

TITLE 5

PUBLIC PEACE, SAFETY, HEALTH, AND WELFARE

SUBTITLE 2 - PUBLIC SERVICES

CHAPTER 531

SOLID WASTE DISPOSAL & PUBLIC NUISANCE CODES

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A. SOLID WASTE DISPOSAL

531.010 Definitions

For the purpose of LCC 531.010 to 531.310, and LCC 531.900 (D), the following definitions

apply; words used in the present tense include the future, the singular number includes the plural, the word “shall” is mandatory and not directory, and the term “this Subchapter” shall be deemed to include all amendments hereafter made to LCC 531.010 to 531.310, and LCC 531.900 (D).

(A) “**Administrator**” means the Linn County Environmental Health Director.

(B) “**Board**” means the Board of County Commissioners for Linn County.

(C) “**Dispose or disposal**” means the accumulation, storage, collection, transportation, abandonment and deposit of solid wastes.

(D) “**Disposal sites**” means any land used for the disposal of solid wastes, including, but not limited to, dumps, landfills, sanitary landfills, incinerators and composting plants, but does not include a landfill site which is not used by the public either directly or through a disposal service and which is used by the owner or tenant thereof to dispose of sawdust, bark, soil, rock, building demolition material or nonputrescible industrial waste products resulting from the process of manufacturing. Solid Waste Disposal Site shall also mean and include a transfer station as a portable disposal site used between the public disposal point or end of a solid waste collection service route and a fixed disposal site.

(E) “**Informal action**” means action by the Administrator or his designee but not limited to personal communication, letters, investigation and negotiation. Informal action does not include initiation of actions by the Board.

(F) “**Person**” means and includes individuals, corporations, associations, firms, partnerships and joint stock companies.

(G) “**Solid waste**” means all putrescible and non-putrescible wastes, whether in solid or in

liquid form, except liquid-carried industrial wastes or sewage or sewage hauled as an incidental part of a septic tank or cesspool cleaning service, but including garbage, rubbish, ashes, sewage sludge, street refuse, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid or semi-solid wastes, dead animals, and other discarded solid materials.

(H) “**Waste**” means useless, unwanted or discarded materials.

[Adopted 82-039 Art. II eff 3/3/82]

531.100 Administration

The Administrator under the supervision of the Board shall be responsible for the administration and enforcement of this Subchapter.

In order to carry out the duties imposed by this Subchapter, the Administrator shall have authority to administer oaths, certify to all official acts, subpoena and require the attendance of witnesses at public hearings before the Board; require production of relevant documents at public hearings; swear witnesses; take testimony of any person by deposition; enter or authorize personnel to enter upon the premises of any person regulated by this Subchapter at reasonable times to determine compliance with this Subchapter and the regulations promulgated by the Board pursuant thereto.

The Administrator may request the assistance of the Linn County Sheriff for the purpose of conducting preliminary investigations of any complaints filed pursuant to this Subchapter.

[Adopted 82-039 §3.01 eff 3/3/82]

531.200 Solid waste accumulation prohibited

(A) Except as provided in LCC 531.200 (B), no person shall store, collect, maintain or display on private property, county property or public roadways, waste or solid waste that is offensive or hazardous to the health and safety of the public or which creates offensive odors or a condition of unsightliness. Storage, Collection, Maintenance or display of wastes or solid wastes in violation of this subsection shall be considered to be a public

nuisance which may be abated as provided in LCC 531.210.

(B) LCC 531.200 to 531.210 do not apply to:

(1) Areas within the limits of incorporated cities.

(2) Disposal sites, provided that such disposal sites comply with rules promulgated by any state agency under ORS Chapter 459, and as authorized under provisions of the Linn County Zoning Code of 1980.

(3) Agricultural operations and growing or harvesting of crops and the raising of fowl or animals.

[Adopted 82-039 §4.01 eff 3/3/82]

531.210 Abatement of nuisance

The Administrator may, upon the written complaint of any person make an investigation to determine whether or not the storage, collection, maintenance or display of waste or solid wastes is in violation of LCC 531.200. For the purpose of such investigation, the Administrator or his duly authorized personnel may enter upon private property in a reasonable manner and at reasonable times to determine compliance.

(A) After investigation, if the Administrator finds that there is reasonable cause to believe that a public nuisance exists, he may take such informal action as he deems necessary to obtain correction of the alleged public nuisance. If he is not able to obtain correction of the alleged public nuisance, he shall forward written notice to the Board and mail a copy to the alleged violator.

(B) The Board may order that a notice be issued and served upon the owner, tenant, occupant or person in possession of the premises where the nuisance is alleged or claimed to exist, requiring such person to appear before the Board at the time and place stated in the notice or show cause why a nuisance should not be declared to be existing on the premises.

(C) At the time and place described in said notice, the Board shall conduct a public hearing on the existence of the alleged nuisance, and if the Board finds that a nuisance exists, it shall declare the existence of a nuisance by order entered in its

journal, and shall order a suit to be brought in the name of the County for its abatement.

(D) Where a writ of abatement is issued pursuant to LCC 531.210(C), the County may remove from the subject premises the waste or solid waste found to be the cause of such nuisance. Where such removal is performed by the County, the County shall not be liable for any trespass or conversion as to any real or personal property and the costs may be collected from the person served in accordance with LCC 531.210(C), or may be collected as a lien against such property.

(E) The provisions of this section are in addition to and not in lieu of the penalty described in LCC 531.900.

[Adopted 82-039 §4.02 eff 3/3/82]

531.300 Unauthorized dumping prohibited

Except as provided in LCC 531.200, it shall be unlawful to dispose of solid waste at any other place than a disposal site approved by the Board. The Board will designate in writing the places where solid wastes collected in the County shall be disposed of.

[Adopted 82-039 §5.01 eff 3/3/82]

531.310 Private disposal sites prohibited; exceptions

No person shall use or permit to be used any land within the County outside of incorporated cities as a public or private disposal site. Persons desiring to bury or dispose in any other manner of his own solid waste on his own property may do so in accordance with rules promulgated pursuant to ORS Chapter 459 and regulations promulgated by the Board pursuant to LCC 531.010 to 531.310.

[Adopted 82-039 §5.02 eff 3/3/82]

B. PUBLIC NUISANCE

531.400 Title

LCC 531.400 to 531.900 (A), (B), and (C) shall be known as and cited as the Linn County Nuisance Code.

[Adopted 92-025 §1 eff 4/8/92]

531.410 Purpose

(A) To prevent or eliminate conditions or practices including the accumulation of unlicensed, licensed but inoperable, or inoperable vehicles, tires, junk and other objects or materials to levels or quantities which would constitute a public nuisance.

(B) To provide for the use of the Linn County Code Enforcement Code, LCC chapter 240, as the basis for abatement of public nuisances.

[Adopted 92-025 §3 eff 4/8/92; amd 2002-240 § 1 eff 6/12/2002]

531.450 Definitions

For the purposes of LCC 531.400 to 531.900 (A), (B) and (C), the following words and phrases shall mean:

(A) **“Unlicensed vehicle”** means a vehicle, including but not limited to a motor vehicle, which is not a currently registered vehicle. For purposes of this Chapter, a rebuttable presumption exists that a vehicle is not currently registered if it does not bear current valid vehicle registration plates and registration stickers.

(B) **“Inoperable vehicle”** means a vehicle, including but not limited to a motor vehicle, which has broken or missing windows; or a broken or missing windshield; or one or more missing wheels; or one or more missing tires; or is missing a transmission; or the existing transmission is inoperable; or is missing one or more other parts so that the vehicle is inoperable.

(C) **“Junk”** means any object or material which is manufactured or man-made, whether of artificial materials or natural materials, which has been abandoned or discarded, or which is inoperable, or which is in a state of disrepair, or which is useless to serve its intended purpose in its current condition, or which is being kept or stored to

serve some useful purpose in the future. Junk may be included within, but is not limited to, one of the following classifications:

(1) Inoperable household appliances such as washers, dryers, refrigerators, dishwashers, water heaters, stoves, and similar items.

(2) Used household furniture such as sofas, beds, chairs, tables, mattresses and similar items.

(3) Used machinery or vehicle parts, including but not limited to motors, tires, wheels, chassis, or similar items.

(4) Used building materials such as lumber, stone, brick, plywood, wire, plumbing fixtures, lighting fixtures, heating fixtures, and similar items.

(5) Discarded, useless, inoperable, or abandoned vehicles or recreation equipment.

(D) **“Motor vehicle”** means a vehicle that is self-propelled or designed for self-propulsion.

(E) **“Parcel”** or **“specific parcel”** means one tax lot, or two or more contiguous tax lots with at least one common border owned by the same person(s).

(F) **“Person”** means a natural person, his or her heirs, executors, administrators or assigns; a firm, partnership, association, domestic or foreign corporation, its heirs, successors, or assigns; or the authorized agent of any of the aforementioned.

(G) **“Person in charge of property”** means an owner, agent, occupant, lessee, tenant, contract purchaser or other person having possession or control of the property.

(H) **“Person responsible”** means:

(1) The person in charge of property on which a public nuisance exists; or

(2) The person who causes a public nuisance to come into, or continue to be, in existence.

(I) **“Public nuisance”** means a condition or practice which is offensive, unsightly, obnoxious, or annoying, or which is hazardous to the public health or safety. A public nuisance includes, but is not limited to, the accumulation, collection, storage, maintenance, or display of excessive

junk, unlicensed, licensed but inoperable, or inoperable vehicles, or tires.

(J) **“Public road”** means a road over which the public has a right of use that is a matter of public record.

(K) **“Road”** means the entire right of way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. Roads includes, but is not limited to:

(1) Ways described as streets, highways, throughways or alleys;

(2) Road related structures that are in the right of way such as tunnels, culverts or similar structures; and

(3) Structures that provide for continuity of the right of way such as bridges.

(L) **“Store”** or **“storage”** means to keep, accumulate, or allow to remain, on any property, any vehicle, junk, tire or other object or material subject to regulation by LCC 531.400 to 531.900.

(M) **“Tire”** means the band of material used on the circumference of a wheel which forms the tread that comes in contact with the surface of the road.

(N) **“Vehicle”** means any device in, upon, or by which any person or property is or may be transported, or drawn upon a public road, and includes vehicles that are propelled or powered by any means, but does not include a device propelled by human power.

[Adopted 92-025 §4 eff 4/8/92; amd 93-373 §1 eff 9/15/93; amd 2002-240 §1 eff 6/12/2002]

531.500 Creation of public nuisance prohibited

(A) No person nor person responsible shall create or cause to be created or permit a public nuisance as defined by this chapter.

(B) No person nor person responsible shall expand in quantity, or volume, or spread over a larger area of land, a public nuisance as defined by this chapter.

[Adopted 92-025 §6 eff 4/8/92; amd 2002-240 §1 eff 6/12/2002]

531.550 Abatement and prohibition of public nuisances

(A) The following conditions or practices, by way of example but not limitation, shall constitute public nuisances and shall be abated.

(1) The accumulation, collection, or storage of junk on a parcel. Junk visible from abutting property or a public road, and piled or strewn about the property, not maintained in a neat or orderly fashion, is a condition or practice which meets the definition of a public nuisance.

(2) Storing or permitting the storing of:

(a) five (5) or more unlicensed vehicles upon a parcel;

(b) five (5) or more licensed but inoperable vehicles upon a parcel; or

(c) any combination of five (5) or more vehicles described in subsection (2)(a) and (2)(b).

(3) The storage of 20 or more tires on a specific parcel of real property, unless the tires are currently being used for agricultural or landscaping purposes.

(4) Any equivalent combination of the public nuisances outlined in subsections (A) (1) through (3) of this section when the accumulation, in effect, is equal to or greater than what is specified in any of the sub-sections.

(B) No person nor person responsible shall create or cause to be created or permit such conditions or practices described in this section.

(C) No person nor person responsible shall expand in quantity, or volume, or spread over a larger area of land, such conditions or practices described in this section.

[Adopted 92-025 §6 eff 4/8/92; amd 93-373 §2 9/15/93; amd 2002-240 § 1 eff 6/12/2002]

531.580 Affirmative Defense

It is an affirmative defense to a charge of violating LCC 531.500 or 531.550 that a condition or practice that would otherwise constitute a public nuisance is:

(A) a condition or practice that will not result in the creation of a hazard to public health or safety, and

(B) one or more of the following circumstances exist:

(1) The condition or practice is an integral part of a commercial, industrial or public use which complies with the provisions of the Linn County Community Development Code;

(2) The condition or practice consists of farm vehicles currently licensed under ORS 805.300 to 805.410; or

(3) The condition or practice consists of farm vehicles actually used on a farm operation in the previous twelve months.

[Adopted 2002-240 § 1 eff 6/12/2002]

531.800 Violations Declared Nuisances

For the purpose of ORS 203.065(3), any violation of LCC 531.200 to 531.310, 531.500, or 531.550 is hereby declared to be a nuisance.

[Adopted 2002-240 § 1 eff 6/12/2002]

531.900 Enforcement and penalties

(A) The enforcement of LCC 531.400 to 531.900 is governed by the provisions of LCC 240 (Linn County Code Enforcement Code) of the Linn County Code.

(B) A violation of LCC 531.500 or 531.550 shall be punishable upon conviction as a Class “A” violation for each separate offense. For purposes of LCC 531.500 and 531.550, a failure to comply with any provision of LCC 531.400 to 531.900 (A), (B), and (C) from day to day shall be a separate offense for each such day.

(C) In any action to prosecute for a violation of LCC 531.500 or 531.550, or, to abate a violation of LCC 531.500 or 531.550, a rebuttable presumption exists that a vehicle is not currently licensed if it does not bear valid vehicle registration plates and registration stickers.

(D) The violations of LCC 531.200 to 531.310 shall be punishable upon conviction as a Class “A” violation for each separate offense. For purposes of LCC 531.010 to 531.310, a failure to comply with any provision of LCC 531.010 to 531.310 from day to day shall be a separate offense for each such day.

[(A) - (C)] Adopted 92-025 §9 eff 4/8/92D); (D) Adopted 82-039 §6.01 eff 3/3/82; amd 88-536 §6 eff 10/12/88; amd 2002-240 § 1 eff 6/12/2002]

Statutory References and Authorities:

ORS 203; 459; 805.300 to 805.410.

Legislative History of Chapter 531:

Part A. Adopted 70-2 eff 8/22/70

Amendments to 70-2

#1 70-140 eff 6/22/71

#2 80-039 draft eff 5/17/82

Adopted 82-039 eff 3/3/82 (repealed 70-2)

Amendments to 82-039

#1 88-536 eff 10/12/88

#2 95-177 eff/5/10/95 (renumbering)

Part B. Adopted 92-025 eff 4/8/92

Amendments to 92-025 and LCC 6.60:

#1 93-373 eff 9/15/93

#2 95-177 eff/5/10/95 (renumbering)

#3 2002-240 eff 6/12/2002
