

Title 11

HAZARDOUS CHEMICALS

Chapters:

- 11.01 General
- 11.05 Definitions
- 11.10 Health Hazards as Public Nuisances
- 11.20 Environmental Assessment, Notification and Cleanup
- 11.30 Enforcement
- 11.40 Waivers and Appeals

Chapter 11.01

GENERAL

Sections:

- 11.01.010 Title.
- 11.01.020 Purpose and policy declared.
- 11.01.030 Scope.
- 11.01.040 Applicability.
- 11.01.050 Administration.

11.01.010 Title. The rules and regulations codified in this title shall be known as the "King County Hazardous Chemicals Rules and Regulations" and may be so cited, and is referred to herein as "this title." (R&R 45 (part), 3-21-89)

11.01.020 Purpose and policy declared. A. It is expressly the purpose of this title to provide for and promote the health, safety and welfare of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefitted by the terms of this title.

B. It is the specific intent of this title to place the obligation of complying with its requirements upon the owner of a dwelling, building, vehicle or premises within its scope, and no provision of nor term used in this title is intended to impose any duty whatsoever upon King County or any of its officers or employees, for whom the implementation or enforcement of this title shall be discretionary and not mandatory.

C. Nothing contained in this title is intended to be nor shall be construed to create or form the basis for any liability on the part of King County, or its officers, employees or agents, for any injury or damage resulting from the failure of the owner of a dwelling, building, vehicle or premises to comply with this title, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this title on the part of King County by its officers, employees or agents. (R&R 45 (part), 3-21-89)

11.01.030 Scope. The provisions of this title provide for the abatement of public health hazards created by the storage, use or handling of hazardous chemicals in dwellings, buildings, vehicles or premises except as otherwise provided in this title. (R&R 45 (part), 3-21-89)

11.01.040 Applicability. This title shall apply to sites described in Section 11.01.030. This title shall not apply to industrial sites where the manufacturing processes using hazardous chemicals are licensed or regulated by state or federal agencies. (R&R 45 (part), 3-21-89)

11.01.050 Administration. The health officer may develop guidelines to clarify sections of this title as needed and make these available for distribution. Development of these guidelines shall allow for public comment. (R&R 45 (part), 3-21-89)

11.01.060 Access. The health officer may, in the performance of his or her duties and to the full extent permitted by law, examine and survey all sites described in 11.01.030 of this title and associated property without hindrance. The owner, his or her agent and the occupant shall give free access to the health officer at all reasonable times when required to do so. (R&R 45 (part), 3-21-89)

Chapter 11.05

DEFINITIONS

Sections:

- 11.05.010 Approved.
- 11.05.020 Closure.
- 11.05.030 Department.
- 11.05.040 Hazardous chemical.
- 11.05.050 Health hazard.
- 11.05.060 Health officer.
- 11.05.070 Owner of record.

11.05.080 Person.
 11.05.090 Precursor.
 11.05.100 Premises.
 11.05.110 Public nuisance.
 11.05.120 Reagent.
 11.05.130 Solvent.
 11.05.140 State.
 11.05.150 Vehicle.
 11.05.160 Waived.

11.05.010 Approved. "Approved" means in writing by the health officer. (R&R 45 (part), 3-21-89)

11.05.020 Closure. "Closure" means the physical securing of a dwelling, building, vehicle or premises so as to bar or block passage or entry. (R&R 45 (part), 3-21-89)

11.05.030 Department. "Department" means the Seattle King County Department of Public Health. (R&R 45 (part), 3-21-89)

11.05.040 Hazardous chemical. "Hazardous chemical" means any substance used in the manufacture of controlled substances as defined by Chapter 147, Laws of 1988 of the state of Washington, hazardous substances as identified by RCW 70.105 and federal regulations establishing same, and WAC 360-38 Precursor Substance Control Regulations. (R&R 45 (part), 3-21-89)

11.05.050 Health hazard. "Health hazard" means a condition or situation where, in the opinion of the health officer, disease and/or injury potential exists and if unabated may endanger the health of the public. (R&R 45 (part), 3-21-89)

11.05.060 Health officer. "Health officer" means the director of the department or an authorized representative. (R&R 45 (part), 3-21-89)

11.05.070 Owner of record. "Owner of record" means that person or persons who has a lawful right of possession of a dwelling, building, vehicle or premises by reason of obtaining it by purchase, exchange, gift, lease, inheritance or legal action. (R&R 45 (part), 3-21-89)

11.05.080 Person. "Person" means an individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever. (R&R 45 (part), 3-21-89)

11.05.090 Precursor. "Precursor" means a raw material for a controlled substance which becomes part of the finished drug product. (R&R 45 (part), 3-21-89)

11.05.100 Premises. "Premises" means a tract or parcel of land with or without habitable buildings. (R&R 45 (part), 3-21-89)

11.05.110 Public nuisance. "Public nuisance" means any unlawful act or omission to perform a duty, which act or omission either annoys, injures or endangers the comfort, repose, health or safety of others, offends decency or unlawfully interferes with, obstructs or tends to obstruct, any lake or navigable river, bay, stream, canal, or basin, or any public park, square, street or highway; or in any way renders other persons insecure in life, or in the use of property. (R&R 45 (part), 3-21-89)

11.05.120 Reagent. "Reagent" means any substance used in a chemical reaction to detect, measure, examine, or produce other substances. (R&R 45 (part), 3-21-89)

11.05.130 Solvent. "Solvent" means a liquid capable of dissolving another substance. (R&R 45 (part), 3-21-89)

11.05.140 State. "State" means the state of Washington. (R&R 45 (part), 3-21-89)

11.05.150 Vehicle. "Vehicle" means every device capable of being moved upon a public highway and in, upon or by which any persons or property is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks. (R&R 45 (part), 3-21-89)

11.05.160 Waived. "Waived" means waived in writing by the health officer. (R&R 45 (part), 3-21-89)

Chapter 11.10

HEALTH HAZARDS AS PUBLIC NUISANCES

Sections:

- 11.10.010 Health hazards prohibited.
- 11.10.020 Public nuisance declared.
- 11.10.030 Public nuisance prohibited.

11.10.010 Health hazards prohibited. A. It is a health hazard for the owner, agent or occupant of any

dwelling, building, vehicle, or premises to suffer or permit the storing, using or handling of hazardous chemicals classified as precursors, reagents or solvents, their containers and all contaminated vessels on the property contrary to the law, or the contamination of the property by residue from hazardous chemicals.

B. It is a health hazard for the owner, agent or occupant of a dwelling, building, vehicle or premises to fail to correct any such condition after having been notified by the health officer to do so. (R&R 45 (part), 3-21-89)

11.10.020 Public nuisance declared. For purposes of this title, the board declares, finds and determines that the creation or maintenance of a health hazard is a public nuisance. (R&R 45 (part), 3-21-89)

11.10.030 Public nuisance prohibited. A. It is unlawful for any dwelling, building, vehicle or premises to be employed or used as a public nuisance. If it 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 a dwelling, building, vehicle or premises as a public nuisance.

C. It is unlawful for any person to use or occupy any dwelling, building, vehicle or premises determined to be a public nuisance after service of notice has been made pursuant to this title, unless this provision is waived in writing by the health officer.

D. Any occupant who fails to voluntarily cease to use or occupy a dwelling, building, vehicle or premises as required by subsection C of this section may be assessed civil penalties in accordance with Chapter 1.08 of this code (Rules and Regulations 7). Any occupant may also be removed but 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 title. (R&R 45 (part) 3-21-89)

Chapter 11.20

ENVIRONMENTAL ASSESSMENT, NOTIFICATION AND CLEANUP

Sections:

- 11.20.010 Environmental assessment.
- 11.20.020 Notification.
- 11.20.030 Clean-up.

11.20.010 Environmental assessment. A. The department shall coordinate with other applicable agencies in

performing an environmental assessment of a dwelling, building, vehicle, or premises which has been contaminated by the use, handling or storage of hazardous chemicals.

1. The department may ask for assistance from the Washington State Department of Ecology in the collection or ground water, surface water, soil, sewage and other samples.

B. If a site is judged to pose long-term environmental or public health threats because of extensive contamination, the department may refer it to the Washington State Department of Ecology for investigation and possible ranking for clean-up. (R&R 45 (part), 3-21-89)

11.20.020 Notification. A. The department shall notify the owner of record by registered mail of the contamination left from the use, storage or handling of hazardous chemicals, the potential exposures from occupying such a dwelling, building, vehicle, or premises, and the owner's potential liability from renting to others.

1. It is the duty of the owner of record to notify all future occupants, renters, home purchasers or real estate agents of the fact that a property has been used to store, use or handle hazardous chemicals.

B. The department shall notify the public of a dwelling, building, vehicle, or premises which has been contaminated by hazardous chemicals by posting the dwelling, building, vehicle or premises with the warning sign shown in appendix A.

C. The department shall notify, in writing, any current occupants of a contaminated dwelling, building, vehicle, or premises of the potential risks involved with residing therein.

D. When guardians, such as child protective services or relatives, have taken custody of children who have lived in a contaminated dwelling, building, vehicle, or premises, they shall be notified of the potential health effects of hazardous chemical exposure by the department.

E. If the department determines that contamination to a dwelling, building, vehicle or premises exists, a copy or the registered letter sent to the owner of record will be attached to the deed or title of the dwelling, building, vehicle or premises. (R&R 45 (part), 3-21-89)

11.20.030 Clean-up. A. Property owners shall be advised by the department to follow the April, 1988 "Interim Guidelines for the Reduction of Contamination in Buildings Used as Methamphetamine Drug Labs" developed by the Oregon Department of Human Resources or other guidelines found acceptable by the department.

B. The department shall provide owners with a list of companies skilled in environmental assessment and decontamination procedures.

C. The owner of record is financially responsible for the decontamination expenses.

D. The owner of record is responsible for keeping records and documenting decontamination procedures and submitting copies to the department.

E. The owner of record is financially responsible for any testing which is necessary to demonstrate the presence or absence of hazardous chemicals.

F. Once the department has received verification from the owner of record that appropriate decontamination has taken place, and the department has visited the site to assess the thoroughness of the cleanup, a second registered letter shall be sent to all affected parties and attached to the deed or title of the dwelling, building, vehicle or premises. This letter will state that:

1. Dwellings, buildings, vehicles and premises cannot currently be certified to be absolutely free of chemical contamination nor can be approved as absolutely are for re-occupancy by any government entity.

2. The subject dwelling, building, vehicle or premises has been decontaminated according to current acceptable guidelines. (R&R 45 (part), 3-21-89)

Chapter 11.30

ENFORCEMENT

Sections:

11.30.010 General provisions.

11.30.020 Closures.

11.30.010 General provisions. A. The health officer is authorized to administer and enforce all provisions of this title. Nothing contained herein is meant to limit his or her discretion in evaluating and directing compliance with this title.

B. This title and any guidelines developed per Section 11.01.050 of this title shall be enforced pursuant to this code, Chapter 1.08 (King County Board of Health Rules and Regulations No. 7).

C. In the event that any dwelling, building, vehicle, or premises found to be in violation of this title, the health officer may enforce any provision of this title against the owner of record of said dwelling, building, vehicle, or premises whether or not the owner of record had actual knowledge that said dwelling, building, vehicle, or premises was or had been used to create or maintain a public nuisance through health hazard as defined in this title.

D. If any dwelling, building, vehicle, or premises is employed, used or occupied contrary to the provisions of this title, the health officer shall give due notice to the

owner of record requiring him or her, within a reasonable time, to comply with this title. Upon failure to comply with this title, the health officer may institute appropriate legal action to compel the owner of record of the dwelling, building, vehicle, or premises to comply with this title.

E. Every notice or order in relation to a dwelling, building, vehicle or premises shall be served upon the owner of record allowing a specified reasonable time to comply with the requirements in the notice or order. However, the posting of a copy of such a notice or order in a conspicuous place in or upon the dwelling, building, vehicle, or premises, and mailing a copy thereof to such owner of record at his or her last known address, shall constitute service of any notice or order required by this title, unless otherwise provided.

F. It is unlawful for any person, other than the health officer, to remove, destroy, deface, coverup or conceal any notice or order posted as herein provided, except by written permission of the health officer. Any person who unlawfully removes, destroys, defaces, covers, or conceals any notice or order posted by the health officer, may be assessed civil penalties in accordance with Chapter 1.08 of this code (King County Board of Health Rules and Regulations 7).

G. The health officer 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, vehicle, or premises has ceased to exist, or that the property is fit for human occupancy, may revoke the notice or order.

H. If the owner of record is a corporation, partnership, joint venture, trust, business or any other similar entity, then in that event, the director(s), trustee(s), and/or any member of a joint venture, business, or similar entity shall be both jointly and severally liable for each and every proceeding which may arise by and through enforcement of any paragraph of this title.

I. In the event the owner of record fails to abate the public nuisance as directed by the health officer under this chapter of this title, the health officer may initiate legal proceedings to abate the nuisance. In this event, the owner of record shall be liable for fees and costs incurred in abating the public nuisance including but not limited to actual attorney's fees and costs. (R&R 45 (part), 3-21-89)

11.30.020 Closures. A. In the event the health officer finds that a dwelling, building, vehicle, or premises constitutes a public nuisance as defined by this title, the health officer may order that it be closed.

B. The health officer or law enforcement agency are authorized to secure the dwelling, building, vehicle, or

premises against use or occupancy in the event that the owner fails to do so within the time specified in Section 11.30.010(E) of this title. In the event the health officer secures the property, all costs reasonably incurred by the health officer to effect a closure shall be recovered from the owner of record of the dwelling, building, vehicle, or premises.

1. As used in this subsection, costs mean those costs actually incurred by the health officer for the physical securing of the dwelling, building, vehicle or premises, including, but not limited to, actual attorneys' fees and costs and surveillance for continuing security by law enforcement officers. (R&R 45 (part), 3-21-89)

Chapter 11.40

WAIVERS AND APPEALS

Sections:

- 11.40.010 Waivers.
- 11.40.020 Appeals.

11.40.010 Waivers. The health officer may in his or her discretion, waive parts of this title upon a showing by an applicant that a waiver may be made in an individual case without placing the safety or health of the public in jeopardy. (R&R 45 (part), 3-21-89)

11.40.020 Appeals. Appeals from any decision by the health officer made pursuant to this title shall be made in accordance with the procedures prescribed earlier in Chapter 1.08 of this code. (R&R 45 (part), 3-21-89)