



AGENDA

Lincoln County Board of Commissioners

Board of Commissioners
225 West Olive Street
Room 110
Newport, OR 97365
Phone: 541.265.4100
FAX: 541.265.4176

Wednesday, June 7, 2017

9:00 a.m. Executive Session

9:30 a.m. Regular Meeting

Commissioner's Meeting Room
Lincoln County Courthouse
225 W. Olive Street, Room 108
Newport, Oregon

- I. **CALL TO ORDER (9:00 a.m.)**
- II. **ROLL CALL - ESTABLISHMENT OF A QUORUM**
- III. **RECESS**
- IV. **EXECUTIVE SESSION**
 - A. Pursuant to ORS 192.660(2)(h) to discuss litigation matters
- V. **RECONVENE (regular meeting at 9:30 a.m.)**
- VI. **RECOGNITION/PROCLAMATION**
 - A. **Employee Recognition**
 - 1. Lauri Snow – Health and Human Services - 5 years
 - 2. Thomas Graham – Sheriff's Office - 25 years
 - B. **New Hire Introductions – Presented by: Bridget Robertson**
- VII. **ADOPTION OF CONSENT CALENDAR**
 - A. **Minutes of Board of Commissioners Meeting**
 - B. **Commission Appointments and Resignations**
 - C. **License Applications or Renewals**
 - 1. Order #6-17- 149 The Issuance of an Oregon Liquor Control Commission Temporary Liquor License to Mad Dog Country Tavern
 - 2. Order #6-17- 150 The Issuance of an Oregon Liquor Control Commission Temporary Liquor License to Samaritan House

3. Order #6-17- 151 The Issuance of an Oregon Liquor Control Commission Liquor License to Mangia Italian Deli, LLC

D. Tax Foreclosure, Right-of-Way, Sales and Deeds

E. General Budget Resolutions

F. Acting as Governing Body of County Wide Service Districts

G. Documents and Recording Matters in the Commissioners Journal

1. Order #6-17- 152 Agreement between Lincoln County and Reconnections Recovery House to provide residential support Services for Clients of Lincoln County Community Justice, Adult Parole and Probation Program (Terms: Effective 7/1/17 – 6/30/18; not to exceed \$5,000 per year for two residential beds)
2. Order #6-17- 153 Private Nonprofit Social Service Agency Allocation Program Funding Allocations for Fiscal Year 2016-2017

H. Execution of Documents

1. Intergovernmental Agreement between Lincoln County and the State of Oregon's Department of Transportation for the Lincoln County Community Justice Labor Work Crews Agreement #32108 (Terms: \$50,000 for 2017-2018 and \$50,000 for 2018-2019)
2. Agreement #32011 between the State of Oregon's Rail and Public Transit Division Oregon Department of Transportation and Lincoln County (Terms: Effective July 1, 2017; not to exceed \$232,284)
3. Contract for Refinement of the Master Plan for Lincoln County Commons Facilities and Design of a Main Exhibit Building and Ancillary Facilities (Terms: not to exceed \$251,179)
4. 2017-2019 Intergovernmental Agreement between Lincoln County and the State of Oregon's Oregon Health Authority for Community Mental Health, Substance use Disorders and Problem Gambling Services (Terms: Effective 7/1/17-6/30/19; \$4,470,708.36)

VII. PUBLIC HEARING

IX. DECISION/ACTION

- A. Order #6-17- 154 Bid award to Collaborative Construction Solutions, LLC for the remodel of the Jail lobby at a cost of \$196,832.00 - Presented by: Roy Kinion

X. DISCUSSION/INFORMATION

**A. Proposed changes to Lincoln County Fee Schedule for the 2017-18 Fiscal Year –
*Presented by Kristin Yuille***

XI. BOARD OF COMMISSIONERS AS THE GOVERNING BODY OF COUNTY-WIDE SERVICE DISTRICTS

XII. REPORTS

A. Elected Officials/Department Directors/Program Coordinators and Consultants

1. Measure 21-177 Discussion – *County Counsel Wayne Belmont*

B. Commissioners

XIII. CONSTITUENT INPUT (Limited to five minutes per constituent)

XIV. ADJOURN

XV. OTHER SCHEDULED MEETINGS AND APPOINTMENTS OF THE BOARD

Wednesday, June 14, 2017 – 6:00 p.m. – Joint Work Session with the City of Waldport City Council at Waldport City Hall, 125 NW Alsea Highway, Waldport, Oregon

Wednesday, June 14, 2017 – Immediately Following the Joint Work Session - Board of Commissioners Meeting at Waldport City Hall, 125 NW Alsea Highway, Waldport, Oregon

For special physical, language or other accommodations at Board's meeting, please contact the Board at 265-4100 (voice) or dial 7-1-1 Relay Service and include e-mail as soon as possible, but at least 48 hours before the meeting.

1 **BEFORE THE BOARD OF COMMISSIONERS**
2 **FOR LINCOLN COUNTY, OREGON**

3
4 In the Matter of)
5) **ORDER NO.** _____
6 *Awarding Bid for Jail Lobby Remodel Project*)
7)
8

9 WHEREAS the Lincoln County Public Works Department received and opened
10 bids on May 25, 2017 for the Jail Lobby Remodel Project consisting of construction of
11 nonbearing partition walls to define an expanded reception / booking area, an enclosed
12 storage area, and defined video conference stall in the public lobby, all within the Lincoln
13 County Jail; and

14 WHEREAS a single bid was received and opened. By memorandum dated May
15 25, 2017 attached to and incorporated herein Roy Kinion, Public Works Director,
16 analyzed the bid and recommended that the bid be awarded to Collaborative Construction
17 Solutions in the amount of \$196,832, which is within the architect's estimated range of
18 costs (\$150,000 - \$200,000). for the project; and

19 WHEREAS the Board of Commissioners reviewed the bid and recommendation on
20 May 31, 2017 and unanimously approved a motion awarding the bid to Collaborative
21 Construction Solutions.

22 NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

23 1. That the bid for the Jail Lobby Remodel Project for the Lincoln County Jail is
24 awarded to Collaborative Construction Solutions in the amount of \$196,832. The award is
25 supported by the recommendation of the Public Works Director attached to and
26 incorporated in this Order.

Order No. _____

Page 1

1 2. That the Public Works Director is authorized to execute the necessary documents
2 and contracts to undertake this project.

3

4 3. That copies of this order be provided to Roy Kinion, Public Works Director and to
5 Wayne Belmont, County Counsel.

DATED: June 7, 2017

LINCOLN COUNTY BOARD OF COMMISSIONERS

TERRY N. THOMPSON, Chair

DOUG HUNT, Commissioner

BILL HALL, Commissioner

Order No. _____

Page 2

Office of Lincoln County Legal Counsel
225 West Olive Street, Room 110
Newport, Oregon 97365
(541) 265-4108



Lincoln County Public Works
Roy Kinion
Public Works Director

County of Lincoln
880 N.E. 7th Street
Newport, Oregon 97365-2599
Phone (541) 265-5747
FAX (541) 574-1295

MEMORANDUM

DATE: May 25, 2017

TO: Board of Commissioners

FROM: Roy Kinion, Public Works Director *RK*

RE: **Bid Award: JAIL LOBBY REMODEL**
Project 8062

Bids were received on May 25, 2017 at 2 pm and publicly read at that time for the remodel of the jail lobby. This renovation includes construction of nonbearing partition walls to define an expanded reception for the booking area, an enclosed storage area, and defined video conference stall in the open public lobby. The reception area will be protected with bullet guard panels.

Public Works received a single bid for this work by Collaborative Construction Solutions at \$196,832. This amount is within the architect's estimated range of \$150,000 to \$200,000. I have examined the bids and found no irregularities. It is my recommendation that a contract be awarded to Collaborative Construction Solutions in the amount of their bid.

Please contact me should you have any questions.

XC: Legal Counsel
File.

FEE SCHEDULE

FOR DEPARTMENTS OF



Proposed as of
5-22-17

Effective July 1, 2017

The following Fee Schedule is based upon fees set by United States Code (USC), Code of Federal Regulations (CFR), Oregon Revised Statute (ORS), uncodified Oregon session laws (OL), Oregon Administrative Rule (OAR), Oregon Building Code (OBC), Oregon Mechanical Specialty Code (OMSC), Lincoln County Code (LCC), and Board of Commissioners Order (BOC).

The department head of each department reserves the right to waive a fee or fees in appropriate circumstances, such as for indigent persons seeking essential governmental services, or for services that are provided to a member of the public, but that also provide a direct benefit to the department.

This Fee Schedule is an attempt to list all fees commonly charged by each department to the public. This schedule does not include interdepartmental charges, interagency charges, franchise fees, or prices for specialized reports and publications. Some omissions may have inadvertently occurred. If an inadvertent omission is discovered, please notify Legal Counsel so the omission can be remedied in the next edition of this Fee Schedule.

HEALTH & HUMAN SERVICES¹²

PUBLIC HEALTH DIVISION

Food Service^{13, 14}

ORS 624.510/BOC

Restaurant*

0-15 seats	\$608
16-50 seats	\$667
51-150 seats	\$794
150 or more seats	\$899

* Pro rata fee for new full service restaurants or change of operator;
50% of annual fee from October 1st to December 31st.

Limited service restaurant	\$338
Vending units (1-10)	\$43
Mobile units/pushcarts (1-10)	\$241
Commissary	\$423
Warehouse	\$169
Bed & breakfast food service	\$267
Benevolent organization restaurant serving needy population	No charge

Swimming Pools and Spas¹³

ORS 448.100/BOC

First pool or spa	\$426
Each additional pool or spa on the same site	\$283

Other Food Service Fees

¹² The fees for supplies and procedures provided at county health clinics are based upon actual cost, and therefore vary according to cost. ORS 431.415. Behavioral Health fees are determined by an annual cost report; Health fees are based on Relative Value Units and actual supply costs. A sliding fee scale is applied to all charges other than for supplies. The Health & Human Services Department maintains a list of current fees. All fees, including, but not limited to, outstanding re-inspection fees, late payment penalty fees, and returned check fees, must be fully paid prior to issuance or renewal of a license.

¹³ For full service and limited service restaurants, and bed and breakfast facilities, Oregon law provides that a “license expires annually on December 31.” ORS 624.020(2). (2) Except as provided in this subsection, to reinstate an expired license the operator must pay a reinstatement fee of \$100 in addition to the license fee. If the operator reinstates the license more than 30 days after the expiration date, the reinstatement fee shall increase by \$100 on the 31st day following the expiration date and on that day of the month in each succeeding month until the license is reinstated. Ors 624.490(2). Payment for license fees must be received in the office of the Public Health Division office by December 31 to avoid a reinstatement fee. Under Oregon law, a license is not transferable between operators or locations, and no refund can be issued for any unused portion of a license. ORS 624.020(6).

A license that is not renewed on or before the expiration date of the license is delinquent. To be renewed in a timely manner, payment must be received in the Public Health Division office on or before the due date.

For all Public Health Division licenses, a license shall not be issued to an applicant/operator until all fees, including all reinspection fees, reinstatement fees, and other fees due and owing to the Public Health Division for current and expired licenses held by the applicant/operator have been fully paid.

¹⁴ The fees listed in this category **include** a remittance assessed by the Oregon Health Authority. ORS 624.510(2), ORS 448.100(2).

Re-inspection of "Critical Item" in restaurant (1 st re-inspections no charge)	\$101
Re-inspection of restaurant following "Failed to Comply" inspection	\$237
Temporary restaurant	
Single Event	\$156
Single Event (if paid one week or more before event)	\$118
Benevolent Temporary Administrative Fee	\$ 25
Intermittent (30 days) or Seasonal (90 days)	\$200
Intermittent or Seasonal (if paid one week or more before event)	\$163
Operational Plan Review (for intermittent and seasonal temporary restaurants)	\$81

Other Fees:

Plan review		
Initial construction		\$444
Full service restaurant		\$444
Organizational Camp including food		\$133
Bed & breakfast		\$221
Commissary		\$88
Warehouse		\$133
Limited service restaurant (<i>individually packaged foods only</i>)		\$133
Mobile unit		\$178
Remodeling		\$178
Full service restaurant		\$88
Organizational Camp without food		\$88
All other facilities		
Food handler training		
Training/certificate	ORS 624.570(5)/BOC	\$10
Duplicate certificate	OAR 333-175-0001	\$5

Sanitizer Test Strips and Thermometers

Chlorine Vial	\$4.00
Chlorine Roll	\$5.50
Quaternary Ammonia Roll	\$6.00
Digital Probe Thermometer	\$20.50

Travelers' Accommodations/Bed & Breakfasts/Recreational "RV" Parks^{15, 16}

Hotels/Bed & Breakfasts:		ORS 446.425/BOC
1-10		\$108
11-25		\$196
26-50		\$364
51-75		\$523
76-100 and over		\$668 + \$3 ea Unit over 100
Recreational "RV" Parks		
1-10		\$113
11-25		\$211
26-50		\$387
51-75		\$555
76-100 and over		\$710 + \$3 ea Unit over 100
Organizational Camps	ORS 446.425/BOC	\$167
Day Cares/Other Requested Inspections	ORS 329A.400/BOC	\$98

¹⁵ The fees listed in this category include a remittance assessed by the Oregon Health Authority.
ORS 446.425(2)

¹⁶ ORS 446.323: (2) Any person, initially licensed under ORS 446.310 to 446.350 for engaging in the recreation park or travelers' accommodation business who has failed to renew a license on or before the expiration date is delinquent. If delinquency extends 15 days past the expiration date, a penalty fee of 50 percent of the annual license fee shall be added. The penalty fee shall be increased by 50 percent of the license fee on the first day of each succeeding month of delinquency.

ON-SITE SEWAGE DISPOSAL²⁴

ORS 454.745/OAR 340-71-140/
LCC 2.425/BOC

Site evaluation	\$1000
Construction permits	
Standard	\$1290
Capping fill	\$1890
Pressure distribution	\$1890
Sand filter	\$2165
Alternative treatment technology system	\$2165
Installation of holding tanks	\$475
Repair permits	
Major	\$915
Minor	\$310-415
Alteration permits	
Major	\$1290
Minor	\$475
Renewal permits	
Major	\$760
Minor	\$380
Authorization notice	
Major	\$825
Minor	\$210
Existing system check	\$800
Annual review ATT system	\$80
Annual review holding tank	\$65
Pumper trucks	
First truck	\$200
Each additional truck inspected at the same time	\$100
Building Permit Review	\$25, \$65 if valuation is over 21,000
Manufactured home placement permit review	\$65
Re-inspection	\$125

BAYSHORE DUNE PLAN

LCC 1.1385/BOC

Foredune Grading Permit	\$625
Remedial/Infrastructure Grading Permit	\$250

²⁴ The fees listed in this category do not include the surcharge imposed by the Oregon Department of Environmental Quality (DEQ). OAR 340-71-140 (3). The surcharge is currently \$60-100 for each site evaluation, construction permit and all other activities for which an application is submitted. For combined applications (applications requiring more than one action), use the fee formula provided in footnote 18.

PUBLIC HEALTH DIVISION

Food Service^{13, 14}

ORS 624.510/BOC

Restaurant*

0-15 seats	\$590
16-50 seats	\$648
51-150 seats	\$771
150 or more seats	\$873

* Pro rata fee for new full service restaurants or change of operator;
50% of annual fee from October 1st to December 31st.

Limited service restaurant	\$328
Vending units (1-10)	\$42
Mobile units/pushcarts (1-10)	\$234
Commissary	\$411
Warehouse	\$164
Bed & breakfast food service	\$259
Benevolent organization restaurant serving needy population	No charge

Swimming Pools and Spas¹³

ORS 448.100/BOC

First pool or spa	\$414
Each additional pool or spa on the same site	\$275

¹² The fees for supplies and procedures provided at county health clinics are based upon actual cost, and therefore vary according to cost. ORS 431.415. Behavioral Health fees are determined by an annual cost report; Health fees are based on Relative Value Units and actual supply costs. A sliding fee scale is applied to all charges other than for supplies. The Health & Human Services Department maintains a list of current fees. All fees, including, but not limited to, outstanding re-inspection fees, late payment penalty fees, and returned check fees, must be fully paid prior to issuance or renewal of a license.

¹³ For full service and limited service restaurants, and bed and breakfast facilities, Oregon law provides that a “license expires annually on December 31.” ORS 624.020(2). (2) Except as provided in this subsection, to reinstate an expired license the operator must pay a reinstatement fee of \$100 in addition to the license fee. If the operator reinstates the license more than 30 days after the expiration date, the reinstatement fee shall increase by \$100 on the 31st day following the expiration date and on that day of the month in each succeeding month until the license is reinstated. Ors 624.490(2). Payment for license fees must be received in the office of the Public Health Division office by December 31 to avoid a reinstatement fee. Under Oregon law, a license is not transferable between operators or locations, and no refund can be issued for any unused portion of a license. ORS 624.020(6).

A license that is not renewed on or before the expiration date of the license is delinquent. To be renewed in a timely manner, payment must be received in the Public Health Division office on or before the due date.

For all Public Health Division licenses, a license shall not be issued to an applicant/operator until all fees, including all reinspection fees, reinstatement fees, and other fees due and owing to the Public Health Division for current and expired licenses held by the applicant/operator have been fully paid.

¹⁴ The fees listed in this category **include** a remittance assessed by the Oregon Health Authority. ORS 624.510(2), ORS 448.100(2).

Other Food Service Fees

Re-inspection of "Critical Item" in restaurant (1 st re-inspections no charge)	\$98
Re-inspection of restaurant following "Failed to Comply" inspection	\$230
Temporary restaurant	
Single Event	\$151
Single Event (if paid one week or more before event)	\$115
Intermittent (30 days) or Seasonal (90 days)	\$194
Intermittent or Seasonal (if paid one week or more before event)	\$158
Operational Plan Review	\$79
(for intermittent and seasonal temporary restaurants)	
Mobile units licensed by another Oregon county	\$25

Other Fees:

Plan review		
Initial construction		
Full service restaurant		\$431
Organizational Camp including food		\$431
Bed & breakfast		\$129
Commissary		\$215
Warehouse		\$85
Limited service restaurant		\$129
Mobile unit		\$129
Remodeling		
Full service restaurant		\$173
Organizational Camp without food		\$173
All other facilities		\$85
Food handler training	ORS 624.570(5)/BOC	
Training/certificate	OAR 333-175-0001	\$10
Duplicate certificate		\$5
Travelers' Accommodations/Bed & Breakfasts/Recreational "RV" Parks ^{15, 16}	ORS 446.425/BOC	
Hotels/Bed & Breakfasts:		
1-10		\$105
11-25		\$190
26-50		\$353
51-75		\$508
76-100 and over		\$649 + \$3.00 for

¹⁵ The fees listed in this category include a remittance assessed by the Oregon Health Authority. ORS 446.425(2)

¹⁶ ORS 446.323: (2) Any person, initially licensed under ORS 446.310 to 446.350 for engaging in the recreation park or travelers' accommodation business who has failed to renew a license on or before the expiration date is delinquent. If delinquency extends 15 days past the expiration date, a penalty fee of 50 percent of the annual license fee shall be added. The penalty fee shall be increased by 50 percent of the license fee on the first day of each succeeding month of delinquency.

Recreational "RV" Parks		every space over 100
1-10		\$110
11-25		\$201
26-50		\$376
51-75		\$539
76-100 and over		\$689 +\$3.00
		for every space over 100

Organizational Camps	ORS 446.425/BOC	\$162
Daycare/Other Requested Inspections	ORS 329A.400/BOC	\$95

SHERIFF

ANIMAL SHELTER DIVISION

	ORS 609.100/BOC	1yr	2yr	3yr
Dog License Fees				
Regular rate:				
Not spayed/neutered		\$35	\$65	\$90
Spayed/neutered		\$5	\$10	\$15
Cat license (voluntary)	ORS 203.035/BOC	\$5	\$10	\$15
Proof of Rabies Deposit	ORS 203.035/433.385		\$20	
Lost tag replacement		\$5		
Adoption of animal	ORS 203.035/BOC	varies ²⁶		
Kennel dog inventory fee (per kennel dog)	ORS 609.100/307.400/ LCC 1.1115(51)/BOC			
Impoundment of altered dog (first)	ORS 203.035/BOC		\$30 per occurrence	
Impoundment of unaltered dog (first)			\$50 per occurrence	
Additional impoundment fee (if dog is unlicensed)			\$25	
Keeping of impounded dog	ORS 203.035/BOC		\$30 per day	\$10
Impoundment of cat	ORS 203.035/BOC		\$15	
Keeping of lodged cat	ORS 203.035/BOC		\$15 per day	\$10
Impoundment of other animals	ORS 203.035/BOC		\$15	
Keeping of other animals	ORS 203.035/BOC		varies ²⁷	\$10
Animal release	ORS 203.025/BOC			
Dogs:	Owner release of adult dog or litter		\$45	
Litter (per puppy)			\$20	
Cats:	Owner release of adult cat or litter		\$30	
Litter (per kitten)			\$10	
Owner release euthanasia	ORS 203.035/BOC		\$50	
Dogs:				
Cats: Single			\$25	
Cremation	ORS 203.035/BOC		varies ²⁸	
Carrier (with adoption)	ORS 203.035/BOC		\$5	
Carrier (without adoption)	ORS 203.035/BOC		\$10	

Adoption fee \$150
Puppy \$200
Adult cat \$300
Kitten \$50

²⁶ Varied fee depending on adoptability of the animal, such as, breed, age etc.

²⁷ Varied fee based upon cost of care.

²⁸ Fee will be based upon Pathways cremation services

Measure 21-177 Ordinance

FREEDOM FROM AERIALLY SPRAYED PESTICIDES OF LINCOLN COUNTY

Section 1 – Purpose

At a time when the rights of corporations are being protected at the expense of the people's rights, we must reaffirm what the Oregon Constitution guarantees: "that all [people], when they form a social compact are equal in right: that all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness; and they have at all times a right to alter, reform, or abolish the government in such manner as they may think proper."

We assert that our right of local community self-government to claim and protect our constitutionally- guaranteed right to safety is inherent, fundamental, and inalienable, and that – as the United States Declaration of Independence proclaimed – governments derive their just powers from the consent of the governed.

The practice of aerial spraying of pesticides on Lincoln County's forests is causing serious chemical contamination of our county's air, people, wildlife, ecosystems, and watersheds, as well as terminal degradation of our soil. A large number of pesticides being used, among them 2,4-D, glyphosate (Roundup), and atrazine, have been proven harmful to both humans and the environment.

It is important to note that only a small fraction of the approximately 12,000 pesticides registered for use in Oregon, including those being used in aerial spraying, have ever been tested for safety. None have been tested for the effects of repeated exposure over time, or for the effects of their routine application in combination with other pesticides and chemicals.

Lincoln County's most populated communities are located at the base of our life-giving watersheds. However, clear-cut logging operations and the aerial spraying of pesticides before and after replanting are taking place upstream in those watersheds, exposing people, ecosystems, and natural communities to chemical contamination.

Current laws and regulations permit and protect the practice of aerial spraying of pesticides, threaten our public health, violate our constitutionally-guaranteed right to safety, and interfere with our right of local community self-government. The risks from toxic trespass from aerial spraying of pesticides, due to the failure of our federal, state, and local governments to protect us, are therefore no longer acceptable.

Our fundamental right to clean air, water, and soil not contaminated by aerial spraying of pesticides cannot be achieved when that right is routinely overridden by corporate minorities claiming legal powers to engage in that contamination. Nor can sustainability of any kind be achieved within a system of preemption which enables corporate decision-makers to wield state governmental power to override local self-government, and when the state itself restricts the county's lawmaking powers in ways that prevent the people of the county from protecting the health, safety and welfare of people and natural communities from such harms as aerial spraying of pesticides.

The people of Lincoln County believe that aerial spraying of pesticides is not necessary, because the task of eliminating weeds and competing vegetation after tree planting can also be accomplished by manual action, without the use of any pesticides, however applied, without contaminating the environment, and without endangering the safety of all life in it, while at the same time creating many direly needed jobs for our community. Increasingly mechanized logging, including the practice of aerial spraying of pesticides, utilized by corporations extraneous to our communities, no longer makes any sizable contribution to our local economy, but nevertheless is now carried out by these corporations that wield tremendous power over decision-making in our county.

Now, therefore, the people of Lincoln County hereby adopt this Ordinance, which shall be known and may be cited as the "Freedom from Aerially Sprayed Pesticides Ordinance of Lincoln County"

Section 2 – Definitions

(a) "Corporations," for purposes of this Ordinance, includes any corporation, limited partnership, limited liability partnership, business trust, public benefit corporation, business entity, or limited liability company organized under the laws of any state of the United States or under the laws of any country. The term includes all public corporations, municipal corporations, state and federal agencies, and any state and federal entity.

(b) "Ecosystems" means wetlands, streams, rivers, aquifers, and other water systems, as well as all naturally occurring habitats that sustain wildlife, people, flora and fauna, soil-dwelling or aquatic organisms.

(c) "Engage in aerial spraying of pesticides" means the physical deposition of pesticides into the land, water, or air by any aerial method, including, but not limited to, all actions taken to prepare for that physical deposition.

(d) "Natural Communities" means communities of wildlife, flora, fauna, soil-dwelling, aerial, and aquatic organisms, as well as humans and human communities that have established sustainable interdependencies within a proliferating and diverse matrix of organisms, within a natural ecosystem.

(e) "Pesticides" means any synthetic chemicals, or synthetic chemical mixtures, that can be classified as algacides, avicides, bactericides, fungicides, herbicides, insecticides, miticides, acaricides, molluscicides, nematocides, rodenticides, or virucides, and shall include, but not be limited to, restricted and non-restricted pesticides used to destroy plant, fungal, and/or animal 'pests'.

Section 3 - Statements of Law – Freedom from Aerially Sprayed Pesticides Bill of Rights

(a) Right to be Free from Toxic Trespass. All people of Lincoln County, along with natural communities and ecosystems within the County, possess the right to be free of aerially sprayed pesticides.

(b) Right to Clean Air, Water, and Soil. All people of Lincoln County possess the right to clean air, water, and soil free of aerially sprayed pesticides; and that right shall include the right to be free from potential contamination of the air, water, and soil within the County from aerially sprayed pesticides.

(c) Right to Rural Preservation. All people of Lincoln County possess a right to an unspoiled rural quality of life free of aerially sprayed pesticides. The right to an unspoiled rural quality of life free of aerially sprayed pesticides includes, but is not limited to, outdoor recreational activities such as hunting, fishing, and foraging.

(d) Governmental Legitimacy. To the extent necessary to secure this Ordinance, all governments in the United States owe their existence to the people of the community that those governments serve, and governments exist to secure and protect the rights of the people and those communities; and further, any system of government that becomes destructive of those ends is not legitimate, lawful, or constitutional.

(e) Governmental Legitimacy. To the extent necessary to secure this Ordinance, all governments in the United States owe their existence to the people of the community that those governments serve, and governments exist to secure and protect the rights of the people and those communities; and further, any system of government that becomes destructive of those ends is not legitimate, lawful, or constitutional.

(f) Right of Local Community Self-Government. For the limited purpose of securing Lincoln County to be free of aerially sprayed

Measure 21-177 Ordinance (cont.)

pesticides, the people of Lincoln County possess both a collective and individual right of self-government in their local community, a right to a system of government that embodies that right, and the right to a system of government that protects and secures their human, civil, and collective rights.

(g) Right to Assert the Right of Self-Government. The people of Lincoln County possess the right to use their local government to enact this Ordinance that secures Lincoln County to be free of aerially sprayed pesticides, and the making and enforcement of this Ordinance by the people through a municipal corporation or any other institution shall not eliminate, limit, or reduce their sovereign right of local community self-government as stated in subsection 3(f).

(h) Rights as Self-Executing. All rights delineated and secured by this Ordinance are inherent, fundamental, and unalienable, and shall be self-executing and enforceable against both private and public actors.

Section 4 – Statements of Law – Prohibitions Necessary to Secure the Bill of Rights

(a) It shall be unlawful for any corporation to violate any right secured by this Ordinance.

(b) It shall be unlawful for any corporation to engage in aerial spraying of pesticides within Lincoln County.

(c) Corporations engaged in aerial spraying of pesticides in any municipality or designated jurisdiction adjacent to Lincoln County shall be strictly liable for damages caused by those pesticides to the residents and ecosystems within Lincoln County.

(d) No permit, license, privilege, charter, or other authority issued by any State or federal entity that would violate the rights of this Ordinance, shall be deemed valid within Lincoln County.

Section 5 – Enforcement

(a) Any corporation that violates any provision of this Ordinance shall be guilty of an offense and, upon conviction thereof, shall be sentenced to pay the maximum fine allowable under State law for that violation. Each day or portion thereof, and violation of each section of this Ordinance, shall count as a separate violation.

(b) Lincoln County or any resident of Lincoln County, may enforce the rights and prohibitions of this Ordinance through an action brought in any court possessing jurisdiction over activities occurring within Lincoln County. In such an action, Lincoln County or the resident shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees.

(c) Any action brought by either a resident of Lincoln County or by Lincoln County to enforce or defend the rights of ecosystems or natural communities secured by this Ordinance shall bring that action in the name of the ecosystem or natural community in a court possessing jurisdiction over activities occurring within Lincoln County. Damages shall be measured by the cost of restoring the ecosystem or natural community to its state before the injury, and shall be paid to Lincoln County to be used exclusively for the full and complete restoration of the ecosystem or natural community.

(d) If the County Government fails to enforce or defend this law, or a court fails to uphold this law's limitations on corporate power, this law shall not be affected by the failure to enforce or defend, or by the failure to uphold the limitations on corporate power, and any person may then enforce the rights and prohibitions of this law through direct action. If enforcement through direct action is commenced, this law shall prohibit any private or public actor from filing a civil or criminal action against those participating in direct action. If filed in violation of this provision, the applicable court must dismiss the action promptly, without further filings being required of

direct action participants. "Direct action" as used by this provision shall mean any activities or actions carried out to directly enforce the rights and prohibitions contained within this law."

Section 6 – Enforcement – Corporate Powers

(a) Corporations that violate this Ordinance, or seek to violate this Ordinance, shall not be deemed to be "persons" to the extent that such treatment would interfere with the rights or prohibitions enumerated by this Ordinance, nor shall corporations possess any other legal rights, privileges, powers, or protections that would interfere with the rights or prohibitions enumerated by this Ordinance. "Rights, privileges, powers, or protections" shall include the power to assert state or federal preemptive laws in an attempt to overturn this Ordinance, and the power to assert that the people of this municipality lack the authority to adopt this Ordinance.

(b) Corporate claims to "future lost profits" shall not be considered property interests under this Ordinance, and thus, shall not be recoverable by corporations seeking those damages.

(c) All laws adopted by the legislature of the State of Oregon, rules adopted by any State agency, laws adopted by the United States Congress, and rules adopted by any federal or international agency, shall be the law of Lincoln County only to the extent that they do not violate the rights or prohibitions of this Ordinance.

Section 7 – Severability

The provisions of this Ordinance are severable. If any court decides that any section, clause, sentence, part, or provision of this Ordinance is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences, parts, or provisions of the Ordinance.

Section 8 – Repealer

All inconsistent provisions of prior Ordinances adopted by Lincoln County are hereby repealed, but only to the extent necessary to remedy the inconsistency.

Section 9 – Effect

This Ordinance shall take effect thirty (30) days after adoption.

