

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR COLUMBIA COUNTY, OREGON

In the Matter of Amending the Columbia County )  
Enforcement Ordinance Procedure for Imposing )       ORDINANCE NO. 2016-8  
Civil Penalties on Building Code Violations )

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

SECTION 1.           TITLE.

This ordinance shall be known as Ordinance No. 2016-8.

SECTION 2.           AUTHORITY.

This ordinance is adopted pursuant to ORS 203.035 and 455.157.

SECTION 3.           PURPOSE.

The purpose of this ordinance is to amend the Columbia County Enforcement Ordinance to provide a hearing before the Board of County Commissioners for the appeal of civil penalties assessed for building code violations. The ordinance also incorporates the schedule of fines for building code violations, which was adopted by the Board through Order No. 42-2014, and clarifies the process for recording liens for unpaid fines.

SECTION 4.           AMENDMENT.

- A. The Columbia County Enforcement Ordinance is amended as shown in Exhibit A, which is attached hereto and incorporated herein by this reference.
- B. Nothing in this section shall be deemed to invalidate any action taken under the Columbia County Enforcement Ordinance prior to the effective date of this ordinance.

SECTION 5.           REPEAL

Order No. 42, 2014, "In the Matter of Adopting a Schedule of Fines for Building Code Violations Enforceable under the Columbia County Enforcement Ordinance," is hereby repealed.

SECTION 6.           SEVERABILITY.

If any provision of this ordinance is for any reason held invalid or unconstitutional by any

court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the remaining portions thereof.

SECTION 7. SCRIVENER'S ERRORS.

A scrivener's error in any portion of this ordinance or its attachments may be corrected by order of the Board of County Commissioners.

SECTION 8. EMERGENCY CLAUSE.

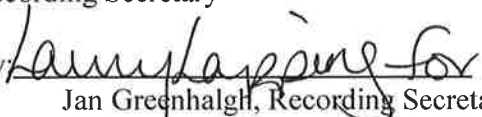
This ordinance being immediately necessary to maintain the public health, safety and welfare, an emergency is declared to exist and this ordinance shall take effect immediately upon adoption.

DATED this 5<sup>th</sup> day of October, 2016.

Approved as to Form


By:   
Office of County Counsel

Recording Secretary

By:   
Jan Greenhalgh, Recording Secretary

First Reading: 10/5/16  
Second Reading: 10/5/16  
Effective Date: 10/5/16

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

By:   
Anthony Hyde, Chair

By:   
Henry Heimuller, Commissioner

By:   
Earl Fisher, Commissioner

## EXHIBIT A

Sections 23 and 24 of the Columbia County Enforcement Ordinance shall be amended, as follows, with additions shown in **bold** and deletions shown in ~~strikethrough~~:

### SECTION 23. BUILDING CODE VIOLATIONS

For a violation of any provision of the County's building inspection program, as described in Sections 4.C and 6.F of this ordinance, an authorized person may issue a notice of violation and impose a penalty pursuant to Section 24, below, as follows:

- A. Notice of Violation.
  - i. The Notice of Violation shall contain:
    - a. The name and address of the property owner and person committing the violation, if known;
    - b. The address or location of the violation;
    - c. A description of the violation, including any relevant code provision numbers, ordinance numbers or other identifying references;
    - d. The penalty to be assessed for the violation and a statement that the person may admit the existence of the violation by paying the penalty and correcting the violation. However, payment of the penalty does not relieve the person of the requirement to correct the violation; and
    - e. A statement that the person may appeal the assessment of the penalty **within 14 days of the date of service of the Notice of Violation, as provided by Section 23.C, below.** ~~by submitting a written request, along with any supporting evidence, to the Director of Land Development Services, 230 Strand Room 105, St. Helens, OR 97051. The written request and supporting evidence must be received by the Director within 14 days of the date of service of the Notice of Violation~~
  - ii. The Notice of Violation shall be served on the property owner and alleged violator, if known, by any of the following methods:
    - a. Personal service; or
    - b. Certified mail, return receipt requested, to the last known address of the property owner and alleged offender, if known, as listed in the Columbia County property tax records. Notice mailed in accordance with this paragraph is considered served three days after the date mailed, if mailed to an address in Oregon, and

seven days after the date mailed, if mailed to an address outside Oregon.

B. A penalty imposed pursuant to this Section shall become final upon the expiration of the time for filing an appeal of the Notice of Violation, if no appeal is filed.

C. Appeal Procedure.

i. The person(s) notified may appeal the assessment of the penalty **to the Board of County Commissioners, 230 Strand Street, St. Helens, Oregon 97501**, by filing an appeal accompanied by a \$250 appeal fee with the Director of Land Development Services, 230 Strand Room 105, St. Helens, OR 97051, within 14 days of the date of service of the Notice of Violation. The appeal shall be in writing and shall include:

- a. The name and address of the appellant;
- b. The nature of the determination being appealed;
- c. The reason the determination is incorrect; and
- d. What the appellant believes should be the correct determination.

ii. ~~Within thirty (30) days of the receipt of the written appeal, the Director shall issue a written decision on the basis of the appellant's written statement and the County's evidence of the violation. The Director's decision shall describe the evidence on which the Director relied. The Board of County Commissioners shall hold a hearing to consider the appeal, at which time the appellant may appear and be heard. Notice of the hearing shall be mailed to the appellant at least fourteen (14) days in advance of the hearing.~~ The County shall bear the burden of proof **at the hearing. The rules of evidence shall not apply.** The **Board's** decision shall be **in writing and shall be** mailed to the property owner and the appellant, if different. ~~The Director's Board's~~ written decision is final.

D. Unpaid Penalties.

i. Failure to pay a penalty imposed pursuant to this Section within ten (10) days after the penalty becomes final shall constitute a violation of this Ordinance. Each day the penalty is not paid shall constitute a separate violation. The County is authorized to collect the penalty by any administrative or judicial action or proceeding authorized by subsection ii., below or other provisions of this Ordinance or state statutes.

ii. If a penalty is imposed pursuant to this Section ~~because of a violation resulting from a prohibited use or activity on real property, and the penalty remains unpaid thirty-sixty (3060) days after such penalty becomes final, the County shall assess the property the full amount of the~~

~~unpaid fine and shall~~ **may file and record the order for payment in the County Clerk Lien Record in accordance with ORS 30.460.** ~~enter such an assessment as a lien in the lien docket of County Clerk.~~ At the time such an assessment is made, the County shall notify the property owner that the penalty has been assessed ~~against the real property upon which the violation occurred and has been entered in the lien docket of the~~ County Clerk **Lien Record**. The lien shall be enforced in the same manner as all County liens. Interest shall commence from the date of entry of the lien in the lien docket.

- iii. In addition to enforcement mechanisms authorized elsewhere in this Ordinance, failure to pay a penalty imposed pursuant to this Section shall be grounds for withholding issuance of requested permits or licenses, issuance of a stop work order, if applicable, or revocation or suspension of any issued permits or certificates of occupancy.

[En. Ord. 2010 - 10; Am. Ord. 2012-4.]

**SECTION 24. PENALTIES FOR VIOLATIONS.**

The penalty for committing an offense declared to be a violation under this ordinance shall be a fine only. All offenses declared to be violations under this ordinance are classified for purpose of sentence as Class A violations. Except for building code violations under Section 23, above, a sentence to pay a fine for a violation under this ordinance shall be a sentence to pay a fine not exceeding \$500. **Penalties for building code violations under Section 23 shall be as set forth in the Schedule of Fines, below,** ~~The maximum penalty for building code violations under Section 23 shall be a fine not exceeding~~ **and in no case shall the fine exceed \$5,000** for a single violation or \$1,000 each day for a continuing violation. Nothing in this ordinance shall authorize a fine in excess of the maximum fine authorized by the statute, administrative rule, ordinance, order or resolution, or provision thereof, defining the offense declared to be a violation under this ordinance. Nor shall it authorize a fine in excess of the limit set for continuing offenses by ORS 203.065.

**[Add the following table:]**

<b>SCHEDULE OF FINES for Building Code Violations</b>	
First Offense (1/3 of maximum fine)	\$1,667 single violation \$333 each day for continuing violations
Second Offense (2/3 of maximum fine)	\$3,333 single violation \$667 each day for continuing violations
Third or More Offense (maximum fine)	\$5,000 single violation \$1,000 each day for continuing violations

[En. Ord. 89-9; Am. Ord. 2010-10.]

