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*Statutory reference:*

*Disease control, see ORS, Ch. 433*

*Food services, see ORS, Ch. 624*

*Health care facilities, see ORS, Ch. 441*

*Medical assistance, see ORS, Ch. 414*

*Public health, see ORS, Ch. 431*

*County Governing Bodies; County Home Rule,  
see ORS, Ch. 203*

*Administrative Procedures Act, see ORS, Ch.  
183*

*Writs, see ORS, Ch. 34*

**GENERAL PROVISIONS****§ 21.001 DEPARTMENT ESTABLISHED;  
FUNCTIONS.**

The department of health is established. The head of the department is the Director of the Health Department (director). The director must appoint and the Board will approve a community mental health program director who will perform the duties prescribed by state law. The department shall perform the following functions:

(A) Provide the services and perform the duties imposed by state law on the local health officials;

(B) Provide community health care;

(C) Provide environmental health services, including vector control; and

(D) Provide health-related services prescribed by state law.

(Ord. 1220, Amended, 06/16/15; ‘ 90 Code, § 2.30.105, 07/01/1998; Ord. 708, passed, 12/12/1992)

**§ 21.002 FEES.**

Except where otherwise provided by law, fee schedules for services provided by the department of health and for recovery of the expenses of the department in performing its responsibilities shall be established by the director of the department. The fees of the department for services provided to the public shall be based generally on the cost of providing the services, and shall be established with the objective of effecting maximum possible availability and delivery of services to those in need of them. The fee schedules shall, where appropriate, be based upon ability to pay. The director shall revise schedules as appropriate and shall provide copies of the revised schedules to the Chair.

(‘ 90 Code, § 5.10.360, 07/01/1998; Ord. 105, passed, 07/10/1975)

**STATE LAW DELEGATION****§ 21.100- POLICY AND PURPOSE;  
DELEGATION OF  
ENFORCEMENT TO COUNTY.**

Pursuant to the Board Order of October 9, 1975, the county has requested the administrator of the state Health Division to delegate responsibility to the county for certain licensing and other functions which ORS 624.510, authorizes the administrator to delegate to the state's counties. Under state laws, any person aggrieved by a denial, suspension or revocation of a license or certificate in connection with the delegated functions, or otherwise coming within the statutory conditions for the existence of a contested case with respect to the delegated functions, is entitled to a hearing and other administrative procedures which meet the requirement of ORS Chapter 183. The purpose of this subchapter is to establish administrative rules for hearings and other procedures in the county in connection with the functions delegated to the county under ORS 624.510.

(Ord. 966, Amended, 09/13/2001; ‘ 90 Code, § 8.35.100, 07/01/1998; Ord. 118, passed, 12/23/1975)

**SWIMMING POOLS****§ 21.150- SWIMMING POOL LICENSE FEE.**

For the services of the department in connection with the inspection of public swimming pools, public spa pools, and bathhouses as those terms are defined in ORS 448.005, the department will collect a license fee from each applicant as set by Board resolution based on the number of swimming or spa pools located at the same address, and operated by the same licensee. A license will not be issued until all penalties and fees are brought current. A license expires annually on December 31. The annual license fee must be paid in advance or postmarked to the department on or before midnight December 31 of the preceding license year.

(Ord. 1023, Amended, 12/18/2003, eff. 1/1/2004; Ord. 989, Amended, 08/29/2002; ‘ 90 Code, § 5.10.340, 07/01/1998; Ord. 892, passed, 11/25/1997; Ord. 656, passed, 07/12/1990; Ord. 587, passed, 07/28/1988; Ord. 514, passed, 06/05/1986; Ord. 353, passed, 12/06/1982; Ord. 259, passed, 12/04/1980; Ord. 176, passed, 11/30/1978; Ord. 157, passed, 12/29/1977)

**§ 21.151 SWIMMING POOL AND SPA PLAN REVIEW FEES.**

For the services of the department in connection with the review of plans for the construction of public swimming pools, public spa pools and bathhouses as those terms are defined in ORS 448.005, the department shall collect a fee in an amount set by Board resolution.

(‘ 90 Code, § 5.10.341, 07/01/1998; Ord. 892, passed, 11/25/1997; Ord. 828, passed, 08/31/1995; Ord. 803, passed, 10/27/1994; Ord. 726, passed, 07/02/1992; Ord. 697, passed, 09/26/1991; Ord. 656, passed, 07/12/1990; Ord. 568, passed, 12/10/1987)

**§ 21.152 REINSPECTION AND LATE FEES.**

(A) For the services of the department in providing increased frequency inspections, the department will collect a fee for each additional inspection in an amount set by Board resolution.

(B) The Board by resolution will set a reinstatement or late fee for failure to pay license, additional inspection or plan review fees when due.

(C) If the department determines that the delinquency was due to reasonable cause and without any intent to avoid compliance, the reinstatement or late fee provided by subsection (B) will be waived.

(Ord. 989, Amended, 08/29/2002; Ord. 949, Add, 01/11/2001)

**MENTAL HEALTH ADVISORY COMMITTEE**

**§ 21.200- TITLE.**

This subchapter shall be known as the Mental Health Advisory Committee Law.

**§21.201 MENTAL HEALTH ADVISORY COMMITTEE.**

(A) As required by state law, there is a Mental Health Advisory Committee.

(B) The committee performs the following:

(1) Advises the local mental health authority and the community mental health and developmental disability program director on community needs and priorities for services and assists in planning, review and evaluation of services, and

(2) Participates with other agencies, groups and interested persons in the promotion of community awareness of mental health and developmental disability needs and services.

**§ 21.202 MEMBERSHIP.**

(A) *Members.* The mental health advisory committee (committee) is comprised of the membership of four county advisory councils:

- (1) mental and emotional disabilities;
- (2) chemical dependency;
- (3) developmental disabilities; and
- (4) child and adolescent mental health.

(B) *Residency required.* All members of the above advisory councils must reside or work in the county.

(C) *Terms.* Terms of members are determined in accordance with the bylaws of each program area advisory council.

(D) *Compensation.* Members receive no compensation for serving on the committee or council.

(E) *Resignation.* The procedure for resignations will be determined in accordance with the bylaws of each program advisory council.

(F) *Vacancies.* Nominations to fill vacancies on the advisory councils will be submitted from the four program area councils in accordance with their bylaws for appointment by the Chair with approval of the Board.

**§ 21.203 MEETINGS.**

(A) *Regular Meetings.* Regular meetings of each of the four program area advisory councils comprising the mental health advisory committee must be held at least quarterly.

(B) *Special meetings.* At the request of the mental health authority, or any of the four program area advisory council chairs, an ad hoc meeting of the chairs may be convened to consider cross-

program issues or to serve as the single contact point to fulfill state requirements.

(C) *Communications.* All four chairs will receive all minutes and communications from the other advisory councils comprising the mental health advisory committee. The department will notify subsequent chairs who take office of their council's identification as part of the mental health advisory committee and their ad hoc responsibilities with the other advisory council chairs.

(D) *Quorum.* Requirements for a quorum will be determined in accordance with the bylaws.

(E) *Conduct of meetings.* The current edition of Roberts Rules of Order governs all meetings of the committee and its standing or special committees, to the extent they are consistent with council bylaws.

(F) *Notice.* The committee will comply with the requirements of the state public meetings law.

#### § 21.204 OFFICERS.

The officers of the four program area advisory groups shall be selected in accordance with each council's bylaws.

#### § 21.205 CONFLICTS OF INTEREST.

Any member of the committee who has special interest in any matter before the committee shall so inform the committee and refrain from voting on the matter. However, the interested member may participate in any discussion by the committee of such matter.

(Ord. 1220, Added, 06/16/2015)

### COMMUNITY HEALTH COUNCIL

#### § 21.300- COUNCIL ESTABLISHED.

There is created the County Community Health Council.

('90 Code, § 8.60.100, 07/01/1998; Ord. 230, passed, 06/12/1980)

#### § 21.301 COUNCIL BYLAWS.

The powers, duties, membership, terms of office of members, provisions as to meetings and conduct of business of and by the council shall be in accordance with its adopted bylaws.

('90 Code, § 8.60.200, 07/01/1998; Ord. 230, passed, 06/12/1980)

### EMERGENCY MEDICAL SERVICES

#### § 21.400- TITLE.

This subchapter may be cited as the Emergency Medical Services and Ambulance Law.

('90 Code, § 6.33.005, 07/01/1998; Ord. 816, passed, 04/06/1995)

#### § 21.401 PURPOSE.

(A) The Board has determined that it is necessary to regulate providers of emergency medical services and ambulance services to assure that the citizens of the county receive prompt, effective, efficient, coordinated, and consistently high levels of prehospital care before and during transport to a medical facility.

(B) Ordinance 1238, passed December 8, 2016, adopts the ambulance service plan for the county. This subchapter provides for the implementation of that plan.

(Ord. 1238, Amended, 12/08/2016; '90 Code, § 6.33.010, 07/01/1998; Ord. 816, passed, 04/06/1995)

#### § 21.402 DEFINITIONS.

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

**ADMINISTRATOR.** The administrator of the office of emergency medical services of the health department of the county.

**APPLICANT.** A provider whose rates are regulated pursuant to this subchapter and who requests or applies for a rate adjustment.

**ADVANCED LIFE SUPPORT (ALS).** Those medical services that may be provided within the scope of practice of a person licensed as a Paramedic as defined in ORS Chapter 682 and Oregon Administrative Rule.

**AMBULANCE.** Any privately or publicly owned motor vehicle, aircraft, or water craft that is regularly provided or offered to be provided for the timely or emergency transportation of persons suffering from illness, injury, or disability, as defined by Oregon Administrative Rule. All vehicles capable of providing transportation to the sick or injured and staffed with personnel trained to care for such individuals and equipped with supplies and equipment necessary for the care of the sick or injured shall be considered an ambulance.

**AMBULANCE SERVICE AREA (ASA).** A geographic area that is served by one ambulance service provider and may include all or a portion of county, or all or portions of two or more contiguous counties.

**AMBULANCE SERVICE PLAN.** A written document that outlines a process for establishing a county emergency medical services system. A plan addresses the need for and coordination of ambulance services by establishing ambulance service areas for the entire county and by meeting the other requirements of the Oregon Administrative Rules (OAR).

**AMBULANCE SERVICES.** The transportation of an ill, injured, or disabled individual in an ambulance and, in connection therewith, the administration of prehospital medical or emergency care, if necessary.

**APPEALS HEARINGS OFFICER or HEARINGS OFFICER.** The person or persons designated to conduct contested case hearings concerning actions in licensing and rate regulation under this subchapter.

**BASIC LIFE SUPPORT (BLS).** Those medical services that may be provided within the scope of practice of a person certified as an EMT-Basic as defined in Oregon Administrative Rule.

**BUREAU OF EMERGENCY COMMUNICATIONS (BOEC).** The Bureau within the City of Portland that maintains the Primary Safety Answering Point (PSAP) 911 telephone answering system and the dispatch service for police, fire and EMS for the county.

**CONTRACT COMPLIANCE AND RATE REGULATION COMMITTEE (CRC).** The Committee appointed by the Board to review contract compliance and to review and recommend rate adjustments.

**CRITICAL CARE TRANSPORT (CCT).** An ambulance providing transport between medical care facilities and providing care at the level of a hospital critical care unit.

**DIVISION or STATE.** The Emergency Medical Services and Trauma Systems Program, Public Health Division, Oregon Health Authority.

**DO BUSINESS IN THE COUNTY.** To provide emergency ambulance service, non-emergency ambulance service, or other emergency medical service in the county, provided however, that transporting patients from outside the county to a destination within the county only shall not be considered doing business within the county.

**EFFECTIVE PROVISION OF AMBULANCE SERVICES.** Ambulance services provided in compliance with the county ambulance service plan provisions for boundaries, coordination, and system elements.

**EFFICIENT PROVISION OF AMBULANCE SERVICES.** Effective ambulance services provided in compliance with the county ambulance service plan provisions for provider selection.

**EIGHT HUNDRED MHZ (800 MHZ).** A radio system used for emergency communications throughout the county.

**EMERGENCY.** A non-hospital occurrence or situation involving illness, injury, or disability requiring immediate medical services, wherein delay of such services is likely to aggravate the condition and endanger personal health or safety.

**EMERGENCY MEDICAL DISPATCHER (EMD).** A person who is certified as an EMD by the Board on public safety standards and training as defined in ORS 401.735.

**EMERGENCY MEDICAL SERVICES (EMS).** Those prehospital functions and services whose purpose is to prepare for and respond to medical and traumatic emergencies, including rescue and ambulance services, patient care, communications, evaluation, and public education.

**EMERGENCY MEDICAL SERVICES (EMS) AGENCY or AGENCY.** Means any person, partnership, corporation, governmental agency or unit, sole proprietorship or other entity that utilizes emergency medical services providers to provide prehospital emergency or non-emergency care. An emergency medical services agency may be either an ambulance service or a non-transporting service.

**EMERGENCY MEDICAL SERVICES MEDICAL DIRECTOR (EMSMD)** A physician employed by the county to provide medical direction to the EMS system and medical supervision to EMTs providing emergency medical services within the county.

**EMERGENCY MEDICAL SERVICES PROVIDER (EMS PROVIDER).** Means a person who has received formal training in pre-hospital and emergency care and is state-licensed to attend to any ill, injured or disabled person. Police officers, firefighters, funeral home employees and other personnel serving in a dual capacity, one of which meets the definition of “Emergency Medical Services Provider” are “Emergency Medical Services Providers” within the meaning of ORS Chapter 682 and Oregon Administrative Rule. This definition does not include people with training operating without an ambulance or outside of the 911 medical call setting.

**EMERGENCY MEDICAL SYSTEM ADVISORY COUNCIL (EMSAC).** An advisory council to the EMSMD and EMS Program.

**EMERGENCY MEDICAL TECHNICIAN (EMT).** A person licensed at one of the levels defined in Oregon Administrative Rule.

**EMERGENCY RESPONSE.** Means an immediate response to a 911 medical call. An immediate response is one in which the ambulance provider begins as quickly as possible to take the steps necessary to respond to the call. It may include both responses with lights and siren and those without lights and siren.

**EMPLOYEE.** An employee, agent, or EMT employed by a licensee.

**FIRST RESPONDER.** Means an organization that provides rapid response to emergency medical calls utilizing licensed EMS Provider personnel. First responders aim to arrive and provide care prior to arrival of an ambulance.

**HEAR.** An identified radio frequency used for ambulance to hospital and hospital to hospital radio communications.

**“HOSCAP.”** The on-line computer system provided and managed by the State. The purpose of HOSCAP is to create a link among all the receiving hospitals within the county that provides information on the status of those hospitals for receiving ambulance transports. HOSCAP was previously referred to as CHORAL.

**INTERVENOR.** A person whom the Contract Review Committee (CRC) or the Hearings Officer has allowed to participate in a proceeding subject to the rights provided by the rate adjustment rules in this subchapter.

**LICENSE.** A non-transferable, non-assignable permit, personal to the person or corporation to whom it is issued, issued by the Administrator, authorizing the person or corporation to do business in the county.

**LICENSEE.** A person or corporation possessing a valid license under this subchapter.

**MASS CASUALTY INCIDENT (MCI).** An emergency medical incident with enough injured or ill persons to meet the requirements for scene and medical management as defined in the EMS Administrative Rules, MCI Plan.



**MEDICAL RESOURCE HOSPITAL (MRH)** That hospital, contracted to MCEMS, to provide on-line medical control to EMTs.

**MULTNOMAH COUNTY EMS (MCEMS).** That organizational division within the department responsible for the administration and coordination of the EMS system in the county.

**NON-EMERGENCY AMBULANCE.** An ambulance, licensed by the county under this subchapter, that provides routine medical transportation to patients who do not require an emergency response.

**OFFICER.** A Hearings Officer to whom the county has delegated authority to conduct hearings pursuant to the rate adjustment rules in this subchapter.

**ON-LINE MEDICAL CONTROL.** Medical direction and advice given to an EMS Provider, by a physician, through radio or telephone as a supplement to the written patient care protocols.

**OPERATING EXPENSES** or **ALLOWABLE COSTS.** Those costs attributed to the provision of emergency medical services provided under the exclusive provider agreements required by this subchapter.

**PARTY.** A provider whose rates are regulated pursuant to this subchapter and any person admitted as an intervenor pursuant to the rate adjustment rules of this subchapter.

**PROVIDER.** Any public, private, or volunteer entity providing emergency medical services (EMS) or ambulance services, as defined in Oregon Administrative Rule.

**PROVIDER SELECTION PROCESS.** The process established by the county for selection of an exclusive emergency ambulance service provider.

**PUBLIC SAFETY ANSWERING POINT (PSAP) or 911.** The organization that answers calls for police, fire, and emergency medical assistance that are received from persons dialing 911.

**URBAN GROWTH BOUNDARY (UGB).** The planning boundary developed by METRO that de-

lineates the areas considered “urban” and “rural” for purposes of this subchapter. If METRO alters the UGB, those changes shall take effect for this Chapter’s purposes the following year beginning on January 1.

**USER FEES, EMSMD FEES, or FRANCHISE FEES.** The fees established under this code, payable by the provider to the county, for system administration, regulation, and medical supervision. (Ord. 1238, Amended, 12/8/2016; ‘90 Code, § 6.33.020, 07/01/1998; Ord. 816, passed, 04/06/1995)

#### § 21.403 LICENSE REQUIRED.

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

Penalty, see § 21.999

(‘90 Code, § 6.33.030, 07/01/1998; Ord. 816, passed, 04/06/1995)

#### § 21.404 EXEMPTIONS.

This subchapter shall not apply any provider exempted by Oregon Revised Statute 682.035.

(Ord. 1238, Amended, 12/08/2016; ‘90 Code, § 6.33.035, 07/01/1998; Ord. 816, passed, 04/06/1995)

#### § 21.405 LICENSE TYPES.

(A) There shall be four types of ambulance licenses available in the county:

- (1) Advanced Life Support (ALS);
- (2) Basic Life Support (BLS);
- (3) Air Ambulance; and
- (4) Critical Care Transport (CCT).

(B) Marine ambulances shall be considered as either (A)(1) or (A)(2) above.

(C) MCEMS shall promulgate rules for each type of ambulance that specify staffing, equipment, supplies, use, and other pertinent requirements for doing business in the county.

(D) The authorization to respond to emergency medical calls is not a condition of license and such

authorization must be separately obtained under § 21.425.

(E) Medical standby or special events with Licensed EMS providers, with or without an ambulance must be performed through a County Licensed Agency. The County shall ensure coordination of standby services with the established emergency response system, and ensure appropriate transportation of patients.

Penalty, see § 21.999

(Ord. 1238, Amended, 12/08/2016; ‘ 90 Code, § 6.33.040, 07/01/1998; Ord. 816, passed, 04/06/1995)

### § 21.406 AMBULANCE STAFFING.

(A) ALS ambulances responding to emergency calls shall be staffed with two Paramedics.

(B) ALS ambulances transferring patients from hospitals to other facilities may be staffed at the minimum with one Paramedic and one EMT-Basic.

(C) CCT ambulances transferring patients from hospitals to other hospitals must be staffed with a minimum of a Licensed EMS staff member (EMT-Basic, EMT-Intermediate, Advanced EMT, or Paramedic), and at least one additional staff member that is a Nurse, Physician’s Assistant, Medical Doctor, or Doctor of Osteopathy that must meet any and all requirements set by the State of Oregon EMS and Trauma to work on an ambulance. The staffing configuration requires approval by the EMSMD.

(D) All other ambulances will be staffed with EMT-Basic or EMT-Intermediates whose orders and level of service will be specified by the EMSMD and which will allow for the medically appropriate transportation of patients.

(E) Notwithstanding subsections (A) – (D), the EMS Medical Director (EMSMD) may temporarily alter staffing as necessary to meet public health needs during extraordinary circumstances which overwhelm the emergency transport system or cause a shortage of ambulances, including, but not limited to: mass casualty incidents, natural or man caused disasters, inclement weather, mass illness, epidemics.

(1) Certain of these events may require immediate action. Therefore, the EMSMD may issue standing orders for such events and shall make administrative rules for the implementation of those orders.

(2) The duration of any staffing alteration made under this subsection shall be limited to the period that coincides with that of the extraordinary event that was deemed to have been cause for the necessity of invoking the authority given under this subsection.

(3) Should the extraordinary circumstances persist for longer than 15 days, the EMSMD shall notify the Board of Commissioners that an alteration of ambulance staffing has been implemented, the reasons for the necessity to continue the staffing alteration beyond 15 days and the estimated date that normal staffing as required in subsections (A) - (D) will resume. The EMSMD shall make a new notification to the Board every 15 days thereafter until normal staffing has resumed.

(4) The authority given herein to the EMSMD notwithstanding, the Board may order the EMSMD to rescind a particular alteration of staffing at any time that the Board deems reasonable.

(5) In the event of a sanctioned strike against or a lock-out by the ASA contract provider, the provider shall not be allowed to staff ambulances differently than as required in subsections (A) – (D) above.

(F) The staffing standards in subsections (A-D) of this section may be modified in accordance with the process in the Ambulance Service Plan. The process describes authority for changing standards, public involvement, and Board approval.

Penalty, see § 21.999

(Ord. 1238, Amended, 12/08/2016; Ord. 1147, Amended, 10/22/2009; ‘ 90 Code, § 6.33.043, 07/01/1998; Ord. 816, passed, 04/06/1995)

### § 21.407 LICENSE REQUIREMENTS.

To obtain a license and remain a licensee, each applicant must:

(A) Meet all federal, state, and county requirements for the operation of an ambulance;

(B) Comply with the application and license renewal requirements under this subchapter;

(C) Maintain vehicles and equipment in accordance with standards, requirements and provisions of state statutes and rules and in accordance with the provisions of this subchapter;

(D) Maintain, and make available as requested by MCEMS, a patient care record for each ambulance call, dispatch records, both written and recorded, for all calls and requests for service, and other information pursuant to this subchapter;

(E) Prohibit from practice, any EMS Provider or EMS Provider trainee who suffers suspension, revocation, or termination of certificate by the State Health Division, or who is not currently approved for practice by the EMSMD;

(F) Identify and mark ambulances in accordance with this subchapter;

(G) Meet all other applicable requirements under this subchapter; and

(H) Pay to county all fees required under this subchapter.

Penalty, see § 21.999

(Ord. 1238, Amended, 12/08/2016; ‘90 Code, § 6.33.045, 07/01/1998; Ord. 816, passed, 04/06/1995)

**§ 21.408 APPLICATION FOR LICENSE.**

(A) Application for a license issued under this subchapter shall be made on forms provided by MCEMS and containing information found necessary to achieve the purposes of this subchapter. This will include a schedule of rates to be charged by the licensee.

(B) A license fee in an amount set by Board resolution for each ambulance operated by the applicant shall accompany the license application. No application will be considered without the accompanying fee.

(C) No additional fee shall be charged for an ambulance that is replacing a currently licensed ambulance during the license period.

(D) The fee shall cover the annual license period and shall not be prorated for less than the period.

(E) Fees under this section shall not apply to governmental providers of EMS (unless under contract to the county), rural fire protection districts, or volunteer ambulance companies.

(‘90 Code, § 6.33.050, 07/01/1998; Ord. 816, passed, 04/06/1995)

**§ 21.409 INSPECTION.**

(A) Within 30 days of the receipt of an application for a new license, MCEMS shall inspect and test each ambulance for which a license is requested.

(B) Subsequent inspections of licensed ambulances may be made from time to time to determine continued compliance with this subchapter.

(‘90 Code, § 6.33.055, 07/01/1998; Ord. 816, passed, 04/06/1995)

**§ 21.410 ISSUANCE OF LICENSE.**

The administrator shall issue a license upon finding the following:

(A) An accurate and complete application has been submitted and all fees, if required, have been paid;

(B) Insurance policies as required by state and county are in force;

(C) Ambulances, equipment and personnel meet all requirements of state law and this subchapter;

(D) Personnel staffing the ambulance are approved for practice by the EMSMD;

(E) All county rules and regulations governing the operation of an ambulance service and other applicable rules and regulations have been met; and

(F) A schedule of charges for service have been filed with MCEMS.

(1) A schedule of charges must include an itemized list of maximum allowable charges that the Licensee will be charging for all types of services offered within the County under the License.

(2) The schedule may include but is not limited to the following charges: BLS, ALS, CCT, mileage, refusal/no transport fee, standby/special event services.

(Ord. 1238, Amended, 12/08/2016; ' 90 Code, § 6.33.060, 07/01/1998; Ord. 816, passed, 04/06/1995)

#### **§ 21.411 DENIAL OF APPLICATION; LICENSE REVOCATION.**

(A) In the event that an applicant's request for a license is denied, or revoked or suspended, the administrator shall provide the applicant or licensee with a written notice of the action, clearly stating the facts and conclusions and ordinance or rule provision upon which the action is based. This applicant must be advised of the right to appeal and the time within which such appeal must be filed. The applicant may then appeal under § 21.443 or file an amended application without an additional fee.

(B) Fees submitted with an application that is denied are not refundable.

(C) Any person whose license has been denied or revoked may, after one year from the date of denial or revocation, reapply for a license upon submittal of a new application and the required fees under § 21.408.

(' 90 Code, § 6.33.065, 07/01/1998; Ord. 816, passed, 04/06/1995)

#### **§ 21.412 LICENSE TERM.**

The initial license shall be for a period to terminate with the conclusion of the fiscal year of the county. Renewed licenses shall be for a period of 12 months.

(' 90 Code, § 6.33.070, 07/01/1998; Ord. 816, passed, 04/06/1995)

#### **§ 21.413 RENEWAL.**

(A) Renewal applications shall be made no later than 30 days prior to the license expiration date.

(B) Fees for the renewal of a license shall be the same as the fees for an initial license and shall be paid at the time of the renewal application.

(C) Where a licensee has made a timely application for renewal, such license shall not be deemed to expire, despite any stated expiration date on the license, until a formal order granting or denying the license has been issued.

(' 90 Code, § 6.33.075, 07/01/1998; Ord. 816, passed, 04/06/1995)

#### **§ 21.414 NOTIFICATION OF CHANGE IN CIRCUMSTANCES.**

If the status of a licensee under this subchapter changes in regard to the number of ambulances owned or operated, the sale or discontinuance of the business, or anything substantially changing the information contained in the initial application, the licensee must immediately inform MCEMS of such changes.

(' 90 Code, § 6.33.080, 07/01/1998; Ord. 816, passed, 04/06/1995)

#### **§ 21.415 AMBULANCE IDENTIFICATION; ADVERTISEMENT.**

(A) All ambulances shall meet all identification requirements specified in state and federal statute.

(B) Ambulances under contract to the county for emergency medical response shall be identified as specified in the contract and no ambulance shall display any telephone number other than "911." "Call 911 for Emergencies" shall be displayed on all licensed ambulances.

(C) Ambulances not under contract for emergency medical response may not display words such as "paramedic unit," "medic unit," "advanced life support," "emergency," or other words indicating a level or type of medical care provided.

(D) Ambulances not under contract to the county may not advertise on the ambulance or in any other way that they provide emergency medical response.

Penalty, see § 21.999

(Ord. 1238, Amended, 12/08/2016; ' 90 Code, § 6.33.085, 07/01/1998; Ord. 816, passed, 04/06/1995)

**§ 21.416 PROHIBITED ACTIVITIES.**

No applicant or licensee, applicant or licensee's employee, or any other person doing business under this subchapter shall do any of the following:

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

(B) Monitor or intercept police, fire, medical, or other radio dispatch or transmission with the intent of providing service or for profit or gain;

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

(D) Charge for services not performed, make duplicate charges for the same service, or charge rates exceeding those on file with MCEMS;

(E) Perform the services of an EMS Provider unless authorized by state law, this subchapter, and the requirements adopted thereunder;

(F) Respond by ambulance to an emergency call unless so authorized by BOEC or under a provision of this subchapter;

(G) Falsify, deface, or obliterate a license or certificate required under this subchapter;

(H) Transport an emergency patient in any other vehicle other than a licensed ambulance and to any other facility other than a hospital emergency department, unless there is an EMSMD – approved alternative transport protocol, or otherwise allowed for in this subchapter; or

(I) Receive on-line medical advice from any other source other than Medical Resource Hospital (MRH) unless communications with MRH are unavailable.

Penalty, see § 21.999

(Ord. 1238, Amended, 12/08/2016; Ord. 1204, Amended, 10/17/13, ' 90 Code, § 6.33.090, 07/01/1998; Ord. 816, passed, 04/06/1995)

**§ 21.417 MEDICAL DIRECTION AND SUPERVISION.**

(A) There shall be established, as an employee of the department, appointed by the health officer, the position of emergency medical service medical director (EMSMD).

(B) The EMSMD shall serve as the physician supervisor for all EMS Providers in the employ of licensed ambulance services within the county and working within the county. In addition, the EMSMD shall serve as the physician supervisor for all EMS Providers employed by 911 first responder agencies, by agreement with the county.

(C) Duties of the EMSMD include, but are not limited to, the following:

(1) Approval for practice for all EMS Providers. Approval shall be provided to each EMS Provider and their employer, in writing, and a record kept by MCEMS;

(2) Creation of policies for limiting the practice of EMS Providers when necessary, including adequate due process protections for the effected EMS Provider;

(3) Setting the standards for training and continuing education for EMS Providers and EMDs;

(4) Implementation of a quality management program designed to provide for the continuous improvement of patient care and other aspects of the EMS system;

(5) Promulgation of standards of patient care, consistent with the ambulance service area plan and including, but not limited to, the following:

(a) Dispatch and pre-arrival protocols;

(b) Transport triage criteria and protocols;

(c) Specific requirements for EMS Providers working within the county;

(d) Approved equipment, supplies, and drugs;

- (e) Patient care protocols;
- (f) Medical criteria for response times;
- (g) Patient transfer criteria; and
- (h) Critical care inter-facility transport criteria.

(D) (1) The EMSMD may appoint assistants to help carry out the duties assigned to the medical director. The EMSMD retains the sole responsibility for all assigned duties.

(2) Funding for assistants to the EMSMD, if any, shall be recommended by the administrator.

(3) The EMSMD may enter into agreements to formalize duties of non-911 medical call medical supervision for non-franchised providers with additional assistants that are in employ with providers.

(E) The EMSMD may appoint committees or individuals as deemed necessary, to provide advice regarding the duties of the medical director.

(F) The EMSMD may not implement protocols nor take other actions that would change the patient care standards specifically identified in the ambulance service area plan or in this subchapter without approval by the Board.

(G) The administrator is authorized to collect fees from employers of EMS Providers to off-set the cost to county for the EMSMD and any assistants. These fees shall be limited to the salary and benefits of the EMSMD and agents. Fees will change only with compensation changes.

(Ord. 1272, Amended, 06/06/2019; Ord. 1238, Amended, 12/08/2016; ' 90 Code, § 6.33.100, 07/01/1998; Ord. 816, passed, 04/06/1995)

#### **§ 21.418 ON-LINE MEDICAL CONTROL.**

(A) On-line medical control shall be provided by a Medical Resource Hospital (MRH).

(B) Standards for the MRH shall be determined by the EMSMD and implemented through a performance agreement between MRH and MCEMS.

(C) Compensation for MRH services shall be recommended by the administrator and approved by the Board.

(' 90 Code, § 6.33.105, 07/01/1998; Ord. 816, passed, 04/06/1995)

#### **§ 21.419 EMERGENCY MEDICAL SYSTEM ADVISORY COUNCIL (EMSAC).**

(A) There is created an Emergency Medical System Advisory Council which shall make recommendations and advise the EMSMD and EMS Program Administrator on EMS System innovations and improvements.

(B) The Council shall serve at the direction of the County Health Officer.

(C) The members of the Council shall be appointed by the Board, upon the recommendation of the EMS Administrator. The Council will be composed of a minimum of 12 members, with one third being Multnomah County community members who may access ambulance services.

(D) Members shall be reimbursed for expenses authorized by the administrator.

(Ord. 1238, Amended, 12/08/2016; ' 90 Code, § 6.33.110, 07/01/1998; Ord. 816, passed, 04/06/1995)

#### **§ 21.420 TRAINING AND EDUCATION.**

(A) All training and continuing education for EMS Providers will be provided through a coordinated educational program approved by the EMSMD.

(B) The program will offer education and training opportunities which include state recertification requirements, issues identified as a result of the quality improvement process, new, state-of-the-art information, changes in patient care protocols, and other pertinent topics.

(C) Current and additional training and education resources from the public and private sectors will be used to provide these activities to EMS Providers. They will be coordinated to insure their maximum use and availability.

(D) Particular attention will be paid to the training needs of the volunteer rural first responders and system resources will be made available to assist in meeting these needs.

(E) Training and education standards, EMS Provider attendance requirements, and county specific education and training requirements shall be the responsibility of the EMSMD.

(F) There may be appointed, an education coordinator to assist the EMSMD. This position may be employed by the county or provided under contract to the county. This position may be funded from EMS system revenues as specified by the administrator.

(Ord. 1238, Amended, 12/08/2018; '90 Code, § 6.33.115, 07/01/1998; Ord. 816, passed, 04/06/1995)

**§ 21.421 EMS PROGRAM OFFICE;  
ADMINISTRATION.**

(A) There shall be within the department an EMS Program Office (MCEMS), which is responsible for the implementation, regulation, coordination, and enforcement of this subchapter, the ambulance service plan and other EMS planning, and the administration of the emergency ambulance service contract.

(B) The responsibilities in division (A) of this section may be accomplished through the promulgation of administrative rules by the administrator, in accordance with the county's administrative rule process. All such rules that pertain to patient care, EMS Provider practice, ambulance equipment and supplies, and other medical matters shall be approved by the EMSMD prior to implementation.

(C) The administrator is delegated the authority for the enforcement of this subchapter including the requirement for the production of relevant records, documents, and recordings. The administrator shall have the authority to subpoena such records when necessary to insure their production.

(D) The administrator may hold hearings on matters of compliance with this subchapter and subpoena and require attendance of witnesses at such hearings.

(E) The administrator may appoint committees or individuals, as deemed necessary, to provide advice to the administrator.

('90 Code, § 6.33.200, 07/01/1998; Ord. 816, passed, 04/06/1995)

**§ 21.422 SYSTEM QUALITY  
MANAGEMENT AND  
IMPROVEMENT.**

(A) All licensees are required as a condition of license, and all other EMS providers are encouraged, to participate in the quality management program for the EMS system. Participation includes:

(1) Providing patient care data, dispatch and call determination data, Provider training and education information, vehicle maintenance information, staff rosters, patient or other complaints, and other data and information determined by MCEMS to be necessary for the quality management process. This data is to be provided in a form and frequency to be determined by MCEMS;

(2) Serving on review bodies, committees, problem solving groups, as may be required;

(3) Implementing system changes and modifications in a timely manner; and

(4) Maintaining an internal quality improvement process and providing information on the problems and outcomes to the system program.

(B) All data, information, and proceedings associated with the quality management program that could identify patients, specific events, patient medical conditions, locations, or other possible identifiers shall be considered confidential and protected from discovery in accordance with ORS 41.675 – 41.685.

(C) There shall be a quality management committee, chaired by the EMSMD, and responsible for the development, implementation, and on-going monitoring of the quality management and improvement process.

('90 Code, § 6.33.300, 07/01/1998; Ord. 816, passed, 04/06/1995)

**§ 21.423 EMS FIRST RESPONSE.**

(A) MCEMS shall enter into agreements with all agencies providing medical first response. These agencies are fire departments and districts, police or Sheriff, or other public emergency responders.

(B) The agreements shall include, but are not limited to:

- (1) Types of call response and dispatch protocols;
- (2) Response time goals;
- (3) Level of personnel training and staffing;
- (4) Educational and training support provided by MCEMS;
- (5) Equipment, supply, or other support from MCEMS;
- (6) Quality management participation; and
- (7) Medical supervision through the EMSMD.  
(\* 90 Code, § 6.33.400, 07/01/1998; Ord. 816, passed, 04/06/1995)

**§ 21.424 EMERGENCY AMBULANCE SERVICE AREA.**

(A) All of the county comprises a single ambulance service area served by a provider selected by the Board and operating under contract or intergovernmental agreement with the county which specifies the conditions of service.

(B) In order to insure the most effective medical response with the resources available MCEMS will:

- (1) Enter into an exclusive emergency ambulance service contract with a qualified ambulance service provider;
- (2) Designate response time zones within the ambulance service area. Each zone will have a response time requirement for each level of service;

(3) Incorporate the zones designated in (B)(2) into the contract for emergency ambulance service; and

(4) Through intergovernmental agreements specifying the details of service, allow EMS agencies from other jurisdictions to provide service into the county when such an action will allow for better service to the citizens in the identified areas of the county. MCEMS may likewise allow contracted agencies to serve similar areas in other jurisdictions.  
(\* 90 Code, § 6.33.450, 07/01/1998; Ord. 816, passed, 04/06/1995)

**§ 21.425 EXCLUSIVE EMERGENCY AMBULANCE SERVICE CONTRACT.**

(A) The exclusive provider of emergency ambulance service for the single ASA in the county shall be selected through a competitive proposal process by the Board.

(B) MCEMS shall prepare the necessary request for proposals specifying all criteria necessary for the preparation of a proposal and the selection of a provider.

(C) The contract for emergency ambulance service shall specify all performance and operational criteria not otherwise stated in this subchapter. The selected emergency ambulance provider shall enter into an agreement with the county that includes, but is not limited to, the following:

- (1) The qualifications required to provide service under the agreement;
- (2) Performance criteria such as response time requirements, area coverage, staffing;
- (3) Charges for service;
- (4) Information and data reporting requirements;
- (5) The relationship between the parties to the agreement;
- (6) Specifics of participation in the EMS system quality improvement program;



(7) Medical supervision requirements;

(8) Remedies for failure to meet the tenets of the agreement; and

(9) Fee requirements for medical supervision and program management and support.

(D) The contract shall have specific requirements that insure appropriate policies effecting the employees of the provider. These requirements include the following:

(1) A workforce diversity plan that meets or exceeds all federal, state, and local standards. The plan must include a specific process for the recruitment and retention of women and minority employees;

(2) Agreement to provide employment consideration and priority to all Licensed EMS Providers displaced from employment with the providers in the county prior to the contract implementation to the extent that positions are available. From the time that an intent to reassign ambulance services is issued until six-months immediately following the date of replacement, the ambulance service must give preference to qualified, comparably-licensed employees of the previous ambulance service. Such hiring shall not require the persons hired to leave the employment of the ambulance service being replaced until the date the replacement service begins to provide ambulance services for the Multnomah County Ambulance Service Area;

(3) Providing an employee assistance program (EAP) to all employees. The EAP programs in force by the county and the City of Portland shall serve as the standard for evaluation of offered programs.

(Ord. 1238, Amended, 12/08/2016; '90 Code, § 6.33.455, 07/01/1998; Ord. 816, passed, 04/06/1995)

#### **§ 21.426 REASSIGNMENT.**

(A) Should the contracted provider resign its interest in the ASA or should the county terminate the agreement, the county shall then select a replacement provider(s) by a method recommended by the administrator and approved by the Board.

(B) At the end of the term of the initial contract, or at the end of any contract extension or renewal, the Board may exercise its option of renewing the contract or seeking a replacement provider.

(Ord. 1238, Amended, 12/08/2016; '90 Code, § 6.33.460, 07/01/1998; Ord. 816, passed, 04/06/1995)

#### **§ 21.427 AMBULANCE CHARGES FOR SERVICE.**

(A) All licensees under this subchapter shall provide MCEMS with a schedule of the charges (fees) for services they provide. This schedule must be current at all times.

(B) No charge for service may exceed that which is listed on the most recent schedule on file at MCEMS.

(C) Charges for services provided under contract to the county shall be limited to those specified in the contract and may not be changed, adjusted or modified except through the rate adjustment proceeding.

('90 Code, § 6.33.500, 07/01/1998; Ord. 816, passed, 04/06/1995)

#### **§ 21.428 CONTRACT COMPLIANCE AND RATE REGULATION COMMITTEE.**

(A) There shall be a Contract Compliance and Rate Regulation Committee (CCRRC), appointed by the Board, upon the recommendation of the County EMS Program Administrator.

(B) The CCRRC shall be comprised of the following members:

(1) A person with expertise in ambulance operations;

(2) An attorney with health care expertise;

(3) A person in the business of health care administration or health care financing;

(4) An accountant;

(5) An EMS provider not regulated by this subchapter;

(6) A citizen residing within the county;

(7) A representative from the City of Gresham; and

(8) A representative from the City of Portland.

(C) The CCRRC will meet and review the response times and other performance requirements of the ambulance service contract and make recommendations to the EMS administrator. The CCRRC will review all requests for rate adjustments and make recommendations to the EMS administrator.

(D) The initial rates incorporated in the exclusive ambulance service contract shall be verified and recommended to the Board by the RFP Evaluation Committee, acting as the Contract Compliance and Rate Regulation Committee for purposes of this initial review.

(E) The CCRRC shall develop criteria to be used for rate adjustment decisions, to be approved by the Board.

(Ord. 1238, Amended, 12/08/2016; '90 Code, § 6.33.510, 07/01/1998; Ord. 836, passed, 10/26/1995; Ord. 816, passed, 04/06/1995)

#### **§ 21.429 RATE ADJUSTMENT PROCEDURE.**

(A) A request for a rate adjustment may be made by a licensee whose rates are regulated by this subchapter or by MCEMS. This process is for contested rate increases or unusual rate increase requests. The exclusive ambulance contract rate adjustment formula is not subject to this section.

(B) The rate adjustment procedure is a contested hearings process with an appointed hearings officer that allows all interested, qualified parties to participate. The order of the hearings officer is forwarded to the CCRRC for final determination of the rates to be charged.

(C) There are a variety of persons who may participate in rate proceedings conducted by the county. They include the contracted provider of emergency ambulance service, other providers of ambulance service, third party payers for ambulance service,

MCEMS, employees of ambulance companies, and users of emergency ambulance service.

(D) The regulated provider shall submit to the rate hearing a reviewed financial statement prepared by a certified public accountant or, if a public provider, by the appropriate financial officer.

(E) Financial statements shall be in a form and include accounts as required by MCEMS. The statements shall show only allowable costs as specified in the ambulance service contract and also shall show total costs for all accounts that require an allocation to determine allowable costs including the application of the allocation methodology to the total costs.

(F) Any person who resides or does business in the county may petition to intervene in any proceeding conducted under this section. The petition to intervene shall contain the following information:

(1) The name and address of the petitioner;

(2) The name and address of the attorney, if any, representing the petitioner;

(3) If the petitioner is an organization, the number of members in and the purposes of the organization;

(4) The nature and extent of the petitioner's interest in the proceeding;

(5) The issues the petitioner intends to raise at the proceeding; and

(6) Any special knowledge or expertise of the petitioner which would assist the county in resolving the issues in the proceeding.

(G) If the hearings officer finds the petitioner has sufficient interest not otherwise represented in the proceeding and the petitioner's appearance and participation will not unreasonably broaden the issues, burden the record, or unreasonably delay the proceeding, the hearings officer shall grant the petition.

(H) The hearings officer shall set the time and place for a hearing on the proposals for a rate adjustment. The hearing shall be held within 15 days of the time fixed by the administrator for receipt of the schedules of proposed rates. Notice shall be served on all parties at least 30 days prior to the date of the hearing, in person, by mail, or by any other reasonable means of delivery.

(Ord. 1238, Amended, 12/08/2016; '90 Code, § 6.33.515, 07/01/1998; Ord. 816, passed, 04/06/1995)

### § 21.430 PRODUCTION OF DOCUMENTS.

MCEMS may request of any party the production of documents relevant to the determination of any issue currently a part of a rate setting proceeding under this subchapter. The request shall set forth the general relevance and reasonable scope of the documents sought. A party may return with any requested documents a form protective order providing for the confidentiality of those documents. The form protective order shall be provided by MCEMS with each and every request for documents. Should a party refuse to produce the requested documents, the administrator may issue a subpoena for the documents.

('90 Code, § 6.33.515, 07/01/1998; Ord. 816, passed, 04/06/1995)

### § 21.431 ORDERS.

The hearings officer shall issue a written recommended order, no later than 30 days after the date on which the hearing was closed, which shall be based solely on the record made at the hearing and shall forward that order to the CRC.

('90 Code, § 6.33.520, 07/01/1998; Ord. 816, passed, 04/06/1995)

### § 21.432 CRC RATE REVIEW PROCEDURES.

(A) The CCRRC shall schedule a review of the recommended order, which shall be held no more than 30 days after service of the recommended order.

(B) CCRRC review of final recommended orders shall be confined to the record of the proceeding below, which shall include the following:

(1) All materials, submitted by any party and received by the hearings officer;

(2) All materials submitted by staff to the hearings officer;

(3) The transcript of the hearing below; and

(4) The findings and conclusions of the hearings officer.

(C) The CCRRC may allow oral or written argument by the parties.

(D) Parties shall limit their argument to the CCRRC to issues regarding an error of law or fact in the order which is essential to the decision and which the party raised in exceptions filed under these rules.

(E) The CCRRC may affirm, reverse, remand, or modify the decision of the hearings officer.

(F) The CCRRC shall prepare a decision which shall include written findings of fact and conclusions, based upon the record. The CCRRC shall serve the decision upon all parties to the hearing.

(G) Unless appealed to the Board within the time specified, the decision of the CCRRC shall be final and nonappealable.

(Ord. 1238; Amended, 12/08/2016; '90 Code, § 6.33.525, 07/01/1998; Ord. 816, passed, 04/06/1995)

### § 21.433 APPEALS TO THE BOARD.

(A) Within ten days from the date a decision of the CCRRC is served, a party may file an appeal with the Board.

(B) The appeal to the Board shall specify the following:

(1) The portion of the challenged order which the appellant contends is erroneous or incomplete;

(2) The portion of the record, laws, or rules relied upon to support the appeal;

(3) The change in the order which the Board is requested to make;

(C) The Board may grant an application for an appeal if the applicant shows that there is an error of law or fact in the order which is essential to the decision and which the party appealing raised in exceptions filed under these rules.

(D) The Board may affirm, reverse, remand, or modify the decision of the CCRRC.

(E) The Board's decision shall become final at the close of business on the 10th day after service of the decision on the parties.

(Ord. 1238, Amended, 12/08/2016; '90 Code, § 6.33.530, 07/01/1998; Ord. 816, passed, 04/06/1995)

#### **§ 21.434 CCRRC CONTRACT COMPLIANCE REVIEW PROCEDURES.**

(A) The CCRRC shall meet, at least annually, to review the performance, as specified in the contract, of the contractor for emergency ambulance service.

(B) Data and information necessary for this review shall be provided by the contractor, BOEC, MCEMS, and others, as requested by the CCRRC.

(C) The CCRRC will review the performance of the contractor and make recommendations to the EMS administrator as to the contract compliance of the contractor.

(Ord. 1238, Amended, 12/08/2016; '90 Code, § 6.33.535, 07/01/1998; Ord. 816, passed, 04/06/1995)

#### **§ 21.435 AMBULANCE DISPATCH.**

(A) Dispatch for contracted ambulances shall be provided by the City of Portland, Bureau of Emergency Communications (BOEC).

(B) Dispatch requirements and performance standards, medical triage systems or protocols, medical information requirements (pre-arrival instructions), and data requirements shall be specified in an intergovernmental agreement between BOEC and the county. The medical protocols and medical information requirements specified in that agreement shall be promulgated by the EMSMD.

(C) MCEMS, in conjunction with BOEC and the ambulance contractor, shall determine the necessary information to be supplied by the contractor to

insure the optimal operation of the ambulance dispatch and require the provider to supply this information in the form and manner designated. This information shall include ambulance deployment schedules and "move up" criteria and locations (system status plan).

(D) All licensees receiving requests for ambulance services through their business telephone or by any other means other than BOEC, shall, using a triage system that is approved by MCEMS and aligned with the system employed at BOEC, determine if the call meets the emergency dispatch requirements. If the call meets these requirements, that call information is to be transferred to 911 for dispatch. Licensees are prohibited from dispatching an ambulance to a call that meets emergency dispatch criteria.

(E) Ambulances, when responding to emergency calls, shall inform BOEC of their status for response; immediately notifying BOEC of any change from a previous status. The record of this information, along with the time of each notification, shall be kept at BOEC and shall comprise the official record for purposes of contract monitoring and compliance.

(Ord. 1238, Amended, 12/08/2016; '90 Code, § 6.33.600, 07/01/1998; Ord. 816, passed, 04/06/1995)

#### **§ 21.436 CODE-3 OR PRIORITY 1 CALLS.**

(A) **CODE 3** or **PRIORITY 1** means driving an emergency vehicle with the aid of warning lights and sirens.

(B) Ambulances may respond to a call Code-3 only when dispatched by BOEC.

(C) Ambulances are prohibited from responding to a hospital or other facility, for the purpose of initiating a nonpatient call (e.g. pick up of a transport team), Code-3.

(D) Any ambulance use of Code-3 driving other than to respond to an emergency call dispatched by BOEC, deliver a patient to a hospital, or to deliver a transplant organ to a hospital shall be reviewed by MCEMS for appropriate use of Code-3 driving. **APPROPRIATE** is defined as responding to save the life of a patient.

Penalty, see § 21.999  
(‘ 90 Code, § 6.33.625, 07/01/1998; Ord. 816, passed, 04/06/1995)

### § 21.437 COMMUNICATIONS.

(A) Each ambulance shall be equipped with radios or other communication equipment as specified by MCEMS.

(B) All ambulances will be equipped, at a minimum, with a radio that allows communication with their dispatch center, Medical Resource Hospital (MRH), and the receiving hospitals.

(C) Each receiving hospital and MRH will communicate with ambulances on radio equipment specified by MCEMS.

(D) It shall be the responsibility of each licensee to purchase, install and maintain such equipment. The county shall not be responsible for any cost associated with this equipment.

(E) The policies for the use of such equipment, the security of the equipment, and system access requirements shall be promulgated by MCEMS in conjunction with the City of Portland and other parties involved in radio system operations.

Penalty, see § 21.999  
(Ord. 1238, Amended, 12/08/2016; ‘ 90 Code, § 6.33.650, 07/01/1998; Ord. 816, passed, 04/06/1995)

### § 21.438 HOSPITAL AVAILABILITY; AMBULANCE DIVERSION.

(A) Information regarding the ability of hospitals to receive ambulance transported patients shall be provided to ambulance units, by BOEC, using the HOSCAP system.

(1) Each receiving hospital wishing to change its receiving status from time to time shall be equipped with the necessary computer and other requirements for participation in the HOSCAP system. Hospitals not participating in the HOSCAP system shall be considered available for ambulance transports at all times.

(2) Ambulance companies may have HOSCAP equipment for purposes of monitoring the system. The BOEC HOSCAP computer information

shall be the official information for the HOSCAP system.

(B) Ambulances may be diverted from an intended hospital destination based only on the information provided by the HOSCAP system. In the event of a failure of the HOSCAP system, other means of communication, as authorized by the administrator, may be used to convey the hospital status.

(C) Nothing in this subchapter is intended to supersede any state or federal laws or regulations regarding ambulance diversion or patient destination.

(Ord. 1238, Amended, 12/08/2016; ‘ 90 Code, § 6.33.655, 07/01/1998; Ord. 816, passed, 04/06/1995)

### § 21.439 MASS CASUALTY INCIDENTS (MCI).

(A) The MCI plan, as attached to the Multnomah County EMS Field Protocols, shall serve as the guide for the response of first responders and ambulances and the care and transportation of persons, when the number of persons meets the criteria for implementation of the plan. This plan shall be reviewed from time to time by the EMSMD and modified when necessary to insure that current standards of care are being met.

(B) It is the intent that the MCI plan will be developed and maintained on a regional basis.

(C) Any licensed ambulance may be required to respond to a mass casualty incident. Those ambulances not under contract to the county will be used only at the request of the EMS administrator or by EMS approved protocol.

(Ord. 1238, Amended, 12/08/2016; ‘ 90 Code, § 6.33.700, 07/01/1998; Ord. 816, passed, 04/06/1995)

### § 21.440 SPECIAL RESPONSES.

(A) Emergency medical response to certain calls may require specialized equipment and specially trained personnel. These calls include, but are not limited to, hazardous material calls, search and rescue, extrication, trench, dive, and high angle rescue, and support for law enforcement response teams. These specialized responses are the responsibility of the fire first responders, and in the case of search

and rescue, the Sheriff. These teams shall have a designated Liaison between the team and the EMS Program and EMSMD. The Liaison is responsible for meeting reporting requirements to County EMS Program and EMSMD to ensure continuity of EMS System performance.

(B) Response by specialized units of the ambulance providers shall be only at the direction of the responding provider in division (A) above, through BOEC dispatch.

(Ord. 1238, Amended, 12/08/2016; ' 90 Code, § 6.33.750, 07/01/1998; Ord. 816, passed, 04/06/1995)

#### § 21.441 VIOLATIONS.

(A) The administrator shall, upon finding that a violation of this subchapter or applicable federal, state, municipal, or county laws, ordinances, rules, or standards and requirements affecting emergency medical services has occurred, provide written notice to the licensee, and shall demand that if correctable, the violation be corrected within not more than 30 days from the date of notice, or, subject to the authority of the administrator, to immediately suspend or revoke a license under § 21.443 of this subchapter.

(B) In the event of a notice under division (A) of this section:

(1) The licensee shall notify MCEMS when corrective action, if required, has been taken.

(2) If a licensee fails to take required corrective action in the time required, the licensee may be fined or the license may be revoked or suspended, subject to appeal under § 21.442.

(3) Notice shall be in writing. Mailed notices shall be given to the last known address of the licensee and shall be considered given at the date of mailing.

(' 90 Code, § 6.33.095, 07/01/1998; Ord. 816, passed, 04/06/1995)

#### § 21.442 APPEALS.

(A) A person receiving a notice of denial, refusal to renew, suspension, or revocation of license, or a violation as provided in this subchapter, may request a hearing by an appeals hearings officer by

filing a written request with the administrator within ten days of the date of the notice, setting forth reasons for the hearing and the issues to be heard.

(B) The administrator shall, upon receipt of a timely request, notify the hearings officer who will set a time and place for the hearing not more than 30 days from the date of the receipt of the request for a hearing and notify the parties.

(C) The hearing shall be conducted by the hearings officer in accordance with the most recently published Attorney General's Model Rules of Procedure.

(D) The hearings officer shall issue a final order within 30 days of the termination of the hearing.

(E) An appeal of the final order, may be filed within ten days of the date of the order, with the clerk of the Board, who shall schedule a hearing before the Board and notify the parties.

(F) The Board may confirm, alter, or revoke the order of the hearings officer and the action of the Board shall be considered final.

(G) A licensee who is unsuccessful in an appeal to a hearings officer or in any subsequent appeal to the Board, shall reimburse the county for the fee paid to the hearings officer.

(' 90 Code, § 6.33.098, 07/01/1998; Ord. 816, passed, 04/06/1995)

#### § 21.443 EFFECT OF FILING A HEARING REQUEST.

Filing of a hearing request shall abate any further proceedings by the administrator. In any case where the EMS medical director or the county health officer finds a serious danger to the public health or safety, the administrator may suspend or refuse to renew a license without a hearing. The effected licensee receiving such a notice may request a hearing with the Board, within 30 days of the notice, without a hearing under § 21.442, and the initial notice may be confirmed, altered or revoked by the Board.

(' 90 Code, § 6.33.099, 07/01/1998; Ord. 816, passed, 04/06/1995)

**AIR QUALITY REGULATION****§ 21.450- PURPOSE.**

To regulate use of wood burning devices and recreational burning in Multnomah County to reduce air pollution that negatively affects public health.

**§ 21.451 APPLICATION.**

Unless specifically exempted, the following shall comply with this subchapter:

(A) All wood burning devices added to, replacing, or otherwise installed in existing or new residential units.

(B) All wood burning devices added to, replacing, or otherwise installed in existing or new commercial buildings.

(C) Recreational burning.  
(Ord. 1253, Added, 01/11/2018)

**§ 21.452 DEFINITIONS.**

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

**AIR QUALITY.** The degree to which the ambient air is pollution-free, assessed by measuring a number of indicators of pollution.

**AIR QUALITY FORECASTING.** The use of climatology, emissions trends, and other information to predict when an airshed may exceed EPA-established pollution threshold.

**AIRSHED.** A geographical boundary determined by local topography, meteorology, emission sources, air quality data, population, and jurisdictional boundaries.

**BURN STATUS.** A temporal designation of Green, Yellow or Red, determined by the Multnomah County Health Department, that is associated with forecasted levels of certain pollutants.

**COMMERCIAL BUILDING.** An improvement used in part or whole for business activities.

**DEPARTMENT.** The Multnomah County Health Department or designee.

**DEPARTMENT DIRECTOR.** The Director of the Multnomah County Health Department or designee.

**GREEN DAY AIR QUALITY ADVISORY.** Air quality is currently, or is forecasted to be, good.

**LOW INCOME.** A person or family demonstrating economic need because their total household income is equal to or less than sixty percent of the State of Oregon median income by household size, as reported.

**RED DAY AIR QUALITY ADVISORY.** Air quality is currently or is forecasted to be unhealthy for sensitive groups, unhealthy for all groups, very unhealthy, or hazardous.

**RECREATIONAL BURNING.** Any outdoor burning on property zoned commercial or residential, including vacant lots.

**RESIDENTIAL UNIT.** A housing unit or constructed dwelling that is inhabited by one or more persons.

**WOOD BURNING DEVICE.** A heating appliance, including but not limited to fireplaces, wood stoves, or firepits, capable of burning wood fuel and wood derived biomass fuel. Wood burning for commercial or residential cooking purposes is excluded from this definition.

**YELLOW DAY AIR QUALITY ADVISORY.** Air quality is moderate or forecasted to be moderate.

(Ord. 1253, Added, 01/11/2018)

**§ 21.453 PROHIBITIONS.**

The Department shall perform air quality forecasting and issue air quality advisories daily during the winter heating season, October 1<sup>st</sup> through March 1<sup>st</sup>. Air quality advisories will be made available to the public.

The Department shall caution against the operation of wood burning devices and recreational burning during a yellow day air quality advisory.

Unless exempted from complying with this subchapter or otherwise allowed by state law, no person shall operate a wood burning device or permit recreational burning during a red day air quality advisory.

(Ord. 1253, Added, 01/11/2018)

#### **§ 21.454 EXEMPTIONS FROM PROHIBITIONS.**

A wood burning device may be operated during a red day air quality advisory if one or more of the following circumstances applies to a residential unit or commercial building:

(A) Sole source: One or more wood burning devices is the sole source used to heat a commercial building or the main living space in a residential unit. A wood burning device shall not be considered to be the sole source of heat if the residential unit or commercial building is equipped with a permanently installed, working system such as oil, natural gas, electric, geothermal, solar, or propane heating system whether connected or disconnected from its fuel source.

(B) Economic need: The household qualifies as low income.

(C) Emergency conditions are present,

- (1) A utility supplier declares energy shortages;
- (2) Electric power outages occur;
- (3) Natural gas service interruptions occur;
- (4) Temporary (not to exceed 120 days) failure of a residential unit's primary heat source; or
- (5) Other circumstances when a failure of a residential unit's primary heat source presents an immediate need to operate a wood burning device for the preservation of health and welfare.

(D) Department Director shall be authorized to allow exemptions other than those listed in this subchapter. Except in case of emergency, a person must apply for and receive an exemption prior to operating a wood burning device or engaging in recreational burning on a red day air quality advisory.

(E) The wood burning device has an Environmental Protection Agency or Oregon Department of Environmental Quality certified emissions rating of 2.5 grams/hour or less.

(Ord. 1253, Added, 01/11/2018)

#### **§ 21.455 INSPECTIONS.**

The Department shall have authority to inspect and investigate potential violations of this subchapter.

(Ord. 1253, Added, 01/11/2018)

#### **§ 21.456 ENFORCEMENT.**

(A) The Department shall monitor and enforce compliance with this subchapter.

(B) Enforcement may be initiated by complaint.

(C) The Department may issue civil penalties or restrictions based upon a finding that a person is in violation of this subchapter.

(Ord. 1253, Added, 01/11/2018)

#### **§ 21.457 PENALTIES.**

(A) Violations may result in the issuance of a notice of violation. The notice of violation shall indicate the date, address, and violation observed and specify any corrective actions to achieve compliance with this subchapter. First and second violations may result in a warning.

(B) A third violation may result in a civil penalty of \$250.

(C) A fourth or subsequent violation may result in a civil penalty of \$500.

(D) Each day a person is in violation of this subchapter shall be deemed a separate violation.

(Ord. 1253, Added, 01/11/2018)



**§ 21.458 APPEALS.**

Any person receiving a written notice of violation of this subchapter may appeal the notice of violation and request a hearing. Appeals must be sent to the Department and postmarked within 30 calendar days of the notice of violation date.

(Ord. 1253, Added, 01/11/2018)

***SMOKE-FREE WORK AND PUBLIC PLACES*****§ 21.510 DEFINITIONS.**

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

***ENCLOSED AREA.*** All spaces between a floor and a ceiling that is enclosed on three or more sides by permanent or temporary walls or windows, exclusive of doors or passageways, that extend from the floor to the ceiling.

***HOSPITAL.*** Any facility that meets the definition of “Hospital” in ORS 442.015.

***INHALANT DELIVERY SYSTEM.*** A device that can be used to deliver nicotine in the form of a vapor or aerosol to a person inhaling from the device; or

A component of a device described above or a substance in any form sold for the purpose of being vaporized or aerosolized by a device described in this section, whether the component or substance is sold separately or is not sold separately.

An inhalant delivery system does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for any other therapeutic purpose, if the product is marketed and sold solely for the approved purpose.

***INHALANT DELIVERY SYSTEM RETAILER.*** Any person who sells, offers for sale, or exchanges or offers to exchange for any form of consideration inhalant delivery systems, or who distributes free or low cost samples of inhalant delivery systems, including but not limited to tobacco shops, cigar bars, convenience stores, gas stations, grocery stores, chain stores, cafes and bars, pharmacies, vape shops, etc. This definition is without regard to the quantity of inhalant delivery systems.

***OUTDOOR PUBLIC AREA.*** Any public area immediately adjacent to a Hospital building or buildings, including but not limited to sidewalks, walkways, seating areas and courtyards.

***PLACE OF EMPLOYMENT.*** Any enclosed area under the control of a public or private employer that employees frequent during the course of employment, including, but not limited to, work areas, employee lounges, vehicles that are operated in the course of an employer’s business that are not operated exclusively by one employee, restrooms, conference rooms, classrooms, cafeterias, hallways, meeting rooms, elevators, and stairways. A private residence is not a “place of employment” unless it is a child care facility as defined in ORS 657A.250, an adult day care facility as defined in ORS 410.490, or a health care facility as defined in ORS 442.015.

***SMOKING.*** Any inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, weed, plant, or other tobacco-like product or substances in any manner or in any form, including inhalant delivery systems.

(Ord. 1214, Amended, 3/5/2015, Ord. 1124, Amended, 12/11/2008, eff. 1/1/2009; Ord. 1051, Renum&Amend, 10/21/2004; Ord. 962, Amended, 06/07/2001, effective 7/1/2001; Ord. 939, Amended, 01/27/2000, effective 7/1/2000; Ord. 937, Amended, 12/16/1999, effective 7/1/2000)

**§ 21.511 INHALANT DELIVERY SYSTEM USE PROHIBITED.**

No person shall use an inhalant delivery system in any place within Multnomah County where smoking is prohibited by law.

(Ord. 1214, Added, 3/5/2015)

**§ 21.512 INHALANT DELIVERY SYSTEM USE PROHIBITED IN PLACES OF EMPLOYMENT.**

No employer shall knowingly permit the use of an inhalant delivery system in a place of employment in which smoking is prohibited by law.

(Ord. 1214, Added, 3/5/2015)

**§ 21.513 INHALANT DELIVERY SYSTEM SALES TO MINORS PROHIBITED.**

No person, including Inhalant Delivery System Retailers, may distribute, sell, or allow to be sold an inhalant delivery system to a person under 18 years of age.

(Ord. 1214, Added, 3/5/2015)

**§ 21.514 POSSESSION BY MINORS.**

A person under 18 years of age may not possess an inhalant delivery system unless the person is in a private residence accompanied by the parent or guardian of the person and the parent or guardian has consented to the person's possession of the inhalant delivery system.

(Ord. 1214, Added, 3/5/2015)

**§ 21.515 PURCHASE BY MINORS.**

A person under 18 years of age may not purchase, attempt to purchase, or acquire inhalant delivery systems unless acting under the supervision of an adult for the purpose of testing compliance with federal law, state law, local law, or retailer management policy limiting or regulating the delivery of inhalant delivery systems to minors.

(Ord. 1214, Added, 3/5/2015)

**§ 21.516 ADMINISTRATION AND DELEGATION OF AUTHORITY.**

The Director of the Health Department shall issue administrative rules to implement this chapter.

(Ord. 1214, Added, 3/5/2015)

**Health**

**§ 21.520 HOSPITAL OUTDOOR NO SMOKING POLICY.**

(A) Hospitals are required to adopt policies prohibiting smoking in outdoor public areas. These policies must meet the following minimum guidelines:

(1) Prohibits smoking within at least 20 feet of building entrances and exits, air intake vents, and windows that are capable of opening to the outside

(2) Requires posting of signs that include the international no smoking symbol and the words "no smoking" in outdoor public areas where smoking is prohibited.

(3) Includes a formal mechanism for the hospital to enforce the policy.

(B) Hospitals may adopt policies allowing smoking in designated outdoor smoking areas as long as they are at least 20 feet away from building entrances and exits, air intake vents, and windows that are capable of opening to the outside.

(Ord. 1051, Add, 10/21/2004)

**§ 21.545 OTHER LAWS.**

This subchapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

(Ord. 1051, Renumbered, 10/21/2004; Ord. 937, Added, 12/16/1999, effective 7/1/2000)

**§ 21.550 PENALTY.**

(A) Violation of Sections 21.512 or 21.513 shall be a Class A violation.

(B) Violation of Sections 21.511 or 21.515 shall be a Class B violation. Alternative penalties for violation of Section 21.515 may be promulgated by administrative rule, and as allowed by law, including but not limited to smoking cessation education and community service.

(C) Violation of Section 21.514 shall be a Class D violation. Alternative penalties may be promulgated by administrative rule, as allowed by law, including but not limited to smoking cessation education and community service.

(Ord. 1214, Added, 3/5/2015)

### § 21.560 DEFINITIONS.

***Arm's Length Transaction.*** A sale in good faith and for valuable consideration that reflects the fair market value in the open market between two or more informed and willing parties, none of which is under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of the violations of this chapter is not an Arm's Length Transaction.

***Department.*** Multnomah County Health Department.

***Inhalant Delivery System.*** Any device or component of a device meeting the definition of "inhalant delivery system" in MCC § 21.510.

***Retail Sale.*** Any transfer, conditional or otherwise, of title or possession of Tobacco Products.

#### ***Tobacco Products.***

(A) Any substance containing, made, or derived from tobacco that is intended for human consumption by any means including but not limited to cigarettes, cigars, little cigars, pipe tobacco, shisha, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco.

(B) Electronic cigarettes or any inhalant delivery systems containing or delivering nicotine.

(C) Vape juice or e-liquid defined as any aerosol or liquid solution that vaporizes when heated to make a smoke-like vapor and that contains nicotine or any nicotine containing product, in any amount or concentration, including tobacco plant extract, tobacco dust, or synthetic nicotine in any amount, concentration or strength, in any form including but not limited to bottled, pre-filled cartridges, or as part of a kit.

(D) This definition excludes any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for any other therapeutic purpose, if the product is marketed and sold solely for such an approved purpose.

***Tobacco Retailer.*** Any person or entity, as defined in ORS 60.001, that owns a business that sells, offers for retail sale, exchanges or offers to exchange Tobacco Products, including inhalant delivery systems retailers as defined in MCC § 21.510, or that distributes free or low cost samples of Tobacco Products. This definition is without regard to the quantity of Tobacco Products sold, offered for retail sale, exchanged, offered for exchange, or distributed. (Ord. 1225, Added, 11/12/2015)

### § 21.561 TOBACCO RETAIL LICENSE REQUIRED.

(A) A Tobacco Retail license is required for each address at which Tobacco Products are available from a Tobacco Retailer.

(B) Application for a Tobacco Retail license issued under this subchapter shall be made on forms provided by the Department.

(C) A Tobacco Retail license fee shall be submitted with the license application.

(D) To obtain a Tobacco Retail license, each applicant must meet all requirements of this subchapter, the rules adopted pursuant to this subchapter, and federal, state, and local laws relating to the retail sale of tobacco products.

(E) Each Tobacco Retail license shall expire one calendar year from the date of issuance.

(F) The Tobacco Retail license shall be displayed in a prominent and conspicuous place at the location licensed.

(Ord. 1225, Added, 11/12/2015)

### § 21.562 LICENSE NONTRANSFERABLE.

(A) A Tobacco Retail license may not be transferred from one Tobacco Retailer to another or from one location to another.

(B) Prior violation of this subchapter at a location will continue to be counted against a location, and license ineligibility and suspension periods will continue to apply to a location, unless 100 percent of the interest in the stock, assets, or income of the business, other than a security interest for the repayment of debt, has been transferred to one or more new owners. The new owner must provide the Department with clear and convincing evidence, including an affidavit, that the business has been acquired in an Arm's Length Transaction.

(C) Prior violation of this subchapter may be considered in subsequent enforcement actions and applications for additional Tobacco Retail licenses. (Ord. 1225, Added, 11/12/2015)

### § 21.563 PROHIBITED ACTIVITIES.

(A) It is a violation of this subchapter for a Tobacco Retailer to make available Tobacco Products:

- (1) Without a Tobacco Retail License.
- (2) From a motor vehicle.
- (3) Outside original packaging containing health warnings satisfying the requirements of federal law.
- (4) To a person who appears to be under the age of 27 years without first examining the recipient's identification to confirm that the recipient is at least the minimum age under federal, state, or local law to purchase and possess Tobacco Products.

(B) It is a violation of this subchapter to fail to comply with license terms, the rules adopted pursuant to this subchapter, and federal, state, and local laws relating to the retail sale of tobacco products. (Ord. 1225, Added, 11/12/2015)

### § 21.564 ADMINISTRATIVE RULES.

(A) The Department shall promulgate administrative rules to carry out and enforce this subchapter.

(B) The Board will appoint by Resolution a Tobacco Retail Licensing Advisory Committee.

(C) The powers, duties, membership, terms of office of members, provisions as to meetings and (S-2 2018)

conduct of business of and by the Committee will be in accordance with its adopted bylaws.

(D) The Committee will advise the Department on administrative rules that include but are not limited to the following:

- (1) License application and issuance process;
- (2) Licensing inspection;

(3) Licensing enforcement, including a notice of violation process that may allow a Tobacco Retailer to:

(a) Correct a violation prior to imposition of civil penalty, license suspension, or license revocation.

(b) Reapply for a license two years following revocation, upon showing all violations have been remedied, as determined at the sole discretion of the Director, or designee.

(c) Immediately apply for a license if they are operating without a Tobacco Retail license.

(4) Data collection by licensees regarding sales of tobacco products; and

(5) Educational information.

(E) The Committee may be reconvened by the Department to advise on matters involving Tobacco Retail Licensing.

(Ord. 1231, Amended, 3/31/2016; Ord. 1225, Added, 11/12/2015)

### § 21.565 INSPECTIONS.

(A) The Department Director, or designee, shall have authority to inspect and investigate potential violations of this subchapter in accordance with the administrative rules.

(B) The provisions of this subchapter will not be deemed to restrict the right of the County to inspect any property pursuant to any applicable federal, state, or local law or regulation. (Ord. 1225, Added, 11/12/2015)

**§ 21.566 ENFORCEMENT.**

(A) The Department Director, or designee, shall enforce the provisions of this subchapter and the administrative rules adopted pursuant to this subchapter.

(B) The Department Director may issue civil penalties, impose restrictions, and deny, suspend, or revoke a Tobacco Retail license based upon a finding that a Tobacco Retailer is in violation of the rules adopted pursuant to this subchapter, and federal, state, or local laws relating to the retail sale of Tobacco Products.

(Ord. 1225, Added, 11/12/2015)

**§ 21.567 APPEALS AND HEARING.**

Any person receiving a written notice of violation of this subchapter may request a hearing in accordance with the administrative rules.

(Ord. 1225, Added, 11/12/2015)

**§ 21.568 TOBACCO RETAIL FEES AND PENALTY.**

(A) License fees and civil penalties under this subchapter will be set by Board resolution.

(B) Any Tobacco Retailer found in violation of this subchapter may be subject to a civil penalty not to exceed \$1000 per day.

(Ord. 1225, Added, 11/12/2015)

**FOOD SERVICES****§ 21.600 DEFINITIONS.**

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

**FOOD HANDLER.** Any person involved in the preparation or service of food in an establishment in the county which is subject to ORS Chapter 624. This includes, but is not limited to, dishwashers, wait staff and bus persons.

**Statutory reference:**

*Food service facilities, see ORS, Ch. 624*

(‘90 Code, § 8.30.010, 07/01/1998; Ord. 869, passed, 10/24/1996; Ord. 124, passed, 05/06/1976)

**§ 21.601 FOOD HANDLER'S CERTIFICATE REQUIRED.**

(A) No owner of a public eating place shall continue to employ a food handler after 30 days from the date of hire without the food handler having a valid food handler's certificate.

(B) No person shall perform work as a food handler without having procured a food handler's certificate within the first 30 days of employment.

(C) All employers shall post all food handler certificates or a photocopy of any certificate provided they have seen the original certificate, in one central location for review by the department.

Penalty, see § 21.999

(‘90 Code, § 8.30.050, 07/01/1998; Ord. 869, passed, 10/24/1996; Ord. 152, passed, 02/01/1977; Ord. 124, passed, 05/06/1976)

**§ 21.602 IMMEDIATE POSSESSION OF CERTIFICATE REQUIRED.**

A food handler shall have the food handler's certificate on their person or available on the premises where the food handler performs work at all times while working.

Penalty, see § 21.999

(Ord. 1272, Amended, 06/06/2019; ‘90 Code, § 8.30.100, 07/01/1998; Ord. 124, passed, 05/06/1976)

**§ 21.603 FOOD HANDLER'S CERTIFICATE; COURSE OF STUDY.**

(A) A food handler's certificate shall be issued by the department to any person who has attended and satisfactorily completed a course in food handling which has been reviewed and approved by the department pursuant to the criteria set forth in division (B) of this section.

(B) Food handler training shall include, but not be limited to, the following:

(1) Principles of foodborne illnesses and their transmission;

- (2) Personal hygiene and handwashing;
- (3) Cross contamination;
- (4) Safe food sources and wholesomeness of food;
- (5) Proper procedures for cooking, cooling, reheating, holding and storing food;
- (6) Dish and utensil washing;
- (6) Rodent and insect control; and
- (8) Injury and accident prevention.

(C) A restaurant may offer a training program to its food handlers if the program has been reviewed and approved by the state Health Division or department.

(‘ 90 Code, § 8.30.150, 07/01/1998; Ord. 869, passed, 10/24/1996; Ord. 152, passed, 02/01/1977; Ord. 124, passed, 05/06/1976)

#### **§ 21.604 FORM OF CERTIFICATE.**

A food handler's certificate shall be in such form as shall be prescribed by the health officer.

(‘ 90 Code, § 8.30.200, 07/01/1998; Ord. 124, passed, 05/06/1976)

#### **§ 21.605 CERTIFICATE FEES.**

(A) All food handlers trained under § 21.603 must pay the department a fee in an amount set by Board resolution for the issuance of an original food handler's certificate.

(B) All other food handlers must pay the department a program participation fee in an amount set by Board resolution.

(C) All food handlers must pay the department a fee in an amount set by Board resolution for the issuance of a replacement certificate.

(Ord. 989, Amended, 08/29/2002; ‘ 90 Code, § 8.30.250, 07/01/1998; Ord. 892, passed, 11/25/1997; Ord. 869, passed, 10/24/1996; Ord. 828, passed, 08/31/1995; Ord. 726, passed, 07/02/1992; Ord. 152, passed, 02/01/1977; Ord. 124, passed, 05/06/1976)

#### **§ 21.606 TERM OF FOOD HANDLER'S CERTIFICATE.**

A food handler's certificate shall expire three years from the date of issuance.

(‘ 90 Code, § 8.30.300, 07/01/1998; Ord. 152, passed, 02/01/1977; Ord. 124, passed, 05/06/1976)

#### **§ 21.607 COMPULSORY PHYSICAL EXAMINATION.**

(A) The health officer, or any person duly designated by the health officer, may require any person who is required to have a food handler's certificate, and who there is reasonable cause to believe is infected with any pathogen which is medically associated with foodborne human illness, to obtain a physical examination and to report the result to the department.

(B) If an examination is required under division (A) of this section, a food handler's certificate shall not be issued to the applicant unless the examination shows no evidence of the presence of any pathogens which are medically associated with foodborne human illness.

(C) If a physical examination is ordered under division (A) of this section for any person to whom there has been issued a food handler's certificate, the certificate shall be suspended until the person has furnished the report of the examination which shows no evidence of the presence of any pathogens which are medically associated with foodborne human illness.

(‘ 90 Code, § 8.30.350, 07/01/1998; Ord. 869, passed, 10/24/1996; Ord. 124, passed, 05/06/1976)

#### **§ 21.608 FALSE STATEMENTS PROHIBITED.**

An applicant for a food handler's certificate shall be subject to ORS 162.085.

(‘ 90 Code, § 8.30.400, 07/01/1998; Ord. 124, passed, 05/06/1976)

#### **§ 21.609 PROHIBITIONS.**

(A) It shall be unlawful for any person having a food handler's certificate to give or loan the certificate to any other person or to allow any other person to use or possess the certificate.

(B) It shall be unlawful for any person, in obtaining or using a food handler's certificate, to use a fictitious or false name or impersonate any other person.

(C) It shall be unlawful for any person to use, accept or possess any food handler's certificate which has been issued to another person or to state, represent or hold out that the person has obtained a certificate when that is not a fact.

(D) It shall be unlawful for any person to refuse to surrender on demand by the health officer, or any person duly designated by the health officer, a license suspended under § 21.607.

Penalty, see § 21.999

(‘ 90 Code, § 8.30.450, 07/01/1998; Ord. 124, passed, 05/06/1976)

#### **§ 21.610 FOOD SERVICE LICENSE FEE.**

For the services of the department in connection with issuance of food service licenses, the department shall collect a fee from every applicant, at the time of application. A license will not be issued until all penalties and fees are brought current. The fees shall be in amounts set by Board resolution.

(Ord. 1023, Amended, 12/18/2003, eff. 1/1/2004; ‘ 90 Code, § 5.10.320, 07/01/1998; Ord. 892, passed, 11/25/1997; Ord. 869, passed, 10/24/1996; Ord. 828, passed, 08/31/1995; Ord. 803, passed, 10/27/1994; Ord. 726, passed, 07/02/1992; Ord. 697, passed, 09/26/1991; Ord. 656, passed, 07/12/1990; Ord. 587, passed, 07/28/1988; Ord. 568, passed, 12/10/1987; Ord. 514, passed, 06/05/1986; Ord. 439, passed, 10/18/1984; Ord. 353, passed, 12/06/1982; Ord. 255, passed, 10/23/1980; Ord. 196, passed, 04/26/1979; Ord. 176, passed, 11/30/1978; Ord. 157, passed, 12/29/1977; Ord. 124, passed, 05/06/1976)

#### **§ 21.611 FOOD SERVICE PLAN REVIEW.**

For the services of the department in connection with the review of plans for the construction of food service facilities, as these terms are defined in ORS 624, the department shall collect fees as set by Board resolution.

(‘ 90 Code, § 5.10.321, 07/01/1998; Ord. 892, passed, 11/25/1997; Ord. 869, passed, 10/24/1996; Ord. 803, passed, 10/27/1994; Ord. 726, passed, 07/02/1992; Ord. 697, passed, 09/26/1991; Ord. 656, passed, 07/12/1990; Ord. 587, passed, 07/28/1988)

#### **§ 21.612 PAYMENT OF LICENSE FEES AND OTHER FEES AND PENALTIES.**

(A) Licenses issued under this subchapter expire annually on December 31. The annual license fee imposed under this subchapter must be paid in advance or postmarked to the department on or before midnight December 31 of the preceding license year.

(B) Except as provided in subsection (C), to any fee not paid as required in subsections (A), (D) and (I), there will be added a reinstatement or late fee as set by Board resolution.

(C) If the department determines that the delinquency was due to reasonable cause and without any intent to avoid compliance, the reinstatement provided by subsection (B) will be waived.

(D) When a license fee is due at any time other than December 31, the license fee is payable to the department within 30 days of application. If the license fee is not paid as provided in this subsection, then subsection (B) applies.

(E) The license fee for a seasonal facility, which operates six or fewer consecutive months, is payable within 30 days of the first day of operation for the current year. If the fee is not paid as provided in this subsection, then subsection (B) applies.

(F) The license fee for a temporary restaurant operating on an intermittent basis at the same specific location will be as set by Board resolution.

(G) The application and license fee for any temporary restaurant must be received in the environmental health office by noon two working days before the event begins. If the fee is not paid as provided in this subsection, a late fee will be added as set by Board resolution.

(H) Benevolent organizations are exempt from any temporary restaurant license or inspection related fees. An administrative processing fee will be set by Board resolution.

(I) For the services of the department in providing an increased frequency inspection as mandated under ORS 624.085 and OAR 333-157-0027, the department will collect a fee for each additional inspection in an amount set by Board resolution. Reinspections for the sole purpose of checking the number of food handler cards are not be subject to this fee.

(J) The department will charge an inspection fee for a mobile unit licensed in another jurisdiction providing services in Multnomah County in an amount set by Board resolution.

(Ord. 1077, Amended, 06/15/2006; Ord. 1053, Amended, 11/18/2004; Ord. 989, Amended, 08/29/2002; Ord. 949, Amended, 08/24/2000, eff. 01/01/2001; '90 Code, § 5.10.322, 07/01/1998; Ord. 892, passed, 11/25/1997; Ord. 869, passed, 10/24/1996; Ord. 834, passed, 09/19/1995; Ord. 828, passed, 08/31/1995; Ord. 803, passed, 10/27/1994; Ord. 726, passed, 07/02/1992; Ord. 697, passed, 09/26/1991; Ord. 656, passed, 07/12/1990; Ord. 587, passed, 07/28/1988)

### **§ 21.613 BED AND BREAKFAST FACILITIES; FOOD SERVICE LICENSE FEES.**

For the services of the department in connection with the inspection of food service facilities as those terms are defined in ORS 624, the department shall collect an annual license fee from each applicant in an amount set by Board resolution. A license will not be issued until all penalties and fees are brought current.

(Ord. 1023, Amended, 12/18/2003, eff. 1/1/2004; '90 Code, § 5.10.323, 07/01/1998; Ord. 869, passed, 10/24/1996; Ord. 803, passed, 10/27/1994; Ord. 726, passed, 07/02/1992; Ord. 697, passed, 09/26/1991; Ord. 656, passed, 07/12/1990; Ord. 587, passed, 07/28/1988)

### **§ 21.614 FOOD SERVICE VIOLATIONS.**

(A) It shall be unlawful for any person to operate a restaurant or bed and breakfast facility without a current license issued by the Health Department.

(B) It shall be unlawful for any person to operate a restaurant or bed and breakfast facility in a manner that creates an "imminent or present danger to the public health" as these terms are defined in ORS 624.085 and Oregon Health Division rules adopted pursuant to ORS 624.100.

(Ord. 966, Add, 09/13/2001)

### **FOOD CART POD**

#### **§ 21.625- PURPOSE.**

The purpose of MCC 21.625 to MCC 21.634 is to permit and regulate the operation of food cart pods to reduce negative public health impacts. (Ord. 1275, Added, 11/8/2019)

#### **§ 21.626 DEFINITIONS.**

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

"Beverage" means a liquid for drinking, including water.

"Department" means the Multnomah County Health Department or designee.

"Food" means any raw, cooked or processed edible substance, beverage or ingredient used or intended for use in whole, or in part, for human consumption.

"Mobile Food Unit or Food Cart" means any vehicle or structure that is self-propelled, or that can be pulled, towed, pushed, or otherwise moved down a sidewalk, street, highway or waterway, on which food is cooked, prepared, processed, or converted, or which is used in selling and dispensing food to the ultimate consumer.

"Pest" includes without limitation: (1) an insect or other arthropod; (2) a weed, moss, slime or mildew or a plant disease caused by a fungus, bacterium or virus; (3) a nematode, snail, slug, rodent or predatory animal; (4) a bacterium, spore, virus, fungus or other microorganism that is harmful to human health; or (5) other forms of plant or animal life that may infest or be detrimental to vegetation, humans, animals, structures, managed landscapes or other human environments.

"Permit" means the document issued by the Department that authorizes a person or entity to operate a pod.



“Permit holder” means an individual or entity that: (1) is legally responsible for the operation of the food cart pod such as the property owner, the property owner’s agent, or lessee of the property; and (2) Possesses a valid permit to operate a food cart pod.

“Pod” means greater than 1 mobile food cart on private or public property for the purpose of selling food, beverages, or both food and beverages.

“Property Owner” means the owner, public or private, of the title to real property, or the most recent contract purchaser of real property.

“Temporary public event” means single or multiple events at one location in connections with a public gathering, entertainment event, or food product promotions, and where food is prepared or served for consumption by the public and a temporary restaurant license is issued.  
(Ord. 1275, Added, 11/08/2019)

#### **§ 21.627 PERMIT REQUIRED.**

A food cart pod permit is required whenever greater than one mobile food units or food carts are at the same location and are not directly associated with a temporary public event.  
(Ord. 1275, Added, 11/08/2019)

#### **§ 21.628 PERMIT NON-TRANSFERABLE.**

In no circumstances is a food cart pod permit transferable. Each permit holder must obtain a permit directly from the Department.  
(Ord. 1275, Added, 11/08/2019)

#### **§ 21.629 PROHIBITED ACTIVITIES.**

(A) If a Property Owner authorizes or allows a pod to operate without a permit on real property owned by the Property Owners, it shall be a violation of this subchapter.

(B) Failure to comply with any terms of the permit shall be a violation of this subchapter.

(C) Failure to comply with any rules and procedures adopted by the Department shall be a violation of this subchapter.  
(Ord. 1275, Added, 11/08/2019)

#### **§ 21.630 ADMINISTRATIVE RULEMAKING ADVISORY COMMITTEE.**

(A) The Department will appoint a Food Cart Pod Rulemaking Advisory Committee.

(B) The Food Cart Pod Rulemaking Advisory Committee will advise the Department on administrative rules that include but are not limited to the following:

1. Permitting application and issuance processes;
2. Permitting inspections;
3. Permitting enforcement;
4. Penalties;
5. Educational information; and
6. Any public health matter relating to mobile food units, food carts, or pods that is not otherwise preempted by state or federal laws.

(C) The Department shall adopt any and all pertinent rules and procedures to fulfill the purposes and mandates of this subchapter. The Department has the discretion to adopt or reject any recommendations received from the Food Cart Pod Rulemaking Advisory Committee.  
(Ord. 1275, Added, 11/08/2019)

#### **§ 21.631 INSPECTIONS.**

The Department shall have authority to inspect and investigate potential violations of this subchapter in accordance with the administrative rules.

The provisions of this subchapter shall not be deemed to restrict the right of the County to inspect any property pursuant to any applicable federal, state, or local laws or regulations.  
(Ord. 1275, Added, 11/08/2019)

#### **§ 21.632 ENFORCEMENT.**

The Department Director, or designee, shall enforce the provisions of this subchapter and the administrative rules adopted pursuant to this subchapter.

The Department may issue civil penalties or restrictions based upon findings that a pod is in violation of this subchapter.

(Ord. 1275, Added, 11/08/2019)

### § 21.633 APPEALS AND HEARING.

Any person receiving a written notice of violation of this subchapter may request a hearing in accordance with rules adopted by the Department.

(Ord. 1275, Added, 11/08/2019)

### § 21.634 FEES AND PENALTY.

(A) Specific permit fees under this subchapter will be set by Board resolution.

(B) Any permit holder found in violation of this subchapter may be subject to a civil penalty not to exceed \$1,000 per day. Specific civil penalties will be set by Board resolution.

(Ord. 1275, Added, 11/08/2019)

### *TOURIST FACILITIES*

### § 21.650- TOURIST AND TRAVELERS FACILITIES LICENSE FEES.

For the services of the department in connection with the issuance of licenses, the department shall collect from every applicant, at the time of application, fees in amounts set by Board resolution. A license will not be issued until all penalties and fees are brought current.

(Ord. 1023, Amended, 12/18/2003, eff. 1/1/2004; ' 90 Code, § 5.10.345, 07/01/1998; Ord. 869, passed, 10/24/1996; Ord. 828, passed, 08/31/1995; Ord. 803, passed, 10/27/1994; Ord. 726, passed, 07/02/1992; Ord. 697, passed, 09/26/1991; Ord. 656, passed, 07/12/1990; Ord. 587, passed, 07/28/1988; Ord. 568, passed, 12/10/1987; Ord. 176, passed, 11/30/1978)

### § 21.651 BED AND BREAKFAST FACILITIES; TOURIST ACCOMMODATIONS LICENSE FEE.

For the services of the department in connection with the inspection of tourist accommodation facilities, as those terms are defined in ORS 446, the department shall collect an annual license fee from each applicant in an amount set by Board resolution. A license will not be issued until all penalties and fees are brought current.

(Ord. 1023, Amended, 12/18/2003, eff. 1/1/2004; ' 90 Code, § (S-1 2019)

5.10.346, 07/01/1998; Ord. 803, passed, 10/27/1994; Ord. 726, passed, 07/02/1992; Ord. 697, passed, 09/26/1991; Ord. 656, passed, 07/12/1990; Ord. 587, passed, 07/28/1988)

### § 21.652 LATE FEES.

(A) The Board by resolution will set a reinstatement or late fee for failure to pay license fees when due.

(B) If the department determines that the delinquency was due to reasonable cause and without any intent to avoid compliance, the reinstatement or late fee provided by subsection (A) will be waived.

(Ord. 1023, Added, 12/18/2003, eff. 1/1/2004)

### *REFUSE*

### § 21.700- TITLE AND AREA OF APPLICATION.

This subchapter shall be known and cited as the county Illegal Dumping Law and shall apply to the unincorporated areas of the county.

(' 90 Code, § 8.75.050, 07/01/1998; Ord. 717, passed, 04/09/1992)

### § 21.701 REFUSE HAULING REGULATIONS.

No person, firm or corporation shall transport or carry, or direct another person, firm or corporation to transport or carry, any rubbish, trash, garbage, debris or other refuse, or recyclable material, in or on a motor vehicle or trailer, upon a public road in the county, unless such refuse or recyclable material is either:

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

(B) Contained in the body of the motor vehicle or trailer in such a way as not to cause any part of the hauled refuse or recyclable material to be deposited upon any private or public roadway or driveway in the county.

Penalty, see § 21.999

(' 90 Code, § 8.75.100, 07/01/1998; Ord. 717, passed, 04/09/1992)

**§ 21.702 DUMPING AND LITTERING PROHIBITED.**

No person, firm or corporation shall throw or place or direct another person, firm or corporation to throw or place, other than in receptacles provided therefor, upon the private land or waters of another person, firm or corporation without the permission of the owner, or upon public lands or waters, or upon any public place, any rubbish, trash, garbage, debris or other refuse or recyclable material.

Penalty, see § 21.999

(‘ 90 Code, § 8.75.200, 07/01/1998; Ord. 717, passed, 04/09/1992)

**§ 21.703 REWARD.**

Any person who provides information leading to the imposition and collection of a fine under §§ 21.701 or 21.702 shall receive a reward of up to 51% of the amount of the fine collected by the county; provided, however, that no county officer, no county employee, and no agent of the county who is charged with the enforcement of this subchapter shall be eligible for this reward.

(‘ 90 Code, § 8.75.300, 07/01/1998; Ord. 717, passed, 04/09/1992)

**§ 21.704 HEARINGS OFFICER.**

(A) The office of hearings officer for this subchapter is created.

(B) The officer shall be appointed by and serve at the will of the department. The county may enter into an intergovernmental agreement to share an Officer with other jurisdictions.

(C) The officer shall have jurisdiction over all cases submitted in accordance with the procedures and under the conditions set forth in this subchapter.

(D) The officer may promulgate reasonable rules and regulations, not inconsistent with this subchapter, concerning procedure and the conduct of hearings.

(‘ 90 Code, § 8.75.500, 07/01/1998; Ord. 717, passed, 04/09/1992)

**§ 21.705 COMPLAINT.**

(A) A proceeding before the hearings officers may be initiated only as specifically authorized in this subchapter.

(B) A proceeding shall be initiated only by the department filing a complaint with the hearings officer.

(‘ 90 Code, § 8.75.510, 07/01/1998; Ord. 717, passed, 04/09/1992)

**§ 21.706 NOTICE OF HEARING.**

The hearings officer shall cause notice of the hearing to be given to the respondent(s) either personally or by certified or registered United States mail. The notice shall contain a statement of the time, date, and place of the hearing. A copy of the complaint shall be attached to the notice.

(‘ 90 Code, § 8.75.520, 07/01/1998; Ord. 717, passed, 04/09/1992)

**§ 21.707 ANSWER; DEFAULT.**

(A) A respondent who is sent a complaint and notice of hearing for a violation of this subchapter shall answer such complaint and notice of hearing by personally appearing to answer at the time and place specified therein, or by mailing or otherwise delivering to the place specified on or before the assigned appearance date, a signed copy of the complaint and notice of hearing, together with a check or money order in the amount of the scheduled fine listed therein. If the violation is denied, a hearing will be held on the date assigned in the notice of hearing.

(B) If the respondent alleged to have committed the violation fails to answer the complaint and notice of hearing by the appearance date indicated, which shall be no sooner than seven days from the date of the notice of hearing, or appear at a hearing as provided herein, the hearings officer shall accept the department's file as the entire record and shall deliver or mail a final order declaring a default and making the fine and costs identified in the complaint due and payable.

(‘ 90 Code, § 8.75.530, 07/01/1998; Ord. 717, passed, 04/09/1992)

**§ 21.708 HEARING.**

(A) Unless precluded by law, informal disposition of any proceeding may be made, with or without a hearing, by stipulation, consent order, agreed settlement, or default.

(B) The county shall not be represented before the hearings officer by County Attorney or hired counsel except in preparation of the case or as provided below. A respondent charged with a violation may be represented by a retained attorney provided that five working day's written notice of such representation is received by County Attorney. In such cases the county may have County Attorney or hired counsel represent it. The hearings officer may waive this notice requirement in individual cases or reset the hearing for a later date.

(C) The county must prove the violation occurred by a preponderance of the admissible evidence.

(D) A name of a person, firm or corporation found on rubbish, trash, garbage, debris or other refuse, or recyclable material, in such a way that it denotes ownership of the items, constitutes rebuttable evidence that the person, firm or corporation has violated the refuse hauling, dumping or littering regulations.

(E) The hearings officer shall place on the record a statement of the substance of any written or oral ex parte communications made to the officer on a fact in issue during the pendency of the proceedings. The officer shall notify the parties of the communication and of their right to rebut such communications.

(F) The hearings officer shall have the authority to administer oaths and take testimony of witnesses. Upon the request of the respondent, or upon their own motion, the hearings officer may issue subpoenas in accordance with the state Rules of Civil Procedure, which shall apply to procedural questions not otherwise addressed by this subchapter.

(1) If the respondent desires that witnesses be ordered to appear by subpoena, respondent shall so request in writing at any time before five days prior to the scheduled hearing. A deposit for each

witness in an amount set by Board resolution shall accompany each request, such deposit to be refunded as appropriate if the witness cost is less than the amount deposited.

(2) Subject to the same five-day limitation, the county may also request that certain witnesses be ordered to appear by subpoena.

(3) The hearings officer may waive the five-day limitation for good cause.

(4) Witnesses ordered to appear by subpoena shall be allowed the same fees and mileage as allowed in civil cases.

(5) If a fine is declared in the final order, the order shall also provide that the respondent shall also pay any witness fees attributable to the hearing.

(G) The respondent shall have the right to cross-examine witnesses who testify and shall have the right to submit evidence on their own behalf.

(H) After due consideration of the evidence and arguments, the hearings officer shall determine whether the violation alleged in the complaint has been established.

(1) When the determination is that the violation has not been established, an order dismissing the complaint shall be entered.

(2) When the determination is that the violation has been established, or if an answer admitting the infraction has been received, an appropriate order shall be entered.

(3) The final order issued by the hearings officer shall set forth both findings of fact and conclusions of law and shall contain the amount of the fine and costs imposed and instructions regarding payment.

(4) A copy of the order shall be delivered to the parties, or to their attorneys of record, personally or by mail.

(I) A tape recording shall be made of the hearing unless waived by both parties. The tape shall be retained for at least 90 days following the hearing or final judgment on appeal.

(Ord. 1272, Amended, 06/06/2019; ' 90 Code, § 8.75.540, 07/01/1998; Ord. 717, passed, 04/09/1992)

### **§ 21.709 REVIEW.**

(A) Any motion to reconsider the order of the hearings officer must be filed within ten days of the original order or it may not be heard.

(B) Any aggrieved party, including the county, may appeal a final adverse ruling by writ of review as provided by ORS 34.010 through 34.100.

(' 90 Code, § 8.75.550, 07/01/1998; Ord. 717, passed, 04/09/1992)

### **§ 21.710 ADMINISTRATION AND ENFORCEMENT.**

(A) Enforcement of the regulatory enactments and policies set forth in this subchapter shall be the responsibility of the department.

(B) The department shall perform the following:

(1) Investigate refuse hauling, dumping and littering violations;

(2) Issue complaints;

(3) Reach settlements;

(4) Represent the county before the hearings officer, except where counsel is necessary; and

(5) Collect fines and costs.

(' 90 Code, § 8.75.400, 07/01/1998; Ord. 717, passed, 04/09/1992)

### **§ 21.711 ENFORCEMENT OF FINES AND COSTS.**

(A) Fines and costs are payable upon receipt of the written settlement or final order declaring the fines and costs. Fines and costs under this subchapter are a debt owing to the county and may be collected in the same manner as any other debt allowed by law.

(B) The county may institute appropriate suit or legal action in any court of competent jurisdiction to enforce the provisions of any written settlement of the department or final order of the hearings officer, including, but not limited to, action to obtain judgment for any civil penalty imposed by an order of the hearings officer pursuant to § 21.999.

(C) Fines and costs collected pursuant to the provisions of this subchapter shall be credited to the general fund.

(' 90 Code, § 8.75.560, 07/01/1998; Ord. 717, passed, 04/09/1992)

**RESIDENTIAL RENTAL PROPERTY**

(Ord. 1144, Added, 09/03/2009, eff. 10/5/2009)

**§ 21.805 TITLE AND AREA OF APPLICATION.**

This subchapter of the Multnomah County Code (MCC) relating to residential rental property may be known and cited as the county Residential Rental Property Maintenance Code (RRPMC) and applies to the unincorporated areas of the county.

(Ord. 1144, Added, 09/03/2009, eff. 10/5/2009)

**§ 21.810 POLICY.**

The Board has determined that it is necessary to provide for the regulation of residential rental property maintenance and administration of standards, including enforcement, for the protection of the public health, safety and general welfare of the residents of the county.

(Ord. 1144, Added, 09/03/2009, eff. 10/5/2009)

**§ 21.815 ADOPTION OF INTERNATIONAL PROPERTY MAINTENANCE CODE.**

(A) The International Property Maintenance Code, 2006 Edition, prepared by the International Code Council, as thereafter amended or revised ("ICCPMC"), are adopted and by this reference incorporated as part of this subchapter. The provisions of this subchapter and MCC Chapter 29, Building Regulations, take precedence over any similar provisions of the ICCPMC.

(B) Residential rental properties must meet the standards set forth in this subchapter and are subject to the inspection and enforcement provisions of this subchapter.

(Ord. 1196, Amended 12/20/12; Ord. 1144, Added, 09/03/2009, eff. 10/5/2009)

**§ 21.820 EXEMPTIONS.**

The provisions of this subchapter do not apply to motels, hotels, approved accessory dwellings, assisted living facilities, adult foster care homes, or temporary housing as defined in this subchapter.

(Ord. 1144, Added, 09/03/2009, eff. 10/5/2009)

**§ 21.825 DEFINITIONS.**

In addition to the definitions set forth in the ICCPMC the following definitions apply to this subchapter:

Where terms are not defined in this subchapter or other code section and are defined in the state building, plumbing or mechanical codes, such terms will have the meanings ascribed to them as in those state codes. Where terms are not defined through the methods authorized by this section, such terms have ordinarily accepted meanings such as the context implies. Whenever the words "premises," "building" or other similar words are stated in this subchapter, they will be construed as though they were followed by the words "or any part thereof." Unless otherwise expressly stated, the following terms, for the purposes of this subchapter, apply only to residential rental property and have the following meanings:

**ABANDONED STRUCTURE.** A vacant structure, or portion thereof, that is an attractive nuisance to children at play, that is used for unlawful activity or that is otherwise unoccupied and untended.

**ATTRACTIVE NUISANCE.** A condition that can attract children and be detrimental to the health or safety of children whether in a building, on the premises of a building or upon an unoccupied lot. This includes, but is not limited to: abandoned buildings, abandoned wells, shafts, basements, excavations, abandoned iceboxes, refrigerators, motor vehicles, any structurally unsound fences or structures, lumber, trash, fences, debris, or vegetation such as poison ivy, poison oak or poison sumac that may prove hazardous for inquisitive minors.

**BUILDING.** Any structure occupied or intended for any occupancy.

**BUILDING CODE.** MCC Building Regulations (§§29.001-29.207).

**BUILDING OFFICIAL.** The county building official.

**DERELICT STRUCTURE.** Any structure left unoccupied and unsecured, partially constructed, abandoned, maintained in a condition that is unfit for human habitation, or maintained in a condition that is an imminent threat to public health and safety.

**DESIGNATED AGENT.** A person or entity designated by the property owner to represent the property owner's interests in the subject property.

**DWELLING.** Any building located in the county, which is wholly or partly used or intended to be used for living or sleeping by human occupants; provided that temporary housing as defined below shall not be regarded as a dwelling. For purposes of this subchapter, the term shall be synonymous with "residential rental property."

**LEGAL OWNER.** Any person recorded in the official records of the state, county or municipality as holding title to the residential rental property.

**MAIL.** The delivery of a notice or other communication by first class mail. If a person has agreed to accept delivery of notification by email or fax, delivery by email or fax satisfies the mailing requirement.

**OWNER, PROPERTY OWNER, or LEGAL OWNER.** Any person, agent, firm or corporation having a legal or equitable interest in the residential rental property, including the owner as shown on the latest assessment records in the County Tax Assessor's office, a contract vendee, or a receiver or trustee in bankruptcy.

**OCCUPIER.** Any person who has possessory rights in, or control over, the subject property, premises, or business located at the property location, including a tenant.

**PARTIALLY CONSTRUCTED.** An occupied or vacant structure, or portion thereof, that has been left in a state of partial construction for more than six months or after the expiration of any building permit, or that has not had a required permit inspection within any six-month period.

**PERSON IN CHARGE.** Any agent, designated agent, property manager, or other person or entity with apparent authority to represent the property owner's interest in the subject property.

**POST / POSTING / POSTED.** The act of personally delivering a notice to a property, including affixing a notice to a property or personally delivering a notice to the owner, person in charge of the property, or occupier, at the property location. In the event of a vacant property, or conditions which make posting impractical, mailing a notice to the property owner at the last known address as listed with the County Tax Assessor's Office satisfies the posting requirement.

**PROPERTY.** Includes all lands, including all structures, improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith.

**RESIDENTIAL RENTAL PROPERTY.** A property, including a mobile home park, with one or more residential rental units, regardless of whether anyone is currently residing in each unit. Any person who owns land upon which a mobile home is located when that mobile home is owned by another person is construed as operating a mobile home park.

**RESIDENTIAL RENTAL UNIT.** A dwelling containing one or more separate living quarters (kitchen, bathroom and living room), one or more of which is rented, leased or let in exchange for monetary or other compensation. For the purposes of this subsection, a rooming house constitutes one residential rental unit.

**TEMPORARY HOUSING.** A tent, trailer, or similar structure which is used as human shelter for not more than thirty (30) consecutive days, or more than ninety (90) days, in any calendar year.

**UNOCCUPIED.** Vacant or not being used for a lawful occupancy.  
(Ord. 1144, Added, 09/03/2009, eff. 10/5/2009)

**§ 21.830 ADMINISTRATION.**

(A) The Health Department (department) is responsible for the administration and enforcement of this subchapter.

(B) The Health Department Director (director) is authorized to administer oaths, certify all official acts, issue citations, issue administrative warrants, subpoena and require the attendance of witnesses and production of relevant documents at hearings before the hearings officer and take testimony of any person by deposition.

(C) The director may grant an exception when the enforcement of the requirements of this subchapter would cause undue hardship to the owner or occupants of the affected property, or wherever the director deems it necessary in order to accomplish the purpose of this subchapter.

(D) The director may adopt rules necessary for the administration and enforcement of this subchapter.

(Ord. 1144, Added, 09/03/2009, eff. 10/5/2009)

**§ 21.850 INSPECTIONS.**

(A) The director may conduct both internal and external inspections resulting from a complaint submitted to the department in accordance with department procedures.

(B) The director may initiate a complaint based upon reasonable belief of conditions that pose an imminent danger to the health and safety of the occupants and conduct both internal and external inspections based thereon.

(C) Any inspection of an owner-occupied dwelling containing one or more residential rental units will not include inspection of the owner's unit.

(D) The provisions of this subchapter will not be deemed to restrict the right of the county to inspect any property pursuant to any applicable federal, state or local law or regulation, including complaints filed under this subchapter.

(Ord. 1144, Added, 09/03/2009, eff. 10/5/2009)

**§ 21.855 ENFORCEMENT AND ABATEMENT.**

(A) The director or designee may enter any property or building at any reasonable time for the purpose of inspection or enforcing this subchapter. Except when an emergency exists, the director must obtain the consent of the legal occupant of the property before entering private property or a private building. If the director or designee cannot obtain consent, the director may issue an administrative warrant to inspect property based upon reasonable belief that conditions in or upon the property constitute a violation of this subchapter.

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

(C) Whenever it appears there is reasonable cause to believe that a violation exists, the director will provide written notice to the owner of the existence of the violation and demand remedy of the violation within 30 days from the date of the written notice, or such lesser time as may be set by the director to protect the public health, safety and welfare. The notice must describe with reasonable certainty the property, the nature of the violation and the action necessary to remedy the violation, and inform the owner of the owner's rights under §§ 21.870 and 21.875, and the procedure by which the owner may contact the notice provider for more information.

(D) In an emergency, the director may order immediate remedy of a violation and an order to vacate the property may be issued. The director must give notice of the requirement for immediate remedy to the owner. The violation must be remedied before the property may be reoccupied. A fine may be imposed against a property owner who allows re-occupancy of property under a vacate order.

(E) The property must be re-inspected to determine compliance with this subchapter.



(F) If a property owner does not remedy a violation as ordered by the director, the director at their discretion may take one or more of the following actions:

1. abate the violation and charge the cost of abatement to the property owner;
2. order a property to be vacated and closed for use as residential rental property.

(G) In a situation in which the property owner has refused to abate a violation, or has taken or threatened action that gives the director probable cause to believe such action will comprise a danger to department staff, any involved contractors, other individuals or the public generally, the director may request the assistance of the Sheriff in carrying out necessary investigation, abatement or enforcement actions as ordered by the director under this section or a hearings officer under § 21.870.

(Ord. 1272, Amended, 06/06/2019; Ord. 1196, Amended, 12/20/2012; Ord. 1144, Added, 09/03/2009, eff. 10/5/2009)

#### **§ 21.860 REMEDY BY OWNER REQUIRED.**

Failure of the owner to abate the violation within 30 days as provided by § 21.855(C) or within the time set by the director under § 21.855(D) or the hearings officer under § 21.870 is a violation under this subchapter, and a county offense under ORS 203.810.

(Ord. 1196, Amended, 12/20/12; Ord. 1144, Added, 09/03/2009, eff. 10/5/2009)

#### **§ 21.865 PENALTY.**

The director may impose a civil penalty on the owner for a violation based upon failure to remedy as defined in § 21.860 in an amount not to exceed \$250.00. Each day that a violation is not remedied constitutes a separate violation subject to civil penalty as described herein. The notice of civil penalty must describe with reasonable certainty the property, the nature of the violation and the action necessary to remedy the violation, the amount of civil penalty imposed, and inform the owner of the owner's rights under §§ 21.870 and 21.875, and the procedure by which the owner may contact the notice provider for more information.

(Ord. 1196, Amended 12/20/12; Ord. 1144, Added, 09/03/2009, ef. 10/5/2009)

#### **§ 21.870 APPEALS AND HEARING.**

(A) Any person receiving a notice of violation under § 21.855 (C) or (D) may contest the violation by writing the director within fourteen business days of the date of the notice.

(B) Any person receiving a notice of civil penalty under § 21.865 may request a hearing by writing the director within fourteen business days of the date of the notice.

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

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

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

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

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

(H) If the hearings officer finds the violation to exist and civil penalty appropriate, the order will set a date for abatement and payment to be accomplished by the owner.

(I) Hearings involving the director will be conducted in accordance with applicable portions of ORS 183.413 to ORS 183.470.

(J) Settlements authorized by the director may be reached prior to hearing. If settlement is reached, the hearing will be cancelled.

(Ord. 1196, Amended, 12/20/13; Ord. 1144, Added, 09/03/2009, eff. 10/5/2009)

#### § 21.875 REVIEW.

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

(Ord. 1196, Amended, 12/20/13; Ord. 1144, Added, 09/03/2009, eff. 10/5/2009)

#### § 21.880 OTHER LAWS APPLY.

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

(Ord. 1144, Added, 09/03/2009, eff. 10/5/2009)

#### § 21.950 SPECIFIED ANIMALS.

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

**LIVESTOCK.** Animals, including but not limited to, fowl, horses, mules, burros, asses, cattle, sheep, goats, llamas, emu, ostriches, rabbits, swine, or other farm animals excluding dogs and cats.

**SPECIFIED ANIMALS:** Bees or livestock.

**SPECIFIED ANIMAL FACILITY.** A permitted site for the keeping of one or more specified animals, including but not limited to a stable, structure or other form of enclosure.

(B) For services of the department in connection with licensing or permitting specified animals or a specified animal facility, the department will collect

fees to recover the cost of providing such services as provided in MCC § 21.002.

(Ord. 1116, Add, 07/17/2008)

#### § 21.990 APPEALS AND HEARINGS.

A person receiving a notice of denial, refusal to renew, suspension, or revocation of a license or permit for specified animals, specified animal facility and other health licenses (for swimming pools, food services and tourist facilities) as provided in this chapter, may request a hearing in accordance with the applicable portions of MCC § 15.231.

(Ord. 1116, Add, 07/17/2008)

#### § 21.999 PENALTY.

(A) *Emergency medical services violations.*

(1) Violation of the emergency medical services subchapter, §§ 21.400 through 21.443, shall be a county offense and may be punished by a civil penalty of not more than \$10,000.

(2) A schedule of fines to be levied for violations shall be found in EMS administrative rules.

(3) Additional penalties for contract violations are found in the contract for exclusive emergency ambulance service.

(4) The provisions of this section are in addition to and not in lieu of other procedures and remedies provided by law.

(90 Code;§ 6.33.096) (Ord. 816, passed 1995)

(B) *Food services violations.*

(1) *Food handler's certificate violations.* Violation of any provisions of §§ 21.600 through 21.609 not otherwise provided for is punishable upon conviction by a fine of not more than \$500, or by imprisonment not exceeding six months, or both.

(90 Code;§ 8.30.900) (Ord. 124, passed 1976)

(2) *Food service license and operation violations.*

(a) Any person who violates §§ 21.610 through 21.614 will be subject to civil penalties of no more than \$500 per day imposed by the Multnomah County Department of Health.

(b) Civil penalties are due and payable 10 days after the order imposing the civil penalty becomes final by operation of law or on appeal.

(c) Civil penalties will be imposed by written notice stating clearly the amount of the penalty, the basis for the penalty, and the person's right to appeal imposition of the civil penalty.

(d) A person against whom a civil penalty has been imposed may request a hearing, in writing, to the Director of the Health Department or designee, within 20 days from the date of service of the notice of the civil penalty.

(e) All hearings under this subsection shall be conducted in accordance with applicable portions of ORS 183.413 to ORS 183.470. At the discretion of the Hearings Officer, the hearing regarding civil penalties may be consolidated with any related licensing hearing on the same matter to which the person is entitled under ORS chapter 624.

(f) The Multnomah County Sheriff's Office, at the request of the Health Department, may assist in the imposition of any civil penalties authorized by this chapter, as well as any inspection or closure activities authorized by ORS chapter 624, ORS chapter 433 and ORS chapter 448.

(g) These civil penalty provisions are in addition to any other civil or criminal penalty or enforcement mechanism provided by law.

*(C) Refuse violations.*

(1) *Refuse hauling violations.* Any person, firm or corporation violating § 21.701 shall be subject to a civil fine of not less than \$100 and no more than \$500 for each violation. The county may prosecute any violation of § 21.701 before a hearings officer.

(90 Code; § 8.75.110) (Ord. 717, passed 1992)

*(2) Dumping and littering violations.*

(a) Any person, firm or corporation violating § 21.702 shall be subject to the following:

1. A civil fine of not less than \$500 and no more than \$999 for each violation; and

2. An award of costs to reimburse the county for the actual expenses of clean-up and disposal caused by the violation.

(b) The county may prosecute any violation of § 21.702 before a hearings officer, or the county may prosecute a violation as a criminal or civil offense to the extent permitted under state law.

(Ord. 1124, Amended, 12/11/2008, eff. 1/1/2009; Ord. 966, Amended, 09/13/2001; Ord. 962, Amended, 06/07/2001, effective 7/1/2001; Ord. 937, Amended, 12/16/1999, 21.999(D)(3)-(4) effective 7/1/2001; '90 Code, § 8.75.210, 07/01/1998; Ord. 717, passed, 04/09/1992)

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