

BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO: 16-10

IN THE MATTER OF AMENDING LANE CODE  
CHAPTER 9 TO REVISE AIR QUALITY PROVISIONS

**WHEREAS**, Lane Code Chapter 9 sets forth policies related to Environment and Health;  
and

**WHEREAS**, the Board of County Commissioners wishes to revise policy related to air  
quality; and

**WHEREAS**, the Board of County Commissioners has conducted a public hearing and is  
now ready to take action;

**NOW, THEREFORE**, the Board of County Commissioners of Lane County **ORDAINS** as  
follows:

REMOVE THESE SECTIONS

9.125 – 9.150

INSERT THESE SECTIONS.

9.125 – 9.150

These sections are attached hereto and incorporated herein by this reference. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion constitutes a separate, distinct and independent provision, and such holding does not affect the validity of the remaining portions hereof.

Nothing herein is intended to, nor acts to amend, replace, or otherwise conflict with any other ordinances of Lane County or any other Code or statutory provisions unless expressly so stated.

The office of Lane County Legal Counsel is authorized to codify this Ordinance and to make any technical changes, not affecting its substance, as are reasonably necessary to accomplish codification.

**ENACTED** this 10th day of January 2017.



Pat Farr, Chair  
Lane County Board of Commissioner



Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 11-28-16

LANE COUNTY OFFICE OF LEGAL COUNSEL

**9.117 Failure to Comply.**

Failure to comply with any of the requirements of LC 9.030 through 9.115 may be subject to administrative enforcement as provided by LC Chapter 5. Failure to comply with a license or other discretionary permit approval issued pursuant to the requirements of any of the sections of this chapter is also subject to administrative enforcement pursuant to LC Chapter 5. *(Revised by Ordinance No. 1-93, Effective 4.16.93; 1-00, 4.12.00)*

**RESTRICTION ON USE OF SOLID FUEL SPACE HEATING DEVICES****9.120 Purpose and Findings.**

(1) The health, safety and welfare of the citizens of Lane County are adversely affected by the degradation of air quality. Violations of federal ambient air quality standards, as measured by the Lane Regional Air Protection Agency (LRAPA), occur periodically in Lane County.

(2) Wood and other solid fuel combustion for space heating produces particulate matter and other emissions which are physically harmful and aesthetically unpleasant, and which contribute to the degradation of air quality and the violation of federal ambient air quality standards.

(3) Periodic restriction of the use of solid fuel space heating devices will improve air quality. LRAPA has the expertise to determine when such air quality is at such a level that such restriction is necessary to preserve the health, safety and welfare of the citizens of Lane County.

(4) It is the intent of Lane County that the penalty section of this ordinance not take effect until November 1, 1991. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 1-10, 6.11.10)*

**9.125 Definitions.**

As used herein, the following words and phrases have the meanings ascribed:

Green Advisory for Eugene-Springfield Area. A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be less than 100 micrograms per cubic meter and PM2.5 levels are forecast to be less than 25 micrograms per cubic meter, within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

Green Advisory for Oakridge Area. A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be less than 100 micrograms per cubic meter and PM2.5 levels are forecast to be less than 20 micrograms per cubic meter, within the Oakridge Urban Growth Boundary.

Lane Regional Air Protection Agency. A regional air quality control authority established under the provisions of and with the authority and powers derived from ORS 468.500 et seq. (renumbered 468A.100 through 468A.180 in 1991)

Opacity. The degree to which an emission reduces transmission of light or obscures the view of an object in the background.

Pellet Stove. An enclosed solid fuel space heating device designed and operated to burn manufactured solid fuel and having an air-to-fuel ratio greater than 35-to-1 as determined by the federal test method described in 40 CFR Part 60.534

Person. Any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character.

Person in Charge of Property. An owner, agent, occupant, lessee, tenant, contract purchaser, or other person having possession or control of property.

PM2.5. Solid or liquid particulate matter (excluding uncombined water) with an aerodynamic diameter less than or equal to 2.5 micrometers.

PM10. Solid or liquid particulate matter (excluding uncombined water) with an aerodynamic diameter less than or equal to 10 micrometers.

Sole Source of Heat. A solid fuel space heating device which constitutes the only source of heating in a private residence. A solid fuel space heating device shall not be considered to be the sole source of heat if the private residence is equipped with any permanently-installed furnace or heating system utilizing oil, natural gas, electricity or propane.

Solid Fuel Space Heating Device. Any device designed or operated to burn solid fuel for the heating of the interior of a building, including, but not limited to, solid fuel burning stoves, fireplaces or wood stoves of any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel, and solid fuel burning cooking stoves. "Solid fuel space heating device" does not include natural gas-fired artificial fireplaces.

Red Advisory:

Eugene-Springfield Area. A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to 125 micrograms per cubic meter, or when PM2.5 levels are forecast by LRAPA to be greater than or equal to 30 micrograms per cubic meter within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

Oakridge Area. A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to 125 micrograms per cubic meter, or when PM2.5 levels are forecast by LRAPA to be greater than or equal to 25 micrograms per cubic meter within the Oakridge Urban Growth Boundary.

Visible Emissions. The reduction in transmission light or the obscuring of the view of an object in the background caused by the air pollutants emitted by the heating device. This does not include the visual distortion caused by the heated air emitted by the heating device.

Yellow Advisory for Eugene-Springfield Area. A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to 100 micrograms per cubic meter but less than 125 micrograms per cubic meter, or when PM2.5 levels are forecast to be greater than or equal to 20 micrograms per cubic meter but less than 25 micrograms per cubic meter, within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

Yellow Advisory for Oakridge Area. A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to 100 micrograms per cubic meter but less than 125 micrograms per cubic meter, or when PM2.5 levels are forecast to be greater than or equal to 25 micrograms per cubic meter but less than 30 micrograms per cubic meter, within the Oakridge Urban Growth Boundary. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 1-00, 4.12.00; 13-03, 10.23.03; 1-10, 6.11.10)*

**9.130 Area of Applicability.**

These Lane Code sections 9.120 through 9.150 apply to the unincorporated areas within the Eugene, Springfield, and Oakridge Urban Growth Boundaries. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 13-03, 10.23.03)*

**9.135 Prohibitions.**

(1) Red Advisory. A person in charge of property violates this section 9.135(1) if the person during a Red Advisory operates or allows to be operated a solid fuel space heating device which emits visible emissions into the air outside of the building housing the device unless the person in charge of the property has been granted an exemption to use the device by LRAPA.

(2) Visible Emissions Limitations for Eugene-Springfield Area. A person in charge of property violates this section 9.135(2) if the person operates or allows to be operated a solid fuel space heating device which discharges emissions that are of an opacity greater than forty (40) percent. This provision does not apply to the emissions

during the building of a new fire, for a period or periods aggregating no more than ten (10) minutes in any four (4) hour period.

(3) Visible Emissions Limitations for Oakridge Area. A person in charge of property violates this section 9.135(3) if the person operates or allows to be operated a solid fuel space heating device which discharges emissions that are of an opacity greater than twenty (20) percent. This provision does not apply to the emissions during the building of a new fire, for a period or periods aggregating no more than ten (10) minutes in any four (4) hour period.

(4) Prohibited Materials. A person in charge of property violates this section 9.135(4) if the person at any time allows to be initiated or maintained in a solid fuel space heating device the burning of any plastics, wire insulation, petroleum by-products (with the exception of natural-gas-fueled log lighters), petroleum treated materials, rubber products, animal remains, or animal or vegetable matter resulting from the handling, preparation, cooking, or service of food, or of any other material which normally emits dense smoke, noxious odors, or hazardous air contaminants. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 1-00, 4.12.00; 13-03, 10.23.03)*

#### **9.140 Exemption for Economic Need.**

Exemption from LC 9.135 above for Red Advisories may be obtained from LRAPA for economic need. Persons in charge of property who satisfy criteria established under the Low Income Energy Assistance Program as administered by the Lane County Housing Authority and as established by the United States Department of Energy are exempt from LC 9.135 above for Red Advisories. Individual exemptions shall expire on July 1 of each year and must be renewed annually. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 1-00, 4.12.00)*

#### **9.145 Enforcement.**

The Board of County Commissioners designates LRAPA and delegates to LRAPA authority to enforce the prohibitions contained herein. The investigation, initiations of proceedings, adjudication of a failure to comply and appeal of such are regulated by the adopted administrative and hearing procedures of LRAPA set forth in its Rules and Regulations.

The County retains the right to investigate and enforce the terms of this ordinance. Existing citation, complaint, violation, or failure to comply procedures applicable to the County may be utilized to prosecute such failures to comply. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 1-00, 4.12.00)*

#### **9.150 Penalties.**

A person who violates any provision of LC 9.135 above is subject to administrative enforcement pursuant to LC Chapter 5, including a monetary penalty of a minimum of \$50 to a maximum of \$500 for each day in which such failure to comply occurs. This remedy is cumulative and is in addition to any and all other remedies available to Lane County. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 1-00, 4.12.00)*

### **REGULATIONS OF TRAVELERS' ACCOMMODATIONS, RECREATION PARKS, ORGANIZATIONAL CAMPS, PUBLIC SWIMMING POOLS AND BATHHOUSES, RESTAURANTS, COMMISSARIES, MOBILE UNITS AND VENDING MACHINES**

#### **9.200 Purpose.**

LC 9.200 through 9.215 are adopted for the purpose of accepting the delegation by the Administrator of the Oregon State Health Division of said Administrator's authority, responsibilities and functions relating to the regulation of travelers' accommodations, recreation parks, organizational camps, public swimming pools and bathhouses,

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(ii) Once per calendar quarter, provide recycling information to all residential, commercial and institutional refuse collection service customers that describes or lists the materials collected and the schedule for collection, and once per year, provide additional information describing the way to properly prepare materials for collection.

(c) By January 1, 1993 and thereafter, provide one durable, rigid, weather-proof recycling container to each residential refuse collection service customer.

(2) In addition to the requirements listed above, by July 1, 1992 and thereafter, any person or company providing collection of refuse for a fee (or exchange of value) within the area between city limits and the urban growth boundary of cities with a population of 10,000 or greater in Lane County must charge residential refuse collection service rates that encourage waste reduction, reuse and recycling. The rate schedule must:

(a) Include at least one rate for a container that is 21 gallons or smaller.

(b) Be structured such that the rate per pound of waste disposed does not decrease with increasing size of containers.

(c) Be structured such that the rate per container does not decrease if more than one container is collected.

(3) Beginning January 1, 1993 and thereafter, any person or company providing collection of refuse for a fee (or exchange of value) within the area between the city limits and the urban growth boundary of cities with a population of 10,000 or greater in Lane County must, upon request from Lane County, provide Lane County a copy of the residential refuse collection service rate schedule.

(4) Failure to comply with any of the above provisions is a Class 1 failure to comply. *(Revised by Ordinance No. 5-92, Effective 6.3.92; 1-00, 4.12.00)*

**9.117 Failure to Comply.**

Failure to comply with any of the requirements of LC 9.030 through 9.115 may be subject to administrative enforcement as provided by LC Chapter 5. Failure to comply with a license or other discretionary permit approval issued pursuant to the requirements of any of the sections of this chapter is also subject to administrative enforcement pursuant to LC Chapter 5. *(Revised by Ordinance No. 1-93, Effective 4.16.93; 1-00, 4.12.00)*

**RESTRICTION ON USE OF SOLID FUEL SPACE HEATING DEVICES**

**9.120 Purpose and Findings.**

(1) The health, safety and welfare of the citizens of Lane County are adversely affected by the degradation of air quality. Violations of federal ambient air quality standards, as measured by the Lane Regional Air Protection Agency (LRAPA), occur periodically in Lane County.

(2) Wood and other solid fuel combustion for space heating produces particulate matter and other emissions which are physically harmful and aesthetically unpleasant, and which contribute to the degradation of air quality and the violation of federal ambient air quality standards.

(3) Periodic restriction of the use of solid fuel space heating devices will improve air quality. LRAPA has the expertise to determine when such air quality is at such a level that such restriction is necessary to preserve the health, safety and welfare of the citizens of Lane County.

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(4) It is the intent of Lane County that the penalty section of this ordinance not take effect until November 1, 1991. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 1-10, 6.11.10)*

**9.125 Definitions.**

As used herein, the following words and phrases ~~shall have the~~ **meanings ascribed:**

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Green Advisory for Oakridge Area. **A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be less than 100 micrograms per cubic meter and PM2.5 levels are forecast to be less than 20 micrograms per cubic meter, within the Oakridge Urban Growth Boundary.**

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Stage I Red Advisory.:-

Eugene-Springfield Area. A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to 125 micrograms per cubic meter, ~~but less than 150 micrograms per cubic meter,~~ or when PM2.5 levels are forecast by LRAPA to be greater than or equal to 30 micrograms per cubic meter ~~but less than 35 micrograms per cubic meter,~~ within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

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**Oakridge Area.** A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to 125 micrograms per cubic meter, or when PM2.5 levels are forecast by LRAPA to be greater than or equal to 25 micrograms per cubic meter within the Oakridge Urban Growth Boundary.

~~Stage II Red Advisory.~~ A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to 150 micrograms per cubic meter, or when PM2.5 levels are forecast by LRAPA to be greater than or equal to 35 micrograms per cubic meter, within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

~~Visible Emissions.~~ The reduction in transmission light or the obscuring of the view of an object in the background caused by the air pollutants emitted by the heating device. This does not include the visual distortion caused by the heated air emitted by the heating device.

**Yellow Advisory for Eugene-Springfield Area.** A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to 100 micrograms per cubic meter but less than 125 micrograms per cubic meter, or when PM2.5 levels are forecast to be greater than or equal to ~~25-20~~ 25 micrograms per cubic meter but less than ~~30-25~~ 30 micrograms per cubic meter, within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

**Yellow Advisory for Oakridge Area.** A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to 100 micrograms per cubic meter but less than 125 micrograms per cubic meter, or when PM2.5 levels are forecast to be greater than or equal to 25 micrograms per cubic meter but less than 30 micrograms per cubic meter, within the Oakridge Urban Growth Boundary. (Revised by Ordinance No. 9-90, Effective 1.18.91; 1-00, 4.12.00; 13-03, 10.23.03; 1-10, 6.11.10)

### 9.130 Area of Applicability.

These Lane Code sections 9.120 through 9.150 apply to the unincorporated areas within the Eugene, Springfield, and Oakridge Urban Growth Boundaries. ~~The Metropolitan Area General Plan Urban Growth Boundary adopted in 1982 as amended through June 2003, excluding the area within the city limits of Eugene and Springfield.~~ (Revised by Ordinance No. 9-90, Effective 1.18.91; 13-03, 10.23.03)

### 9.135 Prohibitions.

(1) ~~Stage I Red Advisory.~~ **No-A** person in charge of property **violates this section 9.135(1) if the person** during a ~~Stage I Red Advisory~~ **shall-operates** or **allows** to be operated a solid fuel space heating device which emits visible emissions into the air outside of the building housing the device unless the person in charge of the property has been granted an exemption to use the device by LRAPA.

(2) ~~Stage II Red Advisory.~~ ~~No person in charge of property during a Stage II Red Advisory shall operate or allow to be operated a solid fuel space heating device unless the person in charge of the property has been granted an exemption to use the device by LRAPA or unless the person is operating a pellet stove which emits no visible emissions into the air outside of the building housing the device.~~

~~(3) Green or Yellow Advisory~~ **Visible Emissions Limitations for Eugene-Springfield Area.** **No-A** person in charge of property ~~during a green or yellow advisory~~ **shall-violates this section 9.135(2) if the person** **operates** or **allows** to be operated a solid fuel space heating device which discharges emissions that are of an opacity greater than

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forty (40) percent. This provision does not apply to the emissions during the building of a new fire, for a period or periods aggregating no more than ten (10) minutes in any four (4) hour period.

**(3) Visible Emissions Limitations for Oakridge Area. A person in charge of property violates this section 9.135(3) if the person operates or allows to be operated a solid fuel space heating device which discharges emissions that are of an opacity greater than twenty (20) percent. This provision does not apply to the emissions during the building of a new fire, for a period or periods aggregating no more than ten (10) minutes in any four (4) hour period.**

(4) Prohibited Materials. ~~No~~A person in charge of property **violates this section 9.135(4) if the person shall** at any time allows to be initiated or maintained in a solid fuel space heating device the burning of any plastics, wire insulation, petroleum by-products (with the exception of natural-gas-fueled log lighters), petroleum treated materials, rubber products, animal remains, or animal or vegetable matter resulting from the handling, preparation, cooking, or service of food, or of any other material which normally emits dense smoke, noxious odors, or hazardous air contaminants. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 1-00, 4.12.00; 13-03, 10.23.03)*

**9.140 Exemption for Economic Need.**

Exemption from LC 9.135 above for ~~Stage II and/or Stage I~~ Red Advisories may be obtained from LRAPA for economic need. Persons in charge of property who satisfy criteria established under the Low Income Energy Assistance Program as administered by the Lane County Housing Authority and as established by the United States Department of Energy are exempt from LC 9.135 above for ~~both Stage I and Stage II~~ Red Advisories. Individual exemptions shall expire on July 1 of each year and must be renewed annually. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 1-00, 4.12.00)*

**9.145 Enforcement.**

The Board of County Commissioners designates LRAPA **and delegates to LRAPA authority** to enforce the prohibitions contained herein. The investigation, initiations of proceedings, adjudication of a failure to comply and appeal of such ~~shall be~~ regulated by the adopted administrative and hearing procedures of LRAPA set forth in its Rules and Regulations.

The County ~~shall also~~ retains the right to investigate and enforce the terms of this ordinance. Existing citation, complaint, violation, or failure to comply procedures applicable to the County may be utilized to prosecute such failures to comply. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 1-00, 4.12.00)*

**9.150 Penalties.**

~~Failure to comply with~~ **A person who violates any provision of LC 9.135 above is shall** be subject to administrative enforcement pursuant to LC Chapter 5, including a monetary penalty of a minimum of \$50 to a maximum of \$500 for each day in which such failure to comply occurs. This remedy is cumulative and is in addition to any and all other remedies available to Lane County. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 1-00, 4.12.00)*

**REGULATIONS OF TRAVELERS' ACCOMMODATIONS, RECREATION  
PARKS, ORGANIZATIONAL CAMPS, PUBLIC SWIMMING POOLS AND**