

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR COLUMBIA COUNTY, OREGON

In the Matter of Establishing the Columbia
County Food, Pool and Lodging Licenses and
Services Ordinance

ORDINANCE NO. 2019-2

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

SECTION 1. TITLE.

This Ordinance shall be known as Ordinance No. 2019-2 and may also be cited and referred to as the “Columbia County Food, Pool and Lodging Licenses and Services Ordinance.”

SECTION 2. AUTHORITY.

This Ordinance is adopted under the authority of ORS 203.035, ORS 431.141, ORS 431.143, ORS 431.150, ORS 431.413, and ORS 431.415.

Pursuant to ORS 431.003(7), Columbia County is the Local Public Health Authority (LPHA) for Columbia County. ORS 431.415 provides that the governing body of the LPHA shall adopt ordinances and rules necessary to administer ORS 431.001 to 431.550 and 431.990, any other public health law of Oregon, and any other public health matter not expressly preempted by a Oregon state law.

In accordance with ORS 446.425, ORS 448.100 and ORS 624.510, the Oregon Health Authority has delegated authority for environmental health services to the LPHA through Intergovernmental Agreement No. 156297, executed on February 20, 2018. The environmental health services program includes the inspection and licensing of restaurants and other food service establishments, tourist facilities, recreation sites, lodges and swimming pools.

SECTION 3. PURPOSE.

The purpose of this Ordinance is to provide for the administration and enforcement of the licensing of restaurants and other food service establishments, tourist facilities, recreation sites, lodges and swimming pools, which the State of Oregon has delegated to Columbia County.

This Ordinance also repeals Ordinance No. 2014-6, In the Matter of Adopting an Ordinance Establishing a Review Procedure for Public Health Decisions, which is no longer necessary because the County is the Local Public Health Authority. This Ordinance also repeals Ordinance No. 2016-2, In the Matter of Adopting a Fee Schedule for Columbia County Food, Pool, and Lodging Licenses and Services, because those fees are now incorporated into this Ordinance.

SECTION 4. ADOPTION.

The Columbia County Food, Pool and Lodging Licenses and Services Ordinance, which is attached hereto and incorporated herein by this reference, is hereby adopted.

SECTION 5. 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 6. REPEALER.

Ordinance No. 2014-6, "In the Matter of Adopting an Ordinance Establishing a Review Procedure for Public Health Decisions," and Ordinance No. 2016-2, "In the Matter of Adopting a Fee Schedule for Columbia County Food, Pool, and Lodging Licenses and Services," are hereby repealed.

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 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 upon adoption.

DATED this _____ day of _____, 2019.

Approved as to form

BOARD OF COUNTY COMMISSIONERS FOR
COLUMBIA COUNTY, OREGON

By: _____
Office of County Counsel

By: _____
Henry Heimuller, Chair

Attest:

By: _____
Margaret Magruder, Commissioner

By: _____
Recording Secretary

By: _____
Alex Tardif, Commissioner

First Reading: _____
Second Reading: _____
Effective Date: _____

EXHIBIT A

COLUMBIA COUNTY
FOOD, POOL AND LODGING LICENSES AND SERVICES ORDINANCE

DRAFT

COLUMBIA COUNTY
FOOD, POOL AND LODGING LICENSES AND SERVICES ORDINANCE

SECTION 1. PURPOSE.

This Ordinance provides for the administration and enforcement of environmental public health laws delegated to Columbia County by the State of Oregon for food service facilities, tourist facilities and pool facilities in accordance with ORS 446.425, ORS 448.100 and ORS 624.510 and OAR chapter 333, division 12.

SECTION 2. APPLICATION.

This Ordinance applies throughout Columbia County, Oregon, and within the limits of any incorporated city that consents to its application by decision of the city's governing body or its electors.

SECTION 3. 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 Revised Statutes and Administrative Rules, as set forth in Section 4, below.
- C. Other specific definitions as used in this Ordinance include:
 - 1. "Administrator" means the person appointed by the Board of County Commissioners under ORS 431.418 as the Local Public Health Administrator and the duly authorized deputy or assistant of that person.
 - 2. "Board" means the Board of County Commissioners for Columbia County, Oregon.
 - 3. "Department" means the Columbia County Public Health Department.
 - 4. "Food Service Facility" means restaurant, bed and breakfast, vending machine, food cart, warehouse, mobile unit, commissary or any other food establishment as defined by ORS 624.010, ORS 624.310, and OAR 333-150-0000 and 333-157-0073.

SECTION 4. ADOPTION OF LAWS AND REGULATIONS.

The following Oregon Revised Statutes and Administrative Rules are hereby adopted and incorporated into this Ordinance by this reference:

- A. Restaurants and bed and breakfast facilities (including limited service restaurants and temporary restaurants): ORS 624.010 to 624.035, 624.060 to 624.110, 624.130, and 624.992 and implementing Administrative Rules, including OAR chapter 333, division 150, 157, 158, 160 and 170.
- B. Commissaries, mobile units, and vending machines (including warehouses): ORS 624.310 to 624.440, and 624.992, and implementing Administrative Rules, including OAR chapter 333, division 162.
- C. Tourist facilities (including travelers' accommodations, hostels, picnic parks, recreation parks, and organizational camps): ORS 446.310 to 446.320, 446.322 to 466.349, and implementing Administrative Rules, including OAR chapter 333, divisions 29, 30, and 31.
- D. Pool facilities (including public swimming pools, public spa pools, public wading pools, and bath houses): ORS 448.005 to 448.060, 448.095 to 448.100, and implementing Administrative Rules, including OAR chapter 333, divisions 60 and 62.
- E. Administrative procedures: ORS 183.310, 183.413 to 183.502, and 183.745, and OAR 333-012-0050 to 333-012-0070, and 137-003-0001 to 137-003-0092.

SECTION 5. ADMINISTRATION.

The Administrator is the delegated authority to carry out the provisions of this Ordinance. Such delegation includes the authority available to the Director of Human Services (or its successor position title) under the Oregon Revised Statutes and Oregon Administrative Rules incorporated herein.

SECTION 6. LICENSE REQUIRED.

- A. Unless otherwise exempt under Oregon law, a license issued pursuant to this Ordinance is required to operate a food service facility, tourist facility, or pool facility in Columbia County.
- B. Before a license is issued or renewed under this Ordinance, the applicant must submit an application and pay the license fee. A license shall not be issued or renewed unless the facility complies with the applicable laws and regulations in Section 4.

- C. Licenses issued under this Ordinance shall expire at the end of each calendar year. For food service facilities, a reinstatement fee will be charged pursuant to ORS 624.490 to reinstate an expired license.
- D. Licenses shall not be transferrable nor shall refunds be issued on the unused portion of a license or upon applications that have been denied.

SECTION 7. LICENSE FEES.

Fees for licenses, inspections and administration of programs are set forth in Exhibit B of this Ordinance. Fees shall be adjusted annually on January 1, in accordance with the Consumer Price Index (CPI), as identified in the "All Urban Consumers, West Urban Index" published by the United States Department of Labor, Bureau of Labor Statistics over the twelve month period ending sixty days prior to the date of annual adjustment. The Board may amend the fees for programs under this Ordinance by order or resolution.

SECTION 8. LICENSE DENIAL, SUSPENSION, OR REVOCATION.

- A. A license required by Section 6 may be denied, suspended or revoked for failure to comply with the provisions of this Ordinance.
- B. Closure Procedures. The Department shall follow the applicable Oregon Health Authority closure procedures in OAR 333-157-0030 for restaurants; OAR 333-162-0910 for mobile food units, commissaries and warehouses; OAR 333-060-0705 for swimming pools; and OAR 333-062-0255 for spa pools.
- C. Notice. The Department's decision to deny, suspend or revoke a license shall be in writing and shall be personally served or mailed by certified or registered mail to the applicant whose license had been denied or license holder whose license has been suspended or revoked. Mailed notice shall be considered served when mailed. The Department's written notice shall include the following:
 - 1. A statement of the applicant or license holder's right to a contested case hearing under this Ordinance;
 - 2. A statement of the authority and jurisdiction under which the hearing is to be held;
 - 3. A reference to the particular sections of the ordinance, statutes and rules involved;
 - 4. A short and plain statement of the matters asserted or charged;

5. A statement indicating whether and under what circumstances and order by default may be entered;
6. A statement that active duty servicemembers have a right to stay proceedings under the federal Servicemembers Civil Relief Act and may contact the Oregon State Bar or the Oregon Military Department for more information. The statement must include the toll-free telephone numbers for the Oregon State Bar and the Oregon Military Department and the Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website; and
7. A statement that if the applicant or license holder desires a hearing, the Department must be notified within:
 - a. Twenty (20) days of the date of serving the notice; or
 - b. Sixty (60) days of the date of serving the notice, when the Department refuses to issue a license required to pursue any commercial activity, trade, occupation or profession, if the refusal is based on grounds other than the results of a test or inspection.

D. When No Hearing Requested or Failure to Appear.

1. When a party fails to request a hearing within the time specified above, or fails to appear at a hearing, the Department or Hearings Officer shall enter an order supporting the Department's action.
2. The order supporting the Department's action shall set forth the material on which the action is based, and the material shall be attached to and made a part of the order.

SECTION 8. CONTESTED CASE HEARING.

- A. A hearing provided under this Ordinance shall be conducted as a contested case hearing in accordance with the procedures set forth in ORS 183.411 et seq.
- B. The County will arrange for a hearing before an impartial hearings officer. The hearings officer may be a County employee, provided that the employee has no personal involvement with the Department's decision.

SECTION 9. PUBLIC NUISANCE.

Any facility that is operated in violation of this Ordinance is a public nuisance and dangerous to health and may be abated or enjoined in any manner provided by law.

SECTION 10. AMENDMENTS.

All amendments to the Oregon Revised Statutes and Oregon Administrative Rules adopted and incorporated into this Ordinance shall automatically be adopted into this Ordinance as well, with the same effective dates and set forth in such amended statutes and rules.

SECTION 11. ENFORCEMENT; REMEDIES NOT EXCLUSIVE.

- A. In addition to the enforcement procedures provided herein, this Ordinance is enforceable as provided by, and violators hereof are subject to the penalties provided in, the Columbia County Enforcement Ordinance.
- B. Pursuant to Section 11 of the Enforcement Ordinance, the Columbia County Public Health Administrator and any other person that the Board of Commissioners specifically approves are authorized to enforce this Ordinance.
- C. None of the remedies available to the County under this Ordinance are exclusive. Nothing in this Ordinance shall preclude any remedy otherwise available to the County, either in law or equity.

DRAFT

EXHIBIT B

COLUMBIA COUNTY

FOOD, POOL AND LODGING LICENSES AND SERVICES FEES

DRAFT



**FOOD, POOL AND LODGING
LICENSES AND SERVICES FEES**

RESTAURANT LICENSES	FEE
Benevolent organization ¹	\$250
Limited service (prepackaged items only)	\$375
0-15 person seating	\$625
16-50 person seating	\$675
51-150 person seating	\$750
151+ person seating	\$850
Bed & breakfast	\$300
Late (reinstatement) fee ²	\$100/mo
Required recheck inspection (after 2 rechecks)	\$200
Prorated (10/1 – 12/31)	50%

TEMPORARY RESTAURANT LICENSES	FEE
Single event 1-30 days	\$150
Intermittent events 1-30 days	\$150
Seasonal event 1-90 days	\$150
Operational review for seasonal licenses	\$50
Out-of-county mobile unit with OR license ³	\$25
Benevolent organization (must show a valid IRS tax exempt ID number) ⁴	\$0 for 1 st event per calendar year; \$65 thereafter
Temporary event late fee (if received less than 7 days before the event)	\$100
Re-inspection fee (if required)	\$50

MOBILE UNIT LICENSES	FEE
Class I	\$300
Class II	\$375
Class III	\$400
Class IV	\$450
Warehouse	\$225
Commissary	\$380

¹ See ORS 624.490(3).

² See ORS 624.490(2).

³ See ORS 624.650.

⁴ See ORS 624.106(1)-(2).

POOL AND SPA LICENSES	FEE
License, general or seasonal (first pool or spa)	\$485
Second pool or spa (same location)	\$350
Additional (same location)	\$350

TOURIST FACILITIES	FEE
Organizational camp	\$500
Picnic park	\$240
Travelers' accommodations, 1-10 units	\$350
Travelers' accommodations, 11-25 units	\$375
Travelers' accommodations, 26-50 units	\$400
Recreation park, 1-5 spaces	\$400
Recreation park, 6-9 spaces	\$425
Recreation park, 10+ spaces	\$450

FOOD VENDING MACHINES	FEE
1-10 units	\$160
11-20 units	\$175
21-30 units	\$200
31-40 units	\$225
41-50 units	\$250
51-60 units	\$300
51-75 units	\$350
76-100 units	\$550
101-250 units	\$800
251-500 units	\$1,200
501-750 units	\$1,350
751-1000 units	\$1,350
1001-1500 units	\$1,350
1501+ units	\$1,350

CHILD CARE INSPECTIONS	FEE
Head start	\$275
0-15 children	\$175
16-40 children	\$225
41-75 children	\$285
75+	\$350

SCHOOL INSPECTIONS	FEE
Full kitchen	\$275
Satellite (no food prep)	\$150

PLAN REVIEW	FEE
Restaurant, 0-50 new construction	\$625
Restaurant, 51-150 new construction	
Restaurant, 151+ new construction	
Restaurant, remodel ⁵	\$400
Bed & breakfast	\$400
Mobile Unit - Class I	\$400
Mobile Unit - Class II	
Mobile Unit - Class III	
Mobile Unit - Class IV	
Commissary for mobile unit	\$350
Warehouse	\$165
Pool or spa	\$450
Tourist facility	\$350
Organizational camp	\$400
Recreation park	\$325
School food service	\$450
Child care center	\$225
Picnic park	\$200

FOOD HANDLER TRAINING PROGRAM	FEE
Individual test (self-train)	\$10
Classroom instruction	\$15/student

⁵ See ORS 624.630.