

**LAKE COUNTY LICENSING PROGRAM ORDINANCE  
FOR ENVIRONMENTAL HEALTH SERVICES**

|      |   |
|------|---|
| 100  | Authority; purpose and intent.                                |
| 200  | Evidence to State.  |
| 300  | Definitions.  |
| 400  | Notice to parties in contested cases.                         |
| 500  | Immediate suspension or refusal to renew licenses; notice.    |
| 600  | Orders when no hearing requested or upon failure to appear.   |
| 700  | Hearings.   |
| 800  | Evidentiary rules.  |
| 900  | Proposed orders in contested cases; exceptions and arguments. |
| 1000 | Final orders in contested cases; notification.                |
| 2000 | Reconsideration; rehearing.                                   |
| 3000 | Review.   |
| 4000 | Severability  |

---

WHEREAS, Lake County is required to provide a program to assure the Health of the citizens of the County are protected from environmental health concerns;

NOW, THEREFORE, the County of Lake ordains as follows:

**100 AUTHORITY; PURPOSE AND INTENT.**

(a) In compliance with ORS 446.425, ORS 448.100 and ORS 624.510, and rules of the State Health Division relating to County performance of certain licensing programs for tourist facilities, as defined in ORS Ch. 446, for Public Swimming and Wading Pools and Bathhouses, as defined in ORS Ch. 448, and for Restaurants, Commissaries, Mobile Units and Vending Machines as defined in ORS Ch. 624, the provisions of this chapter are adopted for the conduct of hearings for license and certificate denial, suspension or revocation.

(b) The provisions of this chapter are intended for the specific administration of programs assigned to the County under the referenced laws, and the Board of County Commissioners is hereby designated to receive petitions and appeals as provided for assignment to a Hearings Officer.

## **200 EVIDENCE TO STATE.**

A copy of this chapter shall be forwarded to the State Health Division Administrator as evidence that the County is prepared to accept delegation of authority on January 1, 1976.

## **300 DEFINITIONS.**

As used in this chapter:

- (a) A "contested case" exists whenever:
  - (1) A constitutional provision, statute, ordinance, rule or regulation requires a hearing upon the action.
  - (2) The County has the discretion to suspend or revoke a right or privilege of a person.
  - (3) There is a proceeding regarding a license to pursue a commercial activity, trade or profession.
  - (4) There is a proceeding in which the County elects to grant a hearing, in accordance with contested case requirements.
- (b) "Party" is any person or agency entitled to a hearing before the County with respect to the matter in issue, or named or admitted as a party.

## **400 NOTICE TO PARTIES IN CONTESTED CASES.**

- (a) The County shall give notice to all parties in a contested case. The notice shall include:
  - (1) A statement of the party's right to a hearing, or a statement of the time and place of the hearing;
  - (2) A statement of the authority and jurisdiction under which the hearing is to be held;
  - (3) A reference to the particular sections of the statutes and rules involved;

- (4) A short and plain statement of the matters asserted or charged;
- (5) A statement that the party may be represented by counsel at the hearing;  
and
- (6) A statement that if the party desires a hearing, written request for such hearing must be given to the County within a specified number of days from the date of the mailing of the notice.

(b) The number of days within which the County must be notified that the party desires a hearing shall be as follows:

- (1) Within ten days of the date of the mailing of the notice; or
- (2) When the County refuses to issue a license required to pursue any commercial activity, trade, occupation or profession, if the refusal is based on grounds other than the results of a test or inspection, within sixty days from notification of the refusal.

(c) The notice shall be served personally or by registered or certified mail.

**500 IMMEDIATE SUSPENSION OR REFUSAL TO RENEW LICENSES; NOTICE.**

(a) If the County finds that there is a serious danger to the public health or safety, it may immediately suspend or refuse to renew a license.

(b) The County shall give notice to the party upon immediate suspension or refusal to renew a license. The notice shall include:

- (1) A statement of the party's right to a hearing;
- (2) A statement of the authority and jurisdiction under which the hearing is to be held;
- (3) A reference to the particular sections of the statutes and rules involved;
- (4) A short and plain statement of the matters asserted or charged;
- (5) A statement that the party may be represented by counsel at the hearing;

(6) A statement that if the party demands a hearing, the County must be notified within ninety days of the date of the notice;

(7) A statement giving the reason for the immediate action; and

(8) The effective date of the suspension or refusal to renew the license.

(c) The notice shall be served personally or by registered or certified mail.

**600 ORDER WHEN NO HEARING REQUESTED OR UPON FAILURE TO APPEAR.**

(a) When a party has been given an opportunity and fails to request a hearing within a specified time, or having requested a hearing, fails to appear at the specified time and place, the County shall enter an order which supports the action taken.

(b) The order supporting the County action shall set forth the material on which the action is based or such material shall be attached to and made a part of the order.

**700 HEARINGS.**

(a) A hearing shall be conducted by and shall be under the control of a presiding officer. The presiding officer may be any member of the Board of County Commissioners or any other person designated by the County.

(b) At the discretion of the presiding officer, the hearing shall be conducted in the following manner:

(1) Statement and evidence of the County in support of its action;

(2) Statement and evidence of affected person disputing the County's Action; and

(3) Rebuttal testimony.

(c) The presiding officer, the affected parties and the County or its attorneys shall have the right to question or examine or cross-examine any witness.

(d) The hearing may be continued with recesses as determined by the presiding officer.

(e) The presiding officer may set reasonable time limits for oral presentation and may exclude or limit cumulative, repetitious or immaterial matter.

(f) Exhibits shall be marked and the markings shall identify the person offering the exhibits. The exhibits shall be preserved as part of the record of the proceedings.

#### **800 EVIDENTIARY RULES.**

(a) Evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible.

(b) Irrelevant, immaterial or unduly repetitious evidence shall be excluded.

(c) All offered evidence, not objected to, will be received by the presiding officer subject to his or her power to exclude irrelevant, immaterial or unduly repetitious matter.

(d) Evidence objected to may be received by the presiding officer and rulings on its admissibility or exclusion shall be made at the time a final order is issued.

#### **900 PROPOSED ORDERS IN CONTESTED CASES; EXCEPTIONS AND ARGUMENTS.**

(a) If a majority of officials who are to render a final order are not present at a hearing or have not reviewed and considered the record, and the order is adverse to a party (excluding the County), a proposed order, including findings of fact and conclusions of law, shall be served upon the parties.

(b) The parties shall be given the opportunity to file exceptions and present arguments to the officials who render the final order.

#### **1000 FINAL ORDERS IN CONTESTED CASES; NOTIFICATION.**

(a) Final orders in contested cases shall be in writing and shall include the following:

(1) Rulings. Rulings on admissibility of offered evidence;

(2) Findings of Fact. Those matters which are either agreed as fact or which, when disputed, are determined by the fact finder, on substantial evidence, to be a fact over contentions to the contrary;

(3) Conclusions of Law. Applications of the controlling law to the facts found and the legal results arising therefrom; and

(4) Order. The action taken by the County as a result of the findings of fact and conclusions of law.

(b) Parties to contested cases and their attorneys of record shall be served a copy of the final order. Parties shall be notified of their right to a judicial review of the order.

#### **2000 RECONSIDERATION; REHEARING.**

(a) A party may file a petition for reconsideration or rehearing on a final order with the County within thirty days after the order is served.

(b) The petition shall set forth the specific grounds for requesting the reconsideration or rehearing. The petition may be supported by a written argument.

(c) The County may grant a reconsideration petition if sufficient reason is made to appear. If the petition is granted, an amended order shall be entered.

(d) The County may grant a rehearing if sufficient reason therefore is made to appear. The rehearing may be limited by the County to specific matters.

(e) If the County does not act on the petition within sixty days following the date the petition was filed, the petition shall be deemed denied.

#### **3000 REVIEW.**

The provisions of ORS Chapter 183, otherwise applicable to contested case proceedings, shall apply.

#### **4000 SEVERABILITY.**

If any section, subsection, sentence or clause, or any portion of this Ordinance is, for any reason, held invalid or unconstitutional by a court of competent jurisdiction, such


portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portion thereof.

This ordinance and its purposes being necessary for the preservation of public peace, health and safety of Lake County and its inhabitants, an emergency is hereby declared to exist and this ordinance shall be in full force and effect after its passage by the Commissioners of Lake County.

No commission member present requested that this ordinance be read in full so the same was read by title only and therefore passed unanimously by the Commissioners of Lake County and adopted on January 4th, 2006.

Dated this 4th day of January, 2006.

LAKE COUNTY BOARD OF COMMISSIONERS

  
\_\_\_\_\_  
JR Stewart, Chairman

  
\_\_\_\_\_  
J. Melvin Dick, Commissioner

  
\_\_\_\_\_  
Bradley J. Winters, Commissioner