

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**

ORDINANCE NO. _____

Amending MCC Chapter 21 – Health.

(Language ~~stricken~~ is deleted; double underlined language is new.)

The Multnomah County Board of Commissioners Finds:

1. On February 12, 2015, the Board of Health for Multnomah County adopted Order Number 2015-011 Adopting a Policy Supporting Regulation to Reduce Minor Access and Exposure to Tobacco and Inhalant Delivery Systems and Directing the Local Public Health Authority to Promulgate Rules to Implement the Policy.
2. The Multnomah County Board of Commissioners adopts this Ordinance in compliance with the Board of Health’s Order.

Multnomah County Ordains as Follows:

Section 1. MCC § 21.510 – Definitions are added as follows:

§ 21.510 DEFINITIONS.

ENCLOSED AREA. All spaces between a floor and a ceiling that is enclosed on three or more sides by permanent or temporary walls or windows, exclusive of doors or passageways, that extend from the floor to the ceiling.

INHALANT DELIVERY SYSTEM. A device that can be used to deliver nicotine in the form of a vapor or aerosol to a person inhaling from the device; or

A component of a device described above or a substance in any form sold for the purpose of being vaporized or aerosolized by a device described in this section, whether the component or substance is sold separately or is not sold separately.

An inhalant delivery system does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for any other therapeutic purpose, if the product is marketed and sold solely for the approved purpose.

INHALANT DELIVERY SYSTEM RETAILER. Any Person who sells, offers for sale, or exchanges or offers to exchange for any form of consideration inhalant delivery systems, or who distributes free or low cost samples of inhalant delivery systems, including but not limited to tobacco shops, cigar bars, convenience stores, gas stations, grocery stores, chain stores, cafes and bars, pharmacies, vape shops, etc. This definition is without regard to the quantity of inhalant delivery systems.

PLACE OF EMPLOYMENT. Any enclosed area under the control of a public or private employer that employees frequent during the course of employment, including, but not limited to, work areas, employee lounges, vehicles that are operated in the course of an employer's business that are not operated exclusively by one employee, restrooms, conference rooms, classrooms, cafeterias, hallways, meeting rooms, elevators, and stairways. A private residence is not a "place of employment" unless it is a child care facility as defined in ORS 657A.250, an adult day care facility as defined in ORS 410.490, or a health care facility as defined in ORS 442.015.

SMOKING. Any inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, weed, plant, or other tobacco-like product or substances in any manner or in any form, including inhalant delivery systems.

Section 2. MCC § 21.511 is added as follows:

§ 21.511 INHALANT DELIVERY SYSTEM USE PROHIBITED.

No person shall use an inhalant delivery system in any place within Multnomah County where smoking is prohibited by law.

Section 3. MCC § 21.512 is added as follows:

§ 21.512 INHALANT DELIVERY SYSTEM USE PROHIBITED IN PLACES OF EMPLOYMENT.

No employer shall knowingly permit the use of an inhalant delivery system in a place of employment in which smoking is prohibited by law.

Section 4. MCC § 21.513 is added as follows:

§ 21.513 INHALANT DELIVERY SYSTEM SALES TO MINORS PROHIBITED.

No person, including Inhalant Delivery System Retailers, may distribute, sell, or allow to be sold an inhalant delivery system to a person under 18 years of age.

Section 5. MCC § 21.514 is added as follows:

§ 21.514 POSSESSION BY MINORS.

A person under 18 years of age may not possess an inhalant delivery system unless the person is in a private residence accompanied by the parent or guardian of the person and the parent or guardian has consented to the person's possession of the inhalant delivery system.

Section 6. MCC § 21.515 is added as follows:

§ 21.515 PURCHASE BY MINORS.

A person under 18 years of age may not purchase, attempt to purchase, or acquire inhalant delivery systems unless acting under the supervision of an adult for the purpose of testing compliance with federal law, state law, local law, or retailer management policy limiting or regulating the delivery of inhalant delivery systems to minors.

Section 7. MCC § 21.516 is added as follows:

§ 21.516 ADMINISTRATION AND DELEGATION OF AUTHORITY

The Director of the Health Department shall issue administrative rules to implement this chapter.

Section 8. MCC § 21.550 is added as follows:

§ 21.550 PENALTY.

- (A) Violation of Sections 21.512 or 21.513 shall be a Class A violation.
- (B) Violation of Sections 21.511 or 21.515 shall be a Class B violation. Alternative penalties for violation of Section 21.515 may be promulgated by administrative rule, and as allowed by law, including but not limited to smoking cessation education and community service.
- (C) Violation of Section 21.514 shall be a Class D violation. Alternative penalties may be promulgated by administrative rule, as allowed by law, including but not limited to smoking cessation education and community service.

FIRST READING: _____ *(type in meeting date)*

SECOND READING AND ADOPTION: _____ *(type in meeting date)*

**BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**

Deborah Kafoury, Chair

**REVIEWED:
JENNY M. MADKOUR, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON**

By _____
Bernadette D. Nunley, Assistant County Attorney

SUBMITTED BY: