

BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO: 17-05

IN THE MATTER OF AMENDING LANE CODE
CHAPTER 9 TO DESIGNATE SMOKE AND
TOBACCO FREE FACILITIES AND GROUNDS

WHEREAS, the Board of County Commissioners wishes to designate smoke and tobacco free facilities and grounds; and

WHEREAS, the Board of County Commissioners has conducted a public hearing and is now ready to take action;

NOW, THEREFORE, the Board of County Commissioners of Lane County **ORDAINS** as follows:

REMOVE THESE SECTIONS

NONE

INSERT THESE SECTIONS.

9.780

This section is attached hereto and incorporated herein by this reference. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion constitutes a separate, distinct and independent provision, and such holding does not affect the validity of the remaining portions hereof.

Nothing herein is intended to, nor acts to amend, replace, or otherwise conflict with any other ordinances of Lane County or any other Code or statutory provisions unless expressly so stated.

The office of Lane County Legal Counsel is authorized to codify this Ordinance and to make any technical changes, not affecting its substance, as are reasonably necessary to accomplish codification.

ENACTED this 7th day of Nov. 2017.



Pat Farr, Chair
Lane County Board of Commissioner



Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 10-9-17

LANE COUNTY OFFICE OF LEGAL COUNSEL

9.774

Lane Code

9.780

ownership of the business at the location has been transferred in an Arm's Length Transaction), until ninety days have passed from the date of the violation.

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

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

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

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

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

9.774 Penalties and Additional Remedies.

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

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

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

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

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

9.780 Smoke and Tobacco-free Facilities and Grounds

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

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

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

9.800

Lane Code

9.805

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

County roads or County-owned rights of way are not subject to any tobacco restrictions contained in this policy. Lane County is committed to providing tobacco use cessation support, and to referring employees, volunteers, clients, visitors and vendors to available cessation resources such as the Oregon Tobacco Quit Line. The County Administrator will establish standards to effectively communicate this policy to employees, vendors, and the public.

SEWAGE FACILITIES MANAGEMENT REGULATIONS

9.800 Authority, Intent and Purpose.

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

- (1) To provide a management system for the safe and sanitary collection, treatment and disposal of domestic waste for cluster units.
 - (2) To provide for implementation of sewage facilities in specified areas within Lane County.
 - (3) To prevent sewage facilities from becoming a financial burden or otherwise a nuisance to those citizens not directly served by such sewage facilities.
 - (4) To provide a mechanism to permit sewage facilities in New Development Centers.
 - (5) To assure the financial stability and the operational integrity of sewage facilities approved hereunder.
 - (6) To protect the health, safety and welfare of the people of Lane County.
- (Revised by Ordinance No. 3-78, Effective 3.31.78; 1-00, 4.12.00)*

9.805 Definitions.

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

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

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

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

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

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

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

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

(Revised by Ordinance No. 3-78, Effective 3.31.78)

through the Person's agents or employees, the Person will be ineligible to apply for, or to be issued, a Tobacco Retailer's license as follows:

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

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

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

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

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

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

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