

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR COLUMBIA COUNTY, OREGON

In the Matter of the Adoption )  
of the Columbia County Dog ) ORDINANCE NO. 2010-2  
Nuisance Ordinance ✓ )

The Board of County Commissioners for Columbia County, Oregon ordains as follows:

SECTION 1. TITLE.

This Ordinance, attached hereto as Exhibit "A" and incorporated herein by this reference, shall be known as Ordinance No. 2010-2 and the "Columbia County Dog Nuisance Ordinance."

SECTION 2. AUTHORITY.

This Ordinance is adopted pursuant to ORS 203.035, ORS 203.065 and ORS 609.015(1).

SECTION 3. PURPOSE.

The purpose of this Ordinance is to provide for the abatement of nuisances created by the possession of ten (10) or more of any combination of licensed or unlicensed dogs within Columbia County. This Ordinance shall be liberally construed and interpreted to give full effect to that policy and purpose.

SECTION 4. SCOPE.

This Ordinance shall apply throughout the unincorporated areas of Columbia County, and shall also apply within those consenting cities located in Columbia County as allowed by law.

SECTION 5. ADOPTION.

The "Columbia County Dog Nuisance Ordinance," which is attached hereto as Exhibit "A" and incorporated herein by this reference, is hereby adopted.

SECTION 6. SEVERABILITY.

If for any reason any court of competent jurisdiction holds any portion of this Ordinance, including Exhibit "A" or any portion therein, to be invalid, and such holding is upheld on any appeal, such portion shall be deemed a separate, distinct and independent portion. Any such holding shall not affect the validity of the remaining portions.

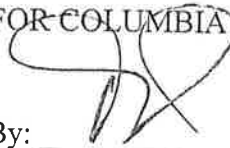
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SECTION 7. EMERGENCY CLAUSE.

This Ordinance, being immediately necessary for the health, safety and welfare of the citizens of Columbia County, an emergency is declared to exist, and it shall become effective immediately upon its adoption.

DATED this 19<sup>th</sup> day of May, 2010.

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON


By:   
Anthony Hyde, Chair

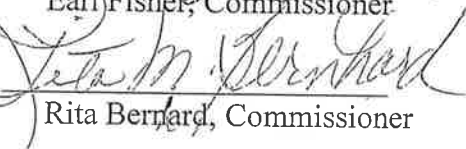
Approved as to form

By:   
Office of County Counsel

By:   
Earl Fisher, Commissioner

Attest

By:   
Recording Secretary

By:   
Rita Bernard, Commissioner

First Reading: 5-19-10  
Second Reading: 5-19-10  
Effective Date: 5-19-10

EXHIBIT A

COLUMBIA COUNTY  
DOG NUISANCE ORDINANCE

Adopted by Ordinance No. 2010-2 on May 19, 2010.

## COLUMBIA COUNTY DOG NUISANCE ORDINANCE

### SECTION 1. PURPOSE.

The purpose of this Ordinance is to provide a process to abate nuisances created by the unregulated possession of ten (10) or more dogs, which is hereby deemed to be harmful to the health, safety, welfare and quality of life of citizens of Columbia County. This Ordinance shall be liberally construed to give full effect to that policy and purpose.

### SECTION 2. DEFINITIONS.

As used in this Ordinance, the following terms and definitions shall apply unless the context requires otherwise:

- A. "Animal Control Officer" means the Columbia County Animal Control Officer or designee.
- B. "Board" means the Board of County Commissioners for Columbia County, Oregon.
- C. "Code Enforcement Officer" means the Columbia County Code Enforcement Officer or designee.
- D. "Dog" means any dog or wolf-hybrid over six (6) months of age, whether or not licensed by Columbia County.
- E. "Keeper" means a person who harbors, cares for, or exercises control over one or more dogs, or has allowed one or more dogs to remain on the premises occupied or owned by that person.
- F. "Kennel license" means a license issued pursuant to the Columbia County Kennel Ordinance.
- G. "Land use approval" means that the use of the land has been found to comply with the Columbia County Comprehensive Plan, Zoning Ordinance, Subdivision and Partitioning Ordinance, and other applicable statutory provisions pertaining to the use, development, and division of land.
- H. "Owner" means a person, as defined in this Ordinance, who has a possessory property interest in one or more dogs.
- I. "Person" means any natural person, association, partnership, firm,

charitable organization, corporation or similar entity.

- J. "Premises" means any lot or parcel of land, including contiguous lots or parcels under the same ownership or possession, and improvements thereon. "Premises" includes floating structures.

**SECTION 3. UNREGULATED POSSESSION OF TEN OR MORE DOGS IS A NUISANCE AND IS PROHIBITED.**

No person shall be an owner or keeper of ten (10) or more dogs on any premises without a valid kennel license and land use approval for a kennel. The possession or presence of ten (10) or more dogs on any person's premises without a valid kennel license and land use approval for a kennel, is hereby declared a nuisance in Columbia County subject to penalties and abatement by the owner and/or keeper as provided in this Ordinance.

**SECTION 4. ABATEMENT NOTICE.**

- A. The Code Enforcement Officer or Animal Control Officer may investigate to determine whether a nuisance exists in violation of Section 3 of this Ordinance. If the Code Enforcement Officer or Animal Control Officer, after conducting an investigation, determines that a nuisance exists in violation of Section 3 of this Ordinance, he or she shall cause an Abatement Notice to be posted on the premises, directing the owner and/or keeper to abate the nuisance.
- B. At the time of posting, the Code Enforcement Officer or Animal Control Officer shall cause a copy of the Abatement Notice to be forwarded by registered or certified mail, return receipt requested, to the owner and/or keeper at his or her last known address. If the owner and/or keeper is unknown or if the mailed notice is returned or refused, the posted notice shall be sufficient. If the owner or keeper is a firm, corporation, or other organization, delivery of the notice to any employee, agent, or representative thereof shall constitute sufficient notice.
- C. The Abatement Notice shall contain:
1. A description of the location of the premises, by street address or otherwise, where the nuisance was observed;
  2. A specific description of the nuisance observed;
  3. Direction to abate the nuisance and provide evidence of the abatement within fourteen (14) days from the date of the notice.
  4. A statement that abatement may be accomplished by:

- a. Permanently placing the number of dogs necessary to abate the nuisance on other premises, provided that the placement does not result in or add to another nuisance under this Ordinance; or
  - b. Surrendering the number of dogs necessary to abate the nuisance to Columbia County Animal Control.
5. A statement that, unless the nuisance is abated within fourteen (14) days, the County may abate the nuisance by impounding dogs at the expense of the owner and/or keeper and may require the owner and/or keeper to surrender the impounded dogs for disposition as allowed by law;
  6. A statement that the owner and/or keeper may dispute the Abatement Notice by timely submitting a written request for a hearing, which must be actually received by the Board no later than fourteen (14) calendar days from the date of the Notice;
  7. The date of the Abatement Notice and the date after which a request for a hearing to dispute the Abatement Notice will not be timely;
  8. A statement that failure to request a hearing in a timely manner will result in a conclusive presumption that a nuisance exists pursuant to this Ordinance; and
  9. A statement that the County shall collect costs of nuisance abatement from the owner and/or keeper, and may order a lien upon the real property of the owner and/or keeper.
- D. A copy of the Abatement Notice shall be forwarded to the Office of County Counsel.
  - E. An error in the name or address of the person notified shall not invalidate the Abatement Notice, and in such case the posted notice shall be sufficient.

**SECTION 5. ABATEMENT PURSUANT TO ABATEMENT NOTICE.**

- A. Within fourteen (14) days after the date of the Abatement Notice as provided in Section 4 of this Ordinance, the owner and/or keeper shall abate the nuisance as directed in the Abatement Notice and provide evidence satisfactory to the Code Enforcement Officer or Animal Control Officer that the nuisance has been abated, or timely request a hearing to dispute the Abatement Notice, as provided in Section 6, below.

- B. If, by the time specified in the notice, the owner and/or keeper does not abate the nuisance and provide evidence of the abatement satisfactory to the Code Enforcement Officer, or request a hearing to dispute the Abatement Notice, the owner and/or keeper shall be conclusively presumed to have admitted that a nuisance exists pursuant to this Ordinance, and the Board may take action as provided by Sections 7 through 9, below.

**SECTION 6. HEARING TO DISPUTE ABATEMENT NOTICE.**

- A. Request for Hearing. An owner and/or keeper may dispute an Abatement Notice by submitting a timely written request for a hearing, which must be actually received by the Board no later than fourteen (14) calendar days from the date of the Abatement Notice. If the fourteenth calendar day after the Abatement Notice falls on a weekend, legal holiday, or a day the Columbia County Courthouse is otherwise closed, the written request for a hearing shall be timely if received by the Board on the next business day. The written request for a hearing must include the requestor's name and contact information, including a mailing address and phone number.
- B. Hearing Notice. If the owner and/or keeper makes a timely written request for a hearing, the Board shall issue and serve a Hearing Notice on that person or persons, as follows:
1. The Hearing Notice shall require the owner and/or keeper to appear before the Board at the time and place specified in the Hearing Notice, to show cause why a nuisance should not be declared to exist, and shall state that failure to appear at the hearing shall constitute an admission that a nuisance exists and will lead to impoundment of the dog(s) for disposition as allowed by law;
  2. The time for the hearing shall be not less than ten (10) days after the service of the Hearing Notice;
  3. Service of the Hearing Notice shall be made by certified or registered mail, return receipt requested, and by posting the Hearing Notice on the premises. If no contact information was provided in the request for hearing, the County will mail the Hearing Notice to the last known address of the owner and/or keeper; and
  4. If the Hearing Notice is returned or refused, posting the Hearing Notice on the premises shall be deemed sufficient.
- D. Hearing. At the time and place fixed in the Hearing Notice, the Board shall hold a hearing to determine whether a nuisance exists. The hearing shall be conducted as a quasi-judicial hearing. The Board shall have

power to subpoena witnesses to compel attendance at the hearing.

**SECTION 7. ORDER TO ABATE.**

If the Board finds that a nuisance exists, it shall issue an Order declaring that the nuisance exists. The Order shall require the owner and/or keeper to abate the nuisance and provide proof of such abatement satisfactory to the Code Enforcement Officer or Animal Control Officer within ten (10) days after the Order is signed. The Order shall notify the owner and/or keeper that failure to abate may result in abatement by the County at the owner and/or keeper's expense, and that such abatement may result in impoundment of dogs for disposition as allowed by law. The Board shall enter the Order in its Journal and mail a copy of the Order to the owner and/or keeper.

**SECTION 8. FAILURE TO ABATE.**

If the owner or keeper fails to abate the nuisance within ten (10) days after the Board signs the Order, as provided in Section 7, above, the Board may take one or more of the following actions:

- A. Refer the matter to the Office of County Counsel and direct County Counsel to initiate suit in the name of Columbia County to cause the owner or keeper to abate the nuisance;
- B. Direct the Code Enforcement Officer or Animal Control Officer to cause the nuisance to be abated by impounding the number of dogs necessary to abate and transferring them to Columbia County Animal Control for disposition as allowed by law. The Code Enforcement Officer or Animal Control Officer shall have discretion to choose which dogs to impound; or
- C. Direct the Code Enforcement Officer or Animal Control Officer to issue citations or enforce this Ordinance by any other means allowed by law.

**SECTION 9. ABATEMENT BY THE COUNTY.**

- A. Notice of Abatement Costs. If the Board directs the Code Enforcement Officer or Animal Control Officer to impound the dog(s) and transfer them to Columbia County Animal Control for disposition as allowed by law:
  - 1. The Animal Control Officer shall keep an accurate record of impound and boarding fees and expenses, including expenses to board the dog(s) at another location, and other related expenses incurred by the County in abating the nuisance, such as but not limited to microchip fees and veterinary expenses;
  - 2. The Animal Control Officer shall forward a Notice of Abatement Costs to the owner and/or keeper, by registered or certified mail, return receipt requested. The Notice of Abatement Costs shall



include:

- a. The total cost of the nuisance abatement per day up to the date of the Notice of Abatement Costs, including a statement of the fees and expenses;
- b. A statement that the costs as indicated will be assessed to and become a lien against the property of the responsible person unless paid within thirty (30) days from the date of mailing of the Notice of Abatement Costs;
- c. A statement that if the owner and/or keeper objects to the cost of the abatement as indicated, he or she must file a written Objection to Abatement Costs with the Board no more than ten (10) days after the date of mailing of the Notice of Abatement Costs, including a written statement explaining the basis for the objection along with any and all supporting documentation; and
- d. A statement of the date after which an Objection to Abatement Costs will not be timely.

B. Objection to Abatement Costs. The owner and/or keeper may dispute the reasonableness of the Abatement Costs by timely submitting a written Objection to Abatement Costs. A written Objection to Abatement Costs is timely if actually received by the Board no more than ten (10) days after the date of mailing the Notice of Abatement Costs. The written Objection to Abatement Costs must include the objector's name and contact information, including a mailing address and phone number. Upon receipt of a timely Objection to Abatement Costs, the Board shall:

1. Schedule a public hearing to consider the objection within thirty (30) days of receipt of the Objection to Abatement Cost;
2. Limit its consideration to the reasonableness of the cost of the abatement assessed, and shall not reconsider its original determination of the existence of a nuisance in violation of Section 3 of this Ordinance; and
3. Following a public hearing, reduce, modify or affirm the assessment made in the Notice of Abatement Costs by Order and shall promptly mail its Order on Abatement Costs to the owner and/or keeper.

C. Failure to Pay Abatement Costs. If the costs of abatement are not paid within thirty (30) days from the date of mailing of the Notice of Abatement Costs or from the Order on Abatement Costs adopted by the Board

pursuant to Subsection 9(B), above, an assessment of the costs as stated or determined by the Board shall be made by Resolution and shall thereupon be recorded in the Columbia County lien docket. The amount of charges and expenses when so docketed shall constitute a first lien upon the real property of the owner and/or keeper, except as otherwise provided by law. Nothing in this section precludes the County from taking other action allowed by law to collect the cost of abatement.

- D. County not Liable for Trespass or Conversion. When a nuisance is abated by removal by the County, the County and its officers, agents and employees shall not be liable for any trespass or conversion as to any real or personal property.
- E. Additional Penalties. The provisions of this Section are in addition to and not in lieu of the penalty described in Sections 12 and 13 of this Ordinance and the enforcement procedures provided in Section 15 of this Ordinance.

**SECTION 10. APPEAL.**

Appeal of the Board's Order shall be exclusively by Writ of Review as provided in ORS 34.010 through 34.100 in the Circuit Court of the State of Oregon for Columbia County, located in St. Helens, Oregon.

**SECTION 11. JOINT RESPONSIBILITY.**

All owners and keepers shall be jointly and severally liable for abating a nuisance, for any penalties assessed and for any and all costs incurred by the County in abating a nuisance.

**SECTION 12. CITATION FOR DOG NUISANCE.**

In addition to the procedures set forth in this Ordinance, the Code Enforcement Officer may, in his or her sole reasonable discretion, elect to utilize the enforcement procedures, including the issuance of citations and imposition of penalties, set forth in the Columbia County Enforcement Ordinance, in which case all of the procedures and penalties set forth in that Ordinance apply.

**SECTION 13. SEPARATE VIOLATIONS.**

Each calendar day that a violation of this Ordinance exists and is not properly abated, constitutes a separate and distinct offense.

**SECTION 14. OTHER LAW.**

The provisions of this Ordinance shall be cumulative and non-exclusive and shall not affect any other claim, cause of action or remedy by the County; nor, unless

specifically provided herein, shall this Ordinance be deemed to repeal, amend or modify any law, rule, ordinance, resolution, regulation or enactment relating to nuisances or dog control, but shall be deemed additional to existing legislation and law on such subject.

**SECTION 15.**            **ENFORCEMENT.**

- A.    Enforcement Authority. This Ordinance is enforceable under the Columbia County Enforcement Ordinance. Violators of this Ordinance are subject to the penalties provided in the Columbia County Enforcement Ordinance.
  
- B.    Persons Authorized to Issue Citations. Pursuant to Section 11 of the Enforcement Ordinance, the Columbia County Code Enforcement Officer, the Columbia County Sheriff and any deputy sheriff, the Columbia County Animal Control Officer, and any other person approved by the Board are authorized to issue citations under this Ordinance.
  
- C.    Abatement is an Additional Remedy. Any abatement of a nuisance subject to this Ordinance is not a penalty for violating this Ordinance, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance.