

BEFORE THE BOARD OF COMMISSIONERS

FOR LAKE COUNTY, OREGON

In the Matter of the Adoption of) Ordinance No. 23
the Lake County Water Waste)
Ordinance.)
Lake County Water
Waste Ordinance

THIS MATTER having come regularly before the county governing body at the time regularly scheduled for the transaction of county business, and the county governing body having considered the matter;

WHEREAS, Lake County adheres to the same basic principles as the State of Oregon regarding water resource administration, utilization and control as is described by ORS 536.220 and 536.710;

WHEREAS, the county governing body has received complaints regarding water waste on county lands, and on county roads in particular;

WHEREAS, unnecessary water on county roads creates a public health hazard and a public nuisance;

WHEREAS, there exists in Lake County drought conditions at present, which will reoccur from time to time in the future making conservation of water necessary; and

WHEREAS, the county governing body finds, after public hearing, that controlling water waste is a matter of county concern; now, therefore,

THE COUNTY GOVERNING BODY DOES NOW ORDAIN:

(1) Definitions. As used in this ordinance:

(a) "Affiant" means the individual completing, swearing to

and signing an affidavit.

(b) "Affidavit" means a declaration upon oath, in writing, signed by the party and sworn to before a notary public.

(c) "County" means Lake County, a political subdivision of the State of Oregon.

(d) "County Road" shall have the meaning as set out by ORS 368.001(1).

(e) "Land Owner" includes any person shown by records of the county to be the owner of land or having such land under contract to purchase, lying within the county.

(f) "Lawful Occupant of Land" includes any person who is in possession of any land lying within the county, in whole or in part, whether as lessee, renter, or tenant.

(g) "Peace Officer" includes those persons defined by ORS 133.005(3).

(h) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, and municipal, state and federal governments.

(i) "Road" shall have the meaning as set out by ORS 368.001(6).

(j) "Roadmaster" shall include that person or those persons employed by the county pursuant to ORS 368.046.

(k) "Watermaster" shall include those persons as provided for in ORS Chapter 540.

(2) Road Hazard. (a) Except as authorized by the county governing body of the county, a land owner or lawful occupant of land shall not allow any water to overflow, seep or otherwise

discharge from that land onto the travelled surface of a county road including, but not limited to, water that is passing over the land, diverted from the land by an obstruction on the land, flowing from the land because of rainfall or discharge from an irrigation sprinkler or other device.

(b) A person is not in violation of this section if there was no reasonable method for the person to prevent the cause of the violation.

(3) **Complaints.** The roadmaster, the watermaster, an affiant upon completion of an affidavit, or a peace officer shall file a written complaint with the district attorney of the county to initiate proceedings under this ordinance.

(4) **Penalties.** (a) Violation of this ordinance is a misdemeanor punishable upon conviction by a fine of not less than \$100.00 for the first offense, \$250.00 for the second offense, or \$500.00 for the third offense, or by imprisonment in the county jail for not more than 30 days, or both. The court shall not waive or suspend imposition or execution of the mandatory minimum fine required by this ordinance.

(b) Each location at which, and each day or night during which, a land owner or lawful occupant of land allows water to overflow, seep or otherwise discharge from that land onto the travelled surface of a county road shall constitute a separate offense.

(5) **Severability.** The provisions of this ordinance are hereby declared to be severable. If any section, sentence clause or phrase of this ordinance is adjudged by a court of competent

jurisdiction to be invalid, that decision shall not effect the validity of the remaining portions of this ordinance.

(6) Effective Date. This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this ordinance takes effect on the date of its adoption.

ADOPTED this 4th day of December, 1991.

ATTEST:

LAKE COUNTY BOARD OF COMMISSIONERS

Taren O'Connor
Lake County Clerk

Jeremiah O'Leary
Jeremiah O'Leary, Chairman

James H. Gipsón
James H. Gipsón, Commissioner

Robert M. Pardue
Robert M. Pardue, Commissioner