

CHAPTER 15: SHERIFF

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Cross-reference:

Sheriff, see Charter § 6.50(1)

Statutory reference:

Community corrections, see ORS, Ch. 423

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Firearms, see ORS, Ch. 166

Penalty, see ORS, Ch. 419c

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GENERAL PROVISIONS**§ 15.001 DUTIES.**

(A) The Sheriff shall perform the functions of that office prescribed by state law and shall administer the jails and corrections facilities of the county.

(B) The Sheriff and the Director of the Department of Community Justice shall operate jointly as the county supervisory authority. In the role of supervisory authority, the Sheriff is designated to operate county jails and local correctional facilities.

(Ord. 987, Amended, 08/01/2002; Ord. 919, passed, 08/13/1998; ‘ 90 Code, § 2.30.800, 07/01/1998; Ord. 458, passed, 02/21/1985; Ord. 359, passed, 01/04/1983; Ord. 336, passed, 08/26/1982)

§ 15.002 FEES.

(A) Except as provided by division (B) of this section, the Sheriff's office shall collect fees as set by Board resolution for providing documents or services.

(B) Notwithstanding to provisions of division (A) of this section, the Sheriff may furnish any service or copy of a public record of the Sheriff's office without charge or at a substantially reduced fee if the Sheriff determines that the waiver or reduction of fees is in the public interest because making the service or record available primarily benefits the general public. (See ORS 192.440(4))

(‘ 90 Code, § 5.10.420, 07/01/1998; Ord. 712, passed, 02/13/1992; Ord. 646, passed, 03/22/1990; Ord. 513, passed, 05/19/1986; Ord. 308, passed, 05/06/1982; Ord. 278, passed, 08/20/1981; Ord. 157, passed, 12/29/1977; Ord. 105, passed, 07/10/1975)

DEFENDANT EMPLOYMENT**§ 15.025- TITLE, PURPOSE AND SCOPE.**

This subchapter shall be known as the Convict Employment Law, the purpose of which is to comply with provisions of ORS 169.170. It authorizes and directs the Board adopt rules and regulations regarding employment of defendants sentenced to serve terms in the correctional facilities of the county, that apply to all adult inmates of county correctional facilities designated to perform authorized employment.

(‘ 90 Code, § 2.70.205, 07/01/1998; Ord. 398, passed, 09/22/1983)

§ 15.026 ELIGIBILITY.

(A) Any convict sentenced to a term in a county adult correctional facility by any court, whether in default of the payment of a fine, or committed for a definite number of days, and who, in the judgment of the Sheriff, has satisfactorily met the rules governing conduct within the facility, has the physical qualifications therefor and who has no legal or medical restraints prohibiting such work, shall be eligible to perform authorized employment under this subchapter.

(B) Any eligible convict may be required by the Sheriff to perform work prescribed, whether or not such eligible convict has volunteered so to perform, and failure to comply with the Sheriff's order to perform such work shall be the basis for appropriate disciplinary proceedings.

(* 90 Code, § 2.70.230, 07/01/1998; Ord. 398, passed, 09/22/1983)

§ 15.027 WORKERS' COMPENSATION.

Persons authorized under these rules to perform authorized employment are subject workers of the county entitled and restricted to benefits provided by the state Workers' Compensation Act for any injuries incurred in the performance of such employment, pursuant to ORS 656.041.

(* 90 Code, § 2.70.230, 07/01/1998; Ord. 398, passed, 09/22/1983)

§ 15.028 COMPENSATION.

No convict engaged in employment pursuant to these rules shall be paid more than \$2 per day. The Sheriff is authorized to prescribe levels of payment consistent with the work assigned, in amounts not to exceed those provided by Board resolution. Trusty payment for inmates who were assigned to public works projects will be reimbursed to the Inmate Welfare Fund by the public works agency which uses the trusty to perform the work. Workdays shall consist of eight hours, except in the case of an emergency.

(* 90 Code, § 2.70.230, 07/01/1998; Ord. 398, passed, 09/22/1983)

§ 15.029 ADDITIONAL BENEFITS.

Unless otherwise ordered by the court or legal authority, a convict who performs work under these rules shall be entitled to credit against the sentence originally meted, payment, or both, without regard to other credits reducing said sentence, in accordance with ORS 169.120. Notwithstanding § 15.027, no convict performing authorized employment, shall be entitled to any benefits as an employee of the county.

(* 90 Code, § 2.70.230, 07/01/1998; Ord. 896, passed, 01/08/1998; Ord. 398, passed, 09/22/1983)

§ 15.030 AUTHORIZED EMPLOYMENT.

No convict shall be assigned under these rules to perform employment unless such employment involves work on public roads of the county or such other work of a public nature as may include, but not be limited to, county facilities and grounds, and as authorized by ORS 169.190. In no event shall such work include application of skills requiring certification.

(* 90 Code, § 2.70.230, 07/01/1998; Ord. 398, passed, 09/22/1983)

§ 15.031 SUPERVISION.

Convicts may be delivered by the Sheriff to the care and custody of any supervisory person authorized to direct and supervise the performance of authorized employment upon facilities of the county or other public works. Such delivery shall not constitute release from detention and if a convict departs the custody of such assigned supervisor, the convict shall be subject to prosecution under state law for escape or any related offense.

(* 90 Code, § 2.70.230, 07/01/1998; Ord. 398, passed, 09/22/1983)

§ 15.032 TERMINATION OF EMPLOYMENT.

The Sheriff is authorized, for whatever cause, to terminate the authorized employment of any convict assigned under these rules to authorized employment, which decision is not subject to review.

(* 90 Code, § 2.70.230, 07/01/1998; Ord. 398, passed, 09/22/1983)

§ 15.033 ADMINISTRATION.

This subchapter shall be administered by the Sheriff, subject to review by the Board.

(‘ 90 Code, § 2.70.220, 07/01/1998; Ord. 398, passed, 09/22/1983)

CURFEW FOR MINORS**§ 15.050- CURFEW ESTABLISHED.**

It shall be unlawful for any minor under 18 years of age to be, or remain in or upon any street, highway, park, alley or other public place outside incorporated cities in the county between the hours specified in § 15.051, unless such minor is accompanied by a parent, guardian or other person 21 years of age or over and authorized by the parent or by law to have the care and custody of the minor, or unless such minor is then and there engaged in a lawful pursuit or activity which requires their presence in or upon such street, highway, park, alley or other public place during the hours specified in § 15.051.

Penalty, see § 15.999

(Ord. 1272, Amended, 06/06/2019; ‘ 90 Code, § 7.45.100, 07/01/1998)

§ 15.051 CURFEW HOURS.

For the purposes of this subchapter, the applicable hours of curfew shall be:

(A) As to minors under 14 years of age who have not begun high school, the hours shall be between 9:15 p.m. and 6:00 a.m. of the following morning, except that during the months of June, July and August, the hours shall be between 10:15 p.m. and 6:00 a.m. of the following morning, except as further limited by subsection (C) of this section.

(B) As to minors 14 years of age or over who have begun high school, the hours shall be between 10:15 p.m. Sunday, Monday, Tuesday, Wednesday or Thursday, and 6:00 a.m. of the following morning, and between 12:00 midnight on Friday or Saturday, or any legal holiday, and 6:00 a.m. of the following morning, except that during the months of June, July and August, the hours shall be between 12:00 midnight and 6:00 a.m. of the following morning, except as further limited by subsection (C) of this section.

(C) For minors who have been found by a court to have possessed, purchased, used, transferred or transported a firearm unlawfully and are under the jurisdiction of the court as a result of that adjudication, curfew is between 7:00 p.m. and 6:00 a.m. of the following morning except for minors meeting the exception of §15.050 or with written permission of the minor’s probation or parole officer or juvenile court counselor.

(Ord. 1199, amended 4/25/13; ‘ 90 Code, § 7.45.200, 07/01/1998; Ord. 163, passed 1963)

Penalty, see § 15.999

FIREARMS**§ 15.060 TITLE AND AREA OF APPLICATION.**

This subchapter shall be known and cited as the County Firearms Law.

(Ord. 1199, passed 4/25/13)

§ 15.061 CONSISTENCY WITH STATE LAW.

This subchapter shall be construed consistent with state law, and any procedures or defenses made available in the prosecution of the same or similar offenses under state criminal law shall apply in prosecutions under this subchapter.

(Ord. 1203, Amended 7/11/13; Ord. 1199, passed 4/25/13)

§ 15.062 PENALTY FOR VIOLATION.

Unless a different penalty is specifically provided, any violation of any provision of this subchapter shall upon conviction be punished by a fine of not more than \$500, or by imprisonment of not more than 6 months, or by both. However, no greater penalty shall be imposed than allowed under state law.

(Ord. 1199, passed 4/25/13)

§ 15.063 DEFINITIONS.

For purposes of this subchapter, the following definitions apply unless the context requires a different meaning:

(A) **HANDGUN**: has the meaning as provided in ORS 166.210(5).

(B) **CONCEALED HANDGUN LICENSE:** a license issued pursuant to ORS 166.291 to 166.295 that allows an individual to carry a concealed handgun in public places as provided by state law.

(C) **FIREARM:** has the meaning as provided in ORS 166.210(3).

(D) **PUBLIC PLACE:** has the meaning as provided ORS 161.015(10).
(Ord. 1199, passed 4/25/13)

§ 15.064 POSSESSION OF A LOADED FIREARM IN A PUBLIC PLACE.

(A) It is unlawful for any person in a public place, to carry a firearm upon the person, or while in a vehicle in a public place, unless all ammunition has been removed from the chamber and from the cylinder, clip, or magazine. A person who violates this section is subject to penalty even if the person did not know that ammunition was in the cylinder, chamber, clip or magazine.

(B) The prohibitions of subsection (A) of this section do not apply to or affect:

- (1) Those listed in ORS 166.173(2).
- (2) Licensed hunters engaged in lawful hunting.
- (3) Persons engaged in target shooting at an established shooting range, shooting gallery or other area designed and built for the purpose of target shooting.
- (4) A government employee authorized or required by their employment or office to carry firearms.

(5) A security guard employed at a financial institution insured by the Federal Deposit Insurance Corporation and an armed security professional that is certified by the Department of Public Safety Standards and Training while on duty.

(6) Any person otherwise authorized by law to possess a loaded firearm in a public place.

(7) A person with written authorization from the Multnomah County Sheriff or their designee.

(C) It is unlawful for any person who possesses a firearm, clip or magazine in or upon a public place, or while in a vehicle in a public place, to refuse to permit a peace officer to inspect that firearm, clip or magazine after the peace officer has identified himself or herself as such. The prohibitions of this subsection do not apply to or affect the persons listed in subsection (B) of this section.

(Ord. 1272, Amended, 06/06/2019; Ord. 1203, Amended 7/11/13; Ord. 1199, passed 4/25/13)

§ 15.065 DISCHARGE OF A FIREARM.

(A) It is unlawful for any person to fire or discharge a firearm within the boundaries of the County.

(B) The prohibition of subsection (A) of this section does not apply to or affect those listed in ORS 166.171(2) or otherwise authorized by law to fire or discharge a firearm.

(Ord. 1203, Amended 7/11/13; Ord. 1199, passed 4/25/13)

§ 15.066 ENDANGERING A CHILD BY ALLOWING ACCESS TO A FIREARM.

(A) A person commits the offense of endangering a child if a person fails to prevent access to a loaded or unloaded firearm by a minor without the permission of the person, a parent or guardian, when the person knew or reasonably should have known that a minor could gain access to the firearm.

(B) Subsection (A) of this section does not apply when:

(1) The minor obtains the firearm as a result of an illegal entry into any premises under the person's custody or control.

(2) The firearm is kept in a locked container or in a location that a reasonable person would believe to be secure from entry by the minor.

(3) The firearm is locked with a device that has rendered the firearm inoperable and is designed to prevent minors and unauthorized users from firing the firearm. The device may be installed on the firearm, be incorporated into the design of the firearm, or prevent access to the firearm.

(C) Penalty: Violation of subsection (A) of this section is punishable by incarceration for not more than 10 days and a fine of not more than \$500.

(Ord. 1199, passed 4/25/13)

§ 15.067 FAILURE TO REPORT THEFT.

(A) Any person who possesses, owns or controls a firearm in the County shall report the theft or misplacement of the firearm to law enforcement and provide a description of the firearm, within 48 hours of knowing, or having reason to know, the firearm is stolen or cannot be located through reasonable effort.

(B) A person who possesses, owns or controls a firearm in the County and fails to provide the serial number of the firearm when reporting the firearm in accordance with subsection (A) of this section is subject to a \$200 administrative fee.

(C) Violation of subsection (A) of this section is punishable by a fine of \$2,500.

(Ord. 1199, passed 4/25/13)

TOWING SERVICES

§ 15.100- TITLE.

This subchapter shall be known and cited as the Towing Law and may be so cited.

(‘90 Code, § 6.20.105, 07/01/1998; Ord. 63, passed, 12/14/1972)

§ 15.101 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

DOING BUSINESS IN THE COUNTY. Any acceptance of tows for hire as defined in this section.

EMPLOYEE. An employee, agent or driver of towing vehicle, employed by the licensee in the business of towing for hire.

LICENSE. A nontransferable, nonassignable annual permit, personal to whom it is issued, issued by the Sheriff authorizing the person whose name appears on it as a licensee to tow vehicles in the county for hire.

LICENSEE. A person possessing a valid license under this subchapter.

MOTOR VEHICLE RELATED CONVICTIONS.

(1) Conviction upon a charge of manslaughter or criminally negligent homicide resulting from operation of a motor vehicle;

(2) Conviction or forfeiture of bail upon two charges of reckless driving within the preceding 12 months;

(3) Conviction upon a charge of failing to stop and disclose identity at the scene of an accident, where the driver was involved in that accident;

(4) Conviction upon a charge of driving while under the influence of intoxicating liquor or dangerous or narcotic drugs;

(5) Conviction for any crime punishable as a felony in the commission of which a motor vehicle was used; or

(6) Conviction for any crime upon the charge of theft, burglary, arson or robbery of a motor vehicle.

TOW FOR HIRE. The towing for a price or charge of a wrecked, abandoned, disabled or non-functional motor vehicle from any location within the county, outside incorporated cities, whether originating upon public or private property, regardless of whether the destination for such tow for hire lies within, or outside, the county.

TOWING VEHICLE. A truck, automobile or other vehicle designed for the purpose of towing motor vehicles or so adapted for that purpose.

(* 90 Code, § 6.20.110, 07/01/1998; Ord. 246, passed, 08/21/1980; Ord. 63, passed, 12/14/1972)

§ 15.102 POLICY AND PURPOSE

The Board has determined that it is necessary to regulate and eliminate certain towing practices and to insure the use of safe equipment and vehicles in order to protect the health, safety and welfare of the people of the county, and this subchapter shall be liberally construed to effectuate this purpose.

(* 90 Code, § 6.20.115, 07/01/1998; Ord. 63, passed, 12/14/1972)

§ 15.103 LICENSE REQUIRED.

It shall be unlawful for any person to do business in the county without a license.

Penalty, see § 15.999

(* 90 Code, § 6.20.120, 07/01/1998; Ord. 63, passed, 12/14/1972)

§ 15.104 NOTICES.

All notices shall be in writing and, if mailed, then postpaid by certified or registered mail, return receipt requested, to the addressee's last known address, and shall be considered given at the date of mailing.

(* 90 Code, § 6.20.150, 07/01/1998; Ord. 63, passed, 12/14/1972)

§ 15.105 APPLICATION FOR LICENSE.

(A) Applications for licenses shall be made upon forms provided by the Sheriff and shall state the following:

(1) The name, home address and proposed business address of the applicant;

(2) The number of towing vehicles, license numbers, model types, location, description and hourly availability of the towing vehicles owned or operated by the applicant;

(3) The address and telephone number of any storage locations owned, operated or used by the applicant;

(4) The existing rate schedule charged by the applicant for towing and storage services;

(5) The name, home address and age of all of the applicant's employees engaged in the business of towing for hire, full disclosure of any motor vehicle related convictions of the applicant or employees which are known or should have been known to the applicant, and the chauffeur license numbers of the applicant's employee-drivers; and

(6) Such other information as the Sheriff shall find reasonably necessary to effectuate the purpose of this subchapter.

(B) The application to the Sheriff must be accompanied by an application fee in an amount set by Board resolution. Payment of the application fee shall cover the license fee for the balance of the first annual license.

(* 90 Code, § 6.20.160, 07/01/1998; Ord. 195, passed, 04/26/1979; Ord. 157, passed, 12/29/1977; Ord. 63, passed, 12/14/1972)

§ 15.106 PROOF OF INSURANCE REQUIRED.

(A) No license shall be issued to an applicant until the applicant has deposited with the Sheriff the following memorandums or certificates of insurance:

(1) Public liability insurance with insurers licensed to do business in Oregon, in an amount set by Board resolution.

(2) Cargo insurance with insurers licensed to do business in the state, in an amount set by Board resolution.

(B) Each memorandum or certificate of insurance must contain an endorsement providing for ten days' notice to the Sheriff in the event of any material change or cancellation.

Penalty, see § 15.999

(* 90 Code, § 6.20.170, 07/01/1998; Ord. 63, passed, 12/14/1972)

§ 15.107 EQUIPMENT REQUIRED.

Each towing vehicle shall be equipped and maintained with the following:

(A) Tires of not less than 7.00 x 15 in size, with tread of not less than 3/32 of an inch and six-ply rating on rims secured with not less than six lug bolts or equivalent holding power;

(B) Wire rope with a safe working limit of 3,500 pounds as established by the American Society of Mechanical Engineers;

(C) Four-way flashing system, including one flashing amber light or other color prescribed by state law, of not less than five inches in diameter, mounted on the towing vehicle. In addition, at least one light must be provided mounted behind the cab of the towing vehicle, which, as determined by the Sheriff, has the capacity to light the scene of an accident under darkened or foggy conditions;

(D) At least one fire extinguisher with an Underwriters' Laboratory rating of at least 5B:C units, one broom, one shovel and one container for debris;

(E) A dolly available for the purpose of towing motor vehicles where it is necessary to tow without damage to the towed vehicle;

(F) Equipment capable of providing minor repairs, including, but not limited to, polarity protected starting equipment, tire changing equipment and gasoline;

(G) Portable auxiliary brake light, turn light and taillight systems for use on towed vehicles whose lighting systems are inoperable; and

(H) Such other equipment as required by state laws.

(* 90 Code, § 6.20.180, 07/01/1998; Ord. 63, passed, 12/14/1972)

§ 15.108 INVESTIGATION AND INSPECTION BY SHERIFF.

(A) Within 30 days after receipt of an application, the Sheriff shall cause an investigation to be made of the applicant and the applicant's towing vehicles, equipment and employees, including police record checks of applicant and employees.

(B) All towing vehicle and equipment owned or operated by the applicant shall be inspected by the Sheriff prior to the issuance of a license. Towing

vehicles and towing equipment must meet the state motor vehicles code requirements, the requirements of this subchapter and such other reasonable safety requirements as the Sheriff finds necessary for public safety.

(C) Inspection of all tow vehicles and towing equipment owned or operated by the licensee may be made from time to time as may reasonably be determined by the Sheriff for the purpose of determining continued compliance with this subchapter.

(* 90 Code, § 6.20.190, 07/01/1998; Ord. 63, passed, 12/14/1972)

§ 15.109 STANDARDS FOR ISSUANCE.

(A) The Sheriff shall issue a license when the Sheriff finds as a result of the investigation and inspection that:

(1) An accurate and complete application has been filed and fees are paid;

(2) Insurance policies required by § 15.106 have been procured;

(3) Vehicle and equipment inspection has been satisfactorily completed under § 15.108;

(4) All drivers of the applicant's towing vehicles have valid chauffeurs' licenses; and

(5) The requirements of this subchapter and all other governing laws and ordinances have been met.

(B) A motor vehicle related conviction of the applicant or the applicant's employees may be grounds for denial or revocation of a license if the Sheriff determines that the denial or revocation is in accordance with the objectives of this subchapter and necessary for the health, safety and welfare of the people of the county.

(* 90 Code, § 6.20.200, 07/01/1998; Ord. 63, passed, 12/14/1972)

§ 15.110 DENIAL OR REVOCATION OF LICENSE.

(A) The Sheriff may initiate denial or revocation of a license upon finding that a licensee fails to meet the requirements of this subchapter or is operating in violation of this subchapter or existing federal, state or local laws or ordinances.

(B) Any person whose license has been denied or revoked may, after 30 days from the date of the denial or revocation, reapply upon the prepayment of an application fee in an amount set by Board resolution. That sum shall not be credited to the applicant's annual license fee.

(C) Any person who has had a license denied or revoked two times within one year, or who has a total of four denials or revocations, may be disqualified from applying for a license for a period not to exceed two years.

(D) The Sheriff shall, upon finding that a violation of this subchapter has occurred, provide written notice to the licensee of the violation and shall demand that the violation, if continuing, be corrected within 30 days from the date of the notice. The notice shall describe with reasonable certainty the violation and the action necessary to correct the violation.

(E) The licensee shall notify the Sheriff when corrective action under division (D) of this section has been taken. The Sheriff shall then make an inspection, if necessary.

(F) The licensee's failure to take corrective action in the time required shall be cause for license revocation unless the licensee has filed notice of appeal, which notice shall abate revocation, pending determination of the Board.

(G) The Sheriff may order immediate corrective action of the licensee upon finding the violation poses an extreme hazard to public safety.

(* 90 Code, § 6.20.210, 07/01/1998; Ord. 157, passed, 12/29/1977; Ord. 63, passed, 12/14/1972)

§ 15.111 RENEWAL OF LICENSE.

(A) Inspection of all towing vehicles shall be made as provided in § 15.108(B) at the time of each annual renewal of the license to tow.

(B) An annual license renewal fee in an amount set by Board resolution shall be charged for each calendar year and shall be due on December first of the previous calendar year.

(C) Renewal of an applicant's license is subject to compliance with this subchapter.

(* 90 Code, § 6.20.220, 07/01/1998; Ord. 246, passed, 08/21/1980; Ord. 157, passed, 12/29/1977; Ord. 63, passed, 12/14/1972)

§ 15.112 NOTIFICATION OF CHANGE OF CIRCUMSTANCES.

If the status of any licensee under this subchapter changes in regard to the number of towing vehicles owned or operated, new drivers, discontinued drivers, the personal qualifications of employees, the sale or discontinuance of the business being conducted, or anything substantially changing the information contained in the initial application, the licensee must immediately file with the Sheriff a statement setting forth the changes. An inspection fee in an amount set by Board resolution shall be paid for inspection of towing vehicles acquired after the license inspection.

(* 90 Code, § 6.20.230, 07/01/1998; Ord. 63, passed, 12/14/1972)

§ 15.113 APPEALS AND HEARINGS; REVIEW.

(A) Persons receiving notice from the Sheriff may request a hearing by filing a written request for hearing with the Sheriff within 30 days of receipt of the notice. The request shall set forth reasons for the hearing and the issues to be heard.

(B) The Sheriff shall, upon receipt of request for hearing, promptly notify the Board and the Board shall set a time and place for the hearing, not more than 60 days from the date of receipt of request for a hearing.

(C) The Board shall give notice to the person requesting a hearing as to the time and place for the hearing not less than 30 days prior to the hearing.

(D) The person requesting the hearing and the Sheriff may make argument, cross examine witnesses, submit testimony, rebuttal evidence and written documentation and submit briefs on matters pertinent to the issue to be determined.

(E) All hearings shall be recorded in a manner which will allow for a written transcription to be made and all materials submitted by the person requesting

the hearing and by the Sheriff shall be retained by the Board for a period of at least two years.

(F) The Board shall issue its order determining the question within 30 days from the date of the hearing, or any continuance not to exceed 30 days, and shall mail a copy of the order to the person requesting the hearing.

(G) Review of the action of the Board shall be taken solely and exclusively by writ of review in the manner set forth in ORS §§ 34.010 to 34.100, provided, however, that any aggrieved person may demand relief by writ of review.

(* 90 Code, § 6.20.240, 07/01/1998; Ord. 63, passed, 12/14/1972)

§ 15.114 IDENTIFICATION, RATE SCHEDULE AND PERMIT REQUIRED.

(A) The name, address, number of the particular vehicle and phone number of the licensee shall be prominently displayed on each towing vehicle owned or operated by the licensee.

(B) Tow and storage rates charged for services by a licensee shall be filed with the Sheriff at least ten days prior to their effective date and shall be prominently posted at the licensee's place of business. Each towing vehicle operator shall have in possession a rate card setting forth the licensee's rate schedule currently on file with the Sheriff which shall include the licensee's business name, location, telephone number, location of storage facilities for towed vehicles and business hours. A copy of the rate card shall be furnished to the person requiring the tow, if present.

(C) The towing operator shall, upon request, provide their full name to any patron of the licensee.

(D) The tow for hire permit indicating vehicle operation under a the county license shall be prominently displayed in the lower left corner of the windshield of each towing vehicle.

(E) The tow truck permit registration will be carried in each towing vehicle and will be presented for inspection upon request of a peace officer.
Penalty, see § 15.999

(Ord. 1272, Amended, 06/06/2019; 90 Code, § 6.20.250, 07/01/1998; Ord. 137, passed, 12/16/1976; Ord. 63, passed, 12/14/1972)

§ 15.115 REMOVAL OF DEBRIS.

The driver of a towing vehicle engaged to remove a disabled vehicle from the scene of an accident shall remove glass and other debris from the roadway unless otherwise instructed by police authority.

Penalty, see § 15.999

(* 90 Code, § 6.20.250, 07/01/1998; Ord. 137, passed, 12/16/1976; Ord. 63, passed, 12/14/1972)

§ 15.116 STORAGE OF TOWED VEHICLES.

Vehicles shall be stored in conformity with the zoning ordinance of the county and nothing in this subchapter shall be construed as a modification of those requirements.

Penalty, see § 15.999

(* 90 Code, § 6.20.260, 07/01/1998; Ord. 63, passed, 12/14/1972)

§ 15.117 HOURS FOR RELEASE OF IMPOUNDED VEHICLES.

Towing operators storing impounded vehicles in the county must provide for release of impounded vehicles, without additional charge, at any time within the 24 hours following the tow. Thereafter, the release may be effected during normal working hours, between 8:00 a.m. and 5:00 p.m., Monday through Friday.

(* 90 Code, § 6.20.270, 07/01/1998; Ord. 63, passed, 12/14/1972)

§ 15.118 PROHIBITED ACTS.

No licensee or employee of a licensee shall:

(A) Make a false statement of a material fact, or omit disclosure of a material fact, in the application for license;

(B) Monitor the police radio for profit or gain;

(C) Solicit information as to accident locations by payment of any form of gratuity;

(D) Solicit those at the scene of an accident without first determining whether towing assistance has already been requested. A prior request shall prohibit solicitation, provided, however, any licen-

see may render assistance without charge at the scene of an accident to clear the public street or highway;

(E) Either expressly or impliedly by any statement or action make any false representation that he represents or is approved by any business firm or organization;

(F) Require performance of repair work on a vehicle involved in an accident or breakdown in connection with providing towing service for that vehicle;

(G) Increase towing or storage rates from those filed with the Sheriff except as provided in § 15.114;

(H) Make any repairs or alterations to a vehicle without first being authorized by the registered or legal owner, an authorized insurance company or authorized agent of those persons, provided, however, that licensees and employees may make emergency alterations necessary to permit the towing of the vehicle;

(I) Store vehicles in violation of the zoning ordinance;

(J) Charge a fee when a vehicle owner or the owner's agent or insurance representative gives written or verbal authorization to a person other than the licensee to remove the owner's vehicle from the licensee's premises;

(K) Tow a vehicle which is occupied by persons;

(L) Charge for services not performed or make duplicate charges for the same services;

(M) Charge more than one daily storage fee for the initial 24-hour storage period or charge other than on a calendar day basis after that; or

(N) Refuse the owner or the owner's authorized agent reasonable access to the licensee's storage premises for vehicle inspection.

Penalty, see § 15.999

(' 90 Code, § 6.20.280, 07/01/1998; Ord. 63, passed, 12/14/1972)

§ 15.119 OTHER LAWS APPLY.

This subchapter shall in no way be a substitute for nor eliminate the necessity of conforming with any and all state laws and rules and other county ordinances which relate to the activities regulated by this subchapter.

(' 90 Code, § 6.20.290, 07/01/1998; Ord. 63, passed, 12/14/1972)

§ 15.120 ADMINISTRATION.

(A) The Sheriff shall be responsible for the administration and enforcement of this subchapter.

(B) The Sheriff shall have the authority to do the following:

(1) Administer oaths;

(2) Audit records;

(3) Certify to all official acts;

(4) Subpoena and require attendance of witnesses at meetings or hearings to determine compliance with this subchapter;

(5) Require the production of relevant documents;

(6) Swear witnesses;

(7) Take testimony of any person by deposition; and

(8) Perform all other acts necessary to administer and enforce the provisions of this subchapter.

(C) The Board may adopt rules by resolution necessary for the administration and enforcement of this subchapter.

(' 90 Code, § 6.20.130 & 6.20.140, 07/01/1998; Ord. 63, passed, 12/14/1972)

WRECKER CERTIFICATES

§ 15.200- PURPOSE.

The purposes of this subchapter are to establish the principal criteria which shall be considered by

the Board and Sheriff in granting approval of wrecker certificates within unincorporated the county and to establish an application and approval process.

(‘ 90 Code, § 5.10.010, 07/01/1998; Ord. 723, passed, 06/04/1992)

§ 15.201 APPLICATIONS.

(A) Any applicant for a wrecker certificate who is required by the Department of Motor Vehicles (DMV) to obtain approval from a county governing body in which it does business shall present an application prescribed by DMV to the Sheriff for the purpose of obtaining such an approval.

(B) The Sheriff may require information in addition to that provided on the application in order to conduct an investigation relevant to the county's approval.

(C) An application shall be accepted only if it is properly completed and accompanied by a processing fee in an amount set by Board resolution.

(‘ 90 Code, § 5.10.010, 07/01/1998; Ord. 723, passed, 06/04/1992)

§ 15.202 INVESTIGATION.

(A) The Sheriff shall coordinate and conduct an investigation of each application using the procedures set forth in division (B) of this section.

(B) The Sheriff shall:

(1) Check for prior arrest records of owners on employees or violations of state statutes regulating wreckers;

(2) Check for prior community relations problems;

(3) Check to see if the requirements of ORS 822.110 are met;

(4) Check to see if the business location violates any prohibitions under ORS 822.135;

(5) Check to see that the location meets zoning regulations of the county; and

(6) Check to see that there are no delinquent personal or real property taxes due and owing.

(‘ 90 Code, § 5.10.010, 07/01/1998; Ord. 723, passed, 06/04/1992)

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§ 15.203 RECOMMENDATIONS TO THE BOARD.

Upon completion of the investigation procedures by the Sheriff's office, the Sheriff shall forward to the Board a recommendation of approval or denial. The clerk of the Board shall place the matter on the Board's agenda, in order that the Board may make a recommendation of approval or denial to DMV.

(‘ 90 Code, § 5.10.010, 07/01/1998; Ord. 723, passed, 06/04/1992)

§ 15.204 DENIAL OF CERTIFICATE.

The Sheriff may make a recommendation of denial regarding any application if:

(A) The applicant's record reflects a pattern of violations of state statutes regulating wreckers;

(B) The record of the applicant shows violation(s) of criminal law(s) or ordinance(s) connected in time, place or manner with an auto wrecker establishment or which demonstrates a disregard for the law;

(C) The requirements of ORS 822.110 have not been met;

(D) The business location violates prohibitions under ORS 822.135;

(E) The location does not meet zoning regulations of the county;

(F) Delinquent personal or real property taxes are due and owing; or

(G) If there is any other specific reason consistent with the purposes of this subchapter which may, in the opinion of the Sheriff, warrant an adverse report to the Board based upon public health, safety, welfare, convenience or necessity.

(‘ 90 Code, § 5.10.010, 07/01/1998; Ord. 723, passed, 06/04/1992)

§ 15.205 HEARINGS; NOTIFICATION.

When the Sheriff makes a recommendation for denial of any application, the clerk of the Board shall notify, by certified mail, the applicant and the

Sheriff of the hearing date, place and time at least one week before such hearing takes place.

(‘ 90 Code, § 5.10.010, 07/01/1998; Ord. 723, passed, 06/04/1992)

§ 15.206 HEARINGS.

When the Board has scheduled a hearing on any auto wrecker certificate approval, such applicant shall be given a reasonable opportunity to be heard and address concerns raised by the Sheriff, the Board, and persons or groups appearing in opposition to such an application. The Board's recommendation of approval or denial of such application, based upon a determination of what course of action best serves the interest of the citizens of the county, shall be final.

(‘ 90 Code, § 5.10.010, 07/01/1998; Ord. 723, passed, 06/04/1992)

§ 15.207 RECONSIDERATION OF APPLICATIONS.

After having made a recommendation of denial on any auto wrecker certificate application, the Sheriff and the Board shall not consider any new application for the same location by the same or substantially the same applicant for a period of at least six months or while such applicant has pending an appeal in court or in a state administrative agency related to such a certificate approval. Notwithstanding, the Sheriff may reconsider or resubmit such an application to the Board in less than six months if it is reasonably believed that a recommendation of denial has substantially changed, and no court or administrative appeal of such license is pending.

(‘ 90 Code, § 5.10.010, 07/01/1998; Ord. 723, passed, 06/04/1992)

NUISANCES GENERALLY

§ 15.225- TITLE AND AREA OF APPLICATION.

This subchapter shall be known and cited as the county Nuisance Control Law, and shall apply to the unincorporated and incorporated areas of the county for purposes of control, extermination or abatement of public health vectors as authorized by state law.

(Ord. 1111, Amended, 02/28/2008; ‘ 90 Code, § 7.20.005, 07/01/1998; Ord. 125, passed, 05/27/1976)

§ 15.226 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

ABANDONED VEHICLE. Any vehicle which reasonably appears to be inoperative, wrecked, discarded, abandoned or totally or partially dismantled.

DESIGNEE. Person or persons authorized by the Health Officer or Sheriff to fulfill their respective functions.

EXPLOSIVE. A chemical compound, mixture or device that is used or intended to be used for the purpose of producing a chemical reaction resulting in a substantially instantaneous release of gas and heat, including but not limited to dynamite, blasting powder, nitroglycerin, blasting caps and nitrojelly, but excluding fireworks as defined by state law, black powder, smokeless powder, small arms ammunition and small arms ammunition primers.

GARBAGE. All animal and vegetable wastes resulting from the handling, preparation, cooking or consumption of food.

HEALTH OFFICER. That person in the county Department of Health, or an agent with the authority of the local Health Officer under state law.

HEARINGS OFFICER. That person appointed by the Board to preside at hearings held under § 15.231.

INTERSECTION. The area embraced within the prolongation or connection of the lateral curblines or, if none, then of the lateral boundary lines of two or more streets or highways which join one another at an angle, whether or not one street or highway crosses the other.

LIQUID WASTE. Waste oil, septic tank pumping, liquid industrial wastes or other similar material.

NUISANCE. Any condition or practice causing or capable of causing an unreasonable threat to the public health, safety and welfare in the circum-

tances, but does not include noise, provided, however, that anything defined as a nuisance in § 15.229 shall be a nuisance.

OWNER. Any person having a legal interest in real or personal property or any person in possession or control of real or personal property, and excludes any person whose interest is for security only.

RADIOACTIVE SUBSTANCE. A substance which emits radiation in the form of gamma rays, X-rays, alpha particles, beta particles, neutrons, protons, high-speed electrons and other nuclear particles, but radiation does not include sound waves, radio waves, visible light, infrared light or ultraviolet light.

RODENT. A mouse or rat.

RUBBISH. Glass, metal, paper, wood, plastics or other nonputrescible solid waste.

SEWAGE SLUDGE. Residual waste of sewage treatment plants, consisting of digested organic waste and indigestible solids.

SIDEWALK. That portion of a public right-of-way, other than the roadway, set apart by curbs, barriers, markings or other delineation for pedestrian travel.

SOLID WASTE. All putrescible and nonputrescible wastes, whether in solid or liquid form, except wastes produced by the human body, liquid-carried industrial waste or sewage, or sewage hauled as an incidental part of septic tank or cesspool cleaning service, and includes garbage, rubbish, ashes, fill dirt, sewage sludge, street refuse, industrial wastes, swill, demolition and used construction materials, abandoned vehicles or parts thereof, discarded home or industrial appliances, manure, vegetable or animal solids and semisolid waste, dead animals and other discarded solid materials.

VECTOR. Any non-human animal, including but not limited to insects (flies, fleas, ticks, mosquitoes, etc.), birds and rodents capable of bearing or carrying a disease transmittable to human beings.

VEHICLE. Any device which is designed or used for transporting people, goods or property upon

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a public street or roadway, including but not limited to a body, engine, transmission, frame or other major parts, but does not include a device propelled by human power, such as a bicycle, or a device operated exclusively upon fixed rails or tracks.

(Ord. 1095, Amended, 07/12/2007; '90 Code, § 7.20.010, 07/01/1998; Ord. 653, passed, 06/14/1990; Ord. 125, passed, 05/27/1976)

§ 15.227 POLICY.

The Board has determined it is necessary to establish and maintain a program for the effective control and abatement of nuisances which constitute a hazard or menace to the health, safety and welfare of the people of the county, and this subchapter shall be liberally construed to effectuate that purpose.

('90 Code, § 7.20.020, 07/01/1998; Ord. 125, passed, 05/27/1976)

§ 15.228 NOTICES.

Except as provided in § 15.231(B), all notices shall be in writing and, if mailed, then post-paid certified or registered mail, return receipt requested, to the addressee's last known address. A mailed notice shall be presumed to have been received on the second mail delivery day after mailing.

('90 Code, § 7.20.050, 07/01/1998; Ord. 125, passed, 05/27/1976)

§ 15.229 NUISANCES PROHIBITED.

(A) It shall be unlawful for any person to maintain or allow to exist the following things, practices or conditions on any property or within public road rights-of-way adjacent to that property, which shall be nuisances:

(1) A pond or pool of stagnant water which emits an obnoxious odor or is a source of vector breeding or otherwise presents a threat to the public health, safety and welfare.

(2) An animal carcass not buried or destroyed within 24 hours after death.

(3) Accumulation, collection or storage of solid waste without prior approval of the health officer and the Sheriff, unless the person is licensed by lawful authority to operate a business specifically for those purposes.

(4) A well, septic system or cesspool that has not been safely or securely sealed or properly

maintained, which may cause or has caused an injury to any person or contamination of a potable water supply.

(5) An abandoned, discarded or unattended icebox, refrigerator or other container with a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot be easily opened from the inside.

(6) Any property, whether vacant or improved buildings, residence structure or accumulation of any materials which is infested by vectors or rodents.

(7) Uncontrolled or uncultivated growth of weeds, brush, or grasses which offer vector or rodent harborage, contribute noxious pollens to the atmosphere, constitute a fire hazard or produce toxins that are harmful to humans, pets, livestock or wildlife.

(8) Any explosive or radioactive substance unless the possession is authorized by law.

(9) Any vacant building, left unsecured and unattended and accessible to the public.

(10) An open pit, well, quarry, cistern, excavation or other hole of a depth of four feet or more and a top width of 12 inches or more without reasonable safeguards or barriers to prevent them from being accessible to children.

(11) Dead or decaying trees and tree limbs that present a safety hazard to the public or to the abutting property owners.

(12) A fence, barrier, partition or obstruction located in a residential zone, except RL-C or F-2, and which is partially or totally constructed with barbed wire or is electrically charged in such a manner as to transmit an electrical shock or charge upon contact.

(13) Any abandoned vehicle upon private or public property unless the owner of the property is lawfully authorized to operate a business specifically for that purpose.

(14) Signs, hedges, shrubbery, natural growth or other obstructions at or near intersections which hinder the view necessary for the safe operation of vehicles.

(15) Obstruction to public sidewalks or roadways by trees, bushes, roots, other natural growth, soil or solid waste.

(16) Any excavation which endangers the lateral support or causes cracking, settling or other damage to streets, sidewalks or other public property.

(B) The enumeration of nuisances in division (A) of this section shall not limit the power of the health officer or Sheriff to investigate or declare any other condition a nuisance which is within the scope of § 15.226.

Penalty, see § 15.999

(* 90 Code, § 7.20.060, 07/01/1998; Ord. 653, passed, 06/14/1990; Ord. 125, passed, 05/27/1976)

§ 15.230 INSPECTION AND ABATEMENT.

(A) The Health Officer, Sheriff or designee may enter any property or building at any reasonable time for the purpose of inspection or enforcing this subchapter. Except when an emergency exists, the Health Officer, Sheriff or designee, shall obtain the consent of the owner or a court warrant before entering private property or a private building.

(B) As used in this section, an emergency exists when the Health Officer or Sheriff has reasonable cause to believe that a nuisance requires prompt remediation to avoid a clear and immediate danger to individuals or to the public health.

(C) An investigation may be conducted whenever the Health Officer or Sheriff becomes aware that a nuisance exists.

(D) Whenever it appears there is reasonable cause to believe that a nuisance exists, the Health Officer or Sheriff shall provide written notice to the owner of the existence of the nuisance and shall demand abatement within 30 days from the date of the written notice, or such lesser time as may be set by the Health Officer or Sheriff to protect the public

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health, safety and welfare. The notice shall describe with reasonable certainty the property, the nature of the nuisance and the action necessary to abate the nuisance, and shall inform the owner of the owner's rights under §§ 15.231 and 15.232, and the procedure by which the owner may contact the notice provider for more information.

(E) In an emergency, the Health Officer or Sheriff may order immediate abatement of a nuisance. The Health Officer or Sheriff shall give notice of the requirement for immediate abatement to the owner.

(F) In an emergency, and in lieu of action under division (E) of this section, the Health Officer or Sheriff may proceed with immediate abatement of the nuisance. The Health Officer or Sheriff shall then immediately send written notice of abatement to the owner of the property.

(G) In a situation in which the property owner has refused to abate a nuisance, or has taken or threatened action that gives the Health Officer probable cause to believe such action will comprise a danger to Health Department staff, any involved contractors, other individuals or the public generally, the Health Officer may request the assistance of the Sheriff in carrying out necessary investigation, abatement or enforcement actions as ordered by the Health Officer under § 15.230 or a Hearings Officer under § 15.231.

(H) Unless the Sheriff has probable cause to believe that the Health Officer's assessment of danger is in error, or unless there are conflicting legal requirements, the Sheriff will immediately provide assistance as requested by the Health Officer.

(Ord. 1095, Amended, 07/12/2007; '90 Code, § 7.20.070, 07/01/1998; Ord. 125, passed, 05/27/1976)

§ 15.231 APPEALS AND HEARINGS.

(A) Any person receiving a notice under § 15.230(D), (E) or (F) may request a hearing by writing the Health Officer or Sheriff within seven days of the date of the notice.

(B) A person receiving a notice of denial, refusal to renew, suspension, or revocation of license or permit for specified animals, specified animal fa-

cility and other health licenses, as provided by MCC § 21.990, may request a hearing by writing the Health Officer within seven days of the date of the notice.

(C) The Health Officer or Sheriff shall, upon receipt of request for a hearing, promptly notify the hearings officer who shall set a time and place for the hearing at the earliest possible time and shall promptly notify the person requesting the hearing as to the time and place for the hearing. Notice may be by any means of giving actual notice. Notice may also be given to such persons as the hearings officer may determine to be interested persons.

(D) The person requesting the hearing and the Health Officer or Sheriff may make argument, submit testimony, cross examine witnesses and submit rebuttal evidence on the pertinent issues. Any party may be represented by counsel.

(E) All hearings shall be recorded in a manner which will allow for written transcription to be made and all materials submitted at the hearing shall be retained by the hearings officer for a period of two years.

(F) Failure of the person requesting the hearing to appear at the hearing shall constitute a waiver of the right to a hearing.

(G) After the hearing, the hearings officer shall issue and mail a copy of the order determining the question within 15 days from the date of the hearing, or any continuance thereof not to exceed 15 days, to the person requesting hearing and the Health Officer or Sheriff.

(H) If the hearings officer finds the nuisance to exist, the order shall set a date for abatement to be accomplished by the owner.

(I) If the hearings officer determines that anything removed under § 15.230(F) no longer constitutes a nuisance or can be released upon such condition as the hearings officer may prescribe that will eliminate the nuisance, the person requesting the hearing may claim it upon paying the expense incurred in its removal and storage.

(J) If the hearings officer determines there was a wrongful abatement under § 15.230(F), the hearings officer may order the Health Officer or Sheriff to make reasonable restitution.

(K) Hearings involving the Health Officer shall be conducted in accordance with applicable portions of ORS 183.413 to ORS 183.470.

(Ord. 1116, Amended, 07/17/2008; Ord. 1095, Amended, 07/12/2007; ‘90 Code, § 7.20.080, 07/01/1998; Ord. 125, passed, 05/27/1976)

§ 15.232 REVIEW.

Review of any action of the hearings officer taken under this subchapter and the rules adopted under them shall be taken solely and exclusively by writ of review in the manner set forth in ORS 34.010 to 34.100.

(‘90 Code, § 7.20.090, 07/01/1998; Ord. 125, passed, 05/27/1976)

§ 15.233 ABATEMENT BY OWNER REQUIRED.

Failure of the owner to abate the nuisance within 30 days as provided by § 15.230(D) or within the time set by the hearings officer under § 15.231 shall be a violation under this subchapter, and a county offense under ORS 203.810.

Penalty, see § 15.999

(Ord. 1095, Amended, 07/12/2007; ‘90 Code, § 7.20.100, 07/01/1998; Ord. 125, passed, 05/27/1976)

§ 15.234 ABATEMENT BY COUNTY; COSTS; WAIVER; LIEN.

(A) If an owner fails to abate a nuisance as required under this subchapter, the Health Officer or Sheriff may cause abatement of the nuisance. Accurate record of the abatement costs shall be kept and shall include a surcharge of 25% of the cost of the abatement for administrative overhead. A billing for the amount of the costs shall be forwarded by certified or registered mail, return receipt requested, to the owner. Payment shall be due to the Health Officer or Sheriff within 30 days from the date of the billing.

(B) The cost of abating a nuisance may be waived or reduced based upon rules adopted by the Health Department or Sheriff.

(C) Applications for waiver of nuisance abatement costs shall be filed with the Health Officer or Sheriff on forms supplied by the county within ten days from the date of notice of the amount of cost of abatement. All information required to be given on the forms shall be supplied by and verified by the applicant. An application for waiver of nuisance assessment costs must be submitted for each cost of abatement notice sent to the applicant.

(D) The Board shall file a lien against the property if payment is not made as provided in subsection (A) of this section or waived under subsection (B) of this section.

(E) The lien provided for in subsection (D) of this section shall be given priority over all liens except those for taxes and assessments and shall include interest at the legal rate accruing from the date billing is sent to the owner of property.

(F) The lien provided for in subsection (D) of this section shall be foreclosed in the manner prescribed by state law for the enforcement of liens and collection of assessments.

(Ord. 1095, Amended, 07/12/2007; ‘90 Code, § 7.20.110, 07/01/1998; Ord. 125, passed, 05/27/1976)

§ 15.235 OTHER LAWS APPLY.

This subchapter shall in no way be a substitute for nor eliminate the necessity of conforming with any and all state laws and rules and other county ordinances which are now or may in the future be in effect, which relate to the activities regulated by this subchapter.

(‘90 Code, § 7.20.120, 07/01/1998; Ord. 125, passed, 05/27/1976)

§ 15.236 ADMINISTRATION AND ENFORCEMENT.

(A) The Health Officer and Sheriff shall be responsible for the administration and enforcement of this subchapter.

(B) The Health Officer and Sheriff shall have authority to administer oaths, certify all official acts, issue citations, subpoena and require the attendance of witnesses and production of relevant documents at hearings before the hearings officer and take testimony of any person by deposition.

(C) The Health Officer and Sheriff may adopt rules necessary for the administration and enforcement of this subchapter.

(Ord. 1095, Amended, 07/12/2007; ‘ 90 Code, § 7.20.030, 07/01/1998; Ord. 125, passed, 05/27/1976)

OPEN PITS

§ 15.250- DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

ADEQUATE SAFEGUARD. The degree of protection which is afforded by such systems as chainlink fence not less than eight feet in height, or six feet surmounted by three strands of barbed wire. The safeguard may include plantings, walls or other means and may include access gates having the same protective characteristics if securely closed and locked during nonoperating hours. Fences shall comply with the applicable codes and ordinances of the county.

OPEN PIT. That part of an excavation created by the removal of material having a depth exceeding ten feet below adjacent natural ground, with a side slope steeper than two to one, whether containing water or not.

OPEN PIT NUISANCE. The maintenance, whether operational or not, of an open pit without adequate safeguard.

OWNER. A person having legal title to real property in the county outside of incorporated cities.

PERSON IN CHARGE OF PROPERTY. An agent, occupant, lessee, contract purchaser or person other than owner having possession or control of real property in the county outside of incorporated cities.

(‘ 90 Code, § 7.25.010, 07/01/1998; Ord. 61, passed, 09/14/1972)

§ 15.251 POLICY AND CONSTRUCTION.

To protect the health, safety, and welfare of the people of the county, the Board has determined the necessity of providing a program for adequate safeguarding of open pit nuisances which constitute a hazard or menace to the public health and safety.

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This subchapter shall be liberally construed for the accomplishment of this purpose.

(‘ 90 Code, § 7.25.020, 07/01/1998; Ord. 61, passed, 09/14/1972)

§ 15.252 OPEN PIT NUISANCES PROHIBITED.

It shall be unlawful for any owner or person in charge of property in the county outside of incorporated cities to maintain an open pit without adequate safeguard. The maintenance of that property is declared to be an open pit nuisance.

Penalty, see § 15.999

(‘ 90 Code, § 7.25.030, 07/01/1998; Ord. 61, passed, 09/14/1972)

§ 15.253 INSPECTIONS.

The Sheriff shall conduct such inspections as the Sheriff considers necessary to insure compliance with all provisions of this subchapter, and shall have right of entry at any reasonable hour to investigate complaints and to insure abatement of open pit nuisances as provided in this subchapter.

(‘ 90 Code, § 7.25.060, 07/01/1998; Ord. 61, passed, 09/14/1972)

§ 15.254 NOTICE.

(A) The Sheriff shall, if there is cause to find that an alleged open pit nuisance exists, provide written notice to the owner and person in charge of the property of the existence of the alleged nuisance, and shall demand that the alleged nuisance be abated within 15 days from the date of the written notice. The notice shall describe with reasonable certainty the property, the nature of the alleged nuisance and the action necessary to abate the alleged nuisance.

(B) The Chair may order immediate abatement if the Chair finds that the alleged nuisance poses extreme hazard to the public health or safety.

(‘ 90 Code, § 7.25.070, 07/01/1998; Ord. 61, passed, 09/14/1972)

§ 15.255 HEARING.

(A) The person in charge of the property, or the owner receiving a notice of abatement of an alleged open pit nuisance may request a hearing before the Board by filing a written request with the Board within five days from the date of notice of abatement. Abatement action under § 15.254 shall be suspended upon the filing of the written request.

(B) The Board shall, upon receipt of written request for hearing, set a time and place for hearing upon its order, which shall not be more than ten days from the date of filing of request for a hearing, and shall so notify in writing the person requesting hearing. Persons considered by the Board to be interested shall also be notified. The owner or person in charge of the property may present evidence before the Board pertinent to the alleged nuisance and its abatement. The Sheriff shall also appear and present evidence pertinent to the alleged nuisance and its abatement. Failure of the person requesting hearing to appear at the hearing shall constitute a waiver of the right to a hearing.

(C) The Board shall, after the hearing, enter an order containing its findings as to whether the alleged open pit nuisance does in fact exist, and may confirm or extend the time in which the nuisance is to be abated.

(* 90 Code, § 7.25.080, 07/01/1998; Ord. 61, passed, 09/14/1972)

§ 15.256 ABATEMENT BY COUNTY; COSTS; LIEN.

(A) If the nuisance has not been abated by the owner or person in charge of the property within the time allowed by this subchapter, the Board may, at the request of the Sheriff, cause the nuisance to be abated. Accurate records shall be kept of the total expense incurred by the county to abate the nuisance. A billing for the amount of costs shall be forwarded by registered mail to the owner or person in charge of the property for full payment. Payment shall be made to the county, in not less than 30 days from the date of registered mail.

(B) If the owner or person in charge objects to the cost of abatement, the owner or person in charge may file a written protest with the Board within a period not to exceed ten days from the date of notice of the amount of cost of abatement. The Board shall set a time and place for hearing the objection, notify the objector of the time and place and make its determination based upon evidence presented at the hearing. The Board's order of determination shall be final and binding.

(C) The Board shall file a lien against the property when the practice constituting the nuisance was found to exist, when:

(1) Payment has not been made as provided in division (A) of this section; or

(2) When payment has not been made within 15 days of the order of the Board as provided in division (B) of this section.

(* 90 Code, § 7.25.090, 07/01/1998; Ord. 61, passed, 09/14/1972)

§ 15.257 OTHER LAWS APPLY.

This subchapter shall in no way be a substitute for nor eliminate the necessity of conforming with any and all state laws, rules and other county ordinances which are now, or may in the future be, in effect which relate to the public health or safety.

(* 90 Code, § 7.25.100, 07/01/1998; Ord. 61, passed, 09/14/1972)

§ 15.258 ADMINISTRATION AND ENFORCEMENT.

(A) The Sheriff shall be responsible for the administration and enforcement of this subchapter.

(B) The Board may adopt rules by resolution relating to the administration of this subchapter.

(* 90 Code, § 7.25.040 & 7.25.050, 07/01/1998; Ord. 61, passed, 09/14/1972)

SOUND CONTROL

§ 15.265- TITLE AND APPLICATION.

This subchapter shall be known and cited as the county Sound Control Law and shall apply within the unincorporated areas of the county.

(* 90 Code, § 7.30.005, 07/01/1998; Ord. 316, passed, 06/10/1982)

§ 15.266 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

IDLING SPEED. That speed at which an engine will run when no pressure is applied to the accelerator or accelerator linkage.

NOISE SENSITIVE UNIT. Any building or portion thereof, vehicle, boat or other structure adapted or used for the overnight accommodation of persons, including, but not limited to individual res-

idential units, individual apartments, trailers, hospitals, and nursing homes.

PLAINLY AUDIBLE SOUND. Any sound for which the information content of that sound is unambiguously communicated to the listener, such as, but not limited to, understandable spoken speech, comprehension of whether a voice is raised or normal, or comprehensible musical rhythms.

SOUND PRODUCING DEVICE.

- (1) Loudspeakers, public address systems;
- (2) Radios, tape recorders or tape players, phonographs, television sets, stereo systems, including those installed in a vehicle;
- (3) Musical instruments, amplified or unamplified;
- (4) Sirens, bells;
- (5) Vehicle engines or exhausts, when the vehicle is not on a public right-of-way, particularly when the engine is operating above idling speed;
- (6) Vehicle tires, when caused to squeal by excessive speed or acceleration;
- (7) Domestic tools, including electric drills, chain saws, lawn mowers, electric saws, hammers, and similar tools, but only between 10:00 p.m. and 7:00 a.m. of the following day; and
- (8) Heat pumps, air conditioning units, and refrigeration units, including those mounted on vehicles.

VEHICLE. Automobiles, motorcycles, motorbikes, trucks, buses, and snowmobiles.

(‘ 90 Code, § 7.30.010, 07/01/1998; Ord. 316, passed, 06/10/1982)

§ 15.267 FINDINGS AND POLICY.

(A) The Board has found that excessive sound can and does constitute a hazard to the health, safety, and welfare and quality of life of residents of the county.

(B) The Board has further determined that while certain activities essential to the economic, social, political, educational and technical advancements of the citizens of the county necessarily require the production of sounds which may offend, disrupt, intrude or otherwise create hardship among the citizens, the Board is obliged to impose some limitations and regulation upon the production of excessive sound as will reduce the deleterious effects thereof.

(C) It is therefore the policy of this Board to prevent and regulate excessive sound wherever it is deemed to be harmful to the health, safety, welfare and quality of life of the citizens of the county. This subchapter shall be liberally construed to effectuate that purpose.

(‘ 90 Code, § 7.30.020, 07/01/1998; Ord. 316, passed, 06/10/1982)

§ 15.268 SOUND MEASUREMENT.

(A) If measurements are made, they shall be made with a sound level meter. The sound level meter shall be an instrument in good operating condition, meeting the requirements of a type I or type II meter, as specified in ANSI standard 1.4-1971. For purposes of this subchapter, a sound level meter shall contain at least an A-weighted scale, and both fast and slow meter response capability.

(B) If measurements are made, personnel making those measurements shall have completed training in the use of the sound level meter, and measurement procedures consistent with that training shall be followed.

(C) Measurements may be made at or within the boundary of the property on which a noise sensitive unit which is not the source of the sound is located, or within a noise sensitive unit which is not the source of the sound.

(D) All measurements made pursuant to this subchapter shall comply with the provisions of this section.

(‘ 90 Code, § 7.30.040, 07/01/1998; Ord. 316, passed, 06/10/1982)

§ 15.269 PROHIBITIONS.

It shall be unlawful for any person to produce or permit to be produced, with a sound producing device, sound which:

(A) When measured at or within the boundary of the property on which a noise sensitive unit which is not the source of the sound is located, or, within a noise sensitive unit which is not the source of the sound, exceeds:

(1) Fifty dBA at any time between 10:00 p.m. and 7:00 a.m. the following day; or

(2) Sixty dBA at any time between 7:00 a.m. and 10:00 p.m. the same day; or

(B) Is plainly audible at any time between 10:00 p.m. and 7:00 a.m. the following day:

(1) Within a noise sensitive unit which is not the source of the sound; or

(2) On a public right-of-way at a distance of 50 feet or more from the source of the sound.

(C) If a measurement of the sound is made, division (A) of this section shall supersede division (B) of this section and shall be used to determine if a violation exists.

Penalty, see § 15.999

(* 90 Code, § 7.30.050, 07/01/1998; Ord. 316, passed, 06/10/1982)

§ 15.270 EXCEPTIONS.

Notwithstanding § 15.269, the following exceptions from this subchapter are permitted:

(A) Sounds caused by organized athletic or other group activities, when those activities are conducted on property generally used for those purposes, including stadiums, parks, schools, churches, athletic fields, racetracks, airports and waterways, provided, however, that this exception shall not impair the Sheriff's power to declare the event or activities otherwise to violate other laws, ordinances or regulations.

(B) Sounds caused by emergency work, or by the ordinary and accepted use of emergency equipment, vehicles and apparatus, whether or not the work is performed by a public or private agency, upon public or private property.

(C) Sounds caused by sources regulated as to sound production by federal law, including, but not

limited to, sounds caused by railroad, aircraft or commercially licensed watercraft operations.

(D) Sounds caused by bona fide use of emergency warning devices and alarm systems authorized by this chapter.

(E) Sound caused by blasting activities when performed under a permit issued by appropriate governmental authorities and only between the hours of 9:00 a.m. and 4:00 p.m., excluding weekends, unless the permit expressly authorizes otherwise.

(F) Sounds caused by industrial, agricultural or construction organizations or workers during their normal operations.

(* 90 Code, § 7.30.060, 07/01/1998; Ord. 316, passed, 06/10/1982)

§ 15.271 VARIANCES.

(A) Any person who is planning the use of a sound producing device which may violate any provision of this subchapter may apply to the Sheriff for a variance from the provisions of this subchapter.

(B) The application shall state the provision from which a variance is being sought, the period of time the variance is to apply, the reason for which the variance is sought and other supporting information which the Sheriff may reasonably require.

(C) The Sheriff shall consider:

(1) The nature and duration of the sound emitted;

(2) Whether the public health, safety or welfare is endangered;

(3) Whether compliance with the provision would produce no benefit to the public; and

(4) Whether previous permits have been issued, and the applicant's record of compliance.

(D) A variance may be granted for a specific time interval only.

(E) The Sheriff shall, within ten days, deny the application, approve it, or approve it subject to conditions.

(F) The Sheriff's decision may be appealed to the Board. Notice of appeal should be delivered to the clerk of the Board. The Board shall review the application de novo, and within 15 days, deny the application, approve it, or approve it subject to conditions.

(G) The Sheriff may, at any time before or during the operation of a variance granted by the Sheriff, revoke the variance for good cause. The Board may, at any time before or during the operation of any variance, revoke the variance for good cause.

(* 90 Code, § 7.30.070, 07/01/1998; Ord. 316, passed, 06/10/1982)

§ 15.272 ADDITIONAL REMEDIES.

The provisions of this subchapter shall be cumulative and nonexclusive and shall not affect any other claim, cause of action or remedy. It is in addition to existing legislation and common law on such subject.

(* 90 Code, § 7.30.080, 07/01/1998; Ord. 316, passed, 06/10/1982)

§ 15.273 IMPOUNDMENT.

In addition to the penalties prescribed in § 15.999, the court may order any sound producing device, found to have been used to violate this subchapter, seized, confiscated, and destroyed as contraband, or sold with the proceeds of sale to be deposited in the county general fund.

(* 90 Code, § 7.30.090, 07/01/1998; Ord. 316, passed, 06/10/1982)

§ 15.274 ADMINISTRATION AND ENFORCEMENT.

(A) The Sheriff shall administer, supervise and perform all acts necessary to enforce this subchapter.

(B) Persons appointed or assigned by the Sheriff, as he deems necessary to accomplish effective enforcement of this subchapter, may be peace officers or not, but if unsworn persons are selected and empowered to issue citations for violation of this subchapter, the Sheriff shall exercise powers under ORS 204.635.

(C) Upon citation of a person for a violation of this subchapter, the person issuing the citation may seize as evidence the sound producing device which was the source of the sound. The sound producing

device, if seized, shall be impounded subject to disposition of the issued citation and determination by the court whether the sound producing device shall be returned to the cited person or deemed contraband, subject to § 15.999. It is the intent of this subchapter to avoid such seizures except where the person being cited has received two previous citations within the previous six months for the use of the same or similar sound producing device. The previous citations may, but need not, occur on the same date as the citation which prompts the seizure.

(D) Citation forms authorized pursuant to ORS §§ 153.110 through 153.310 may be used for any violations under § 15.269.

(E) In addition to any other enforcement procedures, the Board may, upon its own motion, or upon receipt of a petition requesting a hearing by the Board, signed by no fewer than ten persons residing in the vicinity of a property upon which is located an alleged violation of this subchapter, issue its order to the person producing or permitting to be produced the sound which allegedly violates this subchapter, to appear before the Board and show cause why the Board should not declare the sound a violation of this subchapter and order the violation abated. Noncompliance with the order may result in the Board referring the order to the County Attorney for injunctive enforcement, or alternatively to the District Attorney for appropriate action.

(* 90 Code, § 7.30.030, 07/01/1998; Ord. 316, passed, 06/10/1982)

CHRONIC NUISANCE PROPERTY

§ 15.285- DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

CHRONIC NUISANCE PROPERTY.

(1) Property on which three or more nuisance activities exist or have occurred during any 60 day period;

(2) Property on which or within 200 feet of which any person associated with the property has engaged in three or more nuisance activities during any 60 day period;

(3) Property which, upon request for execution of a search warrant, has been the subject of a determination by a court that probable cause that possession, manufacture, or delivery of a controlled substance or related offenses as defined in ORS 167.203, 475.005 through 475.285 or ORS 475.940 through 475.999 has occurred within the previous 60 days, and the Sheriff has determined that the search warrant was based on evidence of continuous or repeated nuisance activities at the property;

(4) Property which, upon request for execution of a search warrant, has been the subject of a determination by a court that probable cause that prostitution, promoting prostitution, or compelling prostitution as defined in ORS 167.002 through 167.027 has occurred within the previous 60 days, and the Sheriff has determined that the search warrant was based on evidence of continuous or repeated nuisance activities at the property; or

(5) Property on which continuous or repeated **NUISANCE ACTIVITIES** as defined in divisions (7), (8), (13) or (14) of that definition exist or have occurred.

CONTROL. The ability to regulate, restrain, dominate, counteract or govern property or conduct that occurs on a property.

NUISANCE ACTIVITIES. Any of the following activities, behaviors or conduct:

- (1) Harassment as defined in ORS 166.065;
- (2) Intimidation as defined in ORS 166.155 through 166.165;
- (3) Disorderly conduct as defined in ORS 166.025;
- (4) Assault or menacing as defined in ORS 163.160 through 163.190;
- (5) Sexual abuse, contributing to the delinquency of a minor, or sexual misconduct as defined in ORS 163.415 through 163.445;
- (6) Public indecency as defined in ORS 163.465;

(7) Prostitution or related offenses as defined in ORS 167.007 through 167.017;

(8) Alcoholic liquor violations as defined in ORS 471.105 through 471.482;

(9) Offensive littering as defined in ORS 164.805;

(10) Criminal trespass as defined in ORS 164.243 through 164.265;

(11) Theft as defined ORS 164.015 through 164.140;

(12) Arson or related offenses as defined in ORS 164.315 through 164.335;

(13) Possession, manufacture, or delivery of a controlled substance or related offenses as defined in ORS 167.203 through 167.212, ORS 167.262, ORS 475.005 through 475.285, or ORS 475.940 through 475.999;

(14) Illegal gambling offenses as defined in ORS 167.117, or ORS 167.122 through 167.137;

(15) Criminal mischief as defined in ORS 164.345 through 164.365;

(16) Any attempt to commit, as defined in ORS 161.405, or conspiracy to commit, as defined in ORS 161.450, any of the above activities, behaviors or conduct;

(17) Sound control violations defined this chapter; or

(18) Curfew violations as defined in this chapter.

PERSON ASSOCIATED WITH. Any person who, on the occasion of a nuisance activity, has entered, patronized, visited or attempted to enter, patronize or visit, or waited to enter, patronize or visit a property or person present on a property, including without limitation any officer, director, customer, agent, employee, or any independent contractor of a property, person in charge, or owner thereof.

PERSON IN CHARGE. Any person in actual or constructive possession of a property, including but not limited to an owner or occupant or property under their dominion, ownership or control.

PROPERTY. Any property, including land and that which is affixed, incidental or appurtenant to land, including but not limited to any business or residence, parking area, loading area, landscaping, building or structure or any separate part, unit or portion thereof, or any business equipment, whether or not permanent. For property consisting of more than one unit, property may be limited to the unit or the portion of the property on which any nuisance activity has occurred or is occurring, but includes areas of the property used in common by all units of the property including without limitation other structures erected on the property and areas used for parking, loading and landscaping.
(Ord. 1272, Amended, 06/06/2019; Ord. 894, passed, 12/18/1997)

§ 15.286 VIOLATIONS.

(A) Any property determined by the Sheriff to be chronic nuisance property is in violation of this subchapter and subject to its remedies.

(B) Any person in charge of property determined by the Sheriff to be a chronic nuisance property is in violation of this subchapter and subject to its remedies.

Penalty, see § 15.999

(Ord. 894, passed, 12/18/1997)

§ 15.287 ABATEMENT PROCEDURE.

(A) *Notice.*

(1) When the Sheriff receives two or more police reports documenting the occurrence of nuisance activities on or within 200 feet of a property, the Sheriff shall independently review such reports to determine whether they describe the activities, behavior or conduct enumerated under the definition of nuisance activities in § 15.285. Upon such a finding, the Sheriff may notify the person in charge and occupant in writing that the property is in danger of becoming chronic nuisance property. The notice shall contain the following information:

(a) The street address or a legal description sufficient for identification of the property;
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(b) A statement that the Sheriff has information that the property may be chronic nuisance property, with a concise description of the nuisance activities that exist or that have occurred;

(c) An offer that the person in charge propose a course of action to abate the nuisance activities; and

(d) A demand that the person in charge respond to the Sheriff within ten days.

(2) When the Sheriff receives a police report documenting the occurrence of additional nuisance activity on or within 200 feet of a property after notice as provided in division (A)(1); or in the case of chronic nuisance property as defined in § 15.285, divisions (3) through (5) of that definition, for which notice under division (A)(1) of this section is not required; the Sheriff shall notify the person in charge and occupant of property in writing that the property has been determined to be a chronic nuisance property. The notice shall contain the following information:

(a) The street address or a legal description sufficient for identification of the property;

(b) A statement that the Sheriff has determined the property to be a chronic nuisance property, with a concise description of the nuisance activities leading to the determination; and

(c) A demand that the person in charge respond to the Sheriff within ten days and propose a course of action to abate the nuisance activities.

(3) Service of the notice described in divisions (A)(1) and (A)(2) shall be made either personally or by first class mail, postage prepaid, return receipt requested, addressed to the person in charge at the address of the property which may be or which has been determined to be a chronic nuisance property or at such other place which is likely to give nuisance property or at such other place which is likely to give the person in charge notice of the Sheriff's information or determination.

(4) A copy of the notice described in divisions (A)(1) and (A)(2) shall be served on the owner at the address shown on the county tax rolls and/or

on the occupant at the address of the property, if these persons are different than the person in charge, and service shall be made either personally or by first class mail, postage prepaid.

(5) A copy of the notice described in divisions (A)(1) and (A)(2) shall also be posted at the property if ten days has elapsed from the service or mailing of the notice to the person in charge, and the person in charge has not contacted the Sheriff.

(6) The failure of any person to receive notice as provided by this division (A) shall not invalidate or otherwise affect the proceedings under this subchapter.

(B) Response or failure to respond.

(1) If the person in charge fails to respond as required by division (A)(2)(c), the Sheriff may refer the matter to County Attorney.

(2) If the person in charge responds as required by division (A)(2)(c), and agrees with the Sheriff on a course of action to abate the nuisance activities, the Sheriff may postpone referring the matter to County Attorney. If an agreed course of action does not result in the abatement of the nuisance activities, or if no agreement concerning abatement is reached within 60 days of the initial response, the Sheriff may refer the matter to County Attorney.

(3) When a person in charge makes a response to the Sheriff as required divisions (A)(1)(d) and (A)(2)(c), any conduct or statements made in connection with the furnishing of that response shall not constitute an admission that any nuisance activities have occurred or are occurring. This section does not require the exclusion of evidence which is otherwise admissible or is offered for any other purpose.

(Ord. 894, passed, 12/18/1997)

§ 15.288 COMMENCEMENT OF ACTIONS; REMEDIES; BURDEN OF PROOF.

(A) County Attorney may commence legal proceedings in circuit court to abate chronic nuisance property and to seek closure, the imposition of civil

penalties against any or all the persons in charge, and any other relief deemed appropriate.

(B) If the court determines property to be chronic nuisance property, the court shall order that the property be closed and secured against all access, use and occupancy for a period of not less than six months, nor more than one year. The order shall be entered as part of the final judgment. The court shall retain jurisdiction during any period of closure.

(C) (1) If the court determines a property to be chronic nuisance property, the court may impose either:

(a) A civil penalty of up to \$100 per day for each day following the notice furnished pursuant to § 15.287(A)(2) when nuisance activities occurred on or within 200 feet of the property; or

(b) The cost to the county to abate the nuisance activities at the property, whichever is greater.

(2) The amount of the civil penalty shall be assessed against the person in charge and/or the property and may be included in the county's money judgment.

(D) If satisfied of the good faith of the person in charge, the court shall not award civil penalties if the court finds that the person in charge at all material times could not, in the exercise of reasonable care or diligence, determine that the property had become chronic nuisance property.

(E) In establishing the amount of any civil penalty, the court may consider any of the following factors and shall cite those found applicable:

(1) The motions taken by the person in charge to mitigate or correct the nuisance activities at the property;

(2) The financial condition of the person in charge;

(3) Repeated or continuous nature of the problem;

(4) The magnitude or gravity of the problem;

(5) The cooperativeness of the person in charge with the county;

(6) The cost to the county of investigating and correcting or attempting to correct the nuisance activities; and

(7) Any other factor deemed relevant by the court.

(F) The county shall have the initial burden of proof to show by a preponderance of the evidence that the property is chronic nuisance property.

(G) Evidence of the general reputation of a property or of the general reputation of persons residing in or frequenting the property shall be admissible.

(Ord. 894, passed, 12/18/1997)

§ 15.289 SUMMARY CLOSURE.

Any summary closure proceeding shall be based on evidence showing that nuisance activities exist or have occurred on the property and that emergency action is necessary to avoid an immediate threat to public welfare and safety. Proceedings to obtain an order of summary closure shall be governed by the provisions of Oregon Rules of Civil Procedure 79 for obtaining temporary restraining orders. In the event of summary closure, the county is not required to comply with the notice procedures set forth in § 15.287(A).

(Ord. 894, passed, 12/18/1997)

§ 15.290 ENFORCEMENT.

(A) *Costs of securing property.*

(1) The court may authorize the county to secure the property against all access, use or occupancy in the event the person in charge fails to do so within the time specified by the court. In the event that the county is authorized to secure the property, the county shall recover all costs reasonably incurred in doing so.

(2) The county shall prepare a statement of costs and shall thereafter submit it to the court for

review, as provided in Oregon Rule of Civil Procedure 68.

(B) *Relocation costs.*

(1) The person in charge shall pay reasonable relocation costs of a tenant as defined by ORS 90.100(28) if, without actual notice, the tenant moved into the property after either:

(a) A person in charge received notice of the Sheriff's determination pursuant to § 15.287(A)(2); or

(2) A person in charge received notice of an action brought pursuant to § 15.289.

(C) *Lien against property, penalties, costs, interest.*

(1) A lien shall be created against the property for the amount of the county's money judgment.

(2) In addition, any person who is assessed penalties under § 15.288(C) or costs under division (A) of this section shall be personally liable for payment thereof to the county.

(3) Judgments imposed pursuant to this subchapter shall bear interest at the statutory rate.

(D) *Attorney fees.* The court may award attorney fees to the prevailing party.

(Ord. 894, passed, 12/18/1997)

SECONDHAND DEALERS

§ 15.300- TITLE AND SCOPE.

This subchapter shall be known and cited as the county Occasional Secondhand Dealers and Secondhand Dealers Law.

(' 90 Code, § 6.81.005, 07/01/1998; Ord. 647, passed, 03/22/1990)

§ 15.301 PURPOSE.

The Board's purpose in adopting this subchapter is to strictly regulate certain business activities that present an extraordinary risk of being used to conceal criminal behavior, including the theft of property. The Board finds that this risk is present despite the best efforts of legitimate businesses, because

these businesses process large volumes of goods and materials that are frequently the subject of theft. This subchapter is intended to reduce this type of criminal activity by providing more timely police awareness of such property transactions, and by regulating the conduct of persons engaged in this business activity. The Board finds that these regulations are necessary and the need for the regulations outweighs any anti-competitive effect that may result from their adoption.

(' 90 Code, § 6.81.010, 07/01/1998; Ord. 647, passed, 03/22/1990)

§ 15.302 DEFINITIONS.

As used in this subchapter, unless the context requires otherwise:

ACCEPTABLE IDENTIFICATION. Either a valid driver's license, or two pieces of identification issued by a government agency, one of which shall include a physical description and a photograph of the person from whom the secondhand goods are being purchased.

CRIMINAL ARRESTS OR CONVICTIONS. Any offense defined by the statutes of the state or ordinances of the county, unless otherwise specified. Any arrest or conviction for conduct other than that denoted by the statutes of the state or ordinances of the county, as specified herein, shall be considered to be equivalent to one of such offenses if the elements of such offense for which the person was arrested or convicted would have constituted one of the above offenses under the applicable state statutes or the county ordinance provisions.

INVESTMENT PURPOSES. The purchase of personal property by businesses, and the retention of that property in the same form as purchased, for resale to persons who are purchasing the property primarily as an investment.

OCCASIONAL SECONDHAND DEALER. Any person:

(1) Who engages in, conducts, manages or carries on a business as defined by § 11.504;

(2) Who purchases or offers for sale no more than 50 items of regulated property in any one-year period; and

(3) Who purchases regulated property at or from premises located within the county, or on behalf of such a business regardless of where the purchase occurs.

PURCHASE. To take or transfer any interest in personal property in a voluntary transaction, including but not limited to the following: sales, consignments, leases, trade-ins, loans or any transfer involving a condition of selling the property back at a stipulated price in the future. **PURCHASE** does not include any loans made in compliance with state laws by pawnbrokers licensed by the state.

REGULATED PROPERTY.

(1) Any of the following property which is used or secondhand:

(a) Precious metals including but not limited to the following: any metal that is valued for its character, rarity, beauty or quality, including gold, silver, platinum or any other metals, whether as a separate item or in combination as a piece of jewelry;

(b) Precious gems including but not limited to the following: any gem that is valued for its character, rarity, beauty or quality, including diamonds, rubies, emeralds, sapphires or pearls, or any other such precious or semiprecious gems or stones, whether as a separate item or in combination as a piece of jewelry;

(c) Watches and jewelry containing precious metals or precious gems including but not limited to the following: rings, necklaces, pendants, earrings, brooches, chains, pocket watches, wrist watches, or stop watches;

(d) Sterling silver including but not limited to the following: flatware, candleholders, coffee and tea sets, or ornamental objects;

(e) Audio equipment including but not limited to the following: tape players, tape decks or players, compact/digital disc players, sound metering devices, tuners, amplifiers, speakers, transceivers, equalizers, receivers, phonographs, turntables, stereos, radios, clock radios, car stereos, car speak-

ers, radar detectors, or citizen band radios/transceivers;

(f) Video equipment including but not limited to the following: color televisions, black and white televisions, videotape or videodisc recorders, videotape or videodisc players, video cameras, or video monitors;

(g) Photographic and optical equipment including but not limited to the following: cameras, camera lenses, camera filters, camera motor drives, light meters, flash equipment, movie projectors, slide projectors, photography processing equipment, photography enlarging equipment, binoculars, telescopes, opera glasses, microscopes, surveying equipment, rifle scopes, spotting scopes, or electronic sighting equipment;

(h) Electrical office equipment including but not limited to the following: telefax machines, laser printers, copiers, duplicators, typewriters, calculators, cash registers, transcribers, dictaphones, computers, home computers, modems, monitors, or any computer equipment or accessories;

(i) Power yard and garden tools including but not limited to the following: garden tractors, lawn mowers, rototillers, lawn sweepers, weed or brush cutters, edgers, trimmers, or blowers;

(j) Power equipment and tools including but not limited to the following: air hammers, air tools, nail guns, power staplers, power saws, power sanders, chainsaws, power planers, power drills, routers, lathes, joiners, shop vacuums, paint sprayers and accessory equipment, generators, air compressors, pressure washers, or logging equipment;

(k) Automotive hand tools including but not limited to the following: wrench sets, socket sets, screwdriver sets, pliers, vise grips, tool boxes, auto body hammers, jacks, or timing lights;

(l) Telephones or telephone equipment limited to office telephones, portable home telephones, mobile telephones, cellular telephones, or answering machines;

(m) Musical instruments including but not limited to the following: pianos, organs, guitars, violins, cellos, trumpets, trombones, saxophones, flutes, drums, percussion instruments, or electronic synthesizers;

(n) Firearms including but not limited to the following: rifles, shotguns, hand guns, revolvers, pellet guns, or BB guns;

(o) Sporting equipment limited to bicycles, golf clubs, skis, and ski boots; and

(p) Outboard motors, props, and outdrives.

(2) The term ***REGULATED PROPERTY*** does not include any of the following property:

(a) Vehicles required to be registered with the state Motor Vehicles Division;

(b) Boats required to be certified by the state Marine Board;

(c) Books;

(d) Glassware;

(e) Furniture;

(f) Refrigerators, stoves, washers, dryers and other similar major household appliances;

(g) Property which is purchased by a bona fide business for investment purposes, limited to the following:

1. Gold bullion bars (0.995 fine or better);

2. Silver bullion bars (0.995 fine or better);

3. All tokens, coins, or money, whether commemorative or an actual medium of exchange adopted by a domestic or foreign government as part of its currency; or

4. Postage stamps, stamp collections and philatelic items.

SECONDHAND DEALER. Any person:

(1) Who engages in, conducts, manages or carries on a business as defined by § 11.504; and

(2) Who purchases or offers for sale 51 or more items of regulated property in any one-year period; and

(3) Who purchases regulated property at or from business premises located within the county, or on behalf of such a business regardless of where the purchase occurs.

(' 90 Code, § 6.81.020, 07/01/1998; Ord. 647, passed, 03/22/1990)

§ 15.303 PERMIT REQUIRED.

(A) No person shall engage in, conduct or carry on an occasional secondhand dealer business or a secondhand dealer business in the county without a valid occasional secondhand dealer permit or a valid secondhand dealer permit issued by the Sheriff.

(B) Upon purchasing 50 items of regulated property during any one-year period, an occasional secondhand dealer shall apply for and obtain a secondhand dealer permit before purchasing any more items of regulated property.

(C) Any person who advertises or otherwise holds themselves out to be purchasing regulated property within the county shall be presumed to be operating a business subject to the terms of this subchapter.

Penalty, see § 15.999

(' 90 Code, § 6.81.030, 07/01/1998; Ord. 647, passed, 03/22/1990)

§ 15.304 APPLICATION FOR PERMIT.

(A) An application for an occasional secondhand dealer's permit or a secondhand dealer's permit shall set forth the following information:

(1) The name, address, telephone number, birth date and principal occupation of the applicant and any other person who will be directly engaged or employed in the management or operation of the business or the proposed business;

(2) The name, address and telephone number of the business or proposed business and a description of the exact nature of the business to be operated;

(3) Written proof that the applicant is at least 18 years of age;

(4) The applicant's business occupation or employment for the three years immediately preceding the date of application;

(5) The business permit history of the applicant in operating a business identical to or similar to those regulated by this subchapter;

(6) A brief summary of the applicant's business history in the county or in any other city, county or state including:

(a) The business license or permit history of the applicant; and

(b) Whether the applicant has ever had any license or permit revoked or suspended, the reasons therefor, and the business activity or occupation of the applicant subsequent to the suspension or revocation;

(7) If the business or proposed business is the undertaking of a sole proprietorship, partnership or corporation:

(a) If a partnership, the application shall set forth the names, birth dates, addresses, telephone numbers, principal occupations, along with all other information required of any individual applicant of each partner, whether general, limited, or silent, and the respective ownership shares owned by each;

(b) If a corporation, the application shall set forth the corporate name, copies of the articles of incorporation and the corporate bylaws, and the names, addresses, birth dates, telephone numbers, and principal occupations, along with all other information required of any individual applicant, of every officer, Sheriff and shareholder (owning more than 5% of the outstanding shares) and the number of shares held by each;

(8) Any criminal arrests or convictions relating to fraud or theft of each applicant and all natural persons enumerated in divisions (A)(1) through (7) of this section; and

(9) Any other information which the Sheriff may reasonably feel is necessary to accomplish the goals of this subchapter.

(B) The personal and business information contained in the application forms required pursuant to this section shall be treated as confidential and exempted from disclosure to the maximum extent permitted by law.

(* 90 Code, § 6.81.040, 07/01/1998; Ord. 647, passed, 03/22/1990)

§ 15.305 ISSUANCE AND RENEWAL OF PERMIT.

(A) Upon the filing of an application for an occasional secondhand dealer or secondhand dealer permit and payment of the required fee, the Sheriff shall conduct an investigation of the applicant. The Sheriff shall issue such permit within 90 days of receiving a complete application if no cause for denial as noted herein exists.

(B) The Sheriff shall deny an application for an occasional secondhand dealer's permit or a secondhand dealer's permit if:

(1) The applicant, or any other person who will be directly engaged in the management or operation of the business, or any person who owns a 5% or more interest in the business has previously owned or operated a business regulated by this subchapter; and

(a) The license or permit for the business has been revoked for cause which would be grounds for revocation pursuant to this subchapter;

(b) The business has been found to constitute a public nuisance and abatement has been ordered; or

(c) Any of the persons involved in the business has been convicted of any criminal offense noted in §§ 15.304(A)(8) or 15.312; or

(2) The operation as proposed by the applicant would not comply with all applicable requirements of this code including building, health, planning, zoning and fire requirements.

(3) Any statement in the application is found to be false or any required information is withheld.

(4) Any employee is found to have committed any criminal offense relating to fraud or theft and the offense either occurred on the premises of the business subject to the permit or was connected in a time and manner with the operation of the business so that the person(s) in charge of such business knew, or should reasonably have known, that such violation(s) would occur.

(5) Evidence exists to support a finding that either:

(a) The location of the business for which the application has been filed has a history of violations of the provisions of this subchapter; or,

(b) A statistically significant record exists of criminal offenses relating to fraud or theft in the area located within 500 feet of the premises.

(6) The operation does not comply with applicable federal or state licensing requirements.

(C) Notwithstanding division (B) of this section, the Sheriff may grant a permit with the concurrence of the Sheriff despite the presence of one or more of the enumerated factors if the applicant establishes to the Sheriff's satisfaction that:

(1) The behavior evidenced by such factor is not likely to recur;

(2) The behavior evidenced by such factor is remote in time; and

(3) The behavior evidenced by such factor occurred under circumstances which diminish the seriousness of the factor as it relates to the purpose of this subchapter.

(D) Occasional secondhand dealer permits and secondhand dealer permits shall be for a term of one year and shall expire on the anniversary of their issuance. The permits shall be nontransferable and shall be valid only for a single location. When the business location is to be changed, the permit holder shall provide the address of the new location in writing to the Sheriff for approval at least ten days prior to such change.

(E) All occasional secondhand and secondhand dealer permits shall be displayed on the business premises in a manner readily visible to patrons.

(F) (1) The Sheriff, upon denial of an application for an occasional secondhand dealer's permit or a secondhand dealer's permit, shall give the applicant written notice of the denial by causing notice to be served upon the applicant at the business or residence address listed on the application.

(2) Service of the notice shall be accomplished either by mailing the notice by certified mail, return receipt requested, or at the option of the Sheriff, by personal service in the same manner as a summons served in an action at law.

(3) Refusal of the service by the person whose permit is denied shall be prima facie evidence of receipt of the notice. Service of notice upon the person in charge of a business during its hours of operation shall constitute prima facie evidence of notice to the person holding the permit to operate the business.

(4) The denial shall be effective and final the date the notice is received by applicant as evidenced by the return receipt or the return of service.

(G) Denial of a permit may be appealed to the Board by filing written notice of an appeal with the clerk of the Board within ten days of the date of denial, in accordance with § 15.314.

(* 90 Code, § 6.81.050, 07/01/1998; Ord. 647, passed, 03/22/1990)

§ 15.306 PERMIT FEES.

(A) Every person engaged in, conducting or carrying on an occasional secondhand dealer business shall:

(1) For an occasional secondhand dealer's permit, file an application within 60 days of the effective date of this subchapter with the Sheriff and pay a nonrefundable fee in an amount set by Board resolution.

(2) For renewal of an occasional secondhand dealer's permit, shall pay a nonrefundable fee in an amount set by Board resolution.

(B) Every person engaged in, conducting or carrying on a secondhand dealer's business shall:

(1) File an application within 60 days of the effective date of this subchapter with the Sheriff and pay a nonrefundable fee in an amount set by Board resolution. The Sheriff shall allow occasional secondhand dealer application fee against the charge for the secondhand dealer application fee.

(2) For renewal of a secondhand dealer's permit, pay a nonrefundable fee in an amount set by Board resolution.

(* 90 Code, § 6.81.060, 07/01/1998; Ord. 647, passed, 03/22/1990)

§ 15.307 SUBSEQUENT LOCATIONS.

(A) The holder of a valid occasional secondhand dealer's permit or a secondhand dealer's permit shall file an application for a permit for an additional location with the Sheriff and shall not be required to pay any fee provided the information required for the subsequent location is identical to that provided in the application for the prior location with the exception of that required by § 15.304(A)(6).

(B) Permits issued for subsequent locations shall be subject to all the requirements of this subchapter, and the term of any permit issued for a subsequent location shall expire on the same date as the initial permit.

(* 90 Code, § 6.81.070, 07/01/1998; Ord. 647, passed, 03/22/1990)

§ 15.308 SELLER IDENTIFICATION; PURCHASE REPORT FORMS.

(A) The Sheriff shall provide all occasional secondhand dealers and secondhand dealers with purchase report forms at cost. The Sheriff may specify the size, shape and color of the purchase report form. The Sheriff may require the purchase report

forms to provide any information relating to the regulations of this subchapter. Occasional secondhand dealers and secondhand dealers may utilize their own forms, in lieu of those supplied by the Sheriff, if such forms have been approved by the Sheriff.

(B) (1) When purchasing regulated property, occasional secondhand dealers and secondhand dealers shall obtain acceptable identification and a current residential address from the seller.

(2) All occasional secondhand dealers and secondhand dealers shall write a description of the purchased property upon a purchase report form at the time of purchasing any item of regulated property. The description of the purchased property shall be as called for by the purchase report form. All occasional secondhand dealers and secondhand dealers shall fill in all of the blank spaces on the purchase report forms with the data required by the form and require the person selling any regulated property to sign their name on the form. All purchase report forms shall be filled out in clearly legible, printed English.

(3) The information required to be furnished on purchase report forms is to assist in the investigation of the theft of property. The information is of a confidential nature and related to the personal privacy of persons doing business with the dealer, as well as certain trade secrets and practices of occasional secondhand dealers and secondhand dealers. The information shall be treated as confidential and exempt from disclosure to the maximum extent possible under applicable laws.

(C) All occasional secondhand dealers and secondhand dealers shall mail or deliver to the Sheriff at the close of each business day the original and second copy of all report forms describing articles purchased that business day.

(D) The third copy of all completed report forms shall be retained by occasional secondhand dealers and secondhand dealers for a period of not less than one year from the date of purchase on their business premises.

Penalty, see § 15.999

(Ord. 1272, Amended, 06/06/2019; ‘90 Code, § 6.81.080, 07/01/1998; Ord. 647, passed, 03/22/1990)

§ 15.309 SALE LIMITATIONS.

(A) No regulated property purchased by any occasional secondhand dealer or secondhand dealer shall be sold for a period of 15 full days after the date of purchase. The dealer shall maintain the purchased property in substantially the same form as purchased and shall not commingle the property to preclude identification during this 15-day holding period. The purchased property shall be located on the business premises during normal business hours during this holding period so that it can be inspected as provided in § 15.311. Notwithstanding this requirement, the Sheriff may authorize the sale or transfer of an item of purchased regulated property before the expiration of this period, in cases in which the dealer shows that extreme financial hardship will result from holding such property for the 15-day period.

(B) The Sheriff may provide written notice, upon reasonable belief that the purchased property is the subject of theft, to any occasional secondhand dealer or secondhand dealer not to dispose of any specifically described property purchased. The dealer shall retain the property in substantially the same form as purchased. The dealer shall not sell, exchange, dismantle or otherwise dispose of the property for a period of time, as determined by the Sheriff, not to exceed 180 days from the date of purchase.

(C) If an occasional secondhand dealer or secondhand dealer purchases regulated property with serial numbers, personalized inscriptions or initials, or other identifying marks which are or have been altered, obliterated, removed, or otherwise rendered illegible, the occasional secondhand dealer or secondhand dealer shall hold such property on the business premises for a period of 90 full days after purchase. The dealer shall maintain the purchased regulated property in substantially the same form as purchased and shall not commingle the property so as to preclude identification during this 90-day holding period. Such property shall be located on the business premises during normal business hours during this holding period so that it can be inspected, as provided in § 15.311.

Penalty, see § 15.999

(‘90 Code, § 6.81.090, 07/01/1998; Ord. 647, passed, 03/22/1990)

§ 15.310 TAGGING REQUIRED.

Any occasional secondhand dealer or secondhand dealer purchasing any regulated property shall affix to property, during the holding period required by § 15.309, a tag upon which shall be written a number in legible characters. The number shall correspond to the number on the purchase report forms required by § 15.308.

Penalty, see § 15.999

(‘ 90 Code, § 6.81.100, 07/01/1998; Ord. 647, passed, 03/22/1990)

§ 15.311 INSPECTION OF PROPERTY AND RECORDS.

Upon presentation of official identification, the Sheriff may enter onto the business premises of any person with an occasional secondhand dealer or secondhand dealer permit to ensure compliance with the provisions of this subchapter. The inspection shall be for the limited purpose of inspecting any regulated property purchased by the dealer, held by the dealer pursuant to § 15.309, or the records incident thereto. Any such inspection shall only be authorized to occur during normal business hours.

(‘ 90 Code, § 6.81.110, 07/01/1998; Ord. 647, passed, 03/22/1990)

§ 15.312 PROHIBITED ACTS.

It shall be unlawful for any person acting as owner, manager, agent or employee of a business regulated by this subchapter to commit any of the following:

(A) To engage in, conduct or carry on the operation of any occasional secondhand dealer business or secondhand dealer business within the county, unless a permit for such business has first been obtained from the Sheriff;

(B) To fail to obtain acceptable identification from the person selling any regulated property;

(C) To fail to have the person selling any regulated property sign the purchase report form describing the article purchased;

(D) To fail to retain on the business premises a copy of the purchase report form describing the purchased regulated property for a period of one year from the date of purchase;

(E) To fail to mail or deliver to the Sheriff at the close of each business day the original and second copy of all purchase report forms describing regulated property purchased during that business day;

(F) To fail to include on the purchase report form all readily available information required by the form;

(G) To fail to withhold from sale any regulated property for the required holding period after purchase;

(H) To fail, after purchasing regulated property, to retain during normal business hours on the business premises for the required holding period after its purchase;

(I) To fail to allow inspection by the Sheriff of any regulated property being retained pursuant to this subchapter;

(J) To fail to allow inspection by the Sheriff of any records required by this subchapter;

(K) To fail to have affixed to any purchased regulated property, during the required holding period, a tag upon which is written a number in legible characters which corresponds to the number on the purchase record form required by this subchapter; or

(L) To continue activities as an occasional secondhand dealer or secondhand dealer after suspension or revocation of a permit.

Penalty, see § 15.999

(‘ 90 Code, § 6.81.120, 07/01/1998; Ord. 647, passed, 03/22/1990)

§ 15.313 REVOCATION OR SUSPENSION OF PERMIT.

(A) The Sheriff shall revoke or suspend any permit issued pursuant to this subchapter:

(1) Upon the recommendation of the Sheriff:

(a) For any cause which would be grounds for denial of a permit;

(b) Where investigation reveals that any violation of the provisions of this subchapter or any offense noted in § 15.312 has been committed by any person and such offense is connected in time and manner with the operation of the business so that the person(s) in charge of such establishment knew, or should reasonably have known, that such violations have been permitted to occur on the premises by the permit holder or any employee;

(2) A lawful inspection has been refused;

(3) Upon a finding by the Sheriff that the business activities cause significant litter, noise, vandalism, vehicular or pedestrian traffic congestion or other locational problems in the area around such premises;

(4) If payment of civil penalties has not been received by the Sheriff within ten working days after the penalty becomes final;

(5) If any statement contained in the application for the permit is found to have been false; or

(6) If any occasional secondhand dealer business or secondhand dealer business fails to meet the federal or state licensing requirements.

(B) (1) The Sheriff, upon revocation or suspension of any permit issued pursuant to this subchapter, shall give the permittee written notice of such revocation or suspension by causing notice to be served upon the permit holder at the business or residence address listed on the permit application.

(2) Service of the notice shall be accomplished either by mailing the notice by certified mail, return receipt requested, or at the option of the Sheriff, by personal service in the same manner as a summons served in an action at law.

(3) Refusal of the service by the person whose permit is suspended or revoked shall be prima facie evidence of receipt of the notice. Service of

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notice upon the person in charge of a business during its hours of operation shall constitute prima facie evidence of notice to the person holding the permit to operate the business.

(C) Suspension or revocation shall be effective and final ten days after the giving of such notice unless such suspension or revocation is appealed, in accordance with § 15.314.

(* 90 Code, § 6.81.140, 07/01/1998; Ord. 647, passed, 03/22/1990)

§ 15.314 APPEALS.

(A) (1) The filing of a notice of appeal of revocation or suspension of a permit, or of a civil penalty imposed by the Sheriff, under this subchapter shall stay the effective date of the action until the appeal is determined by the Board.

(2) The notice of appeal shall state the name and address of the appellant to which all notices required herein may be mailed. The notice shall also indicate the reasons why the action was incorrect and what the correct determination should be.

(3) The appellant shall be deemed to have waived the right to object and the appeal shall be dismissed if:

(a) The notice of appeal is not filed within the specified time; or

(b) The notice of appeal does not otherwise conform to these requirements.

(B) (1) Upon receipt of notice of the appeal, the clerk of the Board shall give notice of the filing of the appeal to the Sheriff, who shall file a report with the Board containing the reasons for such action. Upon receiving the Sheriff's report, the clerk of the Board shall set a date for a Board hearing of the appeal and shall notify the appellant of the hearing date.

(2) At the Board hearing, the Sheriff shall report to the Board the Sheriff's reasons for the action. The appellant shall have the opportunity to present evidence and oral argument to the Board and to file a written statement. A record shall be made of this hearing. At the conclusion of the hearing, the Board shall determine the appeal and direct that written findings be prepared. If the Board denies the appeal of the denial of the application, the revocation, suspension, or civil penalty, the action shall be effective upon the Board's signing the findings. The decision of the Board shall be final.

(' 90 Code, § 6.81.150, 07/01/1998; Ord. 647, passed, 03/22/1990)

§ 15.315 NUISANCE DECLARED.

Any business maintained in violation of the provisions of this subchapter is declared to be a public nuisance. The County Attorney is authorized to bring any action or suit to abate such nuisance by seeking injunctive or other appropriate relief to the following:

(A) Cease all unlawful activities;

(B) Close the unlawful business establishment;

(C) Return property obtained through unlawful activities to the rightful owners;

(D) Seek payment of civil penalties assessed by the Sheriff; or

(E) Seek such other relief as may be appropriate.

Penalty, see § 15.999

(' 90 Code, § 6.81.160, 07/01/1998; Ord. 647, passed, 03/22/1990)

EMERGENCY AREA REGULATIONS

§ 15.326 POWERS OF SHERIFF.

(A) Whenever any area has been designated as an emergency area under MCC 25.440, within the boundaries of the area the Sheriff shall have authority to:

(1) Regulate or prohibit ingress and egress to and from the area;

(2) Limit or prohibit the movement of any persons within the area;

(3) Move any property within the area;

(4) Evacuate any persons from the area whenever and to the extent that the Sheriff finds human lives or property are endangered; and

(5) Enter into or upon private property, or direct entry to prevent or minimize danger to lives or property.

(B) The Sheriff has authority to barricade streets and to prohibit or regulate travel upon any street, avenue or highway leading to an area designated as an emergency area for such distance as the Sheriff considers necessary under the circumstances.

(Ord. 1166, Amended, 07/08/2010; Ord. 1138, Amended, 06/18/2009; Ord. 1061, Amended, 05/26/2005, eff. 7/1/2005; Ord. 1000, Amended, 11/14/2002; ' 90 Code, § 7.40.200, 07/01/1998; Ord. 18, passed, 09/26/1968)

§ 15.328 ACCESS PRIOR TO DECLARATION AS EMERGENCY AREA; FINDINGS.

The Board finds that certain emergencies may require the responding peace officers to immediately restrict public access to the areas affected, before the area has been designated as an emergency area under § 25.440. Peace officers that respond to such

emergencies have authority to restrict access to the area affected to protect the health, welfare and safety of the people of the county. Sections 15.328 through 15.330 must be liberally construed to effectuate the purposes expressed herein.

(Ord. 1166, Amended, 07/08/2010, Ord. 1138, Amended, 06/18/2009; Ord. 1061, Amended, 05/26/2005, eff. 7/1/2005; Ord. 1000, Amended, 11/14/2002; * 90 Code, § 7.41.015, 07/01/1998; Ord. 455, passed, 02/07/1985)

**§ 15.329 AUTHORITY OF PEACE
OFFICER TO RESTRICT
ACCESS TO AREAS.**

(A) Whenever a threat to the public health or safety is created by any fire, explosion, accident, cave-in, or similar emergency, catastrophe or disaster, or by disturbance, riot, presence of an armed person, hostage being held, or other disturbance, a peace officer may restrict or deny access to persons to the area where such threat exists, for the duration of such threat, when the presence of such persons in such area would constitute a danger to themselves or when such officer reasonably believes that the presence of such persons would substantially interfere with the performance of police or other emergency services.

(B) Whenever it appears to be reasonably necessary to investigate, or to preserve or collect evidence of, criminal acts, a peace officer may restrict or deny access to any room, building or enclosure, or any open area, by cordoning off such area by the use of persons, vehicles, ropes, markers or any other means.

(C) As used in this section, **RESTRICT OR DENY ACCESS** means that the peace officer has the authority to regulate or prohibit the presence or movement of persons or vehicles to, from, and within any area, to evacuate persons and to move or remove any property therefrom, until the reason for such restriction or denial of access no longer exists.

(D) It is unlawful for any person to enter or to refuse to leave any area closed or restricted in access pursuant to divisions (A) and (B) of this section, unless such person has specific statutory authority, or the permission of the on-scene ranking peace officer, to be within such area.

(E) In accordance with the authority granted by this section, and in consideration of the law enforcement and emergency services needs involved, provisions shall be made for reasonable access to such areas by members of the media for the purpose of news gathering and reporting.

Penalty, see § 15.999

(* 90 Code, § 7.41.020, 07/01/1998; Ord. 455, passed, 02/07/1985)

**§ 15.330 INTERFERING IN
EMERGENCIES.**

It is unlawful for any person to stop or remain in the vicinity of a fire, explosion, accident, cave-in, or similar emergency or disaster, or where such an emergency or disaster is threatened, or in the vicinity of a riot, affray or arrest, when that person's presence may be unsafe for that person or others, or may interfere with rescue, firefighting or other emergency aid, after being notified by a peace officer to move to a place outside the area of danger or interference.

Penalty, see § 15.999

(* 90 Code, § 7.41.030, 07/01/1998; Ord. 455, passed, 02/07/1985)

BRIDGE REGULATION

§ 15.335- PROHIBITED ACTIVITIES.

It is unlawful for any person, to affix objects to, climb on, hang, swing, or jump from any county operated or maintained bridge over the Willamette River, Willamette Slough, Multnomah Channel or Sandy River, or remain in areas of the bridges not intended for public access, unless engaged in bridge maintenance work or otherwise authorized or permitted by the county.

(Ord. 976, Added, 02/07/2002)

CIVIL RIGHTS DISCRIMINATION

(Ord. 969, Added, 11/29/2001)

§ 15.340- POLICY.

It is the policy of the County to eliminate discrimination based on race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity or source of income. Such discrimination poses a threat to the health, safety and general welfare of the citizens of the County and menaces the institutions and foundation of our community.

(Ord. 969, Added, 11/29/2001)

§ 15.341 INTENT.

The Board finds that discrimination on the basis of source of income in employment and if the individual is 18 years of age or older exists in the County and that state law does not clearly prohibit such discrimination. The Board intends to exercise of its powers for the protection of the public health, safety, and general welfare and to maintain peace and good government. Every individual needs an equal opportunity to participate fully in the County free of discriminatory barriers in employment, housing, and public accommodations.

(Ord. 1202, Amended, 05/09/2013; Ord. 969, Added, 11/29/2001)

§ 15.342 DEFINITIONS.

(A) For this subchapter, the following definitions apply unless the context requires a different meaning:

SEXUAL ORIENTATION. Actual or supposed male or female homosexuality, heterosexuality, bisexuality or gender identity, regardless of whether the individual's gender identity, appearance, expression or behavior differs from that traditionally associated with the individual's sex at birth.

SOURCE OF INCOME. The means by which a person supports themselves and their dependents, including but not limited to money and property from any occupation, profession or activity, from any contract, settlement or agreement, from federal or state payments, court-ordered payments, gifts, bequests, annuities, life insurance policies, and compensation for illness or injury, but excluding

any money or property derived in a manner made illegal or criminal by any law, statute or ordinance.

(B) All other terms used in this subchapter are defined as in Oregon Revised Statutes Chapter 659A.

(Ord. 1272, Amended, 06/06/2019; Ord. 1202, Amended, 05/09/2013; Ord. 1059, Amended, 04/28/2005; Ord. 969, Added, 11/29/2001)

§ 15.343 DISCRIMINATION IN EMPLOYMENT PROHIBITED.

(A) It is unlawful to discriminate in employment on the basis of an individual's race, religion, color, sex, sexual orientation, national origin, marital status, age if the individual is 18 years of age or older, familial status, or disability, by committing any of the acts made unlawful under the provisions of ORS 659A.030 and 659A.109.

(B) It is unlawful to discriminate in employment on the basis of an individual's source of income by committing against any such individual any of the acts already made unlawful under ORS 659A.030 when committed against the categories of persons listed therein.

(Ord. 1202, Amended, 05/09/2013; Ord. 1059, Amended, 04/28/2005; Ord. 969, Added, 11/29/2001)

§ 15.344 DISCRIMINATION IN SELLING, RENTING, OR LEASING REAL PROPERTY PROHIBITED.

(A) It is unlawful to discriminate in selling, renting, or leasing real property on the basis of an individual's race, religion, color, sex, sexual orientation, national origin, marital status, familial status, source of income or disability, by committing any of the acts made unlawful under the provisions of ORS 659A.421 and 659A.145.

(B) It is unlawful to discriminate in selling, renting, or leasing real property on the basis of an individual's age if the individual is 18 years of age or older.

(Ord. 1202, Amended, 05/09/2013; Ord. 1059, Amended, 04/28/2005; Ord. 969, Added, 11/29/2001)

**§ 15.345 DISCRIMINATION IN PLACES
OF PUBLIC ACCOMMODATION
PROHIBITED**

(A) It is unlawful to discriminate in public accommodations on the basis of an individual's race, religion, color, sex, sexual orientation, national origin, marital status, age if the individual is 18 years of age or older, or disability, by committing any of the acts made unlawful under the provisions of ORS 659A.409, 659A.142, or ORS 659A.400 to 659A.406.

(B) It is unlawful in public accommodations to discriminate on the basis of an individual's source of income or familial status, by committing against any such individual any of the acts already made unlawful under ORS 659A.400 to 659A.409 when committed against the categories of persons listed therein.

(Ord. 1202, Amended, 05/09/2013; Ord. 1059, Amended, 04/28/2005; Ord. 969, Added, 11/29/2001)

**§ 15.346 ENFORCEMENT AND
ADMINISTRATION.**

(A) Any person claiming to be aggrieved by an unlawful discriminatory act under this subchapter has a cause of action in any court of competent jurisdiction for relief as provided in ORS 659A.885 and 659A.890.

(B) In addition to the right to commence an action under subsection (A), any person claiming to be aggrieved by an unlawful employment practice under this subchapter may file a complaint with the Commissioner of the Bureau of Labor and Industries under ORS 659A.820.

(Ord. 1202, Amended, 05/09/2013; Ord. 1059, Amended, 04/28/2005; Ord. 969, Added, 11/29/2001)

CIVIL FORFEITURE

§ 15.350- TITLE.

This subchapter shall be known and cited as the Forfeiture Law of the county.

(‘ 90 Code, § 7.85.005, 07/01/1998; Ord. 442, passed, 11/06/1984)

**§ 15.351 DEFINITIONS;
INCORPORATION OF STATE
LAW.**

(A) For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

PROHIBITED CONDUCT. Includes violation of, solicitation to violate, attempt to violate or conspiracy to violate any provisions of ORS 164.005 through 164.125 (Theft), ORS 164.135 (Unauthorized Use of a Vehicle), ORS 164.205 through 164.225 (Burglary), ORS 167.002 through 167.027 (Prostitution and Related Offenses), ORS 167.117 through 167.153 (Gambling Offenses) and ORS 163.665 through 163.695 (Visual Recording of Sexual Conduct by Children), and ORS 811.182(3)(g) (Driving While Driving Privileges are Suspended or Revoked for a Driving Under the Influence of Intoxicants Conviction).

(B) This chapter incorporates by reference as though fully set forth 1989 Oregon Laws, Chapter 791, §§ 2(1) through (10) and §§ 2(12) through (14), inclusive.

(‘ 90 Code, § 7.85.011, 07/01/1998; Ord 633, passed, 12/14/1989)

§ 15.352 POLICY AND PURPOSE.

(A) The Board finds that:

(1) The use of profits, proceeds or instrumentalities in theft (ORS 164.005 through 164.125); unauthorized use of a vehicle (ORS 164.135); burglary (ORS 164.205 through 164.225); gambling offenses (ORS 167.117 through 167.153); prostitution and related offenses (ORS 167.002 through 167.027) and visual recording of sexual conduct by children (ORS 163.665 through 163.695) and driving while driving privileges are suspended or revoked resulting from a conviction for driving under the influence of intoxicants (ORS 811.182(3)(g)) have and are proliferating in the county, and the presence of such activities is detrimental to the public health, safety, welfare and quality of life in the county;

(2) In particular, gambling and prostitution activities involving the use of conveyances and real property and conveyances used by drivers whose

driving privileges have been suspended or revoked resulting from a conviction for driving under the influence of intoxicants have been and are proliferating in the county, and the presence of these activities is detrimental to the safety and quality of life in the county and therefore the specified conveyances and real property are nuisances;

(3) The prohibited conduct defined in this chapter is undertaken in the course of profitable activities which result in, and are facilitated by, the acquisition, possession or transfer of property subject to civil forfeiture under this subchapter;

(4) Transactions involving property subject to forfeiture under this subchapter escape taxation;

(5) Local government's attempts to respond to prohibited conduct require additional resources to meet its needs;

(6) There is a need to provide for the civil forfeiture of certain property subject to forfeiture under this subchapter, to provide for the protection of the rights and interests of affected persons, and to provide for uniformity with respect to the laws pertaining to the forfeiture of real and personal property; and

(7) The instrumentalities, profits and proceeds of prohibited conduct are often used to commit the same or another prohibited conduct and the return of the property thus serves to encourage and perpetuate the commission of prohibited conduct in the county.

('90 Code, § 7.85.021, 07/01/1998; Ord 633, passed, 12/14/1989)

§ 15.353 FORFEITURE.

The following will be subject to civil in rem forfeiture:

(A) All property, products and equipment of any kind which are used, or intended for use, in providing, manufacturing, compounding, processing, delivering, importing or exporting any service or substance in the course of prohibited conduct.

(B) All conveyances, including aircraft, vehicles or vessels, which are used or are intended for use, to transport or in any manner facilitate the transporta-

tion, sale, receipt, possession or concealment of property described in division (A) of this section, and all conveyances including aircraft, vehicles or vessels, which are used or intended for use in prohibited conduct or to facilitate prohibited conduct in any manner. Such conveyances specifically include, but are not limited to, the following:

(1) A conveyance operated by a person whose operator's license is suspended or revoked as a result of conviction for driving under the influence of intoxicants in violation of the provisions of local or state law;

(2) A conveyance within which an act of prostitution as prohibited by local or state law; or

(3) A conveyance used or intended to be used to facilitate activities defined in ORS 167.012 (Promoting Prostitution), ORS 167.017 (Compelling Prostitution), or ORS 167.122 through 167.137 (Gambling Offenses).

(C) No conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless the owner or other person in charge of such conveyance was a consenting party or knew of and acquiesced in the prohibited conduct.

(D) No property shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such property was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States or any state. Such property shall be returned to the owner following a determination by the court that the property was unlawfully in the possession of a person other than the owner, and the owner did not know it, and did not consent to the use of the property for prohibited conduct.

(E) This subchapter incorporates by reference state law. ('90 Code, § 7.85.026, 07/01/1998; Ord 633, passed, 12/14/1989)

§ 15.354 FORFEITURE PROCEDURES.

The forfeiture procedures of state law are hereby incorporated by reference.

(‘ 90 Code, § 7.85.031, 07/01/1998; Ord 633, passed, 12/14/1989)

§ 15.355 DISTRIBUTION OF PROCEEDS.

After the forfeiture counsel distributes property under the provisions of state law, the forfeiture counsel shall disperse of and distribute property in the following manner:

(A) If the seizing agency has an intergovernmental agreement pursuant to state law, the terms of the intergovernmental agreement shall control the distribution of the property.

(B) If the seizing agency does not have an intergovernmental agreement pursuant to state law, the seizing agency shall recover 50% of the property, the county district attorney's office shall recover 35% of the property and the remaining 15% shall be credited to the county general fund for criminal justice services.

(C) If more than one law enforcement agency has participated in the investigation leading to forfeiture, the participating agencies shall share the 50% of the proceeds ordinarily remitted to the seizing agency equitably between the participating agencies.

(D) Except as otherwise provided by intergovernmental agreement, the forfeiting agency may:

(1) Sell, lease, lend or transfer the property or proceeds to any federal, state or local law enforcement agency or district attorney;

(2) Sell the forfeited property by public or other commercially reasonable sale and pay from the proceeds the expenses of keeping and selling the property;

(3) Retain the property; or

(4) With written authorization from the district attorney for the forfeiting agency's jurisdiction, destroy any firearm or contraband.

(E) The forfeiting agency, and any agency which receives forfeited property or proceeds from the sale of forfeited property, shall maintain written documentation of each sale, decision to return, transfer or other disposition.

(‘ 90 Code, § 7.85.036, 07/01/1998; Ord 633, passed, 12/14/1989)

LIQUOR LICENSES**§ 15.400- PURPOSE.**

The purposes of this subchapter are to establish the principal criteria which shall be considered by the Board and the Sheriff, in making recommendations to the state Liquor Control Commission concerning the granting, denying, modifying or renewing of all liquor licenses for premises within unincorporated the county and to establish a process, to be utilized for the investigation of such license applicants for the purpose of making such recommendations, that is fair, effective and efficient. This subchapter is necessary to ensure that all premises licensed to sell or dispense liquor in any form meet the high expectations of this community, and that all businesses are conducted in a lawful manner that does not unreasonably disturb the peace and tranquility of this county and its neighborhoods.

(‘ 90 Code, § 5.10.020, 07/01/1998; Ord. 799, passed, 10/06/1994; Ord. 724, passed, 06/11/1992; Ord. 420, passed, 06/14/1984; Ord. 412, passed, 03/15/1984; Ord. 195, passed, 04/26/1979; Ord. 157, passed, 12/29/1977)

§ 15.401 APPLICATION PROCEDURE.

(A) Any applicant for any license who is required by the state Liquor Control Commission to have a recommendation from the county concerning the suitability of such application shall present the license application forms prescribed by the Liquor Control Commission to the Sheriff for the purpose of obtaining the recommendation of the county concerning such a license.

(B) For the purpose of conducting the investigation to ascertain pertinent information bearing upon such county recommendations, the Sheriff may require such other information in addition to that provided upon the Liquor Control Commission application forms as it deems appropriate.

(C) The Sheriff shall accept liquor license applications only when the following conditions are met:

(1) All required forms are properly completed and in order; and

(2) The processing fees, in amounts established by Board resolution, and as allowed by ORS, have been paid.

(‘ 90 Code, § 5.10.020, 07/01/1998; Ord. 799, passed, 10/06/1994; Ord. 724, passed, 06/11/1992; Ord. 420, passed, 06/14/1984; Ord. 412, passed, 03/15/1984; Ord. 195, passed, 04/26/1979; Ord. 157, passed, 12/29/1977)

§ 15.402 INVESTIGATION.

(A) The Sheriff shall coordinate and conduct an investigation of each application for the purpose of determining what recommendation shall be made to the Board, using the procedures set forth in division (B) of this section.

(B) (1) All applicants shall be checked for any and all prior arrest records or violations of Liquor Control Commission regulations.

(2) All applicants shall be checked for prior community relations problems under another license.

(3) The business locations shall be examined and must be in the best interests of the community.

(4) All renewal applications shall be reviewed and checked for prior negative impact on the community.

(5) All new outlets, or change of location/privilege shall be referred to the zoning section for verification of the proposed use under the county zoning code.

(6) All new and renewal applications shall be checked to determine whether there are delinquent personal or real property taxes due and owing for the premises.

(‘ 90 Code, § 5.10.020, 07/01/1998; Ord. 799, passed, 10/06/1994; Ord. 724, passed, 06/11/1992; Ord. 420, passed, 06/14/1984; Ord. 412, passed, 03/15/1984; Ord. 195, passed, 04/26/1979; Ord. 157, passed, 12/29/1977)

§ 15.403 RECOMMENDATIONS TO THE BOARD.

Upon completion of the investigation procedures, the Sheriff shall forward to the Board a recommendation of approval or denial. The clerk of the Board then places the matter on the Board's agenda, in order that the Board may then make a recommendation of approval or denial to the state Liquor Control Commission. (‘ 90 Code, § 5.10.020, 07/01/1998; Ord. 799, passed, 10/06/1994; Ord. 724, passed, 06/11/1992; Ord. 420, passed, 06/14/1984; Ord. 412, passed, 03/15/1984; Ord. 195, passed, 04/26/1979; Ord. 157, passed, 12/29/1977)

§ 15.404 DENIAL OF LICENSE.

The Sheriff may make a recommendation of denial to the Board regarding any application if:

(A) The applicant's record reflects a pattern of violation of the alcoholic liquor laws of this state;

(B) The applicant has a history of use of controlled substances or use of alcoholic beverages to excess;

(C) The record of the applicant shows violation(s) of criminal law(s) or ordinance(s) connected in time, place or manner with a liquor establishment or which demonstrate a disregard for law;

(D) The applicant has maintained, or allowed to exist, an establishment which creates or is a public nuisance under the ordinances of the county or laws of the state or in which any violation of the provisions of the code, or federal or state law relating to minors, gambling, obscenity, controlled substances, prostitution or alcoholic beverages, or ORS Chapters 163, 164, 165 and 166 have occurred, or which creates an increase in disorderly or violent acts, litter, noise, vandalism, vehicular or pedestrian traffic congestion, or other location problems, in the reasonable proximity of such premises;

(E) The applicant's premises are not maintained in reasonable repair, both interior and exterior, and kept clean and free of litter, rubbish, and dirt;

(F) The applicant's premises are found to be a nuisance under the terms of this chapter;

(G) In the case of an application for a new license or for an increase in liquor selling or dispensing privilege, there are sufficient licensed premises in the locality set out in the application and the license is not demanded by public interest or convenience;

(H) The licensing of the premises would not be in the best interests of the community because of a history of illegal activities, altercations, noisy conduct, or other disturbances in or around the premises;

(I) The applicant has demonstrated an unwillingness or inability to cooperate with county agencies or neighbors in resolving community disputes related to a licensed establishment;

(J) If the zoning section finds that the proposed new outlet, or change of location/privilege is found to be in violation of the zoning code. However, the applicant may file an application for change of zone, conditional use which would permit such use;

(K) If there are delinquent real or personal property taxes due and owing for the premises at the time of application or renewal, a recommendation of denial is mandatory; and

(L) If there is any other specific reason consistent with the purposes of this subchapter which may, in the opinion of the Sheriff, warrant an adverse report to the Board based upon public health, safety, welfare, convenience or necessity.

(* 90 Code, § 5.10.020, 07/01/1998; Ord. 799, passed, 10/06/1994; Ord. 724, passed, 06/11/1992; Ord. 420, passed, 06/14/1984; Ord. 412, passed, 03/15/1984; Ord. 195, passed, 04/26/1979; Ord. 157, passed, 12/29/1977)

§ 15.405 HEARINGS; NOTIFICATION.

(A) When the Sheriff makes a recommendation for denial of any application, the clerk of the Board shall notify, by certified mail, the applicant, the Liquor Control Commission, and the Sheriff of the hearing date, place and time at least one week before such hearing takes place. The presiding officer of the Board may also contact the neighborhood associations concerned.

(B) When the Sheriff makes a recommendation for approval of an application for which the Sheriff

or the Board has received complaints or concerns from citizens or other business establishments, or for which there may be other controversy, the clerk of the Board shall notify those concerned citizens or business establishments and the applicant of the hearing date, place and time.

(* 90 Code, § 5.10.020, 07/01/1998; Ord. 799, passed, 10/06/1994; Ord. 724, passed, 06/11/1992; Ord. 420, passed, 06/14/1984; Ord. 412, passed, 03/15/1984; Ord. 195, passed, 04/26/1979; Ord. 157, passed, 12/29/1977)

§ 15.406 HEARING PROCEDURES.

When the Board has scheduled a hearing on any liquor license application, such applicant shall be given a reasonable opportunity to be heard and address concerns raised by the Sheriff, the Board, and persons or groups appearing in opposition to such an application. The Board's recommendation of approval or denial of such application, based upon a determination of what course of action best serves the interest of the citizens of the county, shall be final.

(* 90 Code, § 5.10.020, 07/01/1998; Ord. 799, passed, 10/06/1994; Ord. 724, passed, 06/11/1992; Ord. 420, passed, 06/14/1984; Ord. 412, passed, 03/15/1984; Ord. 195, passed, 04/26/1979; Ord. 157, passed, 12/29/1977)

§ 15.407 RECONSIDERATION OF APPLICATIONS.

After having made a recommendation of denial on any liquor license application, the Sheriff and the Board shall not consider any new application for the same location by the same or substantially the same applicant for a period of at least six months or while such applicant has pending an appeal in court or in a state administrative agency related to such a license. Notwithstanding, the Sheriff may reconsider or re-submit such an application to the Board in less than six months if it is reasonably believed that a recommendation of denial has substantially changed, and no court or administrative appeal of such license is pending.

(* 90 Code, § 5.10.020, 07/01/1998; Ord. 799, passed, 10/06/1994; Ord. 724, passed, 06/11/1992; Ord. 420, passed, 06/14/1984; Ord. 412, passed, 03/15/1984; Ord. 195, passed, 04/26/1979; Ord. 157, passed, 12/29/1977)

§ 15.408 TEMPORARY LICENSES.

On any application for a temporary liquor license which will be in effect for five days or less, review by the Board shall not be automatically re-

quired. The Sheriff has authority to make a recommendation of approval to the Liquor Control Commission on such applications. If the Sheriff recommends denial of any application for a temporary license, the application shall be reviewed by the Board as outlined in §§ 15.405 and 15.406.

(‘ 90 Code, § 5.10.020, 07/01/1998; Ord. 799, passed, 10/06/1994; Ord. 724, passed, 06/11/1992; Ord. 420, passed, 06/14/1984; Ord. 412, passed, 03/15/1984; Ord. 195, passed, 04/26/1979; Ord. 157, passed, 12/29/1977)

POLICE IMPERSONATION

§ 15.450- UNAUTHORIZED VEHICLES DISPLAYING POLICE INSIGNIA.

No person shall own or operate a private motor vehicle in the county outside of incorporated cities marked or identified by the word “ police” or any other marking or insignia identifying the vehicle as a police vehicle.

Penalty, see § 15.999

(‘ 90 Code, § 7.90.100, 07/01/1998; Ord. 35, passed, 07/09/1970)

NEIGHBORHOOD WATCH SIGNS

§ 15.500- FINDINGS.

The Board finds:

(A) The Sheriff, in cooperation with the community, has instituted an observation and reporting program by which the residents of blocks can organize to better protect themselves against neighborhood intruders who are there for unlawful purposes.

(B) It has been proposed that when residents of a block have met certain requirements that they be allowed to place signs within the right-of-way which indicate that the block is protected by neighborhood watch.

(C) The granting of this request will not be detrimental to the public interest under certain conditions.

(‘ 90 Code, § 2.70.305, 07/01/1998; Ord. 399, passed, 09/23/1983)

§ 15.501 PERMIT; STANDARDS.

(A) A revocable permit is granted to the Sheriff to have the signs referred to in § 15.500 placed in the public rights-of-way subject to the conditions set forth in division (B) of this section.

(B) (1) Signs and signposts shall be furnished and installed by the requesting neighborhood.

(2) All signs and locations shall be approved by the traffic engineer.

(3) The signs, when installed, shall conform to the county engineer's standard plan.

(4) The Sheriff shall maintain a record of installed sign locations.

(5) The county shall remove signs not in conformance with the county engineer's standard plan and the traffic engineer's approved location.

(‘ 90 Code, § 2.70.320, 07/01/1998; Ord. 399, passed, 09/23/1983)

CRIMINAL JUSTICE INFORMATION

§ 15.550- PURPOSE.

It is the purpose of this subchapter to assure that criminal history record information, wherever it appears, is stored, collected, and disseminated in a manner to insure the completeness, integrity, accuracy, and security of such information, and to protect individual privacy. (‘90 Code, § 7.80.010, 07/01/1998; Ord. 201, passed, 05/10/1979)

§ 15.551 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

ACCESS. The authority to review or receive information from files, records, or an information system, whether manual or automated.

ATTORNEY. An attorney at law authorized by a person to assert the confidentiality of right of access to criminal history record information under this subchapter.

AUTHORIZED REPRESENTATIVE. A parent, or a guardian, or conservator, other than an attorney, appointed to act on behalf of a person and empowered by such person to assert the confidentiality of or right of access to personal data under this subchapter.

CRIMINAL HISTORY RECORD INFORMATION (CHRI). Information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any dispositions arising therefrom, including sentencing, correctional supervision, and release. The term does not include information contained in original records of arrest, arrest logs, or reports of crimes available for inspection under terms of ORS 192.410 to 192.505, and identification information such as fingerprint records to the extent that such information does not indicate involvement of the individual in the criminal justice system.

CRIMINAL JUSTICE ADMINISTRATION. The performance of the following activities: detection, apprehension, detention, pre-trial release, post-trial release, prosecution, adjudication, correctional supervision or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information.

CRIMINAL JUSTICE AGENCY. Any court or other governmental agency or any subunit thereof which performs the administration of justice pursuant to any statute or any executive order, and which allocates a substantial part of its budget to the administration of criminal justice and any agency specially designated as a criminal justice agency by executive order of the governor of the state.

CRIMINAL JUSTICE INFORMATION (CJI). Information collected by criminal justice agencies that is needed for the performance of their legally authorized and required functions. This is the broadest information term and includes CHRI and investigative and intelligence information. It does not include agency personnel or administrative records used for agency operations or management.

DISPOSITION. Information disclosing that criminal proceedings have been concluded, including information disclosing that the police have elected not to refer a matter to a prosecutor, or that a prosecutor has elected not to commence criminal proceedings, and also disclosing the nature of the termination in the proceedings, or information disclosing that proceedings have been indefinitely postponed and also disclosing the reason for such postponement. Disposition shall include, but not be limited to, acquittal, bail forfeiture, bound over for trial after preliminary hearing, bound over for trial--preliminary hearing waived, convicted, dismissed--civil action, dismissed--defense motion, dismissed--prosecutor motion (withdrawn), dismissed--court motion, extradited, judgment on guilty or "nolo" plea, not responsible, charge reduced, case continued without finding, deceased, deferred disposition, pardoned, probation before conviction, sentence commuted, mistrial--defendant discharged, executive clemency, placed on probation, paroled, released from correctional supervision, charge dropped by arresting agency, charge dropped by prosecutor, or charge dropped--invalid warrant.

DISSEMINATION. The transmission of information, whether orally, in writing or electronically, to anyone outside the agency which maintains the information, except reports to an authorized repository.

INTELLIGENCE AND INVESTIGATIVE INFORMATION (I and I). Information compiled in an effort to anticipate, prevent or monitor possible criminal activity, or compiled in a course of investigation of known or suspected crimes.

PERSON. An individual of any age concerning whom criminal history record information is contained in a manual computerized file of any county criminal justice agency, or a person's attorney or authorized representative.

(* 90 Code, § 7.80.020, 07/01/1998; Ord. 257, passed, 11/26/1980; Ord. 201, passed, 05/10/1979)

§ 15.552 SCOPE.

This subchapter relates solely to criminal justice information stored, collected, and disseminated by agencies of county government, except that they shall not extend to include manual or automated information systems operated or maintained by the judiciary. It does not extend to original records of arrest, arrest logs, or reports of crimes available for inspection under terms of ORS 192.410 to 192.505. ('90 Code, § 7.80.030, 07/01/1998; Ord. 201, passed, 05/10/1979)

§ 15.553 ACCESS TO CRIMINAL HISTORY RECORD INFORMATION.

Access to criminal history record information shall be limited to the following:

(A) Criminal justice agencies, where the information is to be used for criminal justice administration or criminal justice agency employment;

(B) Agencies or persons legally authorized to receive the specific information pursuant to statute, government regulation, court order, or legal directive; and

(C) Within county criminal justice agencies, personnel who have a bona fide need-to-know or need-to-handle criminal history record information to perform their assigned duties. ('90 Code, § 7.80.040, 07/01/1998; Ord. 201, passed, 05/10/1979)

§ 15.554 ACCESS FOR RESEARCH PURPOSES.

Individuals or noncriminal justice agencies engaged in criminal justice research may be authorized by the Sheriff to have limited access to criminal history record information contained in files of county criminal justice agencies provided:

(A) The party seeking access submits a written request to the Sheriff setting forth the nature and scope of their research, the specific data requested, and the methodology to be employed in collecting, storing, and analyzing the data; and

(B) The Sheriff is satisfied that the party seeking access to the criminal history record information has a bona fide research purpose and has given sufficient assurance that no personal identification information or data (contained in CHRI) that can be associated with a particular individual will be disclosed to the public in any manner or form;

(C) The party seeking access to the criminal history record information gives written assurances to the Sheriff that they will use the criminal history record information data solely for research purposes set forth in their approved request.

Penalty, see § 15.999

(Ord. 1272, Amended, 06/06/2019; '90 Code, § 7.80.041, 07/01/1998; Ord. 201, passed, 05/10/1979)

§ 15.555 ACCESS TO INTELLIGENCE AND INVESTIGATIVE INFORMATION.

Notwithstanding any other provisions in this subchapter, intelligence and investigative information shall not be publicly disclosed so long as there is a clear need in a particular case to delay disclosure in the course of an investigation in accordance with ORS 192.500.

Penalty, see § 15.999

('90 Code, § 7.80.045, 07/01/1998; Ord. 201, passed, 05/10/1979)

§ 15.556 ACCURACY AND COMPLETENESS OF INFORMATION.

Each county criminal justice agency which stores, collects, or disseminates criminal history record information shall establish procedures to insure the accuracy and completeness of criminal history record information. No criminal history record information shall be disseminated until the information has been verified against computerized criminal history (CCH) records of the Oregon State Police (OSP). Whenever a county agency reports arrest information to OSP-CCH, that agency should report to OSP-CCH any disposition related to the reported arrest which occurs within the county within 90 days after the disposition has occurred. No information should be added to a person's criminal history record, whether automated or manual, unless the data is based upon a readily identifiable numbered

source document and upon the assurance that the information pertains to the individual whose criminal history record is affected.

Penalty, see § 15.999

(‘ 90 Code, § 7.80.010, 07/01/1998; Ord. 257, passed, 11/26/1980; Ord. 201, passed, 05/10/1979)

**§ 15.557 RESTRICTIONS ON DATA
ENTERED INTO
COMPUTERIZED RECORDS.**

Data shall not be entered into any computerized criminal history record which contains, in narrative or code, statements with evaluative, conjectural or judgmental content.

Penalty, see § 15.999

(‘ 90 Code, § 7.80.055, 07/01/1998; Ord. 201, passed, 05/10/1979)

**§ 15.558 DISSEMINATION OF
INFORMATION RELATED TO
JUVENILES.**

(A) Any information about a child's conduct which, if committed by an adult, would be an offense, may be provided by a law enforcement agency to another agency only when the information is pertinent to a specific investigation by that agency.

(B) Fingerprint and photograph files and records of children shall be kept separate from those of adults, and fingerprints and photographs known to be those of a child shall be maintained on a local basis only and not sent to central state or federal depository.

(C) Reports and other material relating to a child's history and prognosis are privileged and, except at the request of the child, shall not be disclosed directly or indirectly to anyone other than the judge of the juvenile court, those acting under the child's direction, and to the attorneys of record for the child's parent or guardian.

Penalty, see § 15.999

(Ord. 1272, Amended, 06/06/2019; ‘ 90 Code, § 7.80.060, 07/01/1998; Ord. 257, passed, 11/26/1980; Ord. 201, passed, 05/10/1979)

**§ 15.559 RIGHT TO ACCESS AND
CHALLENGE.**

(A) Any individual shall have the right of access to their own criminal history record information which is contained in manual or computerized files of any county criminal justice agency at no cost.

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(B) Each county criminal justice agency which maintains CHRI shall establish procedures which:

(1) Inform an individual in writing, upon written request, whether the agency maintains criminal history record information concerning him;

(2) Make available to a person, upon written request, the criminal history record information concerning him;

(3) Allow a person to contest the accuracy, completeness or relevancy of his criminal history record information;

(4) Allow criminal history record information to be corrected upon written request of a person when the agency concurs in the proposed correction;

(5) Allow a person who believes that the agency maintains inaccurate or incomplete criminal history record information concerning himself to submit a written statement to the agency setting forth what he believes to be an accurate or complete version of that information. If, after a review of the statement, the agency does not concur and does not make the corrections requested in the statement, the statement shall be filed in a manual file in the agency's records section under an appropriate index number and any subsequent dissemination of the referenced criminal history record information shall disclose the existence of the statement challenging the accuracy or completeness of the information.

(‘ 90 Code, § 7.80.070, 07/01/1998; Ord. 201, passed, 05/10/1979)

§ 15.560 ADMINISTRATION.

(A) Each criminal justice agency shall be responsible for the accuracy, completeness, and integrity of all information which it adds, modifies, and deletes from any criminal history record.

(B) Each county agency shall maintain a log of all disseminations of criminal history record information to individuals and non-criminal justice agencies outside its own organization. These logs shall include, but not be limited to, the following information about each individual record so disseminated:

- (1) Date and time of day;
 - (2) Identification number of the record released;
 - (3) Identification of the person and agency who received the criminal history record information;
 - (4) Identification of the individual who released the criminal history record information.
- (‘ 90 Code, § 7.80.080, 07/01/1998; Ord. 201, passed, 05/10/1979)

PROPERTY INVENTORY

§ 15.600- PURPOSE.

This subchapter applies to inventories of personal property in an impounded vehicle and the personal possessions of anyone in law enforcement custody. It does not affect any statutory or constitutional right(s) that law enforcement officers may employ to search or seize possessions for other purposes.

(‘ 90 Code, § 7.15.010, 07/01/1998; Ord. 878, passed, 04/10/1997)

§ 15.601 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

CLOSED CONTAINER. A container the contents of which are not exposed to view.

LAW ENFORCEMENT CUSTODY.

- (1) The imposition of restraint as a result of an arrest as that term is defined in ORS 133.005(1);
- (2) The imposition of actual or constructive restraint by a law enforcement officer pursuant to a court order;
- (3) The imposition of actual or constructive constraint by a law enforcement officer pursuant to ORS Chapter 426;
- (4) The imposition of actual or constructive restraint by a law enforcement officer for purposes of taking the restrained person to an approved facili-

ty for the involuntary confinement of persons pursuant to state law; or

- (5) The imposition of actual or constructive restraint by a law enforcement officer pursuant to ORS Chapter 137.

LAW ENFORCEMENT OFFICER.

- (1) Any officer of the office of the Sheriff.
- (2) Any parole or probation officer of the Department of Community Justice, who conducts an inventory related to the supervision of an offender on parole or probation.

OPEN CONTAINER. A container which is unsecured or incompletely secured in such a fashion that the container's contents are exposed to view.

VALUABLES.

- (1) Cash money of an aggregate amount of \$50 or more; or
 - (2) Individual items of personal property with a value of over \$500.
- (Ord. 988, Amended, 08/22/2002; ‘ 90 Code, § 7.15.020, 07/01/1998; Ord. 878, passed, 04/10/1997)

§ 15.602 INVENTORIES OF CONTENTS OF IMPOUNDED VEHICLES.

(A) The contents of all vehicles impounded by a law enforcement officer shall be inventoried. The inventory shall be conducted before constructive custody of the vehicle is released to a third-party towing company except under the following circumstances:

- (1) If there is reasonable suspicion to believe that the safety of either the law enforcement officer(s) or any other person is at risk, a required inventory will be done as soon as safely practical; or
- (2) If the vehicle is being impounded for evidentiary purposes in connection with the investigation of a criminal offense, the inventory will be done after such investigation is completed.

(B) The purpose for the inventory of an impounded vehicle will be to the following:

- (1) Promptly identify property to establish accountability and avoid spurious claims to property;
- (2) Assist in the prevention of theft of property;
- (3) Locate toxic, dangerous, flammable or explosive substances; and
- (4) Reduce the danger to persons and property.

(C) Inventories of impounded vehicles shall be conducted according to the following procedure:

(1) An inventory of personal property and the contents of open containers will be conducted throughout the passenger and engine compartments of the vehicle, including, but not limited to, accessible areas under or within the dashboard area, in any pockets in the doors or in the back of the front seat, in any console between the seats, under any floor mats, and under the seats;

(2) In addition to the passenger and engine compartments as described above, an inventory of personal property and the contents of open containers will also be conducted in the following locations:

(a) Any other type of unlocked compartments that are a part of the vehicle including, but not limited to, unlocked vehicle trunks and unlocked car-top containers; and

(b) Any locked compartments including, but not limited to, locked vehicle trunks, locked hatchbacks and locked car-top containers, if either the keys are available to be released with the vehicle to the third-party towing company or an unlocking mechanism for such compartment is available within the vehicle.

(3) A closed container left either within the vehicle or any of the vehicle's compartments will have its contents inventoried only when:

(a) The closed container is to be placed in the immediate possession of a person at the time that person is placed in the secure portion of a custodial facility, law enforcement vehicle or secure law enforcement holding room;

(b) A person requests that the closed container be with him or her in the secure portion of a law enforcement vehicle or a secure law enforcement holding room; or

(c) The closed container is designed for carrying money or valuables, including, but not limited to, closed purses, closed coin purses, closed wallets and closed fanny packs.

(D) Upon completion of the inventory, the law enforcement officer will complete a report as directed by the Sheriff.

(E) Any valuables located during the inventory process will be listed on a property receipt. A copy of the property receipt will either be left in the vehicle or tendered to the person in control of the vehicle if such person is present. The valuables will be dealt with in such manner as directed by the Sheriff.
(* 90 Code, § 7.15.030, 07/01/1998; Ord. 878, passed, 04/10/1997)

§ 15.603 INVENTORIES OF PERSONAL PROPERTY OF PERSONS IN CUSTODY.

(A) A law enforcement officer will inventory the personal property in the possession of anyone taken into law enforcement custody and such inventory will be conducted whenever:

(1) Such person will be either placed in a secure law enforcement holding room or transported in the secure portion of a law enforcement vehicle; or

(2) Custody of the person will be transferred to another law enforcement agency, correctional facility, or “treatment facility” as that phrase is used in ORS 426.460 or such other lawfully approved facility for the involuntary confinement of persons pursuant to state law.

(B) The purposes of the inventory of a person in law enforcement custody will be to the following:

(1) Promptly identify property to establish accountability and avoid spurious claims to property;

(2) Fulfill the requirements of ORS 133.455 to the extent that such statute may apply to certain property held by the law enforcement officer for safekeeping;

(3) Assist in the prevention of theft of property;

(4) Locate toxic, dangerous, flammable or explosive substances;

(5) Locate weapons and instruments that may facilitate an escape from custody or endanger law enforcement personnel; and

(6) Reduce the danger to persons and property.

(C) Inventories of the personal property in the possession of such persons will be conducted according to the following procedures:

(1) An inventory will occur prior to placing such person into a holding room or a law enforcement vehicle, whichever occurs first. However, if there is reasonable suspicion to believe that the safety of the law enforcement officer(s), the person in custody, or both are at risk, an inventory will be done as soon as safely practical prior to the transfer of custody to another law enforcement agency or facility.

(2) To complete the inventory of the personal property in the possession of such person, the law enforcement officer will remove all items of personal property from the clothing worn by such person. In addition, the officer will also remove all items of personal property from all open containers in the possession of such person.

(3) A closed container in the possession of such person will have its contents inventoried only when:

(a) The closed container is to be placed in the immediate possession of such person at the time that person is placed in the secure portion of a

custodial facility, law enforcement vehicle or secure law enforcement holding room;

(b) Such person requests that the closed container be with him or her in the secure portion of a law enforcement vehicle or a secure law enforcement holding room; or

(c) The closed container is designed for carrying money or valuables on or about the person, including, but not limited to, closed purses, closed coin purses, closed wallets and closed fanny packs.

(D) Valuables found during the inventory process will be noted by the law enforcement officer in a report as directed by the Sheriff.

(E) All items of personal property, neither left in the immediate possession of the person in custody, nor left with the facility or agency accepting custody of the person, will be handled in the following manner:

(1) A property receipt will be prepared listing the property to be retained in the possession of the Sheriff and a copy of that receipt will be tendered to the person in custody when such person is released to the facility or agency accepting custody of such person;

(2) The property will be dealt with in such manner as directed by the Sheriff.

(F) All items of personal property neither left in the immediate possession of the person in custody nor, dealt with as provided in division (E) above, will be released to the facility or agency accepting custody of the person so that they may:

(1) Hold the property for safekeeping on behalf of the person in custody; and

(2) Prepare and deliver a receipt, as may be required by ORS 133.455, for any valuables held on behalf of the person in custody.

(* 90 Code, § 7.15.040, 07/01/1998; Ord. 878, passed, 04/10/1997)

DISPOSITION OF UNCLAIMED PROPERTY**§ 15.650- ACKNOWLEDGMENT OF UNCLAIMED PROPERTY.**

Whenever the Sheriff possesses any property, including money, the ownership of which is unknown and which is unclaimed for 30 days after the property came into the Sheriff's possession, the Sheriff shall report the fact to the Board and request authority to dispose of it as provided in this subchapter.

(Ord. 1272, Amended, 06/06/2019; ' 90 Code, § 7.70.100, 07/01/1998; Ord. 24, passed, 06/29/1969)

§ 15.651 PUBLIC SALE; NOTICE; PRIOR CLAIM OF OWNERSHIP.

The Board shall act upon the request of the Sheriff within 30 days after the receipt of the request. If the request is to have the property disposed of by public sale and if the Board approves the request, the Sheriff or the Department of County Management shall post written or printed notice of sale in three public places within the county at least ten days before the sale. The notice shall describe the property, including money, and shall state the time and place of public sale at which the property may be purchased by the highest bidder. Until the date of the sale, the property, including money, may be claimed at the Sheriff's office. If ownership is proved, the Sheriff shall turn the property including money, over to the owner and cancel the sale insofar as the claimed property is concerned.

(Ord. 1061, Amended, 05/26/2005, eff. 7/1/2005; Ord. 978, Amended, 03/07/2002; Ord. 971, Amended, 12/20/2001; ' 90 Code, § 7.70.150, 07/01/1998; Ord. 24, passed, 06/29/1969)

§ 15.652 BIDS BY COUNTY PERSONNEL PROHIBITED.

Members of the county government, including officials and employees, shall not be allowed to bid at the sale.

(' 90 Code, § 7.70.200, 07/01/1998; Ord. 24, passed, 06/29/1969)

§ 15.653 DISPOSITION OF SALE PROCEEDS.

The Sheriff or the Department of County Management shall conduct the sale and shall deposit the proceeds, after deducting the cost of the sale together with any other money included in the notice, in

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the county treasury to the credit of the county general fund.

(Ord. 1061, Amended, 05/26/2005, eff. 7/1/2005; Ord. 978, Amended, 03/07/2002; Ord. 971, Amended, 12/20/2001; ' 90 Code, § 7.70.250, 07/01/1998; Ord. 24, passed, 06/29/1969)

§ 15.654 COUNTY USE OF UNCLAIMED PROPERTY.

In lieu of a sale of the property under §§ 15.650 through 15.653, the Sheriff, with the approval of the Board, may transfer any portion of unclaimed property to the county for use by the county.

(' 90 Code, § 7.70.300, 07/01/1998; Ord. 24, passed, 06/29/1969)

§ 15.655 CLAIM BY OWNER AFTER DISPOSITION.

If the property is sold as provided in this subchapter and if, within six months after the sale, the owner of the property, including money, files with the Board a claim for the property, including money, and proves the owner's right to it, the Board shall direct that the money or the amount received for the property, less expenses of the sale, shall be paid to the owner from the county treasury. The Board shall not approve any claims filed more than six months after the sale. If the property is transferred to the county in lieu of sale, it may be claimed by the lawful owner at any time within one year from the transfer to the county. The Sheriff, in disposing of property in the manner provided in this subchapter, shall not be liable to the owner of the property.

(' 90 Code, § 7.70.350, 07/01/1998; Ord. 24, passed, 06/29/1969)

§ 15.656 TRANSFERS OF PROPERTY ACQUIRED THROUGH CIVIL FORFEITURE LAWS.

(A) *Definitions.* For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

FORFEITED PROPERTY. All personal property other than cash or cash proceeds, the right, title, and interest of which has been granted to the county by the circuit court of the state pursuant to any of the following:

(a) Oregon Laws 1989, Chapter 791, §§ 1-10; or

(b) The county civil forfeiture provisions, §§ 15.350 through 15.355.

GOVERNMENT AGENCY. Any state agency, department, division, bureau, board, and commission; any county, city, school district, special district, municipal corporation, and any board, department, commission, council or agency thereof; and any other public agency of this state.

LAW ENFORCEMENT AGENCY. Any agency which employs police officers for the purpose of investigation and prosecution of criminal cases.

LAW ENFORCEMENT PURPOSE. Any activity which may be reasonably expected to result in the identification, apprehension, or conviction of criminal offenders.

POLICE OFFICER. Has the meaning given that term in ORS 133.525.

(B) *Types of transfers allowed.*

(1) Forfeited property may be transferred to any law enforcement agency to be used for law enforcement purposes; or

(2) Forfeited property may be transferred to any government agency within the state for a public purpose.

(C) *Approval of transfers.*

(1) All property transfers to law enforcement agencies shall be made at the discretion of the Sheriff of the county.

(2) All other property transfers shall be approved by resolution of the Board upon recommendation of the Sheriff.

(D) *Transfer documents.* Upon approval, the Sheriff shall transfer the forfeited property by executing a transfer document describing the property transferred, stating the transfer is without warranties of title, condition or fitness for a particular purpose. In addition, the transfer document shall give notice the transferee is required to maintain written documentation of each sale, transfer or other disposition

of the property as required by Oregon Laws 1989, Chapter 791, § 10(2).

(* 90 Code, § 7.70.360, 07/01/1998; Ord. 676, passed, 04/11/1991; Ord. 24, passed, 06/29/1969)

ALARM SYSTEMS

§ 15.700- TITLE.

This subchapter shall be known and cited as the Burglary and Robbery Alarm Law.

(* 90 Code, § 7.51.005, 07/01/1998; Ord. 796, passed, 09/08/1994; Ord. 687, passed, 07/03/1991; Ord. 610, passed, 03/30/1989)

§ 15.701 PURPOSE AND SCOPE.

(A) The purpose of this subchapter is to encourage alarm users and alarm businesses to assume increased responsibility for maintaining the mechanical reliability and the proper use of alarm systems to prevent unnecessary responses to false alarms and thereby to protect the emergency response capability of the county from misuse.

(B) This subchapter governs burglary and robbery alarm systems, requires permits, establishes fees, provides for allocation of revenues and deficits, provides for fees for excessive false alarms, provides for no response to alarms, provides for punishment of violations and establishes a system of administration.

(C) Revenue generated in excess of costs to administer this subchapter shall be allocated for the use of participating law enforcement agencies to recover costs associated with alarm response and for public education and training programs in reduction of false alarms in accordance with § 15.711.

(D) The provisions of this subchapter shall apply in any city in the county which has consented to the application of this subchapter. The provisions of this subchapter shall not apply in any city in the county which has in effect an ordinance having the same purpose as this subchapter and which is administered by the county pursuant to an intergovernmental agreement.

(Ord. 1047, Amended, 08/26/2004; * 90 Code, § 7.51.010, 07/01/1998; Ord. 796, passed, 09/08/1994; Ord. 687, passed, 07/03/1991; Ord. 610, passed, 03/30/1989)

§ 15.702 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

ALARM BUSINESS. The business by any individual, partnership, corporation, or other entity of selling, leasing, maintaining, servicing, repairing, monitoring, altering, replacing, moving or installing any alarm system or causing to be sold, leased, maintained, serviced, repaired, monitored altered, replaced, moved or installed any alarm system in or on any building, structure or facility.

ALARM SYSTEM. Any assembly of equipment, mechanical or electrical, arranged to signal the occurrence of an illegal entry or other activity requiring urgent attention and to which law enforcement officers are alerted.

ALARM USER. The person, firm, partnership, association, corporation, company or organization of any kind which owns, controls or occupies any building, structure or facility wherein an alarm system is maintained.

AUTOMATIC DIALING DEVICE. A device which is interconnected to a telephone line and is programmed to select a predetermined telephone number and transmit by voice message or code signal an emergency message indicating a need for emergency response. Such a device is an alarm system.

BUREAU OF EMERGENCY COMMUNICATIONS. The city or county facility used to receive emergency and general information from the public to be dispatched to the respective law enforcement departments utilizing the bureau.

BURGLARY or ROBBERY ALARM SYSTEM. An automated or manual alarm system signaling a robbery, an entry or attempted entry into the area protected by the system.

COMMERCIAL ALARM SYSTEM. An alarm system maintained in a building, structure or facility that is not primarily used as the alarm system user's residence.

ECONOMICALLY DISADVANTAGED PERSON. A person receiving public assistance or food stamps.

FALSE ALARM. An alarm signal, eliciting a response by a law enforcement officer when a situation requiring a response by such officer does not in fact exist. An alarm is not considered false if the alarm signal is caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm business operator or alarm user, including but not limited to, evidence of a crime or an attempted crime; notice from the alarm business that the system is faulty before the officer arrives on the scene or notice from alarm business operator that the system or the user erred before an officer arrives on the scene.

INTERCONNECT. To connect an alarm system including an automatic dialing device to a telephone line, either directly or through a mechanical device that utilizes a telephone, for the purpose of using the telephone line to transmit a message upon the activation of the alarm system.

NO RESPONSE. Law enforcement officers will not be dispatched to investigate a report of an alarm signal.

NOTICE. All notices in this ordinance required to be given by the Sheriff to an alarm user or alarm business shall be by U.S. mail. **NOTICE**, whether actual or constructive, is presumed to be given seven days from the date printed on the notice.

RESIDENTIAL ALARM SYSTEM. An alarm system maintained in a building, structure or facility that is primarily used as the alarm system user's residence.

SHERIFF. The Multnomah County Sheriff, or designee.

SYSTEM BECOMES OPERATIVE. When the alarm system is capable of eliciting a response by law enforcement officers.

(Ord. 1135, Amended, 05/28/2009; Ord. 1047, Amended, 08/26/2004; '90 Code, § 7.51.015, 07/01/1998; Ord. 796, passed, 09/08/1994; Ord. 687, passed, 07/03/1991; Ord. 610, passed, 03/30/1989)

**§ 15.703 PERMITS REQUIRED;
PAYMENT OF PERMIT FEES
AND OTHER FEES.**

(A) Every alarm user, including but not limited to users of any non-monitored alarm systems, must obtain an alarm user's permit for each system from the Sheriff within 30 days of the time when the system becomes operative. Users of commercial alarm systems having both manual and automated alarm capabilities must obtain a separate permit for each function.

(B) Permits issued under this subchapter expire annually on March 31. Application for an alarm user's permit and the permit fees as set by Board resolution must be filed with the Sheriff each year. The permit fees must be postmarked to the Sheriff on or before midnight March 31 of the preceding permit year.

(C) If a residential alarm user is over the age of 65 or is an economically disadvantaged person and is a resident of the residence, and if no business is conducted in the residence, a user's permit may be obtained from the Sheriff's office according to subsections (A) and (B) for a reduced fee as set by Board resolution.

(D) Each permit will bear the signature of the Sheriff and must be physically upon the premises where the alarm system is used and available for inspection by the Sheriff. If a law enforcement officer is dispatched to investigate a report of an alarm signal and a valid permit is not available for inspection, the alarm user must pay a fee as set by Board resolution and obtain a permit within 30 days of the date of dispatch.

(E) A late fee in an amount set by Board resolution will be charged in addition to the fees provided in this subsection to an alarm user who fails to obtain a permit within 30 days after the system becomes operative, or who is more than 30 days delinquent in renewing a permit.

(F) If an alarm user fails to renew a permit within 30 days after the permit expires, the Sheriff will notify the alarm user that, unless the permit is renewed and all fees are paid within 30 days of receipt of notice, the Sheriff will initiate the no re-

sponse process. If the permit is not renewed and all fees paid, the Sheriff will initiate the no response process and make notifications as provided in § 15.705(C).

(Ord. 1135, Amended, 05/28/2009; Ord. 1047, Amended, 08/26/2004; '90 Code, § 7.51.020, 07/01/1998; Ord. 796, passed, 09/08/1994; Ord. 687, passed, 07/03/1991; Ord. 610, passed, 03/30/1989)

**§ 15.704 EXCESSIVE FALSE ALARMS;
FINES.**

(A) After the fourth false alarm within the permit year there may be no law enforcement response to subsequent alarms without approval of the Sheriff.

(B) After a false alarm, the Sheriff will also notify the alarm user that:

(1) After the fourth false alarm within the permit year, there may be no response to subsequent alarms without approval of the Sheriff; and

(2) Approval of the Sheriff may only be obtained by applying in writing for reinstatement. The Sheriff may reinstate the alarm user upon a finding that reasonable effort has been made to correct the false alarms.

(C) Fees for excessive false alarms will be assessed by the Sheriff as set by Board resolution.

(D) The Sheriff will notify the alarm user of a false alarm, the fees for excessive false alarms, if any, and the consequences of the failure to pay the fees. The Sheriff will also inform the alarm user of their right to appeal the validity of the false alarm to the Sheriff, as provided in § 15.709.

(E) A late fee in an amount set by Board resolution will be charged in addition to the fee provided in subsection (A) to an alarm user who fails to pay the excessive false alarm fees within 30 days after receipt of the notice.

(F) If a residential alarm system user fails to pay the excessive false alarm fee within 30 days after the date of the initial notice and no appeal is pending, the Sheriff will notify the alarm user that unless all fees are paid within seven days of the date of the notice, the Sheriff will initiate the no response process. If payment is not received within seven

days of the date of the notice, the Sheriff will initiate the no response process, make notifications as provided in § 15.705(C) and may initiate the enforcement of penalties.

(G) If a commercial alarm system user fails to pay the excessive false alarm fee within 30 days after the date of the initial notice and no appeal hearing is pending, the Sheriff will notify the alarm user that unless all fees are paid within seven days of receipt of notice, the Sheriff will initiate the no response process. If payment is not received within seven days of the date of the notice, the Sheriff may initiate the no response process, make notifications as provided in § 15.705 and may initiate the enforcement of penalties.

Penalty, see § 15.999

(Ord. 1272, Amended, 06/06/2019; Ord. 1135, Amended, 05/28/2009; Ord. 1047, Amended, 08/26/2004; ‘ 90 Code, § 7.51.025, 07/01/1998; Ord. 796, passed, 09/08/1994; Ord. 687, passed, 07/03/1991; Ord. 610, passed, 03/30/1989)

§ 15.705 NO RESPONSE; REINSTATEMENT FEE.

(A) When the no response process is initiated, the Sheriff shall notify:

(1) The Bureau of Emergency Communications;

(2) The alarm user; and

(3) Any alarm business employed by the alarm user if known.

(B) No response to an alarm will begin seven days after the date of the notices provided above unless a written request for a false alarm validity hearing has been made in the time period required under § 15.709.

(C) If a no response order is issued by the Sheriff, a reinstatement fee as set by Board resolution will be charged in addition to any outstanding fees, fines and penalties.

(Ord. 1135, Amended, 05/28/2009; Ord. 1047, Amended, 08/26/2004; ‘ 90 Code, § 7.51.035, 07/01/1998; Ord. 796, passed, 09/08/1994; Ord. 687, passed, 07/03/1991; Ord. 610, passed, 03/30/1989)

§ 15.706 SPECIAL PERMITS.

(A) The following alarm users will be issued a special permit:

(1) An alarm user required by federal, state, county or municipal law to install, maintain and operate an alarm system; or

(2) A federal, state or local government unit.

(B) Special permit holders must pay the regular permit fee, but are not subject to the no response procedure under this subchapter.

(C) Any alarm user that is a federal government agency is not liable for false alarm fees.

(Ord. 1135, Amended, 05/28/2009; Ord. 1047, Amended, 08/26/2004; ‘ 90 Code, § 7.51.040, 07/01/1998; Ord. 796, passed, 09/08/1994; Ord. 687, passed, 07/03/1991; Ord. 610, passed, 03/30/1989)

§ 15.707 USER INSTRUCTIONS.

Every alarm business must:

(A) Furnish the user with instructions that provide information to enable the user to operate the alarm system properly and to obtain service for the alarm system at any time.

(B) Notify the user of the requirement to get a permit and give the user a copy of the application necessary to obtain a permit.

(C) Give the user a copy of the county notice that outlines the consequences of generating false alarms, including possible fees, penalties, and fines, and such other forms and notices as required by the county.

(D) Maintain a list of all active alarm customers and provide this list to the Multnomah County Sheriff’s Office upon request.

Penalty, see § 15.999

(Ord. 1135, Amended, 05/28/2009; Ord. 1047, Amended, 08/26/2004; ‘ 90 Code, § 7.51.045, 07/01/1998; Ord. 796, passed, 09/08/1994; Ord. 687, passed, 07/03/1991; Ord. 610, passed, 03/30/1989)

**§ 15.708 AUTOMATIC DIALING
DEVICE; CERTAIN
INTERCONNECTIONS
PROHIBITED.**

It is unlawful for any person to program an automatic dialing device to select any telephone line assigned to a governmental agency related to emergency response, and it is unlawful for an alarm user to fail to disconnect or reprogram such device within 12 hours of receipt of written notice from the Sheriff that an automatic dialing device is so programmed.

Penalty, see § 15.999

(Ord. 1135, Amended, 05/28/2009; ' 90 Code, § 7.51.005, 07/01/1998; Ord. 796, passed, 09/08/1994; Ord. 687, passed, 07/03/1991; Ord. 610, passed, 03/30/1989)

§ 15.709 HEARING.

(A) An alarm user who wants to appeal validity of a false alarm determination may appeal to the Sheriff for a hearing. The appeal must be in writing and must be received by the Sheriff within 14 days from the date of the notice. Failure to contest the determination in the required time period results in a conclusive presumption for all purposes that the alarm was false.

(B) If a hearing is requested, the Sheriff will notify the alarm user of the time and place of the hearing at least 10 days prior to the hearing date, which date will not be more than 21 nor less than 10 days after the request for hearing is received unless agreed upon by both parties.

(C) The hearing shall be before a hearings officer. The alarm user has the right to present written and oral evidence, subject to the right of cross examination. If the Sheriff determines that the alleged false alarms occurred in a permit year, the Sheriff will issue written findings waiving, expunging or entering a false alarm designation on an alarm user's record at the Sheriff's discretion. If false alarm designations are entered on the alarm user's record, the Sheriff may find that the alarm user is liable for hearing costs, including costs of the hearings officer and witnesses and will pursue fee collection as set forth in this subchapter.

(Ord. 1135, Amended, 05/28/2009; Ord. 1047, Amended, 08/26/2004; ' 90 Code, § 7.51.055, 07/01/1998; Ord. 796, passed, 09/08/1994; Ord. 687, passed, 07/03/1991; Ord. 610, passed, 03/30/1989)

**§ 15.710 SOUND EMISSION CUTOFF
FEATURE REQUIRED.**

(A) Alarm systems which emit audible sound which can be heard outside the building, structure or facility of the alarm user, shall be equipped with a sound emission cutoff feature which will stop the emission of sound 15 minutes or less after the alarm is activated.

(B) When an alarm system can be heard outside a building, structure, or facility for more than 15 minutes continuously or intermittently, and the alarm owner or alarm company is not readily available or able to silence the device, it becomes a public nuisance and the Sheriff is authorized to physically disconnect the sounding device. The county shall not be liable for any cost of, or associated with, disconnecting or reconnecting the alarm. The alarm owner shall be liable for such costs.

Penalty, see § 15.999

(' 90 Code, § 7.51.060, 07/01/1998; Ord. 796, passed, 09/08/1994; Ord. 687, passed, 07/03/1991; Ord. 610, passed, 03/30/1989)

§ 15.711 STATISTICS.

Subject to the requirements of confidentiality, the Sheriff will develop and maintain statistics within reason for the purpose of evaluating member service for the municipalities and alarm companies.

(Ord. 1135, Amended, 05/28/2009; ' 90 Code, § 7.51.065, 07/01/1998; Ord. 796, passed, 09/08/1994; Ord. 610, passed, 03/30/1989)

**§ 15.712 ALLOCATION OF REVENUES
AND EXPENSES.**

(A) All revenue collected pursuant to this subchapter or an ordinance of a city having the same purpose as this subchapter and which is administered by the county pursuant to an intergovernmental agreement shall be general fund revenue of the county. The county shall maintain records sufficient to identify the sources and amounts of that revenue.

(B) The county shall maintain records in accordance with sound accounting principles sufficient to determine on a fiscal year basis the direct costs of administering this subchapter and ordinances of cities having the same purpose as this subchapter and which are administered by the county pursuant to an intergovernmental agreement, including salaries and wages (excluding the Sheriff individual-

ly), travel, office supplies, postage, printing, facilities, office equipment and other properly chargeable costs.

(C) The county shall render an account to each city having an ordinance having the same purpose as this subchapter and which is administered by the county pursuant to an intergovernmental agreement.

(D) Distribution by the county of any excess revenue or payment of allocated deficit amounts by a city shall be made in accordance with the terms of the intergovernmental agreement with the city.

(E) **SOUND ACCOUNTING PRINCIPLES**, as used in this section, shall include, but not be limited to, practices required by the terms of any state or federal grant or regulations applicable thereto which relate to the purpose of this subchapter.

(Ord. 1047, Amended, 08/26/2004; ' 90 Code, § 7.51.070, 07/01/1998; Ord. 796, passed, 09/08/1994; Ord. 687, passed, 07/03/1991; Ord. 610, passed, 03/30/1989)

§ 15.713 INTERPRETATION.

This subchapter and any ordinance of a city having the same purpose as this subchapter and which is administered by the county officers or employees shall be liberally construed to effect the purpose of this subchapter and to achieve uniform interpretation and application of the respective ordinances.

(' 90 Code, § 7.51.075, 07/01/1998; Ord. 796, passed, 09/08/1994; Ord. 687, passed, 07/03/1991; Ord. 610, passed, 03/30/1989)

§ 15.714 ENFORCEMENT.

(A) Enforcement of this subchapter may be by civil action as provided in ORS 30.315.

(B) The failure or omission to comply with any section of this subchapter shall be deemed a violation and may be so prosecuted.

Penalty, see § 15.999

(Ord. 1135, Amended, 05/28/2009; ' 90 Code, § 7.51.080, 07/01/1998; Ord. 796, passed, 09/08/1994; Ord. 687, passed, 07/03/1991; Ord. 610, passed, 03/30/1989)

MASSAGE TREATMENT

§ 15.725- TITLE; APPLICATION.

This subchapter shall be known and cited as the Massage Treatment Law, and shall apply to the unincorporated areas of the county.

(' 90 Code, § 6.50.005, 07/01/1998; Ord. 160, passed, 03/09/1978)

§ 15.726 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

COMPENSATION. Any form of remuneration, direct or indirect, either received from the person upon whom the massage treatment is performed, or performed by, or from another.

MANUAL. Includes the use of hands, feet or any other part of the human anatomy.

MASSAGE TREATMENT. The manipulation or touching of the body of another person by pressure, friction, stroking, tapping, kneading, painting or any other manipulating or contact, direct or indirect, by manual or mechanical means or by gymnastics, with or without appliances such as vibrators, infrared heat, sun lamps and external baths, and with or without lubricants or pigments, including but not limited to oils, soaps, alcohol, paint, powders, lotions, shampoos or salts.

MASSAGE TREATMENT BUSINESS. The operation of an establishment at which the practice of massage treatment is performed.

PRACTICE OF MASSAGE TREATMENT. The performance of massage treatment or the permitting of massage treatment to be performed by another on one's own body, for compensation.

(' 90 Code, § 6.50.010, 07/01/1998; Ord. 160, passed, 03/09/1978)

§ 15.727 FINDINGS AND PURPOSE.

(A) The Board finds that there has been an increase in the county of various business enterprises in which nonlicensed persons offer to manipulate or touch the bodies of paying customers for the purpose of sexual arousal or sexual gratification. These

enterprises operate under names such as massage parlor, lotion studio, rapport studio, sexy sauna and other names generally identifying the nature of the erotic services available.

(B) The Board finds that the businesses referred to in division (A) of this section present law enforcement problems by fostering prostitution, lewd displays, pornography and other criminal activity including the harboring and illegal employment of runaway minors and the purchase and sale of narcotics and other drugs.

(C) It is the purpose of this subchapter to prohibit the businesses and practices referred to in division (A) of this section in order to provide an effective means of preventing violations of and enforcing the criminal law and to protect the public health, safety and welfare by assuring that persons practicing massage treatment for compensation are doing so for legitimate reasons relating to the establishment and maintenance of good health and body conditioning and not as a subterfuge for prostitution and other criminal acts.

(‘ 90 Code, § 6.50.020, 07/01/1998; Ord. 160, passed, 03/09/1978)

§ 15.728 STATE LICENSE REQUIRED; PROHIBITED CONDUCT.

(A) It shall be unlawful for any person to engage in, conduct, or carry on, or to permit to be engaged in, conducted or carried on, the operation of a massage treatment business unless a massage business license has first been obtained from the state Board of Massage Technicians under ORS Chapter 687.

(B) It shall be unlawful for a person to engage in the practice of massage treatment without first having obtained a permit as a massage technician or apprentice massage technician from the state Board of Massage Technicians under ORS Chapter 687.

Penalty, see § 15.999

(‘ 90 Code, § 6.50.030, 07/01/1998; Ord. 160, passed, 03/09/1978)

§ 15.729 EXEMPTIONS.

This subchapter shall not apply to:

(A) Persons who practice massage relaxation treatment as an incident to another profession licensed under the authority of the state and who hold

the license in good standing from the state board having authority to license that profession, or to persons working under the direction of those licensed persons in the performance of the licensed persons' professional capacity;

(B) Trainers of any amateur, semiprofessional or professional athletic team or athlete;

(C) Massage practiced at any bona fide athletic club or at any athletic department of any bona fide fraternal organization;

(D) Massage treatment practices under the auspices of the athletic department of any institution supported in whole or part by public funds; or

(E) Massage treatment practices under the auspices of the athletic department of any school, college or university.

(‘ 90 Code, § 6.50.050, 07/01/1998; Ord. 160, passed, 03/09/1978)

§ 15.730 NUISANCE DECLARED; ABATEMENT.

Any premises established or maintained in violation of the provisions of this subchapter is a public nuisance subject to injunction and abatement, regardless of whether any individual has been convicted of a violation of this subchapter.

Cross-reference:

Nuisances generally, see §§ 15.225 through 15.236

(‘ 90 Code, § 6.50.070, 07/01/1998; Ord. 160, passed, 03/09/1978)

§ 15.731 ADMINISTRATION AND ENFORCEMENT.

The Sheriff shall be responsible for the administration and enforcement of this subchapter.

(‘ 90 Code, § 6.50.060, 07/01/1998; Ord. 160, passed, 03/09/1978)

ADULT ENTERTAINMENT

§ 15.750- TITLE.

This subchapter shall be known and cited as the Adult Bookstore and Adult Theater Law.

(‘ 90 Code, § 6.65.010, 07/01/1998; Ord. 374, passed, 04/05/1983)

§ 15.751 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

ADULT BOOKSTORE. An establishment having as a substantial or significant portion of its merchandise, items such as books, magazines or other publications, films or videotapes which are for sale, rent or viewing on premises, and which are distinguished or characterized by their emphasis on matters depicting specified sexual activities. Any bookstore or similar establishment which bars entry by persons 17 years old or younger is an adult bookstore.

ADULT THEATER. An establishment used primarily for presenting materials for observation by patrons therein, having as a dominant theme material distinguished or characterized by an emphasis on matters depicting specified sexual activities. Any theater which bars entry by persons 17 years old or younger is an adult theater.

SPECIFIED SEXUAL ACTIVITIES. Real or simulated acts of human sexual intercourse, masturbation, sadomasochistic abuse, or sodomy; or human genitals in a state of sexual stimulation or arousal.

(‘ 90 Code, § 6.65.015, 07/01/1998; Ord. 374, passed, 04/05/1983)

§ 15.752 POLICY AND PURPOSE.

The Board has determined that it is necessary to provide for the annual licensing of adult businesses and adult theaters, based upon the findings of applicable county zoning code provisions and of this subchapter, and to provide for the administration and enforcement of this subchapter in order to protect the health, safety, and welfare of the people of the county and the use and values of their properties. This subchapter shall be liberally construed to those ends.

(‘ 90 Code, § 6.65.020, 07/01/1998; Ord. 374, passed, 04/05/1983)

§ 15.753 LICENSE REQUIRED.

It shall be unlawful for any person to conduct an adult bookstore or adult theater business in unincorporated the county without a current annual license. Penalty, see § 15.999

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(‘ 90 Code, § 6.65.030, 07/01/1998; Ord. 374, passed, 04/05/1983)

§ 15.754 STANDARDS FOR ISSUANCE OF LICENSE.

The Sheriff shall issue an annual license upon a finding, as a result of inspection and investigation, that:

(A) An accurate and complete application has been filed, and fees paid; and

(B) That the Sheriff or the Department of Management and Business Services has certified that the applicable county zoning code, Building Code, Plumbing Code and other code requirements are satisfied.

Cross-reference:

Building and Plumbing Codes, see Ch. 29

(Ord. 978, Amended, 03/07/2002; Ord. 971, Amended, 12/20/2001; Ord. 956, Amended, 01/18/2001; ‘ 90 Code, § 6.65.035, 07/01/1998; Ord. 374, passed, 04/05/1983)

§ 15.755 DENIAL OR REVOCATION OF LICENSE.

(A) The Sheriff may initiate denial or revocation of a license upon finding that a licensee fails to meet the requirements of this subchapter or is operating in violation of this subchapter or existing laws or ordinances.

(B) Any person whose license has been denied or revoked may, after 30 days from the date of the denial or revocation, reapply upon the prepayment of an application fee in an amount set by Board resolution. That sum shall not be credited to the applicant's annual license fee.

(C) The Sheriff shall, upon finding that a violation of this subchapter has occurred, provide written notice to the licensee of the violation, and shall demand that the violation, if continuing, be corrected within 30 days from the date of the notice. The notice shall describe, with reasonable certainty, the violation and the action necessary to correct the violation.

(D) The licensee shall notify the Sheriff when corrective action under division (C) of this section has been taken. The Sheriff shall then make an inspection, if necessary.

(‘ 90 Code, § 6.65.040, 07/01/1998; Ord. 374, passed, 04/05/1983)

§ 15.756 UNLICENSED BUSINESS; REMOVAL OR RELOCATION.

(A) Any adult bookstore or adult theater remaining unlicensed for an uninterrupted period of six months shall be deemed in violation of this subchapter, and shall be removed or be relocated so as to comply with the requirements of this subchapter.

(B) In the event that two or more adult businesses are close together, and all but one are required to be removed under this subchapter, the one legally established for the longer time has superior rights to remain.

(‘ 90 Code, § 6.65.045, 07/01/1998; Ord. 374, passed, 04/05/1983)

§ 15.757 LICENSE FEES AND RENEWAL.

(A) The annual license fee shall be as set by Board resolution.

(B) The fee shall be due and payable upon initial license application and thereafter on the first day of April each year.

(C) The license fee shall be prorated to the full month for each full or partial month remaining until the next April first.

(D) Revenue from license fees shall be used to offset the costs of administration and enforcement of this subchapter, and for such other purposes as the Board may determine in the budget approval process.

(‘ 90 Code, § 6.65.050, 07/01/1998; Ord. 374, passed, 04/05/1983)

§ 15.758 APPEALS AND HEARINGS; REVIEW.

(A) A person receiving notice of an action by the Sheriff under this subchapter may request a hearing by filing a written request for hearing with the Sheriff within 30 days of receipt of the notice. The request shall set forth reasons for the hearing and the issues to be heard.

(B) The Sheriff shall, upon receipt of request for hearing, promptly notify the Board, and the Board shall set a time and place for hearing not more than 60 days from the date of receipt of request for hearing.

(C) The Board shall give notice to the person requesting hearing as to the time and place for the hearing not less than 30 days prior to the hearing.

(D) The person requesting the hearing, and the Sheriff, may make argument, cross examine witnesses, submit testimony, rebuttal evidence and written documentation, and submit briefs on matters pertinent to the issue to be determined.

(E) All hearings shall be recorded in a manner which will allow for a written transcription to be made and all materials submitted by the person requesting hearing and the Sheriff shall be retained by the Board for a period of at least two years.

(F) The Board shall issue its order determining the question within 30 days from the date of the hearing, or any continuance not to exceed 30 days, and shall mail a copy of the order to the person requesting the hearing.

(G) Review of the action of the Board shall be taken solely and exclusively by writ of review in the manner set forth in ORS 34.010 to 34.100; provided, however, that any aggrieved person may demand relief by writ of review.

(‘ 90 Code, § 6.65.055, 07/01/1998; Ord. 374, passed, 04/05/1983)

§ 15.759 OTHER LAWS APPLY.

This subchapter shall in no way be a substitute for, nor eliminate the necessity of conforming with any and all state laws and rules and other county ordinances which relate to the activities regulated by this subchapter.

(‘ 90 Code, § 6.65.060, 07/01/1998; Ord. 374, passed, 04/05/1983)

§ 15.760 ADMINISTRATION AND ENFORCEMENT.

(A) The Sheriff of the county shall be responsible for the administration and enforcement of this subchapter.

(B) The Sheriff may adopt rules necessary to the administration and enforcement of this subchapter.

(' 90 Code, § 6.65.025, 07/01/1998; Ord. 374, passed, 04/05/1983)

MOTOR VEHICLES; PARKING

§ 15.800- DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

BUS LOADING ZONES. The space adjacent to the curb reserved for the exclusive use of motor buses in the loading and unloading of passengers and merchandise and designated by official signs or markings.

CONSTRUCTION ZONE. The space adjacent to the curb and in immediate proximity to the premises where construction, alterations, remodeling, repairing or similar work is in progress and designated by official signs or markings.

CROSSWALK.

(1) Except as provided in division (2) below, that portion of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the street or highway measured from the curbs, or, in the absence of curbs, from the edges of the traveled roadway to the property lines, or the prolongation of the lateral lines of a sidewalk, to the sidewalk on the opposite side of the street, if the prolongation would meet that sidewalk; or

(2) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface of the roadway, conforming in design to standards prescribed by the state Highway Division. Whenever marked crosswalks have been indicated, those crosswalks and no other shall be considered lawful across the roadway at that intersection.

CURB. Any raised margin along lines established by ordinance as curblines, defining the space in the street devoted to vehicular traffic.

EMERGENCY ZONE. Places designated with official signs, barricades or other markings by the Sheriff where, during emergencies or because of contingent emergencies, no parking shall be allowed.

ENTRANCE ZONE. The space adjacent to the curb in front of the entrance to any public building, school building, theater, church or firehouse and designated by official signs or markings.

INTERSECTION. The area embraced within the prolongation or connection of the lateral curblines or, if none, then of the lateral boundary lines of two or more streets or highways which join one another at an angle, whether or not one street or highway crosses the other.

LOADING ZONE; TRUCK. The space adjacent to the curb reserved for the exclusive use of trucks actually engaged in the loading or unloading of passengers, goods, wares, merchandise or materials and designated by official signs or markings.

PARK, PARKING or PARKED. The stopping or standing of any vehicle upon any street or highway, whether that vehicle is occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading passengers or freight, or in obedience of traffic regulations or traffic signs or signals.

PARKING AREA. Parking areas owned by or under the control of the county, including the parking area at the county Exposition Center and any other location within the county owned, held under a lease or by other interest less than fee, or otherwise under the control of the county.

ROADWAY. That portion of a publicly owned street or highway improved, designed or ordinarily used for vehicular travel.

SAFETY ZONE. The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

SCHOOL BUS. Every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school, or privately owned and operated for compensation for the transportation of children to or from school, but does not include vehicles commonly known and used as private passenger vehicles and not operated for compensation except in the transportation of children to or from school.

SCHOOL ZONE. The space adjacent to or in the proximity of a school building or grounds or a school crossing and designated by official signs or markings.

SIDEWALK. That portion of a street between the curblines, or the lateral lines of a roadway, and the adjacent property line intended for the use of pedestrians.

SLED. Every vehicle moving over the streets, except such vehicles as move exclusively on revolving wheels in contact with the surface of the road.

STREET or HIGHWAY. The entire width between the boundary lines of every way publicly maintained when any part of it is open to the use of the public for purposes of vehicular traffic.

TAXICAB. Every motor vehicle, except an ambulance, equipped with a taximeter which is used as a basis for determining rates for the transportation of passengers.

TAXICAB ZONE. The space adjacent to the curb reserved for the exclusive use of taxicabs and designated by official signs or markings.

TOW AWAY ZONE. The space adjacent to the curb on any street or avenue, or portion thereof, on which stopping or parking has been prohibited for specific hours of the day, or otherwise, and which is designated as a tow away zone by official signs or markings.

TRAILER. Every vehicle without motor power, designed for carrying or accommodating persons or property and drawn by a motor vehicle.

VEHICLE. Every device in, upon, or by which any person or property is or may be transported or

drawn upon any public street or highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

(* 90 Code, § 7.10.010, 07/01/1998; Ord. 457, passed, 02/14/1985; Ord. 140, passed, 03/17/1977; Ord. 54, passed, 06/08/1972)

§ 15.801 COMPLIANCE REQUIRED.

It shall be unlawful for the driver of a vehicle to stop, stand or park that vehicle contrary to the parking regulations under §§ 15.802 and 15.803, whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control signal.

(* 90 Code, § 7.10.025, 07/01/1998; Ord. 54, passed, 06/08/1972)

§ 15.802 PRESCRIBED MANNER OF PARKING.

(A) In parking a vehicle on any road, it shall be placed with the righthand side parallel to the righthand curbline and not more than one foot from that curbline, provided, however, that on streets where only one-way traffic is permitted, a vehicle may be parked parallel with the curbline on either side of those streets unless otherwise posted by the Department of Community Services and provided, further, that the vehicle must be headed in the direction in which traffic is permitted, and that it shall be parked so as not to obstruct traffic and not more than one foot from the curb.

(B) Angle parking is prohibited except where properly designated by official signs or markings, provided, however, that angle parking of motorcycles, motor scooters or other similar two- or three-wheel vehicles is permitted if the vehicles do not extend more than an average car width from the curb.

(C) No person shall permit a vehicle in that person's charge to remain backed to the curb of any street except while engaged in actually loading or unloading the same, and then only when it is absolutely necessary for the purpose owing to the weight or size of the merchandise being handled, and in no event shall it be permissible to allow the vehicle to remain for a period greater than 20 minutes. The motive power attached to any vehicle so backed to the curb shall be turned parallel to the curb and in the direction in which the traffic is required to be moved upon the same side of the street, except that in case of a truck and trailer combination, the truck

shall be removed and parked separately. All vehicles shall be parked parallel to the curb for loading or unloading and shall be subject to all rules regarding parking within the county.

Penalty, see § 15.999

(Ord. 1061, Amended, 05/26/2005, eff. 7/1/2005; Ord. 978, Amended, 03/07/2002; Ord. 971, Amended, 12/20/2001; Ord. 956, Amended, 01/18/2001; ‘ 90 Code, § 7.10.050, 07/01/1998; Ord. 457, passed, 02/14/1985; Ord. 54, passed, 06/08/1972)

§ 15.803 BUS ZONE PARKING PROHIBITED.

It is unlawful for any person to park, except for the purpose of loading or unloading passengers, in any bus, local or interurban zone on any street, road or highway within the county.

Penalty, see § 15.999

(‘ 90 Code, § 7.10.075, 07/01/1998; Ord. 54, passed, 06/08/1972)

§ 15.804 EMERGENCY VEHICLES EXCEPTED.

The provisions of this subchapter relating to stopping, standing or parking shall not apply to vehicles of the fire and police, authorized emergency vehicles or other apparatus when answering calls or alarms or going to or from a fire.

(‘ 90 Code, § 7.10.100, 07/01/1998; Ord. 54, passed, 06/08/1972)

§ 15.805 RIGHT-OF-WAY FOR PARKING.

The motorist who first begins maneuvering a vehicle into a vacant parking space shall have a prior right-of-way to park in that space, and it is unlawful for another driver to attempt to deprive the motorist of that space by blocking the motorist's access.

Penalty, see § 15.999

(‘ 90 Code, § 7.10.125, 07/01/1998; Ord. 54, passed, 06/08/1972)

§ 15.806 PARKING PROHIBITED WITHOUT FIRST REMOVING KEY.

(A) It is unlawful for the owner, driver or person in charge of a motor vehicle, to park or permit the vehicle to be parked within the limits of the county without first stopping the motor, locking the ignition and removing the ignition key. If the vehicle is attended the ignition key need not be removed.

(B) Whenever a police officer finds a motor vehicle parked unattended with the ignition key in the vehicle in violation of division (A) of this section the police officer may, for purposes of safety, remove the key from the vehicle and deliver it to the person in charge of the nearest police station, provided, however, that due notice is given to the owner indicating the key removal and place of deposit.

Penalty, see § 15.999

(‘ 90 Code, § 7.10.150, 07/01/1998; Ord. 54, passed, 06/08/1972)

§ 15.807 STOPPING OR PARKING PROHIBITED IN SPECIFIED PLACES.

It is unlawful for the driver of a vehicle to stop, stand or park the vehicle, whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control signal, in any of the following places:

(A) Within an intersection;

(B) Within a crosswalk;

(C) Between a safety zone and the adjacent curb or within 30 feet of points of the curb immediately opposite the ends of a safety zone, unless local or traffic authorities indicate a different length by signs or markings;

(D) Within 25 feet from the intersection of curblines, or if none, then within 15 feet of the intersection of property lines at an intersection within a business or residence district;

(E) Within 30 feet upon the approach to any official flashing beacon, stop sign or traffic control signal located at the side of the roadway;

(F) Within 15 feet of the driveway entrance to any fire station;

(G) Within ten feet of a fire hydrant, with the exception of taxicabs occupying properly signed taxi zones;

(H) In front of a private driveway including the radius or ramps of the driveway;

(I) On a sidewalk or parking strip;

(J) Alongside or opposite any street, road or highway excavation or obstruction when stopping, standing or parking would obstruct traffic, unless the vehicle stopped or parked is being used in connection with the maintenance or repair of public or private utility service, above, below or upon the surface of the street or highway and the location of the vehicle is necessary in connection with the maintenance or repair;

(K) On a roadway side of any vehicle stopped or parked at the edge of a street, road or highway;

(L) At any place where official signs, curb paint or markings have been installed prohibiting standing, stopping or parking, provided, however, that driver-attended private passenger motor vehicles and taxicabs may stop for no longer than 30 seconds in the tow away zone for the sole purpose of loading or unloading passengers;

(M) Within a 25-foot radius of the intersection of the centerlines of a street, road or highway and a railway crossing;

(N) In front of the entrance or other place where mail is received of any post office or postal station, or within ten feet of a private mailbox during the hours of delivery;

(O) In any street so as to prevent the free passage of other vehicles in both directions at the same time, except on one-way streets, or so as to prevent any vehicle from turning from one street into another street;

(P) In any street, road, highway, alley, lane, sidewalk or parking strip for the storage of any vehicle in lieu of a garage or offstreet parking area;

(Q) In any street, road or highway for the purpose of displaying the vehicle for sale or exchange;

(R) In any emergency zone;

(S) In any entrance zone except to load or unload passengers for a period of time not to exceed one minute, except in any area designated as a tow

away zone during the hours when stopping or parking is prohibited;

(T) In any bus loading zone, except a motor bus or taxicab actually engaged in loading or unloading passengers or merchandise for a period not exceeding two minutes. Taxicabs using any bus loading zone shall use only the entrance end of the zone and shall not use the zone between the hours of 4:30 and 6:00 p.m.;

(U) On private property without the consent of the owners of the private property;

(V) In any construction zone except by vehicles actually necessary to the construction work being carried on;

(W) On county-owned or county-operated property designated for use for motor vehicle parking by authorized county personnel only, without the consent of the county, if there is in plain view on the property a sign prohibiting public parking or restricting parking;

(X) In any street, road, highway, alley, lane or on any sidewalk, parking strip, public park property, county-owned property or county-operated property for more than 24 hours, if the vehicle is disabled or abandoned;

(Y) On either or both sides of any street adjacent to any school property if there is in plain view on that property a sign prohibiting public parking or restricting parking;

(Z) At any place in which stopping, standing or parking of vehicles would create an especially hazardous condition or cause unusual delay to traffic, if there is in plain view on the property a sign prohibiting public parking or restricting parking;

(AA) In any public park property, county-owned property or county-operated property when parking would interfere with traffic or create a hazardous situation, if there is in plain view on the property a sign prohibiting public parking or restraining parking; and

(BB) In any parking area for the purpose of displaying the vehicle for sale or offering any property for sale without a permit issued by the Sheriff as provided in § 15.810.

Penalty, see § 15.999

(* 90 Code, § 7.10.175, 07/01/1998; Ord. 140, passed, 03/17/1977; Ord. 54, passed, 06/08/1972)

§ 15.808 PARKING TIME LIMIT.

It is unlawful for any person to park or stop any vehicle for a longer period than designated by official signs or other markings, placed by the Department of Community Services, except on Sundays, New Year's Day, Memorial Day, Fourth of July, Labor Day, Veterans Day, Thanksgiving Day and Christmas Day. Parking time limits shall be effective only between the hours of 8:00 a.m. and 6:00 p.m. unless designated "no parking at any time" or otherwise designated by official signs or markings. The aggregate of time of all stops on the same side of the street of any vehicle within a space of 200 lineal feet measured along the curbline and within intersections shall not exceed the designated time limit during any three-hour period, where one- or two-hour parking is designated, or during any two-hour period where 30-minute parking is designated.

Penalty, see § 15.999

(Ord. 1061, Amended, 05/26/2005, eff. 7/1/2005; Ord. 978, Amended, 03/07/2002; Ord. 971, Amended, 12/20/2001; Ord. 956, Amended, 01/18/2001; * 90 Code, § 7.10.200, 07/01/1998; Ord. 54, passed, 06/08/1972)

§ 15.809 PUBLIC PARKING BUSINESSES, AUTO SALES OR REPAIR BUSINESSES; PROHIBITIONS.

(A) It is unlawful for the person in charge of a public parking business or any auto sales or repair business to permit a vehicle to be parked on a street while that vehicle is in the custody of the business for the purpose of being parked, offered for sale or repaired, or for the display of advertising.

(B) If a vehicle is parked on the street while in the custody or possession of a public parking business or an auto sales or repair business for the purpose of being parked, offered for sale or repaired, it is prima facie evidence that the person in charge permitted the vehicle to be parked on the street.

(C) It is unlawful to use the public right-of-way for the storage of any object other than a vehicle without obtaining a permit from the Department of Community Services.

(D) For the purpose of this section, the following definitions shall apply unless the context requires a different meaning.

AUTO SALES OR REPAIR BUSINESS.

A business offering new or used vehicles for sale or offering vehicle repair service.

PERSON IN CHARGE. An owner, operator or employee who is physically present and actually supervising operation of the business.

PUBLIC PARKING BUSINESS. A business offering public offstreet parking as a service.

Penalty, see § 15.999

(Ord. 1061, Amended, 05/26/2005, eff. 7/1/2005; Ord. 978, Amended, 03/07/2002; Ord. 971, Amended, 12/20/2001; Ord. 956, Amended, 01/18/2001; * 90 Code, § 7.10.225, 07/01/1998; Ord. 54, passed, 06/08/1972)

§ 15.810 SPECIAL PARKING PERMITS.

(A) The Sheriff may issue or cause to be issued without charge a special parking permit and identification card.

(B) All special parking permits issued by authority of this section shall expire on the last day of the calendar year in which issued. A new permit may be issued for the ensuing years by the Sheriff in the same manner as the original application.

(* 90 Code, § 7.10.250, 07/01/1998; Ord. 457, passed, 02/14/1985; Ord. 140, passed, 03/17/1977; Ord. 54, passed, 06/08/1972)

§ 15.811 STORAGE PARKING OF HEAVY VEHICLES.

(A) It shall be unlawful for any person, owning or having control of any vehicle, trailer or sled, in excess of three-quarter-ton capacity, or with gross vehicle weight in excess of 6,000 pounds, to park or leave it standing for storage in lieu of offstreet or garage parking of that equipment, upon any street, avenue or public way in a residential area, or upon either side of any street, avenue, or public way in front of or adjacent to any residence, church, school, multiple dwelling, hospital or playground.

(B) This section shall not prohibit the lawful parking of the equipment under division (A) of this section upon any street, avenue or public way for the actual loading or unloading of goods, wares or merchandise, provided, however, that loading and unloading, as used in this section, shall be limited to the actual time consumed in that operation. The parking of any equipment under authority of this section shall in no event be within 25 feet of the intersection of curblines, or if there is no curb, then within 15 feet of the intersection of property lines at any intersection.

Penalty, see § 15.999

(‘ 90 Code, § 7.10.275, 07/01/1998; Ord. 54, passed, 06/08/1972)

§ 15.812 CIVIL EMERGENCIES; PARKING PROHIBITED.

It is unlawful for any person, firm, corporation or association to park, cause to be parked, or allow to remain parked, a vehicle during any declared civil emergency in those areas of evacuation where parking has been prohibited by the Sheriff.

Penalty, see § 15.999

Cross-reference:

Emergency area regulations, see §§ 15.325 through 15.330

(‘ 90 Code, § 7.10.300, 07/01/1998; Ord. 54, passed, 06/08/1972)

§ 15.813 IMPOUNDMENT.

(A) When any motor vehicle is found standing or parked in or upon any street, road or highway or parking area of the county within the jurisdiction of this subchapter in violation of, and contrary to, any of the provisions of this subchapter applicable to stopping, standing or parking of vehicles, or in violation of §15.821 prohibiting aggressive driving, or in violation of § 15.820 prohibiting speed racing, the owner or person entitled to possession of the motor vehicle or a spectator as defined in § 15.820, may be issued a citation and the vehicle removed or caused to be removed by the Sheriff and held at the expense of the owner or person entitled to possession. If a vehicle is so removed and held, the provisions relating to notice to owner, appraisal of value and owner reclaiming vehicle shall be followed in ORS 809.725 and ORS Chapter 819. If the vehicle is not redeemed within 30 days it will be disposed of as prescribed in ORS Chapter 819.

(B) The Sheriff may authorize another police agency to remove and hold motor vehicles that are found in violation of this subchapter, § 15.821, or § 15.820, and may also define the geographical area within which the agency may order such removal. If a vehicle is so removed and held by another police agency, that agency shall provide notice to the owner of the removal in accordance with the procedures of the removing agency.

(Ord. 1057, Amended, 02/17/2005; Ord. 976, Amended, 02/07/2002; ‘ 90 Code, § 7.10.325, 07/01/1998; Ord. 878, passed, 04/10/1997; Ord. 815, passed, 04/06/1995; Ord. 457, passed, 02/14/1985; Ord. 140, passed, 03/17/1977; Ord. 54, passed, 06/08/1972)

§ 15.814 SIGNS; CURB MARKINGS.

The Sheriff is authorized to install or cause to be installed proper signs, curb marking or other designations reasonably necessary to carry out any of the provisions of this subchapter.

(‘ 90 Code, § 7.10.350, 07/01/1998; Ord. 457, passed, 02/14/1985; Ord. 54, passed, 06/08/1972)

MOTOR VEHICLES; DRIVING

§ 15.820- SPEED RACING PROHIBITED.

(A) For purposes of this subchapter, the following definitions apply unless the context requires a different meaning:

SPEED RACING is defined as set forth in ORS 811.125.

SPECTATOR is a person who attends a speed racing activity for the purpose of encouraging such activity.

(B) It is unlawful for any person to participate in speed racing upon any street, public or private, or any premise open to the public, within unincorporated Multnomah County.

(C) It is unlawful for any person to be a spectator of speed racing within unincorporated Multnomah County.

(D) Any vehicle utilized within unincorporated Multnomah County in violation of this subchapter, including vehicles belonging to, or under the control of, spectators may be towed without notice and all passengers and occupants promoting or encouraging may be cited, subject to the provisions of MCC § 15.813.

(Ord. 976, Added, 02/07/2002)

§ 15.821 AGGRESSIVE DRIVING PROHIBITED.

(A) A person commits the offense of aggressive driving if the person engages in continuous conduct by violating two or more of the following moving traffic violations with the intent to harass, alarm, annoy, intimidate or obstruct another motorist or vehicle:

Following too closely	ORS 811.485
Improper stopping or standing	ORS 811.500
Improper lane change	ORS 811.370 - 811.385
Violation of any speed rule	ORS 811.100 - 811.130
Unsafe passing	ORS 811.410 - 811.425
Unlawful use of vehicle lighting	ORS 811.515(6)(b)
Improper use of a vehicle horn	ORS 815.225(b)
Failure to yield the right of way	ORS 811.275 - 811.292

(B) The offense described in this section, aggressive driving, is a Class A violation and is applicable upon any premises open to the public. A person who commits the offense of aggressive driving may be required to attend an educational program approved by the division of motor vehicles designed to improve the safety and habits of drivers.

(C) Any vehicle utilized within unincorporated Multnomah County in violation of this subchapter, may be towed without notice subject to the provisions of MCC § 15.813.

(Ord. 1057, Add, 02/17/2005)

OFF-ROAD VEHICLES

§ 15.850- TITLE; APPLICATION.

This subchapter shall be known and cited as the county Off-Road Vehicle Law, and shall apply to the unincorporated areas of the county.

(* 90 Code, § 10.50.005, 07/01/1998; Ord. 93, passed, 02/20/1975)

§ 15.851 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

NONROAD AREA. Any area that is not a road, or a road which is closed to off-road vehicles and posted as such but does not include areas commonly held open to vehicular use, such as parking lots and racetracks.

OFF-ROAD VEHICLE. Every self-propelled motor vehicle designed or capable of traversing on or over natural terrain, including but not limited to snowmobiles, minibikes, motorcycles, four-wheel drive trucks, pickups, all-terrain vehicles, jeeps, half-tracks and helicopters, but does not include, unless used for purposes prohibited by this subchapter, implements of husbandry or military, fire, emergency or law enforcement vehicles used for legal purposes.

ROAD. Every public way, thoroughfare, road, street or easement within the county used or intended for use by the general public for vehicular travel.

(* 90 Code, § 10.50.010, 07/01/1998; Ord. 93, passed, 02/20/1975)

§ 15.852 POLICY.

The Board has determined that off-road vehicles can provide appropriate, useful and energy-efficient alternatives to automobiles when properly operated, but that the unregulated use of off-road vehicles is a nuisance to the people of the county and causes damage to and deterioration of the environment, detrimental to the health, safety and welfare of the people.

(* 90 Code, § 10.50.020, 07/01/1998; Ord. 93, passed, 02/20/1975)

§ 15.853 OPERATION OF OFF-ROAD VEHICLES.

It shall be unlawful for any person to operate an off-road vehicle on any non-road area which the operator does not own, unless:

(A) The operator possesses written permission from the owner, contract purchaser or lessee of the nonroad area;

(B) The operator possesses written evidence of membership in a club or association to which the owner, contract purchaser or lessee of the nonroad area has given written permission and a copy of which has been filed with the Sheriff;

(C) The owner, contract purchaser or lessee of the nonroad area has designated the non-road area as open for recreational purposes in accordance with applicable state law by filing consent and other information necessary to identify the area with the Sheriff; or

(D) The owner, contract purchaser or lessee has designated the nonroad area as being open to off-road vehicle use by posting notice thereof in a form and manner prescribed by the Sheriff.

(' 90 Code, § 10.50.040, 07/01/1998; Ord. 93, passed, 02/20/1975)

§ 15.854 FALSIFICATION PROHIBITED.

It shall be unlawful for any person to:

(A) Falsify the written permission required by § 15.853(A);

(B) Falsify the evidence of club or association membership or the written permission required by § 15.853(B);

(C) Falsify the filing or consent required by § 15.853(C); or

(D) Post the notice or remove the posted notice required by § 15.853(D) without the consent of the owner, contract purchaser or lessee.

Penalty, see § 15.999

(' 90 Code, § 10.50.060, 07/01/1998; Ord. 93, passed, 02/20/1975)

§ 15.855 ARREST; IMPOUNDMENT.

(A) (1) The Sheriff may arrest the person operating an off-road vehicle when the person is found in the act of operating an off-road vehicle in violation of this subchapter, except, however, the Sheriff may issue a citation in accordance with ORS 133.070 in lieu of exercising custody of the operator.

(2) The Sheriff may seize any off-road vehicle incident to arrest or citation of the operator if the Sheriff has reasonable grounds to believe that the vehicle was operated with willful or reckless disregard of the likelihood that the operation would cause substantial damage to the off-road area, and that substantial damage has been caused by that operation.

(3) The Sheriff shall retain possession of the vehicle, if seized, and, in any event, proceed at once against the person arrested in the appropriate court of the county.

(B) (1) If the person arrested is the legal owner of a seized vehicle, it shall be returned to the owner upon execution of a good and valid bond, or cash deposit, with sureties acceptable to the Sheriff, in a sum equal to the average value of the vehicle as stated in a list of average values of known vehicle categories, prepared by the Sheriff and approved by the Board, which bond or cash deposit shall be conditioned upon the return of the vehicle to the Sheriff upon disposition of the judgment of the court.

(2) If the person arrested is convicted of a violation of this subchapter and is the owner of the off-road vehicle, the vehicle shall be subject to disposition as provided in § 15.856.

(C) If the person arrested is not the legal owner of a seized vehicle, the Sheriff shall make all reasonable efforts to identify the name and address of the owner. If the Sheriff is able to determine the name and address of the owner, the Sheriff shall notify the owner by registered or certified mail of the seizure and inform the owner of the owner's rights under division (D) of this section.

(D) (1) Any person notified under division (C) of this section, any owner of the vehicle or any other person asserting a claim of lawful possession of a seized vehicle, may, prior to trial, move the court for return of the vehicle or obtain possession of the vehicle by posting bond or cash in accordance with division (B) of this section.

(2) The court shall, upon receipt of motion for return of vehicle, hold a hearing to determine if the owner, or other person asserting a lawful claim to the vehicle, had any knowledge that the vehicle would be used in violation of this subchapter.

(3) If the court determines by clear and convincing evidence that the movant had knowledge that the person arrested would use the vehicle in violation of this subchapter, the vehicle shall not be returned to the movant except in accordance with division (B) of this section, and the vehicle shall be subject to forfeiture as specified in § 15.856.

(E) If the person arrested is not convicted of a violation of this subchapter and the Sheriff is in possession of the vehicle, it shall immediately be returned to the owner.

(* 90 Code, § 10.50.080, 07/01/1998; Ord. 93, passed, 02/20/1975)

§ 15.856 DISPOSITION OF VEHICLE.

(A) (1) The court, upon conviction of the person arrested, may order a return of a seized vehicle to the owner after payment of all expenses, or it may, upon motion made by the district attorney, order forfeiture and sale of the vehicle at public auction by the Sheriff.

(2) In determining whether to order a forfeiture and sale of the vehicle, the court shall consider the amount of damage caused by the use of the vehicle, and the willfulness or recklessness of the violation.

(B) If the court orders a forfeiture and sale of the vehicle, the Sheriff, after deducting an amount set by Board resolution for administrative expenses plus all other expenses incurred, shall pay, to the extent of the remaining proceeds, all liens of record, ratably and according to their priorities. Any balance remaining shall be paid into the general fund of the county.

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(C) If no person claims the vehicle, the Sheriff shall advertise the sale of the vehicle and the description thereof in accordance with the requirements of this chapter relating to disposition of unclaimed property. Proceeds from the sale of the property, after deducting the expenses and costs, shall be paid into the funds of the county to be used to develop a system of off-road vehicle trails or facilities. The Board may authorize the Sheriff to submit a bid for purchase at the public sale if the vehicle could be used for county purposes. Unsold property may be destroyed.

(* 90 Code, § 10.50.100, 07/01/1998; Ord. 93, passed, 02/20/1975)

§ 15.857 OFF-ROAD TRAIL SYSTEM.

The Board may develop, maintain and regulate facilities for the enjoyment of off-road vehicles and shall conspicuously post those areas as off-road vehicle areas.

(* 90 Code, § 10.50.120, 07/01/1998; Ord. 93, passed, 02/20/1975)

§ 15.858 OTHER LAWS APPLY.

This subchapter shall not be a substitute for or eliminate the necessity of conformity with any and all state laws and rules, and other ordinances which are now or may be in the future in effect which relate to the activities regulated in this subchapter.

(* 90 Code, § 10.50.140, 07/01/1998; Ord. 93, passed, 02/20/1975)

§ 15.999 PENALTY.

(A) *General penalty.* Any person who violates any provision of this chapter for which no other specific penalty is provided shall, upon conviction, be punished by a fine of not more than the amount provided by state law for a Class A violation. Each day such violation continues shall constitute a separate offense. This penalty is in addition to and not in lieu of other procedures and remedies provided by this chapter or state law.

(B) *Curfew violations.* Any minor violating any of the provisions of §§ 15.050 or 15.051 may be apprehended and taken into custody as provided in ORS 419C, and may be subjected to further proceedings as provided therein.

(Ord. 976, Amended, 02/07/2002; * 90 Code, § 7.45.900, 07/01/1998)