

ORDINANCE NO. 5054

An Ordinance Relating to Smoking Regulations in Downtown McMinnville and City Park Areas; establishing MMC Chapter 8.32; and, amending MMC 12.36.020.

RECITALS:

In late 2017, the City Council appointed a Downtown Safety Task Force for the purpose of evaluating behaviors that negatively impact public health, welfare and safety in downtown McMinnville, following a significant rise in complaints from businesses and visitors to the downtown area in the summer of 2017.

The Task Force completed its work in early 2018, and issued a report to the City Council recommending several actions that should be considered for implementation by the City. The recommended actions included a proposed ban in smoking in the downtown core as well as at parks and other City properties.

The Council finds that a smoking ban would promote the public health, welfare and safety in the downtown area and at City parks and other facilities.

Now, therefore, THE COMMON COUNCIL FOR THE CITY OF McMINNVILLE ORDAINS AS FOLLOWS:

1. The provisions set forth in the attached Exhibit 1, which are incorporated by this reference, are hereby adopted.
2. This ordinance will take effect 30 days after its passage by the Council.

Passed by the Council on June 26, 2018, by the following votes:

Ayes: Drabkin, Garvin, Menke, Peralta, Ruden, Stassens

Nays: _____

Approved on June 26, 2018.


COUNCIL PRESIDENT

Approved as to form:


CITY ATTORNEY

Attest:


CITY RECORDER

ORD 5054
Exhibit 1

Section 1. Add new MMC Section 8.32.010:

8.32.010 Definitions. For the purposes of this Chapter the following definitions shall apply:

- A. "City Park Areas" has the meaning provided in MMC 12.36.020.
- B. "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, which extend from the floor to the ceiling. If no ceiling is present, "enclosed area" means all space that is included by three or more sides by permanent or temporary wall or windows, exclusive of doors or passageways.
- C. "Inhalant" means nicotine, a cannabinoid or any other substance that is in the form that allows the nicotine, cannabinoid or substance to be delivered into a person's respiratory system by inhalation and is not approved by, or emitted by a device approved by, the United States Food and Drug Administration for a therapeutic purpose.
- D. "Inhalant Delivery System" means a device that can be used to deliver nicotine or cannabinoids in the form of a vapor or aerosol to a person inhaling from the device.
- E. "Place of Employment" means every enclosed area under the control of a public or private employer that employees frequent during the course of employment, including but not limited to work areas, employee lounges, vehicles that are operated in the course of an employer's business that are not operated exclusively by one employee, rest rooms, conference rooms, classrooms, cafeterias, hallways, meeting rooms, elevators and stairways. "Place of employment" includes privately owned enclosed areas where volunteers perform work typically done by employees. "Place of employment" does not include a private residence unless it is used as a child care facility as defined in ORS 329A.250 or a facility providing adult day care as defined in ORS 410.490.
- F. "Public Place" means an enclosed area that is open to the public.
- G. "Smoking" means and includes (1) the inhaling, exhaling, burning, or carrying any lighted cigarette, cigar or tobacco in any form and (2) the use of an inhalant delivery system to inhale or exhale vapor or aerosol or tobacco.
- H. "Smoking Instrument" means any cigar, cigarette, pipe or other instrument or inhalant delivery system used to smoke tobacco, marijuana or any other inhalant.
- I. "Downtown Smoke Free District" means the entire corridor of NE 3rd Street from NW Adams Street to NE Johnson Street, and extending 50 feet north and south along each intersecting street throughout the described 3rd Street corridor.

Section 2. Add new MMC Section 8.32.020

8.32.020 Smoking Prohibited.

A. A person may not smoke, aerosolize or vaporize an inhalant or carry a lighted smoking instrument within 10 feet of the following parts of places of employment or enclosed areas open to the public:

- 1. Entrances;
- 2. Exits;
- 3. Windows that open;
- 4. Ventilation intakes that serve an enclosed area; and
- 5. Outdoor dining areas.

B. An employer must provide a place of employment that is free of tobacco smoke for all employees and must post signs that provide notice of the provision of ORS 433.835 to 433.875.

C. A person may not smoke, aerosolize, or vaporize an inhalant or carry a lighted smoking instrument within or upon any City Park Areas.

D. The activities described in ORS 433.850(2) are exempt from the provisions of this section.

Section 3. Add new MMC Section 8.32.030

8.32.030 Downtown Smoke Free District.

A. Except those activities described in ORS 433.850(2), a person may not smoke, aerosolize or vaporize an inhalant or carry a lighted smoking instrument within the Downtown Smoke Free District.

B. The restrictions of this section do not apply to persons travelling in a motor vehicle through the District.

Section 4. Add new MMC Section 8.32.040

8.32.040 Penalties for Violation. Violation of any provision of this chapter is a Class D violation pursuant to ORS 153.012.

Section 5. Amend MMC Section 12.36.020(A)(3) as follows:

“Park areas” shall include all parcels of land, beaches or bodies of water owned, leased, controlled or administered by the City of McMinnville for recreation or open space purposes which have been designated by the city as a “park,” “linear park,” “greenway,” “open space,” “playground,” “recreation facility” or as “natural areas.” For the purpose of this ordinance, the term “park” or “park areas” shall also include the McMinnville Public Library, Aquatic Center, Senior Center, Community Center, and City Hall including the grounds, plazas, ~~and~~ walkways, sidewalks and surface parking lots immediately surrounding these facilities.