

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 1051

Amending MCC Chapter 21, Health, Relating to Hospital Outdoor No Smoking Policy

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

The Multnomah County Board of Commissioners Finds:

- a. Individual cigarettes are point sources of outdoor air pollution; smoking in groups is an area source of outdoor air pollution.
- b. Outdoor exposure to second-hand tobacco smoke causes impaired breathing, asthma attacks, headache, nausea, and other symptoms in nonsmokers.
- c. People with chronic and acute respiratory diseases and other medical conditions, (i.e., hospital patients) are particularly vulnerable to the health hazards of secondhand smoke.
- d. There is a scientific consensus that outdoor sources of tobacco smoke should be kept at least 20 feet away from entrances, operable windows, and air intake vents to protect building occupants from the carcinogenic particulate matter found in outdoor tobacco smoke.
- e. State law does not currently regulate smoking in areas outside an enclosed area where smoking is prohibited.
- f. Multnomah County Home Rule Charter Chapter 2.10 grants the county authority over matters of county concern.
- g. The Board of County Commissioners declares that this ordinance is to protect the public health and welfare by requiring hospitals to prohibit smoking in certain outdoor areas that are adjacent to hospital buildings.
- h. This ordinance will be submitted to the Portland City Council to obtain its consent to application of this ordinance within the city limits, in accordance with ORS 203.040.

Multnomah County Ordains as follows:

Section 1. § 21.500* is amended to read as follows

21.500* SMOKE-FREE WORK AND PUBLIC PLACES

Section 2. § 21.501 is renumbered and amended as follows:

21.501-510 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.

HOSPITAL. Any facility that meets the definition of "Hospital" in ORS 442.015.

OUTDOOR PUBLIC AREA. Any public area immediately adjacent to a Hospital building or buildings, including but not limited to sidewalks, walkways, seating areas and courtyards.

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 3. § 21.502 is renumbered and amended as follows:

21.502-515 Smoking Prohibited in Places of Employment.

Every employer shall provide a place of employment free of tobacco smoke for all employees.

Section 4. A new § 21.520 is added to read as follows

21.520 Hospital Outdoor No Smoking Policy.

(A) Hospitals are required to adopt policies prohibiting smoking in outdoor public areas. These policies must meet the following minimum guidelines:

(1) Prohibits smoking within at least 20 feet of building entrances and exits, air intake vents, and windows that are capable of opening to the outside

(2) Requires posting of signs that include the international no smoking symbol and the words "no smoking" in outdoor public areas where smoking is prohibited.

(3) Includes a formal mechanism for the hospital to enforce the policy.

(B) Hospitals may adopt policies allowing smoking in designated outdoor smoking areas as long as they are at least 20 feet away from building entrances and exits, air intake vents, and windows that are capable of opening to the outside.

Section 5. § 21.503 is renumbered to 21.525 as follows:

21.503-525 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;

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

(G) Retail tobacco stores;

(H) Truck stops; and

(I) Billiard parlors.

Section 6. § 21.504 is renumbered to 21.530 as follows:

21.504-530 Posting "No Smoking" Signs.

"No smoking" signs or the international "no smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a circle with a bar across the cigarette) shall be clearly, sufficiently, and conspicuously posted in every building or other area where smoking is prohibited by this subchapter, by the owner, manager, or other person having control of such building or other area, including private residences used as a child care, adult day care or health care facility.

Section 7. § 21.505 is renumbered to 21.535 as follows:

21.505-535 Other Violations.

It shall be a violation of this subchapter for every day any person, who owns, manages, operates or otherwise controls the use of any premises, subject to regulation under §§ 21.500 et seq., fails to comply with any provisions therein. Each day shall be a separate violation.

Section 8. § 21.506 is renumbered to 21.540 and amended as follows:

21.506-540 Smoking In Workplace Prohibited.

It shall be a violation of §§ 21.500 et seq. for any person to smoke in any area where smoking in the workplace is prohibited by the provisions of §§ 21.500 et seq.

Section 9. § 21.507 is renumbered to 21.545 as follows:

21.507-545 Other Laws.

This subchapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

FIRST READING:

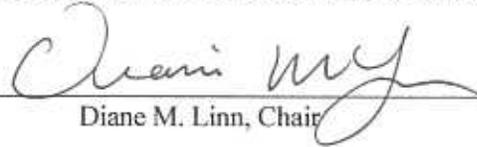
October 14, 2004

SECOND READING AND ADOPTION:

October 21, 2004

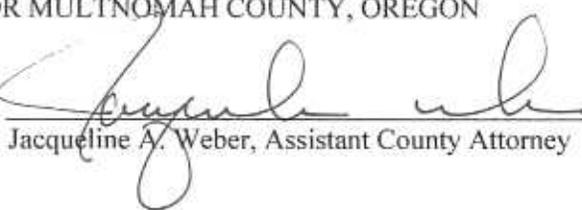


BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Diane M. Linn, Chair

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By


Jacqueline A. Weber, Assistant County Attorney