

Lane Code
CHAPTER 4 CONTENTS

TAXES

LANE COUNTY TRANSIENT ROOM TAX

- 4.100 Title.
- 4.105 Definitions.
- 4.110 Tax Imposed.
- 4.111 Local Revenue Sharing.
- 4.115 Collection of Tax by Operator. Rules for Collection.
- 4.120 Operator's Duties.
- 4.125 Exemptions.
- 4.130 Registration of Operator; Form and Contents; Execution; Certification of Authority.
- 4.135 Due Date: Returns and Payments.
- 4.140 Penalties and Interest.
- 4.145 Deficiency Determinations, Fraud, Evasion, Operator Delay.
- 4.150 Redeterminations.
- 4.155 Security for Collection of Tax.
- 4.160 Lien.
- 4.165 Refunds.
- 4.170 Collection Fee.
- 4.175 Administration.
- 4.190 Appeals to Board.

LANE COUNTY CAR RENTAL TAX

- 4.200 Title.
- 4.205 Definitions.
- 4.210 Imposition of Tax.
- 4.215 Collection of Tax, Remittance, Tax as Debt, Records.
- 4.220 Extensions, Penalties and Interest.
- 4.225 Deficiency Determinations, Fraud, Evasion, Operator Delay.
- 4.230 Redeterminations.
- 4.235 Security for Collection of Tax.
- 4.240 Lien.
- 4.245 Refunds.
- 4.250 Use of Tax by County.
- 4.255 Exemption.
- 4.260 Registration Required Form and Contents; Execution, Certification of Authority.
- 4.265 County Finance Officer Rules.
- 4.270 Appeals to County Finance Officer.
- 4.275 Operative Date.

METROPOLITAN WASTEWATER MANAGEMENT COMMISSION IN LIEU OF
BOND RETIREMENT FEE

- 4.300 Title.
- 4.305 Definitions.
- 4.310 Policy.
- 4.315 In Lieu of Bond Retirement Fee.
- 4.320 Collection.
- 4.325 Use of Proceeds.
- 4.330 List of Property Subject to Fee.
- 4.335 Classification and Notice.

Lane Code
CHAPTER 4 CONTENTS

4.340 Termination of Fee.

DIFFERENTIAL TAXES

4.500 Definitions.

4.505 Geographic Tax Classification.

4.510 Required Findings.

PARKS AND RECREATION SYSTEM DEVELOPMENT CHARGE

4.600 Scope and Purposes.

4.605 Definitions.

4.610 Rules of Construction.

4.615 Application.

4.620 Partial and Full Exemptions.

4.625 SDC Credits.

4.630 Alternative Calculation for SDC Rate, Credit, or Exemption.

4.635 Application.

4.640 Refunds.

4.645 Dedicated Accounts and Appropriate Use of Accounts.

4.650 Challenges and Appeals.

4.655 County Review SDC.

4.660 Time Limit on Expenditure of SDC's.

4.665 Implementing Regulations; Amendments.

4.670 Adoption and Amendment of the Parks and Recreation Capital Improvement Plan (CIP).

PENALTY

4.995 Penalties - Lane County Transient Room Tax.

4.997 Penalties - Lane County Car Rental Tax.

Chapter 4**TAXES****LANE COUNTY TRANSIENT ROOM TAX****4.100 Title.**

This subchapter may be referred to as the Lane County Transient Room Tax. *(Revised by Ordinance No. 8-73, Effective 9.14.73)*

4.105 Definitions.

In addition to the general definition included in LC 1.010, the following definitions apply:

Accrual Accounting. A system whereby the operator enters the rent due from a transient on the records when the rent is earned whether or not it is paid.

Cash Accounting. A system whereby the operator does not enter the rent due from a transient on the records until rent is paid.

Convention Business. The business of attracting and providing services and accommodations to persons who are organizing gatherings of groups such as conventions, meetings and trade shows and to persons who are traveling for the purpose of attending such events for purposes related to their professional, trade, cultural, religious, fraternal or other group activities.

Hotel. Any structure or any portion of any structure which is occupied or intended or designed for transient occupancy for thirty (30) days or less, for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, space in mobile home or trailer or similar structure or portions thereof so occupied, provided such occupancy is for less than a thirty (30) day period.

Occupancy. The use or possession, or the right to the use or possession for lodging or sleeping purposes of any room or rooms in a hotel, or space in a mobile home or trailer or portion thereof or space in a recreational vehicle park.

Operator. The person who is proprietor of the hotel or recreational vehicle park in any capacity. Where the operator performs functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this ordinance and shall have the same duties and liabilities as his principal. Compliance with the provisions of this ordinance by either the principal or the managing agent shall be considered to be compliance by both.

Person. Any individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

Recreational Vehicle Park. A development, which is occupied or intended or designed for transient occupancy for thirty (30) days or less, on which travel trailers, pickup campers, tent trailers, tents, self-propelled motorized vehicles are parked or set up, the purpose of such development being to provide to the public a temporary location for dwelling, lodging or sleeping purposes while traveling, vacationing or recreating, but excluding recreational vehicle parks operated by the federal government.

Rent. The consideration charged whether or not received by the operator, for the occupancy of space in a hotel or recreational vehicle park valued in money, goods, labor, credits, property, or other consideration valued in money, without any deduction.

Rent Package Plan. The consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transient room tax under this ordinance shall be the same charge made for rent when consideration is not a part of a package plan.

Tax. Either the tax payable by the transient, or the aggregate amount of taxes due from an operator during the period for which collections must be reported. "Tax" includes both taxes imposed by LC 4.110(1) and (2) below.

Tax Administrator. The person designated as such by separate order of the Board or by intergovernmental agreement.

Tourism. The business of attracting and providing services and accommodations to those persons who are traveling for recreational or cultural purposes.

Transient. Any individual who exercises occupancy or is entitled to occupancy in a hotel or recreational vehicle park for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. The day a transient checks out of the hotel or recreational vehicle park shall not be included in determining the thirty-day period if the transient is not charged rent for that day by the operator. Any such individual so occupying space in a hotel or recreational vehicle park shall be deemed to be a transient until the period of thirty days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this ordinance may be considered. A person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient.

Transient Room Tax Review Committee. A committee composed of an accountant, attorney, an operator and two lay persons appointed by the Board.

Visitor Industry. The business of attracting and providing services and accommodations for both the convention business and tourism. *(Revised by Ordinance No. 8-73, Effective 9.14.73; 2-86, 7.1.86; 15-92A, 2.1.93; 7-94, 1.6.95)*

4.110 Tax Imposed.

(1) For the privilege of occupancy in any hotel or recreational vehicle park, on and after January 1, 1974, each transient shall pay a tax in the amount of five percent (5%) of the rent charged by the operator.

(2) For the privilege of occupancy in any hotel or recreational vehicle park in Lane County, Oregon, on or after July 1, 2008, each transient shall pay an additional tax in the amount of three percent (3%) of the rent charged by the operator. After providing for the cost of administration, any refunds or credits authorized by this subchapter and any sum necessary to meet the County's annual bonds' service payment for the Fairground bonds described in LC 4.175 below, the revenues collected from the tax imposed by this subsection shall be used for enhancement of the visitor industry, as further described in LC 4.175(6) below.

(3) The taxes imposed pursuant to this subchapter constitute a debt owed by the transient to the County which is extinguished only by payment to the operator or to the County. The transient shall pay the taxes to the operator at the time the rent is paid. The operator shall enter the taxes on the records when rent is collected if the operator keeps records on a cash accounting basis and when earned if the operator keeps records on an accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. If for any reason the taxes due are not paid to the operator the Tax Administrator may require that such tax(es) shall be paid directly to the County. In all cases, the rent paid or charged for occupancy, shall exclude the sale of any goods, services and commodities, other than the

furnishing of rooms, accommodations, space in mobile homes and trailers, and space in recreational vehicle parks.

(4) Any person subject to the payment or collection of a tax pursuant to the provisions of this subchapter shall be entitled to credit against the payment of such tax the amount due any incorporated city or town within Lane County for a Transient Lodgings Tax for the same occupancy taxable hereunder but not to exceed three percent (3%) of the rent upon which the tax is paid. *(Revised by Ordinance No. 8-73, Effective 9.14.73; 2-86, 7.1.86; 15-92A, 2.1.93; 7-94, 1.6.95; 9-94, 1.6.95; 4-08, 7.1.08)*

4.111 Local Revenue Sharing.

To discourage unnecessary duplication of local taxes and to permit centralized collection of a logical source of revenue for local governments, the Board shall, by grant or credit, or combination thereof, share with the incorporated cities within Lane County upon their request, a portion of the taxes collected by operators within each incorporated city, respectively. The County shall share an amount not to exceed sixty percent (60%) of the taxes collected under LC 4.110(1) above, less collection and other administrative costs described in LC 4.175 below. Except for the credit allowed by LC 4.110(4) above, such grants or credits shall be made available to an incorporated city upon passage of a resolution to participate in local revenue sharing. The resolution shall indicate the willingness of the city:

(1) To provide reasonable assistance in the collection of the tax imposed by this subchapter;

(2) To provide prompt reports of changes in the potential occupancy level within its jurisdiction due to construction, remodeling, or annexation; and

(3) To comply with all other applicable provisions of this subchapter.

The Board shall insure that all participating incorporated cities receive substantially similar grants and credits, or combinations thereof. *(Revised by Ordinance No. 8-73, Effective 9.14.73; 8-74, 7.19.74; 2-86, 7.1.86)*

4.115 Collection of Tax by Operator. Rules for Collection.

(1) Every operator renting rooms in a hotel or space in a recreational vehicle park in this County, the occupancy of which is not exempted under the terms of this ordinance, shall collect a tax from the occupant. The tax collected or accrued by the operator constitutes a debt owing by the operator to the County.

(2) In all cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until credits are paid or deferred payments are made.

(3) The Tax Administrator shall enforce provisions of this subchapter and shall have the power to recommend rules and regulations for approval by the Board not inconsistent with this subchapter as may be necessary to aid in the enforcement.

(4) For rent collected on portions of a dollar, the first one cent (1¢) of tax shall be collected on nine cents (9¢) through twenty-four cents (24¢), inclusive; the second one cent (1¢) of tax on twenty-five cents (25¢) through forty-one cents (41¢), the third one cent (1¢) of tax on forty-two cents (42¢) through fifty-eight cents (58¢), the fourth one cent (1¢) of tax on fifty-nine cents (59¢) through seventy-four cents (74¢), the fifth one cent (1¢) of tax on seventy-five cents (75¢) through ninety-one cents (91¢) and the sixth one cent (1¢) of tax on ninety-two cents (92¢) through the next one dollar and eight cents (\$1.08) of rent. *(Revised by Ordinance No. 8-73, Effective 9.14.73; 8-74, 7.19.74; 2-86, 7.1.86; 7-94, 1.6.95)*

4.120 Operator's Duties.

Each operator shall collect the tax imposed by this subchapter at the same time as the rent is collected from every transient. The amount of tax shall be separately stated upon the operator's records, and any receipt rendered by the operator. No operator shall advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by this subchapter. *(Revised by Ordinance No. 8-73, Effective 9.14.73; 7-94, 1.6.95)*

4.125 Exemptions.

No tax imposed under this subchapter shall be imposed upon:

- (1) Any occupant for more than thirty (30) successive calendar days, (a person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient);
- (2) Any occupant whose rent is of a value less than five dollars (\$5.00) per day;
- (3) Any person who rents a private home, vacation cabin, or like facility from any owner who rents such facilities incidentally to his or her own use thereof;
- (4) Any occupant whose rent is paid for hospital room or to a medical clinic, convalescent home or home for aged people;
- (5) Any occupant whose rent is paid by a local agency, either directly or through a voucher, in response to a local disaster or declared emergency. *(Revised by Ordinance No. 8-73, Effective 9.14.73; 2-86, 7.1.86; 11-97, 9.26.97)*

4.130 Registration of Operator; Form and Contents; Execution; Certification of Authority.

Every person engaging or about to engage in business as an operator of a hotel or recreational vehicle park in this county shall register with the Tax Administrator on a form provided. Operators engaged in business at the time this subchapter is adopted must register not later than thirty (30) calendar days after the effective date of this subchapter. Operators starting business after this subchapter is adopted must register within fifteen (15) calendar days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration shall set forth the name under which an operator transacts or intends to transact business, the location of the place or places of business and such other information to facilitate the collection of the tax as the Tax Administrator may require. The registration shall be signed by the operator. The Tax Administrator shall, within ten (10) days after registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupant, together with a duplicate thereof for each additional place of business of each registrant. Certificates shall be non-assignable and nontransferable and shall be surrendered immediately to the Tax Administrator upon the cessation of business at the location named or upon its sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and come to the notice readily of all occupants and persons seeking occupancy. Said certificate shall, among other things, state the following:

- (1) The name of the operator;
- (2) The address of the hotel or recreational vehicle park;
- (3) The date upon which the certificate was issued;
- (4) "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Lane County

Transient Room Tax by registration with the Tax Administrator for the purpose of collecting from transients the tax imposed by Lane County and remitting said tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a hotel or recreational vehicle park without strictly complying with all local applicable laws. This certificate does not constitute a permit." (*Revised by Ordinance No. 8-73, Effective 9.14.73; 2-86, 7.1.86; 7-94, 1.6.95*)

4.135 Due Date: Returns and Payments.

(1) The tax imposed by this subchapter shall be paid by the transient to the operator at the time that rent is paid. All amounts of such taxes collected by any operator are due and payable to the Tax Administrator on a monthly basis on the fifteenth (15th) day of the month for the preceding month, and are delinquent on the last day of the month in which they are due.

(2) On or before the fifteenth (15th) day of the month following each month of collection, a return for the preceding month's tax collections shall be filed with the Tax Administrator. The return shall be filed in such form as the Tax Administrator may prescribe by every operator liable for payment of tax.

(3) Returns shall show the amount of tax collected or otherwise due for the related period. The Tax Administrator may require returns to show the total rentals upon which tax was collected or otherwise due, gross receipts of operator for such period and an explanation in detail of any discrepancy between such amounts, and the amount of rents exempt, if any.

(4) The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the Tax Administrator at his or her office either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.

(5) For good cause, the Tax Administrator may extend for not to exceed one month the time for making any return or payment of tax. No further extension shall be granted, except by the Transient Room Tax Review Committee. Any operator to whom an extension is granted shall pay interest at the rate of one percent (1%) per month on the amount of tax due without proration for a fraction of a month. If a return is not filed, and the tax and interest due is not paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties described elsewhere in this ordinance.

(6) The Tax Administrator, if he or she deems it necessary in order to insure payment or facilitate collection by the County of the amount of taxes in any individual case may require returns and payment of the amount of taxes for other than monthly periods. (*Revised by Ordinance No. 8-73, Effective 9.14.73; 2-86, 7.1.86*)

4.140 Penalties and Interest.

(1) Original Delinquency. Any operator who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this subchapter prior to delinquency shall pay a penalty of ten percent (10%) of the amount of the tax due in addition to the amount of the tax.

(2) Continued Delinquency. Any operator who has not been granted an extension of time for remittance of tax due, and who failed to pay any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of fifteen percent (15%) of the amount of the tax due plus the amount of tax and the ten percent (10%) penalty first imposed.

(3) Fraud. If the Tax Administrator determines that the nonpayment of any remittance due under this subchapter is due to fraud or intent to evade the provisions thereof, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in subsections (1) and (2) of this section.

(4) Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this subchapter shall pay interest at the rate of one half of one percent per month or fraction thereof without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(5) Penalties Merged With Tax. Every penalty imposed and such interest as accrues under the provisions of this section shall be merged with and become a part of the tax herein required to be paid.

(6) Petition for Waiver. Any operator who fails to remit the tax herein levied within the time herein stated shall pay the penalties herein stated provided, however, the operator may petition the Transient Room Tax Review Committee for waiver and refund of the penalty or any portion thereof and the Transient Room Tax Review Committee may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof. *(Revised by 8-73, Effective 9.14.73)*

4.145 Deficiency Determinations, Fraud, Evasion, Operator Delay.

(1) Deficiency Determination. If the Tax Administrator determines that the returns are incorrect, he or she may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within his or her possession or that may come into his or her possession. One or more deficiency determinations may be made of the amount due for one, or more than one period and the amount so determined shall be due and payable immediately upon service of notice as herein provided after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in LC 4.140 above.

(a) In making a determination the Tax Administrator may offset overpayments, if any, which may have been previously made for a period or periods, against any underpayment for a subsequent period or periods, or against penalties, and interest, on the underpayments. The interest on underpayments shall be computed in the manner set forth in LC 4.140 above.

(b) The Tax Administrator shall give to the operator or occupant a written notice of the determination. The notice may be served personally or by mail, if by mail, the notice shall be addressed to the operator at the address as it appears in the records of the Tax Administrator. In case of service by mail or any notice required by this subchapter the service is complete at the time of deposit in the United States Post Office.

(c) Except in the case of fraud, intent to evade the provisions of this subchapter or authorized rules and regulations, every deficiency determination shall be made and notice thereof mailed within three (3) years after the last day of the month following the close of the monthly period for which the amount is proposed to be determined or within three (3) years after the return is filed, whichever period expires the later.

(d) Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten (10) days after the Tax Administrator has given notice thereof, provided, however the operator may petition redemption and refund if the petition is filed before the determination becomes final as herein provided.

(2) Fraud, Refusal to Collect, Evasion. If any operator shall fail or refuse to collect said tax or to make, within the time provided in this subchapter any report and

remittance of said tax or any portion thereof required by this subchapter, or makes a fraudulent return or otherwise willfully attempts to evade this subchapter, the Tax Administrator shall proceed in such manner as he or she may deem best to obtain facts and information on which to base an estimate of the tax due. As soon as the Tax Administrator has determined the tax due that is imposed by this subchapter from any operator who has failed or refused to collect the same and to report and remit said tax, he or she shall proceed to determine and assess against such operator the tax, interest, and penalties, provided for by this subchapter. In case such determination is made, the Tax Administrator shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three (3) years after discovery by the Tax Administrator of any fraud, intent to evade or failure or refusal to collect said tax, or failure to file return. Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten (10) days after the Tax Administrator has given notice thereof, provided, however, the operator may petition redemption and refund if the petition is filed before the determination becomes final as herein provided.

(3) Operator Delay. If the Tax Administrator believes that the collection of any tax or any amount of tax required to be collected and paid to the County will be jeopardized by delay, or if any determination will be jeopardized by delay, he or she shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable, and the operator shall immediately pay the determined amount to the Tax Administrator after service of notice thereof. Provided, however, the operator may petition, after payment has been made for redemption and refund of such determination, if the petition is filed within ten (10) days from the date of service of notice by the Tax Administrator. *(Revised by Ordinance No. 8-73, 9.14.73; 2-86, 7.1.86)*

4.150 Redeterminations.

(1) Any person against whom a determination is made under LC 4.145 above or any person directly interested may petition for a redetermination and redemption and refund within the time required in LC 4.145 hereof. If a petition for redetermination and refund is not filed within the time required in LC 4.145, the determination becomes final at the expiration of the allowable time.

(2) If a petition for redetermination and refund is filed within the allowable period, the Tax Administrator shall reconsider the determination, and, if the person has so requested in his or her petition, shall grant the person an oral hearing and shall give him or her 10 days notice of the time and place of the hearing. The Tax Administrator may continue the hearing from time to time as may be necessary.

(3) The Tax Administrator may decrease or increase the amount of the determination as a result of the hearing and if an increase is determined such increase shall be payable immediately after the hearing.

(4) The order or decision of the Tax Administrator upon a petition for redetermination of redemption and refund becomes final 10 days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the Transient Room Tax Review Committee within the 10 days after service of such notice.

(5) No petition for redetermination of redemption and refund or appeal shall be effective for any purpose unless the operator has first complied with the payment provisions hereof. *(Revised by Ordinance No. 8-73, Effective 9.14.73; 19-77, 7.1.78)*

4.155 Security for Collection of Tax.

(1) The Tax Administrator whenever he or she deems it necessary to ensure compliance with this subchapter, may require any operator subject thereto to deposit with him or her such security in the form of cash, bond, or other security as the Tax Administrator may determine. The amount of the security shall be fixed by the Tax Administrator, but shall not be greater than twice the operator's estimated average monthly liability for the period for which he or she files returns, determined in such manner as the Tax Administrator deems proper, or \$5,000, whichever amount is the lesser. The amount of the security may be increased or decreased by the Tax Administrator subject to the limitations herein provided.

(2) At any time within three years after any tax or any amount of tax required to be collected becomes due and payable or at any time within three years after any determination becomes final, the Tax Administrator may bring an action in the courts of this State, or any other state, or of the United States in the name of the County to collect the amount delinquent, together with penalties and interest. *(Revised by Ordinance No. 8-73, Effective 9.14.73; 19-77, 7.1.78)*

4.160 Lien.

The tax imposed by this subchapter, together with the interest and penalties herein provided, and the filing fees paid to the Department of Human Resources and Management Services of Lane County, Oregon, and advertising costs, which may be incurred when same become delinquent as set forth in this subchapter, shall be and, until paid, remain a lien from the date of its recording with Lane County and superior to all subsequent recorded liens on all tangible personal property used in the hotel or recreational vehicle park of an operator within the County and may be foreclosed on and sold as may be necessary to discharge said lien as has been recorded with Lane County. Notice of lien may be issued by the Tax Administrator or his or her deputy whenever the operator is in default in the payment of said tax, interest and penalty and shall be recorded with Lane County and a copy sent to the delinquent operator. The personal property subject to such lien seized by any deputy or employee of the Tax Administrator may be sold by the Department seizing the same at public auction after 10 days notice which shall mean one publication in a newspaper of general circulation published within the County.

Any lien for taxes as shown on the records of the proper County official shall, upon the payment of all taxes, penalties, and interest thereon, be released by the Tax Administrator when the full amount determined to be due has been paid to the County and the operator or person making such payment shall receive a receipt therefore stating that the full amount of taxes penalties and interest thereon have been paid and that the lien is thereby released and the record of lien is satisfied. *(Revised by Ordinance No. 8-73, Effective 9.14.73; 19-77, 7.1.78; 2-86, 7.1.86; 7-94, 1.6.95)*

4.165 Refunds.

(1) Operator's Refunds. Whenever the amount of any tax, penalty or interest has been paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this subchapter, it may be refunded, provided a verified claim in writing therefore, stating the specific reason upon which the claim is founded, is filed with the Tax Administrator within three years from the date of payment. The claim shall be made on forms provided by the Tax Administrator. If the claim is approved by the Tax Administrator, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the operator from whom it was collected or by whom paid and the balance may be refunded to such operator, his or her

administrators, executors or assignees. All refunds shall be charged to the Special Fund as set forth in LC 4.175 below.

(2) Transient Refunds. Whenever the tax required by this subchapter has been collected by the operator, and deposited by the operator with the Tax Administrator, and it is later determined that the tax was erroneously or illegally collected or received by the Tax Administrator, it may be refunded by the Tax Administrator to the transient, provided a verified claim in writing therefore, stating the specific reason on which the claim is founded, is filed with the Tax Administrator within three years from the date of payment. All refunds shall be charged to the Special Fund as set forth in LC 4.175 below. *(Revised by Ordinance No. 8-73, Effective 9.14.73; 19-77, 7.1.78; 15-92A, 2.1.93)*

4.170 Collection Fee.

Every operator liable for the collection and remittance of the tax imposed by this subchapter may withhold five percent of the net tax due to cover the operator's expenses in the collection and remittance of the tax. *(Revised by Ordinance No. 8-73, Effective 9.14.73)*

4.175 Administration.

(1) Special Funds. After payment of appropriate administrative expense, the Tax Administrator shall deposit all net revenues collected pursuant to this subchapter to the credit of a capital projects debt service fund or as directed for special projects described in LC 4.175(5) and (6) below.

(2) Records Required from Operators, etc., Form. Every operator shall keep guest records of room sales and accounting books and records of the room sales. All records shall be retained by the operator for a period of three years and six months after they come into being.

(3) Examination of Records; Investigations. The Tax Administrator or any person authorized in writing by him or her may examine during normal business hours, the books, papers, and accounting records relating to room sales of any operator after notification to the operator liable for the tax and may investigate the business of the operator in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.

(4) Confidential Character of Information Obtained - Disclosure Unlawful. It shall be unlawful for the Tax Administrator or any person having an administrative or clerical duty under the provisions of this subchapter to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any person required to obtain a Transient Occupancy Registration Certificate, or pay a transient occupancy tax, or any other person visited or examined in the discharge of official duty, or the amount or source of income profits, losses, expenditures, or any particular thereof, set forth in any statement or application, or to permit any statement or application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person. Provided that nothing in this subsection shall be construed to prevent:

(a) The disclosure to, or the examination of records and equipment by another Lane County official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this subchapter; or enforcing any provisions of this subchapter; or collecting taxes imposed hereunder.

(b) The disclosure after the filing of a written request to that effect, to the taxpayer himself or herself, receivers, trustees, executors, administrators assignees, and guarantors, if directly interested, of information as to any paid tax, any unpaid tax or amount of tax required to be collected, or interest and penalties, further provided, however, that the County Counsel approves each such disclosure and that the Tax

Administrator may refuse to make any disclosure referred to in this paragraph when in his or her opinion the public interest would suffer thereby.

(c) The disclosure of the names and addresses of any persons to whom Transient Occupancy Registration Certificates have been issued.

(d) The disclosure of general statistics regarding taxes collected or business done in the City.

(e) Necessary disclosures in connection with appeals or forced collections as provided in this subchapter.

(5) Special Purpose - Debt Service. Annual revenues from the Lane County Transient Room Tax Fund derived from the tax imposed by LC 4.110(1) above shall be credited for payment of debt service on: 1) the certificates of participation issued to finance the 1989 livestock arena/ice rink project at the fairgrounds, and 2) the debt issued to finance the 1994-95 fairgrounds projects. Any amounts derived from the tax imposed by LC 4.110(1) above in excess of annual debt service shall be used for future capital projects or as directed by the Board through the annual budget process and shall be used in accordance with ORS 320.300 et. seq. Any amounts derived from the tax imposed by LC 4.110(2) above in excess of previously committed debt service payments shall be used as described in LC 4.175(6) below.

(6) Special Purpose - Visitor Industry. The revenues derived from the tax imposed by LC 4.110(2) above in excess of annual debt service described in LC 4.175(5) above shall be used as described below. Except as noted, the funds shall be used for purposes which the Board determines bears a relationship to producing transient room tax revenues through the visitor industry. Through the annual budget process, unless the Board directs otherwise in accordance with ORS 320.300 et. seq., the Board shall appropriate these funds as follows:

(a) Seventy percent (70%) shall be for marketing the visitor industry. This may include, but is not limited to, marketing for conventions, meetings, and trade shows; a countywide tourism program; development and implementation of a visitor marketing plan and program; and advertising. The marketing shall be pursuant to a plan developed with input of the cities and unincorporated areas of Lane County, and approved by the Board. The plan shall describe the relationship between where the funds are raised and where they are spent, with the general principle being that the areas which produce the taxes should benefit from their use.

(b) Ten percent (10%) shall be for operation of the Lane County Historical Museum or other museums as determined by the Board through the annual budget process. The Board specifically finds that the Lane County Historical Museum is a significant attraction for the visitor industry.

(c) Ten percent (10) shall be for Special Projects and administration. These funds shall be used for select special projects to enhance tourism as chosen by the Board annually under its own criteria, for more long-term funding for cultural or recreational projects or activities which the Board finds have significant impact on tourism, for administering and contract monitoring of expenditures of the LC 4.110(2) tax revenue, and for staffing for the Tourism Council.

(d) Ten percent (10%) shall be used for tourism marketing of the areas outside the urban growth boundaries of the cities of Eugene and Springfield. These funds shall be used for proposals chosen by the Board according to its own criteria, with the general principle being that the areas which produce the taxes should benefit from their use.

(Revised by Ordinance No. 8-73, Effective 9.14.73; 19-77, 7.1.78; 2-86, 7.1.86; 7-89, 7.21.89; 11-92, 10.16.92; 15-92A, 2.1.93; 4-95, 4.7.95; 7-95, 5.19.95; 6-07, 6.29.07)

4.190 Appeals to Board.

Any person aggrieved by any decision of the Tax Administrator may appeal to the Board by filing a notice of appeal with the Tax Administrator within 10 days of the serving or the mailing of the notice of the decision given by the Tax Administrator. The Tax Administrator shall transmit said notice of appeal, together with the file of said appealed matter to the Board who shall fix a time and place for hearing such appeal from the decision of the Transient Room Tax Review Committee. The Board shall give the appellant not less than 10 days written notice of the time and place of hearing of said appealed matter. *(Revised by Ordinance No. 8-73, Effective 9.14.73; 8-74, 7.19.74)*

LANE COUNTY CAR RENTAL TAX**4.200 Title.**

This subchapter may be referred to as the Lane County Car Rental Tax.

4.205 Definitions.

In addition to the general definitions included in LC 1.010, the following definitions shall apply, unless the context requires otherwise:

Commercial Establishment. Any person or other entity, any part of whose business consists of providing the use of motor vehicles for a rental fee.

County Finance Officer. The person designated by the Board of County Commissioners to perform the functions of the County Finance Officer.

Motor Vehicle. Includes, without limitation, all automobiles; pickups and any motorized passenger vehicles which are capable of being used on the highways of Oregon. Excluded are vehicles designed and used primarily for the transportation of property.

Operator. Any person operating a commercial establishment.

Person. A natural person, sole proprietorship, partnership, joint venture, association, corporation estate, trust or any other entity in the name of which a motor vehicle is rented under this subchapter.

Rental or Renting. Obtaining in Lane County the use of a motor vehicle from a commercial establishment in Lane County for a rental fee, and includes all services, supplies and commodities furnished by the commercial establishment in connection with providing the use of the vehicle, but does not include leasing or other transactions where title of a motor vehicle is permanently or temporarily transferred from the commercial establishment to any other person or entity. Excluded are fees or charges for refueling.

Rental Fee. The gross fee, whatever the basis of its calculation, paid to a commercial establishment by any person for the rental of a motor vehicle.

Transaction Business. A commercial establishment's solicitations to rent motor vehicles via the printed or telecommunications media, or delivery of motor vehicles for rent, or obtaining of signed rental agreements, or arrangements for or obligation of payment for rental of a motor vehicle. *(Revised by Ordinance No. 12-01, Effective 1.12.02)*

4.210 Imposition of Tax.

(1) A tax is hereby imposed on every person renting a motor vehicle from a commercial establishment transacting business in Lane County if the rental is for a period of 30 days or less. A rental shall have a duration of 30 days or less if the actual possession or use by the person renting the vehicle terminates not later than the end of a 30-day period or if any contract governing the rental has a duration of 30 days or less.

(2) The rate of the tax imposed by LC 4.210(1) above shall be equal to 10 percent of the gross rental fee charged by the commercial establishment for the rental.

(3) If, with respect to any rental fee, the tax imposed under this section does not equal an amount calculable to a whole cent, the commercial establishment shall charge a tax equal to the next highest whole cent, provided, however, that the amount remitted to the County Finance Officer by the commercial establishment for each quarter shall be equal only to 10 percent of the total rental fees collected by the commercial establishment during the quarter. *(Revised by Ordinance No. 5-83, Effective 7.15.83; 2-87, 7.8.87; 10-91, 10.1.91)*

4.215 Collection of Tax, Remittance, Tax as Debt, Records.

(1) The tax imposed by LC 4.210 above shall be collected by the commercial establishment at the time it collects a rental fee.

(2) On or before the last day of January, April, July and October, each commercial establishment shall remit to the County Finance Officer all taxes collected during the preceding calendar quarter. The remittance is delinquent on the 10th day after due. The remittance shall be accompanied by a report showing:

(a) The amount of the gross rental fees collected by the commercial establishment during the preceding quarter.

(b) Such further information as the County Finance Officer may direct.

(3) In the case of motor vehicle rentals which originate in Lane County but for which the rental fee is collected at some other location, the commercial establishment which provided the vehicle in the County shall be responsible for remittance of the tax, based on the total rental fee, wherever collected.

(4) The amount of tax required to be collected under LC 4.210 above shall be a debt owed by the commercial establishment to the County until remitted under this section.

(5) All commercial establishments shall maintain accurate records of rental fees assessed and of taxes collected, and the records shall be subject to review, inspection and audit by the County Finance Officer, or his or her designee, at all reasonable times.

(6) It shall be unlawful for the County Finance Officer, or any person having an administrative or clerical duty under the provisions of this subchapter to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any person required to obtain a Car Rental Registration Certificate, or pay a car rental tax or person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth in any statement or application, or to permit any statement or application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person. Provided that nothing in this subsection shall be construed to prevent:

(a) The disclosure to, or the examination of records and equipment by another Lane County official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this subchapter; or enforcing any provisions of this subchapter, or collecting taxes imposed hereunder.

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

(c) The disclosure of the names and addresses of any persons to whom Car Rental Registration Certificates have been issued.

(d) The disclosure of general statistics regarding taxes collected or business done in the County

(e) Necessary disclosures in connection with appeals or forced collections as provided in this subchapter. *(Revised by Ordinance No. 5-83, Effective 7.15.83; 18-83, 10.1.83; 8-95, 6.2.95)*

4.220 Extensions, Penalties and Interest.

(1) Extension. For good cause, the County Finance Officer may extend for not to exceed one month the time for making any return or payment of tax. No further extension shall be granted. Any operator or commercial establishment to whom an extension is granted shall pay interest at the rate of one percent per month on the amount of tax due without proration for a fraction of a month.

(2) Other Payment Periods. The County Finance Officer, if he or she deems it necessary in order to insure payment or facilitate collection by the County of the amount of taxes in any individual case, may require returns and payment of the amount of taxes for other than quarterly periods.

(3) Original Delinquency. Any operator or commercial establishment who has not been granted an extension of time for remittance of tax due or whose extension has expired and who fails to remit any tax imposed by this subchapter prior to delinquency shall pay a penalty of 10% of the amount of the tax due in addition to the amount of the tax.

(4) Continued Delinquency. Any operator or commercial establishment who has not been granted an extension of time for remittance of tax due or whose extension has expired, and who failed to pay any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of 15% of the amount of the tax due plus the amount of tax and the 10% penalty first imposed.

(5) Fraud. If the County Finance Officer determines that the nonpayment of any remittance due under this subchapter is due to fraud or intent to evade the provisions thereof a penalty of 25% of the amount of the tax shall be added thereto in addition to the penalties stated in LM 4.220(3) and (4) above.

(6) Interest. In addition to the penalties imposed, any operator or commercial establishment who fails to remit any tax imposed by this subchapter shall pay interest at the rate of one percent per month or fraction thereof without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(7) Petition for Waiver. Any operator or commercial establishment who fails to remit the tax herein levied within the time herein stated, shall pay the penalties herein stated provided, however, the operator or commercial establishment may petition the County Finance Officer for waiver and refund of the penalty or any portion thereof and the County Finance Officer may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof. *(Revised by Ordinance No. 5-83, Effective 7.15.83; 18-83, 10.1.83)*

4.225 Deficiency Determinations, Fraud, Evasion, Operator Delay.

(1) Deficiency Determination. If the County Finance Officer determines that the returns are incorrect, he or she may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within his or her possession or that may come into his possession. One or more deficiency determinations may be made of the amount due for one, or more than one period, and the amount so determined shall be due and payable immediately upon

service of notice as herein provided after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in LC 4.220 above.

(a) In making a determination the County Finance Officer may offset overpayments, if any, which may have been previously made for a period or periods, against any underpayment for a subsequent period or periods, or against penalties, and interest, on the underpayments. The interest on underpayments shall be computed in the manner set forth in LC 4.220 above.

(b) The County Finance Officer shall give to the operator a written notice of the determination. The notice may be served personally or by mail, if by mail, the notice shall be addressed to the operator at the address as it appears in the records of the County Finance Officer. In case of service by mail or any notice required by this subchapter the service is complete at the time of deposit in the United States Post Office.

(c) Except in the case of fraud or intent to evade the provisions of this subchapter or authorized rules and regulations, every deficiency determination shall be made and notice thereof mailed within three years after the last day of the month following the close of the quarterly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later.

(d) Any determination shall become due and payable immediately upon receipt of notice and shall become final within 10 days after the County Finance Officer has given notice thereof, provided, however the operator may petition redemption and refund if the petition is filed before the determination becomes final as herein provided.

(2) Fraud, Refusal to Collect, Evasion. If any operator shall fail or refuse to collect said tax or to make, within the time provided in this subchapter any report and remittance of said tax or any portion thereof required by this subchapter, or makes a fraudulent return or otherwise willfully attempts to evade this subchapter, the County Finance Officer shall proceed in such manner as he or she may deem best to obtain facts and information on which to base an estimate of the tax due. As soon as the County Finance Officer has determined the tax due that is imposed by this subchapter from any operator who has failed or refused to collect the same and to report and remit said tax, he or she shall proceed to determine and assess against such operator the tax, interest and penalties, provided for by this subchapter. In case such determination is made, the County Finance Officer shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three years after discovery by the County Finance Officer of any fraud, intent to evade or failure or refusal to collect said tax, or failure to file return. Any determination shall become due and payable immediately upon receipt of notice and shall become final within 10 days after the County Finance Officer has given notice thereof, provided, however, the operator may petition redemption and refund if the petition is filed before the determination becomes final as herein provided.

(3) Operator Delay. If the County Finance Officer believes that the collection of any tax or any amount of tax required to be collected and paid to the County will be jeopardized by delay, or if any determination will be jeopardized by delay, he or she shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable, and the operator shall immediately pay the determined amount to the County Finance Officer after service of notice thereof. Provided, however, the operator may petition, after payment has been made for redemption and refund of such determination, if the petition is filed within 10 days from the date of service of notice by the County Finance Officer. *(Revised by Ordinance No. 5-83, Effective 7.15.83)*

4.230 Redeterminations.

(1) Any person against whom a determination is made under LC 4.225 above or any person directly interested may petition for a redetermination and redemption and refund within the time required in LC 4.225 above. If a petition for redetermination and refund is not filed within the time required in LC 4.225 above, the determination becomes final at the expiration of the allowable time.

(2) If a petition for redetermination and refund is filed within the allowable period, the County Finance Officer shall reconsider the determination, and, if the person has so requested in his or her petition, shall grant the person an oral hearing and shall give him or her 10 days notice of the time and place of the hearing. The County Finance Officer may continue the hearing from time to time as may be necessary.

(3) The County Finance Officer may decrease or increase the amount of the determination as a result of the hearing and if an increase is determined such increase shall be payable immediately after the hearing.

(4) The order or decision of the County Finance Officer upon a petition for redetermination of redemption and refund becomes final 10 days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the County Finance Officer within the 10 days after service of such notice.

(5) No petition for redetermination of redemption and refund or appeal shall be effective for any purpose unless the operator has first complied with the payment provisions hereof. *(Revised by Ordinance No. 5-83, Effective 7.15.83)*

4.235 Security for Collection of Tax.

(1) The County Finance Officer whenever he or she deems it necessary to ensure compliance with this subchapter, may require any operator subject thereto to deposit with him or her such security in the form of cash, bond, or other security as the County Finance Officer may determine. The amount of the security shall be fixed by the County Finance Officer, but shall not be greater than twice the operator's estimated average quarterly liability for the period for which he or she files returns, determined in such manner as the County Finance Officer deems proper, or \$5,000, whichever amount is the lesser. The amount of the security may be increased or decreased by the County Finance Officer subject to the limitations herein provided.

(2) At any time within three years after any tax or any amount of tax required to be collected becomes due and payable or at any time within three years after any determination becomes final, the County Finance Officer may bring an action in the courts of this State, or any other state, or of the United States in the name of the County to collect the amount delinquent, together with penalties and interest. *(Revised by Ordinance No. 5-83, Effective 7.15.83)*

4.240 Lien.

The tax imposed by this subchapter, together with the interest and penalties herein provided, the filing fees paid to the County Clerk of Lane County, Oregon, and advertising costs, which may be incurred when same become delinquent as set forth in this subchapter, shall be and, until paid, remain a lien from the date of its recording with the County Clerk of Lane County, Oregon, and superior to all subsequent recorded liens on all tangible personal property used in the commercial establishment of an operator within the County and may be foreclosed on and sold as may be necessary to discharge said lien as recorded with the County Clerk of Lane County, Oregon. Notice of lien may be issued by the County Finance Officer or his or her deputy whenever the operator is in default in the payment of said tax, interest and penalty and shall be recorded with the

County Clerk of Lane County, Oregon and a copy sent to the delinquent operator. The personal property subject to such lien seized by any deputy or employee of the County Finance Officer may be sold by the Department seizing the same at public auction after 10 days notice which shall mean one publication in a newspaper of general circulation published within the County.

Any lien for taxes as shown on the records of the proper County official shall, upon the payment of all taxes, penalties, and interest thereon, be released by the County Finance Officer when the full amount determined to be due has been paid to the County and the operator or person making such payment shall receive a receipt therefore stating that the full amount of taxes, penalties and interest thereon have been paid and that the lien is thereby released and the record of lien is satisfied. *(Revised by Ordinance No. 5-83, Effective 7.15.83)*

4.245 Refunds.

Whenever the amount of any tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or received by the County Finance Officer under this subchapter, it may be refunded, provided a verified claim in writing therefore, stating the specific reason upon which the claim is founded, is filed with the County Finance Officer within three years from the date of payment. The claim shall be made on forms provided by the County Finance Officer. If the claim is approved by the County Finance Officer, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the operator from whom it was collected or by whom paid and the balance may be refunded to such operator, his or her administrators, executors or assignees. All refunds shall be charged to the dedicated funds set forth in LC 4.250 below. *(Revised by Ordinance No. 5-83, Effective 7.15.83)*

4.250 Use of Tax by County.

Unless otherwise directed by the Board through the budget process, after payment of appropriate administrative expense, the taxes collected under this subchapter shall go into the County general fund, except that the portion of taxes attributable to gasoline sales shall be subject to the limitations on use prescribed by the Constitution and laws of Oregon. *(Revised by Ordinance No. 5-95, Effective 4.28.95; 8-95, 6.2.95; 9-97, 7.11.97; 3-00, 6.10.00; 5-07, 6.29.07)*

4.255 Exemption.

The tax imposed by this subchapter shall not be applicable to:

- (1) A rental fee which Oregon or federal law exempts from the tax.
- (2) A travel trailer, camper or motor home, as defined in ORS 366.512, whose registration fee is allocated to counties pursuant to ORS 390.134(4).
- (3) Up to \$1.25 of any optional charge agreed to by the customer to be used for a carbon dioxide offset program operated by an entity other than the commercial establishment renting the motor vehicle. The optional charge must be separately stated in the rental agreement, and fully transmitted to the carbon dioxide offset entity. *(Revised by Ordinance No.8-95, Effective 6.2.95; 3-00, 6.10.00; 3-08, 4.11.08)*

4.260 Registration Required Form and Contents; Execution, Certification of Authority.

Every person engaging or about to engage in business as an operator of a commercial establishment transacting business in Lane County shall register with the County Finance Officer on a form provided. Persons operating commercial establishments at the time this subchapter is adopted must register not later than 30 calendar days after the effective date

of this subchapter. Persons starting commercial establishments after this subchapter is adopted must register within 15 calendar days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration shall set forth the name under which an operator transacts or intends to transact business, the location of the place or places of business and such other information to facilitate the collection of the tax as the County Finance Officer may require. The registration shall be signed by the operator. The County Finance Officer shall, within 10 days after registration, issue without charge a certificate of authority to each registrant to collect the tax, together with a duplicate thereof for each additional place of business of each registrant. Certificates shall be non-assignable and nontransferable and shall be surrendered immediately to the County Finance Officer upon the cessation of business at the location named or upon its sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and come to the notice readily of all persons seeking to do business therein. Said certificate shall, among other things, state the following:

- (1) The name of the operator;
- (2) The address of the commercial establishment;
- (3) The date upon which the certificate was issued;

(4) "This Car Rental Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Lane County Car Rental Tax by registration with the County Finance Officer for the purpose of collecting the car rental tax imposed by Lane County and remitting said tax to the County Finance Officer. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a commercial establishment without strictly complying with all local applicable laws. This certificate does not constitute a permit." *(Revised by Ordinance No. 5-83, Effective 7.15.83; 2-87, 7.8.87)*

4.265 County Finance Officer Rules.

The County Finance Officer is hereby authorized to establish such rules and procedures for the implementation and enforcement of this subchapter, consistent with its provisions, as the County Finance Officer considers necessary and appropriate. *(Revised by Ordinance No. 5-83, Effective 7.15.83)*

4.270 Appeals to County Finance Officer.

Any person aggrieved by any decision of the County Finance Officer may appeal to the County Administrator by filing a notice of appeal with the County Finance Officer within 10 days of the serving or the mailing of the notice of the decision given by the County Finance Officer. The County Finance Officer shall transmit said notice of appeal, together with the file of said appealed matter to the County Administrator who shall fix a time and place for hearing such appeal from the decision of the County Finance Officer. The County Administrator shall give the appellant not less than 10 days written notice of the time and place of hearing of said appealed matter. *(Revised by Ordinance No. 5-83, Effective 7.15.83)*

4.275 Operative Date.

The tax imposed by this subchapter shall apply to all rental fees collected on or after July 15, 1983. If a general sales tax is enacted for the State of Oregon, the Board of County Commissioners will review at that time the percentage of the tax and the continuance of the tax. *(Revised by Ordinance No. 5-83, Effective 7.15.83; 3-84, 3.23.84)*

METROPOLITAN WASTEWATER MANAGEMENT COMMISSION IN LIEU OF BOND RETIREMENT FEE

4.300 Title.

This subchapter may be referred to as the Metropolitan Wastewater Management Commission (MWMC) In Lieu Of Bond Retirement Fee. *(Revised by Ordinance No. 8-92, Effective 9.12.92)*

4.305 Definitions.

For the purposes of this Chapter, the following words and phrases shall mean:

Lane County Metropolitan Wastewater Service District (LCMWSD). The ORS Ch 451 County Service District formed on March 15, 1978 to assist in the construction, operation and maintenance of Regional Sewerage facilities for the Eugene-Springfield Metropolitan Area.

Metropolitan Wastewater Management Commission (MWMC). The intergovernmental agency formed on February 9, 1977 by Eugene, Springfield and Lane County, which by the terms of a lease agreement with the LCMWSD, executed March 15, 1978, is obligated to construct, operate and maintain the regional sewerage facilities.

Regional sewerage facilities. The sewerage facilities necessary to provide for the wastewater treatment and disposal needs of Eugene-Springfield Metropolitan Area.

Tax rate. The consolidated rate as calculated pursuant to ORS 308.221 (1991 ed.), which is applied to properties within the LCMWSD for purpose of retirement of LCMWSD bonds. *(Revised by Ordinance No. 8-92, Effective 9.12.92)*

4.310 Policy.

Owners of real property within the boundary of the LCMWSD currently pay a bond retirement tax on the \$29.5 million bonded indebtedness authorized by a vote of District on May 23, 1978. The lease agreement between the LCMWSD and the MWMC provides that when service is provided outside the District, the MWMC is to develop a charge system to insure receipt of an equitable payment in lieu of bond retirement taxes. In 1991, sewer hookups began occurring outside the District boundaries. In 1992, the MWMC requested Lane County establish an In Lieu of Bond Retirement Fee. The purpose of this fee is to impose an equitable payment in lieu of the bond retirement taxes on property outside the District which receives service from the regional sewerage facilities. *(Revised by Ordinance No. 8-92, Effective 9.12.92)*

4.315 In Lieu of Bond Retirement Fee.

There is hereby imposed annually on each taxable property outside the District boundaries which is served by the regional sewerage facilities on July 1 of each year, a fee equal to the assessed value of the property multiplied by the tax rate applied to the property within the District for retirement of the LCMWSD bonds described in LC 4.310 above. *(Revised by Ordinance No. 8-92, Effective 9.12.92)*

4.320 Collection.

The Lane County Department of Assessment and Taxation shall collect the fee pursuant to ORS 311.255 (1991 ed.). The Department is delegated authority to adopt rules as necessary to collect the fee. The authority for collection includes the power to foreclose the properties for nonpayment pursuant to ORS Ch 312 (1991 ed.). *(Revised by Ordinance No. 8-92, Effective 9.12.92)*

4.325 Use of Proceeds.

The fees collected under this ordinance by the Lane County Department of Assessment and Taxation shall be transmitted per ORS 311.390 (1991 ed.) to the LCMWSD which shall use the funds exclusively to retire the bonds described in LC 4.310 above. *(Revised by Ordinance No. 8-92, Effective 9.12.92)*

4.330 List of Property Subject to Fee.

By July 15 of each year, the MWMC shall provide to the Lane County Department of Assessment and Taxation a list of all properties outside of the LCMWSD, which are served by the regional sewerage facilities on July 1 of the year. For collections arising in the tax year 1992-1993, the list must be provided by September 18, 1992. *(Revised by Ordinance No. 8-92, Effective 9.12.92)*

4.335 Classification and Notice.

The fees collected under this ordinance are hereby classified as a fee not subject to the limits of section 11b, Article XI of the Oregon Constitution and the County Assessor is hereby directed to publish notice of this classification as required by ORS 305.583(8). *(Revised by Ordinance No. 8-92, Effective 9.12.92)*

4.340 Termination of Fee.

At such time that the bonded indebtedness referred to in LC 4.310 above is paid off, this fee shall terminate. *(Revised by Ordinance No. 8-92, Effective 9.12.92)*

DIFFERENTIAL TAXES

4.500 Definitions.

In addition to the general definitions included in LC 1.010, the following definitions apply:

Incorporated Cities. The area encompassed by the cities of Coburg, Cottage Grove, Creswell, Dunes City, Eugene, Florence, Junction City, Lowell, Oakridge, Springfield, Veneta, Westfir and any other city incorporated pursuant to ORS Chapter 221.

Special District. The area encompassed by any district, as defined in ORS 198.010-198.955, and duly organized under state law. *(Revised by Ordinance No. 9-95, Effective 11.3.95; 1-06, 1.1.07)*

4.505 Geographic Tax Classification.

The Board may, upon making the findings required by LC 4.510 below, adopt a measure or refer a measure to the electors which provides a different tax burden on one class of taxpayers than is imposed upon another class of taxpayers. Any class of taxpayers so determined by the Board shall be identified on a geographical basis, and may include distinctions, as substantiated by the findings, among incorporated cities, special districts, and areas outside the boundaries of cities or districts. *(Revised by Ordinance No. 9-95, Effective 11.3.95; 1-06, 1.1.07)*

4.510 Required Findings.

Any difference in tax burden imposed within separate geographic boundaries within Lane County, Oregon shall meet the following criteria:

(1) Differences in services to be provided in different geographic areas must be real and substantial.

(2) Geographic boundaries shall be drawn so that services provided within designated areas are qualitatively different from services provided within other geographical areas.

(3) Services provided within the different geographical areas must be unique.

(4) Any differences in tax burdens shall be based upon the actual costs of providing services and administration. *(Revised by Ordinance No. 9-95, Effective 11.3.95; 1-06, 1.1.07)*

PARKS AND RECREATION SYSTEM DEVELOPMENT CHARGE

4.600 Scope and Purposes.

(1) New residential development within unincorporated Lane County contributes to the need for capacity increases and upgrades to existing capital improvements for parks and recreation facilities and, therefore, that new development should contribute to an equitable share of the funding for such capital improvements. This Parks and Recreation System Development Charge will fund a portion of the needed capacity increases for parks and recreation facilities and will reimburse the County for a portion of the cost of excess capacity facilities available to serve new development as identified in the Lane County Parks and Recreation System Development Charges Methodology Report and Rate Study dated September 4, 2001.

(2) The funding provided by LC 4.600 through 4.670 constitutes a mandatory collection method based upon the guidelines set forth in ORS 223.297 through 223.314 to assure the construction of capacity increasing improvements to parks and recreation facilities as contemplated in the Parks and Recreation Capital Improvement Plan as adopted in the SDC Methodology Report or amended by the Lane County Board of Commissioners by Order. The Parks and Recreation System Development Charge is intended only to be a mechanism for financing needed capacity-increasing parks and recreation facilities associated with new residential development and does not represent a means to fund maintenance or operation of existing facilities.

(3) The system development charge imposed by LC 4.600 through 4.670 is separate from and in addition to any applicable tax, assessment, charge, fee in lieu of assessment, or fee otherwise provided by law or the cost of complying with requirements or conditions imposed upon a land use development. A system development charge is to be considered in the nature of a charge for service rendered or to be rendered, or a charge for facilities provided or to be provided, and contemplates a development receipt of services or use of facilities based on the nature of that development.

(4) The SDC imposed by this chapter is not tax on property or on a property owner as a direct consequence of ownership of property within the meaning of Section 11b, Article XI of the Oregon Constitution or legislation implementing that section. This chapter does not shift, transfer, or convert a government product or service, wholly or partially paid for by ad valorem property taxes, to be paid for by a fee, assessment or other charge, within the meaning of Section 11g, Article XI of the Oregon Constitution.

(5) The County hereby adopts the report entitled Lane County Parks and Recreation System Development Charges Methodology Report and Rate Study (dated September 4, 2001), and incorporates herein by this reference the assumptions, conclusions and findings in the report which refer to the determination of anticipated costs of capital improvements required to accommodate growth, the costs of excess capacity capital improvements available to serve new development, and the rates for the Parks and Recreation System Development Charge (SDC) necessary to fund these capital improvements. This report is hereinafter referred to as "SDC Methodology Report." The

Board of County Commissioners may from time to time amend or adopt a new SDC Methodology Report by Order. *(Revised by Ordinance 1-02, Effective 3.13.02)*

4.605 Definitions.

In addition to the general definitions in LC 1.010, the following definitions shall apply to LC 4.600 through 4.670 unless the context requires otherwise:

Accessory dwelling unit. A second dwelling unit created on a single lot with a single-family or a manufactured housing dwelling unit. The second unit is created auxiliary to, and is always smaller than the single family or manufactured housing unit.

Administrator. The Public Works Director, or the Director's designee, hereby appointed by the Board of County Commissioners to manage and implement the Parks and Recreation SDC program.

Alternative System Development Charge. An SDC established pursuant to LC 4.630.

Applicant. The person who applies for a building permit.

Application. The Parks SDC Information Form submitted at the time of application for a building permit.

Building Official. That person, or designee, certified by the State and designated as such to administer the State Building Codes for the County.

Building Permit. That permit issued by a city or county building official pursuant to the State of Oregon Structural Specialty Code and the State of Oregon One and Two Family Dwelling Code. In addition, building permit shall mean the Manufactured Home Installation Permit issued by the city or county building official, relating to the placement of manufactured homes.

Condition of Development Approval. Any requirement imposed on an applicant by a city or county land use or limited land use decision, site plan approval or building permit approval.

Construction Cost Index. The Engineering News Record (Seattle) Construction Cost Index.

County. Lane County, Oregon.

County Administrator. That person appointed by Board of County Commissioners to the position of County Administrator.

Credit. The amount by which an applicant may be able to reduce the SDC fee as provided in LC 4.625.

Development. A building or other land construction, or making a physical change in the use of a structure or land, in a manner which increases the usage of parks and recreation capital improvements or which may contribute to the need for additional or enlarged parks and recreation capital facilities.

Duplex. Two attached single-family dwelling units on a single lot.

Dwelling Unit. A building or a portion of a building consisting of one or more rooms which include sleeping, cooking, and plumbing facilities and are arranged and designed as permanent living quarters for one family or household.

Improvement Fee. A fee for costs associated with capital improvements to be constructed after the effective date of the Parks and Recreation System Development Charge.

Manufactured Housing. A dwelling unit constructed off-site that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

Manufactured Housing Park. Any place where four or more manufactured housing dwelling units are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. Manufactured housing park does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured housing dwelling unit per lot.

Multi-Family Housing. Three or more attached dwelling units located on a single lot.

New development. Development for which a building permit is required.

Parks and Recreation Capital Improvements Plan (CIP). The County program that identifies the major parks and recreation system and facilities capacity improvements projected to be funded in whole or in part with Parks and Recreation SDC revenues.

Permit. A building permit.

Previous use. The most intensive use conducted at a particular property within the past 18 months prior to the date of application for a building permit. Where the site was used simultaneously for several different uses (mixed use) then, for the purposes of the Parks and Recreation System Development Charge in LC 4.600 through 4.670, all of the specific use categories shall be considered. Where the previous use is composed of a primary use with one or more ancillary uses that support the primary use and are owned and operated in common, that primary use shall be deemed to be the sole use of the property for purposes of the Parks and Recreation System Development Charge in LC 4.600 through 4.670.

Proposed use. The use proposed by the Applicant for the new development. Where the Applicant proposes several different uses (mixed use) for the new development then, for purposes of the Parks and Recreation System Development Charge in LC 4.600 through 4.670, all of the specific use categories shall be considered. Where the proposed use is composed of a primary use with one or more ancillary uses that support the primary proposed use and are owned and operated in common, that primary use shall be deemed to be the sole proposed use of the property for purposes of the Parks and Recreation System Development Charge in LC 4.600 through 4.670.

Qualified Public Improvement. Any parks and recreation system capital facility or conveyance of an interest in real property that increases the capacity of the County's Parks and Recreation System and is:

- (a) Required as a condition of development approval; and
- (b) Identified in the County's Parks and Recreation CIP.

Remodel or remodeling. To alter, expand or replace an existing structure.

Single-family dwelling unit. One detached dwelling unit, or one-half of a duplex, or one row house; constructed on-site, and located on a single lot.

SDC Methodology Report. That report entitled Lane County Parks and Recreation System Development Charges Methodology Report and Rate Study, dated September 4, 2001. *(Revised by Ordinance 1-02, Effective 3.13.02)*

4.610 Rules of Construction.

For the purposes of administration and enforcement of LC 4.600 through 4.670, unless otherwise stated, the following rules of construction shall apply:

- (1) In case of any difference of meaning or implication between the text of LC 4.600 through 4.670 and any caption, illustration, summary table, or illustrative table, the text shall control.

(2) The word "shall" is always mandatory and not discretionary; the word "may" is permissive.

(3) Words used in the present tense shall include the future; words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.

(4) The phrase "used for" includes "arranged for," "designed for," "maintained for," or "occupied for."

(5) Where a regulation involves two or more connected items, conditions, provisions, or events:

(a) "And" indicates that all the connected terms, conditions, provisions or events shall apply;

(b) "Or" indicates that the connected items, conditions, or provisions or events may apply singly or in any combination.

(6) The word "includes" shall not limit a term to the specific example, but is intended to extend its meaning to all other instances or circumstances of like kind or character. *(Revised by Ordinance 1-02, Effective 3.13.02)*

4.615 Application.

The Parks and Recreation System Development Charge in LC 4.600 through 4.670 applies to all new residential development and to the change in use, alteration, expansion or replacement of a dwelling unit if such change in use, alteration, expansion or replacement results in an increase in the number of dwelling units compared to the previous use of the development in unincorporated Lane County. The amount of the Parks and Recreation SDC shall be calculated according to LC 4.615, with rates as outlined in the Lane County Parks and Recreation System Development Charges Methodology Report and Rate Study (dated September 4, 2001).

(1) Except as otherwise provided in LC 4.600 through 4.670, a Parks and Recreation SDC shall be imposed upon all new development with new dwelling units for which an application for a building permit is filed after April 14, 2002.

(2) Except as otherwise provided in LC 4.600 through 4.670, manufactured housing shall be charged the full SDC rate.

(3) Except as otherwise provided in LC 4.600 through 4.670, accessory dwelling units shall be charged at one-half the single family housing SDC rate.

(4) The applicant shall at the time of application provide the Administrator with the information requested on an SDC application form regarding the previous and proposed use(s) of the new development, including a description of each of the previous and proposed uses for the property for which the building permit is being sought, with sufficient detail to enable the County or its designee to calculate the number of dwelling units for the entire property under the previous use and for the proposed use(s) of the new development. For residential uses, the applicant shall indicate number of residential dwelling units, including type (i.e., single family, multi-family, etc.) for the previous and proposed use(s) of the new development.

(5) Except as otherwise provided in LC 4.600 through 4.670, the amount of the SDC shall be determined by calculating the difference between the SDC amount that would have been imposed for the previous use(s) of the property and the SDC amount for the proposed use(s). *(Revised by Ordinance 1-02, Effective 3.13.02)*

4.620 Partial and Full Exemptions.

The uses listed and described in LC 4.620(1) through (2) shall be exempt, either partially or fully, from payment of the Parks and Recreation SDC. Any applicant seeking an exemption under LC 4.620(1) through (2) shall specifically request that exemption no

later than the time of application for the building permit. Where new development consists of only part of one or more of the uses described in LC 4.620(1) through (2), only portion(s) of the development qualifying under LC 4.620(1) through (2) shall be exempt. The balance of the new development which does not qualify for any exemption under LC 4.620(1) through (2) shall be subject to the full SDC. Should the applicant dispute any decision by the County or its designee regarding an exemption request, the applicant must apply for an alternative exemption calculation under LC 4.630. The applicant has the burden of proving entitlement to any exemption so requested.

(1) New development which does not contain dwelling units is fully exempt.

(2) Temporary uses are fully exempt so long as the new development use or structure will be used for not more than 180 days in a single calendar year.

(3) Temporary hardship mobile home placements meeting the requirements of Lane Code Chapter 16 are fully exempt.

(4) Alteration, remodeling, expansion or replacement of an existing dwelling unit where no additional dwelling units are created is fully exempt.

(5) New development of accessory buildings and structures which will not create additional dwelling units is fully exempt. *(Revised by Ordinance 1-02, Effective 3.13.02)*

4.625 SDC Credits.

(1) The County shall grant a credit against the Parks and Recreation SDC, which is otherwise assessed for a new development, for any qualified public improvement(s) constructed or dedicated as part of that new development. The applicant bears the burden of evidence and persuasion in establishing entitlement to an SDC credit and to a particular value of an SDC credit.

(2) To obtain an SDC credit, the applicant must specifically request a credit prior to issuance of a building permit for the new development. In the request, the applicant must identify the improvement(s) for which credit is sought and explain how the improvement(s) meet the requirements for a qualified public improvement. The applicant shall also document, with credible evidence, the value of the improvement(s) for which credit is sought. If, in the Administrator's opinion, the improvement(s) is a qualified public improvement, and the Administrator concurs with the proposed value of the improvement(s), an SDC credit shall be granted. The value of the SDC credits under LC 4.625 shall be determined by the Administrator based on the cost of the qualified public improvement, or the value of land dedicated, as follows:

(a) For dedicated lands, the value shall be based upon a written appraisal of fair market value by a qualified, professional appraiser based upon comparable sales of similar property between unrelated parties in an arms-length transaction;

(b) For improvements yet to be constructed, value shall be based upon the anticipated cost of construction. Any such cost estimates shall be certified by a professional architect or engineer or based on a fixed price bid from a contractor ready and able to construct the improvement(s) for which SDC credit is sought. Immediate credits based on estimates will provide for a subsequent adjustment based on actual costs: a refund to the applicant if actual costs are higher than estimated and an additional SDC to be paid by the applicant if actual costs are lower than estimated. All completed qualified public improvements shall be inspected before honoring any credits previously negotiated. Credits shall be limited to reasonable costs and shall be awarded only in conjunction with an application for a new development.

(c) For improvements already constructed, value shall be based on the actual cost of construction as verified by receipts submitted by the applicant.

(3) The Administrator will respond to the applicant's request in writing within 21 days of when the request is submitted. The Administrator shall provide a written explanation of the decision on the SDC credit request.

(4) If the applicant disputes the Administrator's decision with regard to an SDC credit request, including the amount of the credit, the applicant may seek an alternative SDC credit calculation under LC 4.630. Any request for an alternative SDC credit calculation must be filed with the Administrator in writing within 10 calendar days of the written decision on the initial credit request.

(5) Where the amount of an SDC credit approved by the Administrator under LC 4.625 exceeds the amount of the Parks and Recreation SDC assessed by the County upon a new development, the excess credit may be applied against parks and recreation SDC's that accrue in subsequent phases of the original development project. For purposes of this paragraph, "subsequent phases of the original development project" means additional new development that is approved as part of the same regulatory development approval or other portions of the same site that are explicitly defined in the application for SDC credits as subsequent phases of the original development project. The applicant must describe all subsequent phases at the time application is made for SDC credits and must document to the satisfaction of the SDC Administrator that the subsequent phases are integrally connected with the original development. Any excess credit must be used not later than ten years from the date the credit is given. *(Revised by Ordinance 1-02, Effective 3.13.02)*

4.630 Alternative Calculation for SDC Rate, Credit, or Exemption.

(1) Pursuant to LC 4.630, an applicant may request an alternative SDC rate calculation, alternative SDC credit determination, or alternative SDC exemption, but only under the following circumstances:

(a) The applicant believes that the number of persons per dwelling unit resulting from the new development is, or will be, less than the number of persons per dwelling unit established in the SDC Methodology Report, and for that reason, the applicant's SDC should be lower than that calculated by the County.

(b) The applicant believes that the assumptions used to develop the SDC rates in the SDC Methodology Report or subsequent adjustments are not appropriate for the new development, and for that reason, the applicant's SDC should be lower than that calculated by the County.

(c) The applicant believes the County improperly excluded from consideration a qualified public improvement that would qualify for credit under LC 4.625, or the County accepted for credit a qualified public improvement, but undervalued that improvement and therefore undervalued the credit.

(d) The applicant believes the County improperly rejected a request for an exemption under LC 4.620 for which the applicant believes it is eligible.

(2) Alternative SDC Rate Request.

(a) If an applicant believes that the assumptions for the class of structures that includes the new development are not appropriate for the new development, the applicant must request an alternative SDC rate calculation no later than the time of issuance of a building permit for the new development.

(b) In support of the alternative SDC rate request, the applicant must provide complete and detailed documentation, including verifiable dwelling occupancy or other appropriate data, analyzed and certified by a suitable and competent professional. The applicant's supporting documentation must rely upon generally accepted sampling methods, sources of information, cost analysis, demographics, growth projections, and techniques of analysis as a means of supporting the proposed alternative SDC rate. The

proposed alternative SDC rate calculation shall include an explanation with particularity why the rate established in the SDC Methodology Report or subsequent adjustments does not accurately reflect the new development's impact on the County's capital improvements.

(c) The Administrator shall apply the alternative SDC rate if, in the Administrator's opinion, the following are found:

(i) The evidence and assumptions underlying the alternative SDC rate are reasonable, correct and credible and were gathered and analyzed in compliance with generally accepted principles and methodologies consistent with LC 4.630(2), and

(ii) The calculation of the proposed alternative SDC rate was accomplished by a generally accepted methodology, and

(iii) the proposed alternative SDC rate better or more realistically reflects the actual impact of the new development than the rate set forth in the SDC Methodology Report or subsequent adjustments.

(d) If, in the Administrator's opinion, all of the above criteria are not met, the Administrator shall provide to the applicant (by certified mail, return receipt requested) a written decision explaining the basis for rejecting the proposed alternative Parks and Recreation SDC rate.

(3) Alternative SDC credit request.

(a) If an applicant has requested an SDC credit pursuant to LC 4.625 and that request has been denied by the County, the applicant may request an alternative SDC credit calculation no later than the time of issuance of a building permit for the new development.

(b) In support of the alternative SDC credit request, the applicant must provide complete and detailed documentation, including appraisals, cost analysis or other estimates of value, analyzed and certified to by an appropriate professional, for the improvements for which the applicant is seeking credit. The applicant's supporting documentation must rely upon generally accepted sources of information, cost analysis, and techniques of analysis as a means of supporting the proposed alternative SDC credit.

(c) The Administrator shall apply the alternative SDC credit if, in the Administrator's opinion, the following are found:

(i) the improvement(s) for which the SDC credit is sought are qualified public improvement(s), and

(ii) the evidence and assumptions underlying the applicant's alternative SDC credit request are reasonable, correct, and credible and were gathered and analyzed by an appropriate competent professional in compliance with generally accepted principles and methodologies, and

(iii) the proposed alternative SDC credit is based on realistic, credible valuation or benefit analysis.

(d) If, in the Administrator's opinion, any one or more of the above criteria is not met, the Administrator shall deny the request and provide to the applicant (by certified mail, return receipt requested) a written decision explaining the basis for rejecting the proposed alternative Parks and Recreation SDC credit proposal.

(4) Alternative SDC Exemption Request.

(a) If an applicant has requested a full or partial exemption under LC 4.620 and that request has been denied, the applicant may request an alternative SDC exemption no later than the time of issuance of a building permit for the new development.

(b) In support of the alternative SDC exemption request, the applicant must provide complete and detailed documentation demonstrating that the applicant is entitled to one of the exemptions described in LC 4.620.

(c) The Administrator shall grant the exemption if, in the Administrator's opinion, the applicant has demonstrated with credible, relevant evidence that it meets the pertinent criteria in LC 4.620.

(d) Within 21 days of the applicant's submission of the request, the Administrator shall provide a written decision explaining the basis for rejecting or accepting the request. *(Revised by Ordinance 1-02, Effective 3.13.02)*

4.635 Application.

The Parks and Recreation SDC required to be paid by LC 4.600 through 4.670 is due upon issuance of the building permit for new development. *(Revised by Ordinance 1-02, Effective 3.13.02)*

4.640 Refunds.

Refunds may be given by the Administrator upon finding that there was a clerical error in the calculation of the SDC. Refunds shall not be allowed for failure to timely claim credit or for failure to timely seek an alternative SDC rate or exemption. The County shall refund to the applicant any SDC revenues not expended within ten (10) years of receipt. *(Revised by Ordinance 1-02, Effective 3.13.02)*

4.645 Dedicated Accounts and Appropriate Use of Accounts.

(1) There is created a separate, dedicated account entitled the Parks and Recreation Improvement Fee SDC Account. All monies derived from the Parks and Recreation Improvement Fee SDC shall be placed in the Parks and Recreation Improvement Fee SDC Account and shall be used solely for the purpose of providing capacity-increasing capital improvements as identified in the adopted Parks and Recreation CIP as it currently exists or as hereinafter amended, and eligible administrative costs. In this regard, these SDC revenues may be used for purposes which may include:

- (a) design and construction plan preparation as well as long-range parks planning;
- (b) permitting;
- (c) land and materials acquisition, including any costs of acquisition or condemnation;
- (d) construction of parks and recreation capital improvements;
- (e) design and construction of new drainage facilities required by the construction of parks and recreation capital improvements and structures;
- (f) relocating utilities required by the construction of improvements;
- (g) landscaping;
- (h) construction management and inspection;
- (i) surveying, soils and material testing;
- (j) acquisition of capital equipment that is an intrinsic part of a facility;
- (k) demolition that is part of the construction of any of the improvements on this list;
- (l) payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the County to provide money to construct or acquire parks and recreation facilities;
- (m) direct costs of complying with the provisions of ORS 223.297 through 223.314, including the consulting, legal, and administrative costs required for developing and updating the system development charge methodologies and capital improvement program; and the costs of collecting and accounting for system development charge expenditures.

- (2) Money on deposit in the Parks and Recreation SDC accounts shall not be used for:
- (a) any expenditure that would be classified as a maintenance or repair expense; or
 - (b) costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements; or
 - (c) costs associated with acquisition or maintenance of rolling stock.
- (3) The County may prioritize SDC-funded projects and may spend SDC revenue for eligible projects anywhere in Lane County. *(Revised by Ordinance 1-02, Effective 3.13.02)*

4.650 Challenges and Appeals.

(1) Any person may challenge the expenditure of SDC revenues by filing a challenge to the expenditure with the Administrator within two years after the date of the disputed SDC revenue expenditure. The fee for filing such a challenge shall be \$100.

(2) Except where a different time for an Administrator's decision is provided in LC 4.600 through 4.670, all Administrator decisions shall be in writing and shall be delivered to the applicant within 21 days of an application or other applicant request for an Administrator determination. Delivery shall be deemed complete upon the earlier of actual delivery to the applicant or upon deposit by the Administrator by certified mail, addressed to the address for notice applicant has designated in the application. Any person may appeal to the Board of County Commissioners any decision of the Administrator made pursuant to LC 4.600 through 4.670 by filing a written request with the Administrator within fourteen (14) days after the delivery of the Administrator's written decision to the applicant. The fee for appealing a decision to the Board of County Commissioners shall be \$250. The appeal to be filed with the Board of County Commissioners should contain the following information:

- (a) The name and address of the applicant;
- (b) The legal description of the property in question;
- (c) If issued, the date the building permit was issued;
- (d) A brief description of the nature of the development being undertaken pursuant to the building permit;
- (e) If paid, the date the system development charges were paid; and
- (f) A statement of the reasons why the applicant is appealing a decision.

(3) Upon receipt of such request, the County shall schedule a hearing before the Board of County Commissioners at a regularly scheduled meeting or a special meeting called for the purpose of conducting the hearing and shall provide the applicant written notice of the time and place of the hearing. Such hearing shall be held within sixty (60) days of the date the appeal was filed.

(4) The Board of County Commissioners shall conduct a hearing in a manner designed to obtain all information and evidence relevant to the requested hearing. Formal rules of civil procedure and evidence shall not be applicable; however, the hearing shall be conducted in a fair and impartial manner with each party having an opportunity to be heard and to present information and evidence.

(5) Any applicant who appeals a decision pursuant to LC 4.650 and desires the immediate issuance of a building permit shall pay prior to or at the time the request for hearing is filed the applicable system development charges pursuant to LC 4.615. Said payment shall be deemed paid under protest and shall not be construed as a waiver of any review rights.

(6) An applicant may appeal a decision under LC 4.650 without paying the applicable system development charges, but no building permit shall be issued until such

system development charges are paid in the amount initially calculated or the amount approved upon completion of the review provided in LC 4.650.

(7) The Board of County Commissioners shall decide an appeal within ninety (90) days of the date of the appeal to the Board of County Commissioners. *(Revised by Ordinance 1-02, Effective 3.13.02)*

4.655 County Review SDC.

(1) No later than every five (5) years, the County shall undertake a review to determine that sufficient money will be available to fund growth-required Parks and Recreation needs, and to determine whether the adopted SDC rates keep pace with costs.

(2) In the event that during the review referred to in LC 4.655(1), it is determined that an adjustment to the SDC is necessary for sufficient funding of the Parks and Recreation improvements addressed in the SDC Methodology Report or subsequent adjustments, the Board of County Commissioners may propose and adopt appropriately adjusted SDC rates by order.

(3) The Board of County Commissioners may from time to time amend or adopt a new SDC methodology by order. *(Revised by Ordinance 1-02, Effective 3.13.02)*

4.660 Time Limit on Expenditure of SDC's.

The County shall expend SDC revenues within ten (10) years of receipt. *(Revised by Ordinance 1-02, Effective 3.13.02)*

4.665 Implementing Regulations; Amendments.

The County Administrator may adopt regulations as necessary to implement the provisions of LC 4.600 through 4.670. *(Revised by Ordinance 1-02, Effective 3.13.02)*

4.670 Adoption and Amendment of the Parks and Recreation Capital Improvement Plan (CIP).

The County shall adopt, by order, a Parks and Recreation Capital Improvement Plan (CIP) which lists the projects to be funded with SDC revenues, their estimated cost and timing. The County may, by order, amend the list to add or remove projects at any time. The Administrator may, at any time, change the timing and sequence for completion of projects included in the Parks and Recreation CIP list. *(Revised by Ordinance 1-02, Effective 3.13.02)*

PENALTY

4.995 Penalties - Lane County Transient Room Tax.

(1) It is unlawful for any operator or other person so required by LC 4.100 to 4.195 to fail or refuse to register as required herein, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the Tax Administrator or to render a false or fraudulent return. No person required to make, render, sign, or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this subchapter.

(2) Any person willfully violating any of the provisions of LC 4.110, 4.115, 4.120 4.130, 4.135, 4.145, 4.155, 4.170 and 4.175 shall be guilty of a misdemeanor and shall be punishable therefore by a fine of not more than \$500 or by imprisonment in the County Jail for a period of not more than six months or by both such fine and imprisonment. *(Revised by Ordinance No. 8-73, Effective 9.14.73; 19-77, 7.1.78; 5-83, 7.15.83)*

4.997 Penalties - Lane County Car Rental Tax.

(1) It is unlawful for any operator or other person so required by LC 4.200-4.275 to fail or refuse to register as required herein, or to furnish any return required to be made or fail or refuse to furnish a supplemental return or other data required by the County Finance Officer or to render a false or fraudulent return. No person required to make, render, sign or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this subchapter.

(2) Any person who willfully violates any provision of LC 4.200-4.275 or 4.997 shall, upon conviction, be subject to a fine of not more than \$500, imprisonment in the County Jail for not more than six months, or both. *(Revised by Ordinance No. 8-73, Effective 9.14.73; 5-83, 7.15.83)*