

# TITLE 7

## PUBLIC PEACE, HEALTH, SAFETY, AND WELFARE

### CHAPTER 760

#### TOBACCO VENDING MACHINE CODE

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#### **760.010 Title**

This Chapter is entitled and may be cited as the "Linn County Tobacco Vending Machine Ordinance."

[Adopted by 89-551 §3 eff 1/1/90]

#### **760.050 Purpose**

The purpose of this Chapter is to promote the health and welfare of the citizens of Linn County by limiting the availability of cigarettes and tobacco products to children under the age of 18 years, through the means of restricting the placing of vending machines dispensing cigarettes or tobacco products.

[Adopted by 89-551 §1 eff 1/1/90]

#### **760.100 Definitions**

As used in this Chapter:

(A) "**Accessible to persons under the age of 18 years**" means, in reference to premises, that no prohibition exists to the entry upon premises, or a discrete portion of premises, by persons who have not attained the age of 18 years.

(B) "**Cigarette**" has the meaning set out in ORS 323.010(1).

(C) "**In direct view**" means that a person in charge of the tobacco vending machine, while at the person's primary work station, can see the facial features of a person who causes the tobacco vending machine to dispense cigarettes or any tobacco product.

(D) "**Primary work station**" means the place or area where a person spends substantially all of the person's time while in charge of the tobacco vending machine.

(E) "**Tobacco products**" has the meaning set out in ORS 323.500 (9).

(F) "**Tobacco vending machine**" means any self-service device offered for public use which, upon insertion of a coin, coins, currency or token, or by other means, dispenses cigarettes or any tobacco product, either in bulk or package, without the necessity of replenishing the device between each vending operation.

(G) "**Under control of a person in charge**" means that the tobacco vending machine was:

(1) in direct view of; and

(2) within 25 feet of, a person who owns the tobacco vending machine or who has the right to control the use of premises where the tobacco vending machine is located; or, an employee of either who is charged with the duty to prevent persons under 18 years of age from obtaining cigarettes or tobacco products from the tobacco vending machine.

[Adopted by 89-551 §4 eff 1/1/90]

**760.110 Possession and placement of tobacco vending machine; prohibited**

(A) It shall be unlawful for any person in possession of any premises located within Linn County to place or allow to be placed on said premises any tobacco vending machine.

(B) It shall be unlawful for any person who owns or controls a tobacco vending machine to place or allow to be placed such tobacco vending machine at premises within Linn County.

[Adopted by 89-551 §5 eff 1/1/90]

**760.120 Locations where vending machines allowed**

The prohibition of LCC 760.110 shall not apply to premises or to tobacco vending machines on premises that are

(A) Licensed by the Oregon Liquor Control Commission for on-premises consumption of alcoholic beverages or as a retail liquor store.

(B) Maintained for the use of employees and not open to the public.

(C) Not accessible to persons under the age of 18 years.

(D) Under the control of a person in charge of the tobacco vending machine.

(E) Configured in a way that will allow a blind person, as that term is defined in ORS 346.110 (3), who has training and skills that enable the blind person to determine if a person obtaining cigarettes or any tobacco product from a tobacco vending machine is under 18 years of age, and which blind person is in control of the tobacco vending machine.

[Adopted by 89-551 §6 eff 1/1/90]

**760.130 Defenses**

(A) In any prosecution for violation of LCC 760.110 it shall be an affirmative defense that the premises are not accessible to persons who are under 18 years of age.

(B) In any prosecution for violation of LCC 760.110 it shall be an affirmative defense that the tobacco vending machine was under the control of

a person in charge of the tobacco vending machine.

[Adopted by 89-551 §7 eff 1/1/90]

**760.150 Territorial application**

LCC 760.100 to LCC 760.140 of this Chapter apply to all the unincorporated areas of Linn County, and within cities in Linn County that have consented by their governing body or electors to the application of LCC 760.100 to LCC 760.140 within such city.

[Adopted by 89-551 §9 eff 1/1/90]

**760.900 Penalty**

Violation of LCC 760.110 is a Class A Infraction.

[Adopted by 89-551 §8 eff 1/1/90]

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**Statutory References and Authorities:**

ORS 203; 323.010 (1); 346.110 (3)

**Legislative History of Chapter 760:**

Adopted by 89-551 eff 1/1/90

Amendments to 89-551:

#1 95-177 eff 5/10/95 (renumbering)

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