

PASSED

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. 6-99))))))))	IN THE MATTER OF AMENDING CHAPTER 4 OF LANE CODE TO ADD PROVISIONS FOR A LANE COUNTY PERSONAL INCOME TAX SURCHARGE AND A LANE COUNTY CORPORATE EXCISE TAX SURCHARGE, TO DEDICATE THE REVENUE FOR SAFER COMMUNITIES, TO ADOPT ADMINIS- TRATION AND COLLECTION PROVISIONS, AND TO SET AN EFFECTIVE DATE
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The Board of County Commissioners of Lane County ordains as follows:

Chapter 4 of Lane Code is hereby amended by removing and substituting the following pages:

REMOVE THESE PAGES

INSERT THESE PAGES

4.995(1) – 4.997(2)
i.e. page 4-28
(a total of 1 pages)

4.600 – 4.604 to
4.995(1) – 4.997(2)
i.e. pages 4-28 – 4-48
(a total of 20 pages)

Said pages are attached hereto and incorporated herein by reference. The purpose of these substitutions is to add provisions for a Lane County Personal Income Tax Surcharge and a Lane County Corporate Excise Tax Surcharge, and to dedicate the revenue for Safer Communities, and to adopt administration and collection provisions.

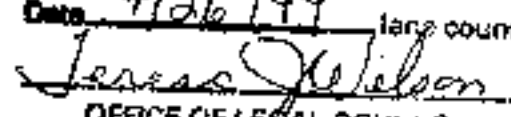
This ordinance shall become effective January 1, 2000, if the voters approve the amendment to the Lane County Home Rule Charter, Section 38, in the election to be held on November 2, 1999, which was referred to them by Board Order on August 4, 1999 (Order No. 99-8-4-_____).

Enacted this 11th day of August, 1999

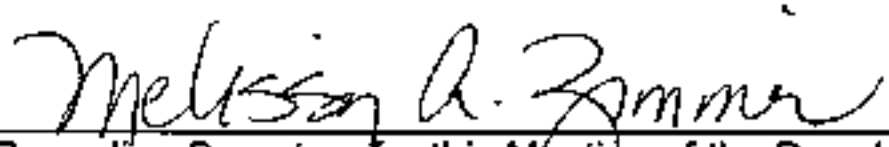


Chair, Lane County Board of Commissioners

APPROVED AS TO FORM

Date 7/26/99 Lane County


OFFICE OF LEGAL COUNSEL



Recording Secretary for this Meeting of the Board

LANE COUNTY PERSONAL INCOME TAX SURCHARGE

4.600 Title. This subchapter (LC 4.600-4.614) may be referred to as the Lane County Personal Income Tax Surcharge.

4.602 Policy. It is the intent of the Lane County Board of Commissioners by adoption of this subchapter and LC 4.620-4.678, to implement the provisions of the Lane County Home Rule Charter, Section 38, the Safer Communities Tax Surcharge. It is the further intent of the Lane County Board of Commissioners, insofar as possible, to base the Lane County Personal Income Tax Surcharge for each year entirely on the provisions of the Oregon personal income tax law which are in effect for that year, modified as necessary by the County's jurisdiction to tax; and to impose a tax surcharge on residents of the County measured by the net state tax as hereinafter defined from wherever sources derived.

4.604 Definitions. In addition to the general definitions included in LC 1.010, the following definitions shall apply, unless the context requires otherwise:

Business. An enterprise, activity, profession, trade or undertaking of any nature conducted or ordinarily conducted for profit, gain or livelihood by any taxpayer, including the operation of an unrelated business by a charitable, religious or educational organization.

Employee. An individual who performs services for another individual or organization having the right to control the employee as to the services to be performed and as to the manner of performance.

Employer. A person who is in such relation to another person that the person may control the work of that other person and direct the manner in which it is to be done; or an officer or employee of a corporation, or a member or employee of a partnership who as such officer, employee or member is under a duty to perform the acts required of employers under this subchapter. See, also, the definition in ORS 316.162.

Individual. A natural person.

Net State Tax. The sum of all of the taxes imposed on a resident of Lane County under ORS ch. 316 less the credits allowed to such resident against those taxes for the taxable year.

Non-Resident. An individual who is not a resident of Lane County.

Part-Year resident. A taxpayer who changes status during a taxable year from resident to non-resident or from non-resident to resident.

Personal Income Tax Surcharge. The surcharge on net state tax which is imposed by LC 4.600-4.614.

Resident.

(a) An individual who is domiciled in the County unless he or she maintains no permanent place of abode in the County, and does maintain a permanent place of abode elsewhere, and spends an aggregate of not more than 30 days of the taxable year in the County; or

(b) An individual who is not domiciled in the County, but maintains a permanent place of abode in the County and spends an aggregate of more than 200 days of the taxable year in the County is presumed to be a resident unless the individual proves he or she is in the County only for temporary or transitory purposes.

Tax Administrator. The person or entity designated by the County Administrator to collect the Personal Income Tax Surcharge and to administer the collection and enforcement process.

Taxable year. The period corresponding to the taxpayer's taxable year for state income tax purposes.

Taxpayer. An individual, estate, trust or entity whose income is in whole or part subject to the tax surcharge under this subchapter, or any employer required by this subchapter to withhold personal income tax surcharges from the wages of employees.

Wages. The remuneration for services performed by an employee for an employer, including the cash value of all remuneration paid in any medium other than cash. "Wages" does not include any remuneration excepted from the definition of "wages" in ORS 316.162(3).

4.606 Imposition of the Personal Income Tax Surcharge.

(1) General. The Personal Income Tax Surcharge is imposed to the extent permitted by law on every County resident.

(2) Estates and Trusts. The Personal Income Tax Surcharge is imposed on every estate or trust which pays a state personal income tax and to which one of the following applies:

(a) the estate is of a decedent who at the time of his or her death was domiciled in Lane County, or

(b) the trust or a portion of the trust consists of property transferred by the will of a decedent who at the time of his or her death was domiciled in Lane County, or

(c) the trust or a portion of the trust consists of property of a person domiciled in Lane County at the time the property was transferred to the trust.

(3) Partners and Partnerships. A partnership as such shall not be subject to the Personal Income Tax Surcharge; partners shall be liable for the Personal Income Tax Surcharge only in their separate or individual capacities.

(4) Exempt Associations, Trusts and Organizations. An association, trust or other unincorporated organization which is exempt from state income or excise tax shall be exempt from the Personal Income Tax Surcharge.

(5) Part-Year Resident. The Personal Income Tax Surcharge is imposed, to the extent permitted by law, on every part-year resident for the portion of the year during which he or she is a resident.

(6) Taxable Year. Subject to the withholding provision of LC 4.612 below, the Personal Income Tax Surcharge imposed by this subchapter shall be levied, collected and paid annually for every taxable year commencing after December 31, 1999.

4.608 Rate of Surcharge.

(1) General. The Personal Income Tax Surcharge imposed by this subchapter shall be at the rate of eight percent (8%) of the net state tax as defined in LC 4.604 above or for part-year residents, as further modified in LC 4.608(2) below.

(2) Computation for Part-Year Resident. When an individual or trust changes resident status during the taxable year, the net state tax shall be the net state tax determined as if such individual or trust were a County resident for the entire taxable year, multiplied by a fraction, the numerator of which is the Oregon adjusted gross income for the period of County residence for the individual or trust, computed as if the taxable year were limited to the period of residence, and the denominator of which is the Oregon adjusted gross income for the entire taxable year.

4.610 Dedication of Revenue. The net revenue to the County derived from imposition of the Personal Income Tax Surcharge is hereby dedicated for the purposes described in Lane County Home Rule Charter, Section 38. It shall be expended only as described in LC 4.640 et seq.

4.612 Withholding of Tax Surcharge.

(1) At the time of payment of salaries, wages, commissions or other compensation to any employee who is a county resident, every employer within the County shall deduct an amount equal to eight percent (8%) of the amount withheld from the employees' wages for state income tax pursuant to ORS 316.167.

(2) Every employer who deducts and retains any amount under LC 4.612(1) above shall hold the same in trust for the County and for the payment thereof in the manner and at the time provided in LC 4.612(4) below.

(3) The amounts deducted from the wages of an employee during any calendar year shall be considered to be in part payment of the Personal Income Tax Surcharge for the taxable year which begins within such calendar year, and the return made by the employer pursuant to this subchapter shall be accepted as evidence in favor of the employee of the amounts so deducted from his/her wages.

(4) Except as may be specially provided by the Tax Administrator for the first six months of 2000, each employer shall make payment to the Tax Administrator of the amount required to be withheld by this subchapter at the same time that each employer is required to pay over taxes withheld for state income tax purposes for the same period, accompanied by a return in the form prescribed by the Tax Administrator. Each employer shall also file an annual return in the form prescribed by the Tax Administrator at the same time the employer files its annual report for state withholding.

(5) Each employer shall be liable for the payment of the Personal Income Tax Surcharge required to be deducted and withheld, whether or not such amount has in fact been withheld. Failure to file the appropriate return without reasonable excuse or failure to remit the amount withheld subjects the employer to penalties as described in LC 4.678 below.

(6) Each employer shall notify each employee of the amounts withheld in the same manner and at the same time as for withholding of taxes for state income tax purposes.

4.614 Estimated Tax Procedure.

(1) Every taxpayer who expects to have a Personal Income Tax Surcharge liability under this subchapter of \$100 or more and who pays estimated taxes pursuant to ORS ch. 316 shall make a payment of an estimated Personal Income Tax Surcharge to the Tax Administrator at the same time as its payment of estimated state tax pursuant to ORS ch. 316.

(2) The estimated Personal Income Tax Surcharge payment shall be an amount equal to eight percent (8%) of the estimated state tax.

4.616 Credit for Tax Paid to Another Jurisdiction. Every taxpayer who resides in the County, but who receives taxable income from sources outside the County, if it be made to appear that he or she has paid an income tax on said income in and to another county or a city for which the taxpayer did not receive a credit in calculating the taxpayer's net state tax, shall be allowed a credit against the Personal Income Tax Surcharge. The credit shall be calculated by multiplying the Personal Income Tax Surcharge rate imposed by LC 4.608 above against the tax paid to the other county or city, and deducting the result from the Personal Income Tax Surcharge otherwise determined pursuant to LC 4.608.

LANE COUNTY CORPORATION EXCISE TAX SURCHARGE

4.620 Title. This subchapter (LC 4.620-4.634) may be referred to as the Lane County Corporation Excise Tax Surcharge.

4.622 Policy. It is the intent of the Lane County Board of Commissioners, by adoption of this subchapter, LC 4.600-4.616 and LC 4.640-4.678, to implement the provisions of the Lane County Home Rule Charter, Section 38, the Safer Communities Tax Surcharge. It is the further intent of the Lane County Board of Commissioners, insofar as possible, to base the Lane County Corporation Excise Tax Surcharge for each year entirely on the provisions of the Oregon corporation excise tax law which are in effect for that year, modified as necessary by the County's jurisdiction to tax; and to impose a tax surcharge on taxpayers doing business in the County measured by the net state tax as hereinafter defined.

4.624 Definitions. In addition to the general definitions included in LC 1.010, the following definitions shall apply, unless the context requires otherwise:

Doing business. For the purposes of this subchapter, "doing business" has the same meaning as in ORS 317.010(4), except that all references in that statute to "the state" shall mean "Lane County".

County Taxable Income. For the purposes of this subchapter, "County taxable income" means the taxable income as defined in ORS 317.010(10) that is allocable to Lane County, as determined by apportionment in LC 4.630 below.

Corporation Excise Tax Surcharge. The surcharge on net state tax which is imposed by LC 4.620-4.634.

Net State Tax. The sum of all taxes imposed on a taxpayer under ORS ch. 317 less the credits allowed such taxpayer for the taxable year.

Oregon Taxable Income. The taxable income as defined in ORS 317.010(10).

Tax Administrator. The person or entity designated by the County Administrator to collect the Corporation Excise Tax Surcharge and to administer the collection and enforcement process.

Taxable Year. The period corresponding to the taxpayer's taxable year for state corporation excise tax purposes.

Taxpayer. Any entity whose income is, in whole or in part, subject to the tax surcharge under this subchapter.

4.626 Imposition of the Lane County Corporation Excise Tax Surcharge.

(1) General. The Corporation Excise Tax Surcharge is imposed to the extent permitted by law, on every entity which is doing business or authorized to be doing business in Lane County and which pays a corporation excise tax under ORS Ch. 317.

(2) Taxable Year. The Corporation Excise Tax Surcharge imposed by this subchapter shall be levied, collected and paid annually for every taxable year commencing after December 31, 1999.

4.628 Rate of Surcharge. The Corporation Excise Tax Surcharge imposed by this subchapter shall be at the rate of eight percent (8%) of the County share of the net state tax. The County share of the net state tax shall be determined by multiplying the net state tax as defined in LC 4.624 above by a fraction, the numerator of which is the County taxable income as defined in LC 4.624 above and the denominator of which is the Oregon taxable income as defined in LC 4.624 above. For example: Assume the County taxable income is \$5000, the Oregon taxable income is \$10,000 and the net state tax is \$660. Then the Corporation Excise Tax Surcharge would be \$26.40. $\$5,000/\$10,000 \times 660 = \$330$, the County share of net state tax. $\$330 \times .08 = \26.40 , the Corporation Excise Tax Surcharge.

4.630 Apportionment of Income. For any taxpayer subject to the Corporation Excise Tax Surcharge under this subchapter which has taxable income from transactions or activities carried on both within and without Lane County, that portion which is to be apportioned as County taxable income shall be determined by the same methodologies for apportionment and allocation of business and non-business income utilized to determine Oregon apportioned or allocated income under ORS 317.010(10), but substituting Lane County for the state with any of the apportionment and allocation factors utilized.

4.632 Dedication of Revenue. The net revenue to the County derived from imposition of the Corporation Excise Tax Surcharge is dedicated for the purposes described in Lane County Home Rule Charter, Section 38. It shall be expended only as described in LC 4.640 et seq.

4.634 Estimated Tax Procedure.

(1) Every taxpayer which expects to have a Corporation Excise Tax Surcharge liability under this subchapter of \$100 or more and which pays estimated taxes pursuant to ORS Ch. 314 shall make a payment of estimated Corporation Excise Tax Surcharge to the Tax Administrator at the same time as its payment of estimated state tax pursuant to ORS Ch. 314.

(2) The estimated Corporation Excise Tax Surcharge payment shall be an amount equal to eight percent (8%) of the estimated state tax.

DISTRIBUTION AND EVALUATION OF SURCHARGE REVENUES

4.640 Use of Surcharge Revenues.

(1) General. The revenues derived from the Personal Income Tax Surcharge (LC 4.600-4.616) and the Lane County Corporation Excise Tax Surcharge (LC 4.620-4.634), after payment of expenses of collection and administration, are hereinafter collectively referred to as "surcharge revenues." Surcharge revenues are dedicated revenues, pursuant to the Lane County Home Rule Charter, Section 38, and may only be used for the purposes described therein. The purpose of this subchapter is to implement the provisions of Section 38, to define a process for distribution of the surcharge revenues, and to define a methodology for evaluation.

(2) County-wide Services. "County-wide services" are defined to be those services provided or funded by Lane County for the purposes described in Section 38 of the Charter which are intended to enhance or support the safer communities and criminal justice system and residents of Lane County generally. These are services which are intended to be available to County residents, regardless whether they live in a particular city or in the unincorporated areas of Lane County. For example, the operation of the County adult and juvenile correctional facilities and programs are County-wide services, as is prosecution.

(3) Local Services. "Local Services" are defined to be those services provided or funded by an incorporated city or the County for the purposes described in Section 38 of the Charter which are intended to be for the primary benefit of the residents of the specific city, or in the case of Lane County, for the primary benefit of the residents who live in the unincorporated areas of Lane County. For example, police or Sheriff's patrol is a local service, as is a drug offender treatment program which serves the residents of only one city.

(4) Use for Existing Programs or Services. Generally, the surcharge revenues shall not be used in lieu of other revenues for existing programs or services. However, upon notice to the Public Safety Coordinating Council through the process described in LC 4.642 below, the surcharge revenues may be used to replace other revenues for a program or service when the entity proposing the expenditure believes to do so is in the best interests of its residents or when to do so protects the stability of either the overall or local community safety or criminal justice system. It is an appropriate use of surcharge revenues to stabilize the funding for an existing successful program or service.

4.642 Process for Revenue Sharing Distribution.

(1) General. The Public Safety Coordinating Council, (hereinafter PSCC) organized pursuant to ORS 423.560 and LM 3.522, currently develops, plans for, and makes recommendations to the Board regarding use of resources and coordination of efforts in system-wide adult and juvenile criminal justice and crime prevention matters. The PSCC is comprised of representatives of the criminal justice system, as well as citizen members. The Board believes it is appropriate for PSCC to review and make recommendations to each recipient on the use of community safety surcharge revenues, as provided below.

(2) Local and County-wide Plans. Except as modified by LC 4.642(3) below:

(a) By March 1 of each year, the cities and County shall each submit a plan covering the next fiscal year and a request that the County disburse to the jurisdiction the appropriate share of the surcharge revenues. The plan shall detail each jurisdiction's proposed use of surcharge revenues, and proposed measurable outcomes. For the County, the plan shall distinguish between County-wide services and local services. Uses covered by LC 4.640(4) shall be explained.

(b) Not later than May 1 of each year, the PSCC shall review and make recommendations to the Board and to each city regarding their respective proposed plans, after discussion at a public meeting at which there has been an opportunity for public comment. PSCC shall review the plans against the PSCC vision statement and guiding principles, as well as Section 38 of the Charter, and implementing ordinances. Its recommendations to each jurisdiction may include advice and suggestions on coordination of elements of the plans that relate to the community safety system, on the proposed measurable outcomes, and on whether the PSCC believes the plan is an appropriate use of surcharge revenues. The PSCC shall also advise the Board as to the estimate of the population of each city and the unincorporated area of Lane County for the next fiscal year as most recently determined by the State Board of Higher Education under ORS 190.510 to 190.610.

(c) Based on the PSCC advice as to estimated population, a reasonable estimate of the anticipated surcharge revenues for the next fiscal year, and the Charter limitations as to proportions for County-wide services and local services, the Board shall adopt an order specifying the estimated amounts to be distributed to each city and to the County, to be used by each recipient for the purposes specified in Section 38 of the Charter, as outlined by their respective plans.

(d) Thereafter, the dedicated surcharge revenues, i.e., those surcharge revenues received after costs of collection and administration, shall be distributed by the County proportionately in accordance with the order. Each jurisdiction shall receive its proportionate share of any increase or decrease in revenues that is different from the estimated receipt described by the Order. However, if any city fails to submit a plan and request per LC 4.642(2)(a) above, its share shall be distributed among the other recipients of surcharge revenues for local services in the same proportion as the local services shares.

(e) If new needs arise which a city or the County would propose for funding through surcharge revenues or if a city or the County receives significant other revenue to fund a program or service that is being funded by the surcharge revenues, the city or County shall submit a revised plan to PSCC for review and comment. The revised plan shall outline the reasons for the change, the proposed new use of surcharge revenues and the proposed measurable outcomes. The PSCC shall review and make comment in a reasonable period of time.

(f) Neither the Board, nor PSCC, is authorized to reject or alter any local plan submitted by a jurisdiction. Each jurisdiction is solely responsible for its own use of the surcharge revenues in a manner consistent with the Charter provisions.

(3) Capital.

(a) Notwithstanding LC 4.642(2) above, the first \$8.2 million of dedicated surcharge revenues received, i.e., those surcharge revenues received after costs of collection and administration, shall be collected for the purpose of funding the capital project of the Lane County adult corrections intake and assessment center, including land acquisition, construction and equipment and furnishings, estimated to cost \$6.1 million and for the capital project of replacement and conversion of the Area Information Records System (AIRS), the regional public safety information system, estimated to cost \$8.1 million, but only \$2.1 million shall be paid for through this initial dedicated revenue accumulation.

(b) The PSCC shall be authorized to determine reasonable dates for submittal of plans by entities, and review and recommendation back for the first eighteen (18) month period of the tax surcharges, in order to accommodate the initial phase-in period and the capital projects.

4.644 Evaluation.

(1) Two (2) years after the Safer Communities Tax Surcharges go into effect, and at least once every two years thereafter, the PSCC shall evaluate the effectiveness of the programs funded by surcharge revenues. The PSCC shall take into account measurable outcomes identified by each recipient's plan, as well as other criteria identified by PSCC that relate to measuring and providing safer communities.

(a) PSCC shall direct the preparation of a report of the proposed evaluation, and make that report available to interested parties at least two weeks in advance of its review of the report.

(b) PSCC shall review the proposed evaluation at public meeting at which there has been an opportunity for public comment. PSCC shall make whatever revisions it deems necessary in the report of the evaluation of the programs, and, after adoption, shall distribute a copy to each surcharge revenue recipient, together with any recommendations it may wish to make.

(2) After the Safer Communities Tax Surcharges have been in effect at least five (5) years, the Board shall direct the preparation of a more complete review of the surcharge revenues and their use. It may choose to use PSCC for this review, or may direct that the review be conducted by another source, independent of any recipient or user of surcharge revenues. This review shall be presented to PSCC for review and comment.

(a) This five (5) year report shall address the success of the use of surcharge revenues, measured by criteria identified at the time; any specific problems arising out of the implementing ordinances and proposed solutions; and the appropriateness of the outcomes being utilized in the plans and recommended changes.

(b) The report shall be made available to PSCC and interested parties for a reasonable period of time prior to the PSCC meeting at which it shall be reviewed.

(c) PSCC shall review the report at a public meeting at which there has been an opportunity for public comment. It shall then add its recommendations to the report and distribute the report and recommendations to each surcharge recipient.

ADMINISTRATION AND COLLECTION OF SURCHARGE REVENUES

4.650 Definitions. In addition to the general definitions included in LC 1.010, 4.604, and 4.624, the following definitions shall apply, unless the context requires otherwise:

Appeals Board. The hearings body designated by the Board to review taxpayer appeals from final determinations by the Tax Administrator.

Notice. A written document mailed first class by the Tax Administrator to the last known address of a taxpayer as provided in the latest return on file or by written correspondence notifying the Tax Administrator of a change of address.

Received. The postmark date affixed by the United States Postal Service if mailed or the date stamp if delivered by hand or sent by facsimile.

Tax Surcharges. The Personal Income Tax Surcharge, LC 4.600-4.616, and the Lane County Corporation Excise Tax Surcharge, LC 4.620-4.634, when referred to collectively, and, as appropriate, those provisions for their administration and collection, LC 4.650-4.678

4.652 Administration.

(1) The County Administrator shall determine the most appropriate means of providing for collection and administration of the tax surcharges either through employment of County personnel, or through contract with private or governmental entity. The County Administrator shall designate an individual or entity as the Tax Administrator.

(2) The County Administrator is delegated authority to enter into an agreement with the Department of Revenue of the State of Oregon in accordance with ORS 305.620, or with any other entity, to administer, collect and enforce the provisions of the tax surcharges and to distribute the revenues to the County, net after cost of administration, enforcement, collection and distribution. Any non-governmental entity shall be selected through an appropriate competitive selection process.

(3) The County Administrator shall also determine the appropriate means of providing for the administration of the distribution and evaluation of surcharge revenues under LC 4.640-4.644, which may, but need not be, assigned as a responsibility of the Tax Administrator.

4.654 Construction and Conformity with State Law.

(1) The tax surcharges shall be construed in conformity with the laws and regulations of the State of Oregon with respect to the state personal income tax and state corporation excise tax, as appropriate.

(2) Should a question arise regarding the tax surcharges on which the Lane County Charter, Lane Code or administrative rule is silent, the Tax Administrator may look to the laws and regulations of the state for guidance, provided that the determination under state law is not in conflict with any provision of LC 4.600-4.678 or is not otherwise inapplicable.

4.656 Authority.

(1) The Tax Administrator is hereby authorized to exercise all supervisory and administrative authority with regard to the administration, enforcement and collection of the tax surcharges, including but not limited to administrative return processing, auditing, determinations, collection of taxes, penalties and interest, protests and appeals. The Tax Administrator is hereby designated as the County's agent for the purpose of administering the tax surcharges.

(2) The Tax Administrator has authority to adopt procedural rules and regulations as necessary, subject to the review of the County Administrator or his or her designee. If the Tax Administrator is an employee of Lane County, then the Tax Administrator shall recommend the necessary procedural rules and regulations to the County Administrator, who is hereby authorized to adopt those which the County Administrator deems necessary or advisable.

(3) The Tax Administrator may implement procedures and forms as deemed necessary, including but not limited to, forms for returns, statements of withholding and estimated payments, and extensions of time.

(4) The Tax Administrator shall have access to and maintain all tax filings and records with respect to the assigned responsibility for the administration of collection of the tax surcharges on behalf of the County.

(5) The Tax Administrator may, upon request, interpret the application of the tax surcharges, in general or for a specific set of circumstances.

(6) The Tax Administrator is authorized to enter into informal disposition of controversies regarding the tax surcharges by written stipulation or agreed written settlement.

4.658 Signing of Returns and Other Documents. Any return, statement or other document required to be made regarding the tax surcharges shall be signed in accordance with instructions from the Tax Administrator. The making or filing of any return, statement or other document or a copy thereof, including a copy of a state return, shall constitute a certification by the individual doing so that the statements contained therein are true and that any copy filed is a true copy.

4.660 Records, Confidentiality and Disclosure.

(1) The County shall be the sole owner of all filed information regarding the tax surcharges. The County Administrator, the Tax Administrator, and their designees, shall have access to all taxpayer information.

(2) Except as otherwise provided herein or otherwise required by law, it shall be unlawful for the County Administrator, the Tax Administrator, their designees or any elected official, employee, or agent for the County, or any other person who has acquired information pursuant to LC 4.660(3) and (5) below, to divulge, release or make known in any manner any financial information submitted or disclosed to the County under the terms of the tax surcharges. Nothing in this section shall be construed to prohibit:

(a) the disclosure of the names and addresses of any persons or entities who have filed a return, or

(b) the disclosure of general statistics in a form which would prevent the identification of financial information regarding an individual taxpayer.

(3) The Tax Administrator may disclose and give access to information described in LC 4.660 (1) and (2) above to an authorized representative of the State Department of Revenue, or any local government of the state imposing taxes upon or measured by gross or net receipts or income, for the following purposes: to inspect the tax return of a taxpayer; to obtain an abstract or copy of the return; to obtain information concerning any item contained in any return; or to obtain information of any financial audit of the tax returns of any taxpayer. Such disclosure and access shall be granted only if the laws, regulations and practices of such other jurisdiction maintain the confidentiality of such information at least to the extent provided by LC 4.660(2) above.

(4) Upon the request of a taxpayer or authorized representative, the Tax Administrator shall provide copies of any tax return information filed by the taxpayer in the Tax Administrator's possession. The Tax Administrator may charge a reasonable fee for such copies.

(5) The Tax Administrator may also disclose and give access to information described in LC 4.660(2) above to:

(a) The County Counsel, his or her assistants or employees, or other legal representatives of the County, to the extent disclosure or access is necessary for the performance of duties of advising or representing the County regarding the tax surcharges.

(b) Other County employees, agents or officials of the County, to the extent the Tax Administrator deems disclosure or access necessary for such employees, agents or officials to perform their duties relating to the administration of the tax surcharges or the distribution of the surcharge revenues.

(6) The Tax Administrator shall take reasonable steps to assure that anyone to whom disclosure is made is advised of these provisions and any penalties for violation thereof.

4.662 Examination of Books, Records, or Persons. Record Retention.

(1) The Tax Administrator may examine any books, papers, records, memoranda, or any other document regardless of the form of storage, including state and federal income or excise tax returns, to ascertain the correctness of any tax return or to make an estimate of any tax. The Tax Administrator shall have the authority, after notice, to:

(a) Require the attendance of any person required to file a return regarding the tax surcharges, or officers, agents or other persons with knowledge of the person's or entity's income or operations, at any reasonable time and place the Tax Administrator may designate.

(b) Take testimony, with or without the power to administer oaths to any person required to be in attendance, and

(c) Require proof for the information sought, necessary to carry out the provisions of the tax surcharge.

(2) The Tax Administrator shall designate the employees who shall have the power to administer oaths. The employees so designated shall be notaries public of the State of Oregon.

(3) Every taxpayer required to file a return regarding any tax surcharge shall keep and preserve for not less than seven (7) years such documents and records, including state and federal income or excise tax returns, accurately supporting the information reported on the taxpayer's return and calculation of the tax surcharge for each year.

4.664 Taxpayer Representation.

(1) No person shall be recognized as representing the taxpayer in regard to any matter relating to a tax surcharge of such taxpayer without written authorization of the taxpayer or unless the Tax Administrator determines from other available information the person has authority to represent the taxpayer.

(2) No employee or official of the County, the Tax Administrator or any public agency or entity authorized to collect the tax surcharges, shall represent any taxpayer (other than himself or herself) before the Tax Administrator or before the Appeals Board. This restriction against taxpayer representation shall continue for two years after termination of employment or official status.

(3) Members of the Appeals Board shall not represent any taxpayer (other than the member himself or herself) before the Appeals Board. No member of the Appeals Board shall participate in any matter before the Appeals Board if the appellant is a client of the member or the member's firm.

4.666 Protests and Appeals.

(1) Any determination by the Tax Administrator may be protested by the taxpayer. Written notice of the protest must be received by the Tax Administrator within thirty (30) days after the notice of determination was mailed or delivered to the taxpayer. The protest shall state the name and address of the taxpayer and an explanation of the grounds for the protest.

(a) The Tax Administrator shall respond within thirty (30) days after the protest is filed with the Tax Administrator with either a revised determination or a final determination. The Tax Administrator's determination shall include the reasons for the determination and state the time and manner for appealing the determination.

(b) The time to file a protest or the time for the Tax Administrator's response may be extended by the Tax Administrator, for good cause. Requests for extension of time must be received prior to the expiration of the original 30-day protest deadline. Written notice shall be given to the taxpayer if the Tax Administrator's deadline is extended.

(2) Any final determination by the Tax Administrator may be appealed by the taxpayer to the Appeals Board. Written notice of the appeal must be received by the Tax Administrator within thirty (30) days after the final determination was mailed or delivered to the appellant. The notice of appeal shall state the name and address of the appellant and include a copy of the final determination.

(3) Within ninety (90) days after the final determination was mailed or delivered to the taxpayer, the appellant shall file with the Appeals Board a written statement containing:

(a) The reasons the Tax Administrator's determination is incorrect; and

(b) What the correct determination should be.

Failure to file such a written statement within the time permitted shall be deemed a waiver of any objections, and the appeal shall be dismissed.

(4) Within 150 days after the final determination was mailed or delivered to the taxpayer, the Tax Administrator shall file with the Appeals Board a written response to the appellant's statement. A copy of the Tax Administrator's response shall be promptly mailed to the address provided by the appellant.

(5) The appellant shall be given not less than fourteen (14) days prior written notice of the hearing date and location. The appellant and the Tax Administrator shall have the opportunity to present relevant testimony and oral argument. The Appeals Board may request such additional written comment and documents as it deems appropriate.

(6) Decisions of the Appeals Board shall be in writing, state the basis for the decision and be signed by the Appeals Board chair.

(7) The decision of the Appeals Board shall be final on the date it is issued and no further administrative appeal shall be provided.

(8) The filing of an appeal with the Appeals Board shall temporarily suspend the obligation to pay any tax surcharge that is the subject to the appeal pending a final decision by the Appeals Board.

4.668 Deficiencies and Refunds. Minimum Payment and Refund.

(1) Deficiencies may be assessed and refunds granted any time within the period provided under ORS 314.410, 314.415, and 317.950. The Tax Administrator may by agreement with the taxpayer extend such time periods to the same extent as provided by statute.

(2) Notwithstanding LC 4.668(1) above, if no tax surcharge return is filed, the Tax Administrator may determine the tax surcharges due at any time based on the best information available to the Tax Administrator. The tax surcharges shall be assessed and subject to penalties and interest from the date they should have been paid as provided in LC 4.672 below in accordance with LC 4.676 and 4.678 below. The Tax Administrator shall send notice of the determination and assessment to the person or entity who failed to file a tax surcharge return.

(3) Consistent with ORS 314.410(3), in cases where no tax surcharge return has been filed, there shall be no time limit for a notice of deficiency or the assessment of the tax surcharges, penalty and interest due.

(4) Notwithstanding any other provision regarding refunds of the tax surcharges, no refund shall be made of less than five dollars (\$5), nor shall any tax surcharge be due of less than five dollars (\$5).

4.670 Changes to Federal or State Returns.

(1) If a taxpayer's reported net income under applicable Oregon laws imposing a tax on or measured by income is changed by the Federal Internal Revenue Service or the state Department of Revenue, or amended by the taxpayer to correct an error in the original federal or state return, a report of such change shall be filed with the Tax Administrator within sixty (60) days after the date of the notice of the final determination of change or after an amended return is filed with the federal or state agencies. The report shall be accompanied by an amended tax surcharge return with respect to such income and by any additional tax surcharge, penalty, and interest due.

(2) The Tax Administrator may assess deficiencies and grant refunds resulting from changes to federal or state returns within the time periods provided for in LC 4.668 above, treating the report of change in the federal or state returns as the filing of an amended tax surcharge return.

(3) The Tax Administrator may assess penalties and interest on the additional tax surcharge due as provided in LC 4.676 and 4.678 below or may refuse to grant a refund as a result of the amended return if the amended return is not filed with the Tax Administrator within the time limits set forth above.

4.672 Return Due Date: Extensions.

(1) Tax surcharge returns shall be on forms provided or approved by the Tax Administrator. All tax surcharge returns shall be filed, together with the specified tax surcharge, by the fifteenth day of the fourth month following the end of the tax year.

(2) The Tax Administrator may, for good cause, grant extensions for filing returns, except that no extension may be granted for more than six (6) months beyond the initial due date. This extension does not extend the time to pay the tax surcharges.

(3) The Tax Administrator shall prepare blank tax surcharge returns and make them available upon request. Failure to receive or secure a form shall not relieve any person from the obligation to pay a tax surcharge.

(4) The Tax Administrator shall also develop and make available blank estimated tax surcharge forms, and any other forms necessary for the efficient administration of the tax surcharges collection process.

4.674 Application of Payments.

(1) Tax surcharges received shall first be applied to any penalty, then to interest accrued, then to the tax surcharge due.

(2) Any payment of estimated tax surcharge received by the Tax Administrator for which the taxpayer has made no designation of the quarterly installment to which the payment is to be applied shall first be applied to underpayments of estimated tax surcharges due for any prior quarter of the tax year. Any excess amount shall be applied to the installment that next becomes due after the payment was received.

4.676 Interest.

(1) Interest shall be collected on any unpaid tax surcharge at the rate of .833% simple interest per month or fraction thereof (10% per annum), computed from the original due date of the tax surcharge to the fifteenth day of the month following the date of payment.

(2) Interest shall be collected on any unpaid or underpaid quarterly estimated payment required by the tax surcharge at the rate of .833% simple interest per month or fraction thereof (10% per annum), computed from the due date of each quarterly estimated payment to the original due date of the tax surcharge return to which the estimated payments apply.

(3) Notwithstanding LC 4.676(2) above, there shall be no interest on underpayment of quarterly estimated payments if:

(a) The total surcharge tax liability of the prior tax year was less than \$100;

(b) An amount equal to at least ninety percent (90%) of the total surcharge tax liability for the current tax year was paid; or

(c) An amount equal to at least one hundred percent (100%) of the prior year's total tax surcharge liability was paid when due.

(4) For purposes of LC 4.676(2) above, the amount of underpayment is determined by comparing ninety percent (90%) of the current total tax surcharge liability amount to quarterly estimated payments made prior to the original due date of the tax surcharge return.

(5) If a person or entity fails to file a tax surcharge return on the prescribed date, or any extension thereof granted under LC 4.672 above, the Tax Administrator may determine the tax surcharge based on the best information available to the Tax Administrator. If the Tax Administrator determines the tax surcharge due, the Tax Administrator shall assess appropriate penalties and interest and shall send notice to such person of the determination and assessment.

(6) For purposes of LC 4.676(1) above, the amount of tax surcharge due on the tax surcharge return shall be reduced by the amount of any payment made on or before the date for payment of the tax surcharge in accordance with LC 4.672 above.

(7) Interest at the rate specified in LC 4.676(1) above shall accrue from the original due date without regard to any extension of the filing date.

(8) Any interest amounts properly assessed in accordance with this section may not be waived or reduced by the Tax Administrator, unless specifically provided for by written policy.

(9) When, under a provision of the tax surcharges, taxpayers are entitled to a refund of a portion or all of a tax surcharge paid to the Tax Administrator, they shall received simple interest on such amount at the rate specified in LC 4.676 above, subject to the following:

(a) Any overpayments shall be refunded with interest for each month or fraction thereof for a period beginning four months after the due date or the date the tax surcharge was paid, whichever is later, to the date of the refund; and

(b) Any overpayments of estimated tax surcharge shall be refunded with interest for each month or fraction thereof for the period beginning four months after the date final return was filed.

4.678

Penalty.

(1) A penalty shall be assessed if a person or entity:

(a) Fails to file a tax surcharge return or extension request at the time required under LC 4.672 or 4.674 above, or

(b) Fails to pay a tax surcharge when due,

(c) The penalty under LC 4.678(1) shall be calculated as:

(i) Five percent (5%) of the total tax surcharge liability, but not less than five dollars (\$5), if the failure is for a period less than four (4) months;

(ii) An additional penalty of twenty percent (20%) of the total tax surcharge liability if the failure is for a period of four (4) months or more; and

(iii) An additional penalty of one hundred percent (100%) of the total tax surcharge liability of all tax years if the failure to file is for three (3) or more consecutive tax years.

(2) A penalty shall be assessed if a person or entity who has filed an extension request:

(a) Fails to file a tax surcharge return by the extended due date; or

(b) Fails to pay the tax surcharge liability by the extended due date;

- (c) The penalty under LC 4.678(2) shall be calculated in the same manner as in LC 4.678(1)(c) above:
- (3) A penalty shall be assessed if a person or entity:
 - (a) Fails to pay at least ninety percent (90%) of the total tax surcharge liability by the original due date; or
 - (b) Fails to pay at least one hundred percent (100%) of the prior year's total tax surcharge liability by the original due date.
 - (c) The penalty under LC 4.678(3) shall be calculated in the same manner as in LC 4.678(1)(c) above.
- (4) The Tax Administrator may impose a civil penalty of up to \$500 for each of the following violations of the tax surcharges:
 - (a) Failure to file any tax surcharge return within ninety (90) days of the Tax Administrator's original written notice to file;
 - (b) Failure to pay any tax surcharge within ninety (90) days of the Tax Administrator's original written notice for payment; or
 - (c) Failure to provide documents as required by LC 4.662 within ninety (90) days of the Tax Administrator's original written notice to provide documents.
- (5) The Tax Administrator may impose a civil penalty under LC 4.678(4) above only if the Tax Administrator gave notice of the potential for assessment of civil penalties for failure to comply or respond in the original written notice.
- (6) The Tax Administrator may waive or reduce any penalty determined under LC 4.678 (1) through (4) for good cause, according to and consistent with written policies.
- (7) Violation of LC 4.660 is punishable, upon conviction thereof, by a fine not exceeding \$1,000 or by imprisonment for a period not exceeding twelve (12) months, or by both fine and imprisonment. In addition, any official or employee of the County convicted for violation of LC 4.660 shall be dismissed from employment and shall be barred from holding any position of employment or office for a period of five (5) years thereafter. Any agent of the County shall, upon conviction, be ineligible for participation in any County contract for a period of five (5) years thereafter.

PENALTY4.995 Penalties - Lane County Transient Room Tax.

(1) It is unlawful for any operator or other person so required by LC 4.100 to 4.195 to fail or refuse to register as required herein, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the Tax Administrator or to render a false or fraudulent return. No person required to make, render, sign, or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this subchapter.

(2) Any person wilfully violating any of the provisions of LC 4.110, 4.115, 4.120 4.130, 4.135, 4.145, 4.155, 4.170 and 4.175 shall be guilty of a misdemeanor and shall be punishable therefor by a fine of not more than \$500 or by imprisonment in the County Jail for a period of not more than six months or by both such fine and imprisonment.

4.997 Penalties - Lane County Car Rental Tax.

(1) It is unlawful for any operator or other person so required by LC 4.200-4.275 to fail or refuse to register as required herein, or to furnish any return required to be made or fail or refuse to furnish a supplemental return or other data required by the County Finance Officer or to render a false or fraudulent return. No person required to make, render, sign or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this subchapter.

(2) Any person who wilfully violates any provision of LC 4.200-4.275 or 4.997 shall, upon conviction, be subject to a fine of not more than \$500, imprisonment in the County Jail for not more than six months, or both.

4.600 Lane Code 4.604

LANE COUNTY PERSONAL INCOME TAX SURCHARGE

4.600 Title. This subchapter (~~LC 4.600-4.614~~) may be referred to as the Lane County Personal Income Tax Surcharge.

4.602 Policy. It is the intent of the Lane County Board of Commissioners by adoption of this subchapter and ~~LC 4.620-4.678~~, to implement the provisions of the Lane County Home Rule Charter, Section 38, the Safer Communities Tax Surcharge. It is the further intent of the Lane County Board of Commissioners, insofar as possible, to base the Lane County Personal Income Tax Surcharge for each year entirely on the provisions of the Oregon personal income tax law which are in effect for that year, modified as necessary by the County's jurisdiction to tax; and to impose a tax surcharge on residents of the County measured by the net state tax as hereinafter defined from wherever sources derived.

4.604 Definitions. In addition to the general definitions included in LC 1.010, the following definitions shall apply, unless the context requires otherwise:

Business. An enterprise, activity, profession, trade or undertaking of any nature conducted or ordinarily conducted for profit, gain or livelihood by any taxpayer, including the operation of an unrelated business by a charitable, religious or educational organization.

Employee. An individual who performs services for another individual or organization having the right to control the employee as to the services to be performed and as to the manner of performance.

Employer. A person who is in such relation to another person that the person may control the work of that other person and direct the manner in which it is to be done; or an officer or employee of a corporation, or a member or employee of a partnership who as such officer, employee or member is under a duty to perform the acts required of employers under this subchapter. See, also, the definition in ORS 316.162.

Individual. A natural person.

Net State Tax. The sum of all of the taxes imposed on a resident of Lane County under ORS ch. 316 less the credits allowed to such resident against those taxes for the taxable year.

Non-Resident. An individual who is not a resident of Lane County.

Part-Year resident. A taxpayer who changes status during a taxable year from resident to non-resident or from non-resident to resident.

Personal Income Tax Surcharge. The surcharge on net state tax which is imposed by LC 4.600-4.614.

Resident.

(a) An individual who is domiciled in the County unless he or she maintains no permanent place of abode in the County, and does maintain a permanent place of abode elsewhere, and spends an aggregate of not more than 30 days of the taxable year in the County; or

(b) An individual who is not domiciled in the County, but maintains a permanent place of abode in the County and spends an aggregate of more than 200 days of the taxable year in the County is presumed to be a resident unless the individual proves he or she is in the County only for temporary or transitory purposes.

Tax Administrator. The person or entity designated by the County Administrator to collect the Personal Income Tax Surcharge and to administer the collection and enforcement process.

Taxable year. The period corresponding to the taxpayer's taxable year for state income tax purposes.

Taxpayer. An individual, estate, trust or entity whose income is in whole or part subject to the tax surcharge under this subchapter, or any employer required by this subchapter to withhold personal income tax surcharges from the wages of employees.

Wages. The remuneration for services performed by an employee for an employer, including the cash value of all remuneration paid in any medium other than cash. "Wages" does not include any remuneration excepted from the definition of "wages" in ORS 316.162(3).

4.606

Imposition of the Personal Income Tax Surcharge.

(1) General. The Personal Income Tax Surcharge is imposed to the extent permitted by law on every County resident.

(2) Estates and Trusts. The Personal Income Tax Surcharge is imposed on every estate or trust which pays a state personal income tax and to which one of the following applies:

(a) the estate is of a decedent who at the time of his or her death was domiciled in Lane County, or

(b) the trust or a portion of the trust consists of property transferred by the will of a decedent who at the time of his or her death was domiciled in Lane County, or

(c) the trust or a portion of the trust consists of property of a person domiciled in Lane County at the time the property was transferred to the trust.

(3) Partners and Partnerships. A partnership as such shall not be subject to the Personal Income Tax Surcharge, partners shall be liable for the Personal Income Tax Surcharge only in their separate or individual capacities.

(4) Exempt Associations, Trusts and Organizations. An association, trust or other unincorporated organization which is exempt from state income or excise tax shall be exempt from the Personal Income Tax Surcharge.

(5) Part-Year Resident. The Personal Income Tax Surcharge is imposed, to the extent permitted by law, on every part-year resident for the portion of the year during which he or she is a resident.

(6) Taxable Year. Subject to the withholding provision of LC 4.612 below, the Personal Income Tax Surcharge imposed by this subchapter shall be levied, collected and paid annually for every taxable year commencing after December 31, 1999.

4.608 Rate of Surcharge.

(1) General. The Personal Income Tax Surcharge imposed by this subchapter shall be at the rate of eight percent (8%) of the net state tax as defined in LC 4.604 above or for part-year residents, as further modified in LC 4.608(2) below.

(2) Computation for Part-Year Resident. When an individual or trust changes resident status during the taxable year, the net state tax shall be the net state tax determined as if such individual or trust were a County resident for the entire taxable year, multiplied by a fraction, the numerator of which is the Oregon adjusted gross income for the period of County residence for the individual or trust, computed as if the taxable year were limited to the period of residence, and the denominator of which is the Oregon adjusted gross income for the entire taxable year.

4.610 Dedication of Revenue. The net revenue to the County derived from imposition of the Personal Income Tax Surcharge is hereby dedicated for the purposes described in Lane County Home Rule Charter, Section 38. It shall be expended only as described in LC 4.640 et seq.

4.612 Withholding of Tax Surcharge.

(1) At the time of payment of salaries, wages, commissions or other compensation to any employee who is a county resident, every employer within the County shall deduct an amount equal to eight percent (8%) of the amount withheld from the employees' wages for state income tax pursuant to ORS 316.167.

(2) Every employer who deducts and retains any amount under LC 4.612(1) above shall hold the same in trust for the County and for the payment thereof in the manner and at the time provided in LC 4.612(4) below.

(3) The amounts deducted from the wages of an employee during any calendar year shall be considered to be in part payment of the Personal Income Tax Surcharge for the taxable year which begins within such calendar year, and the return made by the employer pursuant to this subchapter shall be accepted as evidence in favor of the employee of the amounts so deducted from his/her wages.

(4) Except as may be specially provided by the Tax Administrator for the first six months of 2000, each employer shall make payment to the Tax Administrator of the amount required to be withheld by this subchapter at the same time that each employer is required to pay over taxes withheld for state income tax purposes for the same period, accompanied by a return in the form prescribed by the Tax Administrator. Each employer shall also file an annual return in the form prescribed by the Tax Administrator at the same time the employer files its annual report for state withholding.

(5) Each employer shall be liable for the payment of the Personal Income Tax Surcharge required to be deducted and withheld, whether or not such amount has in fact been withheld. Failure to file the appropriate return without reasonable excuse or failure to remit the amount withheld subjects the employer to penalties as described in LC 4.678 below.

(6) Each employer shall notify each employee of the amounts withheld in the same manner and at the same time as for withholding of taxes for state income tax purposes.

4.614 Estimated Tax Procedure

(1) Every taxpayer who expects to have a Personal Income Tax Surcharge liability under this subchapter of \$100 or more and who pays estimated taxes pursuant to ORS ch. 316 shall make a payment of an estimated Personal Income Tax Surcharge to the Tax Administrator at the same time as its payment of estimated state tax pursuant to ORS ch. 316.

(2) The estimated Personal Income Tax Surcharge payment shall be an amount equal to eight percent (8%) of the estimated state tax.

4.616 Credit for Tax Paid to Another Jurisdiction Every taxpayer who resides in the County, but who receives taxable income from sources outside the County, if it be made to appear that he or she has paid an income tax on said income in and to another county or a city for which the taxpayer did not receive a credit in calculating the taxpayer's net state tax, shall be allowed a credit against the Personal Income Tax Surcharge. The credit shall be calculated by multiplying the Personal Income Tax Surcharge rate imposed by LC 4.608 above against the tax paid to the other county or city, and deducting the result from the Personal Income Tax Surcharge otherwise determined pursuant to LC 4.608.

LANE COUNTY CORPORATION EXCISE TAX SURCHARGE

4.620 Title. This subchapter (LC 4.620-4.634) may be referred to as the Lane County Corporation Excise Tax Surcharge.

4.622 Policy. It is the intent of the Lane County Board of Commissioners, by adoption of this subchapter, LC 4.600-4.616 and LC 4.640-4.678, to implement the provisions of the Lane County Home Rule Charter, Section 38, the Safer Communities Tax Surcharge. It is the further intent of the Lane County Board of Commissioners, insofar as possible, to base the Lane County Corporation Excise Tax Surcharge for each year entirely on the provisions of the Oregon corporation excise tax law which are in effect for that year, modified as necessary by the County's jurisdiction to tax, and to impose a tax surcharge on taxpayers doing business in the County measured by the net state tax as hereinafter defined.

4.624 Definitions. In addition to the general definitions included in LC 1.010, the following definitions shall apply, unless the context requires otherwise:

Doing business. For the purposes of this subchapter, "doing business" has the same meaning as in ORS 317.010(4), except that all references in that statute to "the state" shall mean "Lane County".

County Taxable Income. For the purposes of this subchapter, "County taxable income" means the taxable income as defined in ORS 317.010(10) that is allocable to Lane County, as determined by apportionment in LC 4.630 below.

Corporation Excise Tax Surcharge. The surcharge on net state tax which is imposed by LC 4.620-4.634.

Net State Tax. The sum of all taxes imposed on a taxpayer under ORS ch. 317 less the credits allowed such taxpayer for the taxable year.

Oregon Taxable Income. The taxable income as defined in ORS 317.010(10).

Tax Administrator. The person or entity designated by the County Administrator to collect the Corporation Excise Tax Surcharge and to administer the collection and enforcement process.

Taxable Year. The period corresponding to the taxpayer's taxable year for state corporation excise tax purposes.

Taxpayer. Any entity whose income is, in whole or in part, subject to the tax surcharge under this subchapter.

4.626 Imposition of the Lane County Corporation Excise Tax Surcharge.

(1) General. The Corporation Excise Tax Surcharge is imposed to the extent permitted by law, on every entity which is doing business or authorized to be doing business in Lane County and which pays a corporation excise tax under ORS Ch. 317.

(2) Taxable Year. The Corporation Excise Tax Surcharge imposed by this subchapter shall be levied, collected and paid annually for every taxable year commencing after December 31, 1999.

4.628 Rate of Surcharge. The Corporation Excise Tax Surcharge imposed by this subchapter shall be at the rate of eight percent (8%) of the County share of the net state tax. The County share of the net state tax shall be determined by multiplying the net state tax as defined in EC 4.624 above by a fraction, the numerator of which is the County taxable income as defined in EC 4.624 above and the denominator of which is the Oregon taxable income as defined in EC 4.624 above. For example: Assume the County taxable income is \$5000, the Oregon taxable income is \$10,000 and the net state tax is \$660. Then the Corporation Excise Tax Surcharge would be \$26.40. $\$5,000/\$10,000 \times 660 = \$330$, the County share of net state tax. $\$330 \times .08 = \26.40 , the Corporation Excise Tax Surcharge.

4.630 Apportionment of Income. For any taxpayer subject to the Corporation Excise Tax Surcharge under this subchapter which has taxable income from transactions or activities carried on both within and without Lane County, that portion which is to be apportioned as County taxable income shall be determined by the same methodologies for apportionment and allocation of business and non-business income utilized to determine Oregon apportioned or allocated income under ORS 317.010(10), but substituting Lane County for the state with any of the apportionment and allocation factors utilized.

4.632 Dedication of Revenue. The net revenue to the County derived from imposition of the Corporation Excise Tax Surcharge is dedicated for the purposes described in Lane County Home Rule Charter, Section 38. It shall be expended only as described in EC 4.640 et seq.

4.634 Estimated Tax Procedure.

(1) Every taxpayer which expects to have a Corporation Excise Tax Surcharge liability under this subchapter of \$100 or more and which pays estimated taxes pursuant to ORS Ch. 314 shall make a payment of estimated Corporation Excise Tax Surcharge to the Tax Administrator at the same time as its payment of estimated state tax pursuant to ORS Ch. 314.

(2) The estimated Corporation Excise Tax Surcharge payment shall be an amount equal to eight percent (8%) of the estimated state tax.

DISTRIBUTION AND EVALUATION OF SURCHARGE REVENUES

4.640 Use of Surcharge Revenues

(1) General: The revenues derived from the Personal Income Tax Surcharge (LC 4.600-4.616) and the Lane County Corporation Excise Tax Surcharge (LC 4.620-4.634), after payment of expenses of collection and administration, are hereinafter collectively referred to as "surcharge revenues." Surcharge revenues are dedicated revenues, pursuant to the Lane County Home Rule Charter, Section 38, and may only be used for the purposes described therein. The purpose of this subchapter is to implement the provisions of Section 38, to define a process for distribution of the surcharge revenues, and to define a methodology for evaluation.

(2) County-wide Services: "County-wide services" are defined to be those services provided or funded by Lane County for the purposes described in Section 38 of the Charter which are intended to enhance or support the safer communities and criminal justice system and residents of Lane County generally. These are services which are intended to be available to County residents, regardless whether they live in a particular city or in the unincorporated areas of Lane County. For example, the operation of the County adult and juvenile correctional facilities and programs are County-wide services, as is prosecution.

(3) Local Services: "Local Services" are defined to be those services provided or funded by an incorporated city or the County for the purposes described in Section 38 of the Charter which are intended to be for the primary benefit of the residents of the specific city, or in the case of Lane County, for the primary benefit of the residents who live in the unincorporated areas of Lane County. For example, police or Sheriff's patrol is a local service, as is a drug offender treatment program which serves the residents of only one city.

(4) Use for Existing Programs or Services: Generally, the surcharge revenues shall not be used in lieu of other revenues for existing programs or services. However, upon notice to the Public Safety Coordinating Council through the process described in LC 4.642 below, the surcharge revenues may be used to replace other revenues for a program or service when the entity proposing the expenditure believes to do so is in the best interests of its residents or when to do so protects the stability of either the overall or local community safety or criminal justice system. It is an appropriate use of surcharge revenues to stabilize the funding for an existing successful program or service.

4.642 Process for Revenue Sharing Distribution

(1) General. The Public Safety Coordinating Council, (hereinafter PSCC) organized pursuant to ORS 423.560 and LM 3522, currently develops, plans for, and makes recommendations to the Board regarding use of resources and coordination of efforts in system-wide adult and juvenile criminal justice and crime prevention matters. The PSCC is comprised of representatives of the criminal justice system, as well as citizen members. The Board believes it is appropriate for PSCC to review and make recommendations to each recipient on the use of community safety surcharge revenues, as provided below:

(2) Local and County-wide Plans. Except as modified by LC 4.642(3) below:

(a) By March 1 of each year, the cities and County shall each submit a plan covering the next fiscal year and a request that the County disburse to the jurisdiction the appropriate share of the surcharge revenues. The plan shall detail each jurisdiction's proposed use of surcharge revenues, and proposed measurable outcomes. For the County, the plan shall distinguish between County-wide services and local services. Uses covered by LC 4.640(4) shall be explained.

(b) Not later than May 1 of each year, the PSCC shall review and make recommendations to the Board and to each city regarding their respective proposed plans, after discussion at a public meeting at which there has been an opportunity for public comment. PSCC shall review the plans against the PSCC vision statement and guiding principles, as well as Section 38 of the Charter, and implementing ordinances. Its recommendations to each jurisdiction may include advice and suggestions on coordination of elements of the plans that relate to the community safety system, on the proposed measurable outcomes, and on whether the PSCC believes the plan is an appropriate use of surcharge revenues. The PSCC shall also advise the Board as to the estimate of the population of each city and the unincorporated area of Lane County for the next fiscal year as most recently determined by the State Board of Higher Education under ORS 190.510 to 190.610.

(c) Based on the PSCC advice as to estimated population, a reasonable estimate of the anticipated surcharge revenues for the next fiscal year, and the Charter limitations as to proportions for County-wide services and local services, the Board shall adopt an order specifying the estimated amounts to be distributed to each city and to the County, to be used by each recipient for the purposes specified in Section 38 of the Charter, as outlined by their respective plans.

4.644 Evaluation

(1) Two (2) years after the Safer Communities Tax Surcharges go into effect, and at least once every two years thereafter, the PSCC shall evaluate the effectiveness of the programs funded by surcharge revenues. The PSCC shall take into account measurable outcomes identified by each recipient's plan, as well as other criteria identified by PSCC that relate to measuring and providing safer communities.

(a) PSCC shall direct the preparation of a report of the proposed evaluation, and make that report available to interested parties at least two weeks in advance of its review of the report.

(b) PSCC shall review the proposed evaluation at public meeting at which there has been an opportunity for public comment. PSCC shall make whatever revisions it deems necessary in the report of the evaluation of the programs, and after adoption, shall distribute a copy to each surcharge revenue recipient, together with any recommendations it may wish to make.

(2) After the Safer Communities Tax Surcharges have been in effect at least five (5) years, the Board shall direct the preparation of a more complete review of the surcharge revenues and their use. It may choose to use PSCC for this review, or may direct that the review be conducted by another source, independent of any recipient or user of surcharge revenues. This review shall be presented to PSCC for review and comment.

(a) This five (5) year report shall address the success of the use of surcharge revenues, measured by criteria identified at the time; any specific problems arising out of the implementing ordinances and proposed solutions; and the appropriateness of the outcomes being utilized in the plans and recommended changes.

(b) The report shall be made available to PSCC and interested parties for a reasonable period of time prior to the PSCC meeting at which it shall be reviewed.

(c) PSCC shall review the report at a public meeting at which there has been an opportunity for public comment. It shall then add its recommendations to the report and distribute the report and recommendations to each surcharge recipient.

ADMINISTRATION AND COLLECTION OF SURCHARGE REVENUES

4.650 Definitions. In addition to the general definitions included in LC 1.010, 4.604, and 4.624, the following definitions shall apply, unless the context requires otherwise:

Appeals Board. The hearings body designated by the Board to review taxpayer appeals from final determinations by the Tax Administrator.

Notice. A written document mailed first class by the Tax Administrator to the last known address of a taxpayer as provided in the latest return on file or by written correspondence notifying the Tax Administrator of a change of address.

Received. The postmark date affixed by the United States Postal Service if mailed or the date stamp if delivered by hand or sent by facsimile.

Tax Surcharges. The Personal Income Tax Surcharge, LC 4.600-4.616, and the Lane County Corporation Excise Tax Surcharge, LC 4.620-4.634, when referred to collectively, and, as appropriate, those provisions for their administration and collection, LC 4.650-4.678

4.652 Administration.

(1) The County Administrator shall determine the most appropriate means of providing for collection and administration of the tax surcharges either through employment of County personnel, or through contract with private or governmental entity. The County Administrator shall designate an individual or entity as the Tax Administrator.

(2) The County Administrator is delegated authority to enter into an agreement with the Department of Revenue of the State of Oregon in accordance with ORS 305.620, or with any other entity, to administer, collect and enforce the provisions of the tax surcharges and to distribute the revenues to the County, net after cost of administration, enforcement, collection and distribution. Any non-governmental entity shall be selected through an appropriate competitive selection process.

(3) The County Administrator shall also determine the appropriate means of providing for the administration of the distribution and evaluation of surcharge revenues under LC 4.640-4.644, which may, but need not be, assigned as a responsibility of the Tax Administrator.

4.654 Construction and Conformity with State Law.

(1) The tax surcharges shall be construed in conformity with the laws and regulations of the State of Oregon with respect to the state personal income tax and state corporation excise tax, as appropriate.

(2) Should a question arise regarding the tax surcharges on which the Lane County Charter, Lane Code or administrative rule is silent, the Tax Administrator may look to the laws and regulations of the state for guidance, provided that the determination under state law is not in conflict with any provision of LC 4.600-4.678 or is not otherwise inapplicable.

4.656 Authority.

(1) The Tax Administrator is hereby authorized to exercise all supervisory and administrative authority with regard to the administration, enforcement and collection of the tax surcharges, including but not limited to administrative return processing, auditing, determinations, collection of taxes, penalties and interest, protests and appeals. The Tax Administrator is hereby designated as the County's agent for the purpose of administering the tax surcharges.

(2) The Tax Administrator has authority to adopt procedural rules and regulations as necessary, subject to the review of the County Administrator or his or her designee. If the Tax Administrator is an employee of Lane County, then the Tax Administrator shall recommend the necessary procedural rules and regulations to the County Administrator, who is hereby authorized to adopt those which the County Administrator deems necessary or advisable.

(3) The Tax Administrator may implement procedures and forms as deemed necessary, including but not limited to, forms for returns, statements of withholding and estimated payments, and extensions of time.

(4) The Tax Administrator shall have access to and maintain all tax filings and records with respect to the assigned responsibility for the administration of collection of the tax surcharges on behalf of the County.

(5) The Tax Administrator may, upon request, interpret the application of the tax surcharges, in general or for a specific set of circumstances.

(6) The Tax Administrator is authorized to enter into informal disposition of controversies regarding the tax surcharges by written stipulation or agreed written settlement.

4.658 Signing of Returns and Other Documents. Any return, statement or other document required to be made regarding the tax surcharges shall be signed in accordance with instructions from the Tax Administrator. The making or filing of any return, statement or other document or a copy thereof, including a copy of a state return, shall constitute a certification by the individual doing so that the statements contained therein are true and that any copy filed is a true copy.

4.660 Records, Confidentiality and Disclosure.

(1) The County shall be the sole owner of all filed information regarding the tax surcharges. The County Administrator, the Tax Administrator, and their designees, shall have access to all taxpayer information.

(2) Except as otherwise provided herein or otherwise required by law, it shall be unlawful for the County Administrator, the Tax Administrator, their designees or any elected official, employee, or agent for the County, or any other person who has acquired information pursuant to LC 4.660(3) and (5) below, to divulge, release or make known in any manner any financial information submitted or disclosed to the County under the terms of the tax surcharges. Nothing in this section shall be construed to prohibit:

(a) the disclosure of the names and addresses of any persons or entities who have filed a return; or

(b) the disclosure of general statistics in a form which would prevent the identification of financial information regarding an individual taxpayer.

(3) The Tax Administrator may disclose and give access to information described in LC 4.660(1) and (2) above to an authorized representative of the State Department of Revenue, or any local government of the state imposing taxes upon or measured by gross or net receipts or income, for the following purposes: to inspect the tax return of a taxpayer; to obtain an abstract or copy of the return; to obtain information concerning any item contained in any return; or to obtain information of any financial audit of the tax returns of any taxpayer. Such disclosure and access shall be granted only if the laws, regulations and practices of such other jurisdiction maintain the confidentiality of such information at least to the extent provided by LC 4.660(2) above.

(4) Upon the request of a taxpayer or authorized representative, the Tax Administrator shall provide copies of any tax return information filed by the taxpayer in the Tax Administrator's possession. The Tax Administrator may charge a reasonable fee for such copies.

(5) The Tax Administrator may also disclose and give access to information described in LC 4.660(2) above to:

(a) The County Counsel, his or her assistants or employees, or other legal representatives of the County, to the extent disclosure or access is necessary for the performance of duties of advising or representing the County regarding the tax surcharges.

(b) Other County employees, agents or officials of the County, to the extent the Tax Administrator deems disclosure or access necessary for such employees, agents or officials to perform their duties relating to the administration of the tax surcharges or the distribution of the surcharge revenues.

(6) The Tax Administrator shall take reasonable steps to assure that anyone to whom disclosure is made is advised of these provisions and any penalties for violation thereof.

4.662

Examination of Books, Records, or Persons; Record Retention.

(1) The Tax Administrator may examine any books, papers, records, memoranda, or any other document regardless of the form of storage, including state and federal income or excise tax returns, to ascertain the correctness of any tax return or to make an estimate of any tax. The Tax Administrator shall have the authority, after notice, to:

(a) Require the attendance of any person required to file a return regarding the tax surcharges, or officers, agents or other persons with knowledge of the person's or entity's income or operations, at any reasonable time and place the Tax Administrator may designate.

(b) Take testimony, with or without the power to administer oaths to any person required to be in attendance, and

(c) Require proof for the information sought, necessary to carry out the provisions of the tax surcharge.

(2) The Tax Administrator shall designate the employees who shall have the power to administer oaths. The employees so designated shall be notaries public of the State of Oregon.

(3) Every taxpayer required to file a return regarding any tax surcharge shall keep and preserve for not less than seven (7) years such documents and records, including state and federal income or excise tax returns, accurately supporting the information reported on the taxpayer's return and calculation of the tax surcharge for each year.

4.664

Taxpayer Representation.

(1) No person shall be recognized as representing the taxpayer in regard to any matter relating to a tax surcharge of such taxpayer without written authorization of the taxpayer or unless the Tax Administrator determines from other available information the person has authority to represent the taxpayer.

(2) No employee or official of the County, the Tax Administrator or any public agency or entity authorized to collect the tax surcharges, shall represent any taxpayer (other than himself or herself) before the Tax Administrator or before the Appeals Board. This restriction against taxpayer representation shall continue for two years after termination of employment or official status.

(3) Members of the Appeals Board shall not represent any taxpayer (other than the member himself or herself) before the Appeals Board. No member of the Appeals Board shall participate in any matter before the Appeals Board if the appellant is a client of the member or the member's firm.

4.666 Protests and Appeals.

(1) Any determination by the Tax Administrator may be protested by the taxpayer. Written notice of the protest must be received by the Tax Administrator within thirty (30) days after the notice of determination was mailed or delivered to the taxpayer. The protest shall state the name and address of the taxpayer and an explanation of the grounds for the protest.

(a) The Tax Administrator shall respond within thirty (30) days after the protest is filed with the Tax Administrator with either a revised determination or a final determination. The Tax Administrator's determination shall include the reasons for the determination and state the time and manner for appealing the determination.

(b) The time to file a protest or the time for the Tax Administrator's response may be extended by the Tax Administrator, for good cause. Requests for extension of time must be received prior to the expiration of the original 30-day protest deadline. Written notice shall be given to the taxpayer if the Tax Administrator's deadline is extended.

(2) Any final determination by the Tax Administrator may be appealed by the taxpayer to the Appeals Board. Written notice of the appeal must be received by the Tax Administrator within thirty (30) days after the final determination was mailed or delivered to the appellant. The notice of appeal shall state the name and address of the appellant and include a copy of the final determination.

(3) Within ninety (90) days after the final determination was mailed or delivered to the taxpayer, the appellant shall file with the Appeals Board a written statement containing:

(a) The reasons the Tax Administrator's determination is incorrect; and

(b) What the correct determination should be.

Failure to file such a written statement within the time permitted shall be deemed a waiver of any objections, and the appeal shall be dismissed.

(4) Within 150 days after the final determination was mailed or delivered to the taxpayer, the Tax Administrator shall file with the Appeals Board a written response to the appellant's statement. A copy of the Tax Administrator's response shall be promptly mailed to the address provided by the appellant.

(5) The appellant shall be given not less than fourteen (14) days prior written notice of the hearing date and location. The appellant and the Tax Administrator shall have the opportunity to present relevant testimony and oral argument. The Appeals Board may request such additional written comment and documents as it deems appropriate.

(6) Decisions of the Appeals Board shall be in writing, state the basis for the decision and be signed by the Appeals Board chair.

(7) The decision of the Appeals Board shall be final on the date it is issued and no further administrative appeal shall be provided.

(8) The filing of an appeal with the Appeals Board shall temporarily suspend the obligation to pay any tax surcharge that is the subject to the appeal pending a final decision by the Appeals Board.

4.668 Deficiencies and Refunds, Minimum Payment and Refund

(1) Deficiencies may be assessed and refunds granted any time within the period provided under ORS 314.410, 314.415, and 317.950. The Tax Administrator may by agreement with the taxpayer extend such time periods to the same extent as provided by statute.

(2) Notwithstanding LC 4.668(1) above, if no tax surcharge return is filed, the Tax Administrator may determine the tax surcharges due at any time based on the best information available to the Tax Administrator. The tax surcharges shall be assessed and subject to penalties and interest from the date they should have been paid as provided in LC 4.672 below in accordance with LC 4.676 and 4.678 below. The Tax Administrator shall send notice of the determination and assessment to the person or entity who failed to file a tax surcharge return.

(3) Consistent with ORS 314.410(3), in cases where no tax surcharge return has been filed, there shall be no time limit for a notice of deficiency or the assessment of the tax surcharges, penalty and interest due.

(4) Notwithstanding any other provision regarding refunds of the tax surcharges, no refund shall be made of less than five dollars (\$5), nor shall any tax surcharge be due of less than five dollars (\$5).

4.670 Changes to Federal or State Returns

(1) If a taxpayer's reported net income under applicable Oregon laws imposing a tax on or measured by income is changed by the Federal Internal Revenue Service or the state Department of Revenue, or amended by the taxpayer to correct an error in the original federal or state return, a report of such change shall be filed with the Tax Administrator within sixty (60) days after the date of the notice of the final determination of change or after an amended return is filed with the federal or state agencies. The report shall be accompanied by an amended tax surcharge return with respect to such income and by any additional tax surcharge, penalty, and interest due.

(2) The Tax Administrator may assess deficiencies and grant refunds resulting from changes to federal or state returns within the time periods provided for in LC 4.668 above, treating the report of change in the federal or state returns as the filing of an amended tax surcharge return.

(3) The Tax Administrator may assess penalties and interest on the additional tax surcharge due as provided in LC 4.676 and 4.678 below or may refuse to grant a refund as a result of the amended return if the amended return is not filed with the Tax Administrator within the time limits set forth above.

4.672 Return Due Date Extensions

(1) Tax surcharge returns shall be on forms provided or approved by the Tax Administrator. All tax surcharge returns shall be filed, together with the specified tax surcharge, by the fifteenth day of the fourth month following the end of the tax year.

(2) The Tax Administrator may, for good cause, grant extensions for filing returns, except that no extension may be granted for more than six (6) months beyond the initial due date. This extension does not extend the time to pay the tax surcharges.

(3) The Tax Administrator shall prepare blank tax surcharge returns and make them available upon request. Failure to receive or secure a form shall not relieve any person from the obligation to pay a tax surcharge.

(4) The Tax Administrator shall also develop and make available blank estimated tax surcharge forms and any other forms necessary for the efficient administration of the tax surcharges collection process.

4.674 Application of Payments

(1) Tax surcharges received shall first be applied to any penalty, then to interest accrued, then to the tax surcharge due.

(2) Any payment of estimated tax surcharge received by the Tax Administrator for which the taxpayer has made no designation of the quarterly installment to which the payment is to be applied shall first be applied to underpayments of estimated tax surcharges due for any prior quarter of the tax year. Any excess amount shall be applied to the installment that next becomes due after the payment was received.

4.676 Interest:

(1) Interest shall be collected on any unpaid tax surcharge at the rate of .833% simple interest per month or fraction thereof (10% per annum), computed from the original due date of the tax surcharge to the fifteenth day of the month following the date of payment.

(2) Interest shall be collected on any unpaid or underpaid quarterly estimated payment required by the tax surcharge at the rate of .833% simple interest per month or fraction thereof (10% per annum), computed from the due date of each quarterly estimated payment to the original due date of the tax surcharge return to which the estimated payments apply.

(3) Notwithstanding LC 4.676(2) above, there shall be no interest on underpayment of quarterly estimated payments if:

(a) The total surcharge tax liability of the prior tax year was less than \$100;

(b) An amount equal to at least ninety percent (90%) of the total surcharge tax liability for the current tax year was paid; or

(c) An amount equal to at least one hundred percent (100%) of the prior year's total tax surcharge liability was paid when due.

(4) For purposes of LC 4.676(2) above, the amount of underpayment is determined by comparing ninety percent (90%) of the current total tax surcharge liability amount to quarterly estimated payments made prior to the original due date of the tax surcharge return.

(5) If a person or entity fails to file a tax surcharge return on the prescribed date, or any extension thereof granted under LC 4.672 above, the Tax Administrator may determine the tax surcharge based on the best information available to the Tax Administrator. If the Tax Administrator determines the tax surcharge due, the Tax Administrator shall assess appropriate penalties and interest and shall send notice to such person of the determination and assessment.

(6) For purposes of LC 4.676(1) above, the amount of tax surcharge due on the tax surcharge return shall be reduced by the amount of any payment made on or before the date for payment of the tax surcharge in accordance with LC 4.672 above.

(7) Interest at the rate specified in LC 4.676(1) above shall accrue from the original due date without regard to any extension of the filing date.

(8) Any interest amounts properly assessed in accordance with this section may not be waived or reduced by the Tax Administrator, unless specifically provided for by written policy.

(9) When, under a provision of the tax surcharges, taxpayers are entitled to a refund of a portion or all of a tax surcharge paid to the Tax Administrator, they shall receive simple interest on such amount at the rate specified in LC 4.676 above, subject to the following:

(a) Any overpayments shall be refunded with interest for each month or fraction thereof for a period beginning four months after the due date or the date the tax surcharge was paid, whichever is later, to the date of the refund; and

(b) Any overpayments of estimated tax surcharge shall be refunded with interest for each month or fraction thereof for the period beginning four months after the date final return was filed.

4.678

Penalty.

(1) A penalty shall be assessed if a person or entity:

(a) Fails to file a tax surcharge return or extension request at the time required under LC 4.672 or 4.674 above, or

(b) Fails to pay a tax surcharge when due,

(c) The penalty under LC 4.678(1) shall be calculated as:

(i) Five percent (5%) of the total tax surcharge liability, but not less than five dollars (\$5), if the failure is for a period less than four (4) months;

(ii) An additional penalty of twenty percent (20%) of the total tax surcharge liability if the failure is for a period of four (4) months or more; and

(iii) An additional penalty of one hundred percent (100%) of the total tax surcharge liability of all tax years if the failure to file is for three (3) or more consecutive tax years.

(2) A penalty shall be assessed if a person or entity who has filed an extension request:

(a) Fails to file a tax surcharge return by the extended due date; or

(b) Fails to pay the tax surcharge liability by the extended due date;

- (c) The penalty under LC 4.678(2) shall be calculated in the same manner as in LC 4.678(1)(c) above:
- (3) A penalty shall be assessed if a person or entity:
- Fails to pay at least ninety percent (90%) of the total tax surcharge liability by the original due date; or
 - Fails to pay at least one hundred percent (100%) of the prior year's total tax surcharge liability by the original due date.
- (c) The penalty under LC 4.678(3) shall be calculated in the same manner as in LC 4.678(1)(c) above:
- (4) The Tax Administrator may impose a civil penalty of up to \$500 for each of the following violations of the tax surcharges:
- Failure to file any tax surcharge return within ninety (90) days of the Tax Administrator's original written notice to file;
 - Failure to pay any tax surcharge within ninety (90) days of the Tax Administrator's original written notice for payment; or
 - Failure to provide documents as required by LC 4.662 within ninety (90) days of the Tax Administrator's original written notice to provide documents.
- (5) The Tax Administrator may impose a civil penalty under LC 4.678(4) above only if the Tax Administrator gave notice of the potential for assessment of civil penalties for failure to comply or respond in the original written notice.
- (6) The Tax Administrator may waive or reduce any penalty determined under LC 4.678 (1) through (4) for good cause, according to and consistent with written policies.
- (7) Violation of LC 4.660 is punishable, upon conviction thereof, by a fine not exceeding \$1,000 or by imprisonment for a period not exceeding twelve (12) months, or by both fine and imprisonment. In addition, any official or employee of the County convicted for violation of LC 4.660 shall be dismissed from employment and shall be barred from holding any position of employment or office for a period of five (5) years thereafter. Any agent of the County shall, upon conviction, be ineligible for participation in any County contract for a period of five (5) years thereafter.

PENALTY4.995 Penalties - Lane County Transient Room Tax.

(1) It is unlawful for any operator or other person so required by LC 4.100 to 4.195 to fail or refuse to register as required herein, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the Tax Administrator or to render a false or fraudulent return. No person required to make, render, sign, or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this subchapter.

(2) Any person wilfully violating any of the provisions of LC 4.110, 4.115, 4.120 4.130, 4.135, 4.145, 4.155, 4.170 and 4.175 shall be guilty of a misdemeanor and shall be punishable therefor by a fine of not more than \$500 or by imprisonment in the County Jail for a period of not more than six months or by both such fine and imprisonment.

4.997 Penalties - Lane County Car Rental Tax.

(1) It is unlawful for any operator or other person so required by LC 4.200-4.275 to fail or refuse to register as required herein, or to furnish any return required to be made or fail or refuse to furnish a supplemental return or other data required by the County Finance Officer or to render a false or fraudulent return. No person required to make, render, sign or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this subchapter.

(2) Any person who wilfully violates any provision of LC 4.200-4.275 or 4.997 shall, upon conviction, be subject to a fine of not more than \$500, imprisonment in the County Jail for not more than six months, or both.

(d) Thereafter, the dedicated surcharge revenues, i.e., those surcharge revenues received after costs of collection and administration, shall be distributed by the County proportionately in accordance with the order. Each jurisdiction shall receive its proportionate share of any increase or decrease in revenues that is different from the estimated receipt described by the Order. However, if any city fails to submit a plan and request per LC 4.642(2)(a) above, its share shall be distributed among the other recipients of surcharge revenues for local services in the same proportion as the local services share.

(e) If new needs arise which a city or the County would propose for funding through surcharge revenues or if a city or the County receives significant other revenue to fund a program or service that is being funded by the surcharge revenues, the city or County shall submit a revised plan to PSCC for review and comment. The revised plan shall outline the reasons for the change, the proposed new use of surcharge revenues and the proposed measurable outcomes. The PSCC shall review and make comment in a reasonable period of time.

(f) Neither the Board, nor PSCC, is authorized to reject or alter any local plan submitted by a jurisdiction. Each jurisdiction is solely responsible for its own use of the surcharge revenues in a manner consistent with the Charter provisions.

(3) Capital

(a) Notwithstanding LC 4.642(2) above, the first \$8.2 million of dedicated surcharge revenues received, i.e., those surcharge revenues received after costs of collection and administration, shall be collected for the purpose of funding the capital project of the Lane County adult corrections intake and assessment center, including land acquisition, construction and equipment and furnishings, estimated to cost \$6.1 million and for the capital project of replacement and conversion of the Area Information Records System (AIRS), the regional public safety information system, estimated to cost \$8.1 million, but only \$2.1 million shall be paid for through this initial dedicated revenue accumulation.

(b) The PSCC shall be authorized to determine reasonable dates for submittal of plans by entities and review and recommendation back for the first eighteen (18) month period of the tax surcharges, in order to accommodate the initial phase-in period and the capital projects.