

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDINANCE NO. 1124**

Amending MCC Chapter 21 Relating to Smokefree Places of Employment and Public Places

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

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

- a. The 2007 Legislature enacted Chapter 602 Oregon Laws 2007 amending the Oregon's Indoor Clean Air Act effective January 1, 2009.
- b. The 2007 legislation essentially brings state law in line with County ordinances. Therefore, most of the County code sections regarding smokefree places of employment and those violation penalties are duplicative and should be removed. The only requirement more stringent than the 2007 legislation that the County wishes to retain is the County's smoking ban within 20 feet of hospital entrances, exits, etc., rather than the statutory 10 feet.

**Multnomah County Ordains as follows:**

**Section 1.** MCC. § 21.510 is amended and §§ 21.520, 21.530 and 21.545 are unchanged as follows:

**21.510 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.~~

## **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.

#### **21.545 Other Laws.**

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

**Section 2.** MCC. §§ 21.515, 21.525, 21.530, 21.535 and 21.540 are repealed and deleted as follows:

#### **~~21.515 Smoking Prohibited in Places of Employment.~~**

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

#### **~~21.525 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~~

~~———— (1) ——— Billiard parlors.~~

**21.530 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.~~

**21.535 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.~~

**21.540 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.~~

**Section 3.** MCC § 21.999 is amended to delete Smoke Free workplace violation penalties as follows:

**21.999 Penalty.**

\* \* \* \* \*

~~(D) ——— Smoke Free workplace violations.~~

Any person who violates §§ 21.501 et seq. 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 will provide technical assistance to achieve compliance upon request.~~

~~———— (2) ——— For a second complaint of a violation, 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 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 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.**      **This ordinance shall take effect on January 1, 2009.**

FIRST READING:

December 4, 2008

SECOND READING AND ADOPTION:

December 11, 2008

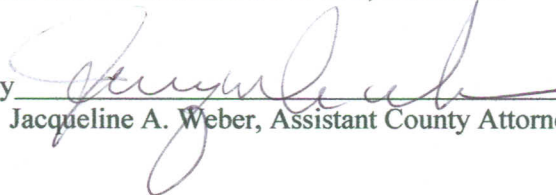


BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Jacqueline A. Weber, Assistant County Attorney

SUBMITTED BY:

Lillian Shirley, Director, Multnomah County Health Department