

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of Amending the Columbia County)
Kennel Ordinance to Comply with Senate Bill 6)
and to Clarify and Modify Standards and) **Ordinance No. 2013-5**
Procedures)

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

SECTION 1. TITLE.

This Ordinance shall be known as Ordinance No. 2013-5.

SECTION 2. AUTHORITY.

This Ordinance is adopted pursuant to ORS 203.035 and Ordinance No. 2007-7.

SECTION 3. PURPOSE.

The purpose of this Ordinance is to amend the Columbia County Kennel Ordinance to comply with Senate Bill 6, which was adopted in 2013, and to modify provisions relating to field inspections, continuous barking, obnoxious odors, kennel license renewals, land use approvals, penalties for non-compliance with conditions placed on kennel licenses, and appeal procedures.

SECTION 4. AMENDMENT.

The Board of County Commissioners hereby amends the Columbia County Kennel Ordinance as shown in Exhibit A, which is attached hereto and incorporated herein by this reference.

SECTION 5. SEVERABILITY.

The provisions of this Ordinance are severable. If any provision of this Ordinance is determined to be invalid by a court of competent jurisdiction, such provision shall be considered a separate, distinct and independent provision and the decision shall not effect the validity of the remaining portions hereof.

SECTION 6. 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 7. EMERGENCY.

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 13th day of November 2013.

Approved as to form

By: 
Office of County Counsel

Attest:
By: 
Jan Greenhalgh, Recording Secretary

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: 
Henry Heimüller, Chair

By: 
Anthony Hyde, Commissioner

By: 
Earl Fisher, Commissioner

First Reading: 10-30-13
Second Reading: 11-13-13
Effective Date: 11-13-13

EXHIBIT A

COLUMBIA COUNTY KENNEL ORDINANCE

(Additions are in **bold**; deletions are in ~~strike-through~~.)

SECTION 1. DEFINITIONS.

A. As applied in this Ordinance, “Kennel” means:

(1) Any property that houses ten (10) or more dogs over six (6) months of age. **For purposes of enforcing this Ordinance, there shall be a rebuttable presumption that every dog on the property is over six (6) months of age, unless documentation or physical inspection acceptable by the Animal Control Officer proves otherwise.**

[Staff Commentary: Because it can be difficult to tell whether a dog is over 6 months of age without documentation or a close physical examination of the dog, enforcement can be a challenge when a property owner refuses to allow staff to inspect the dogs. A rebuttable presumption that a dog is over six months of age will allow the County to enforce a kennel violation if the property has 10 or more dogs even if the owner has prohibited the County access to the property. If any of the dogs are 6 months or younger, the owner can rebut the presumption with documentation of age or by allowing a physical inspection the Animal Control Officer.]

(2) Any “Animal Pound” or “Animal Shelter” as defined by OAR 603-015-0025(1).

(3) Any “Boarding Kennel” as defined by OAR 603-015-0025(2).

(4) Any “Commercial Kennel” as defined by OAR 603-015-0025(3).

(5) Any “Grooming Parlor” as defined by OAR 603-015-0025(5).

(6) Any “Pet Shop” or “Animal Dealer” as defined by OAR 603-015-0025(7) that handles dogs.

(7) **Any “Animal Rescue Entity,” which means an individual or organization that keeps, houses, and maintains in its custody ten (10) or more animals and that solicits or accepts donations in any form. “Animal Rescue Entity” includes kennels not subject to ORS 167.364 but excludes veterinary facilities.**

[Staff commentary: “Animal Rescue Entity” is added to comply with Senate Bill 6, adopted in 2013.]

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

C. "Owner" and "operator", as used in this Ordinance, do not include mortgagees, beneficiaries under a trust deed, or contract vendors under a land sale contract. The term "owner", however, includes landlords, lessors, lessees and contract vendees under a land sale contract.

SECTION 2. ANNUAL KENNEL LICENSE REQUIRED.

~~Except as provided by Section 11 below, it is unlawful to own property within Columbia County where a kennel is located, or to operate a kennel within Columbia County, without possessing a valid annual kennel license for the current calendar year, or, during January and February of any year, without possessing a valid annual kennel license for the current or previous calendar year.~~

[Staff Commentary: Under ORS 609.100, dog owners have until March 1st to license individual dogs. However, a March 1st deadline essentially allows a two-month grace period because dog licenses expire on December 31. The Kennel Ordinance is a dog licensing ordinance, that allows a kennel license multiple dogs rather than licenses for each individual dog. In coordination with the statutory dog licensing program, the Kennel Ordinance provides the same March 1st deadline for kennel licenses. But this prevents the County from issuing a citation for operating a kennel without a license during the months of January and February. The two-month grace period, which may be inconsequential for the licensing of one or a few dogs, can pose a significant health and safety risk with a kennel operation. Staff thus proposes that the two-month grace period for kennel licenses be eliminated.]

SECTION 3. COMPLIANCE WITH KENNEL STANDARDS REQUIRED.

~~— Except as provided by Section 11 below, it is unlawful to own property within Columbia County where a kennel is located, or to operate a kennel within Columbia County, that does not comply with the kennel standards established by this Ordinance.~~

[Staff Commentary: This Section has been deleted because proposed language in Section 7 will require compliance with the Kennel Standards.]

SECTION 42. ANNUAL KENNEL LICENSES REQUIRED; RENEWAL; LATE FEE.

A. A kennel license is required to own or operate a kennel in Columbia County.

B. **New License.** Before a new annual kennel license may be issued under this Ordinance, the owner or operator must **submit an application for a kennel license and pay the annual license fee. A kennel license will not be issued until the kennel is inspected and found to be in compliance with the kennel standards of this Ordinance.** ~~have an inspection and demonstrate compliance with the kennel standards established under Section 9 of this Ordinance.~~ **A decision to deny a kennel license application may be appealed in accordance with Section 8, below. An annual kennel license issued pursuant to this Ordinance is valid from January 1 of the year in which it was issued until December 31 of that year.**

C. **License Renewal.** Kennel licenses may be renewed without a new inspection, but if a kennel does not maintain compliance with the kennel standards established under Section 79 and the additional standards under Section 10, the kennel license may not be renewed, ~~and/or may be subject to suspension~~

~~or revocation suspended or revoked~~ under Section 118 of this Ordinance.

~~B. An annual kennel license issued pursuant to this Ordinance is valid from January 1 of the year in which it was issued until December 31 of that year.~~

~~C. Late Fee. The owner or operator of a facility or property where a kennel is located, and who has a valid kennel license for a calendar year, must renew the annual kennel license by March January 1 of the following calendar year. A late fee will be charged for a kennel license that is not renewed by January 1.~~

~~D. The owner or operator of a facility or property where a kennel is located, and who had a valid kennel license for the previous calendar year, must pay a late fee if the annual kennel license is not renewed by March 1 of the following calendar year.~~

E. The Animal Control Officer may, but is not required to, notify or remind owners and operators of kennels of the requirement to renew their annual kennel licenses.

[Staff Commentary: Changes to this section remove the March 1 grace period discussed above. Changes also clarify the process for new licenses.]

SECTION 53. FIELD KENNEL LICENSE APPLICATIONS.

An owner or operator of a facility or property where a kennel is located who does not possess a valid annual kennel license ~~for the current calendar year or the previous calendar year~~ may request a field kennel license application, in lieu of a citation. In order to obtain a kennel license, the person must immediately complete the field kennel license application, pay the annual kennel license fee and the field kennel license surcharge. A **field** kennel license will not be issued until the kennel is inspected and is found to be in compliance with the kennel standards established under Section 97 of this Ordinance.

[Staff Commentary: This change deletes extraneous language.]

SECTION 64. FIELD KENNEL INSPECTIONS.

A. The Animal Control Officer or the Officer's designee may inspect any kennel located within Columbia County to verify compliance with the kennel standards established by this Ordinance. Kennel operators shall allow inspections during normal business hours (9 a.m. to 5 p.m., Monday through Saturday) upon the request of the Animal Control Officer or the Officer's designee.

~~B. The Animal Control Officer or Officer's designee will give 2 hours notice of a routine inspection to be conducted of a kennel operation. Routine inspections will be conducted when in the physical presence of the kennel operator or representative is on-site and available to aid in the inspection process. No inspection will be conducted without the kennel operator or representative being physically present at the time of inspection. When a kennel operator or representative is not available and cannot be contacted to provide the two hour notice of a routine inspection, written notice may be posted conspicuously on the property where a kennel is located that Animal Control will attempt another~~

inspection within at least 48 hours before the routine inspection. For a property that has been posted with a 48-hour inspection notice, the kennel operator or representative may call the County to schedule an inspection to take place within the 48-hour period identified on the notice. The refusal failure to allow a field inspection by the Animal Control Officer or Officer's designee, after providing proper notice as provided in this Section, after the posting of a 48 hours notice, shall be a violation of this Ordinance subject to enforcement pursuant to Section 139 of this Ordinance. Each day a field inspection is refused or cannot be obtained shall be a separate offense.

[Staff Commentary:

1. *The two-hour notification is a problem because it allows owners/operators of kennels with compliance problems to avoid inspection by saying that they will not be home and/or cannot be home. Two hour notice also allows operators to relocate dogs and hide violations. Inspection without notice will allow County enforcement staff to have an accurate picture of how owners/operators are caring for the animals.*
2. *Changing "refusal" to allow inspections to "failure" to allow inspections addresses more passive attempts to avoid inspection.]*

C. For a kennel that is in violation of the standards of this Ordinance, an owner or operator of a facility or property where a kennel is located which is not in compliance with the kennel standards established by this Ordinance may request and immediately pay for a re-inspection within 48 hours, in lieu of a citation. If on re-inspection, the kennel remains in noncompliance with the standards of this Ordinance, a citation may be issued for violations of this Ordinance. In addition to or in lieu of a citation, the Animal Control Officer or Officer's designee may require a re-inspection after a 48 hour period of time and the payment of a re-inspection fee.

[Staff Commentary: Clarifies that re-inspection does not remove the possibility of a citation if noncompliance continues. Also, because a citation does not remove the requirement to comply with the Ordinance, a re-inspection may be warranted, especially if the violations need to be immediately resolved.]

SECTION 75. ESTABLISHMENT AND ADJUSTMENT OF FEES.

A. The following fees are established:

Annual Kennel License Fee	\$175 250
Annual Kennel License Fee for a Grooming Parlor	\$100
Late Fee	\$100
Field Kennel License Surcharge	\$100
Re-Inspection Fee	\$100 200

B. The fees established by this Ordinance may be adjusted by ordinance, order or resolution adopted at a public meeting by the Board.

[Staff Commentary: Staff proposes an increase in the fee for annual kennel licenses. Kennel inspections and re-inspections are very time consuming, requiring a lot of documentation and detailed reporting. The increase in fees will help to recover actual costs for staff time. Staff also proposes a lower kennel

license fee for groomers. Groomers do not board dogs on site, and inspections of such facilities are much less involved.]

SECTION 86. DOG LICENSES NOT REQUIRED.

An owner or operator of a facility or property where a kennel is located who possesses a valid, annual kennel license for the current calendar year (~~or, during January and February of any year, who possesses a valid annual kennel license for the current or previous calendar year~~) shall not be required to purchase or possess dog licenses for the dogs located, housed or boarded in the kennel.

[Staff Commentary: This amendment removes the 3-month grace period for license renewals, as discussed above.]

SECTION 97. ESTABLISHMENT AND REVISION OF KENNEL STANDARDS.

~~A. The following kennel standards are established:~~ **All kennels shall comply with the standards in this section. Failure to comply with any of the standards shall be a basis for denial, modification or revocation of the kennel license pursuant to Section 8, below. The Board may establish new or additional kennel standards, or revise these kennel standards by adoption of an Ordinance, order or resolution at a public meeting.**

[Staff Commentary: Both Sections 9 and 10 of the existing Kennel Ordinance contain standards for kennels. The proposed amendments combine the two sections into one and clarify that failure to comply any of the standards is a basis for denial, revocation or modification of a kennel license.]

A. ~~(1)~~ **Facilities.** All facilities shall satisfy the requirements of OAR 603-015-0040 and OAR 603-015-0045.

B. ~~(2)~~ **Standards of Care.** All kennel operators shall satisfy the standards of care requirements of OAR 603-015-0050 and OAR 603-015-0055.

~~B. The Board may establish new or additional kennel standards, or revise these kennel standards by adoption of an Ordinance, order or resolution at a public meeting.~~

[Staff Commentary: Moved to first paragraph, above.]

SECTION 10. ADDITIONAL REQUIREMENTS.

~~CA.~~ **Records.**

(1) All dogs six months of age or older housed in kennels must have on-site proof of current rabies vaccinations.

(2) All kennels must comply with the records requirements of OAR 603-015-0060.

(3) Kennels that are animal rescue entities, shall comply with the following records requirements:

- (a) Maintain a record for each animal that identifies:**
 - (i) The date of birth for the animal or if the date of birth is unknown, the approximate age of the animal;**
 - (ii) The date the animal rescue entity acquired possession, control or charge of the animal and the source of the animal;**
 - (iii) The disposition the animal rescue entity makes of each animal possessed by, controlled by or in the charge of the animal rescue entity, including the date of disposition, manner of disposition and the name and address for any individual or organization taking possession, control or charge of an animal;**
 - (iv) The source of the animal, date of acquisition, age, sex, breed type and weight of the animal at intake; and**
 - (v) A photograph of the animal taken within 24 hours of intake by the animal rescue entity.**
- (b) Allow inspection of the above-listed records and furnish reports required by the Animal Control Officer or his or her designee.**
- (c) The County will not issue a new or renewal license to an animal rescue entity that fails to comply with the records requirements in this Section.**

[Staff Commentary: The proposed language complies with Senate Bill 6.]

DB. A kennel license shall be conspicuously posted and openly displayed on the facility premises and the holder of a kennel license shall keep it readily available for inspection by the Animal Control Officer or Officer's designee.

EC. All ~~dogs~~ animals on the property shall be maintained within kennels, or otherwise confined on the property, and not allowed to run free except when under direct control and supervision of kennel staff or the ~~dogs'~~ owners.

FD. Solid Waste.

All kennels shall at all times provide proper disposal of animal waste by one of the following means:

- (1) Service by a franchised solid waste hauler for the regular disposal of animal waste.**

(2) Treatment by an installed on-site septic system approved by the County for handling the level of animal waste generated by the kennel operation.

(3) Self-haul of solid waste for regular disposal at a licensed solid waste transfer station or disposal facility with prior approval from the Animal Control Officer. Self-hauling kennel operations shall keep records of regular solid waste disposal available for inspection by the Animal Control Officer. The Animal Control Officer may revoke the ability of a kennel to self-haul for the failure to adequately contain solid waste, failure to regularly dispose of solid waste, or for the failure to maintain or provide the Animal Control Officer with adequate records of regular solid waste disposal.

GE. Land Use Requirements.

Kennels are subject to the regulations in the Columbia County Zoning Code (CCZO). A kennel license will not be issued until all required land use approvals have been obtained. A kennel shall be in compliance with the terms and conditions of its land use approval. Failure to comply with any land use conditions of approval shall be enforceable as a violation of the Kennel Ordinance in addition to any other enforcement action allowed by law.

[Staff Commentary: The proposed language would allow Animal Control to enforce conditions of approval placed on kennels through the land use process. The conditions often apply directly to kennel operations, such as limits to the hours that dogs can be outdoors, limits to the locations where dogs are allowed, etc. This amendment will provide an efficient way to enforce such land use conditions since Animal Control generally hears of complaints first and has access to the kennels as part of the inspection process. Without the proposed amendment, the Animal Control Officer lacks authority to enforce land use conditions of approval even if they apply directly to kennel operations.]

H. Noise.

Continuous barking or other animal noise shall be prohibited. For purposes of this Ordinance, "Continuous Barking or Other Animal Noise" means barking, whining, howling, or other noise from one or more animals, that:

- (1) **Is constant and prolonged for more than 30 minutes, or 15 minutes between the hours of 10 pm to 7 am; and**
- (2) **Unreasonably interferes with the use and enjoyment of a property that is beyond the boundary of the kennel property.**

[Staff Commentary: Excessive dog barking is one of the most frequent complaints the County receives on kennels. Adding this standard to the Kennel Ordinance will provide a basis for the County to deny, revoke or modify a kennel license for continuous dog barking or other animal noise that unreasonably interferes with the use and enjoyment of neighboring properties.]

I. Obnoxious Odors. Odors that unreasonably interfere with the use and enjoyment of a property that is beyond the boundary of the kennel property are prohibited.

[Staff Commentary: With the addition of animal rescue entities to the Kennel Ordinance, rescue organizations for other animals, such as cats and pot-belly pigs, can be licensed by the County. This standard is intended to prevent potential conflicts with neighboring properties due to odors.]

SECTION 118. DENIAL, MODIFICATION AND ~~OR~~ REVOCATION.

[Staff Commentary: The proposed language clarifies that this Section applies to the denial of new kennel licenses as well as the modification and revocation of existing licenses. The proposed changes also clarify that the Animal Control Officer has the authority to deny, modify and revoke kennel licenses, and that such decisions may be appealed to the Board of Commissioners.]

A. ~~The Board of County Commissioners~~ Animal Control Officer may deny a new kennel license, revoke a current kennel license or establish or modify conditions of ~~any~~ a kennel license at any time if the owner or operator, or any person subject to his or her direction or control, refuses or fails to comply with the provisions of this Ordinance, or any other applicable federal, state or local laws regarding the keeping of animals or the operation of kennel facilities. The Animal Control Officer's decision to deny, modify or revoke a kennel license shall be in writing, and shall be mailed by certified or registered mail, return receipt requested, to the applicant for a new kennel license (hereinafter "applicant"), or to the license holder of an existing kennel license (hereinafter "licensee).

B. The Animal Control Officer's decision may be appealed to the Board of County Commissioners by filing an appeal with Board of County Commissioners, 230 Strand, St. Helens, OR 97501, within 14 days of the date the decision was mailed. The appeal shall be in writing and shall include:

- (1) The name and address of the appellant;**
- (2) A copy of the decision being appealed; and**
- (3) The reason the decision is incorrect.**

~~CB.~~ The Board of County Commissioners shall hold a public hearing to consider ~~whether to revoke a kennel license or modify conditions imposed~~ the appeal, at which time the ~~owner or operator~~ applicant or licensee and affected parties may appear and be heard. The hearing shall be conducted as a quasi-judicial hearing.

~~DE.~~ Notice of said hearing shall be placed in the mail to the ~~owner or operator~~ applicant or licensee not later than ten (10) days before the date of said hearing and shall be sent by certified or registered mail, return receipt requested.

~~EØ.~~ A kennel license shall not be denied, modified or revoked unless substantial evidence is produced to show in the record supports a finding that the ~~owner or operator~~ kennel is not in compliance with the provisions of this Ordinance, or any other applicable federal, state or local laws regarding the keeping of animals or the operation of kennel facilities. The hearing shall be conducted as a quasi-judicial hearing. ~~Review of the revocation decision shall be solely and 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.~~

FE. In lieu of revocation of a kennel license, the Board of County Commissioners may place reasonable additional restrictions and/or requirements upon a kennel operation. These requirements may include but are not limited to: limiting the numbers of ~~dogs~~ **animals** allowed to be maintained at the kennel, additional fencing or sound barrier requirements, requirements that the animals be enclosed within suitable housing during restricted hours, or other measures designed to eliminate the offending issues. A kennel operation whose kennel license is modified shall meet all requirements placed upon it by the Board within 30 days.

G. The Board's decision shall not be final until it is put in writing and mailed to the applicant or licensee.

H. Review of the decision to deny, revoke or modify a license shall be solely and 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.

IF. An owner or operator whose kennel license is **denied or** revoked shall, within ten (10) days, humanely dispose of all ~~dogs~~ **animals** owned by him or her or shall otherwise obtain individual dog licenses for all dogs not disposed of. No part of the kennel license fee shall be refunded in such case.

~~SECTION 12. EXISTING KENNEL OPERATIONS.~~

~~— A. Operators with current commercial kennel licenses issued pursuant to Ordinance No. 88-14 shall purchase new kennel licenses under this Ordinance upon the expiration of their current commercial kennel licenses and comply with the kennel standards provided in this Ordinance. Operators with current commercial kennel licenses shall continue to comply with the requirements of Ordinance No. 88-14 until the expiration of their current kennel licenses.~~

~~— B. Operators with current non-commercial kennel licenses issued pursuant to Ordinance 88-13 may renew their non-commercial kennel licenses for the fee charged for a kennel license issued under this Ordinance for the first calendar year after the effective date of this Ordinance. After the first calendar year period, non-commercial kennel operators must purchase new kennel licenses as required by this Ordinance and comply with the kennel standards provided in this Ordinance. Operators with current non-commercial kennel licenses shall continue to comply with the requirements of Ordinance No. 88-13 until the expiration of their current non-commercial kennel licenses.~~

[Staff Commentary: The above section is no longer necessary as there are no current commercial/non-commercial kennel licenses. All such licenses have expired.]

~~SECTION 13 9. ENFORCEMENT.~~

This Ordinance is enforceable as provided by, and violators hereof are subject to the penalties provided in, the Columbia County Enforcement Ordinance.