



HUMAN SERVICES COMMITTEE

Agenda

Tuesday, December 3, 2013

2:00 pm

Madison Avenue Meeting Room
500 SW Madison

- | | |
|------------------------------------|---|
| Discussion/ Possible Action | I. 2014-2015 Social Services Priorities and Calendar (Attachment) |
| Discussion/ Possible Action | II. Municipal Code Review: Chapter 5.03, "Offenses" (Smoking Enforcement Hiatus) (Attachment) |
| Discussion/ Possible Action | III. Council Policy Review and Recommendation: 92-5.04, "Hate/Bias Violence" (Attachment) |
| Information | V. Other Business |

Next Scheduled Meeting

Tuesday, December 17, 2013 at 2:00 pm

Madison Avenue Meeting Room, 500 SW Madison Ave

Agenda

Council Policy Review and Recommendation: 07-4.16, "Code of Conduct for Patrons at Parks and Recreation Facilities, Events, and Programs"

MEMORANDUM

DATE: November 22, 2013

TO: Human Services Committee

FROM: Ken Gibb, Director, Community Development Department



SUBJECT: FY 14-15 Social Service Allocations Funding Priorities

I. Background

The City has for many years provided funds to agencies that assist Corvallis residents with their social service needs. In compliance with Council Policy 00-6.05 (Attachment A), policy priorities are reviewed annually for the upcoming year's funding.

The City has contracted with the United Way of Benton and Lincoln Counties for many years to manage the City's social service allocations process. As the contract administrator, United Way appoints a citizen based committee to review funding requests including whether or not the proposal meets priorities established by the City and makes recommendations to the City for Council approval. In addition, United Way staff monitors agency performance and prepares semi-annual reports for City review. The current contract with United Way, authorized in September 2009, established a five (5) year term commencing in 2010, and established a 5% fee to United Way for providing this service. In FY 13-14 United Way received \$16,415. United Way is proposing that beginning in FY 14-15 they receive a flat fee of \$8,000 for the City and United Way administrative services. Their recent review of the actual cost for them to administer this program justifies this amount. United Way has found that combining their granting cycles and moving to a semi-annual reports to the City (versus quarterly) has reduced their overall administrative costs.

II. Discussion

Consistent with Council Policy 00-6.05, a full review of the social services policy is not called for this year but the annual determination of funding priorities is required. In addition, the calendar for social service allocations must be set and the availability of funds announced. The following will discuss each of these topic areas.

United Way Vision Council Update

In 2011, United Way formed three Vision Councils—one in each of its impact areas of education, financial stability, and health—to better understand human service issues the community is struggling with, identify resources, work already being done, gaps in service, and avoid duplicating effort. In an attempt to synthesize various "siloes" conversations into a cohesive whole; the Vision Councils were tasked with identifying priorities for United Way focus. Each Council is progressing at a slightly different pace; however, we expect draft priority recommendations by early summer. Therefore, this information may be available for consideration in the City social services prioritization process next year.

Funding Priorities:

Funding priorities are called out in 6.05.060 and are currently determined to be Emergency and Transitional Services. As defined by 6.05.050. **Emergency Services** are: *programs or services that provide immediate or short term assistance to meet any of the basic human needs when absent.* **Transitional services** are: *programs or services that provide people with a short or defined period of assistance to sustain their basic human needs in the transition to self-sufficiency.*

Emergency and Transitional Services have been the City's social service allocation program funding priorities for many years. HSC should review and make a recommendation to the City Council whether to continue these priorities in FY 14-15.

United Way Status Update Allocation Process & Calendar:

Attachment B includes the calendar for the allocation process as proposed by United Way. Major action dates include January 2014 when notification is sent to agencies that a Letter of Intent is available. Agency presentations are scheduled for the end of March and early April, with allocation/granting committee meetings and recommendations in mid-May followed by HSC and City Council review of funding recommendations in June 2014.

Funding Availability:

Last year, in light of continuing City budget challenges, the City Manager presented a proposal to the City Council that the General Fund amount for social services allocations be \$237,750. This early recommendation was then communicated to United Way for use in initiating the FY 13-14 allocation process. The levy, amount of \$107,390 was reduced to \$90,550 to account for a property tax shortfall in FY 12-13 and the anticipated shortfall in FY 13-14. Therefore, total funding in FY 13-14 was \$328,300.

The amount of funding available for FY 14-15 social services allocations will not be finally set until the City Council approves the budget in June. According to the City's Budget Office, the best estimate for FY 14-15 Social Services Funding will be \$354,340, as described below:

Social Services

	<u>FY 14-15</u>
Regular Allocation - Appropriations	237,750
2013 Oper Levy - Appropriations (1)	106,340
2013 Levy Holdback - 3%	(3,190)
2011 Levy balance to spend (2):	13,440
	<u>354,340</u>

United Way is prepared to move forward with the current funding level estimate.

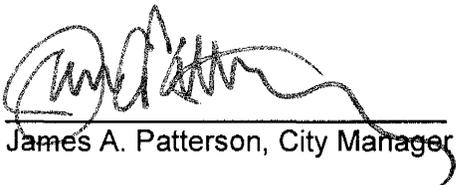
III. Action Requested

HSC is asked to consider this information and make recommendations to the City Council regarding the following:

1. The social service funding priorities for FY 14-15
2. The allocations calendar and anticipated funding amount (or range) for FY 14-15.

In addition, it is noted that United Way has again requested a City Councilor be appointed as a liaison to the granting committee. Typically, the Mayor will appoint a member of HSC to serve in this capacity.

Review and Concur



James A. Patterson, City Manager

Review and Concur



Nancy Brewer, Finance Director

Attachment A - Council Policy on Social Service Funding
Attachment B - Proposed FY 2014-15 Social Services Allocation Calendar

CITY OF CORVALLIS

COUNCIL POLICY MANUAL

POLICY AREA 6 - COMMUNITY DEVELOPMENT

CP 00-6.05 Social Service Funding Policy

Adopted January 18, 2000

Affirmed February 5, 2001

Revised February 19, 2002

Affirmed April 7, 2003

Affirmed February 2, 2004

Affirmed February 22, 2005

Revised December 18, 2006

Revised January 22, 2008

Revised November 16, 2009

Revised February 4, 2013

6.05.010 Purpose

To formally establish a policy for the setting of social service priorities, specify the annual allocation amount and allocation process for funding.

6.05.020 Goal

That all residents have resources to provide for basic needs.

6.05.030 Mission

The social service allocation process is intended to provide support to local social service agencies which assist in improving the mental or physical condition of the people in the City.

6.05.040 Funding Source

- a. To provide an annual stable funding source for social service agencies receiving financial assistance from the City (direct or indirect). The City Manager shall recommend a funding amount in the City's Proposed Budget.

Council Policy 00-6.05

- b. It is strongly encouraged that all social service funding be requested and distributed through the annual social service program process.

6.05.050 Definitions

The following definitions are written to provide a basis for common understanding in discussing social service needs of the community:

- a. *Basic human needs* - The following are some of the basic necessities of life which, when absent or threatened, would be considered to constitute an emergency:

- | | | |
|--------------------------|--|--|
| 1) food | 2) water | 3) shelter |
| 4) warmth | 5) clothing | 6) safety and freedom from fear and violence |
| 7) access to information | 8) acute mental and physical health care | 9) Transportation |

- b. *Emergency services* - Programs or services that provide immediate or short-term assistance to meet any of the above basic human needs when absent.
- c. *Transitional services* - Programs or services that provide people with a short or defined period of assistance to sustain their basic human needs in the transition to self-sufficiency.
- d. *Long-term services* - Programs or services that provide permanent or on-going services to citizens.
- e. *Preventive services* - Programs or services that seek to prevent citizens from needing emergency or transitional assistance.
- f. *Social services* - Intended to describe a program(s) designed to improve the mental or physical condition of the people in the community. Such programs may include, but are not limited to: mental and physical health, child care, drug and alcohol abuse, vocational rehabilitation, aging, and others as permitted.

Council Policy 00-6.05

6.05.060 Setting Priorities

Annually, Council will review the needs of the community and set priorities for funding, including using broad needs assessment tools that are available. Changes in priorities shall be made by amendments to this Council Policy. The current funding priorities are Emergency and Transitional services.

6.05.070 Eligibility

Organizations applying for City social service funding must be recognized as a non-profit by the Federal Government with a 501(c)(3) tax-exempt status certification or be a governmental or quasi-governmental agency.

6.05.080 Annual Process

- a. Council shall evaluate and set the annual social service priorities.
- b. Council shall review and approve the annual calendar for allocations.
- c. The availability of funds shall be advertised.
- d. Agency proposals shall be received.
- e. Agency presentations shall be scheduled.
- f. A Committee of community members knowledgeable in social service needs shall be formed. They shall:
 - 1) meet to review agency proposals and funding requests; and
 - 2) make recommendations to Council.
- g. The Human Services Committee will review the Allocations Committee recommendations and forward an allocation recommendation for full Council review and approval.
- h. Council shall appropriate the funds for the program in the annual budget.
- i. Contracts shall be executed with service providers.
- j. Funds shall be distributed to service providers.
- k. Contracts shall be monitored and programs of the social service providers

Council Policy 00-6.05

evaluated.

- I. Semi-Annual reports on the work performed by service providers shall be submitted.
- m. Council shall review and approve the semi-annual reports of service providers.

6.05.090 Administration of Social Services

- a. The City may chose to issue Request for Proposals on a triennial basis for administration of its social service program and funds. The successful administrator must demonstrate knowledge of the social service needs of the community and advise Council. A contract between the City and the Administrator will be executed and renewed on an annual basis.
- b. Should the City decide not to utilize the services of an administrator, this provision of the Policy shall be invalidated.

6.05.100 Reporting Requirements

- a. Service providers are required to provide regular reports to the Administrator and City. Reports shall include a progress narrrrative and financial records. Additional reporting may be requested at the discretion of the City.
- b. Late or incomplete reporting will be reported to the Allocations Committee; the Committee will be encouraged to weigh an agency's accountability when deciding about future allocations to that agency's program(s).

6.05.110 Return of Funds

- a. In the event a social service provider cannot or chooses not to perform the services purchased by the City, the following should occur:
 - 1) The City or its Administrator will reconvene the Allocations Committee to evaluate use of the funds. The Committee will make a recommendation to Council. Council shall review the recommendation for approval.
 - 2) The unused funds will be deducted from the monthly allocation to the

Council Policy 00-6.05

service provider. Any funds distributed and not used for the services purchased shall be reimbursed by the provider to the City.

- 3) Unused or returned funds may be, in accordance with Council direction, carried over to the next fiscal year for re-allocation.

6.05.120 Review and Update

Funding priorities shall be reviewed annually prior to the commencement of the social service allocation process. A full review of the social service funding policy shall be conducted every three years. Council, upon request or significant change in the general and economic well-being and prosperity of the community, may decide to review this policy sooner.

CITY ATTORNEY'S OFFICE
MEMORANDUM

To: Human Services Committee

From: Jim Brewer, Deputy City Attorney

Date: November 26, 2013

Subject: Update from Multijurisdictional Tobacco Stakeholder Group
Draft Amendments to Corvallis Municipal Code Chapter 5.03

Issue:

Over the last two years, Benton County Health Department has convened a multijurisdictional group to consider strengthening and adding consistency to local ordinances addressing tobacco and smoking.

Councilor York, Chief Sassaman and I have represented the City of Corvallis in these meetings. Based on recommendations from the Health Department and resulting discussion among the multijurisdictional group, staff is recommending amendments to Corvallis Municipal Code Section 5.03.080.160.02, updating some Corvallis Municipal Code definitions, bringing others into consistency with proposed amendments to Benton County's ordinances, and removing the hiatus on enforcement of portions of the local code.

Background:

In 1997, as a result of work by a coalition interested in protecting community health, the City of Corvallis enacted local regulations prohibiting smoking in most places of employment and public

places, including bars and restaurants. The Benton County Health Department was the original point of contact for education and enforcement of this ordinance. Shortly after the enactment of these regulations, the State passed legislation to prevent other local governments from passing similar legislation. In 2007, the State of Oregon enacted amendments to the Oregon Indoor Clean Act that replicated many but not all of the provisions of Corvallis' regulations. County Health Departments were delegated the authority to enforce the state law. In 2008, in order to accommodate the needs of the Health Department for uniform enforcement throughout the County while retaining the authority to enact and enforce local regulations, the City Council adopted a hiatus on enforcement of many of the Corvallis regulations. The State has since changed its position on local regulations. The Health Department has identified a number of areas where stricter local regulations would be in the public interest, and is encouraging the City of Corvallis, Benton County, the City of Philomath, the City of Adair and the City of Albany to enact parallel regulations so that the Health Department can have a uniform education and enforcement program across the County.

Benton County Health Department Policy Specialist, Sara Hartstein will provide a powerpoint overview at your December 3, 2013 meeting. Attached to this report is a redline/strikeout version of Corvallis Municipal Code Section 5.03.080.160, illustrating proposed changes.

Highlights of the proposed changes include:

Inclusion of "accessibility ramps" and "retail tobacco stores" within definitions and prohibition on smoking.

5.03.080.160.01

5.03.080.160.04

Definition of "electronic smoking device" and inclusion within definitions of "smoking" and "tobacco products."

5.03.080.160.01

Clarification of enforcement language.

5.03.080.160.10

Discussion:

The purpose of the provisions of the Corvallis Municipal Code dealing with smoking in places of employment and public places is to promote the health and welfare of the community. While additional resources are not available for enforcement, Benton County Health Department will

remain the primary point of contact for education and enforcement of the regulations prohibiting tobacco in workplaces and in many public places.

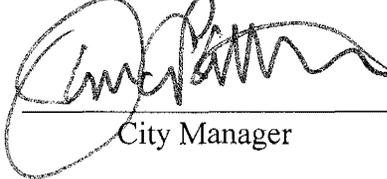
Recommendation:

Recommend that the City Council enact an ordinance amending Corvallis Municipal Code Chapter 5.03 in the manner shown in the redline/strikeout version attached to this staff report.

Recommended Motion:

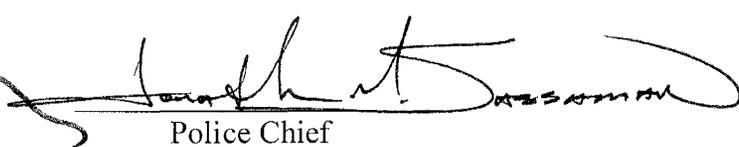
I move that the Human Services Committee recommend that the City Council enact an Ordinance amending Corvallis Municipal Code Chapter 5.03 in the manner proposed in the staff report.

Review and Concur:



City Manager

Review and Concur:



Police Chief

Chapter 5.03

Offenses

Section 5.03.080.160 Tobacco products and smoking.

5.03.080.160.01 Definitions.

1) Accessibility ramp - A ramp intended to provide access for people with disabilities to and from an entrance or exit.

~~2)~~ Bar - An area which is devoted to the serving of alcoholic beverages for consumption by guests on premises and in which the serving of food is only incidental to the consumption of such beverages.

~~3)~~ Business - Any sole proprietorship, partnership, joint venture, corporation, or other business entity, including for-profit and non-profit entities, private clubs, and retail establishments where goods or services are sold as well as professional corporations and other entities where professional services are delivered.

4) Electronic smoking device - Any electronic oral device, such as one composed of a heating element, battery, and/or electronic circuit, which provides a vapor of nicotine or any other substances, and the use of inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or under any other product name of descriptor and any cartridge or other component of the device or related product.

~~5)~~ 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.

~~6)~~ Employer - Any person or entity who employs the services of one or more individuals.

~~7)~~ Enclosed area – Any covered ~~All~~ space having more than 50 percent of its perimeter area walled in or otherwise closed to the outside, such as, for example, a covered porch with more than two walls; or any space open to the sky having more than 75 percent of its perimeter area walled in or otherwise closed to the outside, such as, for example, a courtyard. between a floor and a ceiling which is exposed on all sides by solid walls or windows (exclusive of door or passageways) which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, "office landscaping" or similar structure.

~~8)~~ Place of employment - Any enclosed area under the control of a public or private employer which 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, and vehicles that are operated in the course of an employer's business that are not operated exclusively by one employee. A private residence is not a "place of employment" unless it is used as a child care, adult day care, or health care facility.

9) Private club – An organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof used for club purposes, which is operated for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain.

~~10)~~ Public place -Any City-owned or managed park and recreational facilities, including parks, trails, open space, and special use areas, City-owned bicycle parking structures, and City-owned transit shelters, and any enclosed area to which the public is invited or in which the public is permitted including but not limited to banks, education facilities, health facilities, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, theaters, and waiting rooms. A private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility.

Corvallis Municipal Code

811) Restaurant - Any coffee shop, cafeteria, sandwich stand, private or public school cafeteria, and any other eating establishment which gives or offers for sale food to the public, guests, or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities.

12) Retail tobacco store - A retail store utilized primarily for the sale of tobacco products and accessories and in which sale of other products is merely incidental.

~~1013)~~ Service line - Any indoor line or any portion of an indoor line that extends out of doors, at which one or more persons are waiting for or receiving services of any kind, whether or not such services involves the exchange of money.

~~114)~~ Smoking - Any inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, weed, plant, or other tobacco like product or substance in any manner or in any form. Smoking also includes the use of an electronic smoking device which creates a vapor, in any manner or in any form.

~~115)~~ Sports arena - Any sports pavilion, gymnasium, health spa, swimming pool, roller rink, bowling alley, and other places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

~~1316)~~ Tobacco product - Any ~~tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, chewing tobacco, or any other form of tobacco which may be utilized for smoking, chewing, inhalation, or other means of ingestion.~~ product that contains tobacco or is derived from tobacco and is intended to be introduced into the human body. "Tobacco Product" includes any electronic smoking device. "Tobacco Product" does not mean any product that the United States Food and Drug Administration has approved as a tobacco use cessation product.

(Ord. 2013 §1, Ord. 2006-01 §1, 01/03/2006)

5.03.080.160.02 Smoking prohibited in public places.

1) Smoking shall be prohibited in all ~~enclosed~~ public places within the City or located on City owned property, including, but not limited to the following places:

- a) Elevators;
- b) Rest rooms, lobbies, reception areas, hallways, and any other common-use areas;
- c) Buses, taxicabs, and any other means of public transportation under the authority of the City;
- d) Service lines, or within 10 feet of a service line that extends out of doors;
- e) Retail stores;
- f) All areas available and customarily used by the general public located in all businesses patronized by the public, including non-profit and public businesses. Affected businesses include, but are not limited to, professional offices, banks, laundromats, hotels and motels;
- g) Restaurants;
- h) Any facility which is primarily used for exhibiting any motion picture, stage or drama production, lecture, music recital or other similar performances, except performers when smoking or carrying a lighted smoking instrument that does not contain tobacco is part of a stage or drama production;
- i) Sports arena, including bowling facilities and convention halls;
- j) Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council commission, committee, including joint committees, or agencies of the City or any political subdivision of the City during such time as a public meeting is in progress, to the extent such a place is subject to the jurisdiction of the City;
- k) Waiting rooms, hallways, wards, and semiprivate rooms of health care facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctor's and dentist's office;
- l) Lobbies, hallways, and other common areas in apartment buildings, condominiums,

Corvallis Municipal Code

trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities; and

m) Polling places.

n) Retail tobacco stores.

2) Smoking shall be prohibited in all City-owned or managed parks and recreational facilities, including all parks, trails, open space, and special use areas. This does not include designated parking areas.

3) Smoking shall be prohibited on all of the City-owned grounds, patios, plazas, steps, ramps, and facilities for the Corvallis-Benton County Public Library. This prohibition includes the library parking garage and library parking lot. This prohibition includes any sidewalk, pedestrian way, driveway, planting area, public right-of-way, street, curb, or gutter within 50 feet of the exterior of the City-owned Corvallis Benton County Public Library building. This prohibition does not include any property that is within 50 feet of the exterior of the City-owned Corvallis Benton County Public Library building that is not owned by the City or part of a public right-of-way. This prohibition does not include smoking within a private automobile with the doors and windows closed, except within the library parking garage or library parking lot, or the associated driveways.

4) Smoking shall be prohibited in the interior of and within 10 feet of the exterior of any City-owned covered bicycle parking structure and transit shelter.

5) Smoking shall be prohibited on all City-owned grounds, steps, ramps, sidewalks, planting areas, transit shelters, curbs, driveways, vehicle parking areas, and bicycle parking facilities for the entire City Hall block. The parcels within this block are identified as Block 8 Lots 1-12, County Addition. This prohibition does not include smoking within a private automobile with doors and windows closed.

6) Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls any establishment or facility may declare that entire establishment or facility as a non-smoking establishment.

7) Any person who violates the provisions of this Code section shall be subject to the penalties as set forth in Section 5.03.080.160.10 of Chapter 5.03 of the Corvallis Municipal Code.

(Ord. 2013 §2, Ord. 2011-09 §1, 05/16/2011; Ord. 2009-04 §1, 03/02/2009; Ord. 2006-01 §2, 01/03/2006)

5.03.080.160.03 Smoking prohibited in places of employment.

It shall be the responsibility of employers to provide a smoke-free work place for all employees, but employers are not required to incur any expense to make structural or other physical modifications.

5.03.080.160.04 Smoking prohibited outside entrances of enclosed areas.

Smoking shall not occur within a reasonable distance, not to be less than ten (10) feet, of any entrance, exit, window that opens, ventilation system of any enclosed area where smoking is prohibited or of any accessibility ramp or service line that extends out of doors.

5.03.080.160.05 Places where smoking is not regulated.

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

a) Private residences, unless the private residence is used as a child care, adult day care, or health care facility;

b) Up to 25 percent of rented motel/hotel rooms that are may be designated in some manner as smoking allowed rooms by the owners of the establishment renting the rooms as allowed by ORS 433.850(2)(a);

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 care facility.

~~d) Bars;~~

Corvallis Municipal Code

- ~~e) Bar portions of bar and restaurant combinations so long as the bar is separate from the restaurant and the ventilation system does not permit smoke to enter the restaurant section;~~
~~f) Retail tobacco stores.~~
~~2) Exceptions d) and e) of this section will expire July 1, 1998.~~

5.03.080.160.06 Posting "no smoking" signs.

- 1) "No smoking" signs or the international "no smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across the cigarette) shall be clearly, sufficiently, and conspicuously posted in every building or other area where smoking is prohibited by this article, 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.
- 2) Every public place where smoking is prohibited by this section shall have posted at every entrance a conspicuous sign stating that smoking is prohibited.

5.03.080.160. Ashtrays.

Ashtrays are prohibited inside a public place, a place of employment, and within 10 feet of entrances, exits, windows that open, ventilation systems, or accessibility ramps.

5.03.080.160.07 Non-retaliation.

It shall be a violation of this section for any person or employer to discharge, refuse to hire, or in any manner retaliate against any employee, applicant for employment, or customer because such employee, applicant, or customer reports or attempts to prosecute any violation of this ordinance.

5.03.080.160.08 Smoking in or near entrances to publicly owned buildings.

- 1) No person shall smoke anywhere within any publicly owned building.
- 2) No person shall smoke within 10 feet of any entrance to a publicly owned building.
- 3) A violation of this section is a Class B infraction.

5.03.080.160.09 Tobacco sales to minors prohibited.

- 1) No person, other than a minor's custodial parent or guardian, shall sell or otherwise provide tobacco products to a minor under the age of eighteen (18) years old.
- 2) A violation of this section is a Class A infraction.

5.03.080.160.10 Other violations and penalties.

- 1) It shall be a violation of this section for any person who owns, manages, operates or otherwise controls the use of any premises, subject to regulation under this section, fails to comply with any provisions herein.
- 2) It shall be a violation of this section for any person to smoke in any area where smoking is prohibited by the provisions of this section.
- 3) Any person who violates this section shall be guilty of an infraction, punishable by a fine:
 - a) Not less than fifty dollars (\$50.00), nor more than one hundred dollars (\$100.00) for a first violation within any 12 (twelve) months of any previous violation period;
 - b) Not less than one hundred dollar (\$100.00), nor more than two hundred dollars (\$200.00) for a second violation within any 12 (twelve) months of a violation under subsection (a) period;
 - c) Not less than two hundred and fifty dollar (\$250.00), nor more than five hundred dollars (\$500.00) for each additional violation of this section within any 12 (twelve) months of a violation under subsection (b) period.
- 4) Any person who owns, manages, and operates or otherwise controls the use of any premises, subject to regulation under this section, and violates this section shall be guilty of an infraction, punishable by a fine:
 - a) Up to \$500 per day for each violation, not to exceed \$4,000 in a 30-day period.

Corvallis Municipal Code

5) Notwithstanding any other provision of this section, an employer or private citizen may file a citizen complaint to enforce this section under Chapter 5.03.010.080.

5.03.080.160.11 Severability.

If any provision, clause, sentence, or paragraph of this section or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

5.03.080.160.12 Other laws.

This section shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.
(Ord. 98-04 §1, 03/02/1998)

ORDINANCE 2013-_____

AN ORDINANCE RELATING TO SMOKING AND TOBACCO PRODUCTS, AMENDING MUNICIPAL CODE CHAPTER 5.03.080.160, "TOBACCO PRODUCTS AND SMOKING," AND REPEALING CORVALLIS MUNICIPAL CODE SECTION 5.03.080.160.13, "HIATUS"

THE CITY OF CORVALLIS ORDAINS AS FOLLOWS:

Section 1. Municipal Code Section 5.03.080.160 is hereby amended as follows:

Section 5.03.080.160 Tobacco products and smoking.

5.03.080.160.01 Definitions.

1) Accessibility ramp - A ramp intended to provide access for people with disabilities to and from an entrance or exit.

2) Bar - An area which is devoted to the serving of alcoholic beverages for consumption by guests on premises and in which the serving of food is only incidental to the consumption of such beverages.

3) Business - Any sole proprietorship, partnership, joint venture, corporation, or other business entity, including for-profit and non-profit entities, private clubs, and retail establishments where goods or services are sold as well as professional corporations and other entities where professional services are delivered.

4) Electronic smoking device - Any electronic oral device, such as one composed of a heating element, battery, and/or electronic circuit, which provides a vapor of nicotine or any other substances, and the use of inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or under any other product name of descriptor and any cartridge or other component of the device or related product.

5) 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.

6) Employer - Any person or entity who employs the services of one or more individuals.

7) Enclosed area – Any covered space having more than 50 percent of its perimeter area walled in or otherwise closed to the outside, such as, for example, a covered porch with more than two walls; or any space open to the sky having more than 75 percent of its perimeter area walled in or otherwise closed to the outside, such as, for example, a courtyard.

8) Place of employment - Any enclosed area under the control of a public or private employer which 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, and vehicles that are operated in the course of an employer's business that are not operated exclusively by one employee. A private residence is not a "place of employment" unless it is used as a child care, adult day care, or health care facility.

9) Private club – An organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof used for club purposes, which is operated for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain.

10) Public place -Any City-owned or managed park and recreational facilities, including parks, trails, open space, and special use areas, City-owned bicycle parking structures, and City-owned transit shelters, and any enclosed area to which the public is invited or in which the public is permitted including but not limited to banks, education facilities, health facilities, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, theaters, and waiting rooms. A private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility.

11) Restaurant - Any coffee shop, cafeteria, sandwich stand, private or public school cafeteria, and any other eating establishment which gives or offers for sale food to the public, guests, or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities.

12) Retail tobacco store - A retail store utilized primarily for the sale of tobacco products and accessories and in which sale of other products is merely incidental.

13) Service line - Any indoor line or any portion of an indoor line that extends out of doors, at which one or more persons are waiting for or receiving services of any kind, whether or not such services involves the exchange of money.

14) Smoking - Any inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, weed, plant, or other tobacco like product or substance in any manner or in any form. Smoking also includes the use of an electronic smoking device which creates a vapor, in any manner or in any form.

15) Sports arena - Any sports pavilion, gymnasium, health spa, swimming pool, roller rink, bowling alley, and other places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

16) Tobacco product - Any product that contains tobacco or is derived from tobacco and is intended to be introduced into the human body. "Tobacco Product" includes any electronic smoking device. "Tobacco Product" does not mean any product that the United States Food and Drug Administration has approved as a tobacco use cessation product.

(Ord. 2013 §1, Ord. 2006-01 §1, 01/03/2006)

5.03.080.160.02 Smoking prohibited in public places.

1) Smoking shall be prohibited in all public places within the City or located on City owned property, including, but not limited to the following places:

- a) Elevators;
- b) Rest rooms, lobbies, reception areas, hallways, and any other common-use areas;
- c) Buses, taxicabs, and any other means of public transportation under the authority of the City;
- d) Service lines, or within 10 feet of a service line that extends out of doors;
- e) Retail stores;
- f) All areas available and customarily used by the general public located in all businesses patronized by the public, including non-profit and public businesses. Affected businesses include, but are not limited to, professional offices, banks, laundromats, hotels and motels;
- g) Restaurants;
- h) Any facility which is primarily used for exhibiting any motion picture, stage or drama production, lecture, music recital or other similar performances, except performers when smoking or carrying a lighted smoking instrument that does not contain tobacco is part of a stage or drama production;
- i) Sports arena, including bowling facilities and convention halls;

j) Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council commission, committee, including joint committees, or agencies of the City or any political subdivision of the City during such time as a public meeting is in progress, to the extent such a place is subject to the jurisdiction of the City;

k) Waiting rooms, hallways, wards, and semiprivate rooms of health care facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctor's and dentist's office;

l) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities; and

m) Polling places.

n) Retail tobacco stores.

2) Smoking shall be prohibited in all City-owned or managed parks and recreational facilities, including all parks, trails, open space, and special use areas. This does not include designated parking areas.

3) Smoking shall be prohibited on all of the City-owned grounds, patios, plazas, steps, ramps, and facilities for the Corvallis-Benton County Public Library. This prohibition includes the library parking garage and library parking lot. This prohibition includes any sidewalk, pedestrian way, driveway, planting area, public right-of-way, street, curb, or gutter within 50 feet of the exterior of the City-owned Corvallis Benton County Public Library building. This prohibition does not include any property that is within 50 feet of the exterior of the City-owned Corvallis Benton County Public Library building that is not owned by the City or part of a public right-of-way. This prohibition does not include smoking within a private automobile with the doors and windows closed, except within the library parking garage or library parking lot, or the associated driveways.

4) Smoking shall be prohibited in the interior of and within 10 feet of the exterior of any City-owned covered bicycle parking structure and transit shelter.

5) Smoking shall be prohibited on all City-owned grounds, steps, ramps, sidewalks, planting areas, transit shelters, curbs, driveways, vehicle parking areas, and bicycle parking facilities for the entire City Hall block. The parcels within this block are identified as Block 8 Lots 1-12, County Addition. This prohibition does not include smoking within a private automobile with doors and windows closed.

6) Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls any establishment or facility may declare that entire establishment or facility as a non-smoking establishment.

7) Any person who violates the provisions of this Code section shall be subject to the penalties as set forth in Section 5.03.080.160.10 of Chapter 5.03 of the Corvallis Municipal Code.

(Ord. 2013 §2, Ord. 2011-09 §1, 05/16/2011; Ord. 2009-04 §1, 03/02/2009; Ord. 2006-01 §2, 01/03/2006)

5.03.080.160.03 Smoking prohibited in places of employment.

It shall be the responsibility of employers to provide a smoke-free work place for all employees, but employers are not required to incur any expense to make structural or other physical modifications.

5.03.080.160.04 Smoking prohibited outside of enclosed areas.

Smoking shall not occur within a reasonable distance, not to be less than ten (10) feet, of any entrance, exit, window that opens, ventilation system of any enclosed area where smoking is prohibited or of any accessibility ramp or service line that extends out of doors.

5.03.080.160.05 Places where smoking is not regulated.

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

a) Private residences, unless the private residence is used as a child care, adult day care, or health care facility;

b) Up to 25 percent of rented motel/hotel rooms may be designated in some manner as smoking allowed rooms by the owners of the establishment renting the rooms as allowed by ORS 433.850(2)(a);

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 care facility.

5.03.080.160.06 Posting "no smoking" signs.

1) "No smoking" signs or the international "no smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across the cigarette) shall be clearly, sufficiently, and conspicuously posted in every building or other area where smoking is prohibited by this article, 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.

2) Every public place where smoking is prohibited by this section shall have posted at every entrance a conspicuous sign stating that smoking is prohibited.

5.03.080.160. Ashtrays.

Ashtrays are prohibited inside a public place, a place of employment, and within 10 feet of entrances, exits, windows that open, ventilation systems, or accessibility ramps.

5.03.080.160.07 Non-retaliation.

It shall be a violation of this section for any person or employer to discharge, refuse to hire, or in any manner retaliate against any employee, applicant for employment, or customer because such employee, applicant, or customer reports or attempts to prosecute any violation of this ordinance.

5.03.080.160.08 Smoking in or near entrances to publicly owned buildings.

1) No person shall smoke anywhere within any publicly owned building.

2) No person shall smoke within 10 feet of any entrance to a publicly owned building.

3) A violation of this section is a Class B infraction.

5.03.080.160.09 Tobacco sales to minors prohibited.

1) No person, other than a minor's custodial parent or guardian, shall sell or otherwise provide tobacco products to a minor under the age of eighteen (18) years old.

2) A violation of this section is a Class A infraction.

5.03.080.160.10 Other violations and penalties.

1) It shall be a violation of this section for any person who owns, manages, operates or otherwise controls the use of any premises, subject to regulation under this section, fails to comply with any provisions herein.

2) It shall be a violation of this section for any person to smoke in any area where smoking is prohibited by the provisions of this section.

3) Any person who violates this section shall be guilty of an infraction, punishable by a fine:

a) Not less than fifty dollars (\$50.00), nor more than one hundred dollars (\$100.00) for a first violation within any 12 (twelve) months of any previous violation ;

b) Not less than one hundred dollar (\$100.00), nor more than two hundred dollars (\$200.00) for a second violation within 12 (twelve) months of a violation under subsection (a) ;

c) Not less than two hundred and fifty dollar (\$250.00), nor more than five hundred dollars (\$500.00) for each additional violation of this section within 12 (twelve) months of a violation under subsection (b) .

4) Any person who owns, manages, and operates or otherwise controls the use of any premises, subject to regulation under this section, and violates this section shall be guilty of an infraction, punishable by a fine:

a) Up to \$500 per day for each violation, not to exceed \$4,000 in a 30-day period.

5) Notwithstanding any other provision of this section, an employer or private citizen may file a citizen complaint to enforce this section under Chapter 5.03.010.080.

5.03.080.160.11 Severability.

If any provision, clause, sentence, or paragraph of this section or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

5.03.080.160.12 Other laws.

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

(Ord. 98-04 §1, 03/02/1998)

PASSED by the City Council this _____ day of _____, 2013.

APPROVED by the Mayor this _____ day of _____, 2013.

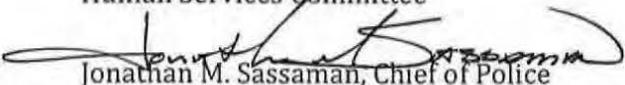
EFFECTIVE this _____ day of _____, 2013.

Mayor

ATTEST:

City Recorder

Memorandum
Corvallis Police Department
October 30, 2013

To: Human Services Committee
From: 
Jonathan M. Sassaman, Chief of Police
Subject: Policy Review / Council Policy 92 -5.04 Hate/Bias Violence

ISSUE:

The Police Department is responsible for the biannual review of Council Policy 92 – 5.04 Hate/Bias Violence. Council action is required.

DISCUSSION:

The purpose of the Hate/Bias Violence policy is to denounce hate, bias and violent activity in Corvallis; to encourage and preserve a harmonious and respectful community environment; and to work toward tolerance of diversity with the goal of equal rights for all citizens regardless of age, citizenship, color, familial status, gender identity or expression, marital status, mental disability, national origin, physical disability, race, religion, religious observance, sex, sexual orientation, and source or level of income.

The policy directs staff to: 1). Investigate hate and bias crime incidents within the framework of existing criminal law and, 2). Establish and fund an ongoing training program for Corvallis Police Officers regarding hate and bias crime investigation and cultural diversity sensitivity.

This policy also enables Council to affirm its philosophy regarding hate, bias and discrimination activity in Corvallis and to biannually review its implementation.

This past period Corvallis Police Department officers have attended or received the following training related to diversity and ethical policing:

- 1) Grace under fire – Mental Health/Diversity (November 2011)
- 2) Community Aid/Care Taking – Mental Health/Diversity (May 2012)
- 3) Your piece of the autism puzzle – Mental Health/Diversity (May 2012)
- 4) Ethics in Law Enforcement/Hurricane Katrina – Ethical Policing (November 2012)
- 5) Understanding Cognitive Bias –Ethical Policing (February 2012)
- 6) Biased Based Policing Stop Data Policy Review – Ethical Policing (August 2013)

Scheduled for November 2012 is diversity training specific to the Central/South American culture.

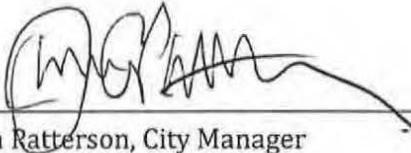
The current Council Policy references the City having a contract with Community Alliance for Diversity (CAD) who would liaison between the community and City regarding complaints and provide information and referral. The contract between the City and CAD was terminated in February 2012 and no longer exists. As such, that language is removed from the Policy.

RECOMMENDATION:

Staff recommends the Council affirm the policy including the removal of language referencing the Community Alliance for Diversity.

Attachment: Council Policy 92 – 5.04 Hate/Bias Violence

Review and concur:

A handwritten signature in black ink, appearing to read "Jim Ratterson", is written over a horizontal line. The signature is stylized and cursive.

Jim Ratterson, City Manager

CITY OF CORVALLIS

COUNCIL POLICY MANUAL

POLICY AREA 5 - COMMUNITY SAFETY

CP 92-5.04 Hate/Bias Violence

Adopted December 7, 1992

Affirmed 1993/1994

Affirmed October 16, 1995

Revised October 6, 1997

Affirmed December 7, 1998

Revised October 18, 1999

Affirmed April 16, 2001

Revised November 3, 2003

Revised October 17, 2005

Revised December 3, 2007

Affirmed November 2, 2009

Affirmed December 19, 2011

5.04.010 Purpose

To establish a policy regarding hate/bias violence in the City of Corvallis.

5.04.020 Policy

- a. Verbal threats and insults based on the recipient's age, citizenship status, color, familial status, gender identity or expression, marital status, mental disability, national origin, physical disability, race, religion, religious observance, sex, sexual orientation, and source or level of income are not acceptable in the City of Corvallis.
- b. All physical violence or threatening behavior, including, but not limited to, the intent to cause inconvenience, annoyance or alarm, or recklessly creating a risk thereof based upon the recipient's age, citizenship status, color, familial status, gender identity or expression, marital status, mental disability, national origin, physical disability, race, religion, religious observance, sex, sexual orientation, and source or level of income is not acceptable in the City of Corvallis.

Council Policy 92-5.04

- c. Property damage or the threat of property damage based on the recipient's age, citizenship status, color, familial status, gender identity or expression, marital status, mental disability, national origin, physical disability, race, religion, religious observance, sex, sexual orientation, and source or level of income is not acceptable in the City of Corvallis.

5.04.030 Goals of the Hate/Bias Violence Policy

- a. That the Corvallis City staff and elected Officials encourage, pursue, and preserve an environment that is harmonious, respectful, and fair in its treatment of all Corvallis residents regardless of age, citizenship status, color, familial status, gender identity or expression, marital status, mental disability, national origin, physical disability, race, religion, religious observance, sex, sexual orientation, and source or level of income.
- b. That the City of Corvallis work toward tolerance of diversity in our pluralistic society with the goal of equal rights for all Corvallis residents regardless of age, citizenship status, color, familial status, gender identity or expression, marital status, mental disability, national origin, physical disability, race, religion, religious observance, sex, sexual orientation, and source or level of income.

5.04.040 Actions to Implement the Hate/Bias Violence Policy and Goals

- a. This policy directs City Staff to investigate incidents of hate/bias violence within the framework of existing criminal law. ~~Additionally, through the contract with the Community Alliance for Diversity (CAD), CAD shall act as a liaison to receive and refer complaints; provide information and referral for assistance from City Departments, neighborhood groups, community programs and other resources; provide presentations that include: information about available assistance from City Departments, neighborhood groups, community programs and other resources; receive housing and employment complaints; and receive discrimination complaints regarding City employees:~~
- b. An ongoing training program for all Corvallis Police Officers involved in patrol and investigation of hate/bias violence shall be established and funded.
- c. The goals of this officer training are to:

Council Policy 92-5.04

- 1) Enhance sensitivity to cultural diversity and individual differences.
- 2) Recognize that hate and bias is not acceptable in Corvallis.
- 3) Document sufficient facts for prosecution.

5.04.050 Review and Update

This Community Safety Policy shall be reviewed every two years in October by the City Council and updated as appropriate.

Proposed Smokefree Workplace Ordinance Updates

Sara Hartstein, Health Policy Specialist
Benton County Health Department

Corvallis Human Services Committee
December 3, 2013



1

New and Emerging Youth Issues

- 1) Electronic smoking devices
- 2) Hookah smoking
- 3) Access to conventional tobacco

The issues can be addressed through amendments to local tobacco ordinances.

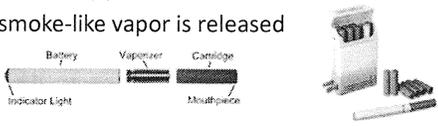
2

New and Emerging Issues	Ch 5.03 Smokefree Workplace	Ch 8.10 Tobacco Sales
Smoking e-cigs indoors	X	
Smoking indoors (hookah smoking / lounge)	X	
County-wide enforcement	X	X
E-cig sales to youth		X
Conventional tobacco sales to youth		X
Candy-flavored tobacco products		X
Compliance with local, state, and federal tobacco laws		X

3

What are Electronic Smoking Devices?

- Commonly called “E-cigarettes”, “E-pipe”, etc.
- Battery operated
- Look and used like conventional products
- Deliver vaporized nicotine through a propylene glycol solution
- A smoke-like vapor is released



4

Smokeless does not mean harmless

- **First and secondhand vapor** contain chemicals known to cause cancer and birth defects
- **Unregulated**
 - Safety claims, ingredients, and nicotine levels all go unchecked
 - No age restriction



5

New concerns and potential risks:

- Adverse impact on users’ health
 - Chemical contamination
 - Uncontrolled levels of nicotine
 - Long term inhalation of propylene glycol
- New nicotine addiction and initiation among youth
- Counter effectiveness of smokefree policies



6

AND they pose an enforcement problem

- E-cigs are not covered by local or state smokefree workplace laws
- Leads to smokefree workplace law complaints



7

Proposed Code Update, Chapter 5.03:

Restrict the use of e-cigarettes indoors

- 1) Add electronic smoking device to the definition of "smoking".

"Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, weed, plant, or other tobacco like product or substance in any manner or in any form. "Smoking" also includes the use of an electronic smoking devices which creates a vapor, in any manner or in any form."

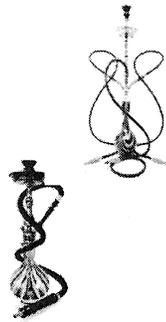
- 2) Add electronic smoking device definition.

"Electronic smoking device" means any electronic oral device, such as one composed of a heating element, battery, and/or electronic circuit, which provides a vapor of nicotine or any other substances, and the use of inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or under any other product name of descriptor and any cartridge or other component of the device or related product."

8

What is Hookah?

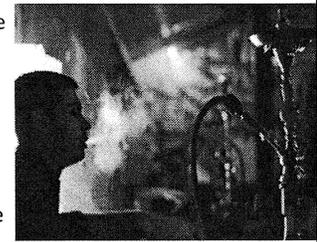
- A hookah (shisha, argileh, or nargeeleh) is a single or multi-stemmed waterpipe used to heat and smoke a flavored tobacco product.



9

What are the health risks?

- Enough exposure to nicotine to be addictive
- Contains toxins and carcinogens
- Smoke inhaled is equivalent to 100-200 cigarettes
- Forty times the volume of secondhand smoke



Source: World Health Organization (2005): http://www.who.int/tobacco/global_interaction/tobreg/Waterspipe%20Recommendation_Final.pdf

10

Hookah Lounges Have Increased

OR Indoor Clean Air Act

- Certified tobacco retail store exemption
- Allow customers to sample products
- Unintentional loophole for hookah lounges



11

Peak PM2.5 in smoking lounges

EPA Air Quality Index	Business Type
Hazardous ≥251	Hookah Lounge
	Cigar Lounge
Very Unhealthy 151-200	Hookah Lounge
	Hookah Lounge
	Hookah Lounge
Sensitive Groups 41-65	Cigar Lounge
	Cigar Lounge
Moderate 16-40	Cigar Lounge
	Cigar Lounge
Good ≤15	Cigar Lounge
	Cigar Lounge

12

Hookah Use is on the Rise



- 2008-2009, hookah smoking among 8th and 11th graders increased significantly – especially among girls.



Source: Oregon Tobacco Facts & Laws, 2011

13

2011 Legislation Didn't Fix It

- HB 2726 tried to tighten the loophole in the tobacco retail store exemption:
 - 4-seat max capacity
 - Smoking for sampling purposes only
- Opposed by hookah lounges
- Negotiations and amendments
 - grandfather in existing hookah lounges
 - removal of stand-alone property requirement for some smoke shops (with ventilation system as alternative)

14

What does this mean for Corvallis?

- New state certified tobacco retail stores may open in Corvallis with smoking allowed indoors.
- Grandfathered certified tobacco retail stores:
 - may continue to operate with a hookah lounge environment,
 - grow in size, and
 - relocate to Corvallis or surrounding areas.

15

Proposed Code Update, Chapter 5.03:

Close the local tobacco retail store exemption

- 1) Remove ~~retail tobacco stores~~ from the list of areas that are not subject to smoking restrictions.
- 2) Add retail tobacco stores to the list of areas where smoking is prohibited.

16

County-wide Enforcement

Ensure uniform enforcement by:

- Strengthening ordinance language to be in agreement with OR Indoor Clean Air Act
- Proposing parallel amendments in Benton County and Philomath

17

Enforcement Responsibility

Businesses

- Benton County Health Department
 - Continue to process complaints for businesses
 - Turn over to the City of Corvallis during citation phase

Individuals

- Corvallis Police Department
 - Parks, transit center, library, etc.

18