

3-75

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

Enforcement Ordinance)
)
)
_____)

No. 203
ORDINANCE

This matter having come on regularly at this time to be heard; and

It appearing to the Board of Commissioners that, pursuant to ORS 203.045, the governing body of the county may enact ordinances to exercise authority within the county over matters of county concern; and

It further appearing to the Board of Commissioners that an enforcement method is needed for the immediate enforcement of the substantive ordinances of the county and that such ordinance is in the public interest, now, therefore

AN ORDINANCE for the purpose of authorizing the short form uniform complaint and citation method for enforcing provisions of the Columbia County Zoning Ordinance #100, Columbia County Subdivision Ordinance, Columbia County Building Code and Columbia County Solid Waste Collection and Disposal Ordinance.

THE BOARD OF COMMISSIONERS FOR COLUMBIA COUNTY, OREGON ORDAINS AS FOLLOWS:

Section 1. Short Form Citation Authorized in Certain Cases.

(A) A citation conforming to the requirements of this section may be used by officers and other persons designated by the Board of Commissioners of Columbia County to enforce any of the provisions of the Columbia County Zoning Ordinance #100, Columbia County Subdivision Ordinance, Columbia County Building Code and Columbia County Solid Waste Collection and Disposal Ordinance.

(B) The citation shall consist of at least three parts. Additional parts may be inserted for administrative purposes by departments charged with the enforcement of the ordinances. The required parts are:

- (1) The complaint
- (2) The department record
- (3) The summons

(C) Each of the three parts shall contain the following information, or blanks in which such information shall be entered:

- (1) The name of the court and the court's docket or file number.
- (2) The name of the person, persons or Corporation cited.

- (3) The violation charged; the time and place; the date on which the citation was issued; the name of the complainant; and, in the case of zoning violations, the designation of the zone in which the violation occurred.
- (4) The hour and date when the person cited is to appear in court.
- (5) The bail, if any, fixed for the violation.

(D) Each of the parts may also contain such identifying and additional information as may be necessary or appropriate for administrative departments of the county. This may include an indication of whether a written warning was previously issued to defendant for the same violation.

(E) The complaint shall contain a form of verification by the complainant to the effect that he swears that he has reasonable grounds to believe, and does believe, that the person, persons or corporation cited committed the violation contrary to ordinance. The complainant, whether he is an officer or a person charged with enforcement of the regulations and ordinances, shall make verification before the Judge of the District Court, the Judge of the Circuit Court, or a Clerk of either Court and this action shall be entered in the Court record.

(F) The summons shall also contain notice to the person, persons or corporation cited that a complaint will be filed in the District Court for the County of Columbia or the Circuit Court for the County of Columbia. The reverse side of the summons shall contain the information substantially conforming

to that required by ORS 496.905 (6).

(G) Nothing in this section shall be construed to prevent the use of a complaint charging a violation of ordinance in the form and manner otherwise prescribed by law for criminal complaints, and a person or persons may be charged jointly on such a complaint where otherwise permitted by law.

Section 2. Contents of the Summons and of the Complaint.

(A) A summons issued pursuant to Section 1 is sufficient if it contains the following:

- (1) The name of the court; the name of the person, persons or corporation cited; the date on which the citation was issued; the name of the complainant; and the time at which the defendant is to appear in court.
- (2) A statement or designation of the violation in such manner as can be readily understood by a person making a reasonable effort to do so; and the date and place the violation is alleged to have occurred.
- (3) A notice to the person or persons cited that a complaint will be filed with the court based on the violation.
- (4) The amount of bail, if any, fixed for the offense.

(B) A complaint in an alleged violation of an ordinance under Section 1 is sufficient if it contains the following:

- (1) The name of the court; the name of the county in whose name action is brought; and the name of the defendant or defendants.
- (2) A statement or designation of the violation in such manner as can be readily understood by a person making a reasonable effort to do so; and the time and place of the alleged violation.
- (3) A verification as provided in subsection (5) of Section 1.

Section 3. Delivery of the Summons and Complaint.

The officer or person issuing the citation shall cause the summons to be delivered to the person cited or to an officer of the corporation, if a corporation is cited, and shall cause the complaint thereafter to be delivered to the court.

Section 4. Appearance of the Defendant, Return of Summons, Bail in Lieu of Appearance.

Defendant shall either appear in court at the time indicated in the summons, or prior to such time shall deliver to the court the summons, together with the amount of the bail set forth in the summons, enclosing therewith a request for a hearing, or a statement of matters in explanation or mitigation

of the violation, or the executed appearance, waiver of hearing and plea of guilty appearing on the summons.

Section 5. Effect of Defendant's Written Statement.

If a defendant has submitted to the court a written statement with his bail, as provided in Section 4, it constitutes a waiver of hearing and a consent to judgment by the court, declaring a forfeiture of bail on the basis of such statement, and any testimony or written statement of the arresting officer or any other witnesses which may be presented to the court. If the defendant requests a hearing or if, pursuant to Section 6, the court directs that a hearing be had, the court shall fix the date and time for hearing and unless notice is waived, shall, at least five (5) days in advance of the hearing, mail to the defendant notice of the date and time so fixed.

Section 6. Hearing and Judgment.

In any case, the court may direct that a hearing be held. However, said hearing will be to the court without jury. Otherwise, the court may enter the appropriate judgment, impose a fine, direct that the fine be paid out of the bail deposited by the defendant, and remit to the defendant any amount by which the bail exceeds the fine. No sentence to jail may be imposed, nor any fine imposed in excess of the bail deposited by the defendant, unless a hearing is held. Upon proof of proper notice of said hearing, if the defendant fails to appear at the time and place set for the hearing, the court may enter a judgment of

of default and impose any fine not in excess of the maximum penalty provided in Section 9.

Section 7. Warrant of Arrest When Defendant Fails to Comply.

If a person cited fails to comply with the provisions of Section 4, or if he fails to appear at any time fixed by the court, a warrant for his arrest may be issued. No warrant of arrest may be issued after a period of sixty (60) days from the entry of any order declaring forfeiture of bail. Unless a warrant has been issued before the expiration of that period the order of forfeiture shall be deemed a final disposition of the case. Nothing herein shall be construed to prevent the issuance of a warrant of arrest on the filing of a sworn complaint complying in all other respects with the provisions of this ordinance, nor the arrest of a person violating any ordinance in the presence of the officer or citizen making the arrest.

Section 8. Not a Bar To Other Remedies.

The adoption of this enforcement ordinance shall not be construed as inhibitory on the remedies available to the county as provided in the zoning, subdivision, solid waste, building code ordinances or state statutes but instead it is specifically declared that this ordinance provides additional remedies for enforcement of said substantive ordinances.

Furthermore, this ordinance may be used in conjunction with any equitable remedy. The forfeiture of bail, plea by defendant of commission of the violation on the citation, or a finding of liability of the defendant by trial, shall not act as a bar to said equitable remedies, except as otherwise provided for herein.

Section 9. Schedule of Civil Penalties.

The following list of civil penalties shall apply to the violations of the ordinances sought to be enforced by this ordinance, to-wit:

(A) First offense. The maximum civil penalty shall be \$10.00 per day, not to exceed \$100.00; said penalty commencing upon service of the summons on the party accused of violating the substantive ordinance involved therein.

(B) Second offense. The maximum civil penalty for a second violation of the same substantive ordinance and the same provision thereof shall be \$20.00 per day, not to exceed \$200.00; said penalty commencing upon service of the summons on the party accused of violating the substantive ordinance.

(C) Subsequent offenses. The maximum civil penalty for subsequent violations shall be \$100.00 per day, up to thirty (30) days; said penalty commencing upon service of the summons on the party accused of violating the substantive ordinance.

Section 10. Civil Penalty.

This ordinance is enacted with the express intent that no penalty herein authorized shall be construed as a criminal

penalty, nor shall a finding of liability in the violator give rise to any disability or legal disadvantage based on conviction of a crime. Furthermore, action by the appropriate county officer charged with enforcement of the ordinances, to be enforced hereby shall not bar the county from any legal or equitable remedy available to it either under county ordinance or State Statute. Nor shall the conclusion of a case hereunder bar further county action on a continued violation, i.e. should the action taken hereunder not eliminate the violation, the county may avail itself of any and all other remedies available.

Section 11. Severability.

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

Section 12. Emergency.

This ordinance being necessary for the immediate preservation of the public health, peace and safety, an emergency is declared to exist and this ordinance shall take effect upon its passage.

ENACTED this 19th day of March, 1975,
being the date of the second reading and second public hearing
before the Board of County Commissioners for Columbia County,
Oregon.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By *Paul Robinson*
Chairman

By *Storia Selvey*
Recording Secretary

APPROVED AS TO FORM:

John F. Hunnicutt
County Counsel

Reading
First March 5, 1975
Second March 19, 1975
Vote Aye: 3
Naye: 0

Public Hearing
March 5, 1975
March 19, 1975

496.710

WILDLIFE

(3) In any such action, the court shall award to the prevailing party, in addition to costs and disbursements, reasonable attorney fees.

(4) Such civil damages shall be in addition to other penalties prescribed by the wildlife laws for the unlawful taking or killing of wildlife.

(5) Any district or justice court has jurisdiction to try any case for the recovery of damages for the unlawful taking or killing of any of the wildlife as provided by this section. [Amended by 1961 c.343 §4; 1969 c.302 §1; 1973 c.723 §32; 1981 c.108 §1]

496.710 Compelling testimony in enforcement proceedings. In any action or proceeding for the enforcement of any of the provisions of the wildlife laws, or in any investigation before a grand jury, district attorney or other officer, or any criminal proceeding, no person shall be excused from testifying concerning any offense committed by another or by himself on the ground that his testimony may incriminate him. However, such testimony shall not be used against him in any prosecution for any crime or misdemeanor under the laws of the state, nor shall he be subject to any criminal prosecution or any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he has been compelled to testify or to produce evidence, documentary or otherwise. [Amended by 1971 c.658 §23; 1973 c.723 §33]

496.715 Disposition of fines and confiscation sale proceeds. (1) One-half of all fines imposed in justice courts as provided in the wildlife laws and collected in money shall be paid to the treasurer of the county in which the action or proceeding is commenced and credited to the general fund of the county. One-half of all fines so imposed and collected in justice courts shall be paid to the Department of Revenue, which shall deposit the moneys in the State Wildlife Fund. Of the fines so imposed and collected in district courts, one-half shall be deposited in the State Wildlife Fund and one-half shall be deposited in the General Fund. The district attorney of the county, upon payment of any judgment, shall satisfy it of record as attorney for the state.

(2) Payment of fines collected in justice courts under this section shall be made within the first 20 days of the month following the

month in which collected. [Amended by 1959 c.530 §8; 1961 c.391 §1; 1971 c.186 §5; 1973 c.723 §34; 1981 s.s. c.3 §115; 1983 c.763 §50]

496.905 [1967 c.604 §1; 1969 c.59 §1; 1971 c.388 §3; 1973 c.723 §35; 1979 c.477 §11; renumbered 153.710]

496.910 [1967 c.604 §2; 1973 c.723 §36; 1979 c.477 §12; renumbered 153.705]

496.915 [1967 c.604 §3; 1973 c.723 §37; renumbered 153.715]

496.920 [1967 c.604 §4; 1973 c.723 §38; 1979 c.477 §13; renumbered 153.720]

496.925 [1967 c.604 §5; renumbered 153.725]

496.927 [1977 c.350 §2; 1979 c.477 §14; renumbered 153.730]

496.930 [1967 c.604 §6; renumbered 153.745]

496.935 [1967 c.604 §7; renumbered 153.750]

496.940 [1967 c.604 §8; renumbered 153.755]

496.945 [1967 c.604 §9; renumbered 153.760]

496.950 [1967 c.604 §10; renumbered 153.765]

PENALTIES

496.990 [Amended by 1967 c.523 §1; repealed by 1973 c.723 §130]

496.992 Penalties. (1) Except as otherwise provided by law, violation of any provision of the wildlife laws, or any rule promulgated pursuant thereto, is a Class A misdemeanor. If the defendant is sentenced to pay a fine, failure to pay the fine, or any portion thereof, shall be treated as provided in ORS 161.685.

(2) The second and each subsequent conviction within a 10-year period for the taking of game fish with a total value of \$200 or more or the taking of antelope, black bear, cougar, deer, elk, moose, mountain goat or mountain sheep in violation of the wildlife laws or any rule promulgated pursuant thereto which occurs more than one hour prior to or more than one hour subsequent to a season established for the lawful taking of such game mammals or game fish is a Class C felony. [1973 c.723 §39; 1975 c.578 §3; 1977 c.350 §3; 1977 c.353 §1; 1983 c.364 §1]

GENER
497.002
497.006 C
497.012 V
497.014 V
497.016 T
497.022 IS
497.026 D
497.032 D
497.036 I

LICENSE,
497.071 D
497.075 G
497.102 H
497.112 H
497.121 A
497.132 C
497.142 T
497.146 T
497.151 M

497.162 A
497.170 Co

OCCUPAT
497.218 F
497.228 W
497.238 T
497.248 P
497.258 F
497.268 In

State Highway Fund, to be used and expended as are other state highway funds, or if collected in another court, to the Department of Revenue, which shall place the money to the credit of the State Highway Fund, to be used and expended as are other state highway funds.

(c) If resulting from prosecutions initiated by or from arrests or complaints made by a city policeman, to the treasurer of the city, municipal or quasi-municipal corporation by which such policeman is employed.

(d) If resulting from prosecutions initiated by or from arrests or complaints made by a sheriff, deputy sheriff or county weighmaster, to the treasurer of the county in which the offense occurred, to be credited to the general fund of that county.

(e) If resulting from prosecutions for parking in a winter recreation parking location, and if collected in a circuit or district court, to the credit of the State Highway Fund, to be used and expended for the purposes designated by the Oregon Transportation Commission pursuant to ORS 390.795, or if collected in another court, to the Department of Revenue, which shall place the money to the credit of the State Highway Fund, to be used and expended for the purposes designated by the Oregon Transportation Commission pursuant to ORS 390.795.

(f) In other cases, to the same person to whom payment is made of the half provided for in subsection (1) of this section.

(3) If provisions of paragraph (b) or (e) of subsection (2) of this section requiring payment to the Department of Revenue are applicable, and if the fine or penalty imposed is remitted, suspended or stayed, or the offender against whom the fine or penalty was levied or imposed serves time in jail in lieu of paying the fine or penalty or a part thereof, the committing judge or magistrate shall certify the facts thereof in writing to the Department of Revenue not later than the 10th day of the month next following the month in which the fine was remitted or penalty suspended. If any part of the fine is thereafter paid, it shall be remitted to the judge or magistrate who imposed the fine or penalty, who shall distribute it as provided in subsections (1) and (2) of this section.

(4) Payment of fines, costs and forfeited bail collected in a justice or city court under this section shall be made within the first 20 days of the month following the month in which collected. [Formerly 484.250; 1981 s.s. c.3 §107; 1983 c.164 §1; 1983 c.763 §47]

153.635 Delinquency in paying moneys under ORS 153.630. If any of the money collected under ORS 153.630 is not paid over as provided in that section by the 10th day of the second calendar month next following the month in which it is received, the person withholding it is delinquent in its payment and, in addition to the penalties prescribed by law, he is personally liable therefor to the public bodies to which the money is payable, with interest at the legal rate from the delinquency date until paid. An action may be maintained in the name of the state for the recovery of the unpaid amounts with interest. [Formerly 484.260]

WILDLIFE AND COMMERCIAL FISHING INFRACTIONS

153.705 Private person may commence action. A private person may commence an action for a violation of the wildlife and commercial fishing laws and rules adopted under those laws, as provided in ORS 153.710 (4). [Formerly 496.910]

153.710 Citation for violation of wildlife or commercial fishing laws or rules; form of complaint. (1) A citation conforming to the requirements of this section shall be used by individuals authorized to enforce any of the provisions of the wildlife and commercial fishing laws and rules adopted under those laws and for citing any violations thereof.

(2) The citation shall consist of at least four parts. Additional parts may be inserted by law enforcement agencies for administrative use. The required parts are:

- (a) The complaint.
- (b) The abstract of record.
- (c) The police record.
- (d) The summons.

(3) Each of the parts shall contain the information or blanks required by rules of the Supreme Court under ORS 1.525.

(4) The complaint shall contain a form of certificate in which the complainant shall certify, under penalties of false swearing provided in ORS 162.075, that the complainant has reasonable grounds to believe, and does believe, that the person cited committed the offense contrary to law or rule. The certification if made by a police officer need not be made before a magistrate or any other person. A private person shall certify before a magistrate, clerk or deputy clerk of the court and this action shall be entered in the court record. A certificate conforming to this

ction shall be deemed equivalent of a sworn complaint.

(5) The complaint shall be set aside by the court upon the motion of the defendant before plea when it does not conform to the requirements of this section. This section does not prohibit the use of a uniform citation for other offenses in addition to wildlife or commercial fishing law offenses. [Formerly 496.905]

153.715 Minimum requirements for summons. A summons in an alleged violation of the wildlife and commercial fishing laws and rules promulgated pursuant thereto is sufficient if it contains the following:

(1) The name of the court, the name of the person cited, the date on which the citation was issued, the name of the complainant and the time and place at which the person cited is to appear in court.

(2) A statement or designation of the offense in such manner as can be readily understood by a person making a reasonable effort to do so, and the date, time and place at which the offense is alleged to have occurred.

(3) A notice to the person cited that a complaint will be filed with the court based on the offense.

(4) The amount of bail, if any, fixed for the offense. [Formerly 496.915]

153.720 Minimum requirements for complaint. Except as provided in this section, a complaint in an alleged violation of the wildlife and commercial fishing laws and rules adopted under those laws is sufficient if it contains the following:

(1) The name of the court, the name of the state or of the city or other public body in whose name the action is brought and the name of the defendant.

(2) A statement or designation of the offense in such manner as can be readily understood by a person making a reasonable effort to do so and the date, time and place at which the offense is alleged to have occurred.

(3) A certificate as provided in ORS 153.710

(4) signed by the complainant. [Formerly 496.920]

153.725 Delivery of summons and complaint. An officer issuing the citation shall cause the summons to be delivered to the person cited and shall cause the complaint to be delivered to the court. When the complaint is certified by a private person the court shall cause the summons to be delivered to the defendant. [Formerly 496.925]

153.730 Forwarding of citation and court disposition information to Department of State Police. (1) Each person who enforces the wildlife laws or commercial fishing laws shall cause the portion of the citation referred to in ORS 153.710 (2)(c), or a copy thereof, to be forwarded to the Department of State Police.

(2) When a person is convicted of violation of any provision of the wildlife laws or commercial fishing laws, or any rule promulgated pursuant thereto, or forfeits bail in connection therewith, the court in which such conviction or forfeiture occurs shall forward to the Department of State Police an abstract of record of the conviction or forfeiture. [Formerly 496.927]

153.745 Defendant's appearance; bail; request for hearing; statement; guilty plea. The defendant shall either appear in court at the time indicated in the summons, or prior to such time shall deliver to the court the summons, together with check or money order in the amount of the bail set forth in the summons, and inclosing therewith:

(1) A request for a hearing; or

(2) A statement of matters in explanation or mitigation of the offense charged; or

(3) The executed appearance, waiver of hearing and plea of guilty appearing on the summons. [Formerly 496.930]

153.750 Statement as waiver of hearing and consent to judgment; bail forfeiture. If a defendant has submitted to the court a written statement as provided in ORS 153.745 (2), it constitutes a waiver of hearing and consent to judgment by the court declaring a forfeiture of bail on the basis of such statement and any testimony or written statement of the arresting officer or other witnesses which may be presented to the court. [Formerly 496.935]

153.755 Fixing hearing date; notice to defendant; waiver. If the defendant requests a hearing, or if pursuant to ORS 153.760 the court directs that a hearing be had, the court shall fix a date and time for the hearing and, unless notice is waived, shall at least five days in advance of the hearing mail to the defendant notice of the date and time so fixed. [Formerly 496.940]

153.760 Hearing discretionary; powers of court on hearing and without hearing. In any case the court may direct that a hearing be held. Otherwise, the court may enter the appropriate judgment, impose a fine, direct that the fine be paid out of the bail deposited by

the defendant amount by which sentence to jail imposed in excess of defendant, until 496.945]

153.765 Limit on issuance of warrant. (1) A warrant for his appearance shall be issued by a circuit court to be served, with the county in this s

(2) No warrant shall be issued from the date of forfeiture of bail by an arrested person

the defendant and remit to the defendant any amount by which the bail exceeds the fine. No sentence to jail may be imposed, nor any fine imposed in excess of the bail deposited by the defendant, unless a hearing is held. [Formerly 496.945]

issued before the expiration of that period, the order of forfeiture shall be deemed a final disposition of the case. [Formerly 496.950]

153.765 Warrant for arrest; time limit on issuance; effect of failure to issue warrant. (1) If a person cited fails to comply with the provisions of ORS 153.745, or if he fails to appear at any time fixed by the court, a warrant for his arrest may be issued. A warrant issued by a circuit, district or justice court may be served, without further indorsement, in any county in this state.

(2) No warrant of arrest may be issued pursuant to this section after a period of 60 days from the date of the entry of an order declaring a forfeiture of bail or other security given by the arrested person. Unless a warrant has been

PENALTIES

153.990 False certification; penalty. Any person who in connection with the issuance of a citation, or the filing of a complaint, under ORS 8.665, 153.110 to 153.310 and this section, knowingly certifies falsely to the matters set forth therein commits a Class A misdemeanor. [1981 c.692 §14]

CHAPTERS 154 AND 155
[Reserved for expansion]

CRIMES AND
PUNISHMENTS

CRIMINAL PROCEDURE IN
INFERIOR COURTS
156-160