

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. _____

Amending Multnomah County Code Sections 21.513 to 21.515, 21.550, 21.560 and Section 21.563.

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

The Multnomah County Board of Commissioners Finds:

1. Use of tobacco products remains the leading cause of preventable death and disease, killing nearly 8,000 Oregonians each year from cancer and cardiovascular and respiratory diseases. 27.5% of cancer deaths in Oregon are attributable to smoking.
2. More than 1,200 Multnomah County residents die due to tobacco every year (that's more than 3 people each day), at an estimated county cost of \$578 million per year due to direct medical costs and lost productivity.
3. Flavored tobacco products are popular among youth and young adults and are a key cause of the chronic use of tobacco products for all ages. Eight out of ten youth who have ever used a tobacco product initiated with a flavored product. In particular, use of flavored e-cigarettes and vaping products have rapidly increased during recent years, despite a 25-year trend of reduced combustible cigarette sales.
4. Flavored tobacco products contain nicotine, which is a dangerous and highly addictive chemical that adversely affects the cardiovascular system. According to the US Surgeon General, nicotine is also especially dangerous for youth, as it has been shown to disrupt brain development and negatively affect attention, learning, and susceptibility to addiction.
5. Menthol tobacco products are also popular among youth and young adults and are a key cause of the chronic use of tobacco products for all ages.
6. Tobacco companies have created racial and ethnic health disparities due to targeted marketing of menthol tobacco products to our Black, African-American, and LGBTQ+ community members, which has caused greater addiction in those communities.
7. Minimum sales age inspections, performed by the Multnomah County Tobacco Retail Program, have found that many tobacco retailers continue to illegally sell tobacco products to individuals under the age of 21-years old. Significantly, retailers

selling tobacco products at locations legally required to limit access inside the premises to individuals at least 21-years old have actually had the highest rates of illegal sales to individuals under 21-years old.

8. Under ORS 431, 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 state or federal laws.

Multnomah County Ordains as Follows:

Section 1. MCC § 21.513 is amended as follows:

~~§ 21.513 - INHALANT DELIVERY SYSTEM SALES TO MINORS PROHIBITED.~~

~~No person, including Inhalant Delivery System Retailers, may distribute, sell, or allow to be sold an inhalant delivery system to a person under 18 years of age.~~

Section 2. MCC § 21.514 is amended as follows:

~~§ 21.514 - POSSESSION BY MINORS.~~

~~A person under 18 years of age may not possess an inhalant delivery system unless the person is in a private residence accompanied by the parent or guardian of the person and the parent or guardian has consented to the person's possession of the inhalant delivery system.~~

Section 3. MCC § 21.515 is amended as follows:

~~§ 21.515 - PURCHASE BY MINORS.~~

~~A person under 18 years of age may not purchase, attempt to purchase, or acquire inhalant delivery systems unless acting under the supervision of an adult for the purpose of testing compliance with federal law, state law, local law, or retailer management policy limiting or regulating the delivery of inhalant delivery systems to minors.~~

Section 4. MCC § 21.550 is amended as follows:

§ 21.550 - PENALTY.

(A) Violation of Sections 21.512 ~~or 21.513~~ shall be a Class A violation.

~~(B) Violation of Section 21.515 shall be a Class B violation. Alternative penalties for violation of Section 21.515 may be promulgated by administrative rule, and as allowed by law, including but not limited to smoking cessation education and community service.~~

~~(C) Violation of Section 21.514 shall be a Class D violation. Alternative penalties may be promulgated by administrative rule, as allowed by law, including but not limited to smoking cessation education and community service.~~

Section 5. MCC § 21.560 is amended as follows:

§ 21.560 – DEFINITIONS.

Arm’s Length Transaction. A sale in good faith and for valuable consideration that reflects the fair market value in the open market between two or more informed and willing parties, none of which is under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of the violations of this chapter is not an Arm’s Length Transaction.

* * *

Flavored Tobacco Product. Tobacco product with a distinguishable or distinctive natural or artificial taste, flavor, smell or aroma, other than tobacco, that emanates from or is imparted by a tobacco product, a component of a tobacco product, or a tobacco product’s smoke or vapor at any time prior to or during consumption. Flavored tobacco products include (but are not limited to) those tobacco products with a mint, menthol, wintergreen, fruit, candy, honey, cocoa, chocolate, herb, spice, vanilla, liquor, and any and all other distinguishable or distinctive natural or artificial tastes, flavors, smells, or aromas, other than tobacco.

* * *

Tobacco Products.

(A) Any ~~product substance~~ containing, made, or derived from tobacco or nicotine, natural or synthetic, that is intended for human consumption by any means including but not limited to cigarettes, cigars, little cigars, pipe tobacco, shisha, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco or nicotine.

* * *

Section 6. MCC § 21.563 is amended as follows.

§ 21.563 – PROHIBITED ACTIVITIES.

(A) It is a violation of this subchapter for a Tobacco Retailer to make available Tobacco Products:

- (1) Without a Tobacco Retail License.
- (2) From a motor vehicle.
- (3) Outside original packaging containing health warnings satisfying the requirements of federal law.
- (4) To a person who appears to be under the age of 27 years without first examining the recipient’s identification to confirm that the recipient is at least the

minimum age under federal, state, or local law to purchase and possess Tobacco Products.

(B) It is a violation of this subchapter for a Tobacco Retailer to make available any Flavored Tobacco Product to any person.

(C) It is a violation of this subchapter to fail to comply with license terms, the rules adopted pursuant to this subchapter, and federal, state, and local laws relating to the retail sale of tobacco products.

Section 7. Sections 5 and 6 of this Ordinance shall take effect on January 1, 2024. Sections 1 through 4 of this Ordinance shall take effect on the 30th day after signature by the Chair of the Board of Commissioners. MCC § 21.560 through MCC § 21.568 shall continue to apply in all areas of Multnomah County, including incorporated and unincorporated areas.

FIRST READING: _____

SECOND READING AND ADOPTION: _____

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Deborah Kafoury, Chair

REVIEWED:
JENNY M. MADKOUR, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Robert Sinnott, Assistant County Attorney

SUBMITTED BY: