

5/11/01

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of Amending the)
Columbia County Surface Mining) ORDINANCE NO. 2001-3
Ordinance)
_____)

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

SECTION 1. TITLE.

This ordinance shall be known as Ordinance No. 2001-3.

SECTION 2. AUTHORITY.

This ordinance is adopted pursuant to the authority of ORS 203.035 and 517.780.

SECTION 3. PURPOSE.

The purpose of this ordinance is to amend the Columbia County Surface Mining Ordinance to provide a process for operating permit and Limited Exemption Certificate renewals consistent with Oregon land use law.

SECTION 4. AMENDMENT.

The Columbia County Surface Mining Ordinance is amended by the addition of a new Section 2.9 which reads as follows:

Section 2.9. Renewal Process.

(1) In addition to the procedures provided in Section 2.3(1) and (2) of this Ordinance, and notwithstanding the provisions of Section 2.3(3), before making any decision regarding an application for renewal of an operating permit and/or Limited Exemption Certificate under Section 2.3, the Board shall provide notice and an opportunity to submit written comments. The procedures for such notice and opportunity to submit written comments shall be as provided for in ORS 197.195(3). Written notice shall also be given to the applicant, and to owners of record of property on the most recent property tax assessment roll where such property is located:

- (a) Within 250 feet of the property that is

the subject of the notice when the subject property is wholly or in part within an urban growth boundary;

(b) Within 250 feet of the property that is the subject of the notice when the subject property is outside an urban growth boundary and not within a farm or forest zone; or

(c) Within 750 feet of the property that is the subject of the notice when the subject property is within a farm or forest zone.

(2) Pursuant to ORS 197.195(1), the applicable provisions and standards of the Columbia County Comprehensive Plan are incorporated herein by this reference.

(3) The Board's decision regarding an application for renewal of an operating permit and/or Limited Exemption Certificate under Section 2.3 shall include the statements and explanation required by ORS 197.195(4). Notice of the decision shall be provided to the applicant and any person who submits written comments as provided by ORS 197.195(3)(c)(H).

(4) Notwithstanding Section 2.4(1) of this Ordinance, the applicant and any person entitled to notice of the decision under subsection (3) above may request an appeal hearing of the Board's decision on renewal under Section 2.3 as provided by ORS 197.195(5). The appeal fee for appeals under this subsection shall be in an amount as established by order or resolution of the Board.

(a) Notwithstanding Section 2.4(3) of this Ordinance, a request for an appeal hearing must be in writing and must be received by the Board, together with the required appeal fee, within fourteen (14) calendar days after the date the notice of the Board's decision on renewal under Section 2.3 was mailed pursuant to subsection (3) above. If a request for an appeal hearing, together with the required appeal fee is received by the Board in a timely and proper manner, an appeal hearing shall be scheduled as soon as is reasonably practicable.

(b) Written notice shall be given as provided for in ORS 197.195(3), and shall also be given to the applicant, and to owners of record of property on the most recent property tax assessment roll where such

property is located:

(i) Within 250 feet of the property that is the subject of the notice when the subject property is wholly or in part within an urban growth boundary;

(ii) Within 250 feet of the property that is the subject of the notice when the subject property is outside an urban growth boundary and not within a farm or forest zone; or

(iii) Within 750 feet of the property that is the subject of the notice when the subject property is within a farm or forest zone.

(c) The hearing on appeal shall be *de novo*, shall allow the introduction of additional testimony and evidence, and shall comply with the requirements of ORS 197.763. The applicant shall have the burden of presenting substantial evidence in support of the renewal of the operating permit and/or Limited Exemption Certificate.

(d) Written notice of the Board's decision on appeal shall be given to all parties who appeared, either orally or in writing, before or at the hearing. The notice of decision shall include the explanation of appeal rights required by ORS 197.195(5).

(e) Notwithstanding Section 2.4(4) of this Ordinance, review of the Board's decision on appeal shall be as provided by ORS 197.828, or as otherwise provided by ORS 197.805 to 197.860.

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 affect the validity of the remaining portions hereof.

SECTION 6. EMERGENCY CLAUSE.

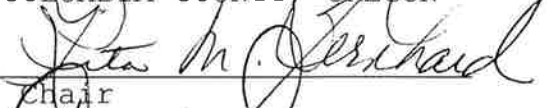
This ordinance being immediately necessary for the public health, safety and welfare of the citizens of Columbia County, an emergency is declared to exist and this ordinance shall take effect immediately upon its passage.

DATED this 14th day of March, 2001.

Approved as to form

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: 
Office of County Counsel

By: 
Chair

Attest:

By: 
Commissioner

By: 
Recording Secretary

By: 
Commissioner

First Reading: March 14, 2001

Second Reading: March 14, 2001

Effective Date: March 14, 2001