

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 962

Amending MCC §§ 21.501, 21.503 and 21.999 Relating to Smoke-Free Workplaces

(Stricken language is deleted; double- underlined language is new.)

Multnomah County Ordains as follows:

Section 1. MCC § 21.501 is amended as follows:

§ 21.501 Definitions.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

BILLIARD PARLOR. An establishment in which income is primarily derived from pool/billiard table rental and other pool/billiard related sales and where the sale of other products or services is secondary.

BUSINESS. Any sole proprietorship, partnership, joint venture, corporation, or other business entity, including retail establishments where goods or services are sold, as well as professional corporations and other entities where professional services are delivered.

EMPLOYEE. Any person who is employed by any employer in the consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services to a non-profit entity.

EMPLOYER. Any person or entity who employs the services of one or more individuals.

ENCLOSED AREA. All space between a floor and a ceiling that is enclosed on all sides by solid walls or windows (exclusive of door or passageways) that extend from the floor to the ceiling, including all space therein screened by partitions that do not extend to the ceiling or are not solid, such as “office landscaping” or similar structures. Enclosed areas do not include breakrooms designated for smoking (smoking room) by employers if the following conditions are met:

1. The smoking room is not accessible to minors.
2. Air from the smoking room is exhausted directly to the outside by an exhaust fan and not recirculated to other parts of the building.

3. The smoking room is in compliance with ventilation standards established by the Department of Health by administrative rule.

4. The smoking room is located in a non-work area where no one, as part of his or her work responsibilities, is required to enter. For purposes of this paragraph, “work responsibilities” does not include custodial or maintenance work carried out in the smoking room when it is unoccupied.

5. There are sufficient nonsmoking breakrooms to accommodate nonsmokers.

PLACE OF EMPLOYMENT. Any enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and rest rooms, conference and class rooms, cafeterias and hallways. A private residence is not a “place of employment” unless it is used as 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.

RETAIL TOBACCO STORE. A retail store utilized primarily for the sale of tobacco products and accessories and where the sale of other products is secondary.

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.

TOBACCO PRODUCT. Any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco or any other form of tobacco which may be utilized for smoking, inhalation, or other means of ingestion.

TRUCK STOP. A facility that provides all of the following: fuel service for vehicles up to ninety feet in length; off-street parking for trucks and trailers; a twenty-four hour restaurant; and driver support services, such as showers, laundry, and truck supplies.

Section 2. MCC § 21.503 is amended as follows:

§ 21.503 Places Where Smoking Is Not Regulated.

Notwithstanding any other provision of this section to the contrary, the following areas shall not be subject to any smoking restrictions contained within this subchapter:

(A) Private residences, unless the private residence is used as 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;

(B) Rented motel or hotel rooms that are designated in some manner as smoking-allowed rooms by the owners of the establishment renting the rooms;

(C) Private rooms rented for an occupancy that exceeds one month and that are not located in a private residence used as a child care, adult day care or health facility;

(D) Any facility or facility area licensed by the Oregon Liquor Control Commission to serve alcohol by the drink for consumption on the premises that is posted to prohibit the presence of minors at all times;

(E) Any facility or facility area licensed by the Oregon Liquor Control Commission to serve alcohol by the drink for consumption on the premises that is posted to prohibit the presence of minors during some hours, during those hours that minors are prohibited;

~~(E)~~(F) Bingo operations licensed pursuant to ORS 464.250 et seq. and race courses operated by a licensee licensed under ORS chapter 462;

~~(F)~~(G) Retail tobacco stores;

~~(G)~~(H) Truck stops; and

(I) Billiard parlors.

Section 3. MCC § 21.999(D) is amended as follows:

§ 21.999 Penalty.

(A) *Emergency medical services violations.*

(1) Violation of the emergency medical services subchapter, §§ 21.400 through 21.443, shall be a county offense and may be punished by a civil penalty of not more than \$10,000.

(2) A schedule of fines to be levied for violations shall be found in EMS administrative rules.

(3) Additional penalties for contract violations are found in the contract for exclusive emergency ambulance service.

(4) The provisions of this section are in addition to and not in lieu of other procedures and remedies provided by law.
(‘90 Code;§ 6.33.096) (Ord. 816, passed 1995)

(B) *Food handler's certificate violations.* Violation of any provisions of §§ 21.600 through 21.609 not otherwise provided for is punishable upon conviction by a fine of not more than \$500, or by imprisonment not exceeding six months, or both.
(‘90 Code;§ 8.30.900) (Ord. 124, passed 1976)

(C) *Refuse violations.*

(1) *Refuse hauling violations.* Any person, firm or corporation violating § 21.701 shall be subject to a civil fine of not less than \$100 and no more than \$500 for each violation. The county may prosecute any violation of § 21.701 before a hearings officer. ('90 Code;§ 8.75.110) (Ord. 717, passed 1992)

(2) *Dumping and littering violations.*

(a) Any person, firm or corporation violating § 21.702 shall be subject to the following:

1. A civil fine of not less than \$500 and no more than \$999 for each violation; and

2. An award of costs to reimburse the county for the actual expenses of clean-up and disposal caused by the violation.

(b) The county may prosecute any violation of § 21.702 before a hearings officer, or the county may prosecute a violation as a criminal or civil offense to the extent permitted under state law.

(D) *Smoke-Free workplace violations*

Any person who violates §§ 21.500 et seq. ~~shall~~will be subject to the following penalties imposed by the Multnomah County Department of Health:

(1) For a first complaint of a violation, a notice and warning, with educational materials and a referral phone number for the Tobacco Prevention Program. The Tobacco Prevention Program ~~shall~~will provide technical assistance to achieve compliance upon request.

(2) For a second complaint of a violation ~~within a 12 month period~~, the employer and Tobacco Prevention staff will jointly develop a smoke-free workplace remediation plan if indicated. If a complaint indicates a person other than the employer committed ~~at~~the second violation, the Tobacco Prevention Program staff will provide additional services and referral information designed to achieve compliance by that person, if indicated.

(3) For subsequent ~~violations~~complaints, if the Health Department substantiates the violation through investigation, a civil fine consistent with the fine schedule adopted by the Director of the Department of Health by administrative rule.

(4) Fines imposed under (3) may be appealed in writing to the Director of the Multnomah County Department of Health. The Director's decision shall be final.

Section 4. Section 4 of Ordinance 937 is superceded by this ordinance, and this ordinance is effective July 1, 2001.

FIRST READING:

May 10, 2001

SECOND READING AND ADOPTION:

June 7, 2001



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

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By

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