

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR COLUMBIA COUNTY, OREGON

In the Matter of Adopting the Columbia
County Parking and Towing Ordinance

ORDINANCE NO. 2019-5

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

SECTION 1. TITLE.

This Ordinance shall be known as Ordinance No. 2019-5 and may also be cited and referred to as the "Columbia County Parking and Towing Ordinance."

SECTION 2. AUTHORITY.

This Ordinance is adopted under the authority of ORS 203.035, 810.010, 810.040, 810.160, and 819.140.

SECTION 3. PURPOSE.

This Ordinance establishes regulations for the parking and towing of vehicles and other activities on County roadways in order to prevent safety hazards, such as obstructed views of the road and insufficient width for safe movement of vehicles and pedestrians, that are caused by parked vehicles and other activities within roadways.

SECTION 4. APPLICATION.

This Ordinance shall apply to County Roads and Local Access Roads in Columbia County; however, this Ordinance shall not apply within the limits of any city.

SECTION 5. ADOPTION.

The Columbia County Parking and Towing Ordinance, which is attached hereto as Exhibit A and incorporated herein by this reference, is hereby adopted.

SECTION 6. SEVERABILITY

If any provision of this Ordinance, including Exhibit A, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the remaining portions thereof.

SECTION 7. SCRIVENER'S ERRORS

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

SECTION 8. EMERGENCY

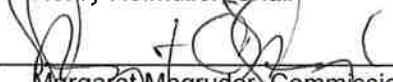
This Ordinance being immediately necessary to maintain the public health, safety, and welfare, an emergency is declared to exist, and this Ordinance shall take effect upon adoption.

DATED this 06 day of November 2019

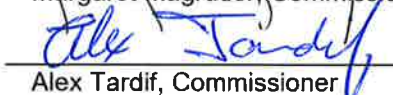
BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

Approved as to form:
By: 
Office of County Counsel

By: 
Henry Heimuller, Chair

By: 
Margaret Magruder, Commissioner

Attest:
By: 
Recording Secretary

By: 
Alex Tardif, Commissioner

First Reading: 10:42 A.M
Second Reading: 10:43 A.M
Effective Date: 11-06-19

EXHIBIT A

COLUMBIA COUNTY PARKING AND TOWING ORDINANCE

SECTION 1. APPLICATION.

This Ordinance shall apply to County Roads and Local Access Roads in Columbia County; however, this Ordinance shall not apply within the limits of any city.

SECTION 2. DEFINITIONS.

- A. For the purposes of this Ordinance, words used in the present tense include the future, the singular number includes the plural, the word "shall" is mandatory and not advisory, and the term "this Ordinance" shall include this Ordinance and all amendments made hereafter.
- B. The words and phrases in this Ordinance shall have the meanings provided in the Oregon Vehicle Code (ORS chapters 801 to 822), except:
 - 1. **Authorized Officer** means the Sheriff, any Sheriff's Deputy, Weighmaster, or any other person expressly authorized to enforce this Ordinance pursuant to Section 11 of the Columbia County Enforcement Ordinance.
 - 2. **Vehicle** means every device in, upon, or by which any person or property is, or may be, transported or drawn upon any street or highway, and includes any component thereof, including, but not limited to cars, campers, recreational vehicles, motor homes, pickup trucks, pickup truck canopies, and trailers.
 - 3. **Driving Surface** means that portion of the road designed for driving that is either asphalt or gravel. Driving surface does not include the shoulder.
 - 4. **Road Right of Way** means the right of way of a County Road or Local Access Road outside the boundary of any city that has been dedicated to the public for road and utility purposes and accepted by Columbia County.

SECTION 3. PARKING RESTRICTIONS.

- A. No Vehicle shall be parked, stopped, or left standing in violation of ORS 811.550 to 811.560, or 811.570.
- B. No Vehicle shall be parked within four (4) feet of the edge of the driving surface of any road right of way.

- C. No vehicle shall be parked upon any road right of way within twelve (12) feet of any mailbox used for pickup or delivery of the United States mail.
- D. No trailer shall be parked upon any road right of way unless it is attached to a motor vehicle by which it may be propelled or drawn. This paragraph shall not apply to trailers that are disabled to such an extent that the driver cannot avoid temporarily leaving the disabled trailer on the highway, provided that the trailer must be removed within three (3) days. This paragraph also shall not apply to trailers owned or operated under authority of the State or County when necessary to perform work on the roadway.
- E. No vehicle shall be parked upon any road right of way in violation of "No Parking" signs or markings, where the Board of County Commissioners has authorized such signs or markings.
- F. No vehicle shall be parked on any road right of way for more than 72 hours.
- G. No vehicle shall be parked where it is impeding or likely to impede the normal flow of vehicular, bicycle or pedestrian traffic; or where it is a hazard or is likely to be a hazard to vehicular, bicycle, or pedestrian traffic.
- H. No vehicle shall be parked on a road right of way when the vehicle registration as indicated by registration stickers or registration card has been expired for 90 days or more.
- I. Overnight lodging in a vehicle, tent or otherwise is prohibited in the road right of way.
- J. No vehicle shall be parked on a road right of way if it impedes the safe sight distance at an intersection or driveway, except for a vehicle of the County, state or public utility while in use for construction or repair work on a road right of way. Safe sight distance is determined by measuring whether a person entering the road right of way from an intersecting road or driveway has an unobstructed view of oncoming traffic for a distance of ten (10) times the posted speed limit.

SECTION 4. PERSON IN VIOLATION; REBUTTABLE PRESUMPTION.

- A. Unless otherwise exempt from prohibitions on stopping, standing, or parking as set forth in ORS 811.560, a person commits the violation of illegal parking, stopping, or standing if:

1. The person parks, stops, or leaves standing a vehicle in a place where such action is prohibited by this Ordinance; or
 2. The person is the owner of an unattended vehicle parked in a place where such parking is prohibited by this Ordinance.
- B. A person commits the violation of unlawful camping in the right of way if the person lodges overnight, in a vehicle, tent or otherwise in the right of way.
- C. An authorized officer who finds a vehicle standing upon a road right of way in violation of this Ordinance may move the vehicle, cause it to be moved, or require the driver or other person in charge of the vehicle to move it. The authority to take such action under this Section is in addition to the authority granted under Section 5.
- D. There shall be a rebuttable presumption that the registered owner of the vehicle, as shown in the records of the Oregon Department of Motor Vehicles, parked the vehicle in violation of this Ordinance. The burden of proof shall lie with the registered owner to show otherwise.

SECTION 5. ENFORCEMENT.

- A. Failure to comply with this Ordinance shall be a violation enforceable under the Columbia County Enforcement Ordinance. Violators of this Ordinance are subject to the penalties provided in the Columbia County Enforcement Ordinance.
- B. When an authorized officer finds a vehicle parked in violation of this Ordinance, the authorized officer may issue a citation to the owner or operator of the vehicle, in accordance with the Columbia County Enforcement Ordinance. The authorized officer issuing a citation shall:
1. If the operator is present, issue the citation to the operator; or
 2. If the operator is not present, affix one copy of the citation to the vehicle and mail another copy to the owner(s) or other person(s) who reasonably appear to have an interest in the vehicle within 72 hours, Saturdays, Sundays, and holidays excluded. Additional citations shall not be issued for the same violation on the same vehicle unless at least 24 hours have passed since the previous citation.

SECTION 6. TOWING WITHOUT PRIOR NOTICE.

- A. **Towing a Vehicle without Prior Notice.** An authorized officer may, without prior notice, order a vehicle towed when:
1. A vehicle is parked, stopped or standing in violation of this Ordinance.
 2. The vehicle registration as indicated by registration stickers or registration card has been expired for 90 days or more, the vehicle is required to be registered when operated on a highway roadway, and the vehicle is parked or being operated on a road right of way.
 3. The vehicle alarm system disturbs, injures, or endangers the peace, quiet, comfort, repose, health or safety of the public, if no other reasonable disposition of the vehicle can be made and the owner cannot be contacted by reasonable efforts.
 4. The vehicle is illegally parked in a conspicuously posted restricted space, zone, or traffic lane where parking is limited to designated classes of vehicles, or is prohibited in excess of a designated time period, or during certain hours, or on designated days, or is prohibited during a construction project defined by designated hours or days.
- B. **Notice After Tow.** After a vehicle has been towed under this section, notice of the towing and an opportunity for a hearing shall be sent within 48 hours of towing. The 48-hour period does not include holidays, Saturdays or Sundays. The notice shall include the information required by ORS 819.180, and shall be sent by certified mail, return receipt requested, to the owners of the vehicle and any lessors or security interest holders as shown in the records of the Oregon Department of Transportation.

SECTION 7. TOWING ABANDONED VEHICLES.

- A. **Towing an Abandoned Vehicle.** Unless otherwise subject to towing under Section 6, above, an abandoned vehicle may be towed if the authorized officer has reason to believe that the vehicle is disabled or abandoned, and the vehicle has been parked or left standing in the right of way for more than 24 hours without authorization under state or local law.
- B. **Notice.** Before towing an abandoned vehicle under this section, notice in compliance with ORS 819.170 shall be affixed to the vehicle at least 24 hours in advance. The 24-hour period includes holidays, Saturdays and Sundays.

- C. **Hearing.** If a timely request for a hearing has been received before the vehicle is towed, the vehicle may not be towed prior to the hearing unless the vehicle constitutes a hazard.

SECTION 8. PROCEDURE FOR VEHICLES WITH NO IDENTIFICATION.

If a vehicle that is subject to towing under Section 6 or 7, above, has no vehicle identification number, registration plate, or other markings from which the owner can be identified through the records of the Oregon Department of Motor Vehicles, the County may tow and dispose of the vehicle as though notice and an opportunity for a hearing had been given.

SECTION 9. VEHICLE INVENTORY AND REPORT.

- A. Every vehicle impounded under this Ordinance shall have its contents inventoried as soon as practical after impoundment is ordered. An inventory of an impounded vehicle is not a search for evidence of criminal activity. The purpose of the inventory is, as follows:
 - 1. To protect private property located within impounded vehicles;
 - 2. To prevent or reduce the assertion of false claims for lost or stolen property; and
 - 3. To protect people and property from any hazardous condition, material, or instrumentality that may be associated with an impounded vehicle.
- B. Inventories of impounded vehicles shall be conducted according to the following procedure:
 - 1. An inventory of personal property and the contents of open containers will be conducted throughout the passenger and engine compartments of the vehicle including, but not limited to, the glove box, other accessible areas under or within the dashboard area, any pockets in the doors or in the back of the front seat, in any console between the seats, under any floor mats and under the seats.
 - 2. In addition to the passenger and engine compartments as described above, an inventory of personal property and the contents of open containers will also be conducted in the following locations:
 - a. Any other type of unlocked compartments that are a part of the vehicle including, but not limited to, unlocked glove

compartments, unlocked vehicle trunks and unlocked car top containers.

- b. Any locked compartments including, but not limited to, locked glove compartments, locked vehicle trunks, locked hatchbacks and locked car-top containers, provided the keys are available and are to be released with the vehicle to the third-party towing company or an unlocking mechanism for such compartment is available within the vehicle.
 3. Closed containers located either within the vehicle or any of the vehicle's compartments will not be opened for inventory purposes except for the following, which shall be opened for inventory: wallets, purses, coin purses, fanny packs, personal organizers, briefcases or other closed containers designed for carrying money or small valuables, or closed containers which are designed for hazardous materials.
 4. Other closed containers shall be opened and inventoried if the owner acknowledges they contain cash in excess of \$10, valuables or a hazardous material.
 5. Any valuables, to include cash in excess of \$10 or property valued at more than \$200, located during the inventory process will be listed on a property receipt and stored in the property/evidence room of the Columbia County Sheriff's Office. A copy of the property receipt will either be left in the vehicle or tendered to the person in control of the vehicle if such person is present.
 6. The inventory is not a search for evidence of a crime, however, deputies shall seize evidence or contraband located during the inventory. Items should be scrutinized to the extent necessary to complete the inventory.
 7. Where a container is not otherwise subject to being opened under this Section, and the authorized officer has not obtained consent to inventory the contents of the container, the container shall be listed in the inventory as a container with a description of its outward appearance.
- C. Upon completion of the inventory, a report shall be completed and signed by the authorized officer and given to the registered owner of the vehicle and any other person who reasonably appears to have an interest in the vehicle. If no such person is present when the vehicle is towed, a copy of the report shall be left in a conspicuous place inside the vehicle and a

copy shall be mailed to the registered owner of the vehicle. A copy of the report shall be given to the tow truck operator. The report shall include:

1. The reason for the tow;
 2. The name of the company towing the vehicle;
 3. The name of the company or agency having custody of the vehicle for storage;
 4. A list of the contents of the vehicle; and
 5. Whether consent was obtained to search containers not otherwise subject to being opened under this Ordinance.
- D. Any items seized during the inventory, such as valuables, firearms, contraband, and evidence of criminal activity, shall be listed on a property-in-custody report and shall be given directly to the owner or operator of the vehicle, or if such person is not present, shall be left in a conspicuous place inside the vehicle and a copy shall be mailed to the registered owner of the vehicle.
- E. Nothing in this Section shall be construed as limiting or restricting the authority of a law enforcement officer to engage in searches and seizures for purposes other than the inventory of impounded vehicles.

SECTION 10. HEARING PROCEDURE.

- A. **Request for Hearing.** After a vehicle has been towed pursuant to Section 6, or prior to towing pursuant to Section 7, the owner or any other person who reasonably appears to have an interest in the vehicle, may file a request for a hearing to contest the validity of the tow or intended tow of the vehicle and the reasonableness of the charges for towing and storage, as follows:
1. The request for a hearing shall be in writing and must be received by the Records Supervisor, Columbia County Sheriff's Office, 901 Port Avenue, St. Helens, Oregon, 97051 within five (5) days of the mailing date of the towing notice. The five-day period does not include holidays, Saturdays, or Sundays.
 2. The written request shall state the grounds upon which towing of the vehicle is not justified;
- B. **Hearing Procedure.**

1. Upon receipt of a timely request for a hearing, a hearing shall be set and conducted within 72 hours of the receipt of the request, if the vehicle remains impounded. The hearing may be set for a later date if the vehicle is not impounded or if the owner or person entitled to possession so requests. The 72-hour period does not include holidays, Saturdays, or Sundays.
2. Notice of the hearing shall be provided to the person requesting the hearing and to the owners of the vehicle and any lessors or security interest holders shown in the records of the Oregon Department of Transportation.
3. The hearing shall be held before a hearings officer, which may be a County officer, official, or employee who has not participated in any determination or investigation related to the towing and impoundment of the subject vehicle.
4. At the hearing, the owner or person entitled to possession of the vehicle may contest the validity of the towing or intended towing of the vehicle. The County bears the burden of proof. The officer who authorized the vehicle to be towed may submit an affidavit to the hearings officer in lieu of a personal appearance. If the hearings officer finds by substantial evidence in the record:
 - a. That the action of the County in towing the vehicle was valid, the hearings officer shall order the vehicle to be held in custody until the costs of the hearing and all towing and storage costs are paid. If the vehicle has not yet been towed, the hearings officer shall order that the vehicle be towed.
 - b. That the action of the County in towing the vehicle was invalid, the hearings officer shall order the immediate release of the vehicle to the owner or person with right of possession. If the vehicle is released, the person to whom the vehicle is released is not liable for any towing or storage charges, and the County shall at its sole discretion either satisfy the towing and storage lien or provide for the reimbursement of such costs. The vehicle must be picked up by the person entitled to possession within 24 hours to avoid further storage charges. If the vehicle is not claimed within that time period, it will not be released until the additionally accrued storage charges, if any, are paid by the person entitled to possession of the vehicle.

2. At the hearing, the owner or person entitled to possession of the vehicle may contest the reasonableness of the towing and storage costs, unless the person specifically requested the towing and/or storage company. Towing and storage charges set by law, ordinance, or rule, or that comply with law, ordinance, or rule are reasonable for purposes of this Ordinance.
3. A person who fails to appear at a hearing under this Section is not entitled to another hearing, and the hearings officer may enter an order finding the towing to be valid and assessing towing and storage charges against the owner.
4. The decision of the hearings officer is the final decision of the County and shall be in writing.

SECTION 11. LIEN FOR TOWING CHARGES.

Any person who tows or stores a vehicle at the request of an authorized officer pursuant to this Ordinance shall have a lien on the vehicle and its contents, as set forth in ORS 819.160.

SECTION 12. SALE OR DISPOSAL OF VEHICLES.

- A. Any vehicle that is not reclaimed within the time allowed by law may be sold. However, if a hearing or decision of the hearings officer is pending, the vehicle shall not be sold until at least seven (7) days after the decision has been rendered. A vehicle is not "reclaimed" until the owner or other person entitled to possession has fully paid all required fines, fees, and charges, and provided such other documentation as is required under this Ordinance.
- B. Vehicles and their contents shall be sold or disposed of in accordance with ORS 819.201 and 819.215. The proceeds of such sale or disposition shall be first applied to the payment of costs and expenses incurred in the towing and storage of the vehicle, and the balance, if any, shall be credited to the General Fund of the County.