

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of Amending the)
Columbia County Enforcement) ORDINANCE NO. 92-15
Ordinance)

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

SECTION 1. TITLE.

This ordinance shall be known as Ordinance No. 92-15. Exhibit "A", which is attached hereto and incorporated herein by this reference, shall be known as the "Columbia County Enforcement Ordinance".

SECTION 2. AUTHORITY.

This ordinance is adopted generally under the authority granted to counties under ORS 203.035. Additional authorities for the enforcement by the county of the particular statutes, administrative rules, ordinances, orders and resolutions, and provisions thereof, listed in the Columbia County Enforcement Ordinance are found in Section 4 of the attached ordinance.

SECTION 3. PURPOSE.

The purpose of this ordinance is to amend the Columbia County Enforcement Ordinance in order to update it and to implement the changes authorized by the 1991 Legislative Assembly.

SECTION 4. AMENDMENT.

A. The Columbia County Enforcement Ordinance is amended to read 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. SAVINGS.

Except as expressly changed in Exhibit "A", it is intended that enforcement of the statutes, administrative rules, ordinances, orders and resolutions, and provisions thereof, listed in Section 6 of the Columbia County Enforcement Ordinance shall continue in full force and effect as if this ordinance had not been passed.

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. 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 on February 1, 1993.

REGULARLY PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS FOR COLUMBIA COUNTY, OREGON THIS 25th DAY OF November, 1992.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

Approved as to form

By: John K. King
Office of County Counsel

By: Michael J. King
Chairman

Attest:
By: Jan Suenkelgh
Recording Secretary

By: not present
Commissioner

First Reading: 11/25/92

Second Reading: 11/25/92

By: Jack R. Peterson
Commissioner

Effective Date: 2/1/93

EXHIBIT "A"

**COLUMBIA COUNTY
ENFORCEMENT ORDINANCE**

Legislative History:

**Enacted as Ordinance No. 89-9
on September 5, 1989.**

**Amended and Re-enacted as Ordinance No. 90-7
on February 21, 1990.**

**Amended by Ordinance No. 90-19
on August 8, 1990.**

**Amended by Ordinance No. 92-15
on November 25, 1992.**

COLUMBIA COUNTY ENFORCEMENT ORDINANCE

SECTION 1. TITLE.

This ordinance shall be known as the "Columbia County Enforcement Ordinance".

[En. Ord. 89-9; Am. Ord. 90-7; Am. Ord. 90-19.]

SECTION 2. APPLICATION.

This ordinance applies throughout Columbia County, Oregon except that it shall not apply within the limits of any incorporated city unless consent to its application is given by the city governing body or the electors of the city.

[En. Ord. 89-9.]

SECTION 3. PURPOSE.

The purpose of this ordinance is to provide a procedure for enforcing certain statutes, administrative rules, ordinances, orders and resolutions, and provisions thereof. The enforcement procedures set forth in this ordinance are permissive, not mandatory, and are within the discretion of the authorized persons designated herein, the Board of County Commissioners and the governing body of any consenting city.

[En. Ord. 89-9.]

SECTION 4. AUTHORITY.

This ordinance is adopted generally under the authority granted to counties under ORS 203.035. The enforcement of county ordinances is authorized and governed generally by ORS 30.310, 30.315 (as amended by Oregon Laws 1989, Chapter 882), 203.065, 203.145 and 203.810. Infraction procedures and the issuance of citations for infractions are authorized and governed generally by ORS 153.110 to 153.310, 153.990 and 153.995. In addition, the county is further and more specifically authorized as follows:

A. To adopt and enforce a comprehensive plan, zoning ordinance, subdivision and partitioning ordinance and an ordinance regulating the names of public thoroughfares and addressing of property pursuant to ORS Chapters 92, 197 and 215, particularly ORS 92.010 to 92.190, 92.990(1), 197.175, 215.050, 215.110, 215.130,

215.185, 215.190, 215.223 and 215.503.

B. To adopt and enforce a solid waste management ordinance pursuant to ORS 459.005 to 459.105, particularly 459.085, 459.205 to 459.245, 459.255 to 459.285 (now renumbered as 459.385), 459.992 and 459.995.

C. To administer and enforce its ordinance regulating surface mining and the reclamation of surface-mined lands pursuant to ORS 517.780 and 517.990.

D. To administer and enforce the structural code, other specialty codes comprising the state building code and the related statutes and administrative rules of the Building Codes Agency, and to adopt ordinances related thereto pursuant to ORS 446.250, 446.270, 446.430, 446.990(1), 447.080, 447.160, 455.020(4), 455.040, 455.150, 455.170, 455.450, 455.675 to 455.690 and 455.990.

E. To administer and enforce the standards for subsurface sewage disposal systems, alternative sewage disposal systems and nonwater-carried sewage disposal facilities established in ORS 454.605 to 454.745 and in the administrative rules of the Environmental Quality Commission pursuant to ORS 454.640 and ORS 454.725.

F. To exercise jurisdiction over county roads, local access roads and trails within the county pursuant to ORS Chapter 368, particularly ORS 368.016, 368.021 and 368.031, to abate road hazards pursuant to ORS 368.251 to 368.281, to penalize violations of road statutes pursuant to ORS 368.990 and to enact ordinances superseding certain of the road statutes pursuant to ORS 368.011.

G. To control, restrict or prevent the placement, building or construction on the right of way of any county road, any approach road, structure, pipeline, ditch, cable, wire, or any other facility, thing or appurtenance, or any substantial alteration in such facility, thing or appurtenance, or any change in the manner of using such approach road pursuant to ORS 374.305 to 374.330, 374.420 to 374.430 and 374.990 and to adopt reasonable rules and regulations related thereto pursuant to ORS 374.310.

H. To adopt and enforce ordinances and regulations relating to the control of dogs pursuant to ORS 609.015 and to enact a dog control program pursuant to ORS 609.010 to 609.190 and 609.990.

I. To adopt and enforce, through the county fair board,

rules and regulations for the proper management and regulation of the county fair and the preservation of the peace and the protection of private and public property upon the fairgrounds pursuant to ORS 565.240, 565.610 to 565.650 and 565.990.

J. To administer and enforce ORS 624.010 to 624.120, 624.310 to 624.440 and 624.990 relating to food service facilities, and administrative rules promulgated pursuant thereto, particularly OAR Chapter 333, Divisions 150 through 168, pursuant to ORS 431.150 to 431.160, 624.510 and 624.530.

K. To administer and enforce ORS 446.310 to 446.350, 446.990 and OAR Chapter 333, Divisions 29 through 31, relating to tourist facilities and camping vehicles pursuant to ORS 431.150 to 431.160 and 446.425.

L. To administer and enforce ORS 448.005 to 448.100, 448.990 and administrative rules promulgated pursuant thereto, relating to swimming facilities pursuant to ORS 431.150 to 431.160 and 448.100.

M. To adopt and enforce an ambulance service ordinance and an ambulance service plan pursuant to ORS 823.180 and 823.220 and OAR 333-28-100.

N. To administer and enforce ORS 570.505 to 570.600 and 570.990 relating to weed control pursuant to ORS Chapter 570.

O. By other provisions of law not enumerated herein.

[En. Ord. 89-9; Am. Ord. 90-7.]

SECTION 5. DEFINITIONS.

As used in this ordinance, unless the context requires otherwise:

A. "Authorized person" means a person authorized under Section 11 of this ordinance to enforce infractions under this ordinance.

B. "Board" means the Board of County Commissioners for Columbia County, Oregon.

C. "Administrator" means the Administrator of Land Development Services for Columbia County, Oregon.

D. "Person" means the definition it has under ORS 161.015 or its successor provisions.

[En. Ord. 89-9.]

SECTION 6. STATUTES, ADMINISTRATIVE RULES, ORDINANCES, ORDERS AND RESOLUTIONS, AND PROVISIONS THEREOF, ENFORCEABLE UNDER THIS ORDINANCE.

The following statutes, administrative rules, ordinances, orders and resolutions, and provisions thereof, are enforceable under this ordinance:

A. Ordinance No. 84-4, Exhibit "A", the "Columbia County Comprehensive Plan, July 1984" (except as provided in paragraph "D"), adopted on August 1, 1984, as amended by Ordinance Nos. 85-1, 85-8 and 89-7 and Resolution No. 53-85, and as further amended by those major map amendments adopted pursuant to Section 1502.1 of the Columbia County Zoning Ordinance.

B. Ordinance No. 84-4, Exhibit "B", the "Columbia County Zoning Ordinance, July 1984" (except as provided in paragraph "D"), adopted on August 1, 1984, as amended by Ordinance Nos. 85-2, 85-7, 88-6, 88-7, 88-10, 89-1, 89-12, 90-1, 90-2, 90-3, 90-4 and 90-5 and the terms and conditions attached to any discretionary permit, as discussed in Article VII of the "Zoning Ordinance", granted by a written order or resolution pursuant to said ordinance, whether granted prior to, contemporaneously with, or subsequent to the adoption of this order.

C. Ordinance No. 82-3, the "Columbia County Subdivision and Partitioning Ordinance", adopted on September 1, 1982, as amended by Ordinance Nos. 84-3 and 84-4, Exhibit "C", and Ordinance No. 90-10, and the terms and conditions attached to any preliminary or final subdivision plat approval, major or minor land partitioning approval or planned unit development approval granted by written order or resolution pursuant to said ordinance whether granted prior to, contemporaneously with, or subsequent to the adoption of this ordinance.

D. Ordinance No. 81-6 (Amended), the "Columbia County Rural Addressing System", adopted on August 4, 1982, as amended by Ordinance No. 83-2 and 89-14.

E. The "Columbia County Solid Waste Management Ordinance", adopted on August 3, 1977, as amended by Ordinance Nos. 89-8 and

89-13, and Ordinance No. 81-3.

F. The "Columbia County Surface Mining Land Reclamation Ordinance", adopted on June 28, 1972, as amended by Ordinance No. 90-11.

G. ORS 455.010 to 455.740, particularly 455.450, 455.990, those specialty codes and administrative rules adopted under ORS 446.062, 446.185, 447.020(2), 455.020(2) and 455.610 to 455.635, those administrative rules applicable under OAR Chapter 914 and any ordinances adopted under ORS 455.020(4) including Ordinance Nos. 204, 84-1, 84-6 and 90-12.

H. ORS 454.605 to 454.745 and OAR Chapter 340, Divisions 71 and 73 as applicable.

I. ORS 368.056, 368.251 to 368.281, 368.910 to 368.960, 368.990, 374.305 to 374.330, 374.420 to 374.430, 374.990, Ordinance Nos. 202 and 85-9 and Amended Ordinance No. 86-9.

J. ORS 609.010 to 609.190, 609.990, Ordinance Nos. 88-13 and 88-14 and any ordinance adopted subsequent to this ordinance pursuant to ORS 609.015.

K. ORS 565.240, 565.610 to 565.650, 565.990 and any rules and regulations adopted by the Columbia County Fair Board pursuant thereto.

L. ORS 624.010 to 624.120, 624.310 to 624.440, 624.510, 624.530, 624.990, OAR Chapter 333, Divisions 150 through 168 and Ordinance No. 89-3, the Columbia County Food Handlers Ordinance, as amended by Ordinance Nos. 90-9 and 90-18.

M. ORS 446.310 to 446.350, 446.990 and OAR Chapter 333, Divisions 29 through 31.

N. ORS 448.005 to 448.100, 448.990 and administrative rules promulgated pursuant thereto.

O. ORS 823.180 and 823.220, OAR 330-28-100 through 330-28-130 and Ordinance No. 89-5, the "Columbia County Ambulance Service Ordinance", and proposed Ordinance No. 90-23, if adopted.

P. Ordinance No. 88-5, regulating the use of Columbia County docks.

Q. Ordinance No. 89-6, providing a procedure for regulating the use of Columbia County parks and all orders adopted pursuant to Section 5 thereof, including Order Nos. 72-89, 73-89, 74-89 and 87-89, and Ordinance No. 79-1.

R. ORS 570.505 to 570.600 and 570.990.

S. Section 14.C of this ordinance.

T. All amendments to the statutes, administrative rules, ordinances, orders and resolutions, and provisions thereof, listed in this section enacted subsequent to the adoption of this ordinance, unless otherwise expressly stated in the amendment, or unless the context of the amendment clearly implies otherwise.

U. Any other county ordinance, order or resolution, or provision thereof, which specifically states it is enforceable under this ordinance.

[En. Ord. 89-9; Am. Ord. 90-7; Am. Ord. 90-19.]

SECTION 7. ADOPTION.

Subject to the amendments stated in Section 8 below, all of the ordinances, orders and resolutions, and provisions thereof, listed in Section 6 above are hereby adopted, or readopted, as the case may be, and incorporated herein by this reference.

[En. Ord. 89-9.]

SECTION 8. AMENDMENTS.

A. Section 7.03 of Ordinance No. 89-8, "Citation for Solid Waste Nuisances", as amended by Ordinance No. 89-13, is amended to delete the reference to "Ordinance No. 89-9", and "Columbia County Enforcement Ordinance" is substituted in its place.

B. That section in Ordinance No. 81-3 entitled "Penalties" is deleted and the following section is substituted in its place:

"ENFORCEMENT.

"This ordinance may be enforced as provided by, and violators hereof are subject to the penalties provided in, the Columbia County Enforcement Ordinance."

C. Section 1 of Ordinance No. 84-6 is amended to include reference to ORS Chapters 446 and 455.

D. Section 3 of Ordinance No. 202, "Penalty", is deleted and the following section is substituted in its place:

"SECTION 3. ENFORCEMENT.

"This ordinance may be enforced as provided by, and violators hereof are subject to the penalties provided in, the Columbia County Enforcement Ordinance."

E. That section in Ordinance No. 85-9 entitled "Penalty" is deleted and the following section is substituted in its place:

"ENFORCEMENT.

"This ordinance may be enforced as provided by, and violators hereof are subject to the penalties provided in, the Columbia County Enforcement Ordinance."

F. Section 3 of Amended Ordinance No. 86-9, "Penalty", is deleted and the following section is substituted in its place:

"SECTION 3. ENFORCEMENT.

"This ordinance may be enforced as provided by, and violators hereof are subject to the penalties provided in, the Columbia County Enforcement Ordinance."

G. Section 18.4 of Ordinance No. 89-5, "Appeals, Abatement and Penalties", is amended by the addition of the following sentence at the end of the subsection:

"This ordinance may be enforced as provided by, and violators hereof are subject to the penalties provided in, the Columbia County Enforcement Ordinance."

H. Section 9 of Ordinance No. 88-5, "Penalties", is amended by the addition of the following sentence:

"This ordinance may be enforced as provided by, and violators hereof are subject to the penalties provided in, the Columbia County Enforcement Ordinance."

I. Section 8 of Ordinance No. 89-6, "Penalties", is amended
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by deletion of the word "violation" at the end of the first sentence of the first paragraph. The word "infraction" is substituted in its place. The words "two hundred fifty (\$250.00) dollars" in each sentence of the second paragraph are deleted. The words "five hundred (\$500.00) dollars" are substituted in their place in each sentence. In addition, the following sentence is added to the end of the second paragraph of Section 8:

"This ordinance, and orders adopted pursuant hereto, may be enforced as provided by, and violators hereof are subject to the penalties provided in, the Columbia County Enforcement Ordinance."

J. Section IV of Ordinance No. 79-1, "Penalty", is deleted and the following section is substituted in its place:

"ENFORCEMENT.

"This ordinance may be enforced as provided by, and violators hereof are subject to the penalties provided in, the Columbia County Enforcement Ordinance."

K. Section 1010.1A of Ordinance No. 82-3, as amended by Ordinance Nos. 84-3 and 84-4, is deleted in its entirety.

L. Section 1010.2 of Ordinance No. 82-3, as amended by Ordinance Nos. 84-3 and 84-4, is deleted and the following is substituted in its place:

"This ordinance may be enforced as provided by, and violators hereof are subject to the penalties provided in, the Columbia County Enforcement Ordinance."

[En. Ord. 89-9; Am. Ord. 90-7; Am. Ord. 90-19.]

SECTION 9. NUISANCE AND INFRACTION DECLARED.

Violation of any statute, administrative rule, ordinance, order or resolution, or any provision thereof, enforceable under this ordinance is unlawful and an offense. Such an offense is hereby declared to be a nuisance and an infraction and is subject to the penalties provided in Section 23 below and such other enforcement action as provided in Section 27 below. Each day of violation constitutes a separate offense.

[En. Ord. 89-9.]

SECTION 10. INFRACTION PROCEDURE.

Except as specifically provided otherwise by this ordinance, including Section 27 below, enforcement of the statutes, administrative rules, ordinances, orders, resolutions, and provisions thereof, declared to be infractions under this ordinance shall follow the procedure for the enforcement of infractions set forth by ORS 153.110 to 153.310, 153.990 and 153.995.

[En. Ord. 89-9.]

SECTION 11. PERSONS AUTHORIZED TO ISSUE CITATIONS.

Upon the issuance of a letter of authority signed by the Board of County Commissioners, the persons filling the following positions shall be specifically authorized to, have jurisdiction of and may enforce infractions under this ordinance. Their authority and jurisdiction is subject to the primary authority of the Board of County Commissioners, and is limited to the specific infractions listed after their position title below and to the specific powers granted by this ordinance. An authorized person may issue a citation to any person who commits a listed infraction. The authorized persons are:

A. The Administrator for violations of those statutes, administrative rules, ordinances listed in Subsections A, B, C, D, E, F, G and H, and relevant amendments and ordinances under Subsections S and T, of Section 6 above.

B. Any Planner I, II or III for violations of those ordinances, and provisions thereof, listed in Subsections A, B, C and D, and relevant amendments and ordinances under Subsections S and T, of Section 6 above.

C. The person designated by the Board of County Commissioners as Solid Waste Administrator, if different from the Land Development Services Administrator, and any Solid Waste Planner, for violations of the ordinances, and provisions thereof, listed in Subsection E, and relevant amendments and ordinances under Subsections S and T, of Section 6 above.

D. The person designated by the Board of County Commissioners as Surface Mining Administrator, if different from the Land Development Services Administrator, for violations of the ordinance or ordinances, and provisions thereof, listed in

Subsection F, and relevant amendments and ordinances under Subsections F, S and T, of Section 6 above.

E. Any certified building official or building inspector employed by, or under contract with, the county for violations of the statutes, specialty codes, administrative rules and ordinances, and any provisions thereof, listed in Subsection G, and relevant amendments and ordinances under Subsections S and T, of Section 6 above.

F. Any registered sanitarian employed by the county for violations of the statutes and administrative rules, and any provisions thereof, listed in Subsection H, and relevant amendments and ordinances under Subsections S and T, of Section 6 above.

G. The Columbia County Roadmaster for violations of the statutes and ordinances, and provisions thereof, listed in Subsection I, and relevant amendments and ordinances under Subsections S and T, of Section 6 above.

H. The Columbia County Dog Control Officer, and any duly sworn deputy thereof, for violations of the statutes, and provisions thereof, listed in Subsection J, and relevant amendments and ordinances under Subsections J, S and T, of Section 6 above.

I. Those persons authorized under ORS 565.240 and 565.640 for violations of the statutes, rules and regulations, and provisions thereof, listed in Subsection K, and relevant amendments and ordinances under Subsections K, S and T, of Section 6 above.

J. Any registered sanitarian employed by the County for violations of the statutes, administrative rules and ordinances, and provisions thereof, listed in Subsections L, M and N, and relevant amendments and ordinances under Subsections S and T, of Section 6 above.

K. The person designated by the Board of County Commissioners as Administrator of the "Columbia County Ambulance Service Ordinance" (No. 89-5, as amended by Ordinance No. 90-23) and "Ambulance Service Plan" for violation of the statutes, administrative rules, ordinance and plan, and provisions thereof, listed in Subsection O, and relevant amendments and ordinances under Subsections S and T, of Section 6 above.

L. Any peace officer, as defined in ORS 161.015, for violations of the ordinances and orders, and provisions thereof,

listed in Subsections P and Q, and relevant amendments and ordinances under Subsections S and T, of Section 6 above.

M. The Columbia County Weed Inspector for violations of the statutes, and provisions thereof, listed in Subsection R, and relevant amendments and ordinances under Subsections S and T, of Section 6 above.

N. The Columbia County Park Maintenance Superintendent for violation of the ordinance and orders, and provisions thereof, listed in Subsection Q, and relevant amendments and ordinances under Subsections S and T, of Section 6 above.

O. The Columbia County Sheriff and any deputy sheriff, the Columbia County District Attorney and any Deputy District Attorney, the Columbia County Counsel and Assistant County Counsel for any offense declared to be an infraction enforceable under this ordinance.

P. Any city police officer employed by any incorporated city in this county which has consented, and to the extent it has consented, to the application of this ordinance within the city, for violation of those statutes, administrative rules, ordinances, orders and resolutions, and provisions thereof, to which the consent applies.

Q. Any other person specifically given authority by the Board of County Commissioners, or by the governing body of any consenting city for offenses within its jurisdiction, by written order or resolution to issue citations for violation of any or all of the statutes, administrative rules, ordinances, orders and resolutions, and provisions thereof, enforceable under this ordinance.

[En. Ord. 39-9; Am. Ord. 90-7; Am. Ord. 90-19; Am. Ord. 92-15.]

SECTION 12. PRIMARY AUTHORITY OF BOARD OF COUNTY COMMISSIONERS.

The Board of County Commissioners, and the governing body of any consenting city for city police officers or other authorized persons in its employment, may at any time, for any reason, by order or resolution, revoke the authority and jurisdiction granted by this ordinance to any person, position or category of positions to issue citations and to enforce offenses declared to be infractions under this ordinance. Such authority and jurisdiction shall be automatically terminated when any person ceases to hold a

position granted authority and jurisdiction under this ordinance. In addition, the Board of County Commissioners, and the governing body of any consenting city for citations issued by city police officers or other authorized persons in its employ, may withdraw any citation issued in its name, and dismiss, compromise or otherwise settle any complaint or proceedings filed or brought in its name pursuant to this ordinance.

[En. Ord. 89-9; Am. Ord. 90-7.]

SECTION 13. ISSUANCE OF WARNINGS.

A. An authorized person may, in lieu of issuing a citation, issue a written warning for the commission of any offense declared to be an infraction under this ordinance.

B. If an authorized person issues a written warning, it shall be in writing and shall be delivered to the alleged offender in person or in any other manner reasonably calculated to give notice of the offense, including posting or regular mail.

C. A written warning shall include the following information:

- (1) The name of the person warned;
- (2) The date on which the warning was issued;
- (3) The name of the person issuing the warning and the name of Columbia County in whose name the warning was issued;
- (4) The statute, administrative rule, ordinance, order or resolution, or provision thereof, alleged to be violated;
- (5) A statement or designation of the alleged infraction in such a manner as can be readily understood by a person making a reasonable effort to do so;
- (6) The date, time and place at which the infraction is alleged to have occurred, or if it is a continuing infraction, a statement to that effect and the date the infraction was first observed by the person issuing the warning;
- (7) The name of the person, department or office to contact regarding the warning;

(8) A deadline for contacting the person, department or office noted;

(9) A statement that failure to correct the alleged infraction or to contact the noted person, department or office by the deadline may result in issuance of a citation to appear in court;

(10) A statement that if a citation is issued, payment of a fine or forfeiture of bail does not relieve a violator of the responsibility to remedy the infraction; and

(11) The maximum fine that may be imposed for the infraction if a citation is issued and the person cited is found guilty.

[En. Ord. 89-9; Am. Ord. 90-7.]

SECTION 14. ISSUANCE OF CITATIONS.

A. Any authorized person, as defined and limited by Section 11 above, may issue a citation to any person who commits an offense defined as an infraction under this ordinance. If the person to be issued a citation is a firm, corporation or other organization, delivery of a citation to any employee, agent or representative thereof shall be sufficient to confer jurisdiction.

B. An authorized person may not make an arrest for an infraction, but may detain any individual reasonably believed to have committed an infraction, or any employee, agent or representative of a firm, corporation or organization reasonably believed to have committed an infraction, only so long as is necessary to determine, for the purposes of issuing a warning or citation, the identity of the offender and such additional information as is appropriate for enforcement of the infraction. Any peace officer detaining any individual in an attempt to enforce the statutes, rules, ordinances, orders or resolutions enforceable under this ordinance shall be in uniform or shall conspicuously display an official identification card or letter of authority, or copy thereof, showing the officer's lawful authority. Any other authorized person detaining any individual in an attempt to enforce the statutes, rules, ordinances, orders or resolutions enforceable under this ordinance shall conspicuously display an official identification card or letter of authority, or copy thereof, showing the authorized person's lawful authority.

C. Any person detained by a peace officer or any other authorized person, as pursuant to Subsection B above, shall provide the peace officer or authorized person with his or her name, address and date of birth. Failure by the detained person to provide the peace officer or authorized person his or her name, address and date of birth is declared to be an infraction enforceable under this ordinance. Failure by the detained person to provide the peace officer or authorized person his or her correct name, address and date of birth is also declared to be an infraction enforceable under this ordinance. Refusal by a person to be detained, pursuant to Subsection B above, in addition to any other penalties provided by law, is also declared to be an infraction enforceable under this ordinance.

D. The authorized person issuing a citation shall cause the summons to be delivered to the person cited and the complaint and abstract of record to be delivered to the court.

E. Notwithstanding Subsection C above, no authorized person shall file any complaint under this ordinance with a court, and the court shall not have jurisdiction to hear any such complaint, without the express review and approval of the Columbia County Counsel or city prosecutor of any consenting city. The County Counsel shall discuss each such complaint with members of the Board of County Commissioners informally or formally prior to filing the complaint. The complaint shall be subject to the primary authority of the Board of County Commissioners as stated in Section 12 above. Such review and approval shall be evidenced by the certificate and signature of the authorized prosecutor on or attached to the complaint as shown below:

CERTIFICATE

I have reviewed this (attached) complaint and reviewed the underlying law and facts and have reasonable grounds to believe, and do believe, the defendant committed the offense alleged.

DATED this ____ day of _____, 19__.

Office of Prosecutor

By: _____
Name of Prosecutor

Title: _____

[En. Ord. 89-9; Am. Ord. 90-7; Am. Ord. 92-15.]

SECTION 15. CITATION FORM AND CONTENT.

A. A citation conforming to the requirements of this section shall be used for all infraction offenses enforceable under this ordinance occurring in the unincorporated areas of Columbia County, or in any city which has consented to the application of all or part of this ordinance within the city.

B. The citation shall consist of at least four (4) parts. Additional parts may be inserted for administrative use. The required parts are:

- (1) The complaint;
- (2) The abstract of record;
- (3) The police or other agency record; and
- (4) The summons.

C. Each of the parts shall contain the information or blanks required by rules of the Supreme Court under ORS 1.525.

D. The complaint shall contain a form of certificate, or verification, in which the complainant shall certify or verify, under the penalties provided in ORS 153.990, that the complainant has reasonable grounds to believe, and does believe, that the person cited committed the offense contrary to a statute, administrative rule, ordinance, order or resolution, or provision thereof, enforceable under this ordinance. A certificate conforming to this subsection shall be deemed equivalent of a sworn complaint.

E. An error in transcribing information into the blanks provided in the citation form, when determined by the Court to be non-prejudicial to the defendant's defense, may be corrected at the time of trial or prior to time of trial with notice to the defendant. Except as provided in this subsection, a complaint that does not conform to the requirements of this section may only be set aside by the court upon motion of the defendant before entry of a plea.

F. Nothing prohibits the court from amending the citation in its discretion.

[En. Ord. 89-9; Am. Ord. 90-7; Am. Ord. 92-15.]

SECTION 16. APPEARANCE BY DEFENDANT.

A. The defendant shall either appear in Court at the time indicated in the summons, or prior to such time shall deliver to the court the summons together with a check or money order in the amount of bail set forth in the summons and enclose therewith:

- (1) A request for hearing;
- (2) A statement of matters in explanation or mitigation of the offense charged; or
- (3) The executed appearance, waiver of hearing and plea of guilty appearing on the summons. A statement in explanation or mitigation also may be enclosed with the guilty plea.

B. If a defendant has submitted to the court any written statement in explanation or mitigation of the offense, the statement constitutes a waiver of hearing and consent to judgment. The court may declare a forfeiture of bail on the basis of the statement and any testimony or written statement of the person issuing the citation or other person which may be presented to the court.

C. If the defendant requests a hearing, or if the court directs that a hearing be held, the court shall fix a date and time for the hearing and, unless notice is waived, the court shall at least five (5) days in advance of the hearing mail to the defendant notice of the date and time so fixed.

[En. Ord. 89-9; Am. Ord. 92-15.]

SECTION 17. HEARING ORDERED BY COURT.

A. For infractions subject to ORS 8.665, 153.110 to 153.310 and 153.990, the court may direct that a hearing be held.

B. The court may proceed to make a determination on the infraction under any of the following circumstances:

(1) If a hearing is held, either at the request of the cited person or at the court's own direction, when the court makes a finding on the evidence presented at the hearing.

(2) If a hearing is not required by statute, ordinance, directed by the court or requested by the cited person and the

cited person has complied with Section 16 above, when the court makes a finding on the citation, any plea and any evidence or other material submitted.

(3) If the court does not direct that a hearing be held, a hearing is not required by statute or ordinance and the person has not complied with Section 16 above or made appearance, when the time indicated in the citation passes and the court makes a finding on the citation and any other evidence the judge determines appropriate.

C. Upon completion of its determination under subsection B of this section, the court may enter the appropriate judgment and, if the determination is one of conviction, may do any of the following as part of the judgment:

(1) Impose a sentence of a fine.

(2) Direct that the fine be paid out of the bail deposit.

(3) Unless the court orders otherwise, remit the balance to the defendant or to any other person designated by the defendant.

D. If the person complies with Section 16 above and deposits the amount of bail thereunder but neither the person nor the court requests a hearing and a hearing is not required by statute or ordinance, no fine may be imposed in excess of the bail deposited. If the person has not deposited bail under Section 16 or has requested a hearing under Section 16 without depositing bail and does not appear at the hearing, the court may impose any fine within the statutory limits for the infraction.

E. If a court sentences a person to pay a fine under this section when the person has not complied with Section 16, the court is not precluded from:

(1) Taking any other action against the person as permitted by law for the person's failure to comply, including, but not limited to, sentencing the person further as permitted by law after the person is brought to hearing.

(2) Following any procedures established by law when the person fails to appear.

F. If a judgment is entered under this section after a person has failed to comply with Section 16 or make appearance, on motion and upon such terms as are just, the court may relieve a person from the judgment upon a showing that the failure of the cited person to comply with Section 16 or to appear was due to mistake, inadvertence, surprise or excusable neglect. The motion must be made within a reasonable time, and in no event more than one year after the person receives notice of the judgment.

G. No judgment may be entered under this section by reason of a person failing to comply with Section 16 or make appearance unless the citation issued to the person contains a statement notifying the cited person that a monetary judgment may be entered against the person up to the maximum statutory limit for the offense if the cited person fails to comply with Section 16 or appear at the time, date and court specified in the citation.

[En. Ord. 89-9; Am. Ord. 92-15.]

SECTION 18. FAILURE OF DEFENDANT TO APPEAR.

A. If a person cited under this ordinance fails to comply with the provisions of Section 16 above, or if the person fails to appear at any time fixed by the court, a warrant for the arrest of the person may be issued. A warrant issued by a circuit, district, justice or municipal court may be served without further endorsement, in any county in this state.

B. No warrant of arrest may be issued pursuant to this section after a period of sixty (60) days from the date of the entry of an order declaring a forfeiture of bail or other security given by the arrested person. Unless a warrant has been issued before the expiration of that period, the order of forfeiture shall be deemed the final disposition of the case.

[En. Ord. 89-9.]

SECTION 19. JURISDICTION OF COURTS.

A. Subject to Section 14.D above, the Circuit Courts and District Court of the State of Oregon for Columbia County have concurrent jurisdiction of all infractions enforceable under this ordinance.

B. Subject to Section 14.D above, any justice court in Columbia County, for offenses committed within the county, and any

municipal court, for offenses committed within the jurisdictional authority of any city which has consented to the application of this ordinance, also have concurrent jurisdiction of all infractions enforceable under this ordinance.

[En. Ord. 89-9.]

SECTION 20. PROSECUTION.

A. To the extent any offense declared to be an infraction under this ordinance is also an offense under state law, the District Attorney and any Deputy District Attorney of Columbia County shall retain any authority and jurisdiction given under state law to prosecute the alleged offender in the name of the state under the provisions of state law. In addition, for any other offense declared to be an infraction under this ordinance, the District Attorney and any Deputy District Attorney shall have the authority and jurisdiction, subject to ORS 153.250(2), to prosecute the alleged offender in the name of the county under the provisions of this ordinance at the written request of the Board of County Commissioners.

B. To the extent any offense declared to be an infraction under this ordinance occurs inside any incorporated city in this county and is also an offense under the city charter, code or ordinance, of such city, or under state law, the city attorney of such city shall retain any authority and jurisdiction given under such city charter, code or ordinance, or under state law, to prosecute the alleged offender in the name of the city or state under the provisions of the city charter, code or ordinance, or state law, as the case may be. In addition, for any other offense declared to be an infraction under this ordinance which occurs inside any incorporated city in this county, to the extent the governing body or electors of an incorporated city in this county authorize and consent to the application of this ordinance inside such city, the city attorney of such city shall have the authority and jurisdiction, subject to ORS 153.250(2), to prosecute the alleged violator in the name of the county under the provisions of this ordinance. The County Counsel or Assistant County Counsel shall have the authority and jurisdiction to prosecute any such offense in the name of the county at the request of the governing body of such city and with the approval of the Board of County Commissioners.

C. Except to the extent provided in Subsections A and B above, for any offense declared to be an infraction under this

ordinance the County Counsel and Assistant County Counsel shall have the authority and jurisdiction, subject to ORS 153.250(2), to prosecute the alleged violator in the name of the county under the provisions of this ordinance.

[En. Ord. 89-9.]

SECTION 21. BAIL SCHEDULES.

A. The Board of County Commissioners may by order establish and modify recommended schedules of bail for infractions enforceable under this ordinance. Any court listed in Section 19 above may accept or modify such bail schedules.

B. Until modified by order of the Board, the recommended bail shall be \$100.00 for any infraction complaint filed under this ordinance.

C. A person accused of committing an infraction enforceable under this ordinance who requests a trial must post bail unless bail is expressly waived by the judge.

[En. Ord. 89-9.]

SECTION 22. TRIAL PROCEDURE.

A. Except as otherwise specifically provided in this ordinance, or in ORS 153.110 to 153.310 and 153.990, the criminal and criminal procedure laws of this state relating to a violation as described in ORS 161.505 and 161.565 apply with equal force and effect to an infraction enforceable under this ordinance.

B. The trial of any infraction enforceable under this ordinance shall be by the court without a jury.

C. The trial of any infraction enforceable under this ordinance shall not commence until the expiration of seven (7) days from the date of citation for the infraction unless the defendant waives the seven (7) day period.

D. The state, county, or city shall have the burden of proving the alleged infraction by a preponderance of the evidence.

E. The pretrial discovery rules in ORS 135.805 to 135.873 apply to infraction cases. As used in ORS 135.805 to 135.873, "District Attorney" shall include the County Counsel or Assistant

County Counsel for infractions prosecuted by the county, and a city attorney for infractions prosecuted by a consenting city, under this ordinance.

F. The defendant may not be required to be a witness in the trial of any infraction under this ordinance.

G. Proof of a culpable mental state is not an element of an infraction enforceable under this ordinance.

H. At any trial involving an infraction enforceable under this ordinance, defense counsel shall not be provided at public expense.

I. At any trial involving an infraction enforceable under this ordinance, a prosecuting attorney may aid in preparing evidence and obtaining witnesses, but shall not appear unless counsel for the defendant appears. The court shall insure that the prosecuting attorney is given timely notice if defense counsel is to appear at trial.

J. A person convicted of committing an infraction enforceable under this ordinance shall not suffer any disability or legal disadvantage based upon conviction of crime.

K. The provisions of ORS 153.260 and 153.270(4) with regard to subsequent prosecutions, admissibility of evidence of convictions, res judicata, collateral estoppel and impeachment apply with equal force and effect to infractions enforceable under this ordinance.

[En. Ord. 89-9.]

SECTION 23. PENALTIES FOR INFRACTIONS.

The penalty for committing an offense declared to be an infraction under this ordinance shall be a fine only. All offenses declared to be infractions under this ordinance are classified for purpose of sentence as Class A infractions. A sentence to pay a fine for an infraction under this ordinance shall be a sentence to pay a fine not exceeding \$500.00. However, 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 an infraction under this ordinance. Nor shall it authorize a fine in excess of the \$1,000.00 limit set for continuing offenses.

by ORS 203.065.

[En. Ord. 89-9.1

SECTION 24. DISPOSITION OF FORFEITED BAIL OF FINES RECEIVED.

Forfeited bail and fines recovered under this ordinance 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 Columbia County Treasurer, or City Recorder for proceedings in municipal court, for the general fund of the county or city, as the case may be.

[En. Ord. 89-9.]

SECTION 25. RESPONSIBILITY TO REMEDY.

Forfeiture of bail or payment of a fine on a citation issued under this ordinance does not relieve an offender of the responsibility to remedy the violation and such offender may be subject to additional enforcement as provided by this ordinance.

[En. Ord. 89-9.]

SECTION 26. APPEALS.

An appeal from a judgment involving an infraction enforceable under this ordinance may be taken by either party:

A. From a proceeding in justice court or municipal court as provided in ORS Chapter 53;

B. From a proceeding in district court as provided in ORS Chapter 46; or

C. From a proceeding in circuit court as provided in ORS 19.005 to 19.026 and 19.029 to 19.200.

[En. Ord. 89-9.]

SECTION 27. OTHER REMEDIES PRESERVED.

In lieu of the infraction procedure set forth in Sections 10 through 26 of this ordinance, or in addition to it, any and all other remedies provided by the statutes, administrative rules, ordinances, orders and resolutions, and provisions thereof, listed

in Sections 4 and 6 above to abate or enjoin acts or conditions declared by this ordinance to be nuisances, or to otherwise enforce the laws enforceable under this ordinance, are preserved and may be utilized by any authorized person, the Board of County Commissioners, city governing body of any consenting city, and any authorized prosecutor to seek compliance with the law and to remedy or penalize violations. The county, and any consenting city, shall be entitled to its reasonable costs, disbursements and attorneys fees for any enforcement action taken under this section.

[En. Ord. 89-9.]

SECTION 28. DECISIONS NOT TO TAKE ENFORCEMENT ACTION.

A. Enforcement of those offenses declared to be infractions by this ordinance utilizing the infraction procedures set out in this ordinance, by any authorized person, by the county or by any consenting city is permissive and not mandatory.

B. Except to the extent specifically, clearly and expressly stated otherwise in the relevant statute, administrative rule, ordinance, order or resolution involved, or provision thereof, or related provisions, enforcement of those statutes, administrative rules, ordinances, orders and resolutions, or provisions thereof, enforceable under this ordinance, and any other statutes, administrative rules, ordinances orders and resolutions, or provisions thereof, the enforcement of which by an authorized person, by the county, or by any consenting city is allowed by law, by any other means authorized by law, including but not limited to mandamus, injunctive and other equitable proceedings, is also permissive and not mandatory.

C. When any authorized person receives information from any source that leads him or her to believe an offense declared to be a nuisance and infraction by this ordinance has occurred, or is occurring, or a violation of any other statute, administrative rule, ordinance, order or resolution, or provision thereof, whatsoever has occurred, or is occurring, that the authorized person, the county or any consenting city is authorized by law to enforce, by any method, he or she shall make a determination, considering the severity of the alleged violation, the departmental and county or city staff, time and resources necessary, and the probability of success, whether enforcement action is warranted and what type of enforcement action should be undertaken. If that information is brought to the authorized person's attention by formal written complaint, and based upon the information received

the authorized person determines that enforcement is not warranted, he or she shall promptly mail or deliver written notice to the complainant of the decision made not to take enforcement action.

D. Within ten (10) calendar days of the mailing date, or service date if served personally, of the written notice of a decision not to take enforcement action, a person who filed a formal written complaint may appeal the decision to the Board of County Commissioners, or city governing body. The appeal must be in writing, must be signed by the complainant, must state why the authorized person's decision should be reconsidered and must be received by the Board of County Commissioners or city recorder's office within the ten (10) calendar day period. When an appeal is properly filed, an appeal hearing will be scheduled within thirty (30) days at which the complainant may present evidence to demonstrate that enforcement action is warranted considering the severity of the alleged violation, the departmental and county or city staff, time and resources necessary, and the probability of success. The authorized person may also, but need not, offer evidence at such hearing. At the conclusion of such hearing, the Board or city may either reverse, affirm or modify, the authorized person's decision. The Board or city will promptly mail or deliver written notice of the decision to the complainant.

E. The burdens of proof, of persuasion, and of going forward with evidence to justify enforcement action shall be on the complainant.

F. Notwithstanding Subsections A through F above, the Board of County Commissioners or city governing body may at any time reconsider, reverse or modify any decision made not to take enforcement action.

G. A decision made not to take enforcement action is declared to be an act of discretion as described by ORS 30.265(3)(c).

H. Review of a Board or city governing body decision not to take enforcement action may be requested pursuant to ORS 34.010 to 34.100.

I. The means provided by this section for seeking county or city enforcement action are not exclusive, but they are the exclusive means of compelling county or city enforcement action. The requirements herein are jurisdictional and strict adherence to them is required.

J. Notwithstanding any decision by an authorized person, the county or a city not to take enforcement action, any person adversely affected by an offense declared to be a nuisance and infraction under this ordinance shall retain any authority and jurisdiction given under state law or common law to pursue private civil remedies, whether legal or equitable, including nuisance abatement or injunctive relief, against the alleged offender.

[En. Ord. 89-9; Am. Ord. 92-15.]

SECTION 29. INTERGOVERNMENTAL AGREEMENTS.

The Board may enter into intergovernmental agreements with any city or cities in Columbia County and with any administrative agency of the State of Oregon to further the purposes of this ordinance. An agreement under this section shall be in accordance with ORS Chapter 190.

[En. Ord. 89-9.]

SECTION 30. SEVERABILITY CLAUSE.

[En. Ord. 89-9; Del. Ord. 90-19.]

SECTION 31. REPEAL OF CONFLICTING ORDINANCES.

[En. Ord. 89-9; Am. Ord. 90-7; Del. Ord. 90-19.]

SECTION 32. EMERGENCY CLAUSE.

[En. Ord. 89-9; Am. Ord. 90-7; Del. Ord. 90-19.]