

BOARD OF COUNTY COMMISSIONERS
KLAMATH COUNTY, OREGON

Date 8-6-92
Original Clerk
Copy Approved
Ordinance

AN EMERGENCY ORDINANCE TO PROTECT THE)
PUBLIC PEACE, GENERAL WELFARE, HEALTH)
AND SAFETY OF THE CITIZENS OF KLAMATH)
COUNTY FROM VIOLATIONS OF THE)
CONSTITUTIONAL AND CIVIL RIGHTS OF)
THE CITIZENS, AND PROVIDING)
PENALTIES FOR VIOLATIONS OF THE)
ORDINANCE.

ORDINANCE NO. 65

WHEREAS, the purpose of the Civil Rights Act, 18 U.S.C. §241 et seq. is to protect the citizens of the United States from acts which "injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States; and

WHEREAS, part of the Civil Rights Act, 18 U.S.C. §245(a)(1) allows state and local law enforcement authorities the authority and responsibility for prosecuting acts that may be in violation of the Civil Rights Act and that violate state or local law; and

WHEREAS, an additional purpose of the Civil Rights Act, 42 U.S.C. §1983, based upon the Act of April 20, 1871, ch 22, §1, 17 Stat. 13, is to protect citizens of the United States from acts which deprive them from enjoying their Constitutionally protected rights, privileges, and immunities. Should such deprivation occur, such offender shall be liable to the injured party in a suit in equity, or action at law. The Civil Rights Act of 1871 states:

That any person who, under color of law of any law, statute, ordinance, regulation, custom, or usage of any State, shall subject, or cause to be subjected, any

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person within the jurisdiction of the United States to the deprivation of any rights, privileges, or immunities secured by the Constitution of the United States, shall, any such law, statute, ordinance, regulation, custom, or usage of the State to the contrary notwithstanding, be liable to the party injured in any action at law, suit in equity, or other proper proceeding for redress. 17 Stat. 13 (1871).

WHEREAS, the Civil Rights Act at 18 U.S.C. §§241, 245, states:

If two or more persons conspire to injure, oppress, threaten or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States ... They shall be fined not more than \$10,000 or imprisoned not more than ten years, or both; and if death results, they shall be subject to imprisonment for any term of years or for life. 18 U.S.C. §241.

Nothing in this section shall be construed as indicating an intent on the part of Congress to prevent any State, any possession or Commonwealth of the United States, or the District of Columbia, from exercising jurisdiction over any offense which it would have jurisdiction in the absence of this section, nor shall anything in this section be construed as depriving State and local law enforcement authorities of responsibility for prosecuting acts that may be violations of this

section and that are violations of State and local law.

18 U.S.C. §245(a)(1).

WHEREAS, the U.S. Supreme Court has ruled that rights in property are basic civil rights. The Supreme Court states:

Property does not have rights. People have rights. The right to enjoy property without unlawful deprivation, no less than the right to speak or the right to travel, is in truth a "personal" right, whether the "property" in question be a welfare check, a home, or a savings account. In fact, a fundamental interdependence exists between the personal right to liberty and the personal property right. Neither could have meaning without the other. That rights in property are basic civil rights has long been recognized. (Citations omitted) Congress recognized these rights in 1871 when it enacted the predecessor of §§1983 and 1343(3). We do no more than reaffirm the judgment of Congress today. Lynch v. Household Finance Corp, 405 U.S. 538 (1972).

WHEREAS, the Commissioners of Klamath County endorse the protections, rights or privileges afforded by the U.S. Constitution and the Civil Rights Act and desire to ensure that those protections, rights or privileges are afforded to the citizens of Klamath County; NOW THEREFORE

THE BOARD OF COUNTY COMMISSIONERS OF KLAMATH COUNTY, OREGON
ORDAIN AS FOLLOWS:

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Section 1. That the Civil Rights Act, 18 U.S.C. §§241 et seq. shall be adopted as a county Ordinance.

Section 2. That all violations of this Ordinance and the rights or privileges that this Ordinance protects, shall be filed with the District Attorney. Once a petition regarding such violation of a right or privilege protected by this Ordinance is filed an investigation of such violation must occur, including a determination of the identification of the person(s), including but not limited to any employee of the federal, state or county government responsible for such violation.

Section 3. That nothing in this Ordinance shall be construed to prohibit county officers or a grand jury from investigating any potential violation of this Ordinance.

Section 4. That all violations of this ordinance shall be punishable by the maximum punishment allowed by the State Law of Oregon.

Section 5. That in addition to any actions that may occur through the enforcement of this Ordinance, that every person, who under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. (This language has been taken from 42 U.S.C. §1983.) In

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any such action at law, suit in equity, or other proceeding, the injured party may include a request for and offer evidence that punitive and/or other monetary damages should be assessed upon the offending party.

Section 6. That if any provision of this Ordinance or the application thereof is held invalid, such invalidity does not affect any other provision of this Ordinance which can be given effect without the invalid provision of application, and to those ends the provisions of this Ordinance are severable.

Section 7. This ordinance is an emergency measure necessary to protect the health, welfare, and safety of the citizens of Klamath County.

Dated this 5th day of August, 1992.


BOARD OF COUNTY COMMISSIONERS



CHAIRMAN OF THE BOARD



COUNTY COMMISSIONER



COUNTY COMMISSIONER