

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of An)
Ordinance Regulating)
the Use of the Courthouse Docks)
_____)

No. _____ 87-5 _____

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

SECTION 1. AUTHORITY.

This Ordinance is adopted pursuant to ORS 203.035.

SECTION 2. TITLE.

This Ordinance shall be known as Ordinance No. 87-5.

SECTION 3. PURPOSE.

The purpose of this Ordinance is to regulate the use of the courthouse docks located adjacent to the Columbia County Courthouse, St. Helens, Oregon in order to assure access to the docks by setting reasonable time limitations on moorage at the docks and to preserve the recreational purpose of the docks by limiting their use to recreational boats or vessels.

SECTION 4. USE OF THE COURTHOUSE DOCKS.

For the purposes of this ordinance, use of the courthouse docks includes:

- a) Mooring or tying a boat or vessel directly to a courthouse dock;
- b) Locating a boat or vessel within 5 feet of a courthouse dock;
- c) Mooring or tying a boat or vessel to a boat or vessel which is moored or tied to a courthouse dock or located within 5 feet of a courthouse dock;
- d) Mooring or tying a boat or vessel to one or more of a group of boats or vessels, one of which is moored or tied to a courthouse dock or located within 5 feet of a courthouse dock.

SECTION 5. TIME LIMITATIONS.

- a) The courthouse docks shall not be used by boats or vessels in excess of forty-eight hours for each usage. After use of the dock in excess of twelve hours, that boat or vessel may not again use the dock for a period of at least six hours.

SECTION 6. COMMERCIAL PURPOSES.

The courthouse docks shall not be used by tugboats, barges or boats or vessels for "commercial purposes" as defined in ORS 506.006(4), a copy of which is attached hereto labeled Exhibit "A", and incorporated herein by this reference. For the purposes of this ordinance, the courthouse docks are used for commercial purposes if they are used by boats or vessels which are, on the date of such usage, operated or occupied, or equipped to be operated or occupied, for "commercial purposes." For the purposes of this ordinance, a boat or vessel is equipped to be operated or occupied for commercial purposes if it contains any gear unlawful for "angling" as defined by ORS 506.006(1), a copy of which is attached hereto, also labeled Exhibit "A", and incorporated herein by this reference.

SECTION 7. EXCEPTIONS.

Upon good cause shown, in the sole discretion of the Board of County Commissioners or any one of them, or the Columbia County Sheriff or any specifically authorized Deputy Sheriff may grant temporary exceptions to this ordinance not to exceed forty-eight hours for any one exception. Such exceptions shall be put into writing, in duplicate, on a form available from the County Sheriff and shall include at a minimum the following information:

- a) Name of boat or vessel;
- b) State license or registration number if any;
- c) Federal documentation number, if any;
- d) Name, address and phone number of owner or owners of boat or vessel;
- e) Name, address, phone number, driver's license number and state, temporary local address and message phone of operator or operators of boat or vessel, if any;
- f) Length of time, not to exceed forty-eight hours, of exception granted;
- g) Reason for granting the exception;
- h) Release from liability;
- i) Signature or signatures of operator or operators, and owner, if available; and
- j) Signature of the Board of County Commissioners, or any one of them, the County Sheriff or any specifically authorized Deputy Sheriff; and
- k) Date and hour that exception is authorized to begin.

SECTION 8. PENALTIES.

Violation of Sections 5, or 6 of this Ordinance, or the provision of any false information under Section 7 of this ordinance, shall be punishable as provided in ORS 203.065, a copy of which is attached hereto labeled Exhibit "B" and incorporated herein by this reference, or as provided in ORS 30.315, a copy of which is attached hereto labeled Exhibit "C" and incorporated herein by this reference.

SECTION 9. CITATION.

Any peace officer, as defined in ORS 161.015, may enforce this ordinance by issuing a citation for suspected violations of this ordinance in the name of the boat or vessel according to the vessel markings, and/or the operator, if known, and/or the owner, if known.

SECTION 10. REPEALER.

Ordinance Nos. 81-5, 82-3, and 86-7 are repealed.

SECTION 11. EMERGENCY.

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

REGULARLY PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS FOR COLUMBIA COUNTY, OREGON THIS 16th DAY OF September, 1987.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

Michael J. Payne
Chairman

May W. Dillard
Commissioner

Jack R. Peterson
Commissioner

Attest:

Roberta Stubbs
Recording Secretary

First Reading: 9/16/87

Second Reading: 9/16/87

Effective Date: 9/16/87

Approved as to form by

J. L. K. W.
County Counsel

GENERAL PROVISIONS

506.001 Contents of commercial fishing laws. All laws enacted for the protection, propagation and preservation of food fish or for the protection and development of commercial fisheries in this state, including but not limited to ORS chapters 506, 507, 508, 509, 511 and 513, may be cited as the commercial fishing laws. [1965 c.570 §2]

506.005 [Repealed by 1965 c.570 §152]

506.006 General definitions. As used in the commercial fishing laws, unless the context requires otherwise:

(1) "Angling" means fishing for personal use with one line attached to a pole held in hand while landing the fish, or with a hand-operated line without rod or reel, to which may be attached not to exceed three hooks, except on floating bass plugs.

(2) "Boat" means any vessel, any floating craft, powered, towed, rowed or otherwise propelled which is used for landing or taking food fish.

(3) "Buy" includes offer to buy, barter, exchange or trade.

(4) "Commercial purposes" means taking food fish with any gear unlawful for angling, or taking or possessing food fish in excess of the limits permitted for personal use, or taking, fishing for, handling, processing, or otherwise disposing of or dealing in food fish with the intent of disposing of such food fish or parts thereof for profit, or by sale, barter or trade, in commercial channels.

(5) "Commission" means the State Fish and Wildlife Commission created by ORS 496.090.

(6) "Fishing gear" means any appliance or device intended for or capable of being used to take food fish except by angling.

(7) "Director" means the State Fish and Wildlife Director appointed pursuant to ORS 496.112.

(8) "Fixed fishing gear" includes but is not limited to stationary gear operated at a fixed location.

(9) "Personal use" means taking or fishing for food fish by angling or by such other means and with such gear as the commission may authorize for fishing for personal use, or possessing the same for the use of the person fishing for, taking or possessing the same and not for sale or barter.

(10) "Sell" includes offer or possess for sale, barter, exchange or trade.

(11) "Take" means fish for, hunt, pursue, catch, capture or kill or attempt to fish for, hunt, pursue, catch, capture or kill.

(12) "Transport" means transport by any means, and includes offer or receive for transportation.

(13) "Waters of this state" means all waters over which the State of Oregon has jurisdiction, or joint or other jurisdiction with any other state or government, including waters of the Pacific Ocean and all bays, inlets, lakes, rivers and streams within or forming the boundaries of this state. [1965 c.570 §3; 1975 c.253 §13]

506.010 [Repealed by 1965 c.570 §152]

506.011 Types of marine life defined. As used in the commercial fishing laws, unless the context requires otherwise:

(1) "Anadromous fish" includes but is not limited to salmon, as defined in ORS 506.016; roccus saxatilis, commonly known as striped bass; alosa sapidissima, commonly known as shad; acipenser medirostris and acipenser transmontanus, commonly known as sturgeon; and thaleichthys pacificus, commonly known as smelt.

(2) "Animals living intertidally on the bottom" includes but is not limited to starfish, sea urchins, sea cucumbers, snails, bivalves, worms, coelenterates and shore, hermit and other small crabs not included within subsection (1) or (4) of this section.

(3) "Food fish" means any animal over which the commission has jurisdiction pursuant to ORS 506.036.

(4) "Shellfish" includes but is not limited to abalone, clams, crabs, crayfish or crawfish, mussels, oysters, piddocks, scallops and shrimp. [1965 c.570 §4]

506.015 [Repealed by 1965 c.570 §152]

506.016 "Salmon" defined. As used in the commercial fishing laws, "salmon" means all anadromous species of salmon, including but not limited to:

(1) Oncorhynchus gorboscha, commonly known as humpback, humpies or pink salmon.

(2) Oncorhynchus keta, commonly known as chum or dog salmon.

(3) Oncorhynchus kisutch, commonly known as coho or silver salmon.

(4) Oncorhynchus nerka, commonly known as sockeye, red or blueback salmon.

(5) Oncorhynchus tshawytscha, commonly known as chinook salmon. [1965 c.570 §5; 1969 c.411 §1]

WATER LAWS 526-560
FORESTRY 526-535
MINERAL RESOURCES 516-525

Exhibit "B"

(6) An ordinance adopted after being read by title only may have no legal effect if it differs substantially from its terms as it is thus filed prior to the reading, unless each section incorporating such a difference, as finally amended prior to being adopted by the governing body, is read fully and distinctly in open meeting of that body.

(7) Upon the final vote on an ordinance, the ayes and nays of the members of the governing body shall be taken and recorded in the record of proceedings of the body.

(8) Upon the adoption of an ordinance by the governing body in accordance with this section, the chairman and recording secretary of the body at the session at which the ordinance is adopted shall sign it with the date of its adoption and with their names and titles of office or position.

(9) An ordinance adopted in accordance with this section, if not an emergency ordinance, shall take effect on the 90th day after the date of its adoption, unless it prescribes a later effective date or is referred to the electors of the county. If an ordinance is referred to the electors, it shall take effect only upon the approval of a majority of those voting on the proposed ordinance. An emergency ordinance may take effect immediately upon the date of its adoption. [1973 c.282 §3; 1975 c.736 §1]

203.050 [1973 c.282 §5; 1975 c.736 §2; repealed by 1979 c.190 §431]

203.055 Referral of revenue related ordinance. Any ordinance, adopted by a county governing body under ORS 203.035 and imposing, or providing an exemption from, taxation shall receive the approval of the electors of the county before taking effect. [1973 c.282 §6; 1975 c.736 §3]

203.060 Judicial review and invalidation of ordinances. Ordinances adopted under ORS 203.030 to 203.065 shall be subject to judicial review and invalidation on account of unreasonableness, procedural error in adoption, or conflict with paramount state law or constitutional provision. [1973 c.282 §7]

203.065 Penalties; remedies; enforcement; disposition of fines; status of nuisance declared by ordinance. (1) Violation of an ordinance adopted by a county governing body under ORS 203.030 to 203.065 shall be punishable, upon conviction, by a fine of not more than \$500 for a noncontinuing offense and a fine of not more than \$1,000 for a continuing offense.

(2) The violator of a county ordinance may be prosecuted by the county in the name of the

county, or be made the defendant in a proceeding by the county seeking redress of the violation.

(3) Every act or thing done, or anything existing within the limits of a county, which is declared by an ordinance of the county adopted under ORS 203.030 to 203.065 to be a nuisance shall constitute a nuisance and may be regarded as such in all actions, suits and proceedings, unless the ordinance is declared void by a court of competent jurisdiction.

(4) Fines recovered under ORS 203.030 to 203.065 shall be paid to the clerk of the court in which recovery is had. After first deducting court costs in the proceedings, the clerk shall pay the remainder to the treasurer of the county for the general fund of the county.

(5) Any peace officer, as defined by ORS 161.015, may enforce an ordinance adopted under ORS 203.035. [1973 c.282 §8; 1975 c.736 §4; 1977 c.15]

203.085 County election dates; procedures for emergency elections. (1) Except as provided in subsection (2) of this section, an election on a county measure or for a county office shall be held on any date other than:

- (a) The last Tuesday in March;
- (b) The third Tuesday in May;
- (c) The last Tuesday in June;
- (d) The second Tuesday in August;
- (e) The third Tuesday in September; or
- (f) The first Tuesday after the first Monday in November.

(2) An emergency election may be held on a date other than those provided in subsection (1) of this section, if the county governing body by resolution finds that an emergency exists that will require an election sooner than the next available election date to avoid extraordinary hardship to the community.

(3) A county governing body, with adequate notice, shall hold a public hearing, on a date other than a regularly scheduled meeting, for the purpose of making findings substantiating the fact that an emergency exists before scheduling an election on a date other than those specified in subsection (1) of this section.

(4) Notice of a county's intent to hold an emergency election shall be filed with the county election authority no later than 34 days preceding the desired election date. At the time the notice of election is given to the county election authority, the county shall also file with the election authority a certified copy of the ballot title and a copy of

COUNTIES

MISC. STATUTES ON GOVT. AND PUBLIC AFFAIRS

EXECUTIVE DEPARTMENT 17A.18C

LEGISLATIVE DEPARTMENT AND LAI 17A.17E

Exhibit "c"

DISTRICT COURTS;
CIVIL PROCEEDINGS
46-50
EVIDENCE AND
WITNESSES
41-45
CORPORATIONS AND
PARTNERSHIPS
51-55
JUSTICES' COURTS;
CIVIL PROCEEDINGS
51-55

resolution, declared that the provisions specified in paragraphs (a) and (b) of subsection (2) of this section exist, it may order permitting instalment payments provided in subsection (6) of this section.

Provisions of subsections (2) and (4) do not apply to the State of Oregon, however, that if the conditions specified in subsection (4) of this section exist, the Governor of the State may, under Seal of the State, attest thereto in lieu of a resolution. The State of Oregon may thereafter order permitting instalment payments provided in subsection (6) of this section.

The procedure specified in subsections (2) and (4) of this section has been followed, and the public bodies subject to subsections (2) and (4) of this section, the tax levy failed, the public bodies may petition for an order permitting instalment payments. The petition shall be filed in the court in which judgment was entered or, if no judgment has been entered, it shall be filed in the court of the judicial district in which the public body has its legal situs. Petitions by public bodies in Oregon where no judgment has been entered shall be filed in Marion County Circuit Court.

The court in which a petition is filed shall determine the judgment or settlement be paid in instalments over a term not to exceed 10 years. The court shall determine the term of years based upon the ability of the public body to effectively carry out its governmental responsibilities, and shall not exceed a longer term than appears reasonably necessary to meet that need. The order permitting instalment payments shall provide for annual payments at the judgment rate. [1967 c.627 §9; 1977 c.300]

ORS 30.260 to 30.300 is exclusive of all home rule charter provisions relating to laws and ordinances on the same subject. [1967 c.627 (1)]

ACTIONS AND SUITS BY AND AGAINST GOVERNMENTAL UNITS AND OFFICIALS

30.310 Actions and suits by governmental units. A suit or action may be brought by the State of Oregon or any county, city, school district or other public body of like character in this state, in its own name, upon a cause of suit or action

accruing to it in its corporate character, and not otherwise, in the following cases:

- (1) Upon a contract made with the public corporation.
- (2) Upon a liability prescribed by law in favor of the public corporation.
- (3) To recover a penalty or forfeiture given to the public corporation.
- (4) To recover damages for injury to the corporate rights or property of the public corporation.

30.312 Actions by governmental units against contractors conspiring to destroy competition or acting in violation of federal antitrust laws. The State of Oregon, any city, county, school district, municipal or public corporation, political subdivision of the State of Oregon or any instrumentality thereof, or any agency created by two or more political subdivisions to provide themselves governmental services may bring an action in behalf of itself and others similarly situated for damages under section 4 of the Act of October 15, 1914, ch. 323, as amended prior to January 1, 1965 (15 U.S.C. 15). [1965 c.465 §1]

30.315 Proceedings by cities and counties to enforce ordinances and resolutions.

(1) An incorporated city or any county may, instead of penal enforcement, maintain civil proceedings in courts of this state against any person to enforce requirements or prohibitions of its ordinances or resolutions when it seeks:

- (a) To collect a fee or charge;
- (b) To enforce a forfeiture;
- (c) To require or enjoin the performance of an act affecting real property;
- (d) To enjoin continuance of a violation that has existed for 10 days or more; or
- (e) To enjoin further commission of a violation that otherwise may result in additional violations of the same or related penal provisions affecting the public morals, health or safety.

(2) The court shall not impose a penal fine in a civil proceeding under subsection (1) of this section.

(3) The remedies provided by this section shall not be used to enforce any requirement or prohibition of an ordinance or resolution that is also specifically defined as a crime and made punishable under the statutes of this state.

(4) The remedies provided by this section are supplementary and in addition to those described in ORS 30.310. [1961 c.313 §2; 1963 c.338 §1; 1985 c.626 §1]