

# YAMHILL COUNTY CODE

## TITLE 5: HEALTH AND SAFETY

### Chapter 5.15: Yamhill County Emergency Operations Code

#### TABLE OF CONTENTS

<i>Section</i>	<i>Title</i>
5.15.01	DEFINITIONS
5.15.02	EMERGENCY MANAGEMENT DIVISION; MANAGER; FUNCTIONS
5.15.03	RESPONSIBILITY FOR EMERGENCY MANAGEMENT
5.15.04	DECLARATION OF STATE OF EMERGENCY; CONDITIONS
5.15.05	DECLARATION OF STATE OF EMERGENCY; PROCEDURE
5.15.06	POWERS DURING STATE OF EMERGENCY; SUSPENSION OF RULES
5.15.07	SUCCESSION OF AUTHORITY
5.15.08	REGULATION, CONTROL; APPLICATION
5.15.09	AUTHORITY OVER REMOVAL OF DISASTER DEBRIS OR WRECKAGE; UNCONDITIONAL AUTHORIZATION OF COMMUNITY; LIABILITY FOR INJURY OR DAMAGE
5.15.10	ACQUISITION OF RESOURCES
5.15.11	EMERGENCY OPERATIONS PLAN
5.15.12	RESPONSIBILITY FOR EMERGENCY MANAGEMENT; HOMELAND SECURITY
5.15.13	POST-EVACUATION PROCESS
5.15.14	NON-LIABILITY FOR EMERGENCY SERVICES; EXCEPTION
5.15.15	PENALTIES

#### LEGISLATIVE HISTORY

**5.15.01 Definitions.** As used in this Ordinance, unless the context requires otherwise, the following definitions apply:

- a) **“Emergency”** or **“State of Emergency”** may include any man-made or natural event or circumstance outside the normal scope of activities and causing or threatening loss of life, injury to person or property, human suffering or financial loss, and includes, but is not limited to, fire, explosion, whether by terrorist act or otherwise, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material as defined in ORS 466.605, contamination, utility or transportation emergencies, disease, blight, infestation, crisis influx of people unmanageable by the county, civil disturbance, riot, sabotage, and war.
- b) **“Emergency Management Agency”** means the Yamhill County Emergency Management Division authorized under ORS 401.035 and ORS 401.305 and operating under the auspices of the Yamhill County Board of Commissioners to provide for and assure the conduct and coordination of functions necessary for a comprehensive emergency management program. This Division may also be referred to as **“Yamhill County Emergency Management”**.

- c) **“Emergency Operations Plan”** Yamhill County Emergency Operations Plan adopted June 25, 2015 by Board Order #15-206 (the “Plan”). The Plan may be amended from time to time as necessary by Yamhill County Emergency Management and will be revised every five years. The revised plan will be approved by Board Order and a copy submitted to Oregon Emergency Management.
- d) **“Emergency Management Program”** or **“Emergency Management Programs”** includes all the tasks and activities necessary to provide, support, and maintain the ability of the emergency services system to prevent or reduce the impact of emergency or disaster conditions which includes, but is not limited to, coordinating development of plans, procedures, policies, fiscal management, coordination with non-governmental agencies and organizations, training and maintaining an incident management team responsible for managing an incident from the Emergency Operations Center (EOC), providing for a coordinated and interoperable communications and alert and notification network, developing a public information system, personnel training and development, and implementation of exercises to routinely test the emergency services system.
- e) **“Emergency Manager”** means the person appointed by the Board, in accordance with the provisions of ORS 401.305 (2), who administers the Emergency Management Division of Yamhill County or acts under the Emergency Operations Plan as Emergency Management Director.
- f) **“Emergency Service Agency”** or **“Emergency Services Agencies”** means an organization or organizations within a local government that perform essential services for the public benefit prior to, during and/or following an emergency. This includes, but is not limited to, organizational units within local governments, such as law enforcement, fire, health, medical and sanitation services, public works and engineering, public information and communications.
- g) **“Emergency Service Worker”** means:
  - (i) An individual who, as defined in ORS 401.358, under the direction of an emergency service agency or emergency management agency, performs emergency services; and,
  - (ii) Is a registered volunteer who serves without compensation and is accepted by Yamhill County Emergency Management; and
  - (iii) Has met the basic training requirements as established by Yamhill County Emergency Management for the work they are about to perform; and
  - (iv) Has signed a volunteer contract with Yamhill County Emergency Management, or;
  - (v) Is a member of the Oregon State Defense Force acting in support of the Emergency Services System.
- h) **“Emergency Services”** includes those activities provided by state and local government agencies with emergency operational responsibilities to prepare for, plan for, respond to, recover from, and/or mitigate against any emergency situation or event. These activities include, without limitation: coordination, preparedness planning, training, interagency liaison, fire fighting, oil or hazardous material spill or release cleanup as defined in ORS 466.605 to 466.680, law enforcement, medical, health and sanitation services, engineering and public works, search and rescue activities, warning and public information, damage assessment, administration, and fiscal management.
- i) **“Emergency Services System”** means that system composed of all agencies and organizations involved in the coordinated delivery of emergency services.
- j) **“Injury”** means any personal injury sustained by an Emergency Service Worker by accident, disease, or infection arising out of and in the course of emergency services, or death resulting proximately from the performance of emergency services.
- k) **“Disaster”** means any natural catastrophe (including any hurricane, tornado, wind storm, high water, wind-driven water, tidal wave or tsunami, earthquake, volcanic eruption, landslide, debris flow, mudslide, snowstorm, or drought), or regardless of cause, any fire, flood, or explosion, whether by terrorist act or otherwise, in any part of the United States, which in the determination of the Sheriff, County Administration, or Emergency Manager causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Ordinance to supplement the efforts and available resources of the subject jurisdiction and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.
- l) **“Search and Rescue”** means the acts of searching for, rescuing, or recovering, by means of ground or marine activity, any person who is lost, injured, or killed while out of doors. However, “search and rescue” does not include air activity in conflict with the activities carried out by the Department of Transportation.

m) “Yamhill County” or “county” means any area of Yamhill County serviced by the Yamhill County Emergency Management Division.

[ADOPTED VIA ORDINANCE NO. 883 eff 08/29/13; AMENDED VIA ORDINANCE 909 eff 03/16/00]

#### **5.15.02 Emergency Management Division; Manager; Functions.**

- a) There is hereby established the Yamhill County Emergency Management Division. The Yamhill County Emergency Management Division shall be directly responsible to the Board of Commissioners.
- b) The Board shall appoint an emergency manager who shall have responsibility for the organization, administration, and operation of the Emergency Management Division, subject to the direction and control of the Board.
- c) The Yamhill County Emergency Manager, consistent with ORS 401.03 5 and ORS 401.305, will ensure that:
  - (i) The local governing bodies of the county, and cities that have both city and county emergency management programs, shall jointly establish policies which provide direction and identify and define the purpose and roles of the individual emergency management programs, specify the responsibilities of the emergency program managers and staff, and establish lines of communication, succession, and authority of elected officials for an effective and efficient response to emergency conditions; and
  - (ii) An incident command structure for management of a coordinated response by all local emergency service agencies is established.
- d) The Yamhill County Emergency Management Division shall perform emergency management functions within the territorial limits of the county and may perform such functions outside the territorial limits as required under any mutual aid or cooperative assistance agreement or as authorized by the county or city. Such emergency management functions shall include, as a minimum, coordination of the planning activities necessary to prepare and maintain a current Emergency Operations Plan (EOP), management and maintenance of emergency operating facilities from which elected and appointed officials can direct emergency and disaster response activities, and establishment of an incident command structure for management of a coordinated response by all local emergency services agencies.

[ADOPTED VIA ORDINANCE NO. 883 eff 08/29/13]

#### **5.15.03 Responsibility for Emergency Management.**

- a) The Governor is responsible for emergency management within the State of Oregon.
- b) The Board is responsible for emergency management within Yamhill County.
- c) In carrying out its responsibilities for Emergency Services Systems, the Board may delegate any administrative or operative authority vested in them by Oregon Statute and provide for the delegation of that authority.

[ADOPTED VIA ORDINANCE NO. 883 eff 08/29/13]

#### **5.15.04 Declaration of State of Emergency; Conditions.**

- a) The Board shall assess whether a State of Emergency or an imminent threat exists.
- b) The Board may declare a State of Emergency pursuant to this section and Section 5.15.05 of this Ordinance.
- c) A State of Emergency may be declared when:
  - (i) Any of the conditions or factors described in Section 5.15.05 of this Ordinance exist; or
  - (ii) When conditions not described herein are determined by the Board to be a serious threat to the peace, health, welfare, or safety of a significant number of the citizens of Yamhill County, and but for the declaration of a State of Emergency, would leave the citizens without the aid or services authorized by this Ordinance.
- d) If the Board is unable to act under this section or Section 5.15.05 of this Ordinance, the declaration of a State of Emergency may be made by the persons and in the order described in Section 5.15.07 of this Ordinance.

[ADOPTED VIA ORDINANCE NO. 883 eff 08/29/13]

#### **5.15.05 Declaration of State of Emergency; Procedure.**

- a) Declaration prior to or without invoking state or federal aid:

- (i) When, in the judgment of the Board, a State of Emergency exists, it shall declare such a State of Emergency in accordance with this section and Section 5.15.04 of this Ordinance.
  - (ii) The declaration shall be in writing and publicize the existence of same.
  - (iii) If circumstances prohibit the timely action of the Board, the Chair of the Board may declare a State of Emergency, provided that the approval of a majority of the Board is sought and obtained at the first available opportunity.
  - (iv) The State of Emergency declared pursuant to this section shall specify the conditions or factors which warrant the exercise of emergency controls, as well as the nature of aid and assistance the county requests from the state and federal government if such assistance is requested.
  - (v) The Chair of the Board shall terminate the State of Emergency when the emergency no longer exists or the threat of an emergency has passed.
- b) Requirements to invoke state or federal aid:
- (i) The Governor may declare a State of Emergency by proclamation at the request of the Board or after determining that an emergency has occurred or is imminent.
  - (ii) All requests by the Board that the Governor declare a State of Emergency shall be sent to the State of Oregon Office of Emergency Management. Requests shall include the following:
    - 1. A certification signed by the Board that all local resources have been expended or are about to be expended; and
    - 2. An initial assessment of property damage or loss, injuries, and deaths.
  - (iii) Any proclamation of a State of Emergency must specify the geographical area covered by the proclamation. Such area shall be no larger than necessary to effectively respond to the emergency.

[ADOPTED VIA ORDINANCE NO. 883 eff 08/29/13]

**5.15.06 Powers During State of Emergency; Suspension of Rules.** During a State of Emergency, the Board shall:

- a) Have authority to suspend provisions of any order or rule of any county agency, if the Board determines and declares that strict compliance with the provisions of the order or rule would in any way prevent, hinder, or delay mitigation of the effects of the emergency; and
- b) Have authority to direct any agencies in the county government to utilize and employ county personnel, equipment, and facilities for the performance of any activities designed to prevent or alleviate actual or threatened damage due to the emergency, and may direct the agencies to provide supplemental services and equipment to local governments to restore any services in order to provide for the health and safety of the citizens of the affected area in order to effectuate the purposes of this Ordinance.

[ADOPTED VIA ORDINANCE NO. 883 eff 08/29/13]

**5.15.07 Succession of Authority.**

- a) In the event that the Chair of the Board, or other person set forth in this section, is unavailable or unable to perform the duties granted and described under this Ordinance, the duties shall be performed by and in the following order; provided, however, a named official may decline to serve. If a named official declines to serve, the next named official shall perform the duties:
  - (i) The Chair of the County Board of Commissioners;
  - (ii) The Vice-Chair of the Board;
  - (iii) The third member of the Board;
  - (iv) The Sheriff of Yamhill County;
  - (v) The County Administrator;
  - (vi) The Business Services Director;
  - (vii) The Director of Health and Human Services;
  - (viii) The Director of Public Works;
  - (ix) The Information Systems Manager;
  - (x) The Director of Planning and Development.

[ADOPTED VIA ORDINANCE NO. 883 eff 08/29/13; AMENDED VIA ORDINANCE 909 eff 03/16/00]

### 5.15.08 Regulation, Control; Application.

- a) Whenever a State of Emergency has been declared to exist within an unincorporated area of Yamhill County, or at the request of a municipality's governing body, the Board is empowered to issue, amend, and enforce rules, regulations, orders, and emergency measures set forth in subsections (i) to (xviii) of this section. However, if circumstances prohibit the timely action of the Board, the Chair of the Board may issue, amend, and enforce rules, regulations, orders, and emergency measures after first consulting with the County Administrator or County Counsel, provided that approval from a majority of the Board is sought and obtained at the first available opportunity, or the Chair's order will become null and void. The Board may:
- (i) Enter into contracts and incur obligations necessary to mitigate, prepare for, respond to, or recover from emergencies or disasters.
  - (ii) Make appropriations, in the manner provided by law for making appropriations for the expenses of the county, for the payment of expenses of its Emergency Management Division, and levy taxes upon the taxable property within the county. An appropriation made under this paragraph shall be budgeted so that it is possible to identify it as a distinguishable expense category.
  - (iii) Acquire, temporarily or permanently, by purchase, lease, or otherwise, sites required for installation of temporary housing units for disaster victims and enter into arrangements necessary to prepare or equip such sites to utilize the housing units.
  - (iv) In collaboration with public and private agencies, enter into cooperative assistance agreements for reciprocal emergency aid and resources.
  - (v) Close taverns or bars and prohibit the sale of alcoholic beverages.
  - (vi) Commit to mutual aid agreements.
  - (vii) Suspend standard procurement procedures to obtain necessary services and/or equipment.
  - (viii) Redirect funds for emergency use.
  - (ix) Limit, prohibit, or restrict the sale of flammable materials whether liquid, solid, or gaseous.
  - (x) Limit, prohibit, or restrict the sale of fuel (gasoline, diesel, E85, etc.) and fuel products.
  - (xi) Limit, prohibit, or restrict the sale of firearms, ammunition, or explosives and transportation of same on roads, streets, in public places, or at any outdoor place.
  - (xii) Order such other measures as are found to be immediately necessary for the protection of life and/or property.
  - (xiii) Control, restrict, and regulate by rationing, freezing, use of quotas, prohibitions on shipments, price fixing, allocation, or other means, the use, sale, or distribution of food, feed, fuel, clothing, and other commodities, materials, goods, and services.
  - (xiv) Take any other action that may be necessary for the management of resources following an emergency.
  - (xv) Assume complete control of all emergency operations in the area specified in a proclamation of a State of Emergency issued under this Ordinance.
  - (xvi) Direct all rescue debris management and salvage work and do all things deemed advisable and necessary to alleviate the immediate conditions.
  - (xvii) Designate persons to coordinate the work of public and private relief agencies operating in such area, and exclude from such area any person or agency refusing to cooperate with and work under such coordinator(s) or to cooperate with other agencies engaged in emergency work.
  - (xviii) Require the aid and assistance of any other public or quasi-public agencies in the performance of duties and work attendant upon the emergency conditions in such area.
- b) Such rules, regulations, orders and emergency measures may include, but not be limited to, assisting in the evacuation of persons from an area designated as an emergency evacuation area when the Sheriff decides to issue either a voluntary or involuntary evacuation order after a State of Emergency has been declared to exist under this ordinance.
- c) When the Sheriff issues an evacuation order, the following rules and provisions apply:
- (i) Definitions: A “**voluntary evacuation order**” means a declaration by the Sheriff that persons are strongly advised to evacuate the area impacted by the incident. An “**involuntary evacuation order**” means a declaration by the Sheriff that persons are required to evacuate the area impacted by the incident or as defined by the Sheriff.

- (ii) Presumption that order is voluntary: Evacuations ordered by the Sheriff shall be voluntary except in those circumstances when the Sheriff determines evacuation is necessary to avoid imminent danger to the life or property of third parties.
- (iii) Order by Sheriff required for involuntary evacuation order: No persons are authorized to carry out an involuntary evacuation order under this Ordinance until the Sheriff has made the determination that evacuation is necessary to avoid imminent danger to the life or property of third parties, and has issued an involuntary evacuation order.
- (iv) Personnel authorized to carry out evacuation orders: the following personnel or agencies are authorized to carry out voluntary or involuntary evacuation orders in response to an order by the Sheriff: the Sheriff and the Sheriff's deputies; Oregon State Police Officers; police officers of incorporated cities in Yamhill County; city and rural district firefighters in Yamhill County; emergency services respondents from other jurisdictions under mutual aid or by agreement with Yamhill County.
- (v) Establish a curfew for an area designated and declared by the county to be an emergency area which fixes the hours during which all persons other than officially authorized personnel may not be upon the public street, public place, or any outdoor place within the area designated as an emergency or evacuation area.
- (vi) Prohibit or limit the number of persons who may gather or congregate upon any public street, public place, or any outdoor place within the area designated as an emergency or evacuation area.
- (vii) In the emergency area or evacuation area: close all county roads, streets, and highways, as well as access points onto streets and roads to traffic.
- (viii) Prohibit the return of persons to any closed or evacuated area, until the area has been declared safe.
- (ix) Limit, prohibit, restrict, or regulate vehicular or pedestrian traffic on such roads in any reasonable manner in the area designated as an emergency area for such distance or degree of regulation as may be deemed necessary under the circumstances, to such extent as the Board deems necessary and expedient.

[ADOPTED VIA ORDINANCE NO. 883 eff 08/29/13]

**5.15.09 Authority Over Removal of Disaster Debris or Wreckage; Unconditional Authorization of Community; Liability for Injury or Damage.**

- a) Yamhill County, a corporation, an organization, or an individual may grant authority to the Governor to clear or remove from publicly or privately owned land or water, debris and wreckage which may threaten public health or safety, or public or private property when:
  - (i) The Governor has declared a State of Emergency or major emergency or disaster to exist under the laws of this state; or the President of the United States, at the request of the Governor, has declared a disaster to exist in this state; and
  - (ii) Yamhill County, a corporation, an organization, or an individual has presented an unconditional authorization for removal of such debris or wreckage from public and private property, and in the case of removal of debris or wreckage from private property, has agreed to indemnify the state government against any claim arising from such removal.
- b) Whenever the Governor provides for clearance of debris or wreckage pursuant to subsection (a) of this section, individuals appointed by the Governor are authorized to enter upon private lands or waters and perform any tasks necessary to the removal or clearance operation.
- c) Except in cases of willful misconduct, gross negligence, or bad faith, any individual appointed by the Governor authorized to perform duties necessary to the removal of debris or wreckage shall not be liable for death of or injury to persons or damage to property.
- d) Yamhill County may acquire temporarily or permanently, by purchase, lease, or otherwise, sites required for staging or temporarily storing disaster debris for sorting prior to moving the debris to a permanent site.

[ADOPTED VIA ORDINANCE NO. 883 eff 08/29/13]

### **5.15.10 Acquisition of Resources.**

- a) Under this section, the Board is authorized to extend government authority to nongovernmental resources (e.g., personnel, equipment, etc.) which may support regular government forces during an emergency or disaster, and may enter into agreements with other public and private agencies for use of resources. When real or personal property is taken under power granted by this section, the owner of the property shall be entitled to reasonable compensation.
- b) Under provisions of ORS 401, state resources are available when:
  - (i) The appropriate response to an emergency occurring in Yamhill County is beyond the capability of the county; or
  - (ii) Yamhill County fails to act; or
  - (iii) The emergency involves two or more counties, and the Governor determines that lack of coordination is hampering the effectiveness of response to the emergency.

[ADOPTED VIA ORDINANCE NO. 883 eff 08/29/13]

### **5.15.11 Emergency Operations Plan.**

- a) The Yamhill County Emergency Operations Plan (EOP) adopted June 25, 2015, by Board Order #15-206, incorporated into this Ordinance by reference, is recognized as the official plan compliant with ORS 401.
- b) The plan described in subsection (a) shall be effective, to the extent that it is not inconsistent with this Ordinance and state statutes and rules, until such time as a new emergency operations plan may be adopted or revised by board order to comply with current state requirements and this Ordinance. Such new plan shall supersede and replace the current plan.

[ADOPTED VIA ORDINANCE NO. 883 eff 08/29/13; AMENDED VIA ORDINANCE 909 eff 03/16/00]

### **5.15.12 Responsibility for Emergency Management; Homeland Security.**

- a) For the purposes of this Ordinance, and in accordance with ORS 401.035 and ORS 401.305, the Emergency Manager for Yamhill County shall be appointed by order of the Board. The titles Emergency Manager, Emergency Management Director, and the Emergency Operations Center Manager are synonymous and describe the same person.
- b) Yamhill County is in compliance with Homeland Security Presidential Directive 5, and will utilize the National Incident Management System and the Incident Command System as part of the County's emergency management and incident prevention, preparedness, response, recovery, and mitigation programs and activities.

[ADOPTED VIA ORDINANCE NO. 883 eff 08/29/13]

### **5.15.13 Post-Evacuation Process.**

- a) A person who has been ordered to evacuate pursuant to this Ordinance and by that evacuation is aggrieved may, within a period not to exceed 30 days following a declaration by the Board that the emergency no longer exists, file with the Board a petition seeking redress.
- b) The petition shall specifically and clearly address each of the issues set forth in this subsection:
  - (i) That the petitioner evacuated petitioner's property in response to an evacuation order;
  - (ii) The date and time of the evacuation by petitioner from petitioner's property;
  - (iii) That the petitioner or petitioner's property, because of the evacuation, suffered injury;
  - (iv) The basis for believing that the injury was caused by the action or inaction of Yamhill County;
  - (v) The extent of the injury; and
  - (vi) What measures the petitioner took to mitigate the injury in any way.
- c) The Board shall, not later than 30 days following receipt of the petition, conduct a hearing to determine the validity of the petitioner's claim.
- d) The petitioner shall be allowed to appear and provide evidence and testimony of the issue of injury to petitioner or to petitioner's property.
- e) The issues to be decided by the Board at the hearing include:
  - (i) Whether the petitioner was ordered to evacuate petitioner's property;
  - (ii) Whether the petitioner evacuated the petitioner's property;
  - (iii) Whether there was an injury to petitioner or petitioner's property;

- (iv) Whether the action or lack thereof was the responsibility of Yamhill County;
  - (v) Whether Yamhill County had good cause to perform the action or to fail to perform the action;
  - (vi) Whether the action or lack thereof caused the injury alleged;
  - (vii) The extent of the injury, and whether the petitioner mitigated or aggravated the injury in any way;
  - (viii) Whether the County is liable for the injury; and
  - (ix) The method to be employed to address the injury.
- f) Upon a finding of clear and convincing evidence, the Board shall:
- (i) Dismiss the evidence if the evidence and testimony do not support the petition; or
  - (ii) Affirm the petition.
- g) If the petition is affirmed, the Board shall determine the extent of damages and shall grant such relief as the Board determines in its order.

[ADOPTED VIA ORDINANCE NO. 883 eff 08/29/13]

#### **5.15.14 Non-Liability for Emergency Services; Exception.**

- a) During the existence of an emergency or disaster, Yamhill County, any agent thereof, or Emergency Service Worker engaged in any emergency services activity, while complying with or attempting to comply with ORS 401.364, and as required by ORS 30.285, this Ordinance, or any ordinance, order, resolution, regulation, or rule promulgated under those sections, shall not, except in cases of willful misconduct, gross negligence, or bad faith, be liable for the death or injury of any person, or damage or loss of property, as a result of that activity.
- b) There shall be no liability on the part of a person who owns or maintains any building or premises which has been designated by any emergency management agency or emergency service agency or any public body or officer of this state or the United States as a fallout shelter or a shelter from destructive operations or attacks by enemies of the United States, for the death of or injury to any individual, or damage to or loss of property, while in or upon the building or premises, as a result of the condition of the building or premises, or as a result of any act or omission, except willful misconduct, gross negligence, or bad faith of such person or the servants, agents, or employees of the person, when the dead or injured individual entered or went on or into the building or premises for the purpose of seeking refuge therein during, or in anticipation of, destructive operations or attacks by enemies of the United States or during tests ordered by lawful authority.
- c) The provisions of this Ordinance shall not affect the right of any person to receive benefits or compensation to which the person would otherwise be entitled under ORS 401.368 to 401.378 and ORS 656, or under any pension or retirement law, or under any act of Congress.
- d) Emergency Service Workers, in carrying out, complying with, or attempting to comply with any order or rule issued under this Ordinance, or performing any of their authorized functions or duties, or training for the performance of their authorized functions or duties, shall have the same degree of responsibility for their actions and enjoy the same immunities as officers and employees of the state and its local governments performing similar work.
- e) Nothing in this section shall excuse Yamhill County or any county governmental agency from liability for intentional confiscation or intentional destruction of private property.

[ADOPTED VIA ORDINANCE NO. 883 eff 08/29/13]

#### **5.15.15 Penalties.**

- a) A violation of any rule, order, regulation, or emergency measure established by the Board pursuant to this Ordinance is a Class A violation. A person convicted of the violation in circuit court by a preponderance of the evidence is subject to a fine of \$720 per violation.
- b) Violations of this Ordinance may, at the election of Yamhill County, be prosecuted under YCC 1.10, the *Yamhill County Code Enforcement Code*.
- c) Each day of violation shall be deemed a separate offense for purposes of imposition of penalty.
- d) Where the Oregon Revised Statutes provide for a penalty for the act, commission, or omission, the penalty prescribed herein shall be no greater than prescribed by said Oregon Revised Statutes.

[ADOPTED VIA ORDINANCE NO. 883 eff 08/29/13]

## LEGISLATIVE HISTORY

Adopted via Ordinance No. 759 on 02/16/2005, effective 02/16/2005

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