

Title 8

HEALTH AND SAFETY

Chapters:

8.10 Rats

8.15 Smoking in Public Places

8.20 Hazardous Waste Response

Chapter 8.10

RATS

Sections:

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- 8.10.020 Application of chapter.
- 8.10.030 Notice and eradication.
- 8.10.040 Notice to rat-proof.
- 8.10.050 Duty to maintain.
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- 8.10.110 Inspections by health officer.
- 8.10.120 Adoption of rules.
- 8.10.130 Penalties.
- 8.10.140 Future construction.

8.10.010 Definitions.

For the purposes of this chapter the following definitions shall apply:

A. Words and Phrases. Words and phrases used in this chapter shall be construed as follows: Words used in the present tense shall include the future; words in the singular number shall include the plural; and words in the plural shall include the singular. The male personal pronoun may be applied to any person as hereinafter defined.

B. Building. The term “building” shall mean any structure or dwelling, whether public or private, which is devoted to or designed for occupancy or for the transaction of business; for the rendering of professional service; for amusement; for the display, sale or storage of goods, wares or merchandise; or for the performance of work or labor, including hotels, apartment buildings, rooming houses, motels, office buildings, public buildings, stores, theaters, markets, restaurants, grain elevators, abattoirs, warehouses, workshops, factories and all other houses, outhouses, sheds, barns and other structures on premises used for business or dwelling purposes, whether the same be occupied or not.

C. Rat-Proofing. The term “rat-proofing” as used herein applies to a form of construction to prevent the ingress of rats into buildings from the exterior or from one building to another. It consists essentially of the closing of all actual or potential

openings in the exterior walls, ground or first floors, basements, roofs and foundations that may be reached by rats from the ground by climbing or by burrowing, with material or equipment impervious to rat-gnawing.

D. Rat-Harborage. The term “rat-harborage” shall mean any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under, or outside a building of any kind.

E. Rat Eradication. The term “rat eradication” shall mean the elimination or extermination of rats within buildings of any kind by any or all measures, such as poisoning, fumigation, trapping or clubbing.

F. Health Officer. The term “health officer” shall mean the district health officer, commissioner, director of health or any duly authorized representative.

G. Owner. The term “owner” shall mean the actual owner or owners of a building within the city of Philomath, whether individuals, partnerships or corporations and the agent thereof, and also the lessee or lessees thereof when, under the terms of a lease, the lessee is responsible for maintenance and repairs.

H. Occupant. The term “occupant” shall mean the individual, partnership or corporation using or occupying any building or part thereof, whether owner or lessee. In the case of a vacant building, the term “occupant” shall mean the owner or the person who as agent of the owner undertakes to care for the same for the owner.

I. Person. The term “person” shall include one or more natural persons, partnerships, corporation, association, syndicate or any group of the foregoing doing business as a single organization. [Ord. 109 § 1, 1951.]

8.10.020 Application of chapter.

It is hereby ordained and required that all buildings or structures in the city of Philomath shall be freed of rats and maintained in a rat-free condition to the satisfaction of the health officer. [Ord. 109 § 2, 1951.]

8.10.030 Notice and eradication.

Whenever the health officer notifies the occupant or occupants of a building in writing that there is evidence of rat infestation of the building, said

occupant or occupants shall immediately institute rat-eradication measures and shall continuously maintain such measures in a satisfactory manner until the premises is declared by the health officer to be free of rat infestation. Unless said measures are undertaken within five days after receipt of notice, it shall be construed as a violation of the provisions of this chapter and occupant shall be held responsible therefor. [Ord. 109 § 3, 1951.]

8.10.040 Notice to rat-proof.

Whenever the health officer notifies the owner of any building in writing that there is evidence of the need of rat-proofing of the building, said owner shall take immediate measures for rat-proofing the building; and unless said work and improvements have been completed by the owner in the time specified in the written notice, in no event to be less than 15 days, or within the time to which a written extension may have been granted by the health officer, then the owner shall be deemed guilty of an offense under the provisions of this chapter. [Ord. 109 § 4, 1951.]

8.10.050 Duty to maintain.

The owner, agent or occupant in charge of all rat-freed and/or rat-proofed buildings or structures shall maintain them in a rat-free and/or rat-proof condition and repair all breaks or leaks that may occur in the rat-proofing without a specific order of the health officer. [Ord. 109 § 5, 1951.]

8.10.060 Removal of rat-proofing unlawful.

It shall be unlawful for the owner, occupant, contractor, public utility company, plumber or any other person, to remove the rat-proofing from any building or structure for any new openings that are not closed or sealed against the entrance of rats. [Ord. 109 § 6, 1951.]

8.10.070 Protective measures.

Whenever conditions inside or under any building or structure provide such extensive harborage for rats that the health officer deems it necessary to eliminate such harborage, he may require the owner or occupant in charge of any such building or structure to install suitable cement floors in basements, or to require such owner or occupant to correct such rat harborage as may be necessary in

order to facilitate the eradication of rats. [Ord. 109 § 7, 1951.]

8.10.080 Storage of food.

All food and feed within the city of Philomath for feeding chickens, cows, pigs, horses and other animals shall be stored in rat-free and rat-proof containers, compartments or rooms unless stored in a rat-proof building. [Ord. 109 § 8, 1951.]

8.10.090 Accumulation of garbage prohibited.

It shall be unlawful for any person to place, leave, dump or permit to accumulate any garbage or trash in any building, structure or premises so that the same shall afford food or harborage for rats, or to dump or place on any premises, land or waterway, any dead animals or waste vegetable or animal matter of any kind. [Ord. 109 § 9, 1951.]

8.10.100 Accumulation of rubbish prohibited.

It shall be unlawful for any person to accumulate or permit the accumulation on any open lot or other premises, any lumber, boxes, barrels, bricks, stones, scrap metal, motor vehicle bodies or parts, or similar materials, rubbish, or any articles of junk which provide rat harborage, unless the same shall be placed on open racks that are elevated not less than 18 inches above the ground, evenly piled or stacked. [Ord. 109 § 10, 1951.]

8.10.110 Inspections by health officer.

The health officer is empowered to make such inspections of the interior and exterior of any building or structure as in his opinion may be necessary to determine full compliance with this chapter, and the health officer may make periodic inspections at intervals of not more than 45 days of all rat-proofed buildings to determine evidence of rat infestation and the existence of new breaks or leaks in the rat-proofing. When any evidence is found indicating the presence of rats or openings through which rats may enter such buildings again, the health officer shall serve the owner or occupants with written notice to abate the conditions found. [Ord. 109 § 11, 1951.]

8.10.120 Adoption of rules.

The health officer is empowered to adopt rules, regulations and standards in aid of the construction and enforcement of this chapter which are not inconsistent with the terms and provisions hereof. [Ord. 109 § 12, 1951.]

8.10.130 Penalties.

Any person who shall violate any provision of this chapter or of any rule, regulation or lawful order made by the health officer relative to this chapter shall be punished by a fine of not more than \$50.00, or imprisonment of not more than 25 days, or both. Each day's violation shall constitute a separate offense. [Ord. 109 § 13, 1951.]

8.10.140 Future construction.

Every building hereafter constructed in the city of Philomath shall be rat-proof. A rat-proof building is one constructed in such a manner and of such material as to prevent the ingress of rats. [Ord. 109 § 17, 1951.]

Chapter 8.15**SMOKING IN PUBLIC PLACES**

Sections:

- 8.15.010 Definitions.
- 8.15.020 Smoking prohibited in public places.
- 8.15.030 Smoking prohibited in places of employment.
- 8.15.040 Smoking prohibited outside entrances.
- 8.15.050 Places where smoking is not regulated.
- 8.15.060 Posting "no smoking" signs.
- 8.15.070 Nonretaliation.
- 8.15.080 Smoking in or near entrances to publicly owned buildings.
- 8.15.090 Other violations and penalties.
- 8.15.100 Other laws.
- 8.15.110 Hiatus on enforcement.

8.15.010 Definitions.

For the purposes of this chapter, the following definitions shall apply:

A. "Bar" means 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.

B. "Business" means any sole proprietorship, partnership, joint venture, corporation, or other business entity, including retail establishments where goods or services are sold as well as professional corporations and other entities where professional services are delivered.

C. "Employee" means 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.

D. "Employer" means any person or entity who employs the services of one or more individuals.

E. "Enclosed area" means all space between a floor and a ceiling which is exposed on all sides by solid walls or windows (exclusive of doors 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.

F. "Place of employment" means 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 restrooms, conference rooms and classrooms, cafeterias and hallways. A private residence is not a “place of employment” unless it is used as a child-care, adult day care, or health care facility.

G. “Public place” means 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 childcare, adult day care, or health care facility.

H. “Restaurant” means 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.

I. “Retail tobacco store” means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

J. “Service line” means 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 involve the exchange of money.

K. “Smoking” means any inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, weed, plant, or other tobacco-like product or substance in any manner or in any form.

L. “Sports arena” means 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.

M. “Tobacco product” means 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. [Ord. 684 § 1, 2000.]

8.15.020 Smoking prohibited in public places.

A. Smoking shall be prohibited in all enclosed public places that are within the city or located on city-owned property, including, but not limited to, the following places:

1. Elevators;
2. Restrooms, lobbies, reception areas, hallways, and any other common-use areas;
3. Buses, taxicabs, and any other means of public transportation under the authority of the city;
4. Service lines or within 10 feet of a service line that extends out of doors;
5. Retail stores;
6. All areas available and customarily used by the general public located in all businesses patronized by the public, including nonprofit and public businesses. Affected businesses include, but are not limited to, professional offices, banks, laundromats, hotels and motels;
7. Restaurants;
8. 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 is part of a stage or drama production;
9. Sports arenas, including bowling facilities and convention halls;
10. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities; and
11. Polling places.

B. 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 nonsmoking establishment. [Ord. 684 § 2, 2000.]

8.15.030 Smoking prohibited in places of employment.

It shall be the responsibility of employers to provide a smoke-free workplace for all employees, but employers are not required to incur any expense to make structural or other physical modifications. [Ord. 684 § 3, 2000.]

8.15.040 Smoking prohibited outside entrances.

Smoking shall not occur within a reasonable distance, not to be less than 10 feet, of any entrance of any enclosed area where smoking is prohibited or of any service line that extends out of doors. [Ord. 684 § 4, 2000.]

8.15.050 Places where smoking is not regulated.

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

A. Private residences, unless the private residence is used as a childcare, adult day care, or health care facility;

B. Rented motel/hotel rooms that are designated in some manner as smoking allowed rooms by the owners of the establishment renting the rooms;

C. Private rooms rented for an occupancy that exceeds one month and that are not located in a private residence used as a childcare, adult day care or health care facility; and

D. Retail tobacco stores. [Ord. 684 § 5, 2000.]

8.15.060 Posting “no smoking” signs.

A. “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 chapter, by the owner, manager, or other person having control of such building or other area, including private residences used as a childcare, adult day care or health care facility.

B. Every public place where smoking is prohibited by this section shall have posted at every entrance a conspicuous sign stating that smoking is prohibited. [Ord. 684 § 6, 2000.]

8.15.070 Nonretaliation.

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 chapter. [Ord. 684 § 7, 2000.]

8.15.080 Smoking in or near entrances to publicly owned buildings.

A. No person shall smoke anywhere within any publicly owned buildings.

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

C. A violation of this section is a Class B infraction. [Ord. 684 § 8, 2000.]

8.15.090 Other violations and penalties.

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

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

C. Any person who violates this chapter shall be guilty of an infraction, punishable by a fine:

1. Not less than \$50.00 exclusive of unitary assessment nor more than \$100.00 for a first violation within any 12-month period;

2. Not less than \$100.00 exclusive of unitary assessment nor more than \$200.00 for a second violation within any 12-month period;

3. Not less than \$200.00 exclusive of unitary assessment nor more than \$500.00 for each additional violation of this chapter within any 12-month period. [Ord. 684 § 9, 2000.]

8.15.100 Other laws.

This section shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws. [Ord. 684 § 11, 2000.]

8.15.110 Hiatus on enforcement.

A. Purpose. The purpose of this hiatus is to allow for uniform enforcement of the Oregon Indoor Clean Air Act within Benton County.

B. Scope. In order to be consistent with the terms of Senate Bill 571, amending the Oregon Indoor Clean Air Act, PMC 8.15.010 through 8.15.100 shall not be enforced or enforceable by the city of Philomath, until such time as the city council shall affirmatively act by ordinance to repeal this section.

C. Biennial Review. This section shall be reviewed every two years by the city council. [Ord. 752 § 1, 2008.]

Chapter 8.20

HAZARDOUS WASTE RESPONSE

Sections:

- 8.20.010 Strict liability for spill or relief.
- 8.20.020 Response.
- 8.20.030 Billing period.
- 8.20.040 Definitions.

8.20.010 Strict liability for spill or relief.

Any person owning or having control over any oil or hazardous material spilled or released or threatening to spill or release shall be strictly liable without regard to fault for the spill or release or threatened spill or release. [Ord. 685 § 1, 2000.]

8.20.020 Response.

If a spill or release of oil or hazardous material or threatened spill or release of hazardous material requires a response by city staff, city staff shall follow the appropriate procedures for notifying state and county officers responsible for emergency responses. If response by city staff beyond contacting the appropriate emergency response officer is required, the city manager shall calculate the time that city staff expended in responding to the spill or release or threatened spill or release and shall charge the person owning or having control over the oil or hazardous material the actual cost for the city's response and a 15 percent administration fee.

A. If city staff respond to a spill or release or threatened spill or release of any oil or hazardous material and can immediately locate the person owning or having control over the oil or hazardous material, city staff shall give the person owning or having control over the oil or hazardous material the choice of immediately contacting a qualified private contractor to assess and appropriately respond to the spill or release or threatened spill or release; or of requesting that city staff immediately call a qualified private contractor to do the same. The person owning or having control over any oil or hazardous material spilled or released or threatened to spill or release shall be strictly liable without regard to fault for the costs of the qualified private contractor, even if that qualified private contractor was contacted by city staff.

B. If city staff cannot locate the person owning or having control over any oil or hazardous mate-

rial spilled or released or threatening to spill or release, city staff shall immediately contact a qualified private contractor to assess and appropriately respond to the spill or release or threatened spill or release. The person owning or having control over the oil or hazardous material spilled or released or threatening to spill or release shall be strictly liable without regard to fault for the costs of the city and the costs of the qualified private contractor. [Ord. 685 § 2, 2000.]

8.20.030 Billing period.

Within 30 days from the city's response to any oil or hazardous spill or release or threatened spill or release, the city of Philomath will mail to the person owning or having control over the oil or hazardous material a bill for services provided by the city of Philomath, including any costs associated with a qualified contractor acting at the city's request and an additional 15 percent for the city's administrative costs. If the response and cleanup is not complete at the time of the first bill, the city will send additional billings. The person owning or having control over the oil or hazardous material shall pay the bill within 30 days or make arrangements with the city for a time payment agreement. If the person owning or having control over the oil or hazardous material owns property within the city limits of the city of Philomath and has not paid the bill within 30 days from the date the bill was mailed to the person, the city will send the person a notice that if payment or arrangements for a time payment agreement have not been made within 10 days, the city will place a lien in the amount owed in the city's lien docket against that person's real property. If the person owning or having control over any oil or hazardous material does not own real property within the city limits of the city of Philomath, the city will take appropriate legal action to collect the amount owed. [Ord. 685 § 3, 2000.]

8.20.040 Definitions.

For purposes of this chapter, "cleanup," "cleanup costs," "hazardous material," "oils" or "oil," "person," "respond" or "response," "spill or release" and "threatened spill or release" are defined as set out in ORS 466.605 as amended. [Ord. 685 § 4, 2000.]

