

BEFORE THE BOARD OF COMMISSIONERS

FOR MARION COUNTY, OREGON

An ordinance prohibiting the use)
of all tobacco products in Marion County)
buildings and on Marion County property,)
providing certain exemptions, and repealing)
the provisions within Marion County Code)
Chapter 8.40.)

ORDINANCE No. 1350

SECTION 1. Title.

This ordinance shall be known as the Smoke-Free and Tobacco-Free County Property Ordinance and shall be so cited and pleaded.

SECTION 2. Purpose.

The purpose of this ordinance is to promote the long-term health and safety of Marion County employees and the public by prohibiting the use of all tobacco products in Marion County buildings, on Marion County property and grounds, and in county vehicles.

SECTION 3. Definitions.

For the purposes of this ordinance, the following words shall have the following meanings:

- (1) "Electronic smoking device" means an electronic or battery-operated device that delivers nicotine or other substances in vapor form and which may simulate smoking. "Electronic smoking device" includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar or cigarillo, an electronic pipe, an electronic hookah or any other product name or descriptor.
- (2) "Enclosed area" means all space between a floor and a ceiling that is enclosed on three or more sides by permanent or temporary walls or windows, exclusive of doors or passageways that extend from floor to ceiling.
- (3) "Marion County property" or "county property" means: all interior and exterior areas owned or leased by the county; the interior of any building, structure, or facility that is owned or leased by the county; any parking area or parking facility owned or leased by the county; all outdoor property or grounds owned or leased by the county; and any vehicle that is owned or leased by the county. "Marion

County Property” or “County Property” includes any plaza owned or leased by the county in common with another owner or lessee that has also prohibited the use of tobacco products. The term “Marion County Property” does not include any county road.

- (4) “Tobacco product” means cigarettes, cigars, pipes, and any other smoking product; dip, chew, snuff, snus, and any other smokeless product; and electronic smoking devices.
- (5) “Use of tobacco product” means to inhale, exhale, burn, carry, ingest or use any tobacco product or tobacco-like product; to carry any lighted or heated product. “Use of tobacco product” includes the use or the carrying of any electronic smoking device that is turned on or producing vapor. The term “use of tobacco product” does not include the use of any product specifically approved by the United States Food and Drug Administration for sale as a tobacco cessation product if the product is marketed and sold solely for the approved purpose.
- (6) “Vehicle” means any machine owned or leased by the county in, upon or by which any person or property is or may be transported or drawn upon a public road or public waterway and includes vehicles that are propelled or powered by any means.

SECTION 4. Prohibitions.

- (1) The use of tobacco products is prohibited at any time on Marion County property.
- (2) Without limiting the foregoing, this prohibition applies to the use of tobacco products:
 - a. within the interior of any county property that is a building or structure;
 - b. on any county grounds or facility;
 - c. on any county property that constitutes a parking area;
 - d. in any county vehicle; and
 - e. in any private vehicle while on Marion County property.

SECTION 5. Exemptions.

A person shall not be considered to have violated the provisions of this ordinance if that person uses tobacco products on a designated smoking area established through the provisions of Section 6 of this ordinance. The exemption provided by this section shall have no legal effect on or after July 1, 2016.

SECTION 6. Designated Smoking Areas.

- (1) The Marion County business services director may establish designated smoking areas on county property outside of county buildings and enclosed areas if the

designated area complies with the Oregon Indoor Clean Air Act. Unless established on the Marion County Jail campus, Juvenile Detention Facility campus or Public Works campus through the process outlined in subsections (2) – (4) of this section, designated smoking areas will cease to be allowed after June 30, 2015.

- (2) The following Marion County property locations are identified as having facilities where county employees perform job functions for 24 hours of every day:
 - a. Marion County Jail campus – Jail and Work Center;
 - b. Marion County Juvenile campus – Detention Facility; and
 - c. Marion County Public Works campus – Operations.

The department head overseeing the operations at a campus identified in this subsection may request that the business services director establish a designated smoking area at that campus location. After consulting with the chief administrative officer, department head, and risk manager, the business services director may establish one designated smoking area at a campus location identified above. The business services director may not establish a designated smoking area in a location that fails to comply with the Oregon Indoor Clean Air Act. The business services director shall not establish a designated smoking area at any of the three locations identified in this subsection after June 30, 2016.

- (3) The use of tobacco products is only permitted on an area that has been designated by the business services director as a smoking area and only if an authorized sign or marking identifies the location of the designated smoking area.
- (4) The business services director may cancel the establishment of a designated smoking area at any time with immediate effect. Designated smoking areas on the Marion County Jail campus, Juvenile Detention Facility campus or Public Works campus will not be authorized to continue after June 30, 2016. All signs or markings identifying smoking areas shall be removed at that time.

SECTION 7. Enforcement and Penalties.

- (1) This ordinance shall be enforced by the Marion County Sheriff's Office or Marion County Code Enforcement.
- (2) Violations of this ordinance shall be subject to a civil penalty in an amount to be established by the Board of Commissioners. Enforcement of violations of this ordinance shall be accomplished pursuant to Marion County Code Chapter 1.25.
- (3) The failure or omission to comply with any section of this ordinance shall be deemed a violation and may be so prosecuted, subject to the penalty provided in subsection (2) of this section.

- (4) If the person who knowingly violates a provision of this ordinance is a Marion County employee who is acting in the course and scope of employment, then that employee may be subject to discipline.
- (5) The provisions of this ordinance are in addition to, and not in lieu of, any other procedures and remedies provided by law, including equitable relief and damages.

SECTION 8: Repeal.

The provisions of Marion County Code Chapter 8.40 are hereby repealed.

SECTION 9: Effective Date.

This ordinance shall take effect on the 90th day after the date of its adoption.

Signed and finalized this 14th day of January 2015.

MARION COUNTY BOARD OF COMMISSIONERS

Janet Carlson
Chair

D. Kim Hulott
Recording Secretary

Health/tobacco free/Tobacco free ordinance 1.14.15.doc