

1                               **BEFORE THE BOARD OF COUNTY COMMISSIONERS**

2                               **FOR MULTNOMAH COUNTY, OREGON**

3                               **ORDINANCE NO. 937**

4  
5           An ordinance repealing MCC 27.300 and 27.301 and adding new provisions to MCC  
6 Chapter 21 relating to workplace hazards.

7           **The Multnomah County Board of Commissioners Finds:**

8           a.     Health hazards brought about by breathing second-hand smoke include lung  
9 cancer, heart disease, respiratory infection, and decreased respiratory function, including  
10 bronchoconstriction and bronchospasm.

11          b.     Children exposed to second hand smoke suffer increased rates of bronchitis, ear  
12 infections, asthma, allergies and meningococcal meningitis.

13          c.     Thirty-two percent (32%) of Multnomah County workers report being exposed to  
14 second-hand tobacco smoke in the workplace. (1997) Tobacco Baseline Survey, Multnomah  
15 County Respondent, Oregon Health Division.

16          d.     Forty-three percent (43%) of food service workers in Multnomah County report  
17 being exposed to second-hand smoke while they are working. (1998) Multnomah County Food  
18 Service Worker Survey.

19          e.     Multnomah County is the local public health authority, under ORS 431.375(2),  
20 charged with providing public health services in Multnomah County.

21          f.     As the local public health authority, Multnomah County is charged with assuring  
22 the "activities necessary for the preservation of health or prevention of disease in the area under  
23 its jurisdiction." ORS 431.416(2).

24          g.     The Multnomah County Department of Health has established a county-wide  
25 network of education and clinical services available to all residents of Multnomah County.

1 h. As the public health authority, Multnomah County is specifically charged with  
2 providing services to reduce tobacco consumption. ORS 431.832 and OAR 333-010-330.

3 i. Multnomah County Home Rule Charter Chapter 2.10 grants the county authority  
4 over matters of county concern.

5 j. The Board of County Commissioners declares that this ordinance is to protect  
6 the public health and welfare by prohibiting smoking in places of employment.

7  
8 **Multnomah County Ordains as follows:**

9 **Section 1.** MCC Chapter 21 is amended to add:

10 **§ 21.500 SMOKE-FREE WORKPLACES**

11 **§ 21.501 DEFINITIONS.**

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

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

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

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

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

1           1.       The smoking room is not accessible to minors.

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

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

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

10          5.       There are sufficient nonsmoking breakrooms to accommodate nonsmokers.

11          **PLACE OF EMPLOYMENT.** Any enclosed area under the control of a public or private  
12 employer that employees normally frequent during the course of employment, including, but not  
13 limited to, work areas, employee lounges and rest rooms, conference and class rooms,  
14 cafeterias and hallways. A private residence is not a "place of employment" unless it is used as  
15 a child care facility as defined in ORS 657A.250, an adult day care facility as defined in ORS  
16 410.490 or a health care facility as defined in ORS 442.015.

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

19          **SMOKING.** Any inhaling, exhaling, burning, or carrying any lighted cigar, cigarette,  
20 weed, plant, or other tobacco-like product or substances in any manner or in any form.

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

24   **§ 21.502       SMOKING PROHIBITED IN PLACES OF EMPLOYMENT.**

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



1   **§ 21.503        PLACES WHERE SMOKING IS NOT REGULATED.**

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

4            (A)     Private residences, unless the private residence is used as a child care facility as  
5 defined in ORS 657A.250, an adult day care facility as defined in ORS 410.490 or a health care  
6 facility as defined in ORS 442.015;

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

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

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

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

16           (F)     Retail tobacco stores.

17   **§ 21.504        POSTING “NO SMOKING” SIGNS.**

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

1    § 21.505        OTHER VIOLATIONS.

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

5    § 21.506        SMOKING IN WORKPLACE PROHIBITTED

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

8    § 21.507       OTHER LAWS

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

12       **Section 2.** MCC § 21.999 is amended to add:

13    § 21.999    PENALTY.

14 \*\*\*\*\*

15 (D) *Smoke-Free workplace violations*

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

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

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

1 (3) For subsequent violations, a civil fine consistent with the fine schedule  
2 adopted by the Director of the Department of Health by administrative rule.

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

5  
6 **Section 3.** MCC §§ 27.300 and 27.301 are repealed and this ordinance is effective  
7 July 1, 2000, except as provided in Section 4.

8  
9 **Section 4.** MCC §§ 21.999(3)-(4) are effective July 1, 2001.

10  
11 FIRST READING: December 9, 1999

12 SECOND READING AND ADOPTION: December 16, 1999



MULTNOMAH COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

By

  
Beverly Stein, Chair

19 REVIEWED:

20 THOMAS SPONSER, COUNTY COUNSEL  
21 FOR MULTNOMAH COUNTY, OREGON

22  
23 By

  
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