

## **TITLE IV**

### **HEALTH AND SANITATION**

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## CHAPTER 45 SMOKING

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### **45.010. Purpose.**

(a) Secondhand smoke from tobacco, cannabis, and other plants, has been recognized as a health hazard and as a cause of annoyance, inconvenience and discomfort to other persons in proximity to the smoking activity. Secondhand smoke has been identified as being particularly harmful to persons with certain respiratory conditions, and has also been determined to cause cancer to nonsmokers exposed to secondhand smoke on a frequent basis.

(b) Many businesses, organizations, commercial property owners, and other owners and managers of property where the general public is invited or generally permitted, would like to eliminate smoking from occurring on their property. The City of Salem recognizes that its sidewalks and landscape strips are a potential impediment to these private property smoking bans. To aid in the effectuation of private property smoking bans, this Chapter creates a method to prohibit smoking on public sidewalks and landscape strips adjacent to public service properties where smoking is otherwise banned.

(c) This Chapter of the Salem Revised Code is intended to protect public health, safety and welfare, by reducing unwanted and unwelcome exposure to secondhand smoke. This Chapter is also intended to strike a reasonable balance between the needs of persons who smoke and the needs of nonsmokers, including children and persons with existing respiratory conditions. (Ord No. 27-14)

### **45.015. Definitions.** For the purposes of this Chapter the following words and phrases shall have the following meanings:

(a) “Director” Director means the City Manager, or the department head charged by the City Manager with the implementation and enforcement of this Chapter, or that department head’s designee.

(b) “Eligible Premises” as used in this Chapter, shall mean real property meeting the “Public Services” use classification as described in SRC 400.005, Table 400-1.

(c) “Landscape strip” means that part of any public street right of way lying between the sidewalk and the curb or pavement, also known as the parking strip, planting area, or planting strip.

(d) “No Smoking Policy” means a formal written policy adopted by the person or persons having the authority to make decisions for the owner of an identified area of real property, which states the rules and regulations applicable to smoking on property owned or managed by the organization.

- (e) "Sidewalk" means all paved surface, except walkways and driveways, lying between the curblin and the right-of-way line of a street or in a public easement;
- (f) "Smoke-Free Area" means all or a portion of an eligible premises covered by a No Smoking Policy where smoking is prohibited, which shall include designated City-owned sidewalks and landscape strips adjacent to a private smoke-free area;
- (g) "Smoking" as defined in this Chapter, shall mean the possession of any lighted pipe, lighted cigar, the use of an electronic cigarette or a similar device intended to emulate smoking, which permits a person to inhale vapors or mists that may or may not include nicotine, or lighted cigarette of any kind, or the lighting of a pipe, cigar, or cigarette of any kind, including, but not limited to, any tobacco or cannabis product, or any other weed or plant capable of being smoked. (Ord No. 27-14)

**45.020. Administration.** The Director shall administer and enforce the provisions of this Chapter, have the authority to render written and oral interpretations, and have authority to adopt administrative rules that are consistent with, and otherwise implement, the terms of this Chapter. (Ord No. 27-14)

**45.025. Regulation of Smoking on City Property.**

(a) The Director shall have the authority to issue rules and regulations concerning smoking at City buildings and offices. In the event the Director issues smoking regulations at City buildings and offices, the Director shall cause the appropriate signs to be installed notifying the public of the status of the building or office as being smoke-free or containing a smoke-free area or areas.

(b) **Smoking Prohibited on City Owned Park Property.** Smoking shall be prohibited on all City owned designated park property, including Geer Park, and excluding from the prohibition:

- (1) that portion of the Civic Center Complex beginning at the northern boundary of the paved public plaza north of the City Council Chambers, between Liberty Road, SE and Commercial Street, SE, south to Leslie Street, SE, and terminating at the north bank of Pringle Creek. (Ord No. 27-14; Ord No 10-15)

**45.030. Establishment of Smoke-Free Zones on public sidewalks and landscape strips adjacent to smoke-free premises.** Smoking may be prohibited on public sidewalks and landscape strips adjacent to an eligible property that has been declared to be smoke-free, if requested by the owner, operator, manager, or other person in control of the eligible property, and the eligible property has been registered with the City as set forth in this Chapter. Notwithstanding any other provision of this Chapter, the Director has discretion to determine whether to designate a public sidewalk and landscape strip to be a smoke free zone, and what sections may be designated. (Ord No. 27-14)

**45.035. Procedures to Register No Smoking Policy with the City.** Eligible premises that are adjacent to at least 100 feet of City-owned sidewalk may request that the City designate the City-owned sidewalk and landscape strip abutting the eligible premises as a non-smoking area. In order for the City to designate a City-owned sidewalk and landscape strip to be a smoke-free area, the owner, operator, manager, or other person in control of the eligible premises must:

- (a) File the organization's No Smoking Policy with the Director. The No Smoking Policy must, at a minimum, reasonably describe the area covered by the Policy, and state that the organization will enforce the terms of the No Smoking Policy on its employees, including any employees smoking on City-owned sidewalks and landscape strips adjacent to the eligible premises that is designated as a smoke-free area;

- (b) Identify the City-owned sidewalks and landscape strips, or portions thereof, where the organization's employees are prohibited from smoking by the organization's No Smoking Policy; and
- (c) Request that the City install signs along the City-owned sidewalks and landscape strips identified in subsection (b) of this section notifying the public that the sidewalk is a smoke-free area. The Director shall have the sole discretion to determine the number and location of such signs, and to determine what text or graphics appear on the signs, but such signs shall, at a minimum, include reference to this Chapter. (Ord No. 27-14)

**45.040. Costs.** The costs associated with the preparation and installation of the signs required for public sidewalks and landscape strips shall be the responsibility of the requesting party. The Director may make rules governing the recovery of costs for the preparation and installation of the required signs, which may include a requirement that the requesting party pay a deposit at the time of registration. (Ord No. 27-14)

**45.045. Responsibility for Enforcement.**

- (a) The owner, operator, manager, or other person in control of an eligible premises declared to be smoke-free pursuant to this Chapter shall maintain responsibility for enforcing the terms of its No Smoking Policy; including the enforcement of the terms of the Policy on the organization's employees who are smoking on City-owned sidewalks or landscape strips identified in the organizations No Smoking Policy;
- (b) The City shall be responsible for enforcing the terms of this Chapter on City owned property, excluding City rights of way, but including at is properly registered with the City and contains the signs required by this Chapter. The City shall not be responsible for enforcing any provision of an organization's No Smoking Policy. (Ord No. 27-14; Ord No 12-15)

**45.990. Violations and Penalties.**

- (a) Any person who smokes on a City-owned sidewalk or landscape strips included within a smoke-free area properly registered with the City under, or on City owned property where smoking has been prohibited under this chapter shall be guilty of an infraction, punishable pursuant to SRC 1.070.
- (b) The penalty for the first infraction under this Chapter shall be no more than \$50. The penalty for the second infraction under this Chapter shall be no more than \$150. The penalty for the third or subsequent infractions under this Chapter shall be no more than \$250.
- (c) Each violation of this Chapter shall constitute a separate offense. (Ord No. 27-14; Ord No. 10-15)