

BEFORE THE BOARD OF COUNTY COMMISSIONER  
FOR COLUMBIA COUNTY, OREGON

In the Matter of Prohibiting All Persons )  
from Creating Road Hazards on any Road )  
under Columbia County Jurisdiction and )       ORDINANCE NO. 2010-5  
Enforcing the Prohibition through the Columbia )  
County Enforcement Ordinance ✓ )

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

SECTION 1.           TITLE.

This Ordinance shall be known as the Columbia County Road Hazard Ordinance.

SECTION 2.           AUTHORITY.

This Ordinance is adopted pursuant to ORS 203.035, ORS 368.016 and ORS 368.031.

SECTION 3.           PURPOSE.

The purpose of this Ordinance is to prohibit the creation of road hazards on roads under Columbia County jurisdiction. ORS 368.256 prohibits owners or lawful occupants of land from allowing the creation of road hazards. But because road hazards are also caused by persons other than the owners or occupants of land, this Ordinance extends the prohibition against road hazards in ORS 368.256 to all persons entering any road under Columbia County jurisdiction, and makes violations subject to enforcement under the Columbia County Enforcement Ordinance.

SECTION 4.           FINDINGS.

- A.    ORS 368.256 prohibits owners or lawful occupants of land from allowing the creation of road hazards, but does not prohibit other persons from creating road hazards on roads under Columbia County jurisdiction.
  
- B.    In addition to the parties identified in ORS 368.256(1) (i.e., "owners" and "lawful occupants" of land), road hazards are often created by other persons, who are not the owners or lawful occupants of the land but who enter upon roads under Columbia County jurisdiction. Therefore, in the interest of public safety and to deter the creation of road hazards on roads under Columbia County jurisdiction, the Board finds it necessary to extend the prohibition against the creation of road hazards to all persons who enter upon roads under Columbia County jurisdiction.
  
- C.    Section 11(G) of the Columbia County Enforcement Ordinance authorizes the Columbia County Public Works Director to enforce ORS 368.256. Section 13 authorizes the Public Works Director to issue written warnings for violations of ORS 368.256, and Section 14 authorizes the issuance of citations by the Public Works Director for violations of ORS 368.256.

- D. Section 6(U) of the Columbia County Enforcement Ordinance authorizes enforcement of any ordinance, under the provisions of the Columbia County Enforcement Ordinance, if the ordinance specifically states that it is enforceable under the Columbia County Enforcement Ordinance.
- E. Section 11(Q) of the Columbia County Enforcement Ordinance authorizes any person specifically given authority by the Board of Commissioners to issue citations for violations of ordinances made enforceable under the Columbia County Enforcement Ordinance.
- F. Columbia County Ordinance No. 91-6 specifically regulates the placement of ditches, structures, facilities and utilities in County roads and public rights-of-way, but does not address other more general road hazards.

SECTION 5.                    APPLICATION.

This Ordinance applies to all county roads, local access roads and public roads, as defined by ORS 368.001, under Columbia County jurisdiction.

SECTION 6.                    ROAD HAZARD PROHIBITION.

For the purposes of enforcing ORS 368.251 to 368.281 to prohibit the creation of road hazards by all persons entering roads under Columbia County jurisdiction, the Board of Commissioners hereby defines "lawful occupant," as that term is used in ORS 368.251 to 368.281, to include any person entering upon a road under Columbia County jurisdiction from the land of an owner or lawful occupant of land.

SECTION 7.                    OTHER LAW.

The provisions of this Ordinance are cumulative and non-exclusive and shall not affect any other claim, cause of action or remedy by the County; nor shall this Ordinance be deemed to repeal, amend or modify any law, rule, ordinance, resolution, regulation or enactment relating to road hazards, but shall apply in addition to any other applicable law or regulation. Nothing in this Ordinance prohibits or alters the County's ability to take measures to abate road hazards consistent with ORS 368.261 through ORS 368.281, nor does it limit or otherwise alter the applicability of ORS 368.256 to "owners" or "lawful occupants of land" as those terms are used in that statute.

SECTION 8.                    ENFORCEMENT.

- A. In addition to any other remedies permitted by law, this Ordinance is enforceable under, and violators of this Ordinance are subject to, the penalties provided in the Columbia County Enforcement Ordinance.
- B. Upon issuance of a letter of authority signed by the Board of County Commissioners pursuant to Section 11 of the Columbia County Enforcement Ordinance, the Columbia County Public Works Director, Assistant Public Works Director, Transportation Planner, Columbia County Sheriff, Deputy Sheriff, and Weighmaster shall be authorized to, have jurisdiction over, and may enforce violations of this Ordinance. Such authority and jurisdiction is subject to the

primary authority of the Board of County Commissioners. The Public Works Director Assistant Public Works Director, Transportation Planner, Columbia County Sheriff, Deputy Sheriff, and Weighmaster shall have authority to issue warnings and/or citations to any person who violates this Ordinance.

SECTION 9. SEVERABILITY.

If any portion of this Ordinance is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent portion, and such holdings shall not affect the validity of the remaining portion of this ordinance.

SECTION 10. SCRIVENER'S ERRORS.

Scrivener's errors in any portion of this Ordinance may be corrected by Order of the Board of County Commissioners.

DATED this 22<sup>nd</sup> day of September, 2010.

Approved as to Form

By: [Signature]  
Office of County Counsel

Recording Secretary

By: [Signature]  
Jan Greenhalgh, Recording Secretary

First Reading: 9-8-10  
Second Reading: 9-22-10  
Effective Date: 12-21-10

BOARD OF COUNTY COMMISSIONERS FOR  
COLUMBIA COUNTY, OREGON

By: [Signature]  
Anthony Hyde, Chair

By: [Signature]  
Earl Fisher, Commissioner

By: [Signature]  
Rita Bernhard, Commissioner