investments in:

(A) Collection and disposal equipment;

(B) A regional landfill provided by any franchisee under this title including, but not limited to, complying with minimum financial security requirements imposed by the Oregon Environmental Quality Commission, the state of Oregon, and the county in financing such a site; and

(C) Future collection, disposal, and resource recovery facilities.

(2) After public hearing held on November 24, 1982 and subsequent continued hearings to consider this title and upon the basis of evidence submitted therein, the Board finds that:

(a) This title is authorized by ORS 459.015, 459.055, 459.065, 468.220(6), 459.085, 646.740(6), 279.011 to 279.061, ORS chapter 203, and OAR 127-10-040, together with rules or regulations promulgated under the foregoing, and is in compliance with Goals No. 6 on Environment and No. 11 on Public Facilities adopted by the Land Conservation and Development Commission, the Lincoln County Comprehensive Plan, the Lincoln County Solid Waste

Management Plan, the Oregon Department of Environmental Quality, Solid Waste Management Plan, and the Lincoln County Waste Reduction Plan.

(b) To achieve the purposes and carry out the policy of this title; to carry out the mandate of ORS 459.015 for local government to provide for a solid waste management program; and to carry out the planning and waste reduction required of local government by ORS 459.055 and 468.220; it is necessary for Lincoln County, in cooperation with other affected governmental units, to:

(A) Set the levels of service necessary for, and required by, the public in the fields of solid waste collection; solid waste disposal; and the recycling or reuse of source separated wastes;

(B) Make the necessary long-term governmental commitment to assure the investment in service facilities, equipment, personnel, and financial capital; and to assure service to the public; and

(C) Evaluate the costs of the various services and how that cost is to be collected or assessed; and

(c) To carry out paragraphs (a) and (b) of this subsection, it is necessary to:

(A) Reasonably regulate competition through a comprehensive program of solid waste management;

(B) Assign exclusive responsibility to one or more persons for each specified and regulated solid waste management service and service territory and to issue a franchise to such person or persons;

(C) Review service rates to the extent specified to protect consumers and the public generally and to assure adequate public service;

(D) Select persons to provide service on the basis of their demonstrated ability, capability, expertise, and experience in providing the service together with their equipment, management facilities, personnel, and financial capability, and investment available to provide service;

(E) In appropriate cases, the Board may contract for public education in recycling and reuse and contract for the promotion of recycling and reuse;

(F) Recognize that the Congress, through the Resource Conservation and Recovery Act of 1976, the Oregon Legislature in ORS chapter 459, and the Oregon Environmental Quality Commission, Department of Environmental Quality, Land Conservation and Development Commission, and the Board and county planning commission have, by developing and implementing a regional disposal site program, created a disposal monopoly. Under the regional program and concept, only a few regional disposal sites will be permitted in all of Western Oregon to force waste concentrations to finance environmentally acceptable disposal sites and methods and enhance the opportunities for resource recovery. Thus, only two municipal waste disposal sites have been permitted for disposal in a service area encompassing one county and future legislative action may limit this to one disposal site and a limited number of transfer stations; and

(G) Assign service territories to assure that persons in geographically remote or otherwise non lucrative areas receive adequate solid waste collection and disposal services. [1983 o.199 §1]

2.1005 Definitions

As used in LCC 2.1000 to 2.1180, unless the context otherwise requires:

(l) "Administrator" means the county sanitarian or other person designated by resolution of the Board to administer provisions of this title, and the duly authorized deputy or assistant of such person.

(2) "Board" means the Lincoln County Board of Commissioners.

(3) "Collection Vehicle" means any vehicle used to collect or transport solid waste.

(4) "Committee" means the Solid Waste Advisory Committee created pursuant to this title.

(5) "Disposal Site" means land and facilities used for the disposal, handling, processing, or transfer of solid wastes, including, but not limited to, dumps, landfills, sanitary landfills, and composting plants; but does not include a landfill site which is not used by the public either directly or indirectly or through a service, and which is used by the owner or tenant thereof to dispose of sawdust, bark, soil, rock, building demolition material, or nonputrescible industrial waste products resulting from the process of manufacturing.

(6) "Franchisee" means a general privilege to provide specified solid waste management services in a service territory issued by the Board. A "Franchisee" is the holder of a franchise.

(7) "Hazardous waste" means any solid waste as defined by or pursuant to ORS chapter 459 and any solid waste that may by itself or in combination with other solid wastes, be infectious, explosive, poisonous, caustic, toxic, or otherwise dangerous or injurious to human, plant, or animal life. "Hazardous waste" shall also include hazardous waste as defined by other governmental units which have legislative or administrative jurisdiction.

(8) "Incinerator" means combustion devices specifically designed for the reduction of solid wastes by burning.

(9) "Landfill" means any tract or parcel of land at which solid waste is disposed of, in, or onto the land.

(10) "Service Territory" means the geographic area in which, pursuant to the solid waste franchise, service shall be provided to every person requesting service of the type specified in the solid waste franchise.

(11) "Person" means any individual, partnership, association, corporation, trust, firm, estate, joint venture or other private entity, or any public agency.

(12) "Putrescible material" means organic matter that can decompose by bacteria, fungi, and oxidation, resulting in the formation of foul smelling products.

(13) "Service" means disposal, collection, transfer, or transportation of solid waste by persons.

(14) "Solid waste" means all solid and semi-solid putrescible and nonputrescible waste, including, but not limited to, garbage, rubbish, refuse, ashes; waste paper, corrugated paper, and cardboard; grass clippings; composts; residential, commercial, industrial, demolition, and construction waste; discarded residential, commercial, industrial appliances, equipment, and furniture; discarded, inoperable, or abandoned vehicles or vehicle parts and tires; manure, vegetable or animal solid and semi-solid wastes, and small dead animals. "Solid waste" does not include "sewage", as defined in LCC 2.110.

(15) "Solid waste franchise" means a franchise to provide service as issued by the Board pursuant to LCC 2.1060 through 2.1075.

(16) "Solid waste management" means storage, collection, transportation, treatment, utilization, processing, and final disposal or salvage, recycling, or reuse of solid waste and sewage and necessary facilities therefor.

(17) "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. The term "waste" does not include:

(a) Environmentally hazardous wastes as defined in ORS 459.410;

(b) Materials used for fertilizer or for other productive purposes on land in agricultural operations 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;

(c) Septic tank and cesspool pumping or chemical toilet waste, or refuse from sewage treatment plants; or

(d) Reusable beverage containers as defined in ORS 459.860. [1983 o.199 §1]

2.1010 Administration

(1) The administrator, under the supervision of the Board and with the assistance of the committee and the code enforcement officer designated under chapter ten hereof, shall be responsible for the enforcement of this title. In order to carry out their respective duties, the administrator and code enforcement officer may enter upon the premises of any person subject to the provisions of this title at reasonable times and in a reasonable manner to determine compliance with this title.

(2) The administrator shall also review applications for solid waste franchises and make appropriate recommendations to the Board, as provided for in this title.

(3) The administrator shall establish service territories, subject to Board approval, as provided for in this title. [1983 o.199 §1]

2.1015 Solid Waste Advisory Committee

(1) The Board may create a solid waste advisory committee or utilize the services of an advisory committee already in existence which performs substantially the same functions as provided for herein. The Solid Waste Advisory Committee as presently constituted is hereby dissolved. In the absence of the committee, the Lincoln County Solid Waste Administrator shall perform all functions of the committee as provided for herein. In the event a committee is created, the committee shall have nine members appointed by the Board, including:

(a) County Sanitarian, or his authorized representative;

(b) Two franchisees; and

(c) Six citizen members representative of incorporated and unincorporated geographical areas of the county.

(2) Members of the committee shall be appointed for 2-year terms and serve at the pleasure of the Board.

(3) The Board shall appoint one member as chairman. Five members shall constitute a quorum for the transaction of business. The committee shall meet at such times as deemed necessary or as called by the Board. The chairman or any three members, may call a special meeting with 10-days' notice to other members of the committee.

(4) The committee shall keep regular minutes of all meetings and provide copies of the minutes to the Board following each meeting. [1983 o.199 §1; 1984 o.224 §1]

2.1020 Duties of Solid Waste Advisory Committee

(1) In addition to other duties prescribed by this title, the committee shall make an annual report to the Board containing recommendations on development and implementation of a solid waste management plan.

(2) The committee shall, upon request by the Board, review any proposed changes in the rates charged for service by solid waste franchisees in accordance with the factors in section 2.1120(5), and reach a determination as to the reasonableness of the proposed rates under review and provide a written report to the Board concerning the same. The Board shall thereafter act upon the committee's recommendation in accordance with the provisions of this title. [1983 o.199 §1]

2.1025 Regional Solid Waste Committee

The Board may appoint one or more members of the committee to serve on any regional solid waste committee. [1983 o.199 §1]

2.1030 Regulation of Solid Waste Management

Upon its own motion, or upon the recommendation of the committee, the Board may adopt rules implementing the provisions of this title. [1983 o.199 §1]

2.1035 Prohibitions

(1) Unless exempted by subsections (2) through (7) of this section, no person shall solicit, advertise for, or provide service, except as authorized by a franchise issued pursuant to LCC 2.1060 to 2.1075.

(2) Nothing in this title requires a franchise of the following persons or for the following business or practices:

(a) The collection, transportation, and reuse of repairable or cleanable discards by a private charitable organization regularly engaged in such business or activity including, without limitation, Salvation Army, St. Vincent DePaul, Goodwill, YMCA, and similar organizations.

(b) The collection, transportation, and reuse or recycling of totally source separated materials or operation of a collection center for totally source separated materials by a religious, charitable, benevolent, or fraternal organization, which organization was not organized or operated for any solid waste management purpose and which organizations using the activity for fund raising including, without limitation, scouts and churches.

(c) The collection, transportation, or redemption of returnable beverage containers under ORS chapter 459 and that portion thereof commonly known as the "Bottle Bill."

(d) The generator or producer who transports and disposes of waste created as an incidental part of regularly carrying on the business of: Auto wrecking, to the extent licensed by the State of Oregon; Janitorial service; Gardening or landscaping service. "Janitorial service" does not include primarily or solely accumulating or collecting wastes created, generated, or produced by a property owner or occupant.

(e) A contractor employed to demolish, construct, or remodel a building or structure, including, but not limited to, land clearing operation and construction wastes, when hauling waste created in connection with such employment in equipment owned by contractor and operated by the contractor's employees as employees.

(f) Transportation by a person of solid waste generated or produced by such person to disposal sites, resource recovery sites, or market so long as such person complies with this title, other county ordinances, and ORS chapter 459 relating to solid waste management and regulations promulgated under any of the foregoing. For purposes of this subsection, waste is "generated or produced by" the individual owner or occupant of a residential dwelling unit, whether the unit is individually owned, nonowner occupied, or grouped through an association or cooperative of

property owners, and not by the landlord, property owner, cooperative or association, or property manager or agent of such landlord, property owner, property manager, cooperative, or association.

(g) The collection by county or other subordinate jurisdiction of leaves or similar wastes and transportation to a disposal site, resource recovery site, or market.

(3) Nothing in this title requires a franchise for the purchase of totally source separated solid wastes for fair market value.

(4) Except as may be provided by agreement with a city, nothing in this title shall apply within the boundaries of any incorporated city.

(5) Nothing in this title shall apply to a disposal site which:

(a) Is a sludge lagoon, sludge treatment facility, or disposal site for septic tank or cesspool cleanings.

(b) Is a landfill which is used by the owner or person in control of the premises to dispose of rock, soil, concrete, or other similar non decomposable material.

(c) Is a portion of land or a facility specifically operated under the requirements of ORS 468B.050 for a waste water discharge permit, and in compliance with all Oregon Environmental Quality Commission regulations on solid waste management.

(d) Is land on which solid wastes are used for fertilizer or for other productive purposes in agricultural operations and the growing or harvesting of crops and the raising of fowl or animals.

(e) Is specifically exempt from Department of Environmental Quality (DEQ) solid waste permit requirements pursuant to OAR 340-61-020; or is a proposed disposal site that the DEQ has determined pursuant to OAR 340-67-020(4) is not likely to create a public nuisance, health hazard, air or water pollution, or other environmental problems; and has issued a special letter of authorization in accordance with OAR 340-61-027.

(6) Nothing in this title requires a franchise for the operations of a collection center for totally source-separated materials operated under a contract with the county.

(7) Nothing in this title shall require a person who has a disposal site franchise issued by any city in this county to obtain a disposal site franchise under this title for the same disposal site franchised by the city.

(8)(a) Notwithstanding LCC 2.1000 through 2.1175, a site or facility for processing land clearing debris, clean fill, and certain construction demolition debris is exempt from the requirement to obtain a disposal site franchise pursuant to this chapter, provided that:

(A) The land, facilities, equipment, processes, and storage meet all requirements and regulations of the Oregon Department of Environmental Quality (DEQ) applicable to the operation, or are exempt from those requirements and regulations; and

(B) The operation receives all necessary land use authorizations and permits, and complies with the conditions of those authorizations and permits.

(b) Construction demolition debris processed at the site is limited to that generated by the owner or operator of the site in accordance with LCC 2.1035(2)(e). Land clearing debris and clean fill processed at the site is limited to that collected in accordance with LCC 2.1035(2)(e). The site may not be otherwise be used by the public either directly, indirectly, or through an outside service.

(c) Any materials which must be removed from the site shall be collected and disposed of in accordance with the provisions of LCC 2.1060 through 2.1075.

(d) As used in this subsection:

(A) “Land clearing debris” means stumps and other vegetative materials, but does not include the composting of materials or debris, or the storage of materials or debris for more than six months.

(B) “Clean fill” means soil, rock, concrete, brick, building block, tile or asphalt paving, or other similar non-decomposable material, which do not contain contaminants which could adversely impact the waters of the State or public health. This term does not include putrescrible wastes, construction and demolition wastes and industrial solid wastes.

(C) “Construction demolition debris” means solid waste resulting from the construction, repair or demolition of buildings, roads or other structures. Such waste typically consists of materials including untreated or chemically treated wood, glass, masonry, roofing, siding, plaster, pipes and similar material. This term does not include industrial solid waste and municipal solid waste, as defined under state law, generated in residential or commercial activities associated with construction and demolition activities. [1983 o.199 §1; 1983 o.202 §1; 1998 o.375 §1]

2.1040 Requirements for Disposal Site Franchise

(1) Applicants for a disposal site franchise shall submit:

(a) A duplicate of the site information submitted to the Oregon Department of Environmental Quality under ORS chapter 459.

(b) A plan for rehabilitation and use of the site after disposal has been terminated. The plan shall have a scale of 1"=400' with topographical contours at intervals of not less than 25 feet. In the discretion of the Board, the applicant may be required to furnish a plan showing greater detail to ensure compliance with applicable standards. Amended plans may be submitted for approval in the same manner as the initial plan.

(c) An agreement signed by the applicant and the land site owner containing the following, if the land upon which a disposal site would be located is privately owned:

(A) A right of entry upon the subject premises for inspection by the administrator;

(B) A promise to properly establish, maintain, and operate the disposal site as required by this title and any other applicable statutes or rules; and

(C) A promise to rehabilitate or restore the site upon termination of disposal under the land use plan submitted pursuant to subsection (b) hereof.

(D) Permission for the county to rehabilitate or restore the site if the landowner or franchisee does not comply with the agreement or franchise terms. County reserves the right to seek reasonable reimbursement from franchisee if rehabilitation by county is necessary.

(d) The Board may, by order, cause any agreements, executed pursuant to this section, to be entered in the deed records of the county.

(2) Applicants shall specify the type of disposal site and the transfer, disposal, processing, or resource recovery method or combination thereof to be employed, together with any proposed special regulations dealing with hazardous wastes or what waste will be accepted or rejected at the disposal site.

(3) The applicant must show to the satisfaction of the Board that applicant:

(a) Has available land, equipment, management, facilities, and personnel to meet the standards established by this title, ORS chapter 459, and the rules and regulations thereof; and has insurance equal to that required for a solid waste franchise.

(b) Has sufficient experience to ensure compliance with this title and any regulations hereunder. If the applicant does not have sufficient experience, the Board may either deny the

application or require the applicant to submit a corporate surety bond in the amount of up to $300,000 guaranteeing full and faithful performance by the applicant of the duties and obligations of a franchise holder under the provisions of this title and compliance with all applicable laws.

(c) In determining whether or not a bond, insurance, or other financial assurance is required during construction, operation, closure, or post-closure of a disposal site and the amount thereof, the Board shall give due consideration to the size and type of the site, the solid waste handling methods proposed, the population or type of customers to be served, alternative sites, availability of the bond, cost to the rate payer, adjacent or nearby land uses, the potential danger of failure of service and such other factors as the Board deems relevant.

(d) When requesting a transfer of franchise, the applicant must submit, as part of the application, a letter from the current franchisee requesting said transfer. (e) notwithstanding other provisions of this subsection, those requirements specifically relating to a landfill shall not be applicable to a transfer station, incinerator, resource recovery facility, compost plant, or similar disposal facility.

(4) Before issuance of a disposal site franchise, applications shall be reviewed by the administrator. The administrator shall make such investigation as he deems appropriate. Written notice of the application shall be given by the administrator to any person who holds a disposal site franchise for service to all or part of the area that reasonably would be served under the application. Upon the basis of the application, evidence submitted, and results of any investigation, the administrator shall issue findings on the qualifications of the applicant and whether or not additional service, land, equipment, or facilities should be provided and what conditions of service should be imposed, including without limitation, whether the site should be opened to the public and under what conditions; whether or not certain types of wastes, solid wastes, or hazardous wastes should be excluded from the site or types of wastes which should be required to be accepted at the site, and shall make a finding as to whether or not the site is economically feasible, whether or not the site may be integrated with existing private or county-owned or operated sites; and, further, whether the site complies with all rules and regulations adopted pursuant to this title or ORS chapter 459. The Board may impose any conditions deemed necessary to carry out the purposes and policy of this title. On the basis of these findings, the administrator shall recommend to the Board whether or not the application should be granted, denied, or modified. The Board shall conduct a public hearing to consider the application as provided for in LCC 2.1070.

(5) A disposal site franchise applicant shall submit a proposed rate structure for charges associated with disposal of solid waste in the applicant's disposal site. The rate structure shall be subject to review in the same manner as provided in LCC 2.1120.

(6) Upon receipt of said order granting a franchise, the applicant shall enter into a written franchise agreement with county.

(7) These provisions are in addition to, and not in lieu of, any provisions of the county zoning ordinance and comprehensive plan.

(8) Disposal site franchisees shall supply disposal services covered by their franchises to those persons who contract for disposal, handling, or recovery of solid wastes collected under a franchise; those local government units and public agencies located within the county for wastes generated by activities of such units or agencies; and, subject to limitation by the Board, members of the general public hauling wastes generated by such person and not collected from other persons.

(9) All service under a franchise shall be subject to applicable laws, rules, regulations, and ordinances; and decisions of administrative, legislative, and judicial agencies having jurisdiction.

(10) Franchisee may discontinue service to any customer in the following cases:

(a) Where weather or safety conditions prevent said service;

(b) Where access is blocked;

(c) Where the user does not pay any rate schedule or authorized payment;

(d) Where prevented by Act of God, public enemy, or vandal; and

(e) Where user violates any reasonable regulation imposed by franchisee or any governmentally imposed regulation. [1983 o.199 §1]

2.1045 Disposal Franchise Fees

An annual fee to be established by order of the Board shall be assessed on a disposal site franchise based on the cost of monitoring the franchised site. The annual disposal site franchise fee, if any, shall be payable to the Board on December 31 of each year. Where reasonably required by the Board, a disposal site franchisee shall maintain books and records disclosing gross receipts at the disposal site, which books and records shall be available at reasonable times and places for audit by authorized personnel of the county. [1983 o.199 §1]

2.1050 Length of Term

The term of a disposal site franchise shall be determined by the Board following a recommendation from the administrator. The recommendation shall be based upon site longevity, population to be served, and probable use, but not to exceed 25 years. The term of the disposal site franchise shall be provided for in the written franchise agreement between franchisee and county referred to in LCC 2.1040(6). [1983 o.199 §1]

2.1055 Renewal of a Disposal Site Franchise

(1) The Board and the franchisee may, by mutual agreement, renew the franchise pursuant to this title.

(2) Renewal of a franchise shall be based upon application filed with the administrator. The application and procedure for review and renewal shall be the same provided in LCC 2.1040. The grounds for denial shall be those specified in LCC 2.1040 or inability of the applicant to demonstrate continuing compliance with criteria set forth in this title. [1983 o.199 §1]

2.1060 Applications for Solid Waste Franchises

(1) Application for a solid waste franchise shall be made on forms provided by the administrator. Within 15 days from the effective date of this title, the administrator shall advertise in a newspaper of general circulation to solicit solid waste franchise applications. Said advertisement shall state that franchise applications will be received for a period of two weeks following the advertisement and will be opened at the next regular meeting of the Board following that period. The advertisement shall inform prospective franchisees of the application procedures and identify the service territory required to be served by the franchise being advertised. No application received after the expiration of the two-week period will be accepted.

(2) In the event a franchise is to be terminated for any reason, the administrator shall advertise for franchise applications to replace the franchise to be terminated. Said advertisement and subsequent franchise award shall be conducted pursuant to the provisions of subsection (1) above and shall be coordinated in such a manner as to prevent a lapse or interruption of service. In the event it is not possible to prevent a lapse or interruption of service through solicitation of

franchise applications, the Board may take appropriate measures pursuant to LCC 2.1085. Upon receipt of the franchise applications, the administrator shall review the applications and require such additional information as necessary to determine compliance with the provisions of this chapter, ORS chapter 459, and other applicable laws and regulations.

(3) The administrator shall, upon the basis of the application and evidence submitted, make recommendation to the Board as to the qualifications of the applicants and shall determine which applicants shall be awarded franchises and the service territory to be served by each franchisee. The recommendation shall include findings of fact supporting the recommendation, and a statement of the reasoning supporting the recommendation.

(4) Applications shall include:

(a) Proof that the applicant has sufficient collection vehicles, equipment, land, facilities, and personnel;

(b) Proof the applicant has in force public liability insurance in an amount of not less than $100,000 per person and $300,000 per accident for bodily injury, and not less than $25,000 for property damage, which shall be evidenced by a certificate of insurance;

(c) Evidence of good moral character, or, if the applicant is a business entity, that the principal partners or officers are of good moral character;

(d) Evidence that the applicant has sufficient experience in providing service of a comparable quality and quantity to ensure compliance with this title. If the applicant does not prove to the satisfaction of the Board that he has sufficient and successful experience, the Board may require the applicant to submit a corporate surety bond in the amount of up to $20,000 guaranteeing full and faithful performance by the applicant of the duties and obligations of a franchisee naming county as additional insured;

(e) Evidence that the applicant has contracted with a disposal site for the right to dispose of wastes collected under and during the term of the franchise. Applicant shall sign a statement which provides that as a franchisee the franchisee shall use disposal sites authorized by the Board and that Board approval is required prior to applicant's disposing of solid wastes in alternate locations, and that the Board may, upon six-months' notice to any affected franchisee, by order, direct franchisee to dispose of solid wastes in a specific disposal site; provided, however, that in the event the Board by order selects a disposal alternative in its long-range solid waste disposal plan and makes a finding by language in that order that it is necessary for a franchisee to enter into a contract for a period exceeding six-months' duration in order to render disposal of solid waste economically feasible, the language contained herein granting the Board authority to direct, upon six-months' notice to any affected franchisee, that solid wastes be disposed of in a specific disposal site shall automatically by said order be repealed and of no further effect. Nothing contained herein shall affect the authority of the Board to determine authorized disposal sites or affect the requirement that a franchisee obtain Board approval prior to changing the site at which solid wastes are disposed; and

(f) If the applicant is not already serving the territory proposed to be served, applicant shall show that:

(A) The service territory has not been franchised to another person;

(B) The service territory is not being served presently by a franchisee pursuant to any schedule established as a part of the franchise in accordance with this title;

(C) The service territory is not being adequately served by the franchisee as evidenced by substantial history of recorded complaints from customers within the territory for a change of service to that area.

(5) Applicants shall specify the:

(a) Nature, type, and extent of service to be provided;

(b) Service territory for which application is made;

(c) Wastes that will not be accepted for collection or disposal; and

(d) Any special requirements for the handling of hazardous solid wastes.

(6) Applicants shall furnish a statement identifying familiarity with, and knowledge of, the service territory for which application is made. This statement may include information on geographic, demographic, and other characteristics germane to collection of solid wastes in the service territory. Applicants shall also supply a statement describing the proposed routes within the service area, including frequency of collection, hours of service, and other relevant information. [1983 o.199 §1]

2.1065 Service Territories

Four exclusive service territories shall be established initially by the administrator, subject to Board approval, to ensure that remote or otherwise non lucrative areas of the county are provided solid waste service. Each franchisee shall serve the service territory specified in the franchise, including all customers eligible for and requesting the type of service authorized by the franchise. [1983 o.199 §1]

2.1070 Issuance of Collection Franchises

The Board shall conduct a public hearing to consider the application within 30 days of receipt of the administrator's recommendation. Notice shall be served by certified mail on the applicant and any affected franchisee and shall be published once in a newspaper of general circulation within the franchise area not less than seven days prior to the hearing. The Board's decision shall be supported by written findings. The determination of the Board after conclusion of said public hearing shall be final. If the Board makes a final order rejecting all, or part of, the application for a franchise, the applicant may not submit another application for the same service territory, or a portion thereof, or the same disposal site, for a period of six months unless the Board finds that the public interest requires reconsideration within a shorter period of time. If the Board finds that an applicant is able to provide adequate service of all types within the service territory, it shall issue an exclusive franchise for that area to applicant. Upon receipt of said order granting a franchise, the applicant shall enter into a written franchise agreement with county. If the Board finds that two or more applicants for a service territory who are otherwise equally qualified, the Board may give preference to the applicant having a record of prior experience and service and who presently serves a majority of the customer and service accounts in the service territory. [1983 o.199 §1]

2.1075 Solid Waste Franchise Subcontracts

(1) If a franchise applicant is unable to provide service for a particular type or unusually large quantities of solid waste, the administrator, subject to Board approval, may permit the franchisee to subcontract for such service if it is found that the quality and extent of service would not be jeopardized. The administrator may require the filing of such information as is necessary and

may request the recommendation of the committee on the subcontract. The administrator shall submit a written recommendation on the subcontract to the Board.

(2) Upon recommendation of the administrator and a finding by the Board that the need for service and final determination can be made, the Board may order the administrator to issue a temporary certificate, valid for a stated period not to exceed six months, requiring the person to serve a service territory or customers. [1983 o.199 §1]

2.1080 Responsibilities of Franchisees

Franchisees may discontinue service to any customer in the following cases:

(1) When a change, restriction, or termination of service is required by any public agency;

(2) When a customer fails to pay for services in accordance with an established rate system. Holders of solid waste franchises shall not discontinue service under this subsection without 10-days' written notice to the customer. If service has been refused to a customer for failing to pay for service, the franchisee may require a reasonable deposit to guarantee payment for future service before reinstating such service;

(3) If service at the particular location would be contrary to public safety; the customer has not provided reasonable access, or, weather conditions prevent service to the particular customer; or the customer has violated a rule or regulation adopted by the Board pursuant to this title;

(4) If a subcontract is signed pursuant to LCC 2.1075 and the Board has approved the subcontract after finding that the quality or extent of service would not be jeopardized. In making its determination, the Board or the administrator may request a recommendation from the committee and information deemed necessary to ensure compliance. [1983 o.199 §1]

2.1085 Enforcement of Franchises

(1) If the franchisee shall at any time fail to promptly and fully conform and comply with any duty or obligation herein imposed after written notice to the franchisee and a reasonable opportunity to comply, the Board may authorize county personnel, or others, to perform the same at the sole cost and expense of the franchisee, and, the franchisee shall immediately become and remain liable to county for any and all loss, expense, and cost or damage incurred by county in that connection. Whenever the Board finds that the failure of service or threatened failure of service would result in creation of health hazards or public or private nuisances, the Board shall, after reasonable, but not less than 24-hours' written notice to the franchisee and a public hearing, if the franchisee requests such hearing, have the right to authorize another franchisee or other person to provide service or to use and operate the land, facilities, or equipment of the franchisee to provide service or to use and operate the land, facilities, or equipment, through leasing, to provide emergency service in the event of a serious interruption of service to all or to a class or group of customers for so long as such interruption continues.

(2) The Board reserves the right to make such further regulations as may be deemed necessary to protect the interests, safety, welfare, and property of the public and carry out policy, purposes, and findings stated herein.

(3) A franchisee shall at all times be subject to reasonable rules and regulations and any ordinance passed by the Board. A franchisee shall at all times be subject to applicable laws, rules, and regulations of the State of Oregon. A violation of such law, rules, regulations, or ordinance, if found by the Board to be substantial and material to the policy, purposes, and findings stated herein, may be deemed by the Board as a breach going to the essence of the franchise or permit.

(4) A franchisee shall be further bound as follows:

(a) It shall make the payments as herein provided promptly as they become due;

(b) Time is of the essence of a franchise;

(c) A waiver by county of any breach of any term, covenant, or condition of a franchise of this title shall not operate as a waiver of a subsequent breach of the same or any other term, covenant, or condition of a franchise or of this title;

(d) If a franchisee shall default in any of the terms, covenants, or conditions required to be performed, or in the payment of any sum required to be paid under the terms of this title, and said default shall continue for a period of 15 days after receipt of written notification sent by certified mail by the administrator, then and in that event, the franchise may, at the option of the county, be and become null and void and a franchisee shall thereafter be entitled to none of the privileges or rights herein extended and said franchisee shall thereupon cease and desist from any solid waste service under said franchise within the county; provided, however, that county may, at its option, pursue any other and different or additional remedy provided to it at law or in equity;

(e) This subsection applies to conditions within the control of a franchisee. Where the default or breach occurs by reason of lack of specialized equipment, availability of equipment or personnel, or similar reasons, a franchisee shall be given a reasonable opportunity to comply. Nothing in this subsection shall limit the rights and remedies of county under other provisions of this title; and

(f) In the event a franchisee becomes insolvent, then county may, at its option, terminate the franchise and all leases and other agreements, if any, entered into in connection therewith. [1983 o.199 §1]

2.1090 Enforcement of Ordinance

County has authority to enforce the provisions of this title by administrative, civil, or criminal proceedings, or a combination thereof as necessary to achieve compliance with this chapter. [1983 o.199 §1]

2.1095 Parties Bound

The terms of a franchise shall be binding upon a franchisee, its heirs, executors, administrators, successors, and assigns. [1983 o.199 §1]

2.1100 Franchise Term

(1) The rights, privileges and franchise granted a franchisee pursuant to this ordinance shall begin on the date a franchise is granted and shall be considered as a continuing ten-year franchise. On January 1st of each year, the franchise is without further action renewed for an additional ten-year term unless at least thirty 30 days prior to January 1st of that year, one party notifies the other in writing of intent to terminate the franchise. Upon the giving of such notice of termination, the franchisee shall have a franchise terminating on December 31 of the eleventh year following the date of notice of termination. The parties may later extend the term of, or reinstate the franchise, conditioning renewal upon mutual agreement. Nothing in this section restricts the Board from suspending, modifying, or revoking the franchise for cause, pursuant to LCC 2.1085 of this ordinance.

(2) LCC 2.1100, as amended this date, shall be effective with respect to franchises existing as of the date of passage of this ordinance only when the franchisee and the Board of Commissioners agree in writing. Otherwise, unless the Board finds that in the public interest a

longer or shorter term is required, the term for a solid waste franchise shall be ten years. [1983 o.199 §1; 1988 c.269 §1]

2.1105 Franchise Fees

The holder of a franchise granted pursuant to this title shall pay the following fees in the manner prescribed:

(1) Any solid waste franchisee shall pay a fee of three percent of the gross cash receipts from franchised collection service provided to the service territory included in the franchise.

(2) The collection franchise fee shall be computed and be payable to county annually within 30 days from the anniversary of the franchise agreement. The fee shall be accompanied by a sworn statement of such cash gross receipts. Each collection franchise holder shall maintain sufficient books and records to disclose the gross receipts from the service territory and shall make such books and records available at franchisee's premises at reasonable times and places for audit by authorized county personnel. The Board may specify reasonable requirements for keeping such books and records. [1983 o.199 §1]

2.1110 Renewal of Solid Waste Franchise

(1) Renewal of a franchise shall be based on an application filed with the administrator. The procedure for review and renewal shall be the same as provided in sections 2.1060 and 2.1070.

(2) Based upon timely application of a franchisee, the Board may provide for renewal of the 10-year franchise term or such other term as the Board deems to be in the public interest prior to the expiration of the 10-year franchise term if the following conditions exist:

(a) Franchisee demonstrates a substantial need to purchase additional capital equipment to effectively discharge his obligations under the franchise agreement;

(b) Franchisee, through satisfactory documentation, demonstrates an inability to procure reasonable financing for such additional equipment without a franchise extension or renewal; and

(c) Based upon franchisee's record of performance in his service territory, the administrator finds that franchisee has complied with all provisions of this chapter, the franchise agreement, other applicable laws, rules, and regulations, and has adequately and competently rendered solid waste service. [1983 o.199 §1]

2.1115 Franchise Termination

In the event a franchise is terminated prior to the expiration of the normal franchise term for any reason, the Board may prevent interruption of service as provided in LCC 2.1085. [1983 o.199 §1]

2.1120 Rate Structure

County reserves the right, at any time during the period of a franchise, to examine the rate structure of a franchisee and to modify rate changes which, in the discretion of the Board, are reasonably required in view of the following considerations:

(1) A franchisee shall have the right to charge and collect reasonable compensation from persons to whom it shall furnish franchised services. "Reasonable compensation" shall be determined in light of the factors enumerated in LCC 2.1220(5).

(2) To facilitate considerations as in this section provided, a franchisee shall furnish and provide to the Board a certified copy of the published rate schedule, which rate schedule shall

contain the rates and charges made for all its operations. Said rate schedule, after having been filed as herein provided, shall be kept current and a franchisee shall file with the Board, at least 90 days prior to any contemplated change, a new and revised rate schedule which shall be examined by the Board in an appropriate public proceeding affording due process. Notification of the decision of the Board shall be made to the franchisee by certified mail. In the event of disapproval, franchisee shall not put the new rate schedule into effect, but may file with the Board, either on its own motion or in compliance with the Board's request, further information to justify the rate schedule changes. Negotiations shall be had in good faith between the parties. The existing approved rate schedule, as of the effective date of this title, shall be deemed to be in effect. The Board may require annual statements and other records to be furnished to the Board to carry out the intentions of this section.

(3) In the event of approval of a new and revised rate schedule, the new and revised rate schedule shall not apply to persons and groups who have an advance payment agreement with the franchisee until the normal expiration of said advance payment agreement.

(4) The rates in effect at the time this title takes effect and thereafter shall be subject to review and change only one time in a calendar year beginning January 1 and ending December 31 of the same year; provided, however, that:

(a) Upon application and without prior notice, the Board may, by order, grant an interim or emergency rate for new, special, or different service. The Board may specify the duration of said rate or continue it until final determination by the Board on the next overall rate adjustment.

(b) In addition to an annual rate adjustment, a supplemental rate adjustment may be requested when the cost of service is increased by governmental regulations and compliance therewith; or when there is substantial increase in a single expense that was not anticipated at the time of the last rate adjustment; or, when the total cost of service exceeds projected costs by five percent, or more.

(5) In reviewing rates, the Board shall make a finding that the rates comply with this section. The Board may consider rates charged by other persons performing the same or similar service. The Board shall give due consideration to current and projected revenue and expense, actual and overhead expense, the cost of acquiring and replacement of equipment, the services of management, local wage scales, concentration of customers in the area served, promotion of and providing source separation services, a reasonable return to franchisee, length of haul, cost of disposal, research and development, future service demands, cost of alternate method of disposal, interest payments, and such other factors as the Board deems relevant.

(6)(a) Notwithstanding any other provision of LCC 2.1000 through 2.1180, the Board may establish a fee on waste generated within those franchises which have utilized the Agate Beach Landfill/Balefill. The fee shall be set from time to time by resolution of the Board at a level which will cover all expected costs including but not limited to financing closure and post-closure debt instruments. The fee shall be collected by the respective franchisees based on waste generated within the franchise area and remitted by franchisees monthly to Lincoln County. Lincoln County shall receive all fee proceeds to be held in trust exclusively for Lincoln County's proportional share of on-going closure and post-closure costs of the Agate Beach Landfill. Upon full funding of the costs of such closure and post-closure activities, Lincoln County shall end the Agate Beach closure fee.

(b) The institution of this fee is accepted by franchisees as an amendment to the provisions of LCC 2.1000 through 2.1180 and shall be binding upon them, their successors, heirs, or assigns. A separate executed instrument signifying the franchisees acceptance shall be placed in the records

of the County. This subsection constitutes an amendment of the original franchise agreement. [1983 o.199 §1; 1993 o.318 § 1]

2.1122 Definitions for LCC 2.1122 through 2.1126

Unless the context requires otherwise, as used in LCC 2.1122 through 2.1126:

(1) "Affiliated company" means the parent company of a franchisee or any subsidiary of such parent company, or any company of which 30 percent or more of the common stock of control is owned or controlled by the franchisee or a shareholder or shareholders of the franchisee who own or control 30 percent or more of the common stock of the franchisee which shares costs with the franchisee with respect to the services provided under this agreement. Examples of such shared costs include, but are not limited to, labor, equipment or administrative costs.

(2) "Allowable expenses" means those expenses incurred by a franchisee in the performance of this agreement that are acceptable as reimbursable by the ratepayer as enumerated below. Allowable expenses are allowable only to the extent that such expenses are known and measurable, calculated according to Generally Accepted Accounting Principles (GAAP) on an accrual basis, do not exceed the fair market value of comparable goods or services, and are commercially reasonable and prudently incurred by the franchisee solely in the course of performing its obligations under the franchise. Allowable expenses, as qualified above, shall include, but not be limited to, the following:

(a) The costs of complying with all laws, regulations or orders applicable to the obligations of franchisee.

(b) Disposal costs, as defined below, including increased disposal costs and surcharges to the extent that such increase does not exceed 85 percent of the Consumer Price Index (CPI) for the current year, as provided in LCC 2.1124(7). If such increased disposal costs and surcharges exceed 85 percent of the CPI for the current year, then such costs and surcharges shall be allowed as pass through expenses as provided in LCC 2.1124(9).

(c) Labor costs, including supervisory labor, associated with provision of services under the franchise, including workers compensation and benefits and third party transportation costs for recyclable materials.

(d) Vehicle and equipment expenses, including vehicle registration fees, motor fuel, oil, tires, and repairs and maintenance of equipment.

(e) All expenses of maintaining and replacing capital equipment and assets, including depreciation and repair and maintenance.

(f) Performance bonds and insurance, at a minimum, in the amounts and coverage required by the county.

(g) Administrative expenses related to data processing, billing and supplies, finance and accounting, officer salaries, franchise administration, human resource and labor management, rate analysis, and regulatory compliance.

(h) Utilities.

(i) Training and worker safety.

(j) Advertising, promotion, and public education costs.

(k) Property or facility depreciation, rental or lease costs necessary to the provision of services required by the franchise agreement.

(L) Depreciation and amortization of capital assets, including any necessary stand-by or back-up equipment used on a regular and ongoing basis in the provision of services under this

franchise over standardized economic useful lives of the various assets. The county shall set the standard economic lives based upon industry input and prevailing practices.

(m) Outside professional fees and costs.

(n) Debt service expenses other than any debt service expenses associated with purchases of routes or business purchases, that are not in excess of market rates ordinarily charted for the various types of financing required for purchases or leases.

(o) Franchise fees.

(p) Any expense incurred in the collection, handling, processing, storing, transporting, marketing, or sale or other disposition of recyclable materials, as defined in ORS 459.005(20).

(q) All surcharges, taxes or fees, other than state or federal income taxes or franchise fees, which are imposed upon franchisee or levied by federal, state or local governments in connection with franchisee's provision of solid waste collection, transportation, disposal and resource recovery services.

(r) Any other expense determined in advance by the county and franchisee to be reasonable and necessary to the provision of the services required under the franchise agreement.

(s) Bad debts.

(3) “Collection” or “collection service” means all or any part of the activities involved in the collection of solid waste and its transportation to an appropriate solid waste management facility.

(4) “Customer” means generators of solid waste in the county to whom the franchisee provides collection services pursuant to a franchise granted by the county, and who have not been refused service pursuant to this chapter.

(5) “Disposal” means the disposition of solid waste collected by a franchisee at a permitted solid waste handling facility selected by the franchisee.

(6) “Disposal costs” means the total paid by a franchisee for the disposal of solid waste collected pursuant to a franchise granted by the county at the solid waste handling facility or transfer station.

(7) “Gross revenue” for any period means gross accrual-based billings by the franchisee to customers for services provided under this agreement and the accrual-based proceeds from the sales of recycled material collected within the franchise.

(8) “Operating margin” for a period means gross revenues minus allowable expenses.

(9) “Operating ratio” is the allowable expense divided into the gross revenues. Expressed as a percentage, the return on gross revenues shall be approximately 88 percent of gross revenues, which is consistent with industry averages for solid waste collection companies.

(10) “Revenue requirement” means the sum of the quotient of allowable expenses divided by the operating ratio, expressed as a decimal, and pass through expenses.

(11) “Unallowable expense” means any of the following, which under no circumstances will be counted as an allowable expense:

(a) Political and charitable contributions.

(b) Federal, state, and local income taxes.

(c) Loss on sale of assets.

(d) Officers' life insurance premiums.

(e) Director fees.

(f) Interest on the purchase of equipment or facilities to the extent that the purchase price exceeds the fair market value of the asset at the time of purchase.

(g) Penalties and fines.

(h) Costs, whether allocated or direct, associated with collection or unrelated operations that are not governed by this ordinance.

(i) Accruals for future unknown regulatory changes.

(j) Principal or interest payments on the acquisition of solid waste, recyclable materials and yard debris collection routes; the purchase of equipment and facilities at a price that would be construed to include goodwill or a premium in excess of fair market value at the time of acquisition.

(k) Attorney's fees and related expenses resulting from:

(A) Any judicial proceeding in which the county and a franchisee are adverse parties, unless the franchisee is the prevailing party.

(B) Any judicial proceeding in which a franchisee is ruled to be liable due to willful misconduct or gross negligence, or in violation of law or regulation. [2003 o.425 §2]

2.1124 Determination of Rates

(1) Franchisee shall charge and collect those rates adopted each year in accordance with this section. The rates set shall be fixed at a level sufficient to produce a revenue requirement for the franchisee that is equal to the quotient of allowable expenses divided by the operating ratio, expressed as a decimal. The operating ratio for this agreement shall be calculated at 88 percent. For purposes of this section, the rates shall include all monies collected by the franchisee for the services provided pursuant to a franchise granted by the county, including, but not limited to, charges for collection of solid waste and recyclable materials, revenue from the sale of recycled material, disposal charges, surcharges, fees and taxes. Revenue shall also include any other monies received by the franchisee from any other entity as compensation for services allocated fairly and reasonably to the jurisdiction and customers receiving said services.

(2) The franchisee and its affiliates may use common resources, such as equipment, fuel, labor, management, and administration, to service the county and other nearby jurisdictions. In such cases, it will be necessary to allocate the costs of such resources among the jurisdictions they serve. Franchisee and the county shall mutually agree upon an allocation formula, which may be amended upon the written mutual consent of the franchisee and the county, and shall be applied, as amended, to determine allowable expenses throughout the term of the franchise.

(3) The three factors that will be used to allocate these costs are:

(a) Labor hours: Used to allocate labor costs. Vehicle costs will also be allocated on labor hours as a substitute for engine hours. If, in the opinion of the operator, these hours would not be materially similar, then a four-factor formula would need to be implemented which would include engine hours to allocate the cost of vehicles.

(b) Weight: Average vessel weights used to allocate disposal.

(c) Customer base: Weighted customer counts used to allocate general, administrative, and management expenses.

(4) The methods for collecting the data for the factors described in subsection (3) of this section are:

(a) Labor hours: A 'time on route' form will be completed by route drivers one week each quarter. This data will then be summarized and averaged for application to the annual accounting data, or summarized and applied to the specific quarterly accounting data.

(b) Weight: Quarterly weight statistics will be generated by the company to obtain quarterly average vessel weights. These weights will then be applied to route list customer data to obtain relative weights per route. These relative weights per route will then be applied to the cost of disposal.

(c) Customer base: This data is readily available from computer reports generated in conjunction with billing and route list preparation.

(5) The factors described in subsection (3) of this section will be captured and applied to the costs on a periodic basis. The county and the franchisee agree that test periods shall be utilized, at least quarterly, to collect this data.

(6) Commencing on April 1, 2003, but in no event after April 1, 2004, the franchisee will submit to the county an annual report of operations prepared by the hauler's certified public accountant, showing the actual allowable expenses incurred by the franchisee in the preceding fiscal year, all additional allowable expenses the franchisee reasonably anticipates will be incurred or imposed in the current fiscal year, the allocation formulas used to determine expenses, the actual operating ratio for the preceding fiscal year, and the expected operating ratio for the current fiscal year.

(7) Except as provided in subsection (8) of this section, a cost of living rate adjustment shall be made every other year commencing with the completion of the report described in subsection (6) of this section, and according to the following procedure:

(a) Commencing on June 1, 2004, and on June 1 of each even numbered year thereafter (the adjustment date) throughout the term of the franchise, the rates shall be adjusted in an amount equal to 85 percent of the two-year percentage change in the Consumer Price Index for all Urban Consumers for West B/C, All Items (1982-84=100) published by the Bureau of Labor Statistics (the index) that occurred between the months of May and April of the previous and the current years. The adjustment shall not exceed six percent in any two-year period. In addition, no cost of living adjustment shall be allowed if the adjustment would cause the franchisee to project operations in excess of the operating ratio range. The adjusted rates shall become effective on each July 1, thirty days following the adjustment date.

(b) On each adjustment date, the then current rates shall be multiplied by the calculated percentage change in the index for the year.

(c) On or before each adjustment date, the franchisee shall send to the county a revised rate schedule reflecting the proposed new rates, as adjusted by the index as provided in this subsection. Upon adoption, the revised rate schedule shall become effective on July 1 of each year.

(d) If a rate adjustment occurred in the previous year due to an upward adjustment of the rates due to a formal rate review, then the franchisee is only eligible for 85 percent on the one year change in the Consumer Price Index.

(e) In the event that the Index for Urban Consumers of West B/C is no longer published by the Bureau of Labor Statistics, the franchisee and the county shall negotiate in good faith and agree upon a suitable replacement index reflective of the cost of living in the franchise area.

(8) If the report described in subsection (6) of this section indicates that the operating ratio for the next succeeding 12-month period will be less than 85 percent or greater than 91 percent, then a rate review will automatically be implemented in accordance with this section. No more than five consecutive years shall pass during the term of this franchise without a formal

rate review as set forth in this section. In the event a rate review is requested or required as provided in this section, the following procedures shall bind the county and the franchisee:

(a) The county shall review the report and, if the county's review of the report indicates that the operating ratio is likely to be greater than 85 percent or less than 91 percent, the county shall adopt rates for the next year, either as proposed by the franchisee in the report, or as modified by the county, no later than June 15. The adopted rates shall then become effective no later than July 1, and shall supersede the rates that were previously in effect. The adopted rates shall provide the franchisee an operating ratio of 88 percent.

(b) In the event the report shows that the operating ratio for the current fiscal year is not likely to be greater than 85 percent or less than 91 percent, the existing rates shall not be adjusted, and the current rates shall continue in effect until next adjusted in accordance with subsection (7) of this section. The county shall set all policies and procedures respecting the implementation of rates and shall direct the franchisee to carry out such policies and procedures. The county, its agents or employees may, upon reasonable notice and during normal business hours, audit those records of the franchisee that pertain to revenue and allowable expenses. However, in reviewing such records, the county and its agents and employees shall maintain the confidentiality of the records, and not disclose, divulge or transmit the records, or copies of the records, to any third party, except as may be compelled under law or by a court of competent jurisdiction.

(c) Upon review by the county, if it is found that deliberate or malicious material misrepresentation of books, records, accounts or data relating to collection service operations has occurred, the franchisee shall pay all review costs incurred by the county.

(9) In the event the franchisee, at any time, becomes liable to pay any new or increased legislated costs, including surcharges, fees, or expenses associated with regulatory requirements, or any new or increased disposal or long-haul transportation costs or fees, and these costs represent in excess of three percent of gross revenue, then all such costs and fees shall be immediately passed through and added to the existing rate structure upon the county's receipt and verification of the franchisee's documentation of, and liability to pay, those new costs or fees. In the event the franchisee, at any time, experiences a reduction in these costs, in excess of three percent of gross revenue, then all such savings shall be immediately passed through and subtracted from the existing rate structure upon the county's receipt and verification of the franchisee's documentation of those reduced costs or fees. The franchisee shall include all such costs, cost savings, and fees in the next succeeding year's report as actual allowable expenses of the franchisee. [2003 o.425 §3]

2.1125 [1983 o.199 §1; repealed 2003 o.425 §7]

2.1126 Reports and Records

(1) The following reports and information shall be submitted by the franchisee to the county in accordance with the following schedule: Commencing with the first rate adjustment request by the franchisee, and on each April 1st thereafter, the franchisee shall submit the annual report in the format approved and distributed by the county, consisting of the following:

(a) Financial statements for the franchisee for the preceding year, with schedules prepared by the franchisee's certified public accountant to provide backup for any allocated expenses. The

franchisee shall also identify any expense incurred with an affiliated company. At the county's request, the franchisee shall provide backup as is reasonable to verify expenses;

(b) Equipment and depreciation schedules and equipment replacement projections for the current year;

(c) Projected allowable expense and pass-though expense for the current year;

(d) Projected gross revenue for the current year, based on current levels of service and the current rate schedule before any cost of living adjustment; and

(e) Subject to the conditions of LCC 2.1124, a proposed rate schedule to be effective July 1, with rationale as to how the rates were developed.

(2) Records and information requirements: The franchisee shall maintain accounting, statistical, operational, and other records related to its performance under the franchise agreement. Also, the franchisee agrees to conduct data collection, information and record keeping, and reporting activities needed to comply with applicable laws and regulation and to meet the reporting and solid waste program management needs of the county. To this extent, requirements set out in this agreement shall not be considered limiting or necessarily complete. In particular, this section is intended to only highlight the general nature of records and reports, and is not meant to define exactly what the records and reports are to be, and their content. Further, with the written direction or approval of the county, the records and reports to be maintained and provided by the franchisee in accordance with this agreement shall be adjusted in number, format, or frequency. This is not intended to require significant additional administrative labor, or the modification of the franchisee's computer software.

(3) All records shall be maintained for at least five years after the expiration of this agreement, with the exception of accounts payable records, which shall be maintained for at least three years after payment. The records addressed in this agreement shall be provided or made available to the county and its official representatives during normal business hours.

(4) Solid waste records: Records shall be maintained by the franchisee for the county relating to:

(a) Customer service and billing;

(b) Weight and volume of solid waste and recyclable materials;

(c) Routes;

(d) Facilities, equipment and personnel used;

(e) Facilities and equipment operations, maintenance and repair;

(f) Disposal of solid waste;

(g) Complaints; and

(h) Missed pick-ups.

(5) CERCLA defense records: The county views the ability to defend against litigation brought under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 USC § 9601, *et seq*.), and other related litigation, as a matter of great importance. For this reason, the county regards the ability to prove where solid waste collected in the county was taken for disposal, as well as where it was not taken, to be matters for concern. Franchisee shall maintain data retention and preservation systems which can establish where solid waste collected in the county was land filled, and therefore establish where it was not land filled, and provide a copy or summary of the reports required for at least five years after the term during which collection services are to be provided pursuant to this agreement, or to provide copies of such records to the county.

(6) Disposal records: The franchisee shall maintain records of disposal of all solid waste collected in the county for the period of this agreement, and all extensions to this agreement or successor agreements. In the event the franchisee discontinues providing solid waste services to the county, the franchisee shall provide all records of disposals or processing of all solid waste collected in the county within 30 days of discontinuing service. Records shall be in chronological order, and organized in a form and manner that is capable of easily and readily being understood and interpreted.

(7) Reporting responsibilities:

(a) At the time of payment of the annual franchise fees, the franchisee shall file with the county a sworn and verified statement of annual gross revenues for the period covered by the tendered fee. Such statements shall be public records. Each franchisee shall maintain books and records disclosing the gross receipts derived from business conducted within the county, which shall be open at reasonable times for audit by county personnel or assigned agents. The county may require a uniform system of bookkeeping and record keeping to be used by all franchisees.

(b) Deliberate or malicious misrepresentation of gross revenues by a franchisee constitutes a major contract violation, and may be cause to initiate the process to terminate the franchise.

(c) The Board may change the amount and computation of franchise fees from time to time.

(8) Confidentiality of annual rate review reports: Franchisees may identify information submitted to the county as confidential. The county shall treat any information marked confidential as being confidential, and shall not subject the confidential information to public disclosure except as required by law or by order of a court of competent jurisdiction. If the county receives a request for disclosure of confidential information, the county shall notify the franchisee within five business days of receiving the request, in order to allow the franchisee a reasonable opportunity to defend against the requested disclosure through appropriate legal process.

(9) Reportable incidents and events: The franchisee shall provide the county with two copies, one to the Board and one to County Counsel, of all reports, pleadings, applications, notifications, notices of violation, and all other formal actions relating specifically to the franchisee's performance of services pursuant to this agreement, submitted by franchisee to, or received by franchisee from, the United States Environmental Protection Agency, the Oregon Department of Environmental Quality, or any other federal, state, or local agency, including federal or state court actions brought by any of the these agencies, with regard to franchisee operations within the State of Oregon. Copies shall be submitted to the county simultaneously with franchisee's filing or submission of such matters with the agency or court. A franchisee's routine correspondence to the agency or court need not be submitted to the county, but shall be made available to the county upon written request.

(10) The refusal or willful failure of a franchisee to file any required report, or to provide required information to the county, or the inclusion of any materially false or misleading statement or representation by the franchisee in a report, shall be deemed a material breach of this agreement, and shall subject the franchisee to all remedies which are available to the county under this agreement.

(11) Vehicle inventory: The franchisee, in conjunction with the annual report, shall provide the county with an inventory of vehicles used by the franchisee within the county. The

list shall include vehicle make, year of manufacture, model name, vehicle identification number (VIN), and PUC numbers.

(12) Access for inspections and delivery of notices:

(a) Franchisees shall make all company premises, facilities and records related to their solid waste, recyclable materials and yard debris collection services, including, but not limited to, offices, storage areas, financial records, non-financial records, records pertaining to the origin of any solid waste collected by the franchisee, receipts for sale or delivery of collected recyclable materials, customer lists, and all records related to vehicle maintenance and safety which are required under Oregon Department of Transportation motor carrier requirements and regulations and ORS chapter 767, available for inspection by the county, the Lincoln County Solid Waste District, and their employees or assigned agent, within 24 hours of notice by registered mail. Inspections are only for purposes of enforcing this agreement, and are restricted to normal business hours.

(b) During normal business hours, the franchisee shall make all company premises and facilities accessible to county employees or assigned agents for delivery of any written notices.

(c) Franchisee collection vehicles must be accessible for inspection during the normal operating hours for collection, in addition to normal business hours. Where receptacles are stored in the public right-of-way, or when the county is conducting an inspection in a situation where the franchisee is allegedly disposing recyclable or yard debris with solid waste, the need for 24-hour notice does not apply to inspection of receptacles or vehicles. [2003 o.425 §4]

2.1128 Solid Waste District User Fee

(1) The Lincoln County Solid Waste Disposal Service District hereby establishes a user fee on waste generated within Lincoln County that shall be collected by the franchised solid waste haulers within the county, or through other agreements as may be entered into by the District, beginning July 1, 2003, at an initial rate of $4 per ton of waste. The fee may be adjusted from time to time by resolution of the Board of Commissioners, acting as the governing body of the District, at a rate that will cover projected costs of the District. Fee changes shall be timed to correspond to the schedule for the annual review authorized by LCC 2.1122 to 2.1126 (Uniform Rate Reporting Format) and shall be reviewed by the District's Solid Waste Advisory Committee and Budget Committee. The fees shall be based on the waste generated within the solid waste franchised areas and disposed at sanitary landfills. Lincoln County shall place all fee proceeds in a fund to be used exclusively for the Lincoln County Solid Waste Disposal Service District.

(2) Pursuant to a separate executed instrument signifying each franchisee's acceptance, the fees shall be collected and remitted on a monthly basis to Lincoln County by the franchised solid waste haulers within the county. If the agreements are not accepted or are terminated by any franchisee, the District shall collect a fee through other agreements or methods, as it may deem appropriate. [2003 o.428 §2]

2.1130 Service to be Rendered

(1) In addition to serving regular customers, the franchisee shall pick up and haul away all solid waste at the request of any resident of the county in franchisee's area where service is provided. The Board may specify when remote, sparsely populated areas will be served and the frequency of service. A franchisee shall not, without good cause proved by franchisee to the administrator, refuse to provide service to any person living or conducting business within its

service territory in the county; provided, however, a franchisee may refuse to provide service upon one or more of the following conditions:

(a) Upon nonpayment of a billing or portion thereof for service within the time provided therein and after 10-days' further written notice, from the date of mailing to the customer that service will be terminated unless full payment is made.

(b) Upon refusal to pay any required advance payment for service, or, if provided in the rate schedule, a charge for reinstating service after discontinuance for nonpayment, or a charge for starting a new service.

(c) Street or road access is blocked.

(d) Excessive weather conditions, as determined by a franchisee, render the providing of service hazardous to the persons actually providing the service or to the public.

(e) Where prevented by an act of God, public enemy, or vandal.

(f) Customer violation of service standards in LCC 2.1140.

(2) Any franchisee shall, where applicable, provide, maintain, and use adequate equipment to handle and dispose of or resource-recover solid waste; will handle collected solid wastes in a good and workmanlike manner; will transport all liquids in a watertight, drip-proof container; and, will provide equipment that meets all applicable laws, ordinances, regulations, and standards, including, without limitation, amendments to this title.

(3) Equipment and work supplied by any franchisee shall be to the reasonable satisfaction of the administrator.

(4) No franchisee is required to store, collect, transport, transfer, dispose of, or resource-recover any hazardous waste; provided, however, that such franchisee may engage in one or more of those activities separate and apart from this title, but in compliance with all applicable local, state, and federal laws. [1983 o.199 §1]

2.1135 Hold Harmless

The privileges granted to a franchisee are upon the express condition that said franchisee shall be liable for all damages or injuries to persons or property caused by the negligence or mismanagement of the franchisee or any employees or agents of franchisee while engaged in the business under the terms of the franchise. Should county, or any of its officers, agents, or employees in the scope of their employment be sued for damages caused in whole or in part by the operations of a franchisee under the terms of the franchise, the franchisee shall be notified in writing of such suit and thereupon it shall be the duty of the franchisee to defend or settle the suit and should judgment go against county, its officers, agents, or employees, the amount thereof shall be recovered with costs and attorneys' fees from franchisee. The record of judgment against county, or any of its officers, agents, or employees, in any such case, shall be conclusive evidence to entitle county, its officers, agents, or employees to recover against the franchisee. This section shall not require a franchisee to defend, indemnify, or settle any suit or action against county, its officers, agents, or employees brought under, nor indemnify county, its officers, agents, or employees for damages awarded pursuant to ORS 646.705, et seq., or Title 15 of the United States Code, unless such suit or action arises out of activities of the franchisee, or any agents or employees of franchisee, not authorized by this title. [1983 o.199 §1]

2.1140 Public Responsibilities

(1) No person shall place hazardous wastes out for collection or disposal by the franchisee nor place it into any solid waste container or box supplied by the franchisee without prior notice to and prior written approval from the franchisee. A person placing such wastes for collection shall, prior to the notice to the franchisee, obtain the approval of the disposal site to be used for the disposal of such wastes. Where required, an additional approval shall be obtained from the local government unit having jurisdiction over the disposal site. This disposal approval shall be in writing, signed by the person designated by the disposal site or local government unit affected. Either the franchisee or the disposal site or the local government unit having jurisdiction of the disposal site may require written authorization from the Oregon Department of Environmental Quality for the handling of such hazardous wastes. This subsection does not apply to household waste generated at and by a single family residential dwelling unit.

(2) A franchisee is not required to service an underground container unless the person responsible for it places the can above ground prior to collection.

(3) No can for residential service shall be located behind any locked or latched gate or inside any building or structure nor exceed 60 pounds gross loaded weight.

(4) Each customer shall provide safe access to the solid waste or solid waste container without hazard or risk to a franchisee's employees or a franchisee. [1983 o.199 §1]

2.1145 Rate Preferences Prohibited

(1) No franchisee subject to rate review by this title shall give any rate preference to any person, locality, or type of solid waste stored, collected, transported, or disposed.

(2) Nothing in this section is intended to prevent:

(a) The reasonable establishment of uniform classes of rates based upon length of haul; type of solid waste stored, collected, transported, or disposed; or the number, type, and location of customers served; or upon other factors as long as such rates are reasonably based upon costs of the particular service and are reviewed by the committee and the Board in the same manner as other rates;

(b) Any person from volunteering service at reduced cost for a charitable, community, civic, or benevolent purpose. [1983 o.199 §1]

2.1150 Payment

Any person who receives service shall be responsible for payment for such service. Landlords shall be responsible for service provided if the tenant does not pay. [1983 o.199 §1]

2.1155 Agreements for Joint or Regional Franchising

The Board may enter into agreements with any city or county for joint or regional franchising or collection or disposal service or planning for regional solid waste management. [1983 o.199 §1]

2.1160 [1983 o.199 §1; repealed 1994 o.333 § 8]

2.1165 Severability

If any section, subsection, sentence, clause, or portion of this title is for any reason held invalid or declared unconstitutional by any court of competent jurisdiction, such portion shall be

deemed a separate, distinct, and independent provision and such holding shall not affect the validity or constitutionality of the remaining portion hereof. The Board hereby declares that it would have passed this title and each section, subsection, sentence, clause, and phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid, or unconstitutional. [1983 o.199 §1]

2.1170 Penalties

Violation of this title, or any rules or regulations adopted by the Board pursuant to this title, shall be deemed to be a violation of county laws and is punishable upon conviction by a fine of not more than $500; provided, however, that each day of continued violation is a separate offense and is separately punishable, but may be joined in a single prosecution. In addition, county shall have the right to pursue any additional remedy provided to it under law. [1983 o.199 §1]

2.1175 Appeals from the Decisions of the Administrator

(1) The Board may, upon its own motion or upon the request of an interested person or affected public agency or body, review any decision of the administrator or committee and may affirm, modify, reverse, or rescind the decision of the administrator.

(2) In reviewing appealed actions, the Board may request the recommendation of the committee, and hold public hearings after notice to affected persons.

(3) This section applies only to decisions of the administrator relating to enforcement of provisions in existing solid waste disposal franchises granted pursuant to this chapter. [1983 o.199 §1; 1993 o.323 §2]

2.1180 [1983 o.199 §1; 1983 o.202 §2; repealed 1994 o.333 § 8]

LITTERING AND DUMPING

2.1500 Definitions

As used in LCC 2.1500 through 2.1510:

(1) "Person" has the meaning given that term in LCC 2.1005.

(2) "Public transportation facility" has the meaning given that term in ORS 164.365.

(3) "Public way" includes, but is not limited to, roads, streets, alleys, lanes, trails, beaches, parks and all recreational facilities operated by the state, a county or a local municipality for use by the general public.

(4) "Sewage" has the meaning given that term in LCC 2.110.

(5) "Solid waste" has the meaning given that term in LCC 2.1005.

(6) "Waste" has the meaning given that term in LCC 2.1005. [1994 o.333 § 2]

2.1505 Littering and Dumping of Sewage, Waste and Solid Waste Prohibited

No person shall:

(1) Discard any glass, cans or other trash, rubbish, debris or litter on land within 100 yards of any of the waters of the state, as defined in ORS 468.700, other than in receptacles provided for the purpose of holding such trash, rubbish, debris or litter;

(2) Discard any glass, cans or other similar refuse in any waters of the state, as defined in ORS 468.700;

(3) Discard any dead animal carcass or part thereof, excrement, putrid, nauseous, noisome, decaying, deleterious or offensive substance into or in any other manner befoul, pollute or impair the quality of any spring, river, brook, creek, branch, well, irrigation drainage ditch, irrigation ditch, cistern or pond of water;

(4) Place or cause to be placed any polluting substance listed in subsection (3) of this section into any road, street, alley, lane, railroad right-of-way, lot, field, meadow or common;

(5) Being an owner of property described in subsection (4) of this section, knowingly permit any polluting substance listed in subsection (3) of this section to remain on the property to the injury of the health or to the annoyance of any citizen of the State of this state;

(6) Create an objectionable stench or degrade the beauty or appearance of property or detract from the natural cleanliness or safety of property by intentionally:

(a) Discarding or depositing any rubbish, trash, garbage, debris or other refuse upon the land of another without permission of the owner, or upon any public way or in or upon any public transportation facility;

(b) Draining, or causing or permitting to be drained, sewage or the drainage from a cesspool, septic tank, recreational or camping vehicle waste holding tank or other contaminated source, upon the land of another without permission of the owner, or upon any public way; or

(c) Permitting any rubbish, trash, garbage, debris or other refuse to be thrown from a vehicle which the person is operating; except that this paragraph shall not apply to a person operating a vehicle transporting passengers for hire subject to regulation by the Interstate Commerce Commission or the Public Utility Commission of Oregon or a person operating a school bus described under ORS 801.460; or

(7) Store, collect, maintain, or display waste, solid waste or sewage in a manner that is offensive or hazardous to the health and safety of the public or which creates offensive odors or a condition of unsightliness. [1994 o.333 § 3]

2.1510 Exceptions to the Prohibitions of LCC 2.1505

(1) Nothing in subsections (1) through (5) of LCC 2.1505 prohibits the operation of a disposal site, as defined in ORS 459.005, for which a permit is required by the Department of Environmental Quality, for which such a permit has been issued and which is being operated and maintained in accordance with the terms and conditions of such permit.

(2) Nothing in subsections (3) through (5) of LCC 2.1505 prohibits the storage or spreading of manure or like substance for agricultural, silvicultural or horticultural purposes, except that no sewage sludge, septic tank or cesspool pumpings shall be used for these purposes unless treated and applied in a manner approved by the Department of Environmental Quality.

(3) Nothing in LCC 2.1505 prohibits the collection, maintenance or display of waste, solid waste or sewage by a person authorized to engage in collection, maintenance or display of waste, solid waste or sewage pursuant to LCC chapter 2, ORS chapter 459, and rules of the Department of Environmental Quality.

(4) Nothing in LCC 2.1505 prohibits the temporary storage of waste, solid waste or sewage in receptacles designed for that purpose and in compliance with LCC chapter 2, ORS chapter 459, and rules of the Department of Environmental Quality. [1994 o.333 § 4]

(ENVIRONMENTAL HEALTH)

2.1800 Rules of Procedure

The Rules of Procedure provided in the Administrative Procedures Act, ORS Chapter 183, are hereby adopted and approved for use in all hearings pursuant to the following Delegations of Authority, Responsibilities and Functions by the State Health Division. [2014 o.471 § 1]

2.1805 Tourist Facilities

Lincoln County herby adopts ORS Chapter 446, together with subsequent amendments, as it relates to the delegation of responsibilities of the Assistant Director for Health regarding Tourist Facilities, pursuant to ORS 446.425. [2014 o.471 § 2]

2.1810 Swimming Pools and Spas

Lincoln County hereby adopts ORS Chapter 448, together with subsequent amendments, as it relates to the delegation of responsibilities of the Assistant Director for Health regarding Swimming Facilities, pursuant to ORS 448.100 with the exception of plan review duties for swimming pools and spas. [2014 o.471 § 3]

2.1815 Food Services Facilities

Lincoln County hereby adopts ORS Chapter 624, together with subsequent amendments, as it relates to the delegation of responsibilities of the Assistant Director for Health regarding Restaurants and Bed and Breakfast Facilities, pursuant to ORS 624.510. [2014 o.471 § 4]

2.1820 Oregon Administrative Rules

Lincoln County hereby adopts OAR 333-12-050, 333-12-055, 333-12-060, 333-12-065, together with subsequent amendments, as it relates to the delegation of responsibilities for the Assistant Director for Health as described in this division. [2014 o.471 § 5]

2.1825 Effective Date of Delegation

The delegation of duties as described in this division shall be effective on the date as mutually agreed by the State and County or such other date as determined by the Lincoln County Board of Commissioners. [2014 o.471 § 6]

2.1830 Enforcement

Any state laws or administrative rules and any county ordinance or county rules relating to public health inspections and the delegation of authority to Lincoln County, including but not limited to this division and any rules adopted by the County pursuant to this division, shall be enforceable through the provisions of Chapter Ten of the Lincoln County Code and/or by applicable enforcement provisions provided by state law or administrative rule. [2014 o.471 § 7]

NOISE CONTROL

2.2000 Title; Area of Application

LCC 2.2000 through 2.2045 shall be known as the Lincoln County Noise Control Ordinance and shall apply within the unincorporated areas of Lincoln County, Oregon. [1989 o.280 §1]

2.2005 Definitions

As used in this chapter, unless the context requires otherwise:

(1) "Idling speed" means a speed at which an engine will run when no pressure is applied to the accelerator or accelerator linkage.

(2) "Noise sensitive unit" means any building or portion thereof, vehicle, boat or other structure adapted or used for the overnight accommodation of persons, including, but not limited to, individual residential units, individual apartments, trailers, hospitals, and nursing homes.

(3) "Person" means any individual, any public or private corporation, association, partnership, or other legally recognized public or private entity.

(4) "Plainly audible" means unambiguously communicated to the listener. Plainly audible sounds include, but are not limited to, understandable musical rhythms, understandable spoken words, and vocal sounds other than speech which are distinguishable as raised or normal.

(5) "Sound producing device" means:

(a) Loudspeakers, public address systems;

(b) Radios, tape recorders or tape players, phonographs, television sets, stereo systems, including those installed in a vehicle;

(c) Musical instruments, amplified or unamplified;

(d) Sirens, bells;

(e) Vehicle engines or exhausts, when vehicle is not on a public right-of-way, particularly when the engine is operating above idling speed;

(f) Vehicle tires, when caused to squeal by excessive speed or acceleration;

(g) Domestic tools; including electric drills, chain saws, lawn mowers, electric saws, hammers, and similar tools, but only between 10 p.m. and 7 a.m. of the following day; and

(h) Heat pumps, air conditioning units, and refrigeration units, including those mounted on vehicles.

(6) "Vehicle" means automobiles, motorcycles, motorbikes, trucks, buses, and snowmobiles.

(7) "Firearms" means devices, by whatever name known, which are designed to expel a projectile or projectiles by the combustion of black powder or smokeless powder. [1989 o.280 §1]

2.2010 Findings and Policy

(1) The Board of Commissioners for Lincoln County has found that excessive sound can and does constitute a hazard to the health, safety, welfare, and quality of life of residents of the county.

(2) The Board has further determined that while certain activities essential to the economic, social, political, educational and technical advancements of the citizens of the county necessarily require the production of sounds which may offend, disrupt, intrude and otherwise create hardship

among the citizenry, the Board is obliged to impose some limitations and regulation upon the production of excessive sound as will reduce the deleterious effects thereof.

(3) It is, therefore, the policy of this Board to prevent and regulate excessive sound wherever it is deemed harmful to the health, safety, welfare and quality of life of the citizens of Lincoln County. This chapter shall be liberally construed to effectuate that purpose. [1989 o.280 §1]

2.2015 Administration and Enforcement

(1) The Sheriff of Lincoln County shall administer, supervise and perform all acts necessary to enforce this chapter.

(2) Persons appointed or assigned by the Sheriff, as he deems necessary to accomplish effective enforcement of this chapter, may be peace officers or not, but if unsworn persons are selected and empowered to issue citations for violation of this chapter, the Sheriff shall exercise powers under ORS 204.635.

(3) Upon citation of a person for a violation of this chapter, the person issuing the citation may seize as evidence the sound producing device which was the source of the sound. The sound producing device, if seized, shall be impounded subject to disposition of the issued citation and determination by the court whether the sound producing device shall be returned to the cited person or deemed contraband, subject to LCC 2.2045(2). It is the intent of this chapter to void such seizures, except where the person being cited has received two previous citations within the previous six months for the use of the same or similar sound producing device. The previous citations may, but need not, occur on the same date as the citation which prompts the seizure.

(4) Citation forms authorized pursuant to LCC chapter 10 may be used for any violation of this ordinance.

(5) In addition to any other enforcement procedures, the Board of County Commissioners may, upon its own motion or upon receipt of a petition requesting a hearing by the Board, signed by no fewer than five persons residing in the vicinity of a property upon which is located an alleged violation of this chapter, issue its order to the person producing or permitting to be produced the sound which allegedly violates this chapter to appear before the Board and show cause why the Board should not declare the sound a violation of this chapter and order the violation abated. Noncompliance with the order may result in the Board referring the order to the county counsel for injunctive enforcement or, alternatively, to the district attorney for appropriate action. [1989 o.280 §1]

2.2020 Sound Measurement

(1) If measurements are made, they shall be made with a sound level meter. The sound level meter shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter, as specified in ANSI Standard 1.4-1971. For purposes of this chapter, a sound level meter shall contain at least an A weighed scale and both fast and slow meter response capability.

(2) If measurements are made, personnel making those measurements shall have completed training in the use of the sound level meter, and measurement procedures consistent with that training shall be followed.

(3) Measurements may be made at or within 25 feet of the exterior boundary of a noise sensitive unit which is not the source of the sound, or within a noise sensitive unit which is not the source of the sound.

(4) All measurements made pursuant to this chapter shall comply with the provisions of this section. [1989 o.280 §1]

2.2025 Prohibitions

(1) It shall be unlawful for any person to:

(a) Make, continue or cause to be made or continued, any noise which unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of any person of normal sensitivity in a noise sensitive unit. The standard which shall be utilized in determining whether a violation of the provisions of this paragraph exists shall include, but not be limited to, the following:

(A) The volume of the noise;

(B) The intensity of the noise;

(C) Whether the nature of the noise is usual or unusual;

(D) Whether the origin of the noise is natural or unnatural;

(E) The volume and intensity of the background noise, if any;

(F) Whether the noise is plainly audible within a noise sensitive unit;

(G) The nature and zoning of the area within which the noise emanates;

(H) The density of the inhabitation of the area within which the noise emanates;

(I) The time of day or night the noise occurs;

(J) The duration of the noise; and

(K) Whether the noise is recurrent, intermittent, or constant; or

(b) Produce or permit to be produced, with a sound producing device, sound which, when measured at or within 25 feet of the exterior perimeter of a noise sensitive unit which is not the source of the sound, or within a noise sensitive unit which is not the source of the sound, exceeds:

(A) 50 dBA at any time between 10 p.m. and 7 a.m. the following day, or

(B) 60 dBA at any time between 7 a.m. and 10 p.m. the same day, and the sound exceeds the levels identified in paragraphs (A) and (B) of this subsection for five consecutive minutes or ten minutes in any one-half hour period, or when intermittent sounds exceed the identified levels ten or more times in any one-half hour period.

(2) Notwithstanding any other provision of subsection (1)(b) above, prohibited sounds shall not exceed 15 dBA above the levels identified in paragraphs (A) and (B) of subsection (1)(b) of this section for any duration.

(3) If the noise source is an idling vehicle licensed to travel upon public roads of the state, the noise source shall not be allowed to exceed the levels identified in paragraphs (A) and (B) of subsection (1)(b) of this section for more than 15 consecutive minutes between 10:00 p.m. and 7:00 a.m. the following day and 20 minutes between 7:00 a.m. and 10:00 p.m. the same day. At no time may the sound from an idling vehicle, when measured in accordance with subsection (1)(b) of this section, exceed 15 dBA more than the levels established therein.

(4) If a measurement of the sound is made, subsection (1)(b) of this section shall supersede subsection (2) of this section and shall be used to determine if a violation exists.

(5) When the sound is emitted from motorboat, it shall not be subject to the standards above but a violation shall be established where the sound exceeds 75 dBA as measured on shore, provided that the measurement be taken no closer than 150 feet from the boat. Where a measurement is taken from a distance closer than 150 feet, a violation shall be established where the sound exceeds 84 dBA measured no closer than 50 feet from the boat. Motorboats shall not be operated on public waterways within the county unless equipped with a functioning underwater

exhaust, muffler, or system which continuously pipes water into the exhaust line. [1989 o.280 §1; 2006 o.445 §2]

2.2030 Exceptions

Notwithstanding LCC 2.2025, the following exceptions from this chapter are permitted:

(1) Sounds caused by organized athletic or other group activities, when those activities are conducted on property generally used for those purposes, including: stadiums, parks, schools, churches, athletic fields, race tracks, airports, and waterways; provided, however, that this exception shall not impair the Sheriff's power to declare the event or activities otherwise to violate other laws, ordinances, or regulations.

(2) Sound caused by emergency work, or by the ordinary and accepted use of emergency equipment, vehicles and apparatus, whether or not the work is performed by a public or private agency upon public or private property.

(3) Sounds caused by sources regulated as to sound production by federal law, including, but not limited to, sounds caused by railroad, aircraft, or commercially licensed water craft operations.

(4) Sounds caused by bona fide use of emergency warning devices and alarm systems.

(5) Sound caused by blasting activities when performed under a permit issued by appropriate governmental authorities and only between the hours of 9 a.m. and 4 p.m., excluding weekends, unless the permit expressly authorizes otherwise.

(6) Sounds caused by industrial, agricultural or construction organizations or workers during their normal operations. However, this exception shall not apply to any forest practice, as defined in ORS 527.620, that is conducted within any urban growth boundary between the hours of 10:00 p.m. and 5:30 a.m., unless a variance has been obtained pursuant to LCC 2.2035.

(7) Sounds made by activities by or on direction of Lincoln County or any other public or private utility in maintenance, construction, or repair of public or utility improvements in public rights-of-way, easements, or property.

(8) Sounds caused by motor vehicles operated on public roads, which are regulated by state law, ORS 815.025.

(9) Sounds created by firearms. Firearms are not regulated by this ordinance. [1989 o. 280 § 1; 1993 o.326 § 1]

2.2035 Variances

Any person who is planning the use of a sound producing device which may violate any provision of this chapter may apply to the Sheriff for a variance from the provision:

(1) The application shall state the provision from which a variance is being sought, the period of time the variance is to apply, the reason for which the variance is sought, and other supporting information which the Sheriff may reasonably require.

(2) The Sheriff shall consider:

(a) The nature and duration of the sound emitted.

(b) Whether the public health, safety or welfare is endangered.

(c) Whether compliance with the provision would produce no benefit to the public.

(d) Whether previous permits have been issued and the applicant's record of compliance.

(3) A variance may be granted for a specific time interval only.

(4) The sheriff shall, within ten days, deny the application, approve it, or approve it subject to conditions.

(5) The Sheriff's decision may be appealed to the Board of County Commissioners. Notice of appeal should be delivered to the executive assistant of the Board. The Board shall review the application *de novo* and within 15 days deny the application, approve it, or approve it subject to conditions.

(6) The Sheriff may at any time before or during the operation of a variance granted by the Sheriff revoke the variance for good cause. The Board may at any time before or during the operation of any variance revoke the variance for good cause. [1989 o.280 §1]

2.2040 Additional Remedies

The provisions of this chapter shall be cumulative and non-exclusive and shall not affect any other claim, cause of action, or remedy; nor, unless specifically provided, shall it be deemed to repeal, amend, or modify any law, ordinance, or regulation relating to noise or sound but be deemed additional to existing legislation and common law on such subject. [1989 o.280 §1]

2.2045 Penalties

(1) Violation of any provision of LCC 2.2000 to 2.2045 shall be punished in accordance with LCC chapter 10.

(2) In addition to the penalties here prescribed, the court may order any sound producing device, found to have been used to violate this chapter, seized, confiscated, and destroyed as contraband, or sold with the proceeds of sale to be deposited in the county general fund. [1989 o.280 §1]

INTERGOVERNMENTAL HEALTH CARE SERVICES

2.2300 Findings for Intergovernmental Agreement

Lincoln County hereby finds and determines that it has the authority and shall take such steps as it sees fit to provide medical care and services and facilities for the care of sick and injured persons within Lincoln County, Oregon, by agreement with other governmental entities already having such facilities, or otherwise, as the Board of Commissioners shall determine. This shall not be construed, however, to require the provision of any particular services or facilities. [1990 o.296 §1]

2.2305 Intergovernmental Agreement for Health Care Services and Facilities

In implementation of LCC 2.2300, the Board of Commissioners is hereby authorized to enter into an intergovernmental cooperation agreement with the Pacific Communities Hospital District and any other municipal entity as the Commissioners may see fit, upon such terms and conditions as they shall determine, for the provision of such services and facilities. [1990 o.296 §2]

2.2310 Form of Intergovernmental Agreement

The form of intergovernmental cooperation agreement between Lincoln County and the Pacific Communities Hospital District which was attached to Ordinance # 296 is expressly approved, and the Board of Commissioners is authorized and directed to enter into that agreement, but this express approval of the form of such agreement shall not preclude the exercise of the authority and discretion of the Board of Commissioners in entering into any other agreements of a similar or related nature, nor in the subsequent modification of the agreement which was attached to Ordinance # 296. [1990 o.296 §3]

DECEASED INDIGENTS

2.2500 Disposal of Deceased Indigents

(1) In the event of death of any person receiving Adult and Family Services support in Lincoln County at the time of their death and for which no other funds are available for disposal of the remains of the deceased, the Lincoln County Human Services Department shall cause the remains to be disposed of by cremation at county expense, except that disposal shall be by burial when there is substantial evidence that cremation would violate the deceased's religious tenets.

(2) The department shall contract as necessary to dispose of the remains of the deceased as required in this section.

(3) The department shall recover the cost of disposal from any person, estate, or agency responsible therefor.

(4) In the event the state provides funding for the disposal of the remains of deceased Adult and Family Services recipients in any county in Oregon, the department shall not dispose of those remains at county expense. [1986 o.240 §§ 1, 2, 3 and 4]

FORFEITURE

2.3000 Forfeiture of Motor Vehicle Being Driven by Person Who is Under the Influence of Intoxicants

(1) A motor vehicle is a nuisance and is subject to civil *in rem* forfeiture if the motor vehicle is being driven by a person who is under the influence of intoxicants in violation of ORS 813.010 and the person:

(a) Has previously been convicted of, or forfeited bail or security for, driving while under the influence of intoxicants, or its statutory counterpart in any jurisdiction, within ten years before the date of the commission of the present offense;

(b) Has a charge of driving while under the influence of intoxicants, or its statutory counterpart in any jurisdiction, pending on the date of commission of the present offense;

(c) Has previously participated in a driving while under the influence of intoxicants diversion program, or any similar alcohol or drug rehabilitation program in this state or in any other jurisdiction, within ten years before the date of commission of the present offense;

(d) Is participating in a driving while under the influence of intoxicants diversion program, or any similar alcohol or drug rehabilitation program in this state or in any other jurisdiction, on the date of commission of the present offense;

(e) Has previously been convicted of, or forfeited bail or security for, murder, manslaughter, criminally negligent homicide or assault that resulted from the operation of a motor vehicle in this state, or in any other jurisdiction, within ten years before the date of the commission of the present offense; or

(f) Has a charge of murder, manslaughter, criminally negligent homicide or assault that resulted from the operation of a motor vehicle in this state, or in any other jurisdiction, pending on the date of commission of the present offense. [1994 o.335 § 2]

2.3005 Procedures and Limitations Applicable to Forfeiture Proceedings Brought Under LCC 2.3000

Notwithstanding LCC chapter 10, forfeiture proceedings under LCC 2.3000 shall be subject to the procedures and limitations set forth in ORS Chapter 475A and the Oregon Constitution, Article XV, Section 10. [1994 o.335 § 3; 2008 o.454 § 1]

2.3010 [2001 o.418 §2; repealed 2008 o.454 §2]

2.3015 [2001 o.418 §3; repealed 2008 o.454 §2]

FIBER OPTICS

2.4000 CoastNet Fiber Optic Communications Network

(1) The Lincoln County Board of Commissioners declares that the development of a high-speed fiber optic communications network in Lincoln County is vital to economic development in Lincoln County, and therefore hereby specifically exercises its authority to pursue the development of such a network.

(2) Lincoln County, Lincoln County Economic Development Corporation DBA the Economic Development Alliance of Lincoln County, the Central Lincoln People's Utility District, and 36 other public and non-profit organizations have proposed to encourage economic development in Lincoln County by way of providing a high-speed fiber optic communications network along the Central Coast commonly known as CoastNet. CoastNet would combine, by contract between the County and the Alliance, an unswitched fiber optic cable system (dark fiber), owned by the Central Lincoln People's Utility District and shared with the County through an ORS chapter 190 intergovernmental agreement, with fiber optic data transmission switches owned by the Alliance and purchased with grant money for that purpose by the Oregon Economic and Community Development Department. Under the proposed CoastNet contract between the County and the Alliance, the Alliance would then offer CoastNet services to certain resellers of CoastNet services in an effort to encourage economic development in Lincoln County.

(3) In order to facilitate the development of the proposed CoastNet system described in subsection (2) of this section, the Office of Lincoln County Legal Counsel is hereby authorized to engage in all legal proceedings and processes necessary to facilitate that development, including, but not limited to, application for any required or appropriate licenses and certificates, and negotiation of any necessary or appropriate interconnection agreements. [1997 o.373 § 2; 1999 o.393 § 1; 2008 o.450 § 1]

OCEAN WAVE ENERGY AND MARINE RESERVES

2.4100 Sustainable Energy; Wave Energy Power Project

(1) The Lincoln County Board of Commissioners declares that the development of sustainable energy in Lincoln County is vital to economic development and public health and safety in Lincoln County, and therefore hereby specifically exercises its authority to pursue the development of sustainable energy resources, including, but not limited to, wave energy generation.

(2) In order to facilitate the development of sustainable energy resources in Lincoln County, the Office of Lincoln County Legal Counsel is hereby authorized to engage in all proceedings and processes necessary to facilitate that development, including, but not limited to, application for any required or appropriate permits, licenses, and certificates, and negotiation of any necessary or appropriate contracts, intergovernmental agreements, and interconnection agreements. [2006 o.441 § 2]

2.4105 Establishment of FINE Committee

(1) There is hereby established a Fishermen Involved in Natural Energy (FINE) Committee, consisting of between 7 and 19 members appointed by order of the Lincoln County Board of Commissioners.

(2) Committee members shall be appointed to represent the spectrum of fisheries potentially impacted by the siting of ocean wave energy facilities or marine reserves.

(3) Committee members serve at the discretion of the Board, or until a member resigns, or until the Committee is disbanded by the Board as having completed it purposes.

(4) In addition to the duties set forth in LCC 2.4110 to 2.4115, the FINE Committee shall carry out other duties as identified by order of the Board. [2007 o.446 § 2; 2008 o.455 § 1]

2.4110 Duties of FINE Committee Relating to Review of Ocean Wave Energy Facility Permit Applications and Marine Reserve Nominations

(1) The FINE Committee shall review all applications for a permit or preliminary permit or similar applications, licenses or other approvals for the siting of ocean wave energy facilities in the territorial sea or outer continental shelf adjacent to Lincoln County. Permits or preliminary permits include, but are not limited, any similar actions before federal or state agencies claiming jurisdiction over siting of ocean wave energy facilities.

(2) The Committee shall make recommendations to the Board of Commissioners relating to whether the Board should support, support with modifications, oppose, or take other action relating to each ocean wave energy facility application reviewed by the Committee.

(3) The FINE Committee shall review all suggested or nominated marine reserves in the territorial sea or outer continental shelf adjacent to Lincoln County.

(4) The Committee shall make recommendations to the Board of Commissioners relating to whether the Board should support, support with modifications, oppose, or take other action relating to each suggested or nominated marine reserve reviewed by the Committee. [2007 o.446 § 3; 2008 o.455 § 2]

COMMUNITY RENEWABLE ENERGY ASSOCIATION (CREA)

2.5000 Authority and Effective Date

Lincoln County, under ORS Chapter 190, joins the Community Renewable Energy Association (CREA) by entering into the intergovernmental agreement effective on December 1, 2015.

2.5005 Purpose

The primary purpose of CREA is as follows:

(1) To promote, foster and advance, through cooperative action of community based renewable energy industry of the State served by CREA, the economic application and public understanding of community based renewable energy.

(2) To provide cooperation and liaison with other persons, organizations and institutions having an interest in community based renewable energy.

(3) To cooperate in and contribute towards the enhancement of widespread understanding of the various applications of community renewable energy through public and professional activities.

(4) To engage in any lawful activity that will enhance the efficient and economic progress of community based renewable energy industry and inform the public of its scope and character, such as, but not limited to, collecting and disseminating market and trade statistics and other useful information; to carry on and assist in research investigations and experiments; to conduct conferences and produce publications; and to conduct trade promotion activities.

(5) To voluntarily extend aid or assistance, financial or otherwise, and to cooperate with such private or governmental bodies, corporations, associations, institutions, societies, agencies or persons as are now or may hereafter be engaged in whole or in part in furtherance of the objectives and purposes herein named.

(6) Act as intervenor spokesperson and lobbyist at PUC and legislative hearings and other public forums.

2.5010 Powers

CREA shall have the power:

(1) To exercise all powers that may be necessary to enable it to perform and carry out the duties and responsibilities conferred upon its Members or which may hereafter be imposed upon it by law, contract or the Agreement.

(2) To accept gifts and bequests, to apply for and use subsidies, grants or appropriations of money and personal or real property from any lawful source, and enter into any and all agreements required in connection therewith, in accordance with the terms of the gift, subsidy, grant, appropriation, agreement or contract related thereto.

(3) To accept appointments to act as agents or assignees of others, including the Members, as is necessary to carry out its functions and purposes.

(4) To establish, join and cooperate with communities and advisory groups of citizens, private or governmental bodies, corporations, associations, institutions, societies, or agencies as are now or may hereafter be engaged in furtherance of community based renewable energy objectives.

2.5015 Apportionment of Expenses and Revenues

The expenses of CREA shall be apportioned among the parties to the agreement equally, as shall the revenue or fees derived from any functions or activities of CREA. CREA shall establish a budget on an annual basis, which budget shall be approved by the Members of CREA. CREA shall generally follow the budget laws for cities and counties in the State of Oregon, as set forth in Oregon law. [2015 o.482 §1]

CHAPTER 3

Building Code

ADOPTION OF BUILDING CODE

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ADOPTION OF BUILDING CODE

3.005 Definitions

As used in this chapter:

(1) "Building Official" means the county employee and authorized assistants appointed by the Board pursuant to ORS 455.150 to administer the Lincoln County Building Code within Lincoln County.

(2) "Lincoln County Building Code" means the building and specialty codes adopted under LCC 3.010. [1982 o.171 §1; 1993 o.320 § 1]

3.010 Adoption of the State Building Code as the Lincoln County Building Code

Lincoln County hereby adopts the State Building Code as defined in ORS 455.010 as the Lincoln County Building Code. The administration provisions contained in chapter 1 of the structural specialty code of the state uniform building code are adopted as the administrative provisions for the Lincoln County Building Code. [1983 o.196 §1; 1988 o.270 §1; 1993 o.320 §2; 1996 o.365 §1]

3.012 Additional Specific Adoption of the State Electrical Code

(1) In addition to, and not in lieu of, the provisions of LCC 3.010, in accordance with OAR 918-300-140(1), Lincoln County specifically hereby adopts the State of Oregon Electrical Specialty Code as adopted by the Building Codes Division Electrical Board in OAR 918-290-010 to 918-290-140, and the electrical provisions of the State of Oregon One and Two Family Dwelling Code as adopted by the Building Codes Division in OAR 918-480-000 to 918-480-010.

(2) In addition to, and not in lieu of, the provisions of LCC 3.020 and 3.025, in accordance with OAR 918-300-140(2), pursuant to ORS 479.550(1) and except as otherwise provided by ORS 479.540 or other applicable state law, no person shall work on any new electrical installation for which a permit has not been issued by the Building Official.

(3) In accordance with OAR 918-300-140(3), in addition to any other authority and power granted to the Building Official, except where inconsistent with other provisions of law, the Building Official may enforce the provisions of the specialty codes against any person regardless of whether a permit, certificate, license or other indicia of authority has been issued. The Building Official may conduct an investigation, take sworn testimony, subpoena persons and records, order corrective action, and issue an order to stop all or any part of the work under the applicable specialty code.

(4) In accordance with OAR 918-300-140(5), minor labels are authorized for minor installations identified by the State of Oregon Building Codes Division Electrical Board. The provisions of OAR 918-310-010 to 918-310-100 are adopted by reference as the requirements and procedures for the Building Official.

(5) In accordance with OAR 918-300-140(6), temporary permit requirements and procedures adopted by the Building Codes Division Electrical Board in OAR 918-260-265 are adopted by reference as the requirements and procedures for the Building Official. Holiday and after hours notices to the Building Official can be given by facsimile or recording device at telephone numbers available from the Building Official.

(6) In addition to, and not in lieu of, the provisions of LCC 3.030, in accordance with OAR 918-300-140(7), the electrical permit fees and method of computation adopted by the

Building Codes Division Electrical Board in OAR 918-260-210 to 918-260-260 are adopted by reference as the electrical permit fees and method of computation for the Building Official. In addition, a plan review charge shall be a percentage of the electrical permit fee as determined by the Building Official. [1995 o.352 § 2]

3.014 Powers and Duties of Building Official

(1) The Building Official is hereby authorized and directed to enforce all the provisions of the Lincoln County Building Code. For such purposes, the Building Official shall have the powers of a law enforcement officer.

(2) The Building Official shall have the power to render interpretations of the Lincoln County Building Code and to adopt and enforce rules and supplemental regulations to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformance with the intent and purpose of the Lincoln County Building Code. [2001 o.417 § 2]

3.015 [repealed 1993 o.320 § 7]

PERMITS AND STANDARDS

3.020 Permits Required

No person shall engage in any activity for which the Lincoln County Building Code requires a permit unless that person has first obtained a permit for that activity from the Building Official. [1993 o.320 § 4]

3.025 Standards Required

No person shall perform any activity for which the Lincoln County Building Code establishes a standard unless the performance of that activity meets or exceeds that standard. [1993 o.320 § 5]

3.030 Fees for Permits

Fees for permits issued pursuant to this chapter shall be as provided in the Fee Schedule for Departments of Lincoln County. If a fee is not addressed in the Fee Schedule, the fee shall be as provided in the Lincoln County Building Code. [1993 o.313 §5; 1993 o.320 §6; 2001 o.417 §3]

3.035 through 3.065 [1982 o.171 §1; 1993 o.313 §6; repealed 1993 o.320 §7]

APPEALS

3.075 Appeals

(1) The Lincoln County Planning Commission established pursuant to LCC chapter 1 is hereby also designated as the Lincoln County Building Codes Appeals Board. Any person aggrieved by a decision of the Building Official may appeal that decision to the Building Codes Appeals Board, which shall apply the provisions of the Lincoln County Building Code to its decisions. The procedures and fees for appeals made pursuant to this subsection shall be the same as the procedures and fees for appeals from decisions of the Planning and Development Department as provided in LCC chapter 1.

(2) Any person aggrieved by a decision of the Building Codes Appeals Board may appeal that decision to the appropriate state advisory board in accordance with ORS 455.690. [1994 o.350 § 2]

EROSION CONTROL

3.100 Definitions for LCC 3.100 through 3.195

As used in LCC 3.100 through 3.195:

(1) "Clearing" means any activity that removes vegetative ground cover.

(2) "Engineer" means the Lincoln County Public Works Director and the Director's duly appointed designees.

(3) "Erosion" and "soil erosion" means the wearing away of the land surface by running water, wind, ice, or other geologic agents, including such processes as gravitational creep, and detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

(4) "Erosion Prevention and Control Manual" means the Erosion Prevention and Control Manual as approved and amended from time to time by resolution of the Board of Commissioners. Copies of the Manual shall be available for purchase from the Public Works Department.

(5) "Excavation" means any act by which organic matter, earth, sand, gravel, rock, or any other material is cut into, dug, uncovered, removed, displaced, relocated, or bulldozed by a person, including the conditions resulting therefrom.

(6) "Fill" means any act by which earth, sand, gravel, rock, or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported, or moved by a person to a new location, including the conditions resulting therefrom.

(7) "Grading" means excavation or fill or any combination thereof.

(8) "Land disturbing activity" means any clearing, grading, stripping, excavation, fill, or any combination thereof.

(9) "Sedimentation" means the depositing of solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, or gravity.

(10) "Public Works Department" means the Lincoln County Public Works Department unless expressly identified as the Lincoln City Public Works Department.

(11) "Stripping" means any activity that removes the vegetative surface cover including tree removal, clearing, and storage or removal of top soil.

(12) "Watercourse" means any established channel where water draining from a land area collects and flows on the ground surface. [2000 o.395 §2]

3.105 Application of LCC 3.100 to 3.195

The provisions of LCC 3.100 to 3.195 apply to all property lying within the boundaries of the Devils Lake Water Improvement District and outside of the city limits of the City of Lincoln City. [2000 o.395 §3]

3.110 Adoption of Uniform Building Code Appendix Chapter 33

Appendix Chapter 33 of the Uniform Building Code, 1994 Edition, a copy of which is on file and available for reference at the Public Works Department, is adopted by this reference, subject to the revisions set out in LCC 3.115. [2000 o.395 §4]

3.115 Revisions to Uniform Building Code Appendix Chapter 33

Revisions to Appendix Chapter 33 of the Uniform Building Code, 1994 Edition, shall be as follows:

(1) All references to the "building official" shall be to the engineer. The engineer means the engineer or the engineer's designated representative.

(2) The list of exemptions from the grading permit requirement, set out in section 3306.2 (Exempted Work) shall be expanded by adding the following:

"10. Emergency measures taken to clear roadways or to save endangered property; and

11. Grading on single-family residential lots when all of the following conditions are met:

a. There is no interference, encroachment, or alteration to any natural drainage course to any public drainage improvement; and

b. There is no apparent danger to any property.

12. Grading undertaken as part of a forest practice in compliance with Oregon Forest Practices Act and administrative rules adopted thereunder."

(3) Section 3309.2 (Application) is amended by adding the following requirements:

"1. Applications shall be submitted to the Lincoln City Public Works Department.

"2. Before a permit application is accepted as complete by the Lincoln City Public Works Department, the engineer shall visit the proposed project site with the applicant or the applicant's representative, to aid the applicant in submitting an acceptable grading plan and in noting any special conditions."

(4) The criterion in section 3309.3 (Grading Designation) identifying grading that must be "engineered grading," as distinguished from grading that may be "regular grading," shall be grading involving 2,000 or more cubic yards rather than grading involving in excess of 5,000 cubic yards.

(5) Section 3309.9 (Insurance) is amended by adding the following requirement:

"After receipt of a completed application for a grading permit, the engineer shall review the grading plan submitted with the application to determine whether the grading plan conforms to the provisions of LCC 3.100 to 3.195 and shall, in writing:

1. Approve the application, if the grading plan as submitted conforms to the provisions of LCC 3.100 to 3.195;

2. Approve the application, subject to such reasonable conditions as may be necessary for the grading plan to conform to the provisions of LCC 3.100 to 3.195; or

3. Disapprove the application, if the grading plan, either as submitted or with conditions, does not conform to the provisions of LCC 3.100 to 3.195. A disapproval shall indicate the appeal procedure provided for in LCC 3.100 to 3.195 and the procedure for submitting a revised grading plan."

(5) Section 3311 (Bonds) is amended to read:

"For any grading for which a permit is required, if the grading involves grading, paving, drainage and erosion control measures, or any of them, with a total cost in excess of $l00,000, the engineer shall require a bond in such form and amount as the engineer deems necessary to assure that the work, if not completed in accord with the approved plans and specifications, will be corrected to eliminate hazardous conditions. In lieu of a surety bond, the applicant may file a cash bond or instrument of credit, in a form approved by the engineer, in an amount equal to that which would be required in the surety bond. [2000 o.395 §5]

3.120 Erosion Prevention and Control Findings

(1) Excessive quantities of soil may erode from areas undergoing development for uses including but not limited to the construction of dwelling units, commercial and other buildings, and industrial plants, the construction of roads and highways, the modification of stream channels and drainage ways, and the creation of recreational facilities.

(2) The washing, blowing, and falling of eroded soils across and upon streets and roads endangers the health of users thereof by decreasing vision and reducing traction of road vehicles.

(3) Soil erosion necessitates the costly repairing of gullies, washed-out fills, and embankments.

(4) Sediment from soil erosion tends to clog storm drains and ditches and to pollute and silt up rivers, streams, wetlands, lakes, and waste-water treatment settling ponds.

(5) Sediment limits the use of bays, lakes, and waterways for most beneficial purposes, destroys fish and other desirable aquatic life, leads to excessive growth of undesirable aquatic plants, and is costly and difficult to remove. [2000 o.395 §6]

3.125 Purpose and General Requirement of LCC 3.100 to 3.195

(1) It is the purpose of LCC 3.100 to 3.195 to regulate land disturbing activities that may lead to soil erosion and sedimentation into watercourses, wetlands, riparian areas, and public and private property.

(2) No land disturbing activity shall be conducted so as to cause slides of mud, soil, rock, vegetative material, or any erosional or depositional material to be pushed onto, deposited upon, or gravitated to the property of another, either public or private. [2000 o.395 §7]

3.130 Erosion Prevention and Control Plan Required

(1) **Plan Required**

Except as otherwise provided in subsection (2) of this section, no person shall commence or perform any of the following activities without first receiving the engineer's approval of an erosion control plan:

(a) Any land disturbing activity that will affect an area in excess of 1,000 square feet.

(b) Any land disturbing activity that will affect an area in excess of 500 square feet if the activity is within 25 feet of a river, stream, lake bay watercourse, or wetland.

(c) Any grading, excavation, fill, or any combination thereof that will exceed 50 cubic yards on a lot or parcel.

(2) **Exceptions**

The following activities are exempt from the requirements of subsection (1) of this section:

(a) Cutting brush where ground cover will remain intact.

(b) Maintenance of public infrastructure by state or local government agencies. State and local government agencies, however, shall implement best management practices to prevent erosion and control sediment; and shall make regular inspections to ascertain that erosion and sediment control measures consistent with best management practices have been implemented and are being effectively maintained.

(c) Emergency measures taken to clear roadways or to save endangered property.

(d) Forest practices undertaken in compliance with the Oregon Forest Practices Act and administrative rules adopted thereunder. [2000 o.395 §8]

3.135 Submission of Erosion Control Plan

In the event an erosion control plan is required by LCC 3.130, the owner of the land or the owner's agent shall submit an erosion control plan to the Lincoln City Public Works Department on a site plan at a scale sufficient to indicate the nature and extent of the work. The plan shall be prepared in accordance with LCC 3.100 through 3.195, using methods and standards shown in the Erosion Prevention and Control Manual. If an engineered grading plan is required for the project under LCC 3.110 and 3.115, then the erosion control plan shall be prepared by the same person who prepared the engineered grading plan. Each erosion control plan shall include a certification that any land disturbing activity will be in accord with the submitted and approved erosion control plan. The erosion control plan shall contain the following information:

(1) The location of the development site showing adjacent roads and streets and the development site boundaries.

(2) Indication of north direction.

(3) Any lakes, bays, rivers, streams, wetlands, channels, ditches, or other watercourses on and immediately adjacent to the development site.

(4) Areas where existing vegetative cover will be retained and measures to protect vegetation from damage.

(5) Accurate location, size, and shape of proposed and existing structures.

(6) Direction of surface water flows.

(7) Indication of slope steepness or existing and proposed contours at intervals of two feet or as approved by the engineer.

(8) Location of construction access driveways and designated vehicle parking areas.

(9) Location of soil stockpiles.

(10) Type and location of temporary and permanent erosion and sediment control measures, such as, but not limited to, silt fencing, matting, straw bales, mulching, seeding, and sodding.

(11) A schedule of construction operations and phasing.

(12) The name, address, and telephone number of each of the owners of the land, the developer of the site, and the person responsible for placement and maintenance of temporary and permanent erosion control measures.

(13) The general slope characteristics of adjacent property. [2000 o.395 §9]

3.140 Review and Approval

The engineer shall review each erosion control plan to determine whether it conforms to the provisions of LCC 3.100 through 3.195. After receipt of a complete erosion control plan and following final review of the plan, the engineer shall, in writing:

(1) Approve the plan, if the plan conforms to the provisions of LCC 3.100 through 3.195;

(2) Approve the plan, subject to such reasonable conditions as may be necessary for the plan to conform to the provisions of LCC 3.100 through 3.195; or

(3) Disapprove the plan if the plan, either as submitted or with conditions, does not conform to the provisions of LCC 3.100 through 3.195. A disapproval shall indicate the appeal

procedure provided for in LCC 3.100 to 3.195 and the procedure for submitting a revised erosion control plan. [2000 o.395 §10]

3.145 Design and Operation Standards and Requirements

All land disturbing activities that are subject to the erosion control plan approval requirements of LCC 3.130 shall be subject to the following standards and requirements:

(1) Prior to initiation of land disturbing activities, on-site filter barriers, including filter fences, straw bales, or equivalent measures, shall be constructed and functional to control off-site runoff, as specified in the Erosion Prevention and Control Manual. Vegetated strips with a minimum width of 25 feet may be used as an alternative only where runoff in sheet flow is expected.

(2) Disturbed areas shall be stabilized with temporary or permanent measures within 7 calendar days, or as otherwise required by the engineer, following the end of active disturbance, or redisturbance, consistent with the following criteria:

(a) Appropriate temporary or permanent stabilization measures shall include matting, seeding, mulching, sodding, or non-vegetative measures, or a combination thereof.

(b) Areas having slopes greater than 12 percent shall be stabilized with sod, mat, or blanket in combination with seeding, or an equivalent thereto.

(3) Land disturbing activities in stream channels and riparian areas shall be avoided unless the engineer determines there are no other points of access. If the engineer determines such activities cannot be avoided, the following requirements shall be met:

(a) Construction vehicles shall be kept out of the stream channel to the maximum extent possible. Where construction crossings are necessary, temporary crossings shall be constructed of non-erosive material, such as rip-rap or gravel.

(b) The riparian area shall have erosion protection measures in place within 24 hours of disturbance, which time may be extended to a maximum of 48 hours at the discretion of the engineer.

(c) All required local, state, and federal permits shall be received prior to the activity.

(4) Storm sewer inlets and culverts shall be protected by sediment traps or filter barriers meeting design standards and specifications approved by the engineer.

(5) Soil storage piles containing more than 10 cubic yards of material shall not be located with a down slope drainage length of less than 25 feet to a roadway or drainage channel. Filter barriers or impervious covering shall be installed to prevent or contain sediment runoff.

(6) Each site shall have a graveled, or equivalent, entrance road or roads of sufficient length, depth, and width to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private roadway shall be removed by shoveling or street cleaning (not flushing) before the end of each workday and transported to a controlled sediment deposit area.

(7) All temporary erosion and sediment control measures shall be disposed of within 30 days after final site stabilization is achieved with permanent soil stabilization measures. Trapped sediment and other disturbed soils resulting from the disposed of temporary measures shall be permanently stabilized to prevent further erosion and sedimentation. [2000 o.395 §11]

3.150 Maintenance of Control Measures

(1) The owner of land on which land disturbing activities are occurring, or the owner's agent, shall maintain all erosion and sediment control measures necessary to meet the requirements of LCC 3.100 through 3.195. The land owner or the land owner's agent shall inspect erosion and sediment control measures every 24 hours during storm or rain events to ensure the measures are functioning properly.

(2) The engineer shall make regular inspections to ascertain that erosion and sediment control measures as proposed in the erosion control plan have been implemented and are being effectively maintained. [2000 o.395 §12]

3.155 Hazards on Private Property

If the engineer becomes aware or is notified of any land containing disturbed soil areas, or containing unprotected soil storage piles, creating erosion and sedimentation that affects property of another or is in violation of any provision of LCC 3.100 to 3.195, the engineer shall require the land owner to follow procedures and employ practices set out in LCC 3.100 to 3.195 to control the erosion and sedimentation. The land owner shall follow the required procedures and employ the required practices. [2000 o.395 §13]

3.160 Review of Engineer Decisions

A professional judgment decision made by the engineer under LCC 3.100 to 3.195 may be appealed by the owner, the owner's agent or representative, or any other person subject to the decision, to the Lincoln City Grading and Erosion Control Review Board. The appeal shall be submitted in writing to the Lincoln City Public Works Department and shall state the relevant facts and the basis for the appeal. The decision of the Review Board shall be rendered within 7 days of an appeal, shall be consistent with the provisions of LCC 3.100 to 3.195, and shall not be subject to further appeal within the city or county government. A decision of the engineer shall be fully effective while an appeal is pending. [2000 o.395 §14]

3.165 Education

(1) The county shall declare each September to be Erosion Prevention Awareness Month, and during September shall participate with the City of Lincoln City and the Devils Lake Water Improvement District in events to promote a greater awareness of the problems with erosion and the solutions to prevent it.

(2) The county, in cooperation with the City of Lincoln City and the Devils Lake Water Improvement District, shall participate in an annual workshop on erosion prevention and sediment control. [2000 o.395 §15]

3.170 Intergovernmental Agreement for Administration of LCC 3.100 to 3.195

The engineer may negotiate intergovernmental agreements between Lincoln County and the City of Lincoln City, and Lincoln County and the Devils Lake Water Improvement District, for administration of any part of LCC 3.100 to 3.195. Any intergovernmental agreement negotiated pursuant to this section shall be presented to the Board of Commissioners for review and approval. [2000 o.395 §16]

3.175 Comparative Table for Lincoln City and County Ordinances

The following table is for purposes of cross reference between LCC 3.100 to 3.195 and the sections of Lincoln City Ordinance # 97-13, codified in Chapter 12.08 of the Lincoln City Municipal Code:

Lincoln County Code Section	Lincoln City Ordinance Section
3.100	12.08.040
3.105	none
3.110	12.08.010
3.115	12.08.020
3.120	12.08.030
3.125	12.08.050
3.130	12.08.060
3.135	12.08.070
3.140	12.08.080
3.145	12.08.090
3.150	12.08.100
3.155	12.08.110
3.160	12.08.120
3.165	12.08.140
3.170	none
3.175	none
3.195	12.08.130

[2000 o.395 §17]

3.195 Violation

(1) Any violation of any provision of LCC 3.100 to 3.195 may be enforced in accordance with the provisions of LCC Chapter 10.

(2) If the engineer determines that a violation of LCC 3.100 to 3.195 has occurred, the engineer may notify the owner of the land and the developer, general agent, architect, builder, contractor, or other person or entity who has participated in committing the violation, or any of them, to cease all further development until such time as the violation has been remedied, and the person or persons notified shall cease further development. If development continues in disregard of notice from the engineer, the county may seek an injunction to stop further development until the violation is remedied.

(3) If the engineer determines that a violation of LCC 3.100 to 3.195 has occurred, the engineer shall give written notice to the owner of the land and the developer, general agent, architect, builder, contractor, or other person or entity who has participated in committing the violation, or any of them, that a violation has occurred and that the violation must be remedied within a time specified. The amount of time to remedy the violation shall depend on the nature of the violation, the circumstance then existing, and whether an emergency exists. In the event of non-compliance within the time set by the engineer, the county may take remedial steps to cure the violation and charge the costs, fees, and expenses of the remedial action to the owner of the land. This shall include any expenses, costs, and fees paid by the county to third persons for labor and materials to remedy the violation. Charges made under this subsection shall be a lien against the real property on which the violation arises, and the County Clerk is authorized to

record a memorandum of such charges immediately in the Lincoln County Book of Deeds and Mortgages. [2000 o.395 §18]

CHAPTER 4

Business Regulation

JUNK AND SECOND HAND DEALERS AND GARAGE SALES

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4.010 **Definitions**
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4.460 **Severability**

MASS GATHERINGS (SMALL, OUTDOOR AND EXTENDED)[1]

4.505 **Definitions**
4.510 **SG, MG, and EMG Exclusions**

[1] Pursuant to the authority granted under LCC 0.130, Counsel has provided titles and renumbered sections and parts of sections of Ordinance 495 to preclude conflicts with numbering already within the LCC.

4.515 **SG, MG, and EMG Permit Required**
4.520 **SG, MG, and EMG Permit Processing/When Hearings Are Required**
4.525 **SG, MG, and EMG Departmental and Agency Notice**
4.530 **SG, MG and EMG Approval Criteria**
4.535 **SG, MG, and EMG Appeals**
4.440 **SG, MG, and EMG Insurance**
4.445 **SG, MG and EMG Sanitary Facilities and Food Preparation**
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4.555 **SG, MG, and EMG Medical Service**
4.560 **SG, MG, and EMG Public Safety**
4.565 **SG, MG, and EMG Parking Facilities**
4.570 **SG, MG, and EMG Permit Display and Set Up and Clean Up Requirements**
4.575 **SG, MG, and EMG Inspection of Premises**
4.580 **SG, MG and EMG Restricted Hours of Operation**
4.585 **SG, MG, and EMG Enforcement**
4.590 **SG, MG, and EMG Intoxicating Liquor Prohibition**
4.595 **SG, MG, and EMG Unlawful Controlled Substances Prohibition**
4.600 **SG, MG, and EMG Compliance Required**
4.605 **SG, MG and EMG Violation Enforcement**
4.610 **Review of Ordinance # 495**

JUNK AND SECOND HAND DEALERS AND GARAGE SALES

4.005 Findings and Purpose

(1) The Board finds that:

(a) Junk and secondhand dealers may knowingly or unknowingly be a conduit for the sale or purchase of stolen property;

(b) Such business should be regulated by requiring a license issued by the Board;

(c) Licenses for junk and secondhand dealers should be denied, suspended, or revoked when the conduct of such business presents a threat to the peace, health, or safety of the people of the county; and

(d) ORS 203.035 authorizes the regulation of junk and secondhand dealers by the county.

(2) The purpose of LCC 4.005 to 4.065 is to provide for the peace, health, and safety of citizens of the county by regulating junk and secondhand dealers and garage sales. [1994 o. 349 §1]

4.010 Definitions

As used in LCC 4.005 to 4.065, unless the context requires otherwise:

(1) "Garage sale" means a sale of secondhand articles or junk at a private residence where such sale does not occur more than twice each calendar year. "Garage sale" includes the sale of secondhand articles or junk by religious, charitable, fraternal, or other eleemosynary organizations, provided that such sales occur not more than six times each calendar year.

(2) "Junk" includes, but is not limited to, old rope, old iron, brass, copper, tin, lead, rags, empty bottles, paper bagging, scrap metals of all kinds, and other worn out or discarded material.

(3) "Junk dealer" means any person who owns and operates a junk shop, except for a person conducting a garage sale.

(4) "Junk shop" means any storeroom building, yard, enclosure, or other place where junk is sold or bought for profit or pleasure; provided however, that such definition shall not apply to automobile wreckers where automobiles are purchased and certificates of title furnished.

(5) "Secondhand articles" means any used personal property except books, including, but not limited to, used wearing apparel, tools, goods, wares, merchandise, or other articles and things usually found in a secondhand store.

(6) "Secondhand dealer" means any person who buys, sells, or otherwise deals in secondhand wearing apparel, tools, goods, wares, merchandise, or other articles and things usually found in a secondhand store, except books, or any person who goes from house to house or place to place within the county purchasing or soliciting the purchase of gold, silver, or other precious metals or jewelry. For purposes of this ordinance, a secondhand dealer shall not include a person conducting a garage sale or a person whose business is the sale of art objects, furniture, or other articles which have a value based on rarity or the time elapsed since the articles were produced.

(7) "Secondhand store" means any store, room building, yard, enclosure, or other place where secondhand articles are bought, sold, or traded for profit or pleasure.

4.015 Licenses

(1) It shall be unlawful to operate or keep any secondhand store or junk shop without first having obtained a license as provided in LCC 4.005 to 4.065.

(2) No license granted under the provisions of LCC 4.005 to 4.065 shall be assignable.

4.020 Application for License; Temporary License upon Application

(1) Application for a license shall be made upon forms provided by the Board.

(2) The application shall constitute a temporary license valid for thirty days. The application, or a copy thereof, shall be referred to the sheriff for investigation prior to issuance of a final license. If it appears to the sheriff that a final license should not be issued to the applicant, the sheriff shall notify the Board and shall set forth why, in his opinion, the applicant should be denied.

4.025 Issuance of License; Revocation of License

(1) After receiving the report of the sheriff, the Board may grant a final license to applicant.

(2) Nothing in this chapter shall be construed to create a vested right in a person to the assignment, renewal, or continuance of a license. The final authority on licenses shall be the Board which may revoke, cancel, or refuse issuance or renewal of a license as follows:

(a) Fraud or misrepresentation in its procurement;

(b) Violation of any state or federal statute involving moral turpitude, where the circumstances of the violation adversely reflect on applicant's or licensee's ability to engage in the occupation, profession, trade, or calling in a lawful manner; or

(c) Violation of federal or state law or county rule relating to the business or activity subject to the license and resulting from the conduct of such business or activity. Conviction of a crime or violation of this chapter is not required for revocation, non renewal, or refusal to issue a license.

(3) At any time the sheriff or district attorney may recommend the revocation of any license granted under LCC 4.005 to 4.065. The recommendation shall be in writing and include the reasons therefor.

(4) Whenever the Board refuses to issue, fails to renew, or revokes the license of any person, the Board shall afford the applicant or license holder an opportunity for a hearing at which witnesses and interested parties may be heard.

(5) Reapplication after revocation or suspension may be made at any time after revocation or suspension as provided in LCC 4.020.

4.030 Renewal of License

Every license issued pursuant to LCC 4.005 to 4.065 shall expire January 15 of each year and may be renewed upon payment of the fees as set forth in LCC 4.035.

4.035 Fees

The fee an annual license issued pursuant to LCC 4.015 shall be in an amount set by order of the Board of Commissioners. [1993 o.313 § 7]

4.040 Records to be Kept; Transmittal to Sheriff

(1) Except as provided in subsection (2) of this section, every licensee shall keep a record of articles offered for sale or stored upon the licensee's premises having a licensee purchase value of $20 or more. The records shall be open to inspection of the sheriff or deputies during normal business hours and contain the following:

(a) The day and hour an article was received, pledged, or purchased;

(b) The amount loaned or price paid;

(c) A description of each article received, pledged, or purchased, including a number, word, or initial engraved on or attached to the article, and the style and number of settings;

(d) The printed name and signature of the person from whom the purchase was made;

(e) The address of the person from whom the purchase was made; and

(f) The identification number required by LCC 4.050.

(2) Licensees shall not be required to keep a record as provided in this section for the following:

(a) Property purchased from manufacturers or wholesalers having an established place of business, or secured from any person doing business and having an established place of business; and

(b) Articles of the same or similar nature purchased in bulk, lots, or groups. As used in this subsection, "bulk, lots, or groups" means at least 12 articles.

(3) Transactions excluded from record keeping by subsection (2) of this section shall be accompanied by a bill of sale or other evidence of purchase which must be shown to the sheriff or his deputy upon request during normal business hours.

4.045 Sale Postponed by Sheriff

If the sheriff has good cause to believe an article is stolen property, he may notify a licensee not to sell or otherwise dispose of any article received or purchased. In the event of such notification, the article shall not be sold or otherwise disposed of for 90 days after the date of the notice.

4.050 Articles to be Tagged

Licensees shall affix to all articles subject to record keeping, pursuant to LCC 4.040, a tag upon which shall be written an identification number in legible characters.

4.055 Licensees Prohibited from Dealing with Intoxicated Persons

Licensees shall not receive or purchase property from persons under the influence of intoxicants.

4.060 Garage Sales Permitted

Nothing in LCC 4.005 to 4.065 prohibits garage sales as defined in LCC 4.010

4.065 Penalties

(1) Any person who operates any business in violation of LCC 4.005 to 4.065 shall, upon conviction, be punished pursuant to LCC chapter 10.

(2) A failure from day-to-day to comply with this chapter shall be a separate offense for each day. [1982 o.171 §1; 1994 o.349 §2]

ENTERTAINMENT ASSEMBLIES

[4.105 to 4.160 repealed by 2017 o. 495 § 3]

LIQUOR LICENSES

4.205 Definitions

"Liquor License" means a license issued by the Oregon State Liquor Control Commission for the manufacture, distribution, sale, fermentation, distillation, or rectifying of alcoholic liquor.

4.210 Fees

Every applicant for a liquor license whose license is referred to Lincoln County for recommendation by the Oregon Liquor Control Commission shall pay a fee to the county clerk in an amount set by order of the Board of Commissioners. [1993 o.313 § 9]

CABLE TELEVISION

4.330 Exercise of Cable Television Rate Regulation Authority

(1) In accordance with the requirements of 47 USC § 543(a)(3)(A) and 47 CFR § 76.910(e)(1)(i), in exercising its regulatory authority over the rates of cable television operators, Lincoln County will follow the regulations adopted by the Federal Communications Commission pursuant to 47 USC § 543(b).

(2) In accordance with FCC Order number 94-40, MM Docket number 92-266, ¶ 62, the Lincoln County Board of Commissioners designates the Office of Lincoln County Legal Counsel as the Lincoln County Cable Administrator, and delegates authority to the Administrator to conduct cable rate regulation proceedings, and issue appropriate orders and determinations, in accordance with federal and state law and regulations.

(3) In accordance with the requirements of 47 USC § 543(a)(3)(C) and 47 CFR § 76.910(e)(1)(ii), before exercising its regulatory authority over the rates of a cable television operator, the Administrator will first hold an open public meeting in accordance with the Oregon public meetings law, ORS 192.610 to 192.690, that will provide a reasonable opportunity for consideration of the views of interested parties, including, but not limited to, the cable operator and subscribers of the cable operator.

(4) A party aggrieved by a determination or order of the Administrator may appeal to the Board of Commissioners within 15 days of the issuance of the determination or order. An appeal filed with the Board under this subsection will be heard *de novo* by the Board, but the review will be confined to the evidence and information on the record that was before the Administrator. No further evidence or information, other than legal argument by written memorandum, will be received by the Board. A party aggrieved by the Board's determination or order in an appeal under this subsection may appeal that determination or order to the FCC in accordance with 47 CFR § 76.944. [1994 o.330 §2; 1994 o.338 §1]

SHORT TERM RENTAL OF DWELLING UNITS

4.405 Findings and Purpose

(1) The Lincoln County Board of Commissioners finds that:

(a) The growth in the number of short term rental of dwelling units within the County has been accompanied by increased problems of excessive noise, spilled garbage, shortages of parking, and overcrowded accommodations;

(b) The best way to regulate these impacts is to establish conditions for operation of these rentals and to implement a licensing program by the County to ensure compliance with those standards; and

(c) The conditions established herein will allow operation of such rentals in a manner that respects and protects the livability of the neighborhoods in which these rentals are located.

(2) The purpose of LCC 4.405 through 4.460 is to provide for the peace, health, safety and livability of residents of, and visitors to, Lincoln County. This is not a land use ordinance and is not made a part of Lincoln County Code Chapter 1, Land Use Planning. [2016 o.487 § 2]

4.410 Applicability

LCC 4.405 through 4.460 shall apply to the unincorporated areas of Lincoln County. These provisions shall not apply to Bed and Breakfast Inns, Hotels, Lodges, Motels, Resorts, Recreational Vehicle Parks, Campgrounds, or other similar lodging units which are regulated by LCC Chapter 1. [2016 o.487 § 3]

4.415 Definitions

For the purpose of LCC 4.405 through 4.460

(1) "Accessory structure or accessory use" means a structure or use incidental and subordinate to the main use of a property and located on the same lot as the main use.

(2) "Contact Person" means:

(a) The owner(s) of the dwelling unit; or

(b) The agent of the owner(s), authorized to act for the owner(s) as designated on the license application.

(c) The contact person, whether the owner or an agent, must be located within Lincoln County, and cannot use the dwelling unit(s) licensed under this Chapter as the basis for compliance with this provision unless the owner or agent resides at that location.

(3) "Dwelling Unit" means:

(a) A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, sanitation and only one cooking area.

(b) A "single family dwelling" means a structure of which all habitable portions thereof are connected structurally and comprise one dwelling unit, including but not limited to factory built dwellings, mobile homes and site built dwellings.

(c) A "two family dwelling" means a structure of which all habitable portions thereof are connected structurally and comprise two dwelling units including but not limited to factory built dwellings, mobile homes and site built dwellings.

(d) A "multi-family dwelling" means a structure of which all habitable portions thereof are connected structurally and comprise three or more dwelling units, including, but not limited to, factory built dwellings, mobile homes and site built dwellings.

(4) “License” means a short term rental license issued by Lincoln County and maintained in good standing by the Owner(s) or agent of the Owner(s) in accordance with the provisions of the Lincoln County Code.

(5) “Owner(s)” means the person or people, partnership, corporation, association, or other legally recognized person(s) or entity holding title to the dwelling unit in accordance with law.

(6) “Person" includes any natural person(s), firm, partnership, association, social or fraternal organization, corporation, business or any other group or combination acting as a unit.

(7) "Rental Agreement" means any agreement, whether or not in writing, granting the use of a dwelling unit to a person. Use of a dwelling unit by a recorded owner or other person or persons without monetary consideration shall not be considered to be a rental under this chapter.

(8) "Rent" means the authorization of use of a dwelling unit granted to a person(s) in exchange for monetary consideration.

(9) "Renter" is a person who rents a short term rental.

(10) "Short Term Rental" means the renting of a dwelling unit (including any accessory guest house on the same property) to any person(s) on a day to day basis or for a period of time of up to thirty (30) consecutive nights.

(11) "Sleeping Area" is a room or other space within a dwelling unit designed, intended or used for sleeping. Roll out beds, fold out couches, or other temporary sleeping accommodations including tents and recreational vehicles shall not be considered a sleeping area, and may not be used to increase the allowed occupancy of a short term rental as provided in LCC 4.404 through 4.460. Determinations as to the number of sleeping areas within a dwelling unit are reserved to the Lincoln County Licensing Authority and all determinations are final. [2016 o.487 § 4; 2016 o.490 § 2]

4.420 Licenses

(1) It shall be unlawful to rent any dwelling unit as a short term rental without obtaining and maintaining a current license as provided in LCC 4.405 through 4.460. All dwelling unit owners shall obtain a license prior to using the dwelling unit as a short term rental.

(2) No license granted under the provisions of LCC 4.405 through 4.460 shall be assignable. If the dwelling unit is sold or transferred by any means, a new license is required of the subsequent owner(s) who desire to continue short term rental operation; provided, however, that the Board of Commissioners may set a pro rata lower fee for the first year. The subsequent owner(s) will be required to fill out a new application and agree in writing to comply with the requirements of this Chapter. [2016 o.487 § 5]

4.425 Application for License; Fee

(1) Applications for a license, renewal of a license, or license caused by a change in ownership shall be made upon forms provided by the County.

(2) Every license application, renewal license or license caused by a change in ownership shall be accompanied by annual fee(s) in amounts as set, and periodically reviewed and amended, by order of the Board of Commissioners.

(3) Every application shall be processed by the Department or Office designated by the Lincoln County Board of Commissioners (hereafter County Licensing Authority). Upon receipt of the completed application the County will review the application and certify that:

(a) Based on a viewing of the property, the short term rental complies with standards found in LCC 4.440(1) in posting contact person information and providing that information to the local fire department and Lincoln County Sheriff's Office.

(b) Determine the maximum occupancy for the short term rental as defined by LCC 4.440(6).

(c) Receive and review the certified statement of the owner that the owner of the short term rental has met and will continue to comply with the requirements of this Chapter.

(d) Transient Room Tax Compliance Required. Notwithstanding any other provision of this Chapter or the Lincoln County Code, and as a separate stand-alone requirement and criteria for holding a valid license, the owner shall provide a certified statement that the owner will comply with LCC Chapter 5.005 through 5.070 Transient Room Taxes. If the owner cannot demonstrate compliance with Chapter 5 Transient Room Taxes, or the County determines that the owner is not in compliance with the provisions of that Chapter, the license shall not be issued, or may be suspended or revoked, or may be denied upon renewal, until such time as the noncompliance is resolved to County's satisfaction. Compliance includes, but is not limited to, failure to report, improper reporting, failure to collect or failure to remit required transient room taxes. Any of these actions not timely made is also grounds for noncompliance. [2016 o.487 § 6]

4.430 Issuance of License

(1) Authority to issue licenses rests with the Lincoln County Licensing Authority as designated by the Board of Commissioners. In addition, an issued license is subject to revocation or refusal to renew the license for failure to meet, maintain or operate the short term dwelling in conformance with the requirements of this Chapter and the procedures as provided in LCC 4.425.

(2) Within sixty (60) days of receipt of a completed application, the payment of required fees, and the determination or certification of compliance with the requirements of LCC 4.440 (Operational Standards) and LCC 4.425 (Application for License; Fee), a license shall be issued by the Lincoln County Licensing Authority to the owner which shall be good for one (1) year from the date of issuance.

(3) If an application for a permit or the renewal of a permit is denied, or a permit is revoked, cancelled or not renewed the owner may appeal denial or revocation or nonrenewal under LCC 4.450. Unless and until a permit is finally revoked or not renewed as provided in this Chapter, a short term rental may continue to operate. [2016 o.487 § 7]

4.440 Operating Standards

As used in LCC 4.405 through 4.460, all short term rentals shall comply with the following operating standards and conditions:

(1) Contact Person(s). The name and phone number of the contact person(s) shall be posted, provided and updated in the following manner:

(a) If the short term rental has a sign identifying it as a short term rental, then the current name and phone number of the contact person shall either appear on the sign or otherwise be

conspicuously posted near the sign so that it is visible from the street and from outside the front entrance of the short term rental.

(b) In addition, the owner shall provide the contact person's name and phone number in writing to the local fire chief and the Lincoln County Sheriff's Office. The Sheriff's Office shall supply this information to each property owner as shown on the Lincoln County Assessor's records located within two hundred fifty feet (250') of the short term rental property.

(c) The owner shall update the posted notice and provide a new written notice to the local fire chief and Lincoln County Sheriff's Office each time there is a change to the name or phone number of the contact person. An additional fee, as set by the Board, shall accompany the new written notice provided to the Sheriff to offset costs of the Sheriff's Office in supplying this new information to property owners in accordance with LCC 4.440(1)(c) above.

(d) The owner or contact person shall contact a renter by phone or in person or otherwise respond within a reasonable period of time which shall normally be within one hour, unless circumstances would require a lesser or greater time, upon receiving any complaint from a neighbor, the local fire department or the Sheriff's Office concerning the conduct of a renter.

(2) Quiet Time. In accordance with the requirements of LCC 2.2000 through 2.2045, the hours of 10:00 p.m. until 7:00 a.m. the next day are required quiet time. Renters who violate this standard may be issued enforcement mechanisms available to the County under LCC 2.2045 and LCC Chapter 10. In addition multiple violations of the quiet time requirements by short term dwelling renters may subject the licensee to revocation or nonrenewal of the license as provided in LCC 4.450. The owner or contact person shall notify every renter, in writing, of the quiet times and that a renter may be subject to sanction and penalties under the County Code.

(3) Garbage Service. The owner shall be required to maintain adequate garbage service, with required secure containers, from the franchised waste disposal service company serving its property. The service must be at a level commensurate with the garbage generated at the dwelling, but no less than weekly service when the short term rental is being rented. Owners shall notify all guests of the garbage services and requirements for the dwelling.

(4) Parking. The owner must provide one (1) parking space for each approved sleeping area in a short term rental, plus one (1) additional parking space per unit. For dwellings constructed on or after July 1, 2016, all required parking shall be provided off street. For dwellings constructed prior to July 1, 2016, off-street parking must be used if physically available. If a sufficient number of off-street parking spaces are not available for the authorized number of vehicles, then on-street parking may be used unless otherwise prohibited. Parking shall not, under any circumstances, hinder the path of any emergency vehicle. Renters may be cited and fined under existing State or County law in the event they park illegally. Repeated violations of prohibited parking by renters of the short term rental may be grounds for enforcement against the Owners under LCC 4.460. The owner or contact person shall notify every renter in writing of the required off-street parking and other parking spaces available to serve the short term rental.

(5) House Number. A house number, visible from the street, shall be installed and maintained by the Owners.

(6) Limits on Occupancy. The maximum occupancy for a short term rental unit shall be calculated on the basis of an average of three (3) persons per sleeping area plus an additional two (2) persons. For the purpose of maximum occupancy, those under two (2) years of age shall not be counted. Accessory structures, tents and recreational vehicles and similar sleeping arrangements shall not be used to increase the number of people approved to occupy a short term rental.

Notwithstanding the forgoing, no more than 16 persons shall occupy the short term rental unit at any one time.

Notwithstanding the foregoing limits, a dwelling built and operated as a short term rental unit on July 1, 2016, may be grandfathered in at a higher maximum occupancy level, not to exceed 3 persons per sleeping area plus 2 additional persons, under the following conditions:

(a) The owner applies for a higher occupancy limit in the initial application for a short term rental license, which application must be received no later than December 31, 2016. No dwelling will be allowed a higher occupancy limit unless the owner applies and qualifies during this application period.

(b) The owner provides proof (rental agreements, ads, or other reasonable evidence) that the unit has historically been rented and occupied by more than 16 persons.

(c) The property on which the dwelling unit is located can provide, within all applicable laws, off-street parking as required under LCC 4.440(4) above. That requirement is one parking space per sleeping area, plus one more.

(d) For illustrative purposes, a dwelling with six sleeping areas may be allowed a maximum of 20 persons (three per sleeping area, plus two more) if a total of seven (7) lawful off-street parking spaces are provided.

(e) Review of the request for a higher occupancy limit shall be made by the County Licensing Authority which at its sole discretion shall make all determinations as to whether or not to grant, partially grant, or deny a request for higher occupancy.

(7) Notices to Renters. The owner must provide to each renter and post in a prominent location in the dwelling, a list of rules including, but not limited to, rules on required quiet times, available garbage service, parking locations and limitations on occupancy. [2016 o.487 § 8]

4.445 Complaint Procedure

All complaints will initially proceed through the informal resolution process provided herein. If the complaint is unresolved, then the more formal process shall be utilized as set forth below:

(1) Step One. The complaining party shall attempt to communicate with the contact person designated on the license, communicated in writing to the neighbor, and posted at the short term dwelling. The complainant shall describe the problem and the requested resolution.

(2) Step Two. The contact person shall promptly respond to the complainant and make reasonable efforts to remedy any situation that is out of compliance with the provisions of this Chapter. If that resolves the matter, the complaint process terminates.

(3) Step Three. If the response from the contact person is not satisfactory to the complaining party or the contact person does not believe that the problem violates this Chapter, either party or both parties may next provide a written complaint to the Lincoln County Licensing Authority, with a copy of the written complaint provided to the other party by the complainant or the contact person. The written complaint shall describe all efforts to resolve the problem. The Licensing Authority shall then attempt to resolve the complaint with parties. The Licensing Authority may use community mediation resources if it determines such resources are available and would help resolve the complaint. If not mutually resolved by the parties, the Licensing Authority shall issue a written determination to both parties to resolve the problem. If the Licensing Authority finds that a violation of this Chapter occurred, the Licensing Authority may undertake enforcement action as authorized in this Chapter and LCC Chapter 10.

(4) Step Four. Either party may appeal the determination of the Licensing Authority by filing a written appeal to the Board of Commissioners within thirty (30) days of the Authority's determination. The Board of Commissioners, or its designee, shall hold an informal hearing on the appeal and issue a final decision.

(5) This procedure is separate from but complimentary with the procedures used to revoke, cancel or deny renewal of a license, LCC, 4.450. [2016 o.487 § 9]

4.450 Denial, Revocation or Nonrenewal of a License; Hearing

Owners of short term rental units who hold a valid license under this Chapter are required to comply with all applicable provisions of this Chapter and the Lincoln County Code. In addition to the penalties for violation of any provision of LCC 4.405 through 4.460 punishable pursuant to LCC Chapter 10, failure to comply may subject the owner to revocation or nonrenewal of a License as provided for in this section. Appeal of denial of a license is also governed under these provisions.

(1) The following shall be grounds for considering revocation or nonrenewal of the license:

(a) Three or more violations of this chapter or other provisions of the Lincoln County Code related to the same short term rental within one (1) year. Violations include, but are not limited to, complaints identified in LCC 4.445 which reached step 4 and a final determination was made that the problem as unresolved violated provisions of this Chapter. Violations may also be determined by the Licensing Authority for noncompliance with the provisions of this Chapter or other provisions of the Lincoln County Code.

(2) Denial of a license may be appealed under the procedures set forth below.

(3) The County shall conduct a hearing if it wishes to consider the revocation or nonrenewal of a short term rental license. The County will also hold a hearing if an owner appeals denial of a license. All hearings will be conducted by the Board of Commissioners or its designee. The County shall give thirty (30) days written notice to all relevant parties of the time, date and place of the hearing, that the short term rental permit may be revoked as a result of the hearing and of the allegations and violations upon which revocation will be considered. At the hearing, each party shall have an opportunity to be heard and present such witnesses, testimony and other evidence as that party deems relevant to the issues. The procedure will be informal and no cross examination will be allowed. The hearing may be continued at the discretion of the County. At the conclusion of the hearing process, the Board of Commissioners or its designee shall consider the evidence and issue a written order revoking the license, or not renewing it, or denying the application as the situation warrants. [2016 o.487 § 10]

4.455 Nonliability of County

Neither the County nor any official or employee of the County, including the Lincoln County Licensing Authority shall be liable for any damages, claims from any owner or third party relating to enforcement of any provision of LCC 4.405 through 4.460. [2016 o.487 § 11]

4.456 Delegation of Authority

The Lincoln County Licensing Authority is delegated the authority and responsibility to adopt rules, procedures, forms and practices consistent with the overall intent of this Chapter, to implement, administer, and operate the licensing program for the County. [2016 o.490 §3]

4.460 Severability

Each section, sentence, clause, and phrase hereto is declared severable. If any section, sentence, clause, or phrase of this chapter is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this Chapter. [2016 o.487 §12]

MASS GATHERINGS (SMALL, OUTDOOR AND EXTENDED)

4.505 Definitions

As used in LCC 4.505 to 4.605, unless the context requires otherwise:

(1) "Assembly of Persons" means any gathering of any person, including but not limited to spectators, attendees, organizers, performers and participants on any given day.

(2) "Board" means the Lincoln County Board of Commissioners, or its designee.

(3) "Department" means the Lincoln County Planning Department.

(4) "Director" means the Director of Lincoln County Planning, or his or her designee.

(5) "Extended Outdoor Mass Gathering" (hereinafter "EMG") means and includes an Assembly of Persons, including but not limited to spectators, for which the actual cumulative number is or is reasonably expected to be more than 3,000 persons for a period that continues to be for more than 120 hours, including set-up, placement, storage and removal or similar action of any equipment, materials, structures, vehicles, supplies and so forth, within any continuous three-month period, and that is primarily held in open spaces and not in any permanent structure within the unincorporated area of Lincoln County. The duration begins on the earlier of when the first attendee can or is anticipated to arrive at the assembly and when the last attendee has left the assembly.

(6) "Hearings Body" means the following:

(a) For Outdoor Mass Gatherings, the Board;

(b) For EMGs, the County Planning Commission;

(c) For appeals of a decision of the County Planning Commission, the Board;

(d) For appeals of a decision of the Director or Board, the Lincoln County Circuit Court.

(7) "Organizer" includes any person who conducts, stages or sponsors a Small Gathering, Outdoor Mass Gathering or EMG, and the owner, lessee, or possessor of the real property upon which the Small Gathering, Outdoor Mass Gathering or EMG is to take place.

(8) Outdoor Mass Gathering" (hereinafter, "MG") means and includes an assembly of persons, including but not limited to spectators, and whose number is or is reasonably anticipated to be more than 3,000 persons for a period that continues or can reasonably be expected to continue for more than 24 hours, but less than 120 hours, excluding set up, placement, storage and removal or similar action of any equipment, materials, structures, vehicles, supplies and so forth, within any continuous three-month period and which is primarily held in open spaces, but not in any permanent structure within the unincorporated area of Lincoln County. The duration begins on the earlier of when the first attendee can or is anticipated to arrive at the assembly, and when the last attendee has left the assembly.

(9) "Permanent Structure" includes a stadium, an arena, an auditorium, a coliseum, a fairground, a commons, or other similar established places for assemblies and public gatherings.

(10) "Person" or "Persons" means any individual, firm, partnership, corporation, joint venture, association, social club, fraternal organization, fraternity, sorority, non-profit organization, estate, trust, receiver, trustee, syndicate or other group, organization or combination acting as a unit.

(11) "Sheriff" means the Lincoln County Sheriff or his/her designee.

(12) "Small Gathering" (hereinafter, "SG") means and includes an assembly of persons, including but not limited to spectators, whose actual cumulative number is or is reasonably anticipated to be less than 3,001 persons but more than 300 persons for a period that continues or can reasonably be expected to continue for more than 6 hours but not more than 120 hours,

including set-up, placement, storage and removal or similar action of any equipment, materials, structures, vehicles, supplies and so forth within any continuous three month period, and that is held primarily in open spaces and not in any permanent structure within the unincorporated area of Lincoln County. The duration begins on the earlier of when the first attendee can or is anticipated to arrive at the assembly and when the last attendee has left the assembly.

(13) "Spectator" means any person located within, alongside or near the SG, MG or EMG, whether or not that person pays a fee to participate in the SG, MG or EMG.

(14) "Sponsor" means any person that allows, promotes or causes an SG, MG or EMG.

(15) "Temporary Structure" includes stages, tents, trailers, chemical toilet facilities and other non-permanent structures customarily erected or sited for temporary use.

(16) "Traffic Control" means signs, warning markers and other regulatory devices meeting the standards of the Manual of Uniform Traffic Control Devices.

4.510 SG, MG and EMG Exclusions

(1) The requirements in this Code for SGs, MGs and EMGs shall not apply to any regularly scheduled religious service or religious organized activity that takes place on institutional property, regularly organized and supervised school district activity or program that takes place on school property, any activities at the Lincoln County Fairgrounds or Commons, any activity at a County park, or any activity of a municipal corporation or governmental agency.

(2) The Director or Hearings Body, as applicable, may waive all or part of the permit requirements for certain limited SGs, upon a showing by the Organizer of good cause, when no significant public health, safety or welfare issues are involved or when the Director or Hearings Body determines that no County law enforcement or other County resources are necessary. Notwithstanding the above, there shall be no waiver of fire protection standards (Section 4.550).

4.515 SG, MG and EMG Permit Required

(1) No Organizer shall hold, conduct advertise or otherwise promote an SG, MG or EMG or allow an SG, MG or EMG to be held on real property in the unincorporated areas of Lincoln County unless the Organizer obtains a permit to hold such an SG, MG or EMG.

(2) No permit for an SG, MG or EMG shall be issued unless the landowner of the property that is the site of the SG, MG or EMG also signs the application.

(3) All SGs and MGs are exempt from the requirements of Chapter 1 of the Lincoln County Code, except where noted.

(4) One permit shall be required for each SG, MG or EMG.

(5) A permit issued under these provisions does not entitle the SG, MG or EMG Organizer to construct any permanent physical alterations to or on the real property which is the site of the SG, MG or EMG.

(6) The Organizer of a proposed SG, MG or EMG shall file an application with the Department at least 90 days prior to the SG, MG or EMG.

(7) The application shall include the following:

(a) Name and mailing address, email address and phone number of the Organizer (and of the Property Owner, Lessee, or Possessor, if different).

(b) Legal description and address, if any, of the location of the proposed SG, MG or EMG.

(c) A map of the SG, MG or EMG showing access roads and assembling and disbanding points.

(d) The date or dates of the proposed SG, MG or EMG.

(e) The proposed starting and ending time(s) of the SG, MG or EMG.

(f) The estimated number of persons, vehicles and animals that will be attending, participating in or viewing the SG, MG or EMG.

(g) The nature of the proposed SG, MG or EMG.

(h) A sketch, and other detailed information showing the type, number and location of all toilets, washing facilities, water supply, food preparation, food service facilities and solid waste collection locations.

(i) The name and phone number of the contact person who shall be easily identified and who shall remain at the SG, MG or EMG site at all times.

(j) Approval by the authorized representative of the rural fire protection district under ORS Chapter 478, or State Fire Marshal, or State Forester, as applicable.

(k) A water supply plan showing compliance with OAR 333-039-0010; a drainage plan showing compliance with OAR 333-039-0020; a sewerage plan showing compliance with OAR 333-039-0025; a refuse storage and disposal plan showing compliance with OAR 333-039-0030; a food and sanitary food service plan showing compliance with OAR 333-039-0035, an emergency medical facilities plan showing compliance with OAR 333-039-0040; a fire protection plan showing compliance with OAR 333-039-0045; a security personnel plan showing compliance with OAR 333-039-0050; and a traffic plan showing compliance with OAR 333-039-0055.

(l) A copy of the proposed participant entry form for the SG, MG or EMG, including a release agreement releasing Lincoln County, its officers, agents, employees or volunteers from liability for any or all injuries.

(m) A signed indemnity agreement on a form provided by the County.

(n) Information on whether alcohol will be part of the SG, MG or EMG, and if so, in what way, and what arrangements have been made for appropriate licensing.

(o) Such other appropriate information as the Director or Board may require in order to ensure compliance with the provisions of this chapter, as well as the rules of the Oregon Department of Human Services.

(8) The application for an SG, MG or EMG shall be accompanied by the appropriate fee pursuant to the County fee schedule. Except as provided in subsection (9) below, no rebate or refund of money paid for a permit shall be made.

(9) Incomplete applications shall be denied and the application fee, less County costs, shall be returned to the permit applicant.

(10) If the application is submitted fewer than 90 days prior to the event and the Director or Board accepts the application, the processing fee shall be double.

(11) The Director shall furnish a copy of the SG, MG or EMG permit to the Sheriff and to any other jurisdiction with regulatory authority in which the SG, MG or EMG takes place.

(12) If a permit for a proposed event under this Ordinance cannot be issued because the proposed event does not meet the definition of an SG, MG or EMG, the proposed event shall not be authorized unless it otherwise complies with Chapter 1 of the Lincoln County Code.

(13) No more than one SG, MG, or EMG may be held at the same location within a three month period.

4.520 SG, MG and EMG Permit Processing/When Hearings Are Required

(1) SG permits shall be processed administratively by the Director without a hearing.

(2) No application for an MG permit shall be approved without review by the Board following a public hearing.

(3) No application for an EMG permit shall be approved without review by the Planning Commission following a public hearing in accordance with ORS 433.763.

(4) Public hearings shall be set at the discretion of the Director, but, in no case, earlier than 10 days from the date of the application.

4.525 SG, MG and EMG Departmental and Agency Notice

(1) The Director shall send notice of the application to the following officers at least 10 calendar days prior to the administrative decision (for the SG) or hearing (for the MG or EMG): Lincoln County Counsel (serving as Risk Manager), County Sheriff, the Director of Lincoln County Health and Human Services, the County Roadmaster, and the Chief of the Fire District, if there is one, in which the SG, MG or EMG is proposed, the State Fire Marshal and the State Forester.

(2) The Director shall publish notice of his or her administrative decision for an SG in a newspaper of general circulation in the County within 10 calendar days of the date of his or her decision.

(3) The Director shall publish notice of the hearing for an MG or EMG permit at least 10 calendar days before the hearing in a newspaper of general circulation in the County.

4.530 SG, MG and EMG Approval Criteria

(1) An SG, MG or EMG permit shall be approved upon demonstration by the Organizer of compliance with or the ability to comply with the provisions of this chapter, as well as all health and safety rules adopted by the Oregon Department of Human Services, as applicable.

(2) Each public official receiving notice of the application for an SG who wishes to comment on the application shall submit such comment in writing to the Director within 10 days of receiving notice of the application. Each public official receiving notice of the application for an MG or EMG permit who wishes to comment on the application shall submit such comment in writing to the Hearings Body no later than the date and time for the hearing.

(3) The comment from any public official regarding an SG, MG or EMG permit may include recommendations related to the official functions of the officer as to granting the permit and any recommended conditions that should be imposed.

(4) The Director or Hearings Body shall consider the imposition of any suggested changes submitted by the public officials who received notice of the proposed gathering.

(5) The Director or Hearings Body may consider and impose any reasonable condition on a permit under this chapter.

4.535 SG, MG and EMG Appeals

(1) When the County Planning Commission is the Hearings Body, any person who participated in the hearing before the Planning Commission shall be deemed a party and may appeal the decision to the Board.

(2) All SG decisions of the Director and MG decisions of the Board shall be reviewable only by the Lincoln County Circuit Court for the State of Oregon only by writ of review under the provisions of ORS 34.010 to 34.100.

(3) All EMG rulings of the Board are appealable to the Land Use Board of Appeals.

4.540 SG, MG and EMG Insurance

(1) If the Director, Board or Planning Commission, as applicable, determines that the SG, MG or EMG creates a potential for injury for persons or property, they may require Organizers to obtain a commercial general liability insurance policy in an amount commensurate with the risk, with single limit policy limits of not less than $2,000,000.

(2) The insurance policy may not be cancelable and shall provide coverage against liability for death, injury or disability of any human or for damage to property arising out of the SG, MG or EMG.

(3) The insurance policy must be an "occurrence" policy, or its equivalent, that provides for payment of claims made during the 180 day period after the scheduled termination of the SG, MG or EMG.

(4) The Organizer shall furnish the Director with an insurance certificate and a copy of the insurance policy naming the County as an additional insured under the policy, at least 14 days before the first day of the SG, MG or EMG.

(5) The permit for an SG, MG or EMG shall be voided by the Director if the Organizer does not file proof of the non-cancelable insurance required by this section with the Director at least 14 days before the first day of the SG, MG or EMG.

(6) The Organizer must agree in writing to indemnify, defend and save and hold harmless the County, its commissioners, boards, officers, employees and agents, from all suits, actions, damages or claims to which the County may be subjected to of any kind or nature whatsoever, resulting from, caused by, arising out of or as a consequence of such SG, MG, or EMG and the activities permitted in connection therewith.

4.545 SG, MG and EMG Sanitary Facilities and Food Preparation

(1) The County Environmental Health Division shall have the responsibility for approving all sanitation and related facilities required by the Director or Hearings Body for an SG, MG or EMG permit to ensure that reasonable minimum standards have been or will be met by the Organizer, in accordance with the procedures outlined in this chapter and OAR 333-039.

(a) Water. An adequate supply of water meeting state drinking water standards for chemicals and bacteria shall be provided.

(b) Food Service Facilities. Food service facilities shall comply with the Oregon Department of Human Services regulations that pertain to the operation of temporary restaurants. All food service providers must be validly licensed.

(2) Such approval of an SG, MG or EMG permit by the County Environmental Health Department shall indicate the number, type, and location, when appropriate, of the various sanitary facilities and shall include a description of the specific type of food preparation and food service facilities to be provided.

4.550 SG, MG and EMG Fire Protection Standards

(1) No SG, MG or EMG permit shall be granted under this chapter unless the Organizer has shown that the authorized representative of the rural fire protection district under ORS Chapter 478 has approved the type, size, number and location of fire protection devices and equipment available at, in or near any location, including outdoor sites, buildings, tents, stadium or enclosure, during the course of an SG, MG or EMG for which a permit is required under this chapter.

(2) If the site for which the permit is applied for is located outside a fire protection district, the Organizer must show approval from the Office of the State Fire Marshal, or State Forester, as applicable.

4.555 SG, MG and EMG Medical Service

(1) Sheriff shall have responsibility for approving plans as to medical service required for the SG, MG or EMG.

4.560 SG, MG and EMG Public Safety

(1) The Organizer must submit plans for public safety at the SG, MG or EMG demonstrating the following:

(a) Adequate traffic control and crowd protection policing shall be contracted for or otherwise provided by Organizer.

(A) There shall be provided one traffic control person for each 250 persons expected or reasonably expected to be in attendance at any time during the SG, MG or EMG.

(B) Further, there shall be provided one crowd control person for each 100 persons expected or reasonably expected to be in attendance at any time during the SG, MG or EMG.

(b) The Organizer shall submit the names and necessary background information as required by the Director or Hearings Officer for all traffic-control and crowd-control personnel to be utilized during the MG or EMG.

(c) All such personnel must meet the following minimum standards in order to be approved as suitable:

(A) Be at least 18 years of age;

(B) Must have the physical capability to perform the traffic control and traffic control responsibilities;

(C) Have training or experience acceptable to the County to conduct traffic and or crowd control duties.

(2) All of the traffic control and crowd control personnel must wear appropriate safety vests or jackets.

(3) The required number of crowd control personnel must be on duty during the entire SG, MG or EMG unless a relief schedule has been planned and approved.

(4) A relief schedule will be approved only when sufficient crowd control strength on duty has been maintained to meet the minimum strength standards set forth in this chapter.

(5) It is the duty of the crowd control personnel to report any violations of the law to the Sheriff.

4.565 SG, MG and EMG Parking Facilities

(1) Prior to or on the date of application for an SG, MG or EMG, the Organizer shall provide a scale drawing showing that adequate parking facilities have been made available within or adjacent to the location for which the permit is requested.

(2) Such parking facilities shall provide parking space for one vehicle for every four persons expected or reasonably expected to attend.

(3) Adequate ingress and egress shall be provided from such parking area to facilitate the movement of any vehicle at any time to or from the parking area of the SG, MG or EMG.

(4) Should buses be used to transport the public to the SG, MG or EMG, it shall be shown that adequate parking is available at any site from which buses are scheduled to pick up persons to transport them to the SG, MG or EMG.

4.570 SG, MG and EMG Permit Display and Set Up and Clean Up Requirements

(1) The Organizer of an SG, MG or EMG shall have a copy of the permit available for inspection upon request.

(2) Any permit for an SG, MG or EMG shall not be transferrable or assignable without the consent of the Director or Board.

(3) Any permit for an SG, MG or EMG shall be kept posted in a conspicuous place upon the premises of such assembly.

(4) All onsite activities required to prepare the assembly site must occur within 72 hours prior to the advertised time the assembly is scheduled to begin. The Director or Hearings Body may, upon a showing of necessity, allow preparation to begin more than 72 hours before the advertised time of the assembly but those activities are limited to set up only and not commercial vending, rehearsals or sound checks. All of the facilities shall be in place at least 2 hours before the SG, MG or EMG begins.

(5) The organizer must remove and repair all remaining residue, debris, or damage to property resulting from the assembly 72 hours after termination of the assembly.

4.575 SG, MG and EMG Inspection of Premises

(1) No SG, MG or EMG permit shall be granted unless the Organizer shall, in writing, upon the application for such permit, consent to allow the Director, law enforcement, public health and fire control officers to come upon the premises for which the permit has been granted for the purpose of inspection and enforcement of the terms and conditions of the permit and this chapter and any other applicable laws or ordinances.

(2) If any inspections reveal deficiencies in compliance with State or local law, the inspectors may return as often as needed until the deficiencies are cured. If the deficiencies are not cured or cannot be cured, the Sheriff may suspend or terminate the SG, MG or EMG.

4.580 SG, MG and EMG Restricted Hours of Operation

(1) No SG, MG or EMG shall be conducted, including set-up, placement, storage, staging, removal or similar action of any equipment, materials, structures, vehicles, supplies and so forth, between the hours 1:00 A.M. and 9:00 A.M.

(2) The gathering must comply with the Lincoln County Noise Ordinance (Lincoln County Code Sections 2.2000 to 2.2045).

4.585 SG, MG and EMG Enforcement

(1) The Organizer shall provide a contact person who shall be easily identifiable with readily visible ID and who shall remain at the SG, MG or EMG site at all times.

(2) If any Organizer of an SG, MG or EMG violates any provisions of this chapter, the Sheriff may immediately suspend, revoke or terminate any permit for an SG, MG or EMG and may seek any legal remedy available.

(3) The SG, MG or EMG Organizer shall keep a reasonable count of persons and vehicles entering and leaving the SG, MG or EMG.

(4) If, at any time during the SG, MG or EMG held under a valid permit, the number of persons or vehicles attending the SG, MG or EMG exceeds by 10% or more the number of persons or vehicles estimated in the permit application, the Sheriff has the authority to require the Organizer to limit further admissions until a sufficient number of individuals or vehicles have left the site to bring the actual attendance down to the number estimated by the Organizer.

(5) For any SG, MG or EMG held under a valid permit, the Sheriff has the authority to order the crowd to disburse and leave the SG, MG or EMG site if the Organizer cannot maintain order and compliance with all applicable State and local laws or refuses or is unable to adhere to the terms and conditions of the permit.

(6) In addition to the State law provisions in ORS Chapter 433, including ORS 433.990(7), the County Counsel or District Attorney for Lincoln County may maintain an action in any court of general jurisdiction to restrain or enjoin any violation of this Ordinance.

(7) If persons remain on site after the scheduled end of the permitted SG, MG or EMG, or if the Organizer fails to remove all debris or residue within 72 hours after termination of the SG, MG or EMG, or if the Organizer fails to remove all temporary structures within three weeks after the termination of the SG, MG or EMG, the County may issue citations to the Organizer, all persons remaining at the site, and/or all persons who have left debris behind.

(8) In addition to any other remedies provided, if the SG, MG or EMG site is not restored to its previous condition, or better, the County may arrange for cleanup of the site, and then file an action for damages against the Organizer or successor landowner.

4.590 SG, MG and EMG Intoxicating Liquor Prohibition

(1) No Organizer, nor any person having charge or control thereof at any time when an SG, MG or EMG is being conducted shall permit any person to bring into such SG, MG or EMG or upon the premises thereof, any intoxicating liquor, nor permit intoxicating liquor to be consumed on the premises, and no person during such time shall take or carry onto such premises or drink thereon intoxicating liquor.

(2) Subsection (1) of this section shall not apply to the sale and consumption of intoxicating liquor from a facility located on the premises of an SG, MG or EMG when validly licensed by the State.

4.595 SG, MG and EMG Unlawful Controlled Substances Prohibition

No firm, person, society, association or corporation conducting an SG, MG or EMG, nor any person having charge or control thereof at any time when an SG, MG or EMG is being conducted shall permit any person to possess any controlled substances that are unlawful under Oregon law.

4.600 SG, MG and EMG Compliance Required

Compliance with the terms and conditions of this chapter shall constitute minimum health, sanitation and safety provisions; and failure to comply with the terms and conditions of this chapter or state laws shall constitute a public nuisance and shall be subject to all criminal, civil and equitable remedies as such.

4.605 SG, MG or EMG Violation Enforcement

For an SG, MG or EMG, violation of this chapter is subject to enforcement pursuant to Chapter 10 of the Lincoln County Code, and other legal remedies available under the law.

4.610 Review of Ordinance # 495

Prior to December 31, 2018, the Lincoln County Board of Commissioners shall review this Ordinance for possible amendments. [2017 o.495 §1]

CHAPTER 5

Taxes

TRANSIENT ROOM TAX

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WASTE OR ABANDONMENT OF TAX FORECLOSED REAL PROPERTY

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MARIJUANA TAX[1]

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[1] Added and conformed by authority of LCC 0.130.

TRANSIENT ROOM TAX

5.005 Definitions

As used in LCC 5.005 to 5.110, unless the context requires otherwise:

(1) "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for transient occupancy for 30 days or less, for dwelling, lodging, or sleeping purposes, and includes any hotel, motel, inn, condominium, tourist home or house, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, and also means space in mobile home, recreational vehicle, or trailer parks, or similar structure or space or portions thereof so occupied.

(2) "Occupancy" means the use or possession, or the right to the use or possession for lodging or sleeping purposes of any room or rooms in a hotel, or space in any mobile home, recreational vehicle, or trailer park, or similar structure or space, or portions thereof.

(3) "Operator" means the person who is the proprietor of the hotel in any capacity. If the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his principal. Compliance with provisions of this chapter, either by the principal or the managing agent shall be considered to be compliance by both.

(4) "Cash accounting" means the operator does not enter the rent due from the transient on his records until rent is paid.

(5) "Accrual accounting" means the operator enters the rent due from the transient on his records when the rent is earned, whether or not it is paid.

(6) "Rent" means the consideration charged, whether or not received by the operator, for the occupancy of space in a hotel, valued in money, goods, labor, credits, property, or other consideration valued in money, without any deduction, but shall not include charges to a condominium unit owner which are solely for cleaning or maintenance of such unit so long as the charges are made in connection with space occupancy.

(7) "Rent package plan" means the consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transient room tax under this chapter shall be the same charge made for rent when consideration is not a part of the package plan. The amount applicable to rent for determination of transient room tax under this chapter shall be that amount allocated to space rent, taking into consideration a reasonable value of other items in the rent package and taking into consideration the charge for rent when the space is rented separately and not included in a package plan.

(8) "Tax" means either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which he is required to report his collections.

(9) "Tax administrator" means the Lincoln County Board of Commissioners, or its designee.

(10) "Transient" means any individual who exercises occupancy or is entitled to occupancy in a hotel for a period of 30 consecutive days or less, counting portions of calendar days as full days. The day a transient checks out of the hotel shall not be included in determining the 30-day period if the transient is not charged rent that day by the operator. Any individual so occupying space in a hotel shall be deemed to be a transient until the 30-day period has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy, or the tenancy actually extends more then 30 consecutive days. A person who pays for lodging on a monthly basis, regardless of the number of days in such month, shall not be deemed a

transient. An owner of a condominium unit, or any other person residing in the same, who is required to pay any consideration for the use of the unit, shall be deemed a transient.

(11) "Transient Lodging Tax Review Committee" means the Board of County Commissioners, or, if it so elects, a committee composed of an accountant, an attorney, and three other persons appointed by the Board and may be owners or operators of a "hotel" as defined in subsection (1) of this section. [1991 o.301 § 1]

5.010 Tax Imposed

For the privilege of occupancy in any hotel in Lincoln County, each transient shall pay a tax in the amount of ten percent (10%) of the rent charged by the operator. The tax constitutes a debt owed by the transient to the county which is extinguished only by payment by the operator to the county. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. The operator shall enter the tax on the operator's records when rent is collected if the operator keeps the records on a cash accounting basis and when earned if the records are kept on an accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. In all cases, the rent paid or charged for occupancy shall exclude the sale of any goods, services, and commodities, other than the furnishing of rooms and accommodations. [1991 o.301 § 1; 2007 o.449 § 1; 2016 .485 § 1,]

5.012 Dedicated Funds

(1) Ten percent of the taxes collected under these code provisions (which is 1% of the 10% total) shall be disbursed to an account separate from all other accounts of the county to be used to supplement disbursements authorized by Section 5.012(2)(c) below, or for similar facilities elsewhere in the county, or to pay for operation of those facilities authorized by this section and as allowed by law. All funds are to be disbursed at the direction of the Board of Commissioners.

(2) One-third of the remaining taxes collected under these code provisions (which is 3% of the 10% total) shall be disbursed in the following manner:

(a) Thirty percent to the County General Fund;

(b) Thirty percent to the Oregon Coast Aquarium for ongoing operating support; and

(c) Forty percent in an account separate from all other accounts of the county to be known as the Fairgrounds Facilities Improvement Fund to be disbursed at the direction of the Board of Commissioners for the purpose of facilities available for a fair or, in the event there is no fair, for other tourism related facilities as allowed by law.

(3) Of the remaining two-thirds of the taxes collected under these code provisions (which is 6% of the 10% total), 16.66 shall be disbursed at the direction of the Board of Commissioners for the purpose of tourism promotion and economic development to the Central Oregon Coast Association and the Economic Development Alliance of Lincoln County, or other appropriate entities as determined by the Board. [1991 o.301 § 2; 2007 o.449 § 2]

5.015 [repealed 2007 o.449 § 5]

5.017 County Transient Lodging Tax Not Applicable in Cities

The transient lodging tax imposed by this chapter shall apply only to transient occupancy within the unincorporated area of Lincoln County. [2007 o.449 § 4]

5.020 [repealed 2007 o.449 § 5]

5.025 Collection of Tax by Operator; Rules for Collection

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

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

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

(4) For rent collected on portions of a dollar, fractions of a penny shall not be remitted.

(5) In instances where credit is extended to the transient for charges for rental through the use of a credit card or other similar transaction whereby the amount paid to the operator is discounted by contract between the operator and the issuer of the credit card, the amount of such discount shall be excluded from the definition of "rent" and no tax shall be imposed on the amount so discounted.

5.030 Operator's Duties

Each operator shall collect the tax imposed by this chapter at the same time as the rent is collected from every transient. The amount of tax shall be separately stated upon the operator's records, and any receipt rendered by the operator. Operator of a hotel shall advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by this chapter.

5.035 Exemptions from Tax

No tax imposed under this chapter shall be imposed upon:

(1) Any occupant for more than 30 successive calendar days with respect to any rent imposed for the period commencing after the first 30 days of such occupancy.

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

(3) Any person who rents a private home, vacation cabin, or like facility from any owner who rents such facilities incidental to his own use thereof, except that this exemption shall not apply to condominium units.

(4) Any occupant whose rent is paid for hospital room or to a medical clinic, convalescent home, or home for the aged, or to a public institution or public accommodation owned and operated by a unit of government in its governmental capacity.

(5) The United States of America, a body politic and sovereign. This exemption shall likewise apply with respect to any agency or instrumentality of the United States of America which is entitled to exemption under the provisions of the Federal Constitution. However, such exemption shall apply only in those instances in which the United States Government or an agency or instrumentality thereof shall enter into an agreement for the rental of such lodgings and shall pay the costs thereof directly to the hotel or other entity providing such lodging. No exemption is

created hereunder merely because the transient occupant of such room is an employee or is on the business of the United States of America or any agency or instrumentality thereof or because such party shall be entitled to reimbursement for such costs. [1991 o.301 § 1]

5.040 Registration of Operator; Form and Contents; Execution; Certificate of Authority

Every person engaging or about to engage in business as an operator of a hotel in the county shall register with the tax administrator within 15 days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration shall be on a form provided by the administrator and shall set forth the name under which the operator transacts or intends to transact business, the location of his place or places of business and such other information to facilitate collection of the tax as the tax administrator may require. The registration shall be signed by the operator. The tax administrator shall, within 10 days after registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupant, together with a duplicate thereof for each additional place of business of each registrant. Certificates shall be nonassignable and non transferable and shall be surrendered immediately to the tax administrator upon the cessation of business at the location named or upon its sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and come to the notice readily of all occupants and persons seeking occupancy. The certificate shall include the following:

(1) The name of the operator;

(2) The address of the hotel;

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

(4) "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Transient Room Tax Regulations of chapter five of the Lincoln County Code, by registration with the tax administrator for the purpose of collection from transients the lodging tax imposed by said county and remitting said tax to the tax administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a hotel without strictly complying with all local applicable laws, including, but not limited to, those requiring a permit from any board, commission, department, or office of the county. This certificate does not constitute a permit."

5.045 Due Date; Returns; Payments

(1) The tax imposed by this chapter shall be paid by the transient to the operator at the time that rent is paid. All amounts of such taxes collected by any operator are due and payable to the tax administrator on a quarterly basis on the 15th day of the following month for the preceding three months; and, are delinquent on the last day of the month in which they are due. The tax administrator has authority to classify or district the operators for determination of applicable tax periods, and shall notify each operator of the due and delinquent dates for the operator's returns. The initial return under this chapter may be for less than the three months preceding the due date; thereafter, returns shall be made for the applicable quarterly period.

(2) On or before the 15th day of the month following each quarter of collection, a return for the preceding quarter's tax collections shall be filed with the tax administrator. The return shall be filed in such form as the tax administrator may prescribe by every operator liable for payment of tax.

(3) Returns shall show the amount of tax collected or otherwise due for the related period. The tax administrator may require returns to show the total rentals upon which tax was collected or

otherwise due, gross receipts of operator for such period, and an explanation in detail of any discrepancy between such amounts and the amount of rents exempt, if any.

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

(5) For good cause, the tax administrator may extend for not to exceed one month the time for making any return or payment of tax. No further extension shall be granted, except by the Transient Lodging Tax Review Committee. Any operator to whom an extension is granted shall pay interest at the rate of one-half of one percent per month on the amount of tax due without proration for a fraction of a month. If a return is not filed, and the tax and interest due is not paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties described elsewhere in this chapter.

(6) If it is deemed necessary in order to ensure payment or facilitate collection by the county of the amount of taxes, the tax administrator, in an individual case, may require returns and payment for other than quarterly periods.

5.050 Penalties and Interest

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

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

(3) If the tax administrator determines that the nonpayment of any remittance due under this chapter is due to fraud or intent to evade the provisions thereof, a penalty of 25 percent of the amount of the tax shall be added thereto in addition to the penalties stated in subsections (1) and (2) of this section.

(4) In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of 1 percent per month or fraction thereof without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

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

(6) Any operator who fails to remit the tax herein levied within the time herein stated shall pay the penalties herein stated; provided, however, the operator may petition the Transient Lodging Tax Review Committee for waiver and refund of the penalty or any portion thereof and the Transient Lodging Tax Preview Committee may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.

5.055 Deficiency Determinations; Evasion; Operator Delay

(1) If the tax administrator determines that the returns are incorrect, the amount required may be computed and determined upon the basis of the facts contained in the return or returns or upon the basis of any information in the possession of the administrator. One or more deficiency

determinations may be made of the amount due for one, or more than one, period and the amount so determined shall be due and payable immediately upon service of notice as herein provided after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in LCC 5.050.

(a) In making a determination, the tax administrator may offset overpayment, if any, which may have been previously made for a period or periods, against any underpayment for a subsequent period or periods, or against penalties and interest on the under payments. The interest on under payments shall be computed in the manner set forth in LCC 5.050.

(b) The tax administrator shall give to the operator or occupant a written notice of the determination. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the operator at an address as it appears on the records of the tax administrator and shall be mailed by certified mail, postage prepaid, return receipt requested.

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

(d) Any determination shall become due and payable immediately upon receipt of notice and shall become final within 20 days after the tax administrator has given notice thereof; provided, however, the operator may petition redemption and refund if petition is filed before determination becomes final as herein provided.

(2) If any operator shall fail or refuse to collect the tax or make, within the time provided in this chapter, any report or remittance of the tax or any portion thereof required by this chapter, or makes a fraudulent return, or otherwise willfully attempts to evade this chapter, the tax administrator shall proceed in such manner deemed best to obtain the facts and information on which to base an estimate of the tax due. As soon as the tax administrator has determined the tax due that is imposed by this chapter from any operator who has failed or refused to collect the same and to report and remit the tax, the tax administrator shall proceed to determine and assess against such operator the tax, interest, and penalties provided for by this chapter. When determination is made, notice shall be given as provided in subsection (1)(b) of this section of the amount so assessed. Such determination and notice shall be made and mailed within three years of the discovery of any fraud, intent to evade, or failure or refusal to collect the tax or failure to file a return. Any determination shall become due and payable upon receipt of notice and shall become final within 20 days after the tax administrator has given notice thereof; provided, however, the operator may petition for redemption refund if the petition is filed before the determination becomes final as herein provided.

(3) If the tax administrator believes that the collection of any tax or any amount of tax required to be collected and paid to the county will be jeopardized by delay, or if any determination will be jeopardized by delay, it shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable and the operator shall immediately pay such determination to the tax administrator after service of notice thereof; provided, however, the operator may petition, after payment has been made, for redemption and refund of such determination, if the petition is filed within 20 days from the date of service of notice by the tax administrator.

5.060 Redeterminations

(1) Any person against whom a determination is made under LCC 5.055, or any person directly interested may petition for a redetermination and redemption and refund within the time required in LCC 5.055. If a petition for redetermination and refund is not filed within the time required in LCC 5.055, the determination becomes final at the expiration of the allowable time.

(2) If a petition for redetermination and refund is filed within the allowable period, the tax administrator shall reconsider the determination, and, if the person has so requested in his petition, shall grant the person a public hearing and shall give him 20-days' notice of the time and place of the hearing. The tax administrator may continue the hearing from time to time as may be necessary.

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

(4) The order or decision of the tax administrator upon a petition for redetermination of redemption and refund becomes final 20 days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the Transient Lodging Tax Review Committee within 20 days after the service of such notice.

(5) No petition for redetermination of redemption and refund or appeal therefrom shall be effective for any purpose unless the operator has first complied with the payment provisions of this chapter.

5.065 Security for Collection of Tax

(1) To ensure compliance with this chapter, the tax administrator may deem it necessary to require an operator to deposit with the county security in a form and amount determined by the tax administrator. The amount of the security shall not be greater than twice the operator's estimated average quarterly liability for the period for which he files returns, or $5,000, whichever amount is lesser. The amount of security may be increased or decreased by the tax administrator subject to limitations herein provided.

(2) At any time within three years after any tax, or any amount of tax required to be collected, becomes due and payable, or at any time within three years after a determination becomes final, the tax administrator may bring an action in the courts of this state, any other state, or of the United States in the name of the county to collect the amount delinquent plus penalties and interest, reasonable attorneys' fees determined by the court, and court costs.

5.070 Lien

(1) The tax imposed by this chapter together with the interest and penalties, reasonable attorneys' fees, filing fees, and advertising costs shall be and, until paid, remain a lien from the date of its recording with the clerk, and superior to all subsequent recorded liens on all tangible personal property used in the hotel of an operator within the county, and may be foreclosed on and sold as may be necessary to discharge said lien. Upon the recording of the lien with the county clerk, notice of the lien shall be issued by the tax administrator whenever the operator is in default in the payment of the tax, interest, and/or penalty. A copy of the notice shall be sent by certified mail to the operator. The tax administrator may send notice of the lien to condominium owners affected by the lien. The personal property subject to a lien seized by any deputy or employee of the tax administrator may be sold at public auction after 10-days' notice by one publication in a newspaper of general circulation published in the county. Any lien for taxes shown on the records of the

proper county official shall, upon payment of all taxes, penalties, and interest thereon, be released by the tax administrator when the full amount determined to be due has been paid to the county and the operator or person making such payment shall have a receipt thereon stating that the full amount of taxes, penalties, and interest thereon have been paid and that the lien is hereby released and the record of lien is satisfied.

(2) The lien or liens created by this section attach to all tangible personal property referenced herein. The lien or liens created shall also attach to the proceeds of the sale of tangible personal property subject to the lien or liens if:

(a) Subsequent to the recording of the lien or liens, tangible personal property, or any part thereof, is sold or delivered to an agent, broker, cooperative agency, or other person to be sold or otherwise disposed of; and

(b) The purchaser, agent, broker cooperative agency, or other person has actual or constructive notice of the filing of the lien or liens, and the proceeds that were received or will be received from the sale or other disposal of the tangible personal property have not been delivered to the owner of the tangible personal property.

(3) When a lien created by this section attaches to the proceeds of a sale of tangible personal property under subsection (2)(a) and (b) of this section, a purchaser, agent, broker, cooperative agency, or other person shall not deliver the proceeds or that portion of the proceeds equal to the amount of the lien claim to the owner until:

(a) A time specified by LCC 5.065(2) during which a suit to foreclose the lien must be commenced elapses;

(b) A court orders delivery of the proceeds; or

(c) The tax administrator issues a receipt stating that the full amount of taxes, interest, penalties, and costs thereon have been paid and that the lien is released and the record of lien is satisfied.

(4) Any person to whom a notice of lien has been given as provided by this section, who dismantles, removes from the county, misdelivers, or conceals tangible personal property or the proceeds of the sale of tangible personal property upon which there is a valid lien without the written consent of the lien claimant shall be liable to the lien claimant for damages proximately resulting therefrom which sum may be recovered according to the provisions of LCC 5.065(2). [1982 o.174 §1]

5.075 Refunds

(1) Whenever the amount of any tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or received by the tax administrator under this chapter, it may be refunded, provided a verified claim in writing, stating the specific reason upon which the claim is founded, is filed with the tax administrator within three years from the date of payment. The claim shall be made on forms provided by the tax administrator. If the claim is approved by the tax administrator, the excess amount collected or paid may be refunded or may be credited on any amount then due and payable from the operator from whom it was collected or by whom paid and the balance may be refunded to such operator, his administrators, executors, or assigns.

(2) Whenever the tax required by this chapter has been collected by an operator, and deposited by the operator with the tax administrator, and it is later determined that the tax was erroneously paid or illegally collected or received by the administrator, it may be refunded by the tax administrator to the transient, provided a verified claim in writing, stating the specific reason on

which the claim is founded, is filed with the tax administrator within three years from the date of payment.

(3) Whenever the tax required by this chapter has been collected by the operator and it is later determined that the tenant occupies the hotel for a period exceeding 30 days without interruption, the operator shall refund to such tenant the tax previously collected by the operator from that tenant as a transient. The operator shall account for such collection and refund to the tax administrator. If the operator has remitted the tax prior to the refund or credit to the tenant, he shall be entitled to a corresponding refund under this section.

5.080 Collection Fee

Every operator liable for collection and remittance of the tax imposed by this chapter may withhold 5 percent of the net tax collected, to cover the operator's expense in collection and remittance of the tax.

5.085 Administration; Records Kept and Available for Inspection

(1) The tax administrator shall deposit all money collected pursuant to this chapter to the credit of the Transient Room Tax Fund.

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

(3) The tax administrator, or an authorized deputy, may examine during business hours the books, papers, and accounting records relating to room sales of any operator, after notification to the operator liable for the tax, and may investigate the business of the operator in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.

(4) It shall be unlawful for the tax administrator or any person having an administrative or clerical duty under the provisions of this chapter to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any person required to obtain a Transient Occupancy Registration Certificate, or pay a transient occupancy tax, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth in any statement or application, or to permit any statement or application, or copy thereof, or any book containing an 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 or examination of records and equipment by another county official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this chapter or collection of taxes.

(b) The disclosure, after the filing of a written request to that effect, to the taxpayer himself, receivers, trustees, executors, administrators, assigns, and guarantors, if directly interested, of information as to any paid tax, any unpaid tax, or amount of tax required to be collected, or interest and penalties; further provided, however, that the county attorney approves each such disclosure and that the tax administrator may refuse to make any disclosure referred to under this paragraph when in his opinion the public interest would suffer thereby.

(c) The disclosure of the names and addresses of any persons to whom Transient Occupancy registration Certificates have been issued.

(d) The disclosure of general statistics regarding taxes collected or business done in the county.

5.090 Transient Lodging Tax Review Committee; Appeal; Rules and Procedure

The Board is authorized to create a Transient Lodging Tax review Committee composed of an attorney, who may be a county employee; an accountant; an operator; and, two lay members. If a committee is not created, the Board shall perform all duties and have all powers given to the committee by this chapter. The committee shall select from its members a chairman who shall serve at its pleasure. Three members of the committee shall constitute a quorum. The committee shall keep a record of its transactions. The committee shall be deemed to be in the office of the tax administrator and shall keep its files in that office. The members of the committee shall not, at any time, receive any compensation as such members or acting members for their services on the committee. The committee shall be appointed by the Board and shall serve 4-year terms, except that, the accountant, the attorney, and the operator appointed to the first committee shall serve 3-year terms only.

5.095 Duties of Committee

The committee shall have power and its duty shall be:

(1) To hear and determine appeals of orders or decisions of the tax administrator made upon petitions for redetermination of tax. The committee may affirm, modify, or reverse such orders or decisions, or dismiss the appeals, as may be just, and shall prescribe such forms, rules, and regulations relating to appeals as may be deemed necessary. In the review of the tax administrator decision or order, the committee may take such evidence and make such investigation as is deemed necessary. It shall give notice of its determinations in the manner set forth in LCC 5. 055 and shall file a copy of such determination with the tax administrator with certification thereon of the date of service thereof. Such determination shall become final 20 days thereafter and shall thereupon become due and payable subject to interest penalties and enforceable by the tax administrator as set forth in LCC 5.055.

(2) To approve, modify, or disapprove all forms, rules, and regulations prescribed by the tax administrator in the administration and enforcement of this chapter.

(3) To hear and determine in such manner as shall be just, any protest which may be made by any person who may be interested, to any form, rule, or regulation approved or prescribed by the committee.

(4) To grant for good cause, applications for extensions of time in excess of one month, for making any return or payment of tax, and to prescribe rules there for.

(5) To make such investigations as are deemed advisable regarding the imposition and administration of the transient lodging tax and report the findings to the Board; to act in an advisory capacity to the Board on matters pertaining to the transient lodging tax and enforcement problems and to recommend to the Board the adoption, amendment, or repeal of regulations pertaining thereto.

5.100 Appeal to Transient Lodging Tax Review Committee

Any person aggrieved by any decision of the tax administrator may appeal to the Transient Lodging Tax Review Committee by filing notice of appeal with the tax administrator within 20 days of the serving or mailing of the tax notice of a decision given by the tax administrator. The tax

administrator shall fix a time and place for hearing such appeal and shall give the appellant 20-days' written notice of the time and place of hearing.

5.105 Violations

It is unlawful for any operator to fail to register, furnish any required return, furnish a supplemental return, or other data required by the tax administrator, or to render a false or fraudulent return. No person required to make, render, sign, or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this chapter.

5.110 Penalties

In addition to the collection proceedings which are provided for in LCC 5.065, the failure to comply with the transient room tax of this chapter shall be punishable pursuant to LCC chapter 10. [1982 o.171 §1]

WASTE OR ABANDONMENT OF TAX FORECLOSED REAL PROPERTY

5.200 Procedure for Early Termination of Property Tax Foreclosure Redemption Period for Waste or Abandonment

(1) Pursuant to ORS 312.122, County Counsel may initiate proceedings before the Board of Commissioners to require the Lincoln County Tax Collector to deed to the County, pursuant to ORS 312.200, any real property foreclosed by the County under ORS 312.100 after the expiration of the 30-day period provided in subsection (2) of this section if:

(a) The property is subjected to waste which results in a forfeiture to the County of the right to possession of the property under ORS 312.180; or

(b) The property is not occupied by the owner or any person or entity that appears in the records of the County to have a lien or other interest in the property for a period of six consecutive months, and the property has suffered a substantial depreciation in value or will suffer a substantial depreciation in value if not occupied.

(2)(a) If property is believed to be subject to waste or abandonment as provided in subsection (1) of this section, County Counsel may set a hearing for the purpose of determining whether the property should be deeded to the County pursuant to subsection (1) of this section.

(b) The owner and any person or entity that appears in the records of the County to have a lien or other interest in the property shall be given an opportunity to be heard at the hearing provided in paragraph (a) of this subsection.

(c) If the Board determines after the hearing provided in paragraph (a) of this subsection that the property is subject to waste or abandonment as provided in subsection (1) of this section, the Board shall provide that any rights of possession the owner may have in the property are forfeited and direct the property be deeded to the county by the Lincoln County Tax Collector after expiration of a period of 30 days from the date of the action of the Board unless it is sooner redeemed by the owner or any person or entity that then appears in the records of the county to have a lien or other interest in the property. Pursuant to ORS 312.122(2)(c), all rights of redemption with respect to the real property described in that deed shall terminate on the execution of the deed to the County.

(3) Not less than 30 days prior to the hearing provided in subsection (2) of this section, County Counsel shall notify the owner and any person or entity that then appears in the records of the county to have a lien or other interest in the property of the hearing. The notice shall contain:

(a) The date, time and place of the hearing provided for in subsection (2) of this section;

(b) The date of the judgment and decree;

(c) The normal date of expiration of the period of redemption under ORS 312.120;

(d) Warning to the effect that if the Board determines that the property is subject to waste or abandonment as provided in subsection (1) of this section, the property will be deeded to the County immediately after the expiration of 30 days from the date of the Board action, and that every right or interest of any person in the property will be forfeited forever to the County unless the property is redeemed within that 30-day period;

(e) A legal description of the property and a tax account number; and

(f) The name of the owner as it appears on the latest tax roll.

(4) The notice required to be given under subsection (3) of this section shall be given by both certified mail and by regular first class mail.

(5)(a) If the notice required under subsection (3) of this section is to be given to an owner, the notice shall be addressed to the owner or owners, as reflected in the county deed records, at the true and correct address of the owner as appearing on the instrument of conveyance under ORS 93.260, or as furnished under ORS 311.555, or as otherwise ascertained by the Lincoln County Tax Collector pursuant to ORS 311.560.

(b) If the person or entity to whom the notice is required under subsection (3) of this section to be given is a lienholder, or person or entity other than the owner, having or appearing to have a lien or other interest in the property, the notice shall be addressed to the lienholder, person or entity at the address which the County knows or after reasonable inquiry, has reason to believe to be the address at which the lienholder, person or entity will most likely receive actual notice.

(6) Pursuant to ORS 312.122(6), for purposes of subsection (5)(b) of this section, if the lienholder is a corporation or a limited partnership, County Counsel shall be considered to have made reasonable inquiry if the notice is mailed to the registered agent or last registered office of the corporation or limited partnership, if any, as shown by the records on file in the office of the Corporation Commissioner (the Corporations Division of the Oregon Secretary of State) or, if the corporation or limited partnership is not authorized to transact business in this state, to the principal office or place of business of the corporation or limited partnership.

(7) As used in this section, "records of the County" has that meaning given in ORS 312.125 (7). [2003 o.422 §2]

MARIJUANA TAX

5.305 Definitions

As used in LCC 5.305 to 5.315, unless the context requires otherwise:

(1) "Marijuana items" has the meaning given that term in ORS 475B.015(16).

(2) "Marijuana retailer" means a person who sells marijuana items to a consumer in this state.

(3) "Retail sale price" means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

5.310 Tax Imposed

As described in ORS 475B.345, Lincoln County hereby imposes a tax of 3 percent on the retail sale price of marijuana items by a marijuana retailer in the unincorporated area of Lincoln County.

5.315 Collection

The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items. [2016 o.488 §1, adopted by voters November 8, 2016]

5.320 Interest and Penalty

(1) Interest shall be added to the overall tax amount due at the same rate established under ORS 305.220 for each month, or fraction of a month, from the time the return to the Oregon Department of Revenue was originally required to be filed by the marijuana retailer to the time of payment.

(2) If a marijuana retailer fails to file a return with the Oregon Department of Revenue or pay the tax as required, a penalty shall be imposed upon the marijuana retailer in the same manner and amount provided under ORS 314.400.

(3) Every penalty imposed, and any interest that accrues, becomes a part of the financial obligation required to be paid by the marijuana retailer and remitted to the Oregon Department of Revenue.

(4) Taxes, interest and penalties transferred to Lincoln County by the Oregon Department of Revenue will be distributed to the County's general fund.

(5) If at any time a marijuana retailer fails to remit any amount owed in taxes, interest or penalties, the Oregon Department of Revenue is authorized to enforce collection on behalf of the County of the owed amount in accordance with ORS 475B.700 to 475B.755, any agreement between the Oregon Department of Revenue and Lincoln County under ORS 305.620 and any applicable administrative rules adopted by the Oregon Department of Revenue. [2017 o.493 §1]

CHAPTER 6

Roads and Surveyor

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ROAD APPROACHES

6.005 Definitions

As used in LCC 6.005 through 6.055:

(1) "Applicant" means the person having the legal right to apply for a road approach permit. Such legal right is vested only in the owner or lessee of the property abutting the county road or the holder of an easement or similar right to construct and use an approach road upon the abutting property.

(2) "Road approach" means that section of the county right-of-way between the outside edge of the shoulder or curb line and the right-of-way line.

6.010 Permits

(1) Any person seeking to construct a road approach to a county road shall apply for and obtain a permit from the county before commencing any construction or activity on a county road right-of-way.

(2) All permits issued pursuant to this chapter shall be subject to the provisions of this chapter and any special provisions imposed in the permit. In the case of conflict between any provision of LCC 6.005 through 6.055 and the special provisions in a permit, the special provisions shall control.

6.015 Allocation of Cost

(1) The entire expense of constructing a road approach shall be borne by the applicant unless such costs are assumed by the county under the terms and conditions of a permit.

(2) In the event the reconstructing or widening of any county road requires the removal, alteration, or reconstruction of a road approach, the cost of such removal or replacement will be borne by the county. Any widening, change of character of use, or other improvement of a road approach at the applicant's request shall be done only under authority of a new permit and at the expense of the applicant.

(3) The entire cost of maintaining the road approach from the outside edge of the shoulder or curb line to the right-of-way line shall be the responsibility of the applicant.

6.020 Liability and Control

(1) The applicant shall be responsible and liable for all accidents, damage, or injury to any person or property resulting from the construction, maintenance, repair, operation, or use of the road approach for which the applicant may be legally liable, and the applicant shall indemnify and hold harmless the county and all officers, employees, or agents of the county against any and all damages, claims, demands, actions, causes of action, costs, and expenses which they may sustain by reason of the acts of the applicant or his agents in connection with the construction, maintenance, or use of a road approach.

(2) The applicant shall be responsible for relocating and adjusting utility facilities located on the highway right-of-way as required to accommodate the road approach. Construction of the road approach by the applicant will be permitted only after applicant has furnished engineer with satisfactory evidence that arrangements for relocation of utilities have been made. Permits are conditioned upon replacement and restoration of the county road to its original condition.

(3) The work area, during any construction or maintenance performed under a permit, shall be protected in accordance with the "Manual on Uniform Traffic Control Devices for Streets and Highways, U.S. Department of Transportation."

6.025 Location

(1) Approach roads shall be constructed only at the location approved by the engineer in the permit.

(2) The number of approaches to a single property shall be limited to a minimum that will allow the property to accommodate and service such traffic as may be reasonably anticipated, commensurate with the safety of the traveling public. In general, one approach per lot or parcel is preferred, unless additional approaches are required to accommodate anticipated traffic, as determined by the engineer.

(3) Approaches shall be located in accordance with the following standards:

(a) No approach shall be allowed where there is less than the minimum stopping sight distance unless otherwise specified by the engineer.

(b) No approach shall be allowed at a point which would interfere with the placement and proper functioning of traffic control apparatus.

(c) Approaches shall intersect a county road at or as near as is practical to a 90 degree angle.

(d) Where there are several adjacent parcels with narrow frontage or where sight distance in inadequate, a frontage road or combined approach may be required.

(e) Where two or more lots or parcels are created by partition or subdivision, one common approach shall be preferred.

(f) Where property is located at an intersection of an arterial or collector and a local public access road, the preferred approach shall be from the local public access road.

(g) No portion of any approach shall be located within five feet of an adjacent property line unless it is an approved joint approach

(h) No portion of any approach shall be located within five feet of a utility structure such as a power pole, or a roadway structure such as a cross culvert or guardrail.

(i) No portion of any approach shall be allowed within 50 feet of a bridge or bridge guardrail.

(j) Approaches shall be located as far as is practicable from any intersection with a state highway. [2008 o.456 § 14]

6.030 Design

(1) Road approaches shall be designed so as to allow movement on and off the road of vehicles which can be expected reasonably to utilize the approach without undue conflict with other traffic.

(2) The engineer may require engineering diagrams of the road approach when, in the engineer's discretion, it is necessary for safety or maintenance of county roads.

(3) The engineer may condition a road approach permit by requiring any design, which in the engineer's discretion, the engineer feels is necessary for safety or road maintenance, including hard surfacing.

(4) Approach widths shall be a minimum of 24 feet with a flare radius of 10 feet.

(5) Approach surfacing shall be matched to the surface of the county road being accessed. Surfacing specifications for gravel and asphalt concrete approaches shall be as determined by the engineer.

(6) Approach slopes shall be as determined by the engineer and specified in the permit.

(7) Where there are no curbs, culverts shall be placed under approaches as specified in the permit. The location, type, length and size of culvert shall be as determined by the engineer and specified in the permit. [2008 o.456 § 15]

6.035 Use of Road Approach

Whenever the use of a road approach is causing mud or any other debris to be deposited on a county road, the engineer may require corrective measures and may close or remove the approach until corrective measures are completed.

6.040 Effective Period and Cancellation

(1) Unless otherwise provided in the permit, a permit shall be in effect for an indefinite period of time.

(2) Failure of the applicant to comply with any of the terms and conditions of the permit, this chapter, or corrective measures required by the engineer shall be sufficient cause for cancellation of the permit and removal of the approach by the county at the applicant's expense, as provided by ORS 374.320.

(3) The permit and the privileges granted therein and the obligations of the applicant created thereby shall be binding upon the successors and assigns of the applicant.

(4) If the applicant fails to complete the road approach provided for in a permit within the period specified in the permit, the permit shall be null and void.

(5) The construction, maintenance, operation, and use of a road approach are subject to the paramount control of the county over county roads and no right of privilege granted by the permit shall be deemed or construed to be beyond the power or authority of the county.

6.045 Temporary Road Approach

Temporary permits for construction, maintenance, and use of a road approach for a specific period of time may be issued by the engineer. The engineer may require a deposit of not more than $300 per approach to guarantee removal of the approach by the applicant upon the expiration of the permit.

6.050 Bond or Deposit

Whenever the engineer deems it necessary, the applicant may be required to post a bond or other suitable security, in an amount determined by the engineer, to ensure compliance with the terms of a road approach permit or this chapter.

6.055 Issuance of Permits

The engineer may issue permits provided for by this chapter. If the engineer, in the engineer's discretion, determines that a permit is of more than routine significance, the engineer may refer the permit to the Board for final approval.

ADDRESSING AND NAMING OF ROADS

6.105 Establishment of Comprehensive Plan

(1) There is hereby established a uniform system of addressing and numbering all houses and buildings within the jurisdiction of the county. To facilitate the accurate addressing and numbering of houses and buildings, duplicative road and highway names will be eliminated and clarified. Because of the importance of integrating addressing systems in unincorporated areas with systems within the incorporated cities of the county, the county's addressing system involves seven distinct zones which are identified as follows:

(a) **Lincoln City:**

Beginning at the mouth of the Salmon River; thence east along the north county line to the Polk County line; thence south to the south line of section 12, township 9 south, range 9 west; westerly to the southwest corner of section 11, township 9 south, range 11 west; thence north along the section line to U.S. Highway 101; thence northeast to the Siletz River; thence northwest to the mouth of Siletz Bay; thence north along the coast to the point of beginning.

(b) **Depoe Bay:**

Beginning at the mouth of Siletz Bay; thence south along the coast to a point south of Otter Rock, which is on the extended south line of section 32, township 9 south, range 11 west; thence east along the line to the southeast corner of section 34, township 9 south, range 11 west; thence north along the section line to U.S. Highway 101; thence northeast to the Siletz River; thence northwest to the point of beginning.

(c) **Newport:**

Beginning at the mouth of Pumphouse Creek; thence southeast to the south line of section 18, township 12 south, range 11 west; thence easterly to the southeast corner of section 13, township 12 south, range 11 west; thence northerly to the 1/4 section point on the east line of section 25, township 11 south, range 11 west; thence southwest along the north shore of the Yaquina River to a point on the north south line between sections 26 and 27, township 11 south, range 11 west; thence north along the section lines to the northeast corner of section 3, township 13 south, range 11 west; thence westerly along the line to the Pacific Ocean; thence southwest along the coast to the point of beginning.

(d) **Siletz:**

Beginning at the northwest corner of section 14 township 9 south, range 11 west; thence east to the Lincoln County-Polk County line; thence south along said line to the southeast corner of section 36, township 9 south, range 9 west; thence east along the north line of section 6, township 10 south, range 8 west to the northeast corner; thence south to the northeast corner of section 7, township 10 south, range 8 west; thence east to the northeast corner of section 12, township 10 south, range 3 west; thence south to the southeast corner of the northeast 1/4 of section 36, township 10 south, range 8 west; thence west to the southwest corner of the northwest 1/4 of section 36, township 10 south, range 8 west; thence north to the northeast corner of the southeast 1/4 of section 26, township 10 south, range 8 west; thence west to the southwest corner of the northwest 1/4 of section 30, township 10 south, range 8 west; thence north to the southwest corner of section 18, township 10 south, range 8 west; thence west to the southwest corner of section 14, township 10 south, range 11 west; thence north to the point of beginning.

(e) **Toledo:**

Beginning at the northwest corner of section 23, township 10 south, range 11 west; thence south along the section line to the north shore of the Yaquina River; thence easterly along the river to the southeast corner of section 25, township 11 south, range 11 west; thence south along the section line to the southwest corner of section 18, township 12 south, range 10 west; thence easterly to the southeast corner of section 15, township 12 south, range 10 west; thence south to the southwest corner of section 23; thence east to the southeast corner of section 20, township 12 south, range 9 west; thence north to the northeast corner of section 20, township 12 south, range 9 west; thence east to the Lincoln County-Benton County line; thence north to the northeast corner of the southeast quarter of section 36, township 10 south, range 8 west; thence west to the northwest corner of the south-west quarter of section 26, township 10 south, range 8 west; thence west to the northwest corner of the southwest quarter of section 30, township 10 south, range 9 west; thence north to the northeast corner of section 24, township 10 south, range 9 west; thence west to the point of beginning.

(f) **Waldport:**

Beginning at the mouth of Pumphouse Creek; thence southeast to the south line of section 18, township 12 south, range 11 west; thence easterly to the northeast corner of section 22, township 12 south, range 10 west; thence south to the southeast corner of said section; thence east to the southeast corner of section 20, township 12 south, range 9 west; thence north to the northeast corner of section 20, township 12 south, range 9 west; thence east to the county line; thence follow the county line south and west to the southwest quarter corner of section 8, township 15 south, range 10 west; thence north to the northwest corner of section 20, township 14 south, range 10 west; thence west to the southwest corner of section 8, township 14 south, range 11 west; thence northwest to the mouth of Dick's Creek; thence north along the coast to the point of beginning.

(g) **Yachats:**

Beginning at the southwest corner of Lincoln County; thence easterly along the south line of said county to the east line of section 7, township 15 south, range 10 west; thence north to the northeast corner of section 19, township 14 south, range 10 west; thence northeasterly to the northeast corner of section 13, township 14 south, range 11 west; thence west to the southwest corner of section 8, township 14 south, range 11 west; thence northwesterly to the mouth of Dick's Creek; thence southwest along the coast to the point of beginning.

(2) Each of these zones represents an urban system interfaced with a rural area. The road name changes and related address changes contemplated herein will be implemented over time on a zone-by-zone basis. [1984 o.205 §1]

6.107 Findings and Purpose

The Board finds that it is necessary for the protection of the health, safety and welfare of the residents of Lincoln County to establish and enforce a county-wide, systematic and uniform address and road naming system in order to facilitate the location by emergency services and others of dwellings and businesses by address. The provisions of LCC 6.105 through 6.150 are designed to serve that end by providing procedures and standards for systematic county-wide address numbering and road naming and renaming that will eliminate problems associated with the route and box system and also prevent incorrect and duplicate addresses and street names. [1993 o.312 § 2]

6.109 Application of LCC 6.105 through 6.150

(1) The provisions of LCC 6.105 through 6.150 do not apply within the city limits of an incorporated city in Lincoln County.

(2) The Department may enter into an agreement with any municipality in Lincoln County that establishes or implements a numbering system within an established urban growth boundary of the municipality. [1993 o.312 § 3]

6.110 [1984 o.205 §1; repealed 1993 o.312 § 17]

6.112 Definitions

As used in LCC 6.105 through 6.150:

(1) "Address" means a number and a road name that is determined at the location where the access driveway intersects a public or private road which has a name adopted by Lincoln County, and that ends in a number that:

(a) Is an even number on the right side of a road from its beginning within Lincoln County;

(b) Is an odd number on the left side of a road from its beginning within Lincoln County;

(c) Is odd or even as determined by the conventions of the Highway 101 corridor zone for that zone; or

(d) Is odd or even as determined by continuation of a city addressing scheme when the address is assigned on a road that is a continuation of a city street.

(2) "Board" means the Lincoln County Board of Commissioners.

(3) "Commercial lessee" means a lessee occupying a structure or a portion of a structure having a separate street address for business purposes under a lease of one year's duration or more.

(4) "County road" has the meaning given that term in ORS 368.001.

(5) "Department" means the Lincoln County Addressing Department.

(6) "Dwelling" means a building or portion of a building designed or used as the residence or sleeping place for one or more persons.

(7) "East/West road" means a road that runs predominately East and West, and includes roads that lie predominately at an angle greater that forty-five (45) degrees from due North or South.

(8) "Grid lines" mean a part of the County Grid System which radiates from the cities and extends along the Highway 101 corridor for the entire length of the county. "Grid lines" are used as reference points to determine the numerical portion of an address that is assigned to dwellings or other structures.

(9) "Local access road" has the meaning given that term in ORS 368.001.

(10) "North/South road" means a road that runs predominately North and South, and includes roads that lie predominately at an angle less than forty-five (45) degrees from due North or South.

(11) "Private road" is a road that is not a public road.

(12) "Public road" has the meaning given that term in ORS 368.001.

(13) "Road" has the meaning given that term in ORS 368.001.

(14) "Structure" means anything constructed or built, any edifice or building of any kind, or piece of work artificially built up or composed of parts joined together in some definite manner,

which requires location on the ground or is attached to something having a location on the ground. [1993 o.312 § 4]

6.114 Authority to Assign and Change Address Numbers

The Department is delegated authority to assign and change address numbers for vacant lots, dwellings and other structures requiring addresses as provided by LCC 6.105 through 6.150. [1993 o.312 § 5]

6.115 [1984 o.205 §1; repealed 1993 o.312 § 17]

6.117 Procedures and Standards for Assigning New Address Numbers

The procedures for assigning new address numbers are as follows:

(1) When a building permit or mobile home placement permit is issued for a new dwelling or other structure on a lot or parcel that does not have an address, the permit shall be considered a request for an address. The Department shall assign an address number based on the street location of the structure's access and its location in the Lincoln County Addressing System.

(2) Addresses involving sites not requiring permits may be assigned if the site may have cause for emergency dispatch.

(3) Property numbering methodologies employed in each of the urban areas of the zones shall be extended as far as practicable into rural areas, taking into account considerations of topography, land use, population density, and road or highway characteristics. At the point at which existing methodologies are no longer useful in light of these considerations, property numbers shall be based upon a lineal system according to road mileage and road frontage. Dwellings and structures within this category shall be assigned numbers in the following manner:

(a) Houses and buildings will be numbered according to a lineal system in which all numbers are assigned consecutively from the beginning of a road along its length to its end without regard to how it integrates with the rest of the rural area.

(b) Even numbers will always be assigned on one side of the road or highway, and odd numbers will always be assigned to the other side of the road or highway. House and building numbers will be assigned on the basis of where a driveway joins the road or highway, or the location of its branch on an access road.

(c) In gridded areas, houses and buildings will be numbered according to the prevailing direction of the road segment or, in other words, when running east/west, numbers will be assigned corresponding to east/west conventions, and if the road runs north/south, numbers will be assigned according to north/south conventions.

(d) Other methodologies for subdivisions may be deemed acceptable by the Department if they meet standards which promote the emergency service response time.

(4) Each new single-family dwelling shall have one address number.

(5) New duplexes, triplexes, and fourplexes shall be given an address number for each living unit.

(6) New apartment complexes, mobile home parks, and other multi-unit complexes shall be given an address number as one dwelling, and the owner shall assign individual address numbers in a manner that is acceptable to the Department. [1993 o.312 § 6]

6.119 Procedures and Standards for Changing Existing Address Numbers

The provisions of LCC 6.117 shall apply to the changing of existing address numbers. In addition, the following procedures and standards also apply:

(1) The changing of an existing address may be initiated by the Department, or by application by the property owner or any public agency that may be affected by the address number.

(2) All changes in address numbers shall conform to the Lincoln County Addressing System and the standards for address numbers set forth in LCC 6.105 through 6.150. Any application or proposed change not in conformance with these standards shall be denied.

(3) An existing address may be changed by the Department if it is not in conformance with the Lincoln County Addressing System and the standards for addresses set forth in this chapter. Proposed address changes shall be carried out pursuant to the procedures set forth in LCC 6.105 through 6.150.

(4) An application to change an address shall be made to the Department and shall include, at a minimum, the following:

(a) The name of the applicant;

(b) The location of any dwelling or structure;

(c) The existing address;

(d) The reason for the address change; and

(e) An application fee as established by order of the Board.

(5) If the Department determines that the application is consistent with the standards set forth in LCC 6.105 through 6.150, it shall proceed with the application in the manner provided by LCC 6.105 through 6.150.

(6) The Department shall provide notice of an address number change to the affected property owner. The address change will go into effect ten (10) days after the notice is provided. The proposed address change will be altered only if the owner or occupant can provide evidence that the new address is not in conformance with the standards set forth in LCC 6.105 through 6.150.

(7) The Department shall notify the offices of the County Clerk, County Assessor, and any other county designated agency, of a changed address within thirty (30) days of the date the new number becomes effective. [1993 o.312 § 7]

6.120 [1984 o.205 §1; repealed 1993 o.312 § 17]

6.122 General Requirements for Posting of Address Numbers

(1) All property located outside of municipal boundaries in Lincoln County on which a structure is located and which may require emergency service response shall display an address number.

(2) Address numbers shall be permanently affixed in a location on the property that is clearly visible from the road used as the basis for numbering. The numbers shall not be less that three inches in height, shall be painted upon or affixed to the dwelling or structure in a contrasting and visible color, and shall comply with zoning and other ordinance standards for signs.

(3) In cases where the dwelling or structure is not visible from the access road, and the mailbox is not located at the end of the access driveway, the assigned numbers shall be displayed in a conspicuous manner at or near the point at which the driveway serving the structure accesses the road.

(4) All structures under construction that have been issued an address shall display a street address number. The numbers as displayed shall conform to the requirements in subsections (2) and (3) of this section, except that the numbers may be affixed to a sign visible from the road used as the basis for numbering.

(5) Every owner and commercial lessee of a structure shall display an address number in conformance with this section. [1993 o.312 § 8]

6.124 Posting of Assigned or Changed Address Numbers

Address numbers assigned or changed by the Department pursuant to LCC 6.105 through 6.150 shall comply with the requirements of LCC 6.122 and the following additional requirements:

(1) Address numbers assigned or changed by the Department must be displayed within thirty (30) days from the date on which construction begins or on which the address becomes effective.

(2) Address numbers assigned to structures erected after July 1, 1993, must be permanently displayed before occupancy or use. At the time of final inspection of a new structure, the Building Official or his designee shall verify that the assigned address numbers have been affixed in the manner required by LCC 6.105 through 6.150.

(3) Every owner and commercial lessee shall be responsible for ensuring that the address number as assigned or changed by the Department is displayed in accordance with the provisions of LCC 6.105 through 6.150. [1993 o.312 § 9]

6.125 [1984 o.205 §1; repealed 1993 o.312 § 17]

6.126 Failure to Display Assigned or Changed Address Number

A person commits the offense of failure to display an assigned or changed address if the person:

(1) Fails to display an assigned or changed address number as required by LCC 6.105 through 6.150; or

(2) Displays an address number other than the address number assigned or changed pursuant to the provisions of LCC 6.105 through 6.150. [1993 o.312 § 10; renumbered 1994 o.340 § 1]

6.127 Authority to Name Roads

The Department, subject to approval by the Board, is delegated authority to assign and change road names pursuant to the standards set forth in LCC 6.105 through 6.150. [1993 o.312 § 11; renumbered 1994 o.340 § 2]

6.128 Unnamed Roads

Each unnamed private road and each unnamed public road, whether a county road or local access road, may be assigned a name in accordance with the procedures set forth in LCC 6.105 through 6.150 if:

(1) The road provides access to three or more dwellings; or

(2) The Department determines that assigning a name is necessary in order to adequately direct emergency service providers. [1993 o.312 § 12; renumbered 1994 o.340 § 3; 1994 o.340 § 4]

6.129 Procedures for Naming New Roads

(1) The naming of a road may be initiated by the Department, the Planning Commission, the Board, or by application of adjacent property owners, developers, or public agencies which may be affected by road names.

(2) An application to name a road shall be submitted to the Department and shall include, at a minimum, the following:

(a) The name of the applicant;

(b) The location of road by description, map, or both;

(c) The legal status of road, if known;

(d) The proposed road name, with two alternatives;

(e) The reason for the name request;

(f) The original of any petition; and

(g) An application fee as established by order of the Board.

(3) Notice of a proposed name assignment shall be sent to all persons owning property abutting the affected road or having an address on the affected road. The notice shall be sent within ten days of the receipt of an application or other action initiating the proposed name assignment.

(4) Persons receiving notice under subsection (3) of this section shall promptly notify any tenants or other occupants of the affected property of the proposed name assignment.

(5) Any person receiving notice under subsection (3) or (4) of this section may comment in writing on the proposed name within ten days from the date of the notice.

(6) The proposed name shall:

(a) Not duplicate existing road names, except for continuations of existing roads, within any one zone.

(b) Not sound so similar to other road names within a zone so as to be confusing.

(c) Not use designations such as "Loop," "Way," "Place," or other similar designations, as part of the road name.

(d) Improve or clarify the identification of the area.

(e) Be an historical name or theme name when possible.

(f) Reflect a consensus of sentiment of affected owners and occupants when possible, subject to the other standards contained in this subsection.

(7) In the following circumstances, a proposed road name shall also conform to the following additional standards:

(a) Long meandering roads going North, South, East, or West shall be called "roads" or "streets."

(b) Roads dead-ending in a turnaround 1,000 feet or less from their beginning points shall be called "courts."

(c) Roads of reduced right-of-way or curving roads of less than 1,000 feet shall be called "lanes" or "terraces."

(d) Curving roads longer than 1,000 feet shall be called "drives" or "trails."

(e) Roads that deviate slightly from the main course of a road with the same name and are less than 1,000 feet in length, shall be called "places."

(f) Roads running at oblique angles to the four points of the compass, less than 1,000 feet in length, shall be called "ways."

(g) Roads that begin at and circle back onto the same road, or that are circular or semicircular, shall be called "circles" or "loops."

(h) Road designator abbreviations for new and existing roads shall conform to the current standards established by the National Emergency Number Association (NENA).

(8) The Department shall review road name applications and shall recommend road names to the Board under the following procedure:

(a) The Department shall verify the legal status of the road with the County Clerk's office, County Assessor's office, and County Road Department.

(b) The Department shall verify that the proposed road name will not duplicate or be confusingly similar to another existing road name, with a road name on an approved preliminary land division, or with a road name approved for future use.

(c) The Department shall perform a field check when necessary.

(d) The Department shall assist the applicant or other affected persons to find alternative names when required.

(e) The Department shall notify appropriate persons, departments, and agencies of the road name application, and request comments.

(f) The Department shall review and consider all comments submitted.

(g) The Department shall recommend a road name to the Board in accordance with the standards set forth in this section.

(9) Following the recommendation of a proposed name by the Department, the Department shall send notice of the proposed road name to all persons entitled to notice under subsection (3) of this section.

(10) Affected property owners and occupants shall have the right to appeal the proposed road name to the Board. An appeal pursuant to this subsection must be filed within ten days from the date of the notice provided under subsection (9) of this section.

(11) If an appeal is timely filed pursuant to subsection (10) of this section, the Board shall conduct a public hearing on the matter. All interested persons may appear at the public hearing and be heard. The issue on appeal shall be limited to whether the Department correctly applied the criteria set forth in this section and whether the Board approves of the proposed road name. If the Board finds that the Department properly applied the criteria set forth in this section and if the Board approves of the proposed road name, the Board shall enter an order of approval. If the Board rejects the proposed road name, the Board shall order the Department to review the matter further and submit a new proposed road name to the Board.

(12) If no appeal is timely filed pursuant to subsection (10) of this section and the Board approves of the proposed road name, the Board shall notify the Department of its approval.

(13) Once the Board has approved a proposed road name, the Department shall send notice of the approval to the applicant requesting the road name, if any, each affected property owner, the Assessor's office, the County Clerk's Office, the Planning Department, the Road Department, each affected telephone and other utility company, the affected fire department, each affected emergency agency, and the United States Post Office.

(14) Affected property owners and occupants shall have 90 days from the date of Board approval of a proposed road name to begin using the road name. [1993 o.312 § 13; 1993 o.324 §1; 1995 o.357 § 1]

6.130 [1984 o.205 §1; repealed 1993 o.312 § 17]

6.132 Procedures and Standards for Changing Existing Road Names

The procedures and standards provided in LCC 6.129 shall apply to the changing of existing road names, in addition to the following procedures and standards:

(1) An existing road name may be changed by the Department if the existing name:

(a) Duplicates a pre-existing road name within the same addressing zone or geographic area;

(b) Sounds like or is spelled so similarly to a pre-existing road name in the same addressing zone or geographic area as to cause confusion between the two roads;

(c) Is known by more than one name;

(d) Is different than the name of the road that it is a continuation of; or

(e) Is not consistent with county road naming standards set forth in LCC 6.105 through LCC 6.150.

(2) In choosing which road name to change as between two roads with the same or similar names, the Department shall consider the following factors:

(a) The number of properties, developed and undeveloped, abutting each affected road;

(b) The length of time a name has been in use to designate each affected road and whether the name used to designate each affected road has any historic significance;

(c) Whether one affected road as named is relatively better known by the general public than the other affected road as named; and

(d) Any showing that a proposed road name change would be relatively more burdensome to abutting property owners than if another affected road name were changed. [1993 o.312 § 14]

6.134 Road Sign Standards

(1) Public road signs shall be green with white letters and constructed to standards established by the Road Department.

(2) Private road signs shall be signed in accordance with the standards established by the Road Department, or in accordance with the standards of the Department.

(3) Road signs shall be installed pursuant to in accordance with standards established by the Road Department and maintained so they are fully visible from all intersecting roads. [1993 o.312 § 15]

6.135 [1984 o.205 §1; repealed 1993 o.312 § 17]

6.140 [1984 o.205 §1; repealed 1993 o.312 § 17]

6.145 Penalty

Any person violating any provision of LCC 6.105 through 6.150 shall, upon conviction thereof in the Lincoln County District Court, be punished by a fine of not more than $100. [1984 o.205 §1; 1993 o.312 § 16]

6.150 Enforcement

This chapter may be enforced pursuant to LCC chapter 10, or by any other remedies available at law or equity, or by any combination thereof. [1984 o.205 §1]

ROAD VACATION PROCEEDINGS

6.205 Petition for Vacation of Public Road

A petition for vacation of a public road as provided in ORS chapter 368 shall be accompanied by:

(1) A filing fee paid to the county clerk in an amount set by order of the Board of Commissioners;

(2) An adequate legal description of the portion of the road proposed to be vacated, which has been prepared by a title company, surveyor, attorney or other comparable professional; and

(3) A preliminary title report or plant report that has been prepared by a title and escrow company licensed to transact business in the State of Oregon which provides title information including, but not limited to, a list of each person with a recorded interest in any of the following:

(a) The property proposed to be vacated.

(b) An improvement constructed on public property.

(c) Real property abutting public property proposed to be vacated.

(d) Any holder of an easement, license, or other interest that provides access to the area to be vacated. [1982 o.186 §1; 1993 o.313 § 10; 1993 o.321 § 1; 1994 o.348 §1]

6.210 Petition for Vacation or Decrease in Width of County Road

A petition for vacation or decrease in the width of a county road as provided in ORS chapter 368 shall be accompanied by:

(1) A filing fee paid to the county clerk in an amount set by order of the Board of Commissioners;

(2) An adequate legal description of the portion of the road proposed to be vacated, which has been prepared by a title company, surveyor, attorney or other comparable professional; and

(3) A preliminary title report or plant report that has been prepared by a title and escrow company licensed to transact business in the State of Oregon which provides title information including, but not limited to, a list of each person with a recorded interest in any of the following:

(a) The property proposed to be vacated.

(b) An improvement constructed on public property.

(c) Real property abutting public property proposed to be vacated.

(d) Any holder of an easement, license, or other interest that provides access to the area to be vacated. [1982 o.186 §1; 1993 o.313 § 11; 1993 o.321 § 2; 1994 o.348 §2]

6.215 [repealed 1982 o.186 §1]

ROAD OPERATIONS

6.305 Definitions

As used in LCC 6.305 to 6.360, unless the context requires otherwise:

(1) "Applicant" means the corporation, company, firm, business, partnership, individual, or individuals named in the permit, or the agents, employees, representatives, or contractors thereof.

(2) "Pole line" means any poles, wires, guys, anchors, or related fixtures authorized in a permit.

(3) "Buried cable" means any cables, wires, conduit, pedestals, or related fixtures authorized in a permit.

(4) "Pipe line" means any and all pipe lines, hydrants, valve boxes, manholes, conduits, or related fixtures authorized in a permit.

(5) "Sign" means any and all signs and related fixtures authorized in a permit.

(6) "Miscellaneous facility" means the facility authorized in a permit, other than pole line, buried cable, pipe line, or sign.

(7) "Miscellaneous operations" means the performance of miscellaneous operations as described in a permit.

(8) "Special provisions" means those provisions shown under the heading "Special Provisions" in a permit.

6.310 Permits

(1) Any person seeking to use or who desires to change, expand, or repair an existing use of a county road right-of-way for a pole line, buried cable, pipe line, sign, miscellaneous facility, or miscellaneous operation shall apply for and obtain a permit from the county before commencing any construction or activity on a county road right-of-way.

(2) All permits shall be subject to the provisions of this chapter and any special provision imposed by the county. In the case of conflict between the general provisions of this chapter and special provisions in the permit, the special provisions shall control.

(3) Permits shall not be issued to facilities not in compliance with LCC chapter 1.

6.315 Allocation of Costs

(1) The entire cost of installing, maintaining, repairing, operating, or using the pole line, buried cable, pipe line, sign, or miscellaneous facility, or performing miscellaneous operations, and of any other expense incident to the facilities or operations authorized by the permit shall be paid by the applicant.

(2) The applicant shall reimburse the county for any reasonable and necessary expenses that the county may incur in connection with the facilities or operations authorized by the permit. The reimbursement of the county shall be made by the applicant within 10 days after receiving a statement from the engineer.

6.320 Liability and Control

(1) The applicant shall indemnify and hold harmless the county, Board, all officers, employees, or agents of the county against all damages, claims, demands, actions, costs, and expenses which may result from any injury to or the death of any person or from the loss of, or damages to, property of any kind or nature, including the road and road facilities or structures,

property, or equipment used or owned by the county or the road department, and facilities which now or may hereafter occupy the right-of-way of said road, when such injury, death, loss, or damage arises out of the construction, installation, maintenance, repair, removal, relocation, operation, or use of the pole line, buried cable, pipe line, sign, or miscellaneous facility covered by the permit, or out of miscellaneous operation authorized by the permit.

(2) The county, its officers, or employees shall not be held responsible or liable for injury or damage that may occur to facilities covered by the permit or any connection thereto by reason of road maintenance and construction operations or resulting from motorist or road user operations or road contractor or permittee operations.

(3) The applicant shall employ methods in performing the operations authorized by the permit which the engineer may require in order to properly protect the public from injury and the road from damage.

(4) During the initial installation or construction of the facilities authorized by the permit, or during any future repair, removal, or relocation thereof, or during any miscellaneous operations, the applicant shall at all times maintain such flagpersons, signs, lights, flares, barricades, and other safety devices during non-work hours and the engineer may request and be furnished the telephone number and address of such watchmen.

(5) The applicant shall conduct his operations so that there will be a minimum of interference with or interruption of traffic upon and along the road. Except in emergencies, there shall be no interference with or interruption of traffic upon and along the road until a plan for the satisfactory handling of traffic has been prepared by the permit holder and approved by the engineer. In emergencies, the applicant shall notify the engineer as soon as possible.

(6) All traffic control and safety devices used for the protection of the work areas shall conform to the current provisions of the "Oregon Manual on Uniform Traffic Control Devices, Technical Bulletin No. 28".

(7) To ensure compliance with the terms and conditions of the permit, the county reserves the right to inspect actions taken under a permit at any time and to require the applicant to correct all deviations from the permit. The cost of such inspection shall be paid by the applicant under the terms outlined in LCC 6.315.

(8) Any supervision and control exercised by the engineer shall in no way relieve the applicant of any duty or responsibility to the general public, nor shall such supervision and control relieve the applicant from any liability for loss, damage, or injury to persons or property as provided in LCC 6.325.

(9) Notice must be given to the engineer at least two working days prior to commencement of actual construction under a permit.

6.325 Insurance and Bond

(1) When requested in writing by the engineer, the applicant or his contractor shall obtain and carry, for the period of time required for the complete installation of the facilities authorized by the permit, including the repair and restoration of the road facilities, and also during such future period of time when operations are performed involving the repair, relocation, or removal of said facilities authorized by the permit, a liability and property damage insurance policy providing coverage against any claim, demand, suit, or action for property damage, personal injury, or death resulting from any activities of the applicant, his officers, employees, agents, or contractors in connection with the construction, installation, repair, or removal of facilities authorized by the

permit and the repair and restoration of the road facilities. The policy shall also include as named insured, the county, its officers, agents, and employees except as to claims against the applicant, for personal injury to any officers, agents, and employees of the county or damages to any county property. The policy shall provide coverage in the following amounts: $50,000 for property damage resulting from any single occurrence; and $100,000 for the death or injury of any person, subject to a limit of $300,000 for injuries or deaths resulting from any single occurrence. The policy shall be by an insurance company duly authorized and licensed to do business in the State of Oregon. A copy of the policy shall be submitted to the engineer and approved by him before any work is commenced under this permit.

(2) When requested in writing by the engineer, the applicant, or his contractor, shall furnish for the period of time required for the complete installation of the facilities authorized by the permit, including the repair and restoration of the road facilities, and also during such future periods of time when operations are performed involving the repair, relocation, or removal of said facilities authorized by the permit, a bond or cash deposit in the amount specified in the special provisions of the permit. If a bond is furnished, it must be written by a surety company duly qualified and licensed to do business in Oregon and in a form satisfactory to the engineer. No work shall be commenced under the permit until security has been submitted to and approved by the engineer.

6.330 Construction and Location Details

(1) The applicant shall submit with the application the following:

(a) Drawings or sketches showing in detail the location of the proposed facility or operation with respect to existing and planned road improvement, the traveled way, the right-of-way lines, and, where applicable, the access control lines and approved access points;

(b) The details of the attachment method if facilities are to be attached to a road structure;

(c) Pressure pipelines data, if applicable as set forth below:

(A) Design pressure of pipe;

(B) Normal operating pressure; and

(C) Maximum operating pressure.

(2) The applicant's completed facility shall be in substantial conformance with the information required by subsection (1) of this section, unless permission is obtained from the engineer to modify during installation. When a modification is approved, applicant shall furnish the engineer four sets of "as constructed" drawings or sketches.

(3) All work in connection with the facility authorized by the permit shall be done in a neat and workmanlike manner to the satisfaction of the engineer, and construction shall conform to the rules of the Oregon State Public Utility Commissioner, the Oregon State Board of Health, or other governmental agencies having regulatory authority over the facility. In the event the above agencies do not prescribe standards which provide the degree of protection substantially equal to the following industry codes, then the appropriate industry codes shall apply:

(a) United States of America Standards Institute, 10 East 40th Street, New York, N.Y. 10016:

(A) USAS B 31.1.0; Current Issue; Power Piping Systems;

(B) USAS B 31.3; Current Issue; Petroleum Refinery Piping;

(C) USAS B 31.4; Current Issue; Liquid Petroleum Transportation Piping Systems;

(D) USAS B 31.8; Current Issue; Gas Transmission and Distribution Piping Systems.

(b) American Petroleum Institute, 1271 Avenue of the Americas, New York, N.Y. 10020:

API RP 1102; Current Issue; Recommended Practice for Liquid Petroleum Pipelines Crossing Railroads and Highways.

(c) American Water Works Association, 2 Park Avenue New York, N.Y. 10016:

AWWA Standards and Specifications; Current Issue.

(d) National Bureau of Standards, U.S. Department of Commerce, for sale by Superintendent of Documents, U.S. Government Printing Office, Washington D.C. 20401:

(A) National Electric Safety Code; Current Issue.

(B) Safety Rules for the Installation and Maintenance of Electric Supply and Communication Lines; Current Issue.

(4) Corrugated metal pipe and concrete pipe used as a conduit or casing pipe or a gravity flow carrier pipe shall, as a minimum, conform to requirements of the current issue of "State of Oregon, Standard Specifications for Highway Construction." Smooth iron or steel pipe used as a conduit or casing pipe shall be the standard type used for pressure pipe.

(5) No trench shall be excavated with a top width in excess of 18 inches more than the outside diameter of the pipe, conduit, or cable to be installed unless permission is obtained from the engineer.

(6) The backfilling of all trenches and tunnels must be accomplished immediately after the facility authorized by the permit has been placed therein and must be well tamped and fully compacted so as to allow the least possible amount of subsequent settlement.

(7) All debris, refuse, and waste of all kinds which may have accumulated upon the road right-of-way by reason of the operations of the applicant shall be removed immediately upon completion of the said operations, and the road right-of-way restored to the condition it was prior to construction.

(8) Unless permission is obtained from the engineer to open cut for pipe line or conduit which crosses under the surfaced portion of the road and shoulders, road or street connections, road approaches, or driveways, the permit holder shall tunnel, jack, or drive under the surface in accordance with the following provisions:

(a) Trenching shall be no nearer the toe of the fill slope in fill sections or the point where the outer edges of the surfacing meets the sub-grade in other sections than specified in the special provisions.

(b) Tunneling shall be by an approved method which supports the surrounding materials so as to prevent caving or settlement. Areas around the installed pipe or conduit shall be backfilled with moist sand, granular material, or cement grout filling all voids and packed in place with mechanical tampers or other approved devices. Lagging, bulk heading, and timbering shall be removed as the backfilling progresses.

(c) Jacking, driving, or boring shall be by approved means which will hold disturbances of surrounding material to a minimum. Sluicing and jetting is not permitted. Voids or displacement outside the outside perimeter of the pipe, conduit, or cable where greater than 0.1 foot, shall be filled with sand or cement grout packed in place.

(9) When permission is granted to open cut the surfaced portion of the road, the following provisions shall be followed:

(a) Trench edges in paved areas shall be sawn or cut to neat lines by methods satisfactory to the engineer to a depth sufficient to permit removal of pavement without damage to pavement to be left in place. Pavement within the cutting limits, together with all other excavated material, shall be removed and disposed of outside road right-of-way.

(b) No more than half of the traveled way shall be trenched at one time. The opened half shall be completely backfilled before opening the other half.

(c) Closure of intersecting streets, road approaches, or other access points will not be permitted. Upon trenching across such facilities, steel running plates, planks, or other satisfactory methods shall be used to provide for traffic to enter or leave the road or adjacent property.

(d) No more than 300 feet of trench longitudinally along the road shall be open at one time and no trench shall be left in open condition overnight.

(e) Immediately after a facility authorized by a permit has been placed in the trench, the trench shall be backfilled with compacted granular material, commonly designated as previous material, which cannot be ribboned out between the finger and thumb, and which is free from humus, organic matter, vegetable matter, frozen material, clods, sticks and debris, and contains no stones having a dimension greater than three inches. Said granular material shall be placed to an elevation which will allow placing the following foundation material and wearing surface:

(A) Where original surface was asphalt concrete or bituminous treatment or mix:

(i) Wearing surface: Asphalt concrete placed to a compacted thickness of four inches or the thickness of the removed pavement, whichever is greater;

(ii) Foundation material: Either 1-0 inch or 3/4-0 inch aggregate placed to a compacted thickness of four inches or the thickness of the removed stone base, whichever is greater.

(B) Where original surface was crushed rock or gravel, wearing surface and foundation material: Either 1-0 inch or 3/4-0 inch aggregate placed to a total compacted thickness of four inches or the thickness of the removed stone base and wearing surface, whichever is greater.

(C) All materials in subparagraphs (A) and (B) of this paragraph, and their placement, shall conform to the requirements of the current Oregon State Highway Standard Specifications for Highway Construction.

(f) For a period of one year following the patching of the paved surface, the applicant shall be responsible for the condition of pavement patches and, during that time, shall, upon request of the engineer, repair to the engineer's satisfaction any patches which become settled, cracked, broken, or otherwise faulty.

(10) Unless permission is obtained from the engineer, direct burial of cable placed by the ploughing method shall be limited to areas outside the surfaced portion of the road.

(11) Standard warning signs for buried power or communications cable and for pipelines carrying gas or flammable liquids shall be placed at each crossing under the road and at intervals along longitudinal installations as required by current PUC order, or as specified by the engineer:

(a) Signs shall be offset as near the right-of-way line as practical; and

(b) Signs for installations located within the roadbed may be placed behind existing guard rail.

(12) Pole line locations over the roadway shall have a minimum height of the lowest wire at 20 feet; locations parallel and not on the traveled portion, the minimum height of the lowest wire shall be 18 feet. Poles shall be located not less than 12 feet from the edge of pavement on paved-surfaced roads, or not less than eight feet from the shoulder on gravel-surfaced roads. Wherever possible, poles shall be located along the tangent section of roads and on the short curve radius side of curves. Poles to be located on the long radius side of curves will require additional approval by the engineer and will be subject to special conditions.

(13) Pedestals installed as part of a buried cable installation are to be located one foot from the right-of-way line unless permission is obtained from the engineer to locate elsewhere. In no

case shall the pedestals be located within the road maintenance operating area, including mowing operations, or nearer the pavement edge than any official highway sign in the same general location.

(14) The buried cable or pipe depth shown on the permit form represents the distance from the top of the surface or ground line to the top of the cable or pipe.

(15) It is strictly forbidden to spray herbicides and cut or trim trees or shrubs growing on the road right-of-way unless written permission has been obtained from the county.

6.335 Removal, Relocation and Repair

(1) Permits issued under this chapter are subject to modification by the county including removal, relocation, or repair of the pole line, buried cable, pipe line, sign, or miscellaneous facility covered by the permit at the sole cost of the applicant.

(2) Upon receiving written notice from the engineer to remove,
relocate, or repair a pole line, buried cable, pipe line, sign, or miscellaneous facility, the applicant shall, within 30 days, make arrangements for the removal, relocation, or repair of the same, at the permit holder's cost, in accordance with the notice and instructions received from the engineer. Before commencing the removal, relocation, or repair, the permit holder shall furnish such insurance and post such bond as the engineer may consider necessary at that time in the manner provided for in LCC 6.325.

(3) Should the permit holder fail to remove, relocate, or repair a pole line, buried cable, pipe line, sign, or miscellaneous facility, the engineer may remove, relocate, or repair the same and submit a statement of total costs for the work to the permit holder. Upon receiving the statement, the permit holder shall pay to the county the full amount of removal, relocation, or repair costs. The applicant, in obtaining a permit, also agrees to pay statutory court costs, disbursement, and attorney fees if an action must be commenced to obtain costs billed pursuant to this section.

6.340 Maintenance and Operation

(1) Permit holders shall keep facilities authorized by a permit in a good state of repair.

(2) If the operating pressure for existing pressure pipe lines covered by a permit is raised above the "maximum operating pressure" shown in a permit, application for a new permit or an amendment to the existing permit is required.

(3) If additional conductors, or replacement conductors of a higher capacity, on an existing aerial pole line covered by a permit are installed, application for a new permit or an amendment to the existing permit is required.

6.345 Other Agencies

(1) Nothing in a permit issued pursuant to this chapter is intended to grant rights or imply approval in areas not falling within the authority and jurisdiction of the county. It is the responsibility of the applicant to determine the need for and to obtain such licenses, permits, or other form of approval which may be required by state agencies, federal agencies, cities, utility companies, and railroads.

(2) If the section of road covered by the permit is located within a national forest, considering that Lincoln County does not generally have any further rights across national forest land than an easement for road purposes, the permit extends only to such rights as Lincoln County has acquired and may therefore properly give. Except as provided in this subsection, on national

forest lands where the utility constitutes a servitude on the property of the United States, a permit from the forest service must be obtained before a county permit will be issued.

6.350 Effective Period of Permit

(1) Unless otherwise provided in the special provisions, a permit shall be in effect for an indefinite period of time.

(2) Failure of the applicant after notice by the engineer to comply with the terms of a permit shall be sufficient cause for cancellation of a permit.

(3) The permit and the privileges granted and the obligations of the permit holder created thereby shall be binding upon the successors and assigns of the permit holder. Permit holders shall give the engineer written notice of assignment or transfer.

(4) If the applicant fails to commence installation of the pole line, buried cable, pipe line, sign, or miscellaneous facility covered by the permit within 12 months from the date the permit is issued, the permit shall be null and void.

6.355 Engineer Issuance of Permits

(1) The engineer may issue all permits provided for by this chapter. If the engineer, in his discretion, determines that a permit is of more than routine significance, he may refer the permit to the Board for final approval.

(2) County road approach permits for structures requiring access from a county road shall be approved prior to issuance of county building permits.

6.360 Appeals

Any decision of the engineer under LCC 6.305 to 6.360 may be appealed to the Board of Commissioners upon filing a petition for review with the Board and the payment of an appeal fee in an amount set by order of the Board. [1993 o.313 §14]

6.380 Construction and Location Details for Local Access Roads Within a Special Road District

(1) No person shall perform any work to change, expand, or repair an existing use of a local access road right-of-way within a special road district for a pole line, buried cable, pipe line, sign, miscellaneous facility, or miscellaneous operation, unless the work complies with the requirements of this section.

(2) All work in connection with the facility shall be done in a neat and workmanlike manner. Work zone signage and traffic control shall conform to the rules of the Oregon Department of Transportation. Construction shall conform to the rules of the Oregon State Public Utility Commissioner, the Oregon State Board of Health, or other governmental agencies having regulatory authority over the facility. In the event the above agencies do not prescribe standards which provide the degree of protection substantially equal to the following industry codes, then the appropriate industry codes shall apply:

(a) United States of America Standards Institute, 10 East 40th Street, New York, N.Y. 10016:

(A) USAS B 31.1.0; Current Issue; Power Piping Systems;

(B) USAS B 31.3; Current Issue; Petroleum Refinery Piping;

(C) USAS B 31.4; Current Issue; Liquid Petroleum Transportation Piping Systems;

(D) USAS B 31.8; Current Issue; Gas Transmission and Distribution Piping Systems.

(b) American Petroleum Institute, 1271 Avenue of the Americas, New York, N.Y. 10020:

API RP 1102; Current Issue; Recommended Practice for Liquid Petroleum Pipelines Crossing Railroads and Highways.

(c) American Water Works Association, 2 Park Avenue New York, N.Y. 10016:

AWWA Standards and Specifications; Current Issue.

(d) National Bureau of Standards, U.S. Department of Commerce, for sale by Superintendent of Documents, U.S. Government Printing Office, Washington D.C. 20401:

(A) National Electric Safety Code; Current Issue.

(B) Safety Rules for the Installation and Maintenance of Electric Supply and Communication Lines; Current Issue.

(3) Corrugated metal pipe and concrete pipe used as a conduit or casing pipe or a gravity flow carrier pipe shall, as a minimum, conform to requirements of the current issue of "State of Oregon, Standard Specifications for Highway Construction."

(4) No trench shall be excavated with a top width in excess of 18 inches more than the outside diameter of the pipe, conduit, or cable to be installed unless permission is obtained from the district.

(5) The backfilling of all trenches and tunnels must be accomplished immediately after the facility has been placed therein and must be well tamped and fully compacted so as to allow the least possible amount of subsequent settlement.

(6) All debris, refuse, and waste of all kinds which may have accumulated upon the road right-of-way by reason of the operations shall be removed immediately upon completion of the operations, and the road right-of-way restored to the condition it was prior to construction.

(7) Unless permission is obtained from the district to open cut for pipe line or conduit which crosses under the surfaced portion of the road and shoulders, road or street connections, road approaches, or driveways, the person performing the work shall tunnel, jack, or drive under the surface in accordance with the following provisions:

(a) Trenching shall be no nearer the toe of the fill slope in fill sections or the point where the outer edges of the surfacing meets the sub-grade.

(b) Tunneling shall be by an approved method which supports the surrounding materials so as to prevent caving or settlement. Areas around the installed pipe or conduit shall be backfilled with moist sand, granular material, or cement grout filling all voids and packed in place with mechanical tampers or other approved devices. Lagging, bulk heading, and timbering shall be removed as the backfilling progresses.

(c) Jacking, driving, or boring shall be by approved means which will hold disturbances of surrounding material to a minimum. Sluicing and jetting is not permitted. Voids or displacement outside the outside perimeter of the pipe, conduit, or cable where greater than 0.1 foot, shall be filled with sand or cement grout packed in place.

(9) When permission is granted to open cut the surfaced portion of the road, the following provisions shall be followed:

(a) Trench edges in paved areas shall be sawn or cut to neat lines by methods satisfactory to the district to a depth sufficient to permit removal of pavement without damage to pavement to be left in place. Pavement within the cutting limits, together with all other excavated material, shall be removed and disposed of outside road right-of-way.

(b) Closure of the road being worked on, intersecting streets, road approaches, or other access points is not permitted without prior approval from the district and any other applicable road authority with jurisdiction over the intersecting street, approach, or access point that is the subject of the closure. County approval is not required for local access roads within the district that are also under county jurisdiction. Upon trenching across such facilities, steel running plates, planks, or other satisfactory methods shall be used to provide for traffic to enter or leave the road or adjacent property.

(c) No more than 300 feet of trench longitudinally along the road shall be open at one time and no trench shall be left in open condition overnight.

(d) Immediately after a facility has been placed in the trench, the trench shall be backfilled with compacted granular material, commonly designated as previous material, which cannot be ribboned out between the finger and thumb, and which is free from humus, organic matter, vegetable matter, frozen material, clods, sticks and debris, and contains no stones having a dimension greater than three inches. Said granular material shall be placed to an elevation which will allow placing the following foundation material and wearing surface:

(A) Where original surface was asphalt concrete or bituminous treatment or mix:

(i) Wearing surface: Asphalt concrete placed to a compacted thickness of four inches or the thickness of the removed pavement, whichever is greater;

(ii) Foundation material: Either 1-0 inch or 3/4-0 inch aggregate placed to a compacted thickness of four inches or the thickness of the removed stone base, whichever is greater.

(B) Where original surface was crushed rock or gravel, wearing surface and foundation material: Either 1-0 inch or 3/4-0 inch aggregate placed to a total compacted thickness of four inches or the thickness of the removed stone base and wearing surface, whichever is greater.

(C) All materials in subparagraphs (A) and (B) of this paragraph, and their placement, shall conform to the requirements of the current Oregon State Highway Standard Specifications for Highway Construction.

(e) For a period of one year following the patching of the paved surface, the person responsible for the patching shall be responsible for the condition of pavement patches and, during that time, shall, upon request of the district, repair to the district's satisfaction any patches which become settled, cracked, broken, or otherwise faulty.

(8) Unless permission is obtained from the district, direct burial of cable placed by the ploughing method shall be limited to areas outside the surfaced portion of the road.

(9) Standard warning signs for buried power or communications cable and for pipelines carrying gas or flammable liquids shall be placed at each crossing under the road and at intervals along longitudinal installations as required by current PUC order, or as specified by the district:

(a) Signs shall be offset as near the right-of-way line as practical; and

(b) Signs for installations located within the roadbed may be placed behind existing guard rail.

(10) Pole line locations over the roadway shall have a minimum height of the lowest wire at 20 feet; locations parallel and not on the traveled portion, the minimum height of the lowest wire shall be 18 feet. Poles shall be located not less than 12 feet from the edge of pavement on paved-surfaced roads, or not less than eight feet from the shoulder on gravel-surfaced roads. Wherever possible, poles shall be located along the tangent section of roads and on the short curve radius side of curves. Poles to be located on the long radius side of curves will require additional approval by the district and may be subject to special conditions.

(11) Pedestals installed as part of a buried cable installation are to be located one foot from the right-of-way line unless permission is obtained from the district to locate elsewhere. In no case shall the pedestals be located within the road maintenance operating area, including mowing operations, or nearer the pavement edge than any official highway sign in the same general location.

(12) Notwithstanding any provision to the contrary in LCC Chapter 10, the provisions of this section may be enforced as provided in LCC Chapter 10 by the special road district in which the subject road right-of-way lies.

(13) As used in this section:

(a) "Local access road" has the meaning provided in ORS 368.001.

(b) "Special road district" means an ORS 371.305 to 371.385 special road district in Lincoln County. [2000 o.402 §2]

WEIGHMASTER

6.400 Designation of County Roadmaster as County Weighmaster

For purposes of ORS 810.530, the County Roadmaster, and the duly appointed agents and employees of the County Roadmaster, are designated as the County Weighmaster. [1993 o.322 § 2]

PUBLIC ROADS

6.405 Acceptance of Roads into County Road System

Public roads less than fifty feet in width may be accepted into the county road system if the following standards are met:

(1) The traveled portion of the road must be at least 28 feet;

(2) Culverts shall be installed in all driveways and cross the road right-of-way if necessary for drainage;

(3) Roads less than fifty feet in width may be no longer than 1,000 feet in length; and

(4) Roads less than fifty feet in width shall have no vertical or horizontal curvature in excess of ten degrees.

6.410 Opening a Public Road

(1) Proceedings to open a public road which has not previously been officially opened for vehicular traffic are initiated by filing an application with the engineer on form or forms provided by the engineer. A filing fee shall accompany the application in an amount set by order of the Board of Commissioners.

(2) Following review of the application by the engineer, the engineer shall determine whether the opening of the road as proposed is in the public interest. The engineer may apply conditions to the opening of a public road to ensure protection of adjacent property owners, public utilities, and proper installation of improvements sufficient to safely handle traffic volumes of the opened road.

(3) If the engineer concludes that the opening of the public road is in the public interest and proceedings were initiated by an application signed by the acknowledged signatures of 100 percent of abutting property owners, the engineer may proceed to approve the opening of the road. If the application is not acknowledged by 100 percent of the property owners abutting the portion of the road to be opened, or if the engineer concludes that the opening of the public road is not in the public interest, or if the engineer determines that a public hearing is necessary, the application shall be forwarded to the Board of Commissioners for public hearing.

(4) Following notice as set forth in subsection (5), the Board shall conduct a hearing to consider whether the opening of the public road is in the public interest. The Board shall consider the recommendation of the engineer, the application, the proposed conditions of improvement, and other relevant information submitted at the time of the hearing. Following consideration of the matters presented, the Board shall enter an order granting, denying, or modifying the application.

(5) Notice of a public hearing under subsection (4) of this section shall be completed by publication and by service as provided for in ORS 368.401 to 368.426. [1986 o.245 §1; 1994 o.432 §1]

6.420 Temporary No Parking and Speed Limits

(1) The County Roadmaster, and the duly appointed agents and employees of the County Roadmaster, are delegated authority to designate a portion of any public road subject to the jurisdiction of the county as a no parking zone, for a period of time not to exceed 30 days. Any portion so designated shall be clearly marked and posted as no parking.

(2) The County Roadmaster, and the duly appointed agents and employees of the County Roadmaster, are delegated authority under ORS 810.180(5) to designate speeds for vehicles, for a period of time not to exceed 30 days, upon any portion of any public road subject to the jurisdiction

of the county upon which temporary conditions constituting a danger to the public exist or above, below or upon which construction or maintenance work is being carried on so close to the roadway as to be a danger to passing traffic or to be endangered by passing traffic. Any restrictions or limitations imposed under this subsection shall be imposed by a proper order of the County Roadmaster or duly appointed agent or employee. A sign giving notice of the restrictions or limitations contained in the order shall be maintained in a conspicuous manner and placed at each end of the affected roadway, and at such other places as may be necessary to inform the public. The restrictions or limitations are effective when the signs giving notice are erected. [1994 o.372 §2]

6.450 Gating of South Jetty Road

The City of Newport is authorized to gate County Road number 568, also known as South Jetty Road, in a manner that prevents night-time vehicular traffic on that road, but that does not prevent pedestrian traffic. The City of Newport shall set specific times during which the gate will be closed and shall post appropriate signs that provide notice to the public of the times of closure. The gate shall be constructed, reflectorized and signed in accordance with the current edition of the Manual on Uniform Traffic Control Devices. The City of Newport shall bear all costs of construction and maintenance of the gate. The Board of Commissioners reserves the right to repeal the permission granted pursuant to this section, and direct removal of any constructed gate. [1994 o.344 §2]

6.480 Election of Board Members of Certain Special Road Districts

(1) In accordance with ORS 371.318(2), the Lincoln County Board of Commissioners hereby changes the method of selecting the board members of the following special road districts:

(a) California Street Special Road District.

(b) Panther Creek Special Road District.

(c) Little Switzerland Special Road District.

(d) Coronado Shores Special Road District.

(e) Surfland Special Road District.

(f) Starr Creek Special Road District.

(2) The method of selecting board members for the road districts identified in subsection (1) of this section shall be by election.

(3) In accordance with ORS 371.349(1), the board of each district identified in subsection (1) of this section shall consist of three members elected by the electors of each respective district, and the term of office for a board member shall be four years commencing on July 1 following the date of election.

(4) ORS chapter 255 governs the nomination and election of the board members and the conduct of the elections.

(5) The first elected board of each special road district identified in subsection (1)(a) through (c) of this section shall be elected on the third Tuesday in May of 2003. In accordance with ORS 371.349(2) and notwithstanding the four-year term of office described in subsection (3) of this section, for each first board elected, the term of one board member shall end on June 30, 2005, as designated by the County Clerk.

(6) The first elected board of the special road district identified in subsection (1)(d) of this section shall be elected on the third Tuesday in May of 2005. In accordance with ORS

371.349(2) and notwithstanding the four-year term of office described in subsection (3) of this section, for each first board elected, the term of one board member shall end on June 30, 2007, as designated by the County Clerk.

(7) The first elected board of the special road district identified in subsection (1)(e) of this section shall be elected on the third Tuesday in May 2013. In accordance with ORS 371.349(2) and notwithstanding the four year term of office described in subsection (3) of this section, for each first board elected, the term of one board member shall end on June 30, 2015, as designated by the County Clerk.

(8) The first elected board of the special road district identified in subsection (1)(f) of this section shall be elected on the third Tuesday in May 2018. Notwithstanding the four year term of office described in subsection (3) of this section, for each first board elected, the term of one member shall end on June 30, 2019, and the term of the other two board members shall end on June 30, 2021, as designated by the County Clerk.

(9) In accordance with ORS 371.318(3), the County shall pay the costs of conducting the elections at which the board members are elected. [2001 o.419 §2; 2003 o. 423 §2; 2003 o.420 §2; 2004 o.435 §1; 2013 o.467 §1]

ROAD CONSTRUCTION STANDARDS

6.505 Construction Specifications

As provided in ORS 368.205, the county adopts as standard specifications for county road construction the standard specifications for highway construction adopted by the Oregon Department of Transportation with all future amendments thereto.

ROAD EVENT PERMITS

6.520 Definitions

As used in LCC 6.520 to 6.575, unless the context requires otherwise:

(1) "Bicycle Race or Tour" means any Organized Event involving bicycles and bicycle riders, for which directional signs or road markings and rest stops are provided, and for which registration is required.

(2) "Board" is the Board of County Commissioners for Lincoln County, or its designee.

(3) "County Road" means any County road, as defined in ORS 368.001(1), in Lincoln County.

(4) "County Roadmaster" means the Lincoln County Director of Public Works/Road Department or his or her designee.

(5) "Footrace" means an Organized Event run. Athletic competitions sponsored by the Lincoln County School District are not included within this definition.

(6) "Motorcade" means an Organized Event procession, except funeral processions and military convoys.

(7) "Organized Event" means any parade, foot race, motorcade, walkathon, bicycle race or tour, road rally or other similar event, held on a County road, and sponsored by an organization or other entity, and advertised in advance. "Organized Event" also includes an event, sponsored by an organization or other entity, and advertised in advance, which requires a detour or road closure, partial or complete, or the use of pilot vehicles to guide traffic, and which is expected to exceed 45 minutes of time, either for one period of time, or separate intervals of time which in the aggregate are expected to exceed 45 minutes of time. Road construction and maintenance, utility placement and maintenance, search and rescue activities, and response by law enforcement agencies, fire departments, ambulance companies or public works departments to criminal activities, fires, accidents, landslides or other emergencies are not considered "Organized Events" under this Ordinance.

(8) "Parade" means any Organized Event of any march or procession consisting of people, animals or vehicles, or combination thereof, except funeral processions, which do not comply with normal and usual traffic regulations and controls.

(9) "Road Rally" means any Organized Event of contest of speed or driving skills utilizing automobiles or motorized vehicles of any kind.

(10) "Walkathon" means any Organized Event walk.

6.525 Permit Required for Events

(1) It shall be unlawful for any person to conduct an Organized Event or knowingly participate in any such Organized Event unless and until a permit to conduct such Organized Event has been obtained from the County Roadmaster.

(2) It shall be unlawful, and no permit shall be issued, to conduct any Organized Event after sunset and before sunrise, unless the County Roadmaster finds that adequate steps have been taken to provide for the safety of the participants, the spectators, and the residents in the vicinity of the activity.

(3) Notwithstanding the above, the County Roadmaster may waive all or part of the permit requirements upon a showing by the applicant of good cause, when no significant public health, safety or welfare issues are involved or when the County Roadmaster determines that no County law enforcement or other County resources are necessary.

6.530 Application for Permit

(1) Any person who wants to conduct an Organized Event shall apply to the County Roadmaster for a permit at least sixty (60) days in advance of the date of the proposed Organized Event. The County Roadmaster may at his or her discretion consider any application for a permit to conduct an Organized Event which is filed less than sixty (60) days prior to the date the Organized Event is to be conducted, but in such case the application fee shall be double. The application for such permit shall be made in writing on a form approved by the County Roadmaster. In order that adequate arrangements may be made for the proper policing of the Organized Event, the application shall contain the following information:

(a) The name of the applicant, the name of the sponsoring organization, and the name of the Organized Event chairperson, and the mailing address, email address and telephone numbers of each.

(b) The purpose of the Organized Event, the date of when it is proposed to be conducted, the location of the assembly area(s), route(s) to be traveled, the approximate time when the Organized Event will assemble, start and terminate, and the estimated number of participants and spectators.

(c) An Organized Event control plan containing information regarding any need for road closures or partial closures, information on proposed flaggers, signage and barriers, and who will be responsible for them.

(d) Whether alcohol will be a part of the Organized Event, and if so, in what way, and what arrangements have been made for appropriate licensing.

(e) Such other information as the County Roadmaster may deem reasonably necessary.

(2) The person or organization applying for the Organized Event permit shall also tender along with the application an application fee. This fee shall be set by Board order or resolution.

(3) The person or organization applying for the Organized Event permit shall also tender along with the application an indemnity agreement, and except as may be waived as provided in Section 6.560, proof of insurance coverage in compliance with that Section and that names Lincoln County as an additional insured.

6.535 Issuance or Denial of a Permit

(1) Standards for Issuance. The County Roadmaster shall issue a permit conditioned upon the applicant's written agreement to comply with the terms of such permit unless the County Roadmaster finds that:

(a) The time, route and size of the Organized Event will disrupt to an unreasonable extent the movement of other traffic or will endanger the safety of participants or citizens, or cause a safety hazard other than traffic.

(b) The Organized Event is of a size or nature that requires the diversion of too many County law enforcement officers, Public Works/Road Department employees or other personnel to properly control the Organized Event or that allowing the Organized Event would deny reasonable law enforcement or other emergency service protection to the citizens of the County.

(c) Such Organized Event will interfere with another event for which a permit has been issued.

(d) The County Roadmaster determines the Organized Event would damage County roads.

(2) Standards for Denial. The County Roadmaster shall deny an application for an Organized Event permit and notify the applicant of such denial where:

(a) The County Roadmaster makes any finding contrary to the findings required to be made for the issuance of a permit.

(b) The information contained in the application is found to be false or lacking in sufficient material detail.

(c) The applicant refuses to agree to or abide by or comply with all conditions of the permit.

6.540 Contents of a Permit

(1) In each permit the County Roadmaster shall specify:

(a) The assembly area, and the time of assembly;

(b) The date, and starting and ending time for the Organized Event;

(c) The minimum and maximum speeds, if applicable;

(d) The route of the Organized Event;

(e) Which portions of County roads to be traversed may be occupied by such Organized Event;

(f) An Organized Event control plan (This must indicate whether there will be a road closure or a partial closure, what traffic control measures will be used, who is responsible for any flaggers, barriers and signage, etc.);

(g) The number and types of vehicles, if any;

(h) That permittee shall advise all participants in the Organized Event by written notice of the terms and conditions of the permit prior to the commencement of the Organized Event;

(i) Such other requirements as are found by the County Roadmaster to be reasonably necessary for the protection of persons and property.

(2) All conditions of the permit shall be complied with so far as reasonably practicable.

6.545 Review Procedure

Approval or denial of an application by the County Roadmaster shall be reviewable only by the Lincoln County Circuit Court for the State of Oregon, and only by writ of review under the provisions of ORS 34.010 to 34.100.

6.550 Reserved

6.555 Revocation or Restriction of Permit

(1) Any permit for an Organized Event issued pursuant to this Ordinance may be summarily revoked or amended by the County Roadmaster prior to the commencement of the event, at any time by reason of disaster, public calamity, riot or other emergency, if it is determined that the safety of the public or property requires such revocation or amendment. Notice of such action revoking or amending a permit shall be delivered in writing to the permittee by email, personal delivery, or by certified or registered mail, return receipt requested.

(2) If at any time during the Organized Event held under a valid permit, the County Roadmaster believes an unreasonable threat to the health, safety and welfare of the public is present, or the permit holder cannot maintain order and compliance with all applicable state and local laws or refuses or is unable to adhere to the terms and conditions of the permit, the County Roadmaster may terminate the Organized Event or reduce the number of participants, or take any lawful action to remedy the unsafe action.

6.560 Hold Harmless

Applicants shall agree in writing to indemnify, defend and save and hold harmless the County, its Commissioners, boards, officers, employees and agents, from all suits, actions, damages or claims to which the County may be subjected of any kind or nature whatsoever resulting from, caused by, arising out of or as a consequence of such Organized Event and the activities permitted in connection therewith. Applicants shall provide County with evidence of insurance with single limit policy limits of not less than $2,000,000. The County shall be named as an additional insured. The County Roadmaster may waive proof of insurance if circumstances warrant for Organized Events. Applicants shall also agree to indemnify, defend, save harmless any Public Agency providing services to the Organized Event.

6.565 Compliance with Laws

Issuance of a Permit under this Ordinance shall not relieve applicant of the responsibility to comply with all applicable ordinances and laws, and to obtain all other required permits and licenses necessary to carry out an Organized Event.

6.570 Conditions in Permits

Any permit granted under this Ordinance may contain conditions reasonably calculated to reduce or minimize the dangers and hazards to vehicular or pedestrian traffic and the public health, safety, tranquility and welfare including but not limited to changes in time, duration and number of participants.

6.575 Penalty

This Ordinance is enforceable under, and violators hereof are subject to, the penalties provided for in Chapter 10 of the Lincoln County Code. In addition, Lincoln County shall have such other remedies available to it as are provided in law or equity. [2017 o.494 §1]

WAYS OF NECESSITY

6.600 Transfer of Jurisdiction Over Ways of Necessity

In accordance with the provisions of ORS 376.200, jurisdiction over the establishment of ways of necessity under ORS 376.150 to 376.200 is removed and transferred to the circuit court. [1995 o.353 §2]

LOCAL IMPROVEMENT PROJECTS (LIDs)

6.605 Definitions for LCC 6.605 to 6.660

As used in LCC 6.605 to 6.660, unless the context requires otherwise:

(1) "Owner" means a vendee under a recorded land contract or if there is no such contract, the holder of the record title, which vendee or holder has a present interest equal to or greater than a life estate.

(2) "Engineer" means the Lincoln County Public Works Director.

(3) "Improvement" includes:

(a) The grading, graveling, paving or other surfacing of any road, or opening, laying out, widening, extending, altering, changing the grade of or constructing any road.

(b) The construction or reconstruction of sidewalks.

(c) The installation of ornamental street lights.

(d) The reconstruction or repair of any road improvement mentioned in this subsection.

(e) The acquisition, establishment, construction or reconstruction of any off-road motor vehicle parking facility.

(f) Installing, constructing, reconstructing, improving, extending or repairing lateral sewers, street mains, sewage disposal systems or similar facilities, and other facilities incidental thereto, within the right of way of a county road or public road.

(4) "Road", "county road" and "public road" have the meanings given those terms in ORS 368.001. [1981 o.163 §1; 1989 o.285 §§ 1 and 2; repealed 1995 o.353 § 3; 2000 o.398 §2]

6.610 Application of LCC 6.605 to 6.660 in Lieu of ORS 371.605 to 371.660

In accordance with ORS 371.610(3), in Lincoln County the provisions of LCC 6.605 to 6.660 supersede all provisions of ORS 371.605 to 371.660, except as otherwise provided in ORS 371.610. [1981 o.163 §1; 1989 o.285 §§ 1 and 2; repealed 1995 o.353 § 3; 2000 o.398 §3]

6.615 Petition for Improvement of Roads in Unincorporated Areas

Proceedings to cause any improvement to be made or constructed in an unincorporated area may be initiated by petition filed with the Board. The petition shall include at least the following:

(1) A description of the proposed improvement, including at least an indication of where the improvement is to be made and a description of the nature of the improvement desired.

(2) A list of properties and corresponding property owners which are thought to be specially benefited by the improvement.

(3) A proposed method of assessment for properties which are thought to be specially benefited by the improvement.

(4) The signatures of property owners representing not less than 50 percent of the proposed assessment as shown by the proposed method of assessment.

(5) A designated chief petitioner.

(6) If any of the improvement would lie within a special road district, an endorsement from the board of the special road district. [1989 o.285 § 2; 1993 o.313 § 12; repealed 1995 o.353 § 3; 2000 o.398 §4]

6.620 Signers of Petition and Objection in Event of Cotenancies

In case of tenants by the entireties, joint tenants or tenants in common the parcel of land is considered as having one owner, which owner shall be deemed to have signed the petition provided for in LCC 6.615 or the objection provided for in LCC 6.630 only if every cotenant of the parcel has signed. [1989 o.285 § 2; repealed 1995 o.353 § 3; 2000 o.398 §5]

6.625 Investigation and Estimation of Cost of Improvement by Engineer

When the petition is filed with the Board, the Board shall refer the petition to the engineer, who shall investigate the proposed improvement. If in the judgment of the engineer the improvement is feasible, the engineer shall make an estimate of the cost of the improvement and report the same to the Board. If the improvement is to be paid for in whole or in part by special assessments against property benefited by the improvement, the engineer shall include in the report:

(1) A recommendation as to whether the proposed method of assessment will achieve a fair apportionment of the whole or any portion of the cost of the improvement to the properties specially benefited and, if not, a recommendation as to a method of assessment which will achieve a fair apportionment.

(2) A recommendation as to whether the list of properties which are thought to be specially benefited by the improvement is adequate and, if not, which properties should be added or deleted.

(3) The description and assessed value of each lot, parcel of land or portion thereof, to be specially benefited by the improvement, with the names of the record owners thereof, as shown on the most recent records of the Lincoln County Assessor.

(4) Where the improvement petitioned for includes the construction and installation of lateral sewers, street mains or similar facilities, a separate statement of the estimated cost of the construction and installation of lateral sewers, street mains or similar facilities. [1989 o.285 § 2; repealed 1995 o.353 § 3; 2000 o.398 §6]

6.630 Notice to Owner; Ballot for Support or Opposition

(1) If the engineer makes a favorable report on the proposed improvement, the Board shall determine which properties are specially benefited, determine the method of assessment will achieve a fair apportionment of the whole or any portion of the cost of the improvement to the properties specially benefited, and direct the engineer to mail to the owner of each parcel of land to be assessed for the proposed improvement, as shown on the most recent records of the Lincoln County Assessor, a written notice of the favorable report, the estimated cost of the improvement and the estimated amount of the assessment against the land of the owner. The notice shall also include a ballot, in a form approved by legal counsel, which requests that the owner indicate the owner's support or opposition to the improvement on the ballot form, and return the ballot form to the engineer within the period of time indicated in the ballot form, which shall be no earlier than 45 days after mailing of the notice. The notice shall be mailed to each owner by both certified and regular first class mail.

(2) Upon expiration of the time period established for return of the ballot form to the engineer, the engineer shall prepare an abstract of the results of the ballots received. The abstract shall identify each property and whether the owner indicated support for the proposed improvement, opposition to the proposed improvement, or failed to return a ballot. The abstract shall also indicate the total amount of proposed assessment corresponding to owners who indicated support for the proposed improvement, and the total amount of proposed assessment corresponding to owners who indicated opposition to the proposed improvement. The engineer shall forward the completed abstract to the Board. [1989 o.285 § 2; repealed 1995 o.353 § 3; 2000 o.398 §7]

6.635 Order for Improvement; Recording; Vacation of Order and Removal of Lien

(1) If the abstract received by the Board pursuant to LCC 6.630 indicates that the total amount of proposed assessment corresponding to owners who indicated support for the proposed improvement is equal to or less than the total amount of proposed assessment corresponding to owners who indicated opposition to the proposed improvement, the proposed improvement shall, by order of the Board, be declared abandoned and no new petition may be filed for the improvement within a period of at least one year after the date of the order.

(2)(a) If the abstract received by the Board pursuant to LCC 6.630 indicates that the total amount of proposed assessment corresponding to owners who indicated support for the proposed improvement is greater than the total amount of proposed assessment corresponding to owners who indicated opposition to the proposed improvement, the Board may, by order describing the land to be assessed, direct the improvement to be made by contract, or by force account. If by contract, it shall be awarded in the same manner as provided for other contracted county road improvements.

(b) The order for the improvement shall be recorded by the Lincoln County Clerk. The recorded order is notice that the land described in the order is subject to a lien of an assessment for the cost of the improvement, in an amount to be determined later by an order of the Board. The Lincoln County Clerk shall indorse upon the order the date of the filing thereof, and shall record and index the same in a lien docket in the office of the county clerk.

(c) If the proposed improvement described in the order is not commenced within two years after the order for the improvement is recorded, the Board may by a new order vacate its former order for the proposed improvement. The Board shall record with the Lincoln County

Clerk the order vacating the former order for the proposed improvement. Thereupon the land described shall be free of such lien and the effect of the former order. The Lincoln County Clerk shall indorse upon the new order the date of the filing thereof, and shall record and index the same in the lien docket referred to in paragraph (b) of this subsection. [1989 o.285 § 2; repealed 1995 o.353 § 3; 2000 o.398 §8]

6.640 Engineer to Compile Improvement Cost; Source of Payment; Reimbursement of Source; Additional Work

(1) After the improvement has been made, inspected by the engineer and accepted by the Board, the engineer shall compile the total cost of the improvement. When compiling the total cost of the improvement, the engineer may add the actual and estimated future costs for engineering and administration. Where the improvement includes the construction and installation of lateral sewers, street mains or similar facilities, the engineer shall separately compile the total cost of those improvements.

(2) Payment of the cost of the improvement other than for the construction and installation of lateral sewers and street mains or similar facilities shall be made from the general road funds or from any funds available for the construction or improvement of county roads. Payment of the cost of the construction and installation of lateral sewers and street mains or similar facilities shall be made from any funds available to the county for such improvements.

(3) The funds expended for the improvement shall be reimbursed or the improvement warrants shall be retired to the extent of the proceeds of an assessment against the land benefited by the improvement, but no assessment shall be made against any operating railroad right of way without the consent of the owner thereof. Each landowner shall be assessed a portion of the cost of the improvement in the manner proposed in the petition pursuant to LCC 6.615(3), unless the Board otherwise directs a different method of assessment.

(4) All of the cost of improvements within intersections connected with any improvement under LCC 6.605 to 6.660 may be borne by the county.

(5) Unless notified to the contrary by the owner prior to the acceptance of bids for improvements under LCC 6.605 to 6.660, an existing driveway shall be reconstructed to the property line to conform with the new grade. [2000 o.398 §9]

6.642 Allocation of Costs of Sidewalk or Curb Construction and Other Improvements

Notwithstanding any provision to the contrary in LCC 6.605 to 6.660, the cost of construction of sidewalks under those sections shall be assessed in proportion to the front footage of the land or otherwise, as provided in those sections, to the owners of land abutting on the side of the street or road on which the sidewalks are constructed and fronting on such sidewalks. The cost of construction of all other improvements under those sections shall be assessed, in the manner provided in those sections, to the owners of land benefited by the improvement. [2000 o.398 §10]

6.645 Engineer to Ascertain Assessment; Hearing on Objections; Board Order

(1) The engineer shall ascertain the amount of the assessment against each parcel of land assessed for the improvement and report the same to the Board.

(2) The Board by order shall thereupon set the time, not less than 30 days after the filing of the report, and place for a hearing of objections to the assessments as fixed in the report of the engineer.

(3) Not less than 10 days prior to the date of the hearing, the engineer shall mail to the owner of each parcel of land proposed to be assessed, at the address of the owner as shown on the petition or on the latest tax roll of the county, a written notice of the time and place for the hearing of objections and of the amount of the proposed assessment against the land of the owner.

(4) After hearing objections, the Board shall by order find and determine from the evidence submitted the amount of assessment against each individual parcel of land. [2000 o.398 §11]

6.650 Certification of Assessment; Recording Order; Lien

(1) The Board shall certify a list and description of the ownership, stating the amount of assessment against each individual parcel of land, and shall record the order with the Lincoln County Clerk, who shall indorse thereon the date of the filing thereof and record and index it in the lien docket referred to in LCC 6.635(2).

(2) The assessments and interest are a lien upon the land against which the same are assessed from the date of the filing with the Lincoln County Clerk of the order of the Board for the improvement, as provided in LCC 6.635. Each parcel of land is deemed to be benefited by the improvement to the full amount of the assessment levied thereon. No transfer, sale or division of any such parcel, or change in the legal description thereof, in any way divests the lien from the original parcel and the whole thereof. Failing to enter the name of the owner or a mistake in the name of the owner does not in any way render void any assessment and does not in any way affect the lien on the land described. The lien has priority over all other liens and encumbrances whatsoever, except tax liens.

(3) Upon payment of the assessment in full, the Board shall satisfy the same by a notation in the lien docket referred to in LCC 6.635(2), and the parcel of land charged with such assessment is thereby discharged from the lien. [2000 o.398 §12]

6.655 When Assessment Due, Payable and Delinquent; Application of Other Statutes

(1) Except as provided in subsection (2) of this section, 30 days after the assessment is certified, the entire amount against each parcel of land shall be due and payable at the office designated by the Board and, if not so paid, shall be delinquent from that date and shall bear compound interest at a rate established by the Board.

(2) The owner of property assessed under LCC 6.605 to 6.660 shall have the right to apply for installment payment of the assessment as provided in ORS 223.210.

(3) Except as otherwise provided in this section, the provisions of ORS 223.205 and 223.210 to 223.314 (Bancroft Bonding Act) and 223.770 relating to the assessment of property benefited by public improvements and to the issuance of bonds and other obligations for the cost of the improvements shall apply in so far as practicable and applicable in relation to the assessment by counties of the cost or any portion of the cost of improvements against the property benefited in accordance with LCC 6.605 to 6.660 and to the issuance of bonds and other obligations by the county. However, notwithstanding the provisions of ORS 223.295, in issuing

bonds and other obligations under the provisions of this section, the county may incur indebtedness to an amount not exceeding .0375 of the latest real market valuation of the county.

(4) Where, in ORS 223.205 to 223.314 and 223.770, officials of governmental units are referred to, the corresponding officials of counties where applicable and unless otherwise designated by charter shall perform the required functions. [2000 o.398 §13]

6.660 Delinquent List; Execution and Sale.

(1) One year from the date an assessment for improvements under LCC 6.605 to 6.660 is delinquent, or, in case the assessment has been spread in semiannual installments, one year from the date any semiannual installment of the assessment is delinquent, the Board shall prepare a delinquent list of all assessments not wholly paid. The list shall contain a description of the land, the name of the person to whom assessed and the amount of the assessment and interest due.

(2) The Board shall transmit the list to the Lincoln County Clerk, who shall issue a writ of execution thereon, directed to the Lincoln County Sheriff.

(3) The Lincoln County Sheriff shall proceed to collect the unpaid assessments named in the list by advertising and selling each parcel of land in the manner provided by law for the sale of real property on execution, but no parcel shall be sold for a sum less than the amount of the unpaid assessment plus interest thereon and the cost of advertising and sale. [2000 o.398 §14]

SURVEYOR

6.705 Private Surveys, Mandated Surveys and Liability

(1) Except as provided in subsection (2) of this section, in addition to performing the duties of county surveyor, the county surveyor may perform a survey of any tract of land in the county at the expense of the person requesting the survey.

(2) A county surveyor shall not perform a survey pursuant to subsection (1) of this section that would interfere with the surveyor's duties as county surveyor.

(3) A survey performed pursuant to subsection (1) of this section shall not be considered a service rendered in the course or scope of the county surveyor's office or employment for any purpose. No liability shall attach to, or be assumed by, Lincoln County from the performance of, or agreement to perform, that survey by the surveyor.

6.710 County Line Surveys

In any survey affecting a county line, the county surveyor shall notify in writing the surveyor of the adjoining county and shall make reasonable efforts to cooperate with that surveyor in making the survey. Notice shall be considered given in accordance with this section if properly addressed and mailed at least six calendar days before commencing the survey. Upon completion of the survey, the surveyor shall file a copy of the plat and field notices of the survey in the county surveyor's office.

PUBLIC LAND CORNER PRESERVATION

6.715 [1986 o.235 §1; repealed 1993 o.313 §17]

6.720 [1986 o.235 §1; 1988 o.271 §1; 1989 o.278 §1; repealed 1993 o.313 §17]

6.725 [1986 o.235 §1; 1987 o.261 §1; repealed 1993 o.313 §17]

6.730 Establishment of Public Land Corner Preservation Fund

Pursuant to ORS 203.148(1), the County Treasurer shall establish a fund for Lincoln County known as the Public Land Corner Preservation Fund, which shall be separate and apart from other funds of the county. Revenues for this fund shall come from the fees charged pursuant to ORS 203.148(2) and order of the Board of Commissioners. Appropriations in this fund shall be used only as permitted by ORS 203.148(1). This section does not authorize the County Surveyor to incur expenses other than those provided for periodically in the adopted budget of the county. Payment of expenses within the Public Land Corner Preservation Fund will be pursuant to the fiscal policies of the county. [1986 o.235 §1; 1988 o.271 §1; 1989 o.278 §2; 1993 o.313 § 13]

6.735 [1986 o.235 §1; 1987 o.261 §1; repealed 1993 o.313 §17]

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7.005 [repealed 2005 o.437 §8]

7.010 [1983 o.204 §1; 1999 o.392 §1; repealed 2005 o.437 §8]

7.015 [1998 o.376 §1; repealed 2005 o.437 §8]

7.020 [1991 o.290 § 1; 1992 o.308 § 1; 1993 o.325 §§ 1 and 2; 1998 o.376 § 2; 1999 o.392 §2; 2000 o.394 §1; repealed 2005 o.437 §8]

7.025 [repealed 2005 o.437 §8]

7.030 [1983 o.204 § 2; repealed 2005 o.437 §8]

7.035 [repealed 2005 o.437 §8]

7.040 [repealed 1999 o.392 § 3]

7.045 [repealed 2005 o.437 §8]

7.050 [repealed 2005 o.437 §8]

7.055 [1983 o.204 § 3; repealed 2005 o.437 §8]

7.060 Attorney General Model Rules

In accordance with ORS 279A.065, the Model Rules of Public Contract Procedure, OAR Chapter 137, adopted by the Attorney General shall apply to county public contracting, except as otherwise provided in this Chapter. [2005 o.437 §2]

7.065 Local Contract Review Board / Designation of Contracting Agency

(1) The Lincoln County Board of Commissioners is designated the Local Contract Review Board under Oregon Public Contracting Code, ORS Chapters 279A, 279B and 279C. The Local Contract Review Board may, from time to time, delegate its powers and responsibilities consistent with the Oregon Public Contracting Code and the Model Rules.

(2) Elected officials and appointed Department Heads and Program Coordinators, as determined by the Board of Commissioners, are designated as the County's "Contracting Agency" as that term is defined in ORS 279A.010(1)(b) to exercise powers consistent with the Oregon Public Contracting Code, the Model Rules and this Chapter. Each Contracting Agency designee shall have the authority, with the authorized procedures set forth in this Chapter and the Model Rules, to seek solicitations, proposals, or bids and to make awards or direct appointments, and enter into contracts not to exceed $50,000 for each contract, provided sufficient sums are appropriated, unencumbered, and not restricted in the County, or as appropriate other County affiliated agency or countywide service district, budget and there are sufficient cash resources available to pay the maximum consideration set forth in each and every contract.

(3) All solicitations, appointments, awards and contracts exceeding $5,000 shall be subject to review and approval of the County Counsel's Office for form and the Department of Finance for funding, under policies developed by each of those departments. [2005 o.437 §3]

7.070 Contracts Requiring Board of Commissioners Approval

Unless otherwise provided for in this Chapter, or upon other authorization of the Board of Commissioners, large procurements, as defined herein, require Board of Commissioners approval and execution. Large procurements mean contracts for the procurements of goods, services, or

public improvements with a value in excess of $50,000, and change orders or amendments to such contracts that in the aggregate exceed 10 percent of the original amount. The Board of Commissioners shall also approve and execute all grant or service contracts, whether from public or private sources, that involve the addition of county employees or the subcontracting of employee services to other agencies or nonprofits. In addition, the Board of Commissioners shall be required to approve and execute any contract that by its terms requires governing body approval. [2005 o.437 §4]

7.075 Personal or Professional Service Contracts

(1) Personal or Professional Services Contracts are those contracts, as determined by the Board of Commissioners or the Contracting Agency designees, that involve an independent contractor engaged in services that predominately, but not always, require special training, certification or licenses, or special skills, or unique or specialized knowledge, or the exercise of judgment or skills that are unique to the service provider. Such service providers include, but are not limited to, consultants of all kinds, licensed or certified professionals, accountants, attorneys, medical personnel, computer experts, and similar persons.

(2) Direct appointment of qualified Personal or Professional Service Providers may be made by the Board of Commissioners or Contracting Agency designees where the estimated fee does not exceed $50,000 in any one year or $150,000 over the term of the work. For services over $150,000, a competitive solicitation process shall be utilized.

(3) Direct appointment of qualified Personal or Professional Service Providers may also be made for installation, maintenance, repair or support of:

(a) Computer software, hardware or networking systems; or

(b) Telecommunications, video and access control systems.

(4) Direct appointments pursuant to this section shall be based on criteria including, without limitation, the provider's qualifications and experience, provider's available resources, project timing and location, provider's references, and provider's pricing.

(5) The County may use other methods to select qualified Personal or Professional Service Providers, including requests for proposals, requests for qualifications, listing of qualified providers, competitive bidding, selection from another public contacting agency's list of qualified providers, or other solicitation methods available under law.

(6) The County shall award contracts to Architects, Engineers, Land Surveyors and related service providers in accordance with the Model Rules. [2005 o.437 §5]

7.080 Exemption from Competitive Bidding

(1) Lincoln County exempts from Competitive Bidding any contract exempted by the Oregon Public Contracting Code or the Model Rules, including but not limited to those under ORS 279A.025, ORS 279A.180, ORS 279A.200 and ORS 279A.220.

(2) Lincoln County exempts from competitive bidding or sealed proposals contracts under ORS 279B.055, ORS 279B.060, ORS 279B.070, ORS 279B.075, ORS 279B.080 or ORS 279B.085 and the Model Rules for the following classes of contracts:

(a) Emergency contracts.

(b) Contracts and purchases not exceeding $5,000 (direct purchasing allowed).

(c) Contracts and purchases exceeding $5,000 but not exceeding $75,000, where informal solicitation procedures are used in accordance with the Model Rules for Intermediate Procurements.

(d) Contacts exceeding $75,000, but not exceeding $150,000, where formal written solicitations or quotes are obtained in accordance with the Model Rules for Intermediate Procurements.

(e) Contracts for public improvements not exceeding $100,000 ($50,000 for roads, bridges or transportation construction projects) where formal written solicitation or quotes are obtained in accordance with the Model Rules for Intermediate Procurements.

(f) Amendments to the above referenced contracts are allowed in accordance with the Model Rules.

(2) Lincoln County may exempt additional contracts or classes of contracts through amendment of this Chapter, through Board of Commissioners' adoption of a resolution exempting a specific contract, or through any other method authorized under the Oregon Public Contracting Code or the Model Rules. [2005 o.437 §6]

7.085 Disposal of Surplus Property

Disposal of surplus property shall be conducted in accordance with the provisions of the resolution adopted by the Lincoln County Board of Commissioners declaring the property as surplus. [2005 o.437 §7]

TRAFFIC SAFETY COMMISSION

7.105 Creation of Traffic Safety Commission

There is hereby created the Traffic Safety Commission referred to in LCC 7.105 to 7.115.

7.110 Duties and Responsibilities of the Commission

(1) The commission shall be responsible for the following activities:

(a) Researching, developing, and implementing coordinated traffic safety programs to meet local needs.

(b) Acting in an advisory capacity to the county in the coordination of traffic safety activities of the agencies and departments of the county.

(c) Providing research and furnishing information to the agencies of the incorporated cities of the county.

(d) Promoting public acceptance of programs instituted by the county and the State of Oregon.

(e) Fostering public knowledge and support of traffic law enforcement and traffic engineering problems.

(f) Cooperating with the public and private school systems of the county in promoting traffic safety aids in schools.

(g) Promoting the education of the public on traffic safety, and generally assisting in the overall reduction of traffic accidents, injuries, and deaths on roads within the county.

(2) The commission shall have, in addition to the above responsibilities, authority to formulate rules and policies for the solicitation, promotion, and advertising of the activities of the commission, and to this end the commission may receive and expend funds or grants from any individual, firm, corporation, or any other source, provided, however, that this delegation of authority shall never be construed as authorizing the commission to enter into any contract or create any obligation on the part of the county. Any funds granted to the commission shall not be commingled with any public funds of the county, nor any city, nor the State of Oregon. The commission shall submit to the county an annual accounting of all funds acquired by the commission.

7.115 Organization of the Commission

(1) The commission shall consist of nine members, none of whom shall be paid or granted any salary or compensation.

(2) The members of the commission shall be appointed by the Board. All appointive members shall serve until their successors are appointed and qualified, unless removed from the commission as provided in subsection (7) of this section.

(3) All terms shall be for a three year period, provided, however, that the terms of office of the first commission shall be decided by the drawing of lots, three members receiving one year terms, three receiving two year terms, and three receiving three year terms.

(4) Upon the death, resignation, removal by disqualification, or expiration of the term of office of any member or members of the commission, the Board shall appoint a member or members who shall hold membership on the commission for the unexpired term to which appointed.

(5) No person shall be a voting member of the commission unless the person is a resident of the county.

(6) The county engineer shall serve as an ex-officio member of the commission without vote.

(7) Any member who fails to attend four consecutive regular meetings of the commission for any reason other than sickness or absence from the county, or who fails to attend at least 50 percent of the regular meetings in any one year shall be disqualified from serving on the commission.

(8) The commission, during the first quarter of each year, shall elect a chairperson and vice chairperson. A treasurer shall be appointed by the chairperson. The treasurer shall keep a record of all receipts and expenditures of the commission.

(9) The chairperson may establish such committees as may be necessary or appropriate to assist the commission in its studies and in the performance of its duties. Members of committees may be appointed from among members of the commission, either voting or ex-officio, or from the general public.

(10) The commission shall meet at least once every three months and shall meet on the call of the chairperson or on call by a majority of members.

(11) Five members shall constitute a quorum.

7.205 through 7.345 [1981 o.158 §1; 1982 o. 172 §1; 1982 o.179 §1; 1982 o.185 §1; 1983 o.189 §1; 1983 o. 191 §; 1983 o.200 §1; 1984 o.284 §1; 1985 o.230 §1; 1986 o.232 §1; 1986 o.236 §§ 1, 2, 3 and 4; 1986 o.241 §1; 1987 o.251 §1; 1987 o.254 §1; repealed 1988 o. 273 §1]

7.205 through 7.245 [2000 o.405 §§2-9; repealed 2001 o. 420 §1]

COUNTY CLERK

7.505 Fees of the County Clerk

The Lincoln County Clerk shall collect fees in addition to all other fees required by law which shall be set by order approved by the Lincoln County Board of Commissioners after review at a public meeting. An annual review of the fee schedule shall thereafter occur during the month of January. The Clerk, Surveyor, and any other county official whose fees are collected by the Clerk may make recommendations for any changes to the fee schedule during the annual review. The Board may consider other changes it deems appropriate. Annual review shall not prohibit further periodic review and updating of the schedule in accordance with law. [1982 o.188 §1; 1984 o.207 §1; 1989 o.279 §1; 1992 o.307 § 1; 1993 o.313 § 15]

TOBACCO, SMOKE, AND NICOTINE FREE COUNTY PROPERTY

7.550 Definitions for LCC 7.550 to 7.580

As used in LCC 7.550 to 7.580:

(1) "County property" means any property, building or land owned or leased by Lincoln County.

(2) "Tobacco, smoke, and nicotine free" includes, but is not limited to, cigarettes, cigars, pipes, marijuana, and any other smoking and/or nicotine containing product; dip, chew snuff, snus, and any other smokeless tobacco and/or nicotine containing product; and nicotine delivery devices, such as electronic cigarettes or vaping instruments, excluding FDA-Approved nicotine replacement therapy products for the purpose of tobacco cessation. [2001 o.407 §2; 2013 o.468 §2; 2017 o. 496 §2]

7.560 Policy

The Lincoln County Board of Commissioners finds that because the smoking of tobacco creates a health hazard to those present in confined places, it is necessary to reduce exposure to tobacco smoke by requiring nonsmoking areas in certain places. [2001 o.407 §3]

7.570 Tobacco, Smoke, and Nicotine Free Environment for County Properties

(1) Use of tobacco, smoke, and/or nicotine products is prohibited on County properties. No Lincoln County employee, volunteer, intern, client, visitor, or vendor, shall carry any lighted smoking or vaping instrument or use a tobacco, smoke, or nicotine product on any leased or owned Lincoln County property. There are no designated areas for the use of tobacco, smoke, and/or nicotine product use or exceptions to this policy outside of the cultural exemption related to the American Indian Religious Freedom Act and the areas identified in LCC 7.7580.

(2) This Section shall be further defined and enforced by Board policy contained in an adopted Board Order, which may be amended from time to time at the discretion of the Board. [2001 o.407 §4; 2013 o.468 §3; 2017 o. 496 §3]

7.580 Designating Areas Where Smoking Permitted; Posting Signs

(1) Use of tobacco, smoke and/or nicotine products is permitted in personal vehicles within County Parks and waysides.

(2) Use of tobacco, smoke and/or nicotine products is also permitted in areas as noted below in subparagraphs (a) through (c) in the County Parks identified in subparagraph (d) below:

(a) Individual camp or RV sites with a fire ring or pit (not to include any county structures such as yurts or cabins or similar sleeping areas);

(b) Group tent camp areas; and

(c) Camp host sites.

(d) County Parks:

- Moonshine Park
- Elk City Park
- Jack Morgan Park
- Don Lindly Park
- Brown Memorial Park

(2) The Lincoln County Public Works Department shall post appropriate signs to implement this Section. [2001 o.407 §5; 2013 o.468 §4; 2017 o. 496 §3]

COURTHOUSE PARKING

7.605 Purpose of LCC 7.605 to 7.625

The purpose of LCC 7.605 to 7.625 is to establish an orderly system of parking and control of traffic on the county courthouse premises.

7.610 Definitions for LCC 7.605 to 7.625

As used in LCC 7.605 to 7.625, unless the context requires otherwise:

(1) "Courthouse grounds" means all lands, buildings, and exits belonging to, or leased by, the county located at, or around, 225 West Olive Street, commonly known as the county courthouse.

(2) "Parking area" means any space marked or unmarked on the courthouse grounds which may be or is used for the parking of automobiles or other transportation vehicles.

(3) "Parking space" means the individual or separate spaces designated or marked for each vehicle.

(4) "Sidewalks" mean any space designated in or bordering the courthouse grounds which is used for foot traffic.

7.615 Parking Rules

During the hours of 8:00 a.m. to 5:00 p.m. on work days, the following rules shall apply:

(1) Employees of the county and the State of Oregon, while on duty, shall not park in any parking space abutting the main courthouse building, except as authorized pursuant to subsection (4) of this section.

(2) Public parking in the space abutting the courthouse shall be limited to 60 minutes.

(3) Only authorized persons shall park in any parking space designated for loading or for disabled persons.

(4) Only authorized persons shall park in any parking space specifically designated for a particular individual or department by the Board of Commissioners.

(5) No person shall park in the parking area except in designated parking spaces. [1982 o.171 §1; 1984 o. 219 §§ 1, 2, 3 and 4; 1998 o.381 § 1]

7.618 Enforcement

Enforcement of LCC 7.615 may be carried out by one or more of the following methods:

(1) Citation:

A vehicle parked in violation of LCC 7.615 is subject to being cited for a parking violation in accordance with the Oregon Vehicle Code, LCC chapter 10, or both.

(2) Impoundment:

A vehicle parked in violation of LCC 7.615 is subject to being impounded in accordance with the procedures provided in ORS 809.725 and 819.180.

(3) Nuisance Abatement:

A nuisance abatement action in accordance with LCC chapter 10 may be filed against any person who repeatedly parks in violation of LCC 7.615.

(4) Personnel Discipline for County or State Employees:

A person who violates LCC 7.615, and who is an employee of Lincoln County or the State of Oregon, is subject to the imposition of discipline for that violation. [1998 o.381 § 3]

7.620 [1984 o.219 §§ 5 and 6; repealed 1998 o.381 §4]

7.625 [1982 o.171 §1; repealed 1998 o.381 §4]

PARKING ON PUBLIC PROPERTY

7.650 Definitions for LCC 7.650 to 7.660

As used in LCC 7.650 to 7.660:

(1) "Parking area" means any space marked or unmarked which may be or is used for the parking of automobiles or other transportation vehicles.

(2) "Parking space" means the individual or separate spaces designated or marked for each vehicle. [2000 o.401 §2]

7.655 Parking Regulations by Public Works Department

(1) The purpose of this section is to establish an orderly system of parking and control of traffic on public property subject to Lincoln County jurisdiction or ownership.

(2) The Director of the Public Works Department is delegated administrative authority to restrict or limit the use of any parking area or parking space on any county owned property or public property subject to county jurisdiction and control by indicating the restriction or limitation on a sign conspicuously posted at that location. This section does not apply to the any of the following:

(a) Public roads, which are subject to parking regulations and restrictions under LCC 6.420.

(b) Parking at the Lincoln County Courthouse, which is subject to parking regulations and restrictions under LCC 7.605 to 7.625.

(c) Parking at county parks, which are subject to parking regulations and restrictions under LCC 9.020 and 9.025.

(3) A parking restriction or limitation imposed by the Director under this section may be:

(a) A total prohibition on parking within the designated area;

(b) A limitation on parking within the designated area during specified times of the day or night or day of week;

(c) A limitation on the length of time that a vehicle may be parked in the designated area;

(d) A limitation on the type of vehicle that may be parked in the designated area; or

(e) Any combination of one or more of the limitations described in paragraphs (a) though (d) of this subsection.

(4) A parking restriction or limitation imposed by the Director under this section is not effective until the appropriate sign indicating the restriction or limitation is posted at the designated area. [2000 o.401 §3]

7.660 Prohibition of Parking in Violation of Restriction or Limitation; Enforcement

(1) No person shall park in a parking area or parking space in violation of a parking restriction or limitation imposed under LCC 7.655.

(2) Enforcement of this section may be carried out by one or more of the following methods:

(a) Citation:

A vehicle parked in violation of this section is subject to being cited for a parking violation in accordance with the Oregon Vehicle Code, LCC chapter 10, or both.

(b) Impoundment:

A vehicle parked in violation of this section is subject to being impounded in accordance with the procedures provided in ORS 809.725 and 819.180.

(c) Nuisance Abatement:

A nuisance abatement action in accordance with LCC chapter 10 may be filed against any person who repeatedly parks in violation of this section. [2000 o.401 §4]

PUBLIC SAFETY ALARMS

7.705 Purpose and Scope of LCC 7.705 to 7.775

(1) The purpose of LCC 7.705 to 7.775 is to protect emergency services of the county from misuse associated with false alarms.

(2) LCC 7.705 to 7.775 governs fire, medical, burglar, and hazard-monitoring systems, requires permits, establishes fees, provides for revocation of permits, and provides for enforcement of the provisions of LCC 7.705 to 7.775. [1983 o.195 §2]

7.710 Definitions for LCC 7.705 to 7.775

As used in LCC 7.705 to 7.775, unless the context requires otherwise:

(1) "Alarm equipment installer" means any person, firm, or corporation, including employees, agents, and independent contractors, who install, maintain, repair, alter, replace, or service any alarm equipment.

(2) "Alarm equipment supplier" means any person, firm, or corporation, including employees, agents, and independent contractors who supply, sell, lease, or rent any alarm equipment.

(3) "Alarm monitoring service" means any person, firm, or corporation, including employees, agents, and independent contractors in the business of operating a service whereby persons receive messages from automatic signaling devices, report emergencies at stated locations, and relay such emergency messages to a communications center, including, but not limited to, the sheriff's department.

(4) "Alarm system" means a device or system of interconnected devices, including hardware and related accessories, designed to give warning of a fire, burglary, robbery, medical emergency, or other hazardous condition occurring on the protected premises.

(5) "Alarm user" means a person, firm, partnership, association, corporation, company, governmental unit, or organization of any kind in control or ownership of any building, structure, or facility where an alarm system is maintained and in operation.

(6) "Automatic signaling device" means an electrically or mechanically operated instrument that automatically signals or sends by any means, including, but not limited to, direct or indirect connection to regular telephone lines, a unique coded message from protected premises to a separate location upon receipt of a stimulus from a sensory detection apparatus. These devices include any device that activates any audible alarm or light signaling device attached to the interior or exterior of protected premises. This definition includes devices utilized to verify or confirm a signal generated by the protected premises.

(7) "Communication center" means the facility where a public safety agency or agencies participate in dispatch or call transfer services, including receiving emergency transmissions and general information from the public to be dispatched to the respective entities utilizing the center.

(8) "Direct line" means a special telephone line, unavailable for use by the public at large, leading directly to the sheriff's office or communications center from a single, specific location and designed to be used only to report emergency messages and signals on a person-to-person basis.

(9) "False alarm" means any activation of an alarm system which results in the dispatch of emergency personnel to the protected premises where emergency personnel are unable to discover any evidence of an emergency condition, but does not include a dispatch of emergency personnel pursuant to an alarm signal caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm user.

(10) "Key" means to utilize a telephone line for transmitting a message.

(11) "Regular phone line" means a general telephone line leading to the sheriff's office, communications center, or alarm monitoring service available for use by the public at large.

(12) "Sensory detection device" means a mechanical or electrical device that is part of any automatic signaling device which is designed for detection of any physical force or condition inherently characteristic of fire, unauthorized intrusion into or upon protected premises, or other emergency or hazardous condition, which results in the dispatch of emergency personnel to the protected premises. [1983 o.195 §3]

7.715 Automatic Signaling Devices and Restrictions on Keying

(1) Keying of automatic signaling devices in any manner so as to send a prerecorded message directly over emergency telephone lines to the sheriff's office or communications center is hereby prohibited.

(2) On or before October 24, 1983, and after reasonable notice to affected alarm users, all automatic signaling devices presently keyed to send prerecorded messages directly over telephone lines to the sheriff's office or communications center shall have such keying function disabled. In the event such keying function is not disabled, prerecorded messages will no longer be acknowledged or answered by the sheriff's office or communications center.

(3) On or before August 27, 1984, all existing automatic dialing devices programmed to select an emergency number to the sheriff's office or communications center shall be reprogrammed to select a designated trunk line number at the communications center.

(4) After the effective date of LCC 7.705 to 7.775, no person except a licensed alarm equipment installer shall key any automatic signaling device to a licensed alarm monitoring service.

(5) The communications director shall prescribe administrative rules for the type and number of alarm receivers to be installed in the communication center. No equipment shall be installed and no alarm signal shall be sent to the communication center without the express permission of the communications director. The rules are to be maintained in a written file to be reasonably available to the public for the purpose of inspection. [1983 o.195 §4; 1984 o.216 §1]

7.720 Duties of Alarm Users

(1) Every alarm user, including those utilizing an alarm-monitoring system, shall obtain a permit for each alarm system located within the county. This section shall not apply to smoke alarms which are required by law and which are not connected to a communications center by a direct line.

(2) It shall be the duty of an alarm user utilizing any automatic signaling device to arrange for the accomplishment of equipment alteration prescribed in LCC 7.715.

(3) Every alarm user utilizing an alarm system with an automatic signaling device shall be responsible for the maintenance of the device, and shall repair any defective device within 48 hours after the alarm user learns or reasonably should have learned that the device is defective. The automatic signaling device shall be disconnected after the expiration of 48 hours if repairs cannot be made within that time.

(4) Any alarm user required by federal, state, county, or municipal statute, regulation, rule, or ordinance to install, maintain and operate an alarm system shall be subject to LCC 7.705 to 7.775.

(5) Permit application forms shall be made available to persons required to have them, through the sheriff's office or its agent. Application and accompanying fees shall be returned to the sheriff's office for processing.

(6) Every permit application required by this section shall be signed by the alarm user or agent and shall include the following information:

(a) Name, address, and telephone number of the alarm user. If the applicant is a partnership, the names and addresses of the partners shall be given. If the applicant is a corporation, the names and addresses of its principal officers and registered agent shall be given;

(b) Location of alarm system and type of system;

(c) Name of licensed installer and the installer's state license number, if applicable;

(d) Name of the person or company responsible for repair or maintenance of the alarm system, if applicable;

(e) Statement by the applicant on the application that the applicant is aware of the requirements of LCC 7.705 to 7.775 and the fees and penalties prescribed in LCC 7.705 to 7.775; and

(f) Names and telephone numbers of persons at different locations who may be authorized to respond to any emergency and enter or open the premises where the device is installed.

(7) Information submitted to the sheriff's office pursuant to this section shall remain confidential.

(8) Fees shall be charged in accordance with LCC 7.750. [1983 o.195 §5; 1988 o.263 §1]

7.725 Revocation of Alarm User Permit

(1) The following shall be grounds for revoking any alarm user permit:

(a) Any false or incomplete statement made on the permit application;

(b) Failure to comply with any provision of LCC 7.705 to 7.775; or

(c) Failure to pay a false alarm fee as prescribed in LCC 7.760 within 30 days of demand.

(2) An alarm user shall immediately discontinue use of the alarm system upon being notified by certified mail of the revocation of the permit.

(3) Any person whose permit has been revoked under subsection (1) of this section may appeal the revocation under the provisions of LCC 7.765.

(4) An application for a permit subsequent to a revocation of a prior permit is considered an initial application and is subject to the fee provisions of LCC 7.720(8).

(5) Each permit shall remain in effect for a period of five years from the date of issuance unless the permit is suspended or revoked, or the alarm equipment installer, supplier, or alarm monitoring service is discontinued, or the person or persons, or organizations owning, leasing,

renting, or in control of the protected premises changes. In the event any of the above conditions occur, the permit shall be null and void, and continued use of an alarm system shall be deemed in violation of LCC 7.705 to 7.775, subject to the penalties provision of LCC 7.760.

(6) Each alarm user permit shall be available for inspection at reasonable times by the sheriff or communications center.

(7) Within 10 days following any change of circumstances which renders obsolete any of the information submitted pursuant to LCC 7.720(6), the alarm user shall file an amendment to his application setting forth the current accurate information. No additional fee shall be required for this change in information. [1983 o.195 §6]

7.730 Alarm Equipment Supplier and Installer Permits

Any alarm equipment supplier or installer selling or leasing automatic signaling devices for installation in or upon any premises in the county, or installing or maintaining such devices, whether or not such devices are keyed to a licensed alarm monitoring service, shall obtain a license from the sheriff's office before engaging in such sale, lease, installation, or maintenance. Each application shall be signed by the individual proprietor of such business or by a partner or authorized corporate official and shall include the following:

(1) Name, address, and telephone number of the alarm equipment supplier or installer, names of all persons authorized to enter protected premises on behalf of the supplier or installer, type of business organization, such as individual proprietorship, partnership, or corporation. If a corporation, the names and addresses of the principal officers and state where incorporated.

(2) A statement certifying that the availability of 24-hour service of automatic signal devices has been provided to each customer to include a 24-hour telephone number to obtain service.

(3) A statement that the applicant agrees to comply with the operation standards listed within LCC 7.705 to 7.775.

(4) A verification section to be signed by the applicant that all alarm equipment installers employed by the applicant have an Oregon State Limited Energy Electrical License as required by ORS 479.620. The section shall also include a statement by the applicant and agents that no alarm system shall be installed, used, or maintained in violation of any of the requirements of adopted provisions of the Uniform Fire Code or of any applicable statute, law, or administrative regulation of the State of Oregon or Lincoln County.

(5) All alarm equipment suppliers or installers shall provide their employees or agents, who actually install or maintain alarms, an identification card designating the name of the person and the business name of the supplier or installer. The applicant and persons required to have the identification card shall carry the identification card and produce it upon request.

(6) The sheriff may refuse to issue a permit under this section if an applicant or agent authorized to enter protected premises have been convicted of a crime of moral turpitude or any felony.

(7) The sheriff shall provide application forms. Fees shall be charged in accordance with LCC 7.750.

(8) Each permit shall remain in effect as provided in LCC 7.725(5), (6), and (7). [1983 o.195 §7; 1988 o.263 §1]

7.735 Alarm Equipment Operational Standards for Suppliers and Installers

In addition to other requirements for issuance of permits imposed by LCC 7.720 to 7.775, the sheriff, before issuance of a permit, shall ensure that the following minimum operational standards are met and agreed upon:

(1) An alarm equipment supplier or installer that sells, leases, or rents automatic signaling devices for installation in or upon any premises in the county or installs or maintains such device, whether or not such device is keyed to a licensed monitoring service, shall furnish to the person for whom such device is installed or service provided, complete instructions detailing the operation of the device. These instructions shall include information as to how the device may be disconnected.

(2) All licensed alarm equipment suppliers or installers shall provide the county within 60 days of the sale, lease, rental, or installation of an alarm system, or with respect to all automatic signaling devices previously sold, leased, installed, or maintained, on or before October 24, 1983, a listing of all automatic signaling device installations located in county known to the supplier or installer. This information shall include the requirements of LCC 7.720(6)(a), (b), (c), (d), and (f).

(3) When automatic signal devices sold, leased, installed, or maintained by an alarm equipment supplier or installer have been keyed to a licensed alarm monitoring service, information to be supplied to the county pursuant to subsection (2) of this section, shall be provided in duplicate to the alarm monitoring service to which the service has been keyed.

(4) At the time of sale, lease, or installation of an alarm system, all licensed alarm equipment suppliers and installers shall furnish to the person for whom the automatic signaling device has been sold, leased, rented, or installed written information as to how maintenance service from an installer may be obtained on a 24-hour basis, including a 24-hour telephone number to call for service. [1983 o.195 §8]

7.740 Alarm Monitoring Service Permit Procedures

An alarm monitoring service or a telephone answering service that desires to include in its service the receipt and relay of messages from automatic signaling devices shall first obtain from the sheriff or his agent a permit application form. The application form, upon completion, shall be returned to the sheriff for approval and shall include the signature of the owner or authorized representative of such business and shall include information as required in LCC 7.720(6)(a), (b), (c), (d), and (f). In addition, an applicant shall provide the following:

(1) A statement that the applicant is willing to comply with the operational standards contained in administrative rules promulgated by the sheriff's department.

(2) An agreement that the sheriff may conduct a background check on the applicant and any employees at any time. Each permit shall remain effective as provided for in LCC 7.725(5), (6), and (7).

(3) Fees shall be charged in accordance with LCC 7.750. [1983 o.195 §9; 1988 o.263 §1]

7.745 Revocation of Permits Issued to Alarm Equipment Suppliers, Installers, and Alarm Monitoring Services

(1) The following shall be grounds for revoking a permit issued to an alarm equipment supplier, installer, or alarm monitoring service:

(a) Any false or incomplete statement made on the permit application;

(b) Failure to comply with any section of LCC 7.705 to 7.775; or

(c) Fraud, misrepresentation, or intentional false statement pertaining to conduct of business authorized by such permit;

(2) The permit holder shall immediately discontinue activity authorized by a permit upon receipt of notice of revocation by the sheriff by certified mail.

(3) Any party whose permit has been revoked under this section may appeal the revocation pursuant to the provisions of LCC 7.765. [1983 o.195 §10]

7.750 Fees

(1) Fees shall be charged to cover the administrative costs of processing applications and monitoring compliance with code provisions. The sheriff may propose fee increases to cover increased costs at a maximum of one time per year. The fees shall be in amounts set by order of the Board of Commissioners.

(2) Each permit is valid for five years from issuance. Alarm installer and alarm monitoring permits are nontransferable. Alarm-user permits are transferable to new owners of the structure covered by the permit if the new owner fills out and signs an application form required under LCC 7.720. Failure to file a signed application form shall not waive the penalties prescribed under the public safety code provisions.

(3) All fees collected by the sheriff pursuant to this title shall promptly be forwarded to the county treasurer for deposit into the county general fund. [1983 o.195 §11; 1988 o.263 §1; 1993 o.313 §16]

7.755 Coordination of Permits

If any alarm equipment supplier or installer also conducts an alarm monitoring service, even though the business names may be different, it will be necessary for the firm or firms involved to pay only the alarm installer permit fee for the issuance of both permits. However, necessary forms will need to be completed for each operation for the purposes of processing information and enforcement of LCC 7.705 to 7.775. [1983 o.195 §12; 1988 o.263 §1]

7.760 Penalties

(1) As a condition of any alarm system permit issued under the provisions of LCC 7.705 to 7.775, the alarm user shall pay to the county, within 10 days of invoice, fees for false alarms generated by the alarm user's alarm system according to the fee schedule adopted by the Board of Commissioners. The alarm user's permit shall be subject to revocation in the event ten or more false alarms are generated within a calendar year.

(2) Violation of provisions of LCC 7.705 to 7.775 and the administrative rules issued pursuant to LCC 7.705 to 7.775 are punishable by revocation of the permit by the sheriff or his agent, and such further remedies as are provided in LCC chapter 10, and any other pertinent statutes, rules, and remedies at common law. [1983 o.195 §13; 2008 o.453 §1]

7.765 Appeals

Any person who has been assessed a false alarm penalty, had a permit revoked or suspended, or suffered any other penalty as provided in LCC 7.705 to 7.775, with the exception of penalties imposed pursuant to chapter 10, may appeal to the Board. A written notice of appeal of any assessment, revocation, suspension, or other penalty shall be filed with the sheriff and county counsel within ten days of the charge. Appeals procedure shall be governed by administrative rules promulgated by the sheriff and the Administrative Procedures Act as incorporated therein. [1983 o.195 §14]

7.770 Nonliability of County

Neither the county nor any official or employee of the county, including the communications center and its employees, shall be liable for any damage resulting from the malfunction or defective installation of any alarm system or any alarm monitoring service or conduct of any personnel of any alarm supplier or installer of alarm monitoring service as provided for in LCC 7.705 to 7.775. [1983 o.195 §15]

7.775 Severability

If any part of LCC 7.705 to 7.775 shall be held invalid by a court of competent jurisdiction, the remainder of LCC 7.705 to 7.775 shall remain in effect notwithstanding the invalidity of any part of LCC 7.705 to 7.775. [1983 o.195 §16]

AMBULANCE SERVICE PROVIDERS

7.805 Short Title and Purpose of LCC 7.805 to 7.855

(1) LCC 7.805 through 7.855 shall be known as the "Lincoln County ASA Ordinance," and is adopted pursuant to the authority provided the county in ORS 682.275 and ORS 203.035.

(2) The purpose of the Lincoln County ASA Ordinance is to:

(a) Establish the geographic boundaries of ambulance service areas in Lincoln County;

(b) Establish the procedural framework for the assignment of ambulance service areas in Lincoln County to ambulance service providers;

(c) Establish the framework for an ambulance service incident review process to assist with quality assurance;

(d) Establish a procedure for the periodic review and updating of the Lincoln County Ambulance Service Area Plan; and

(e) Otherwise carry out the terms and provisions of ORS Chapter 682, OAR Chapter 333 Division 260, and the Lincoln County Ambulance Service Area Plan. [1988 o.265 §1; 1991 o.297 §1; 1999 o.287 §1; 2000 o.406 §1]

7.810 Definitions for LCC 7.805 to 7.855

(1) The words and phrases in LCC 7.805 to 7.855 shall have the meaning provided in ORS chapter 682 and OAR chapter 333, division 260, unless specifically defined herein to have a different meaning.

(2) As used in LCC 7.805 to 7.855:

(a) "Ambulance Service Review Committee" means the committee appointed by the Board of Commissioners pursuant to LCC 7.840.

(b) "ASA Advisory Committee" means the committee appointed by the Board of Commissioners pursuant to LCC 7.827.

(c) "Director" means the Director of the Lincoln County Emergency Services Department.

(d) "Lincoln County Ambulance Service Area Plan" means the currently effective ambulance service area plan adopted by the Lincoln County Board of Commissioners in accordance with ORS 682.205 and OAR Chapter 333 Division 260. [1988 o.265 §1; 1991 o.297 §1; 1999 o.287 §2; 2000 o.406 §2]

7.815 Exemptions from Application of LCC 7.805 to 7.855

The provisions of LCC 7.805 to 7.855 shall not apply to:

(1) Ambulances owned by or operated under the control of the United States Government.

(2) Vehicles being used to render temporary assistance in the case of a major catastrophe or emergency with which the ambulance service of the surrounding locality are unable to cope, or when directed to be used to render temporary assistance by an official at the scene of an accident.

(3) Vehicles operated solely on private property or within the confines of institutional grounds, whether or not the incidental crossing of any public street, road or highway through the property or grounds is involved.

(4) Ambulances or vehicles transporting patients from outside the county to a health care facility within the county, or which are passing through without a destination in the county.

(5) Pre-arranged non-emergency transfers by state licensed ambulance service providers. [1988 o.265 §1; 1991 o.297 §1; 2001 o.413 §1]

7.820 Ambulance Service Areas

The following are the Ambulance Service Areas for Lincoln County:

(1) **ASA 1 (North Lincoln County):** Beginning at the Northwest corner of Lincoln County as described in ORS 201.210; thence East along the North boundary of Lincoln County to the Northeast corner of Lincoln County; thence South along the boundary line between Lincoln County and Polk County to the Northeast corner of Section 24, Township 8 South, Range 9 West, Willamette Meridian; thence West along section lines to the Northwest corner of Section 23 Township 8 South, Range 9 West, Willamette Meridian; thence South to the Southwest corner of said Section 23; thence West along section lines to the Southwest corner of Section 23, Township 8 South, Range 11 West, Willamette Meridian; thence North to the Northwest corner of Section 14, Township 8 South, Range 11 West, Willamette Meridian; thence West along the section line between Sections 10 and 15, Township 8 South, Range 11 West, Willamette Meridian to the Eastern boundary of the Salishan Hills subdivision; thence Northerly along the boundary of Salishan Hills Subdivision to the Southwest right-of-way line of the Oregon Coast Highway (State Highway 101); thence Northwesterly across said right-of-way to the Siletz Bay; thence Northerly and Westerly along the center of the Siletz Bay to the Pacific Ocean; thence Northerly along the Pacific Ocean to the point of beginning.

(2) **ASA 2 (Depoe Bay Area):** Beginning at the Southwest corner of Section 22, Township 8 South, Range 11 West, Willamette Meridian; thence Southerly along section lines to the Northeast corner of Section 4, Township 10 South, Range 11 West, Willamette Meridian; thence West along section lines to the Pacific Ocean; thence North along the Pacific Ocean to the boundary of ASA 1 described in subsection (1) of this section; thence Westerly and Southerly along the boundary of said ASA 1 to the Southwest corner of Section 23, Township 8 South, Range 11 West, Willamette Meridian; thence West along section lines to the point of beginning.

(3) **ASA 3 (Central Lincoln County):** The remainder of Lincoln County that does not lie within any other ASA.

(4) **ASA 4 (Waldport Area):** Beginning at the intersection of Big Creek and the Oregon Coast Highway (State Highway 101); thence due East to the section line between Section 1, Township 14 South, Range 12 West, Willamette Meridian, and Section 6, Township 14 South, Range 11 West, Willamette Meridian; thence South along said section line to the Northwest corner of Section 7, Township 14 South, Range 11 West, Willamette Meridian; thence East along the North line of said Section 7 to the Northeast corner of said Section 7; thence South along the East line of said Section 7 to the Southeast corner of said Section 7; thence East along section lines to the Northeast corner of Section 13, Township 14 South, Range 11 West, Willamette Meridian; thence South along the East line of said Section 13 to the Northwest corner of Section 19, Township 14 South, Range 10 West, Willamette Meridian; thence East along section lines to the center of the South section line of Section 14, Township 14 South, Range 10 West, Willamette Meridian; thence due South along center section lines to the center of Section 35, Township 14 South, Range 10 West, Willamette Meridian; thence due East along the center section line of Section 35 to the center of the West section line of Section 36, Township 14 South, Range 10 West, Willamette Meridian; thence South along the West section line of Section 36 to the Southwest corner of Section 36; thence East along section lines to the Southeast corner of Section 31; thence North along section lines to the Southeast corner of Section 18, Township 14 South, Range 9 West, Willamette Meridian, which point lies on the boundary between Lincoln County and Benton

County; thence Easterly and Northerly along the boundary line of Lincoln County and Benton County to the Northeast corner of Section 24, Township 13 South, Range 9 West, Willamette Meridian; thence West along section lines to the Southwest corner of Section 18, Township 13 South, Range 9 West, Willamette Meridian; thence North along section lines to the Northeast corner of Section 1, Township 13 South, Range 10 West, Willamette Meridian; thence West along the North line of said Section 1 to the Southeast corner of Section 36, Township 12 South, Range 10 West, Willamette Meridian; thence North along section lines to the Northeast corner of Section 25, Township 12 South, Range 10 West, Willamette Meridian; thence West along section lines to the Northwest corner of Section 30, Township 12 South, Range 10 West, Willamette Meridian; thence South along the West line of said Section 30 to the Southeast corner of Section 25, Township 12 South, Range 11 West, Willamette Meridian; thence West along section lines to the center of the section line between Sections 28 and 33, Township 12 South, Range 11 West, Willamette Meridian; thence North along the center section line of said Section 28 to the center of the section line between said Section 28 and Section 21, Township 12 South, Range 11 West, Willamette Meridian; thence West along the South line of said Section 21 to the Southwest corner of said Section 21; thence North along the West line of said Section 21 to the center of the section line between said Section 21 and Section 20, Township 12 South, Range 11 West, Willamette Meridian; thence West along the center section line of said Section 20 to the center of the section line between said Section 20 and Section 19, Township 12 South, Range 11 West, Willamette Meridian; thence North along said section line to its intersection with Beaver Creek; thence Westerly and Northerly along Beaver Creek to the Pacific Ocean; thence South along the Pacific Ocean to Big Creek; thence East along Big Creek to the point of beginning.

(5) **ASA 5 (Yachats Area):** All of Lincoln County lying to the South of ASA 4 as described in subsection (4) of this section. [1988 o.265 §1; 1991 o.297 §1; 1999 o.387 §3; 2000 o.406 §3]

7.825 Unauthorized Ambulance Service Prohibited

No person shall provide ambulance service in Lincoln County unless:

(1) The person is an authorized employee or agent of the entity that holds the Lincoln County ASA Ordinance assignment for the ambulance service area in which the need for service originates.

(2) The person is assisting the entity who holds the Lincoln County ASA Ordinance assignment for the ambulance service area in which the need for service originates.

(3) The person is acting pursuant to mutual aid or other cooperative agreement with the entity who holds the current Lincoln County ASA Ordinance assignment for the ambulance service area in which the need for service originates;

(4) The activity is allowed under LCC 7.815 or 7.830. [1988 o.265 §1; 1991 o.297 §1; 1999 o.387 §4; 2000 o.406 § 4]

7.827 Assignment of Ambulance Service Areas

(1) The Board of Commissioners shall have the exclusive authority to assign each ambulance service area within Lincoln County in accordance with this section. The Board retains authority to extend any and all timeframes contained in this section by Board order.

(2) The term for each assignment shall be for a period of five years, except as otherwise provided by order of the Board of Commissioners. Terms begin on July 1 and end on June 30.

(3)(a) On or before January 31 of the year in which an ambulance service area assignment is set to expire, the director shall mail a written notice to each currently assigned ambulance service provider for each Lincoln County ambulance service area set to expire that year. The notice shall remind the provider of the expiration of the ambulance service area term, and also inform the provider of the deadline for submitting an application for assignment of the ambulance service area.

(b) The director shall also mail notice of the expiring ambulance service area assignment, and deadline for submitting applications for new assignment, to any person requesting such notice. The director may also mail such notice to any person who the director believes might desire to make application for assignment of a Lincoln County ambulance service area.

(4) The deadline for submission of applications for assignment of a Lincoln County ambulance service area is March 1 of the year in which the ambulance service area assignment term is set to expire. Applications must be received in the office of the director on or before 5 p.m. on the deadline date, or the next business day if that date falls on a weekend or legal holiday. Each applicant shall submit the following number of copies of their application: Four copies for the director, and one copy for each of the three Commissioners.

(5) An application for assignment of an ambulance service area shall contain the following information:

(a) The name and address of the person applying for the assignment.

(b) The ambulance service area or areas the person desires to service, and the location from which ambulance services will be provided.

(c) A list of personnel to be used in providing ambulance service, and their current emergency medical technician certificate numbers and certification levels.

(d) A list of vehicles to be used in providing ambulance services, including year, make and model, and a statement that each vehicle will be certified as compliant by the State of Oregon.

(e) Sufficient information to allow for review of the application in light of applicable state law, state regulations, the Lincoln County ASA Ordinance, and the Lincoln County Ambulance Service Area Plan.

(f) Such additional information deemed necessary by the director, the ASA Advisory Committee, or the Board of Commissioners.

(g) Such additional information that the applicant desires to be presented to the ASA Advisory Committee or the Board of Commissioners. Examples may include, but are not limited to:

(A) Improved ambulance response times and the quality and level of service to the ASA without adversely affecting the existing first response system.

(B) A demonstration that call volume is sufficient to financially justify the service to be provided, or otherwise demonstrate financial soundness.

(C) Experience and past history in providing ambulance service.

(D) Does not jeopardize the financial ability of other ambulance service providers to provide efficient service to the remainder of the county.

(6)(a) If more than one application for assignment of an ambulance service area has been submitted in accordance with this section, the Lincoln County Board of Commissioners may appoint an ASA Advisory Committee consisting of not less than three and not more than nine members, for the purpose of reviewing competing applications for assignment of ambulance

service areas. The director and a representative from County Counsel's office shall serve as staff to the committee. To the extent practicable, the Board of Commissioners shall appoint committee members who have experience, or who are familiar, with the provision of emergency medical services. However, no member of the ASA Advisory Committee shall be a current or former employee, agent, physician advisor, or family member of a current or former employee, agent, or physician advisor of any entity that holds an assignment of a Lincoln County ambulance service area or that will be applying for assignment of a Lincoln County ambulance service area.

(b) If an ASA Advisory Committee has been appointed by the Board of Commissioners in accordance with this subsection, in March or April of that year the committee shall hold a public hearing for the purpose of reviewing and discussing the applications received for assignment of ambulance service areas in which more than one application was received. At least 7 days prior to the public hearing, the director shall mail notice of the hearing to each applicant. At the meeting, the committee shall first appoint a chairperson. The committee shall then proceed to allow testimony from applicants and members of the public, and allow questions of witnesses as posed by members of the committee and the committee's staff. The chairperson may set reasonable time limits on testimony from applicants and individuals. If necessary, the committee may adjourn and continue the public hearing to another date and time, and shall announce that date and time prior to adjournment. At the conclusion of testimony, the committee shall deliberate on the matter, and shall make an affirmative recommendation to the Board of Commissioners as to assignment of each contested ambulance service area. The committee or its individual members may, but are not required, to provide the Board with an explanation for their recommendation as to each assignment. Committee staff shall report the recommendation of the committee to the Board. In making a recommendation, the committee shall consider:

(A) Whether the application contains all elements required by subsection (5) of this section.

(B) Whether the application meets the requirements of state law and state regulation relating to the provision of ambulance service.

(C) The past experience of the applicant in providing emergency medical services.

(D) The past quality of emergency service provided by the applicant.

(E) The proposed quality of service to be provided by the applicant.

(F) The rates proposed to initially be charged for services by the applicant.

(G) Any other criteria which the committee considers important in making its recommendation to the Board.

(7) In May of the year in which one or more ambulance service area assignments are set to expire, the Board of Commissioners shall place that matter on their regular public meeting agenda. At the public meeting, the Board may, but is not required, to allow testimony from applicants and members of the public, and may ask questions of interested parties. The Board shall then deliberate on the matter, and may continue a decision to a subsequent Board meeting pending further deliberation or submission of additional information by one or more applicants. In making a decision on assignment of one or more ambulance service areas, the Board may consider:

(a) Any recommendation of the ASA Advisory Committee, and the reasons given for that recommendation, if any.

(b) Whether the application contains all elements required by subsection (5) of this section.

(c) Whether the application meets the requirements of state law and state regulation relating to the provision of ambulance service.

(d) The past experience of the applicant.

(e) The past quality of service provided by the applicant.

(f) The proposed quality of service to be provided by the applicant.

(g) The rates proposed to initially be charged for services by the applicant.

(h) Any other criteria which the Board considers important in making its decision. 2000 o.406 § 6; 2001 o.413 §2]

7.828 Additional Requirement for Applicants for Assignment of ASA 1 or 3

In addition to the requirements and provisions of LCC 7.827:

(1) Each applicant for assignment of ASA 1 or 3, or both ASA 1 and 3, must also apply for assignment of ASA 2, and the failure to do so by an applicant shall invalidate their application.

(2) The Board of Commissioners may assign ASA 2 to an applicant assigned ASA 1, an applicant assigned ASA 3, an applicant assigned ASA 1 and 3, or another applicant.

(3) If an ambulance service provider assigned to provide ambulance service to ASA 2 rejects, abandons, or otherwise ceases to provide ambulance service to ASA 2, that cessation of service shall be deemed an abandonment of all other ambulance service areas assigned to that provider in Lincoln County. [2001 o.414 §2]

7.830 Duties of Ambulance Service Provider

Upon assignment of an ambulance service area to a person in accordance with LCC 7.805 to 7.855, the person providing ambulance service:

(1) Shall conduct its operations in strict compliance with all applicable state and federal laws and regulations, and the terms of the Lincoln County Code and the Lincoln County Ambulance Service Area Plan.

(2) Shall not fail or refuse to respond to an emergency call for service if an ambulance is available for service.

(3) Shall not respond to a medical emergency located outside its assigned ambulance service area except:

(a) When a request for a specific ambulance service provider is made by the person calling for the ambulance, or a representative of that person, and the call does not dictate an emergency response;

(b) When the ambulance service provider assigned to the ambulance service area is unavailable to respond and the person is requested by the other provider or 9-1-1 dispatch to respond; or

(c) When the response is for supplemental assistance, advanced life support assist, or other mutual aid.

(4) Shall not transfer the assignment of an ambulance service area without written notice to and approval of the Board of Commissioners. The written notice shall include an application for assignment of the ambulance service area submitted by the transferee. The application shall be reviewed in accordance with LCC 7.831.

(5) Shall not voluntarily discontinue service to the assigned ambulance service area without giving at least 120 days written notice to the Board of Commissioners. [1988 o.265 §1; 1991 o.297 §1; 2000 o.406 §7]

7.831 Reassignment of Ambulance Service Area

(1) In the event that a person assigned an ambulance service area discontinues, or will be discontinuing, service before the expiration of the assignment, whether the discontinuance arises from abandonment, dissolution, suspension, or revocation, the Board of Commissioners shall set a deadline for the submission of applications for reassignment of that ambulance service area, and shall also set additional timelines for notices, review, and hearings. The procedure for notices, review and hearings shall be in accordance with LCC 7.827, except that the deadlines and timelines established by the Board shall replace the deadlines and timelines in LCC 7.827.

(2) A reassignment of an ambulance service area pursuant to this section shall be for the unexpired term of the discontinued assignment, unless otherwise provided by order of the Board. [2000 o.406 §9]

7.832 Suspension or Revocation of Assignment of Ambulance Service Area

(1) Upon a recommendation by the Ambulance Service Review Committee, or upon its own motion, the Board of Commissioners may suspend or revoke the assignment of an ambulance service area upon a finding that the holder thereof has:

(a) Willfully violated provisions of LCC 7.805 to 7.855, the Lincoln County Ambulance Service Area Plan, or provisions of state or federal laws and regulations; or

(b) Materially misrepresented facts or information given in the application for the assignment of an ambulance service area or as part of the review of the performance of the service furnished by the provider.

(2) In lieu of the suspension or revocation of the assignment of ambulance service area, the Board may order that the violation be corrected and make the suspension or revocation contingent upon compliance with the order within the period of time stated therein. Notice of the Board action shall be provided to the holder of the assignment which shall specify the violation, the action necessary to correct the violation, and the date by which the action must be taken. The holder of such assignment shall notify the Board of the action taken. If the holder of the assignment fails to take corrective action within the time required, the Board shall notify the holder that the assignment is suspended or revoked upon receipt of the notice. [1991 o.297 §1; 2000 o.406 § 10]

7.833 Insurance and Performance Bond

An ambulance service provider assigned one or more ambulance service areas in accordance with LCC 7.805 to 7.855 shall:

(1) Maintain financial responsibility in at least the minimum types and amounts as required under ORS 682.105 to 682.109.

(2) Execute and deliver to the county a good and sufficient bond in a form and amount approved by the director as adequate to ensure the faithful performance of ambulance service in each of the assigned ambulance service areas. The bond must be in a form that is immediately redeemable by the county in the event the service provider vacates the assigned ambulance service area for any reason without at least 120 days advance written notice to the county. In establishing bond amounts for ambulance service areas under this subsection, the director need

not set the same bond amount for each ambulance service area, but shall establish a bond amount for each ambulance service area that is sufficient in the opinion of the director to ensure the provision of ambulance service in that ambulance service area in the event of vacation without 120 days advance notice. [2001 o.413 §4]

7.835 Appeal

A person receiving a notice of the assignment, denial, suspension, contingent suspension, or revocation of an ambulance service area may request a hearing before the Board of Commissioners by filing with the Board of Commissioners a written request for hearing within 14 days of the decision, setting forth the reasons for the hearing and the issues proposed to be reviewed. The filing of a hearing request shall stay the action pending the hearing and final determination by the Board of Commissioners unless the Board of Commissioners makes a written finding that prompt implementation of the decision is required due to an immediate hazard to the public safety. The Board of Commissioners shall set a time and place for a hearing which shall be *de novo* on the record or a full *de novo* hearing, as determined by the Board. Within 14 days after the conclusion of the hearing, the Board shall affirm, reverse or modify its original decision. [1988 o.265 §1; 1989 o.278 §3; 1991 o.297 §1; 2000 o.406 §11]

7.840 Ambulance Service Review Committee

(1) There is hereby created an Ambulance Service Review Committee, the members of which shall be appointed by the Board of Commissioners for two-year terms. The Committee shall choose its own chairperson and meet quarterly or when called upon by the Board of Commissioners or its chairperson. Motions shall be passed by a majority of those attending.

(2) The committee shall consist of:

(a) One representative from each ambulance service provider in Lincoln County.

(b) Three fire department or quick response team representatives, no two of which shall primarily serve the same ambulance service area, and none of which shall be from any ambulance service provider.

(c) One emergency physician or hospital administrator. This position may be appointed in a series of alternates to allow for varying schedules of physicians and administrators.

(d) Two public members.

(e) One representative of each 9-1-1 PSAP in Lincoln County.

(3) The Committee shall have the following powers and duties:

(a) Provide a review process for a regular random sampling of ambulance services rendered in Lincoln County by each ambulance service provider.

(b) Provide a forum for review of complaints by consumers and others concerning the quality of ambulance services provided in Lincoln County.

(c) Make recommendations to the Board of Commissioners in accordance with LCC 7.832(1) for revocation or suspension of an ambulance service area assignment, when such recommendation appears appropriate pursuant to LCC 7.832.

(d) Periodically review the Lincoln County Ambulance Service Area Plan and make recommendations to the Board of Commissioners concerning proposed updates and amendments to the plan. [1988 o.265 §1; 1989 o.278 §§ 3 and 4; 1991 o.297 §1; 1999 o.387 §5; 2000 o.406 §12]

7.845 Initial Responder

Nothing in LCC 7.805 to 7.855 prohibits a 9-1-1 agency, responsible for the dispatching of emergency services, from dispatching an initial responder to the scene of a medical emergency in addition to dispatching an ambulance service provider. Such initial response shall only be in accordance with this section:

(1) The initial responder shall be a municipal corporation or a special district within Lincoln County that provides emergency services within its jurisdiction and requests to be dispatched to medical emergencies.

(2) The initial responder shall respond with Emergency Medical Technicians or First Responders that are certified by the State of Oregon and who are employed by or volunteer with the initial responder.

(3) Upon the arrival of the ambulance service provider at the location of the medical emergency, the ambulance service provider shall be in charge of, and responsible for, the continuation of emergency medical services. The initial responder shall continue to provide emergency medical services only at the direction of the ambulance service provider. [1988 o.265 §1; 1989 o.278 §3; 1991 o.297 §1]

7.850 Penalties

Any person who violates any provision of LCC 7.805 to 7.855 is guilty of a violation. Failure from day to day to comply with the terms of LCC 7.805 to 7.855 shall be a separate offense for each day. Failure to comply with any provision of LCC 7.805 to 7.855 shall be a separate offense for each such provision. Violations of LCC 7.805 to 7.855 is punishable upon the conviction by a fine of not more than $500 for a non-continuing offense, which means a an offense not spanning two or more calendar days. In the case of a continuing offense, which means an offense which spans two or more consecutive calendar days, violation of the provisions is punishable by a fine of not more than $500 per day up to the maximum of $1,000 as provided by law. [1988 o.265 §1; 1989 o.278 §3; 1991 o.297 §1]

7.855 Nuisance

In addition to penalties provided by LCC 7.850, violation of any of the provisions is declared to be a nuisance and may be regarded as such in all actions, suits, and proceedings unless the provisions are declared invalid by a court of competent jurisdiction. Pursuant to ORS 823.180(5), these provisions shall be enforceable by the Health Division of the State of Oregon, Department of Human Resources, in a proceeding in Circuit Court for equitable relief. [1988 o.265 §1; 1989 o.278 §3; 1991 o.297 §1; 1999 o.387 §6]

COUNCIL OF GOVERNMENTS

7.905 Ratification of Creation of Oregon Cascades West Council of Governments

(1) The Lincoln County Board of Commissioners hereby declares its intent, by enactment of the ordinance creating this section, to create an intergovernmental entity by intergovernmental agreement, namely the Oregon Cascades West Council of Governments ("OCWCOG"), the intergovernmental agreement ("Articles of Agreement") for which is attached to and made a part of the ordinance creating this section. Any amendment to the Articles of Agreement will made pursuant to the Articles of Agreement.

(2) The effective date of the Articles of Agreement shall be the first date on which two-thirds of the members of the existing Cascades West Council of Governments ("CWCOG"), plus one, have enacted ordinances ratifying the creation of OCWCOG as an intergovernmental entity.

(3) The public purposes for which the OCWCOG is created, and the powers, duties and functions of the OCWCOG, are set forth in the Articles of Agreement. [1996 o.359 §2]

7.907 Ratification of Amendments to Oregon Cascades West Council of Governments Intergovernmental Agreement

(1) Lincoln County hereby ratifies the amendments to the Articles of Agreement for the Oregon Cascades West Council of Governments as approved by the Governing Board of the Oregon Cascades West Council of Governments on September 21, 2000. The public purpose for which that intergovernmental entity was created, and the powers, duties, and functions of that intergovernmental entity, are as set forth in the amended Articles of Agreement. Amending the Articles of Agreement is necessary in order to allow representatives from all three member counties to serve as chair of the governing board, and to remove certain operational and procedural language more appropriate for separate bylaws, thus allowing for more efficient operation.

(2) The effective date of the amendments to the Articles of Agreement shall be the first date on which two thirds of the members of the existing intergovernmental entity, plus one, have adopted ordinances ratifying the amendments to the Articles of Agreement, which created the intergovernmental entity. [2000 o.404 §2]

7.910 Ratification of Creation of the Accountable Behavioral Health Alliance

(1) The Lincoln County Board of Commissioners hereby declares its intent, by enactment of the ordinance creating this section, to create an intergovernmental entity by intergovernmental agreement, namely the Accountable Behavioral Health Alliance. A copy of that intergovernmental agreement is attached to and made a part of the ordinance creating this section. Any amendment to that intergovernmental agreement will made pursuant to the provisions of the agreement.

(2) The public purposes for which the Accountable Behavioral Health Alliance is created, and the powers, duties and functions of the Alliance, are set forth in the intergovernmental agreement. [1997 o.371 §2]

CHAPTER 8

Elections

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DETERMINING COMMUNITY OPINIONS

8.005 Purpose

The purpose of LCC 8.005 to 8.035 is to provide a procedure by which the Board may submit questions to the electorate for an advisory opinion.

8.010 Definitions

(1) "Matters of county concern" means those issues deemed by a majority of the Board to be of significant interest to the people of Lincoln County.

(2) "Straw vote" means an unofficial vote to test the strength of opposing views to determine opinion on matters of county concern.

(3) "Ballot" means an election ballot of a regularly scheduled election.

8.015 Scope

Any matters of county concern may, in the discretion of a majority of the Board, be put on the ballot for a straw vote.

8.020 Ballot Questions

Any person, agency of government, or public interest group may submit a matter of county concern to the Board for a straw vote. Ultimate authority in determining whether a question will be placed on the ballot will be the Board.

8.025 Time Period for Submission of Questions

Questions regarding matters of county concern, submitted to the Board for a straw vote, shall be submitted not less than 90 calendar days prior to the date of the next regularly scheduled election.

8.030 Form of the Question

Any question regarding a matter of county concern submitted to the Board shall bear a title summarizing the question and the name and signature of the person submitting the question.

8.035 Procedure by Board

(1) If the Board approves a question for a straw vote it shall give notice to the person submitting the question.

(2) Within 10 days after the notice required by subsection (1) of this section, the person proposing the question shall post security in an amount approved by the Board to pay for all expenses of the straw vote.

(3) If security is posted, the Board shall forward the question to the clerk for inclusion in the next regularly scheduled election.

COUNTY MEASURES IN STATE VOTERS PAMPHLET

8.105 Purpose

The purpose of LCC 8.105 to 8.130 is to allow inclusion of county measures, ballot titles and explanatory statements therefor, and arguments relating thereto in the state voters pamphlet in accordance with ORS 251.235 and these code provisions. [1984 o.215 §1]

8.110 County Measures Included in Pamphlet

A county measure shall qualify for and be subject to the provisions of LCC 8.105 to 8.130 and ORS 251.285 only if:

(1) The measure is to be submitted to the electors at an election for which a state voters pamphlet is printed;

(2) All procedures set forth in LCC 8.105 to 8.130 relating to the preparation of the ballot title and to the explanatory statement for the measure have been completed on or before the 75th day before the election at which the measure is to be submitted to the electors;

(3) In the case of a measure proposed by initiative or referendum petition:

(a) All chief petitioners indicate their decision to include the measure, its ballot title, explanatory statement and arguments in the state voters pamphlet, by filing with the county clerk a statement of that decision, in such form as the clerk shall prescribe, at the time the prospective petition for the measure is filed with the clerk;

(b) A petition containing sufficient numbers of qualified signatures to require submission of the measure to the electors is filed with the clerk on or before the 90th day preceding the election at which the measure is to be submitted to the electors;

(4) In the case of a measure referred to the electors by the Board, the Board indicates its decision to include the measure, its ballot title, explanatory statement and arguments in the state voters pamphlet, by filing with the clerk its order reflecting that decision on or before the 85th day preceding the election at which the measure is to be submitted to the electors; and

(5) In the case of any county measure supported or opposed by a political committee, as defined in ORS chapter 260, such committee indicates its decision in a statement signed by every committee director, as defined in ORS chapter 260, and files such statement with the clerk on or before the 80th day preceding the election at which the measure is to be submitted to the electors. [1984 o.215 §1]

8.115 Preparation of Ballot Titles and Explanatory Statements

(1) In the case of a measure proposed by initiative or referendum petition, upon the filing of the prospective petition, the clerk shall convey two copies of the prospective petition to the district attorney, who shall, within five days after receiving it, prepare a ballot title and explanatory statement for the measure and return a copy of the prospective petition, together with the ballot title and explanatory statement to the clerk and to one of the chief petitioners.

(2) In the case of a measure referred to the electors by the Board which will be voted upon at an election for which there is a state voters pamphlet, the Board shall file with the clerk a ballot title and explanatory statement for the measure at the time it files the order described in LCC 8.110(4).

(3) Ballot titles shall consist of:

(a) A caption of not more than 10 words by which the measure is commonly referred to;

(b) A question of not more than 20 words which plainly states the purpose of the measure, and is phrased so that an affirmative response to the question corresponds to an affirmative vote on the measure; and

(c) A concise and impartial statement of not more than 75 words of the chief purpose of the measure.

(4) Explanatory statements shall be impartial, simple, and understandable, explaining the measure and its effect and shall not exceed 500 words. [1984 o.215 §1]

8.120 Judicial Review of Ballot Titles and Explanatory Statements

Within five days after the ballot title and explanatory statements are received by the clerk under LCC 8.115(1) or (2), any elector dissatisfied with the ballot title or explanatory statement or both may petition the Circuit Court of the State of Oregon for the County of Lincoln for review of the title or statement, and shall set forth the reasons why the title or statement does not conform to the requirements of LCC 8.105 to 8.130 or other applicable law. If the court finds that the ballot title or explanatory statement complies with the requirements of LCC 8.105 to 8.130 and other applicable law, it shall enter an appropriate order to that effect. If the court determines that the ballot title or explanatory statement does not comply with the requirements of LCC 8.105 to 8.130 or other applicable law, the court shall prepare an alternative ballot title or explanatory statement. The title or statement so prepared shall supersede and replace that of the district attorney for purposes of LCC 8.105 to 8.130. The order of the Circuit Court shall not be appealable. [1984 o.215 §1]

8.125 Arguments Favoring or Opposing Measures

(1) Arguments favoring or opposing a measure which qualifies for, and is subject to, LCC 8.105 to 8.130 may be filed with the clerk on or before the 75th day preceding the election at which the measure is to be submitted to the electors by:

(a) Any elector eligible to vote on the measure, or any organization eligible to file arguments under Oregon Law, upon payment to the clerk of a fee of $300 and the filing of a statement, in such form as the clerk shall prescribe, which identifies the name of the person or persons who submitted the argument, the name of the organization the person or persons represent, if any, and whether the argument supports or opposes the measure; or

(b) One thousand or more electors eligible to vote on the measure or 10 percent of the total of such electors, whichever is less, whose representative files with their argument a petition for its inclusion in the state voters pamphlet, in such form as the clerk shall prescribe or provide, which contains the qualified signatures of at least 1,000 such electors or 10 percent of the total electors eligible to vote on the measure, whichever is less.

(2) Prior to the circulation of a petition under subsection (1)(b) of this section, a prospective petition shall be filed with the clerk, in such form as the clerk shall prescribe or provide, which sets forth the text of the proposed argument and which identifies the name of the person or persons who submitted the argument, the name of the organization the person or persons represent, if any, and whether the argument supports or opposes the measure. A copy of the contents of the prospective petition shall be attached to each signature sheet of the petition circulated among the electors. The procedures for circulation of the petition shall be the same as the applicable procedures for circulation of initiative or referendum petitions, and the clerk shall verify the signatures on the petition in the same manner signatures are verified on referendum or initiative petitions.

Arguments shall be typewritten, and shall be prepared for printing on not more than 29.8 square inches of the state voters pamphlet and shall comply with all applicable laws and rules pertaining to arguments in the state voters pamphlet. [1984 o.215 §1]

8.130 Filing of Material with Secretary of State

On or before the 70th day preceding the election at which any measure which qualifies for and is subject to LCC 8.105 to 8.130 is to be submitted to the electors, the clerk shall file with the secretary of state the measure, ballot title, explanatory statements, and any arguments which have been filed and completed in accordance with the requirements of LCC 8.105 to 8.130 and of any other applicable law. The county shall pay the secretary of state the cost of including the material in the state voters pamphlet. [1984 o.215 §1]

ELECTION OF COUNTY COMMISSIONERS

8.205 Purpose

The purpose of LCC 8.205 through 8.210 is to establish the mode of selection of the elected Board of Commissioners. [2013 o.469 §2]

8.210 Method of Selecting the Elected Board of Commissioners

The offices of Lincoln County Board of Commissioners shall be nonpartisan within the meaning of ORS Chapter 249 and any other state election laws and other applicable laws utilizing this designation of these offices. [2013 o.469 §2]

[Note: Approved by voters November 5, 2013]

CHAPTER 9

Parks and Recreation

PARK REGULATIONS

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PUBLIC NUDITY

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PARK REGULATIONS

9.005 Definitions

As used in LCC 9.005 to 9.025, unless the context requires otherwise:

(1) "Camp" or "camping" means the placing or pitching of tents, the placing of camping or sleeping facility vehicles including but not limited to a trailer, mounted camper, motor vehicle or other equipment for the purpose of staying overnight or for a limited period during proscribed hours at a county park, upon other county property, or upon a county or public road.

(2) "Motor vehicle" means every self-propelled vehicle and vehicle designed for self-propulsion, except police and other emergency motor vehicles, and does not include camping or sleeping facility vehicles.

(3) "Park area" means any lands accepted as a county park pursuant to ORS Chapter 275.

(4) "Parking area" means any space marked or unmarked which may be or is used for the parking of automobiles or other transportation vehicles.

(5) "Parking space" means the individual or separate spaces designated or marked for each vehicle.

(6) "Sleeping facility vehicle" means any motor vehicle or device designed for overnight camping, including but not limited to campers, motor homes, travel trailers, and tent trailers.

(7) “Peace Officer” means a Sheriff, deputy sheriff, law enforcement officer, constable, marshal, municipal police officer, Oregon State police officer, and such other persons as may be designated by law.

(8) “Parks Director and/or Director’s designate” means the person designated by the Board or the Department to administer the County’s programs and policies for County parks, forests, and recreation areas.

(9) “Division” means the Parks Division of the Lincoln County Public Works Department and its employees.

(10) “Parks Employee” means the individual in charge of/and or responsible for a County park area. [1981 o.159 §1; 1989 o.277 §1; 2000 o.400 §1; 2009 o.459 §1]

9.010 Park and County Property Restrictions

The following restrictions shall apply to all parks and county property:

(1) The Division is hereby authorized to temporarily close to the public use of any County park area or portion thereof, restrict the times when any County park area shall be open to such use, and limit or prohibit a recreation use whenever such action is necessary to protect the health or safety of the public, or the safety of the park area or its facilities. Cause for park area closure or limitation, or prohibition, on park area or recreational use includes, but is not limited to: tire hazard, dangerous weather, water conditions, and sanitary protection of the watershed, park area construction or repairs, conservation of fish and wildlife, excessive traffic, unsafe or overcrowded shoreline, ramp, parking or road conditions, the prevention of damage to the park or any of its facilities, or any dangerous, unsafe, or unhealthful conditions.

(2) No person shall enter or use any County park area or any of its facilities without first paying the required fee, if any, unless, such entry or use is otherwise authorized by a valid existing permit in the name of said person.

(3) Any County employee designated by the Public Works Department or any peace officer may revoke any permit that has been issued erroneously. Where there is reasonable cause to believe the permit holder or any person in his or her custody, control or family, has violated any of the provisions of these rules, or any State, County or federal law. Any person whose permit has been revoked and all other persons in his or her custody, control, and family shall immediately leave the park.

(4) Any person who violates any of the rules herein, or who violates any state statute, County ordinance or code while in a County park, may be ordered to leave the park area and that person's permit fee is forfeited.

(5) No person who has been ordered to leave a County park area shall remain therein or return thereto.

(6) The Division may refuse to admit into a park area any person who has been previously ordered to leave a County park.

(7) Except for authorized overnight camping in accordance with these rules, no person, other than peace officers or authorized County personnel, shall enter or remain in any park area after the daily closing time and before the daily opening time.

(8) The daily opening and closing times for each Lincoln County Park shall be established by the Parks Director and/or their designate and posted at the entrance to the park.

(9) No person shall park a vehicle on any Lincoln County park property before the posted opening time or after the posted closing time. Vehicles parked in violation of this section shall be towed or booted at the owner's expense. [1984 o. 208 §1; 2009 o.459 §2]

9.015 Overnight Camping

(1) It shall be unlawful for any person to camp in a county park or on other county property, except in areas specifically designated by the county as public camp grounds. It shall be unlawful for any person to camp on a county or public road where the Board of Commissioners, by Board order, has prohibited camping upon that road.

(2) No person may camp in any one park area for more than ten (10) days in one 14-day period of time, unless that person obtains the written permission from the Parks Director and/or the Director's designate.

(3) In designated camping areas, residence shall be limited to ten consecutive days in any park.

(4) Violation of this regulation shall be punishable upon conviction pursuant to LCC chapter 10.

(5) The fee for overnight camping at a Lincoln County Park shall be set by order of the Board of Commissioners.

(6) No person under the age of 18 shall camp overnight unless accompanied by an adult.

(7) Campers are required to maintain reasonable quiet between the hours of 10:00 p.m. and 7:00 a.m., and to respect the rights of other campers to peace and quiet during these hours.

[1981 o.159 §1; 1982 o.171 §1; 1983 o.197 §1; 1984 o.211 §1; 1988 o.268 §1; 1989 o.277 §1; 1994 o.342 §2; 2009 o.459 §3]

9.020 Parking Regulations

(1) The purpose of this section is to establish an orderly system of parking and control of traffic on county park premises.

(2) The Director of the Lincoln County Public Works Department is hereby delegated administrative authority to restrict or limit the use of any parking area or parking space in any county park by indicating the restriction or limitation on a sign conspicuously posted at that location.

(3) A parking restriction or limitation imposed by the Director under this section may be:

(a) A total prohibition on parking within the designated area;

(b) A limitation on parking within the designated area during specified times of the day or night or day of week;

(c) A limitation on the length of time that a vehicle may be parked in the designated area;

(d) A limitation on the type of vehicle that may be parked in the designated area; or

(e) Any combination of one or more of the limitations described in paragraphs (a) though (d) of this subsection.

(4) A parking restriction or limitation imposed by the Director under this section is not effective until the appropriate sign indicating the restriction or limitation is posted at the designated area. [2000 o.400 §3]

9.025 Prohibition of Parking in Violation of Restriction or Limitation; Enforcement

(1) No person shall park in a parking area or parking space in a county park in violation of a parking restriction or limitation imposed under LCC 9.020.

(2) Enforcement of this section may be carried out by one or more of the following methods:

(a) Citation:

A vehicle parked in violation of this section is subject to being cited for a parking violation in accordance with the Oregon Vehicle Code, LCC chapter 10, or both.

(b) Impoundment:

A vehicle parked in violation of this section is subject to being impounded in accordance with the procedures provided in ORS 809.725 and 819.180.

(c) Nuisance Abatement:

A nuisance abatement action in accordance with LCC chapter 10 may be filed against any person who repeatedly parks in violation of this section. [2000 o.400 §4]

9.030 Animals

(1) No person shall allow a dog or other pet to run at large. All pets shall be confined or leashed with a leash of not more than ten feet.

(2) No person shall tie up any animal in his or her custody or control and leave such animal unattended.

(3) All animal fecal matter shall be put in a bag or container and left in a designated waste receptacle.

(4) No person shall allow any animal in his or her custody or control to annoy, molest, attack, or injure any person in the park area. A County Parks employee may undertake, or require the person keeping the animal to take any measures, including the removal of the animal from the park area, if deemed necessary to prevent interference of the animal with the safety, comfort, and well being of the park area users, and the appearance of the sanitary condition of the park area.

(5) No person shall ride, drive, lead, or keep a saddle horse or other animal except on such roads, trails, or areas specifically designated for that purpose.

(6) No person shall in any manner pursue, hunt, trap, or molest any bird or animal. [2009 o.459 §4,5]

9.035 Fires

(1) As used in this subsection, "fire" includes all open flames except for camp stoves, charcoal cookers, and other contained camping equipment used for cooking.

(2) All fires shall be confined to a stove, pit, or fireplace designated for fires, attended at all times, and extinguished before its user leaves the fire.

(3) No person shall build, light, maintain any fire so as to constitute a hazard to any pile of wood, grass, tree, underbrush, or other flammable material. A County Parks employee may make a determination what constitutes a hazard. [2009 o.459 §4,6]

9.040 Alcoholic Beverages

(1) No person shall possess in any park area, any containers of alcoholic beverages in excess of two-quart size.

(4) Any person authorized to enforce park rules is permitted to confiscate and destroy any alcohol and its container that is used in a manner that violates a restriction imposed under this chapter. [2009 o.459 §4,7]

9.045 Concessions and Solicitations

(1) No person shall operate a concession, either fixed or mobile, in any park area without written permission from the Parks Director and/or the Director's designate.

(2) No person shall solicit, sell, or offer food for sale, peddle, hawk, or vend any goods, wares, merchandise, food, liquids, or services in any park area without the written consent of the Parks Director and/or the Director's designate.

(5) No person shall advertise any goods or services in any park area without written permission from the Parks Director and/or the Director's designate.

(6) No person shall distribute any circulars, notices, leaflets, pamphlets, or written or printed material of any kind in any park area by leaving or placing the material on a person's vehicle or property without the owner's express permission.[2009 o.459 §4,8]

9.050 Motor Vehicles

(1) No person shall drive a motor vehicle on any walk, path, trail, service road, or other area, unless said walk, path, trail, service road, or area has been officially designated for use by motor vehicles.

(2) No person shall park any auto, truck, trailer, or other vehicle in any area other than an area specifically designed for such purposes. [2009 o.459 §4,9]

9.055 Waste Disposal

(1) No person shall:

(a) Deposit any rubbish, garbage, glass, or other litter except in receptacles designated for that purpose;

(b) Dispose of hand and dish water other than in the receptacles provided for that purpose, or to dump human waste in gray water receptacles;

(c) Wash any clothing or other materials in a lake or stream, or in any way pollute or defile any stream, spring, well, or lake;

(d) Dump household or commercial garbage, brought from lands outside the park, in park facilities. [2009 o.459 §4,10]

9.060 Park Property and Property Destruction

(1) No person shall:

(a) Alter, deface, mutilate, or destroy any trail, road, parking lot, bridge, fence, building, sign, barrier, or other facility or structure;

(b) Dig up or remove any soil, stones, rocks, or other substances whatever; make any excavation, or lay or set off any blast therein;

(c) Pick, mutilate, dig, or remove any plant, living or dead, or in any way deface, mutilate, burn, destroy, or defile any tree or plant within the limits of such areas;

(d) Erect temporary signs, markers, or inscriptions of any type in any park area, without written permission from the Parks Director and/or the Director's designate;

(e) Use abusive, threatening, boisterous, vile, obscene, or indecent language or gestures;

(f) Operate radios, television, musical instruments, or other noise-producing devices, or otherwise cause unnecessary sound in such a manner and at such times so as to disturb or bother persons;

(g) Cause, attempt to cause, or bring about any public demonstrations or disturbances, or in any way create a public nuisance;

(h) Discharge any firearm, slingshot, arrow, air, CO^2, or spring actuated rifle or pistol, or other similar device, except in areas designated for such activity;

(i) No person shall possess or use fireworks or other explosives in any park area.

(j) Throw rocks, sticks or other objects, which may endanger the safety of any other person within said area. [2009 o.459 §4,11]

PUBLIC NUDITY

9.105 Purpose

The county recognizes its responsibility to ensure freedom of self expression, but also recognizes the need for the protection of the young and immature and protection of the public from affronts to generally accepted standards of conduct. The purpose of LCC 9.105 to 9.125 is to protect the reasonable sensitivities of others from unwanted sexual display through the limited curtailment of public nudity.

9.110 Definitions

As used in LCC 9.105 to 9.125, unless the context requires otherwise:

(1) "Nudity" means uncovered portions of the human body of an individual 12 years of age or older as follows: Genitals, pubic areas, and the female breast. For the purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and areola only are covered.

(2) "Public place" means a place to which the general public has unrestricted access and where casual observers, including minors, are likely to wander, including all public parks within the county.

9.115 Public Nudity Prohibited

No person on or within 100 yards of a public place shall expose his or her nudity to another person of the opposite sex within the public place.

9.120 Defenses

In any prosecution under LCC 9.105 to 9.125, it is an affirmative defense for the defendant to prove:

(1) The defendant was in a familial relationship with the persons viewing the nudity;

(2) The defendant had the tacit or explicit consent of the persons viewing the nudity.

PENALTIES

9.125 Penalties

Violation of any provision of LCC 9.005 to 9.120 is punishable pursuant to LCC chapter 10. [1982 o.171 §1]

CHAPTER 10

Enforcement

NUISANCE AND VIOLATION

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10.210 Enforcement of Lincoln County Code

CODE VIOLATION ACTION

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10.305 Citation Requirements and Delivery of Citation Parts
10.310 Defendant's Appearance; Bail; Request for Hearing; Statement; Guilty Plea
10.315 Fixing Hearing Date; Notice to Defendant; Waiver
10.320 Hearing Discretionary; Powers of Court on Hearing and Without Hearing; Judgment
10.325 Failure to Appear or Comply
10.330 Jurisdiction and Venue
10.335 Trial Without Jury; Discovery; Burden of Proof; No Culpable Mental State Required; No Defense Counsel Provided at Public Expense
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10.400 Civil Action to Redress Violation of Lincoln County Code
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CERTAIN SOLID WASTE OFFENSES

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10.505 No Action for Violation of LCC 2.1505 if District Attorney is Prosecuting Criminal Action for Same Conduct

NUISANCE AND VIOLATION

10.005 through 10.105 [1983 o.190 §1; repealed 1994 o.332 § 20]

10.200 Violation of Lincoln County Code a Nuisance and a Violation

Every act or thing done, or anything existing within the limits of Lincoln County, that is in violation of any provision of the Lincoln County Code is declared to be:

(1) A nuisance, shall constitute a nuisance and may be regarded as a nuisance in all actions, suits and proceedings, unless the provision of the Lincoln County Code is declared void by a court of competent jurisdiction; and

(2) A violation. [1994 o.332 § 2]

10.210 Enforcement of Lincoln County Code

(1) The provisions of the Lincoln County Code may be enforced by:

(a) Issuance of a warning notice;

(b) A code violation action as provided in LCC 10.300 to 10.355;

(c) A civil action as provided in LCC 10.400 to 10.415;

(d) Any other action authorized by statute, common law, rule, ordinance, franchise agreement or contract; or

(e) Any combination of the enforcement mechanisms described in this section.

(2) The Office of Lincoln County Legal Counsel shall prosecute all actions to enforce any provision of the Lincoln County Code instituted on behalf of Lincoln County. [1994 o.332 § 3]

CODE VIOLATION ACTION

10.300 Institution of Code Violation Action

(1) All peace officers as defined in ORS 161.015, and all employees of Lincoln County, have jurisdiction of and may institute a code violation action charging a person with a violation of the Lincoln County Code in accordance with the provisions of LCC 10.300 to 10.355.

(2) A code violation action shall be instituted by issuing a citation to the person charged with the code violation. If the person to be issued a citation is a firm, corporation or other organization, issuance of a citation to any employee, agent or representative thereof shall be sufficient to confer jurisdiction.

(3) Any person issued a citation for a code violation shall not be arrested. However, if there is reasonable suspicion to believe that a person has committed a code violation, the person may be detained, but only so long as is necessary to determine, for the purposes of issuing a citation, the identity of the violator and such additional information as is appropriate for law enforcement agencies in the state. [1994 o.332 § 3a]

10.305 Citation Requirements and Delivery of Citation Parts

(1) A citation issued pursuant to LCC 10.300 shall be in the form of an Oregon Uniform Citation and Complaint, as adopted by the Oregon Supreme Court pursuant to ORS 1.525, must contain the parts and certificate provided by ORS 153.130, and must meet the minimum requirements for summons and complaint as provided by ORS 153.140 and 153.150.

(2) The peace officer or county employee issuing the citation shall cause:

(a) The "COMPLAINT" and "ABSTRACT" copies to be delivered to the court;

(b) The "POLICE RECORDS" copy to be delivered to the Office of Lincoln County Legal Counsel;

(c) The "OFFICER'S NOTES" copy to be retained by the agency or department employing the peace officer or county employee issuing the citation; and

(d) The "SUMMONS" copy to be delivered to the person cited. [1994 o.332 § 4]

10.310 Defendant's Appearance; Bail; Request for Hearing; Statement; Guilty Plea

(1) For all citations issued pursuant to LCC 10.300 to 10.355, the defendant shall either appear in court at the time indicated in the summons, or prior to such time shall deliver to the court the summons, together with check or money order in the amount of the bail set forth in the summons, and enclosing therewith:

(a) A request for a hearing;

(b) A statement of matters in explanation or mitigation of the violation charged; or

(c) The executed appearance, waiver of hearing and plea of guilty appearing on the summons. A statement in explanation or mitigation also may be enclosed with the guilty plea.

(2) In a case in which the defendant personally appears in court at the time indicated in the summons, if the defendant desires to plead guilty and the judge accepts the plea, the judge shall hear any statement in explanation or mitigation that the defendant desires to make. [1994 o.332 § 5]

10.315 Fixing Hearing Date; Notice to Defendant; Waiver

If the defendant requests a hearing under LCC 10.310, or if pursuant to LCC 10.320, the court directs that a hearing be had, the court shall fix a date and time for the hearing and, unless notice is waived, shall at least five days in advance of the hearing mail to the defendant notice of the date and time so fixed. [1994 o.332 § 7]

10.320 Hearing Discretionary; Powers of Court on Hearing and Without Hearing; Judgment

(1) For all citations issued pursuant to LCC 10.300 to 10.355, the court may direct that a hearing be held.

(2) The court may proceed to make a determination on the violation under any of the following circumstances:

(a) If a hearing is held, either at the request of the cited person or at the court's own direction, when the court makes a finding on the evidence presented at the hearing.

(b) If a hearing is not required by law, directed by the court or requested by the cited person and the cited person has complied with LCC 10.310, when the court makes a finding on the citation, any plea and any evidence or other material submitted.

(c) If the court does not direct that a hearing be held, a hearing is not required by law and the person has not complied with LCC 10.310 or made appearance, when the time indicated in the citation passes and the court makes a finding on the citation and any other evidence the judge determines appropriate.

(3) On completion of its determination under subsection (2) of this section, the court may enter the appropriate judgment and, if the determination is one of conviction, may do any of the following as part of the judgment:

(a) Impose a sentence of a fine.

(b) Direct that the fine be paid out of the bail deposit.

(c) Unless the court orders otherwise, remit the balance to the defendant or to any other person designated by the defendant.

(4) If the person complies with LCC 10.310 and deposits the amount of bail thereunder but neither the person nor the court requests a hearing and a hearing is not required by law, no fine may be imposed in excess of the bail deposited. If the person has not deposited bail under LCC 10.310 or has requested a hearing under LCC 10.310 without depositing bail and does not appear at the hearing, the court may impose any fine within the limits of LCC 10.350.

(5) If a court sentences a person to pay a fine under this section when the person has not complied with LCC 10.310, the court is not precluded from:

(a) Taking any other action against the person as permitted by law for the person's failure to comply, including, but not limited to, sentencing the person further as permitted by law or ordinance after the person is brought to hearing.

(b) Following any procedures established by law or ordinance when the person fails to appear.

(6) If a judgment is entered under this section after a person has failed to comply with LCC 10.310 or make appearance, on motion and upon such terms as are just, the court may relieve a person from the judgment upon a showing that the failure of the cited person to comply with LCC 10.310 or to appear was due to mistake, inadvertence, surprise or excusable neglect. The motion

must be made within a reasonable time, and in no event more than one year after the person receives notice of the judgment.

(7) No judgment may be entered under this section by reason of a person failing to comply with LCC 10.310 or make appearance unless the citation issued to the person contains a statement notifying the cited person that a monetary judgment may be entered against the person up to the maximum limit established for the offense if the cited person fails to comply with LCC 10.310 or appear at the time, date and court specified in the citation. [1994 o.332 § 8]

10.325 Failure to Appear or Comply

(1) If a person cited under LCC 10.305 fails to comply with LCC 10.310, but has not previously appeared before the court on the code violation action, the Office of Lincoln County Legal Counsel shall:

(a) Submit an affidavit of probable cause to the court. If, after reviewing the affidavit, the court is satisfied that the cited person has committed the violation alleged, the court shall enter an order authorizing a peace officer to issue and serve a citation in lieu of custody pursuant to ORS 133.110 and 133.055. If, after being served with the citation in lieu of custody, the cited person fails to appear in court as directed in the citation in lieu of custody, the matter shall be referred to the Lincoln County District Attorney's Office for prosecution for the crime of Failure to Appear on a citation, as provided in ORS 133.075; or

(b) Institute contempt proceedings against the cited person seeking remedial sanctions, including an award of reasonable attorney fees, in accordance with the provisions of ORS 33.015 to 33.155 and UTCR 19.010 to 19.050.

(2) If a person cited under LCC 10.305 has previously appeared before the court on the code violation action, and was, at the time of the previous appearance, directed by the court to appear in court at a certain date and time, and the person cited fails to so appear, the court may:

(a) Issue a bench warrant, as defined in ORS 131.005, for the arrest of the person cited;

(b) Direct the Office of Lincoln County Legal Counsel to submit an affidavit of probable cause to the court. If, after reviewing the affidavit, the court is satisfied that the cited person has committed the violation alleged, the court shall enter an order authorizing a peace officer to issue and serve a citation in lieu of custody pursuant to ORS 133.110 and 133.055. If, after being served with the citation in lieu of custody, the cited person fails to appear in court as directed in the citation in lieu of custody, the matter shall be referred to the Lincoln County District Attorney's Office for prosecution for the crime of Failure to Appear on a citation, as provided in ORS 133.075; or

(c) Direct the Office of Lincoln County Legal Counsel to institute contempt proceedings against the cited person seeking remedial sanctions, including an award of reasonable attorney fees, in accordance with the provisions of ORS 33.015 to 33.155 and UTCR 19.010 to 19.050. [1994 o.332 § 9]

10.330 Jurisdiction and Venue

The Lincoln County District Court shall have jurisdiction and venue over all code violation actions conducted pursuant to the provisions of LCC 10.300 to 10.355. [1994 o.332 § 10]

10.335 Trial Without Jury; Discovery; Burden of Proof; No Culpable Mental State Required; No Defense Counsel Provided at Public Expense

For all code violation actions conducted pursuant to LCC 10.300 to 10.355:

(1) Trial shall be by the court without a jury.

(2) Trial shall not commence until the expiration of seven days from the date the citation for the violation unless the defendant waives the seven-day period.

(3) The burden of proof shall be upon the county by a preponderance of the evidence.

(4) The pretrial discovery rules in ORS 135.805 to 135.873 shall apply.

(5) The defendant may not be required to be a witness in the trial.

(6) Proof of a culpable mental state is not required.

(7) Defense counsel shall not be provided at public expense. [1994 o.332 § 11]

10.340 Appeal

Appeal from a judgment involving a violation commenced under LCC 10.300 to 10.355 shall be as provided in ORS chapter 46. [1994 o.332 § 12]

10.345 Bail

Bail for each alleged violation of any provision of the Lincoln County Code shall be $300 for a noncontinuing offense and $600 for a continuing offense. [1994 o.332 § 13]

10.350 Penalties

Pursuant to ORS 203.065(1), violation of any provision of the Lincoln County Code shall be punishable, upon conviction, by a fine of not more than $500 for a noncontinuing offense and $1000 for a continuing offense. [1994 o.332 § 14]

10.355 Collection and Disposition of Fines

Pursuant to ORS 203.065(4), fines recovered as the result of a conviction for a violation of any provision of the Lincoln County Code shall be paid to the clerk of the Lincoln County District Court. After first deducting court costs in the proceedings, the clerk shall pay the remainder to the Lincoln County Treasurer for deposit into the Lincoln County General Fund. [1994 o.332 § 15]

NUISANCE ABATEMENT ACTION

10.400 Civil Action to Redress Violation of Lincoln County Code

Pursuant to ORS 203.065(2), 30.310 and 30.315, upon referral from any agency, office or department of Lincoln County, the Office of Lincoln County Legal Counsel may commence and maintain a civil proceeding by, and on behalf of, Lincoln County, seeking redress of any violation of the Lincoln County Code. In such proceedings, the Office of Lincoln County Legal Counsel may seek an order:

(1) Temporarily restraining a nuisance;

(2) Preliminarily enjoining a nuisance;

(3) Permanently enjoining a nuisance;

(4) Directing abatement of a nuisance;

(5) Awarding economic damages;

(6) Awarding non-economic damages;

(7) Awarding punitive damages;

(8) Awarding reasonable attorney fees;

(9) Awarding costs and disbursements;

(10) Imposing fines in an amount not to exceed the maximum fines under LCC 10.350; and

(11) Holding a person in contempt of court and imposing remedial sanctions pursuant to ORS 33.015 to 33.155 and UTCR 19.010 to 19.050 against the person if the person has violated any provision court order providing for relief in any manner described in this section. [1994 o.332 § 16]

10.405 Jurisdiction and Venue

The Lincoln County Circuit Court shall have jurisdiction and venue over all civil actions brought under LCC 10.400. [1994 o.332 § 17]

10.410 ORCP Apply to Civil Action; Burden of Proof; No Culpable Mental State Required; No Defense Counsel Provided at Public Expense

(1) The Oregon Rules of Civil Procedure govern the procedural conduct of all civil actions brought under LCC 10.400.

(2) The burden of proof in a civil action brought under LCC 10.400 shall be upon the county by a preponderance of the evidence.

(3) Proof of a culpable mental state is not required to prove a violation of any provision of the Lincoln County Code.

(4) Defense counsel shall not be provided at public expense. [1994 o.332 § 18]

10.415 Appeal

Appeal from a judgment involving a civil action brought under LCC 10.400 shall be as provided in ORS chapter 19. [1994 o.332 § 19]

CERTAIN SOLID WASTE OFFENSES

10.500 Presumption of Violation of LCC 2.1505

Notwithstanding LCC 10.335(3) and 10.410(2), pursuant to ORS 459.108, in any action commenced under LCC chapter 10 that results from any alleged violation of subsections (1) through (6) of LCC 2.1505 relating to littering and dumping, a name found on various items in a deposit of rubbish or other solid waste placed on land or in water in violation of LCC 2.1505 constitutes rebuttable evidence that the person whose name appears on the items has violated LCC 2.1505. However, the rebuttable presumption created by this section exists only when a name on items denotes ownership of the items, such as the name of an addressee on an envelope. [1994 o.333 § 6]

10.505 No Action for Violation of LCC 2.1505 if District Attorney is Prosecuting Criminal Action for Same Conduct

Notwithstanding LCC 10.210, 10.300 and 10.400, pursuant to ORS 459.108, no action against any person to enforce a violation of LCC 2.1505 shall be commenced or maintained pursuant to this chapter if the Lincoln County District Attorney's Office has commenced or maintained a criminal action against the person under ORS 164.775, 164.785 or 164.805 for the same conduct that forms the basis for the violation of LCC 2.1505. [1994 o.333 § 7]