

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

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

ORDINANCE NO. 2024-5

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

SECTION 1.            TITLE.

This Ordinance shall be known as Ordinance No. 2024-5, Amending Ordinance No. 2019-2, the Columbia County Food, Pool and Lodging Licenses and Services Ordinance. The Columbia County Food, Pool and Lodging Licenses and Services Ordinances, as amended herein, may 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 183.745, ORS 203.035, ORS 431.150, ORS 431.155, ORS 431.157, ORS 431.413, ORS 431.415, and ORS 624.992.

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 an 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. 170656 (C117-2021), executed on August 30, 2021, and amended through June 30, 2029, on May 29, 2023. 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.

In accordance with ORS 431.413 the County shall impose civil penalties adopted under ORS 431.415 and enforce the ordinances and rules adopted under ORS 431.415.

SECTION 3.            PURPOSE.

The purpose of this Ordinance is to amend Ordinance No. 2019-2, the Columbia County Food, Pool and Lodging Licenses and Services Ordinance, related to 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. In addition, this Ordinance repeals Ordinance No. 95-2, establishing a licensing and regulation regime for Tourist Facilities, the content of which was superseded by Ordinance No. 2019-2.

SECTION 4.            ADOPTION.

The amendments to Ordinance No. 2019-2, the Columbia County Food Pool and Lodging Licenses and Services Ordinance as shown in Attachment 1, are hereby adopted.

SECTION 5.            SEVERABILITY.

If any provision of this Ordinance, including Attachment 1, 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. 95-2 is repealed.

SECTION 7.    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 14 day of August, 2024.

Approved as to form

By: [Signature]  
Office of County Counsel

Attest:

By: [Signature]  
Recording Secretary

BOARD OF COUNTY COMMISSIONERS FOR  
COLUMBIA COUNTY, OREGON

By: [Signature]  
Casey Garrett, Chair

By: [Signature]  
Kellie Jo Smith, Commissioner

By: [Signature]  
Margaret Magruder, Commissioner

First Reading: 8/14/2024  
Second Reading: 08/14/2024  
Effective Date: 08/14/2024

ATTACHMENT 1

I. A new Section 8, CIVIL PENALTIES, is added to read as follows:

**SECTION 8. CIVIL PENALTIES.**

**A. Scope.**

i. A civil penalty may be imposed for the following willful violations:

a. Operation of a restaurant, bed and breakfast facility or vending machine (“facility”) that has been closed due to uncorrected priority item violations when those priority item violations are identified as creating an imminent or present danger to public health; and

b. Operation of a restaurant, bed and breakfast facility or vending machine without a current license to do so, as defined in OAR 333-150-0000 Section 1-201.10.

ii. For purposes of this Ordinance, “willful” means intentional or deliberate.

**B. Warning.** At least 5 days before issuing a Notice of Civil Penalty, a warning shall be posted at the facility and/or mailed to an address determined to be most likely to give actual notice of the warning.

**C. Notice of Civil Penalty and Right to Hearing.**

i. A Notice of Civil Penalty and Right to Hearing shall contain:

a. The name and address of the person or business committing the violation, if known.

b. The address or location of the violation.

c. A short and plain statement of the matters asserted or charged, including any relevant code provision numbers, ordinance numbers or other identifying references.

d. The penalty to be assessed for the violation and a statement that the person may admit the existence of the violation by paying the penalty

and correcting the violation. However, payment of the penalty does not relieve the person of the requirement to correct the violation.

- e. **A statement that the person has the right to a contested case hearing under this Ordinance, with a description of the procedure and time to request a hearing.**
- f. **A statement of the authority and jurisdiction under which the hearing is to be held.**
- g. **A statement indicating whether and under what circumstances an order by default may be entered.**
- h. **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.**
- i. **A statement that if the violator desires a hearing the Department must be notified within twenty (20) day of the date of serving the notice.**
- ii. **Service. The Notice of Civil Penalty shall be served on the property owner and alleged violator, if known, by any of the following methods:**
  - a. **Personal Service.**
  - b. **Certified mail, return receipt requested, to the last known address of the property and alleged violator, if known, as listed in the Columbia County property tax records. Notice mailed in accordance with this paragraph is considered served three days after the date mailed, if mailed to an address in Oregon, and seven days after the date mailed, if mailed to an address outside Oregon.**

**D. Timing of Request for Hearing.** The person to whom the Notice is addressed shall have 20 days from the date of service of the notice in which to make a written application for a hearing.

**E. Default.** When a party fails to request a hearing within the time specified above, or fails to appear at a hearing, the Administrator or Hearings Officer shall enter an order supporting the civil penalty. A final order entered upon default need not be delivered or mailed to the person against whom the civil penalty is imposed.

**F. Contested Case Procedure.** Any person who makes an application for a hearing as described herein shall be entitled to a hearing. The hearing shall be conducted as a contested case hearing pursuant to the applicable provisions of ORS 183.413. Judicial review of an order made after a hearing shall be as provided in ORS 183.480 for judicial review of contested cases.

**G. Enforcement of Civil Penalty.** When an order assessing a civil penalty becomes final by operation of law or on appeal, and the amount of the penalty is not paid within 10 days after the order becomes final, the order may be recorded with the Columbia County Clerk in the County Clerk Lien Record and enforced as provided in ORS 205.126.

**H. Civil Penalty.** The maximum penalty imposed hereunder shall be \$500 for each day that a violation occurs. Penalties shall be determined in accordance with OAR Chapter 333. A civil penalty shall become due and payable 10 days after the order imposing the civil penalty becomes final.

II. A new Section 9, CRIMINAL PENALTIES, is added to read as follows:

Pursuant to ORS 431.990, violation of any provision of ORS 624.010 to 624.121 or rules of the Oregon Health Authority promulgated under ORS 624.010 to 624.121 is a Class C Misdemeanor. In addition, violation of any provision of ORS 624.310 to 624.430 is a Class B Misdemeanor. The Local Public Health Administrator may report a violation of public health laws or rules to the Columbia County District Attorney. When a violation of a public health law or rule is reported to the District Attorney, the District Attorney shall initiate and

**promptly commence the necessary proceedings against the party or parties responsible for the alleged violation.**

III. A new SECTION 10, INJUNCTION, is added to read as follows:

**Pursuant to ORS 431.155 and ORS 431.157, whenever it appears to the Local Public Health Administrator that any person is engaged or about to engage in any acts or practices that constitute a violation of any statute relating to public health administered by the County, or any rule or order issued thereunder, the County may initiate proceedings in the Columbia County Circuit Court to enforce obedience thereto by injunction or by other processes, mandatory or otherwise, restraining such person, or its officers, agents, employees and representatives from further violation of such statute, rule or order, and enjoining upon them obedience thereto.**

IV. Sections 8 to 11 are renumbered Sections 10 to 13.

V. Section 13A, as renumbered, is deleted.