

FILED
DEC 31 1987

JOSEPHINE VELTRI
COUNTY CLERK

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON

In the Matter of the Abatement)
of a Public Health Hazard Created)
by the Storage, Use or Handling of)
Hazardous Chemicals in Dwellings,)
Buildings, Structures, or Premises,)
and Declaring an Emergency.)
ORDINANCE NO. 40

THE TILLAMOOK COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS
AS FOLLOWS:

SECTION 1. Title.

This ordinance shall be known and referred to as the
hazardous chemical ordinance of Tillamook County.

SECTION 2. Policy and Purposes.

A. The purpose of this ordinance is to protect the health,
safety and welfare of the occupants and the general public by
providing a just and practicable method of regulating the use and
occupancy of dwellings, buildings, structures and premises where
hazardous chemicals and their residue are present.

B. This ordinance is adopted pursuant to the provisions of
ORS 203.035, 203.065 and 203.111 as a matter of county concern
and under the general legislative authority of the Board of
Commissioners.

C. The use of hazardous chemicals, including flammable
liquids, acids, alkalis, strong oxidizers and toxics, is commonly
associated with the manufacture of illegal drugs. Drug manufac-
turing operations are often located in dwellings and other occu-
pied buildings, structures and premises. Drug manufacturing

operations and the chemicals used pose a threat to the safety and health of the occupants and the public in general who may come in contact with the property. The occupants and the public in general may suffer injury or adverse long-term health affects, including cancer and neural, optic, respiratory of systemic damage.

D. The use of hazardous chemicals to manufacture illegal drugs is a matter of statewide and local concern of growing magnitude. There is a need to coordinate state and local law and health enforcement activity, to ensure maximum, continuous protection of the public from injurious exposure to hazardous chemicals and their residue by ensuring that dwellings, buildings, structures and premises where manufacturing operations are conducted are not used or occupied until the hazardous chemicals and their residue are removed, and the property is no longer contaminated.

E. The Board of Commissioners intends to impose necessary and reasonable regulations in conjunction with, or apart from, provisions contained in other laws without prejudice to the use of such procedures and remedies as are available under such laws, including but not limited to Chapters 600 and 699, Oregon Laws 1987.

SECTION 3. Definitions.

A. Hazardous Chemicals shall mean any substance used in the manufacture of controlled substances as defined by ORS Chapter 475.

B. Administrator shall mean the local public health administrator of Tillamook County under ORS 431.418, or his authorized representative or deputy.

SECTION 4. Maintenance of Health Hazard Prohibited.

It is a health hazard for the owner, agent or occupant of any dwelling, building, structure or premises to suffer or permit the storing, using, or handling of hazardous chemicals on the property contrary to the law, and the contamination of the property by residue from hazardous chemicals. It is further a health hazard for the owner, agent or occupant of property to fail to correct any such condition after having been notified by the Administrator or his deputy to do so.

SECTION 5. Public Nuisance Declared.

For purposes of this ordinance, the Board of Commissioners declares, finds and determines that the creation of maintenance of a health hazard is a public nuisance.

SECTION 6. Public Nuisance Prohibited.

A. It is unlawful for any dwelling, building, structure or premises to be employed or used as a public nuisance. If property is found to be used or employed as such, it shall be subject to closure.

B. It is unlawful for any person to employ, use, maintain or allow the employment, use or maintenance of property under their ownership or control as a public nuisance.

C. It is unlawful for any person to use or occupy any property determined to be a public nuisance after service of notice

has been made pursuant to this ordinance. However, this provision may be waived by the Administrator or a court of competent jurisdiction if exigent circumstances are such that the use or occupancy of the premises prior to a full court hearing is mandated.

D. Any occupant who fails to voluntarily cease to use or occupy property as required by subsection C of this section may be removed only pursuant to a court order after notice and an opportunity to be heard by the court having jurisdiction of any action brought pursuant to this ordinance.

SECTION 7. Enforcement.

A. The Administrator is authorized to administer and enforce all provisions of this ordinance. Nothing contained herein is meant to limit his or her discretion in evaluating and directing compliance with this ordinance.

B. The Administrator may, in performance of his duties and to the full extent permitted by law, enter, examine and survey all dwellings, buildings, structures and premises without hindrance. The owner, his or her agent, his or her representative and the occupant, or any person having the care and management thereof, shall give free access to the Administrator at all reasonable times when required to do so.

C. If any dwelling, building, structure or premises is employed, used, occupied or maintained contrary to the provisions of this ordinance, the Administrator shall give due notice to the owner or his agent and the occupant requiring him, within a

reasonable time, to comply with the ordinance. Upon failure to comply with the ordinance as required, the Administrator may institute appropriate legal action. Any dwelling vacant or thereafter vacated shall not again be occupied until it or its occupancy shall have been made to conform to this ordinance.

D. Every notice or order in relation to a dwelling, building, structure or premises shall be served upon the owner or his agent and the occupant, allowing a specified reasonable time for the doing of the thing required in the notice. However, the posting of a copy of such notice or order in a conspicuous place in or upon the dwelling, building, structure or premises, and mailing a copy thereof to such owner or agent at his last known address, shall constitute service of any notice or order required by this ordinance, unless otherwise provided.

E. It is unlawful for any person, other than the Administrator, to remove, destroy, deface, cover up or conceal any notice or order posted as herein provided, except by written permission of the Administrator.

F. The Administrator may extend the time within which to comply with the notice or order, and whenever he or she is satisfied that the health hazard from the dwelling, building, structure or premises has ceased to exist, or that the property is fit for human occupation, may revoke the notice or order.

SECTION 8. Legal Proceedings.

A. In the event a court finds a dwelling, building, structure or premises constitutes a public nuisance as defined

by this ordinance, the court may order that it be closed.

B. The court may also authorize the County to physically secure the structure against use or occupancy in the event that the owner fails to do so within the time specified by the court. In the event the County is authorized to secure the property, all costs reasonably incurred by the County to effect a closure shall be recovered from the owner or occupant. As used in this subsection, costs mean those costs actually incurred by the County for the physical securing of the structure, as well as tenant relocation costs.

C. Any person who is assessed the costs of closure by the court shall be personally liable for the payment thereof to the County.

SECTION 9. Liability.

This ordinance shall not be construed to relieve from or lessen the responsibility of any person owning, operation or controlling any dwelling, building, structure or premises for any damages to persons or property caused by their violation of this ordinance, nor shall the Administrator or the County be held as assuming any such liability by reason of the inspections or other actions authorized by this ordinance.

SECTION 10. Cooperation.

The Administrator may request and shall receive so far as is required in the discharge of his duties, the assistance and cooperation of other officials of this County. The Administrator shall likewise cooperate and assist other officials of this

County and the State or Federal government in the abatement and regulation of a health hazard as defined by this Ordinance.

SECTION 11. Territory Affected.

This ordinance shall apply to the unincorporated area of this County and in those incorporated cities of this County which have consented to this ordinance application pursuant to ORS 203.040.

SECTION 12. Separability.

If any section, clause or phrase of this ordinance or its application to any statute is determined by any court of competent jurisdiction to be invalid or unenforceable for any reason, such determination shall not effect the validity of the remainder of this ordinance or its application to any other statute, but shall continue to be in full effect.

SECTION 13. Permits, and amendment, revocation.

In the event of a violation of any provision of this Ordinance, the Administrator or any other county department and agency may amend, alter, revoke, suspend, or take any other action on any county permit, application, license, authorization, privilege, or any other county action to further compliance with and enforcement of this ordinance.

The permittee, applicant, licensee, and any other person directly and substantially affected by such county action shall enjoy a right of appeal to such county action to the appropriate county department head, elected official, committee, or other

previously established commission established by law, and to the Board of Commissioners of Tillamook County, whose decision shall be final.

SECTION 14. Effective Date.

This ordinance being necessary for the preservation of the health, safety and welfare of the citizens of Tillamook County and an emergency having been declared to exist shall be effective immediately upon passage hereof.

DATE OF FIRST READING: December 16, 1987

DATE OF SECOND READING AND ADOPTION: December 30, 1987

BOARD OF COUNTY COMMISSIONERS FOR TILLAMOOK COUNTY, OREGON

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|---|-----------------|----------------------|
| <u>Dean J. Kinkade</u> Dean J. Kinkade, Chairman | <u>✓</u> Aye | <u> </u> Nay |
| <u>Gerald J. Creasy</u> Gerald J. Creasy, Commissioner | <u>✓</u> Aye | <u> </u> Nay |
| <u>Gerald A. Woodward</u> Gerald A. Woodward, Commissioner | <u>✓</u> Aye | <u> </u> Nay |

RECORDING SECRETARY: Dorene Sheldon
Dorene Sheldon