

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

ORDINANCE NO. _____

Amending Multnomah County Code Chapter 21 – Health to add § 21.450 to § 21.458 – Air Quality Regulation and Declaring an Emergency.

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

The Multnomah County Board of Commissioners Finds:

1. Wood smoke is harmful to human health and accounts for the majority of fine particle pollution during winter months in Multnomah County. Wood smoke is a complex mixture of gases, vapors and particles that are known to cause heart and lung disease, breathing problems, irritation, and a number of other negative effects. We cannot choose the air we breathe, so it is in the interest of public health to develop strategies to reduce the impact of wood smoke on communities. Children, aging adults, and those with existing cardiovascular, respiratory or other chronic illness are most sensitive and vulnerable to the effects of wood smoke.
2. Wood smoke, like many other types of air pollution, is less of a problem when emission producing activity is low, or the area is experiencing weather conditions that favor ventilation. Conversely, air quality can degrade to unhealthy levels when emission-producing activity is high, or the area is experiencing atmospheric conditions favoring stagnation and temperature inversion. A temperature inversion occurs when a layer of warmer air occurs over ground level cooler air, promoting less mixing of air between altitudes. Temperature inversions can trap air close to the ground, allowing air pollution to accumulate at low altitudes - where community members, including seniors, children and other vulnerable populations, breathe it.
3. A wood smoke curtailment program, paired with outreach, education, and a wood stove exchange program, has been identified by the United States Environmental Protection Agency as best practice for reducing wood smoke in communities across the country.
4. Multnomah County is the Local Public Health Authority. A core responsibility of the Local Public Health Authority is to adopt ordinances necessary to administer any public health matter not expressly preempted by Oregon law. ORS 431.415(1)(b).

Multnomah County Ordains as Follows:

Section 1. MCC § 21.450 is added as follows:

§ 21.450 – PURPOSE.

To regulate use of wood burning devices and recreational burning in Multnomah County to reduce air pollution that negatively affects public health.

Section 2. MCC § 21.451 is added as follows:

§ 21.451 – APPLICATION.

Unless specifically exempted, the following shall comply with this subchapter:

- (A) All wood burning devices added to, replacing, or otherwise installed in existing or new residential units.
- (B) All wood burning devices added to, replacing, or otherwise installed in existing or new commercial buildings.
- (C) Recreational burning.

Section 3. MCC § 21.452 is added as follows:

§ 21.452 – DEFINITIONS.

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

AIR QUALITY: The degree to which the ambient air is pollution-free, assessed by measuring a number of indicators of pollution.

AIR QUALITY FORECASTING: The use of climatology, emissions trends, and other information to predict when an airshed may exceed EPA-established pollution thresholds.

AIRSHED: A geographical boundary determined by local topography, meteorology, emission sources, air quality data, population, and jurisdictional boundaries.

BURN STATUS: A temporal designation of Green, Yellow or Red, determined by the Multnomah County Health Department, that is associated with forecasted levels of certain pollutants.

COMMERCIAL BUILDING: An improvement used in part or whole for business activities.

DEPARTMENT: The Multnomah County Health Department or designee.

DEPARTMENT DIRECTOR: The Director of the Multnomah County Health Department or designee.

GREEN DAY AIR QUALITY ADVISORY: Air quality is currently, or is forecasted to be, good.

LOW INCOME: A person or family demonstrating economic need because their total household income is equal to or less than sixty percent of the State of Oregon median income by household size, as reported.

RED DAY AIR QUALITY ADVISORY: Air quality is currently or is forecasted to be unhealthy for sensitive groups, unhealthy for all groups, very unhealthy, or hazardous.

RECREATIONAL BURNING: Any outdoor burning on property zoned commercial or residential, including vacant lots.

RESIDENTIAL UNIT: A housing unit or constructed dwelling that is inhabited by one or more persons.

WOOD BURNING DEVICE: A heating appliance, including but not limited to fireplaces, wood stoves, or firepits, capable of burning wood fuel and wood derived biomass fuel. Wood burning for commercial and residential cooking purposes is excluded from this definition.

YELLOW DAY AIR QUALITY ADVISORY: Air quality is moderate or forecasted to be moderate.

Section 4. MCC § 21.453 is added as follows:

§ 21.453 – PROHIBITIONS.

The Department shall perform air quality forecasting and issue air quality advisories daily during the winter heating season, October 1st through March 1st. Air quality advisories will be made available to the public.

The Department shall caution against the operation of wood burning devices and recreational burning during a yellow day air quality advisory.

Unless exempted from complying with this subchapter or otherwise allowed by state law, no person shall operate a wood burning device or permit recreational burning during a red day air quality advisory.

Section 5. MCC § 21.454 is added as follows:

§ 21.454 – EXEMPTIONS FROM PROHIBITIONS.

A wood burning device may be operated during a red day air quality advisory if one or more of the following circumstances applies to a residential unit or commercial building:

(A) Sole source: One or more wood burning devices is the sole source used to heat a commercial building or the main living space in a residential unit. A wood burning device shall not be considered to be the sole source of heat if the residential unit or commercial building is equipped with a permanently installed, working system such as oil, natural gas,

electric, geothermal, solar, or propane heating system whether connected or disconnected from its fuel source.

(B) Economic need: The household qualifies as low income.

(C) Emergency conditions are present.

(1) A utility supplier declares energy shortages;

(2) Electric power outages occur;

(3) Natural gas service interruptions occur;

(4) Temporary (not to exceed 120 days) failure of a residential unit's primary heat source; or

(5) Other circumstances when a failure of a residential unit's primary heat source presents an immediate need to operate a wood burning device for the preservation of health and welfare.

(D) Department Director shall be authorized to allow exemptions other than those listed in this subchapter. Except in case of emergency, a person must apply for and receive an exemption prior to operating a wood burning device or engaging in recreational burning on a red day air quality advisory.

(E) The wood burning device has an Environmental Protection Agency or Oregon Department of Environmental Quality certified emissions rating of 2.5 grams/hour or less.

Section 6. MCC § 21.455 is added as follows:

§ 21.455 – INSPECTIONS.

The Department shall have authority to inspect and investigate potential violations of this subchapter.

Section 7. MCC § 21.456 is added as follows:

§ 21.456 – ENFORCEMENT.

(A) The Department shall monitor and enforce compliance with this subchapter.

(B) Enforcement may be initiated by complaint.

(C) The Department may issue civil penalties or restrictions based upon a finding that a person is in violation of this subchapter.

Section 8. MCC § 21.457 is added as follows:

§ 21.457 – PENALTIES.

- (A) Violations may result in the issuance of a notice of violation. The notice of violation shall indicate the date, address, and violation observed and specify any corrective actions to achieve compliance with this subchapter. First and second violations may result in a warning.
- (B) A third violation may result in a civil penalty of \$250.
- (C) A fourth or subsequent violation may result in a civil penalty of \$500.
- (D) Each day a person is in violation of this subchapter shall be deemed a separate violation.

Section 9. MCC § 21.458 is added as follows:

§ 21.458 – APPEALS.

Any person receiving a written notice of violation of this subchapter may appeal the notice of violation and request a hearing. Appeals must be sent to the Department and postmarked within 30 calendar days of the notice of violation date.

FIRST READING: _____ *(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: Commissioner Vega Pederson