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## **ARTICLE I. IN GENERAL**

### **Sec. 46-1. Penalty; additional remedies.**

(a) Any person violating any of the provisions of this chapter shall be deemed guilty of an ordinance violation and shall be punished upon conviction pursuant to section 1-11 of this Code. In addition thereto, upon the application of the department of health, the city attorney is authorized to file, in the circuit court of the county, appropriate injunctive proceedings in order to terminate any nuisance detrimental to or a danger to public health.

(b) Every person, except those persons who are specifically exempted by this chapter, whether acting as an individual, owner, employee of the owner, operator or employee of the operator, or whether acting as a mere helper for the owner, employee or operator or acting as a participant or worker in any way, who shall violate any of the provisions of this chapter shall be punished as set out in section 1-11.

(Code 1996, § 620.160; Ord. No. 2001-007, § 1, 1-22-2001; Ord. No. 2003-129, § 1, 7-14-2003)

Secs. 46-2--46-30. Reserved.

## **ARTICLE II. PUBLIC HEALTH AND SANITATION DEPARTMENT**

### **Sec. 46-31. Established.**

There is a department of public health and sanitation, which department shall be manned by a director and such employees as are approved by the city administrator, and with such authorities and responsibilities for such department and director as are set forth in this article and in other ordinances and imposed by law. The department of public health and sanitation will hereinafter be referred to as the health department.

(Code 1988, § 115.070(A); Code 1996, § 250.010; Ord. No. 525, § 1, 6-26-1978)

### **Sec. 46-32. Appointment of director.**

The director of the department of public health and sanitation shall be an employee of the city. The director shall be approved and accredited by the appropriate accrediting agencies, or a sanitary engineer or other person qualified by training and experience in health work.

(Code 1988, § 115.070(B); Code 1996, § 250.020; Ord. No. 525, § 2, 6-26-1978)

### **Sec. 46-33. General authority of director.**

(a) The director of the department of public health and sanitation shall have authority and shall be required to:

(1) Enforce the laws of the state, the provisions of this division and all ordinances related to public health, and shall make rules and regulations subject to approval of the board of aldermen for preserving and promoting public health.

(2) Direct and supervise the inspection of all articles or commodities offered for sale within the city for human consumption, including the storage thereof, and including the inspection of and requirements for sanitary conditions and cleanliness of places (whether within or without the city) where such articles or commodities are produced, handled, processed, stored, or offered for sale or consumption, and including the healthfulness, cleanliness and sanitation of all methods, practices, persons and things relating thereto.

(3) Exercise general supervision over the health and cleanliness of the city and take all necessary measures for the protection, preservation, and promotion thereof, including the making of any health examinations required by statute or ordinance, and the conduct of programs of public health, and including the power of quarantine and detention to prevent the spreading of contagious and infectious diseases.

(4) Cooperate with all other public and private agencies engaged in health activities to the end that a duplication of activities may be avoided as much as possible.

(5) Perform such other duties as may be required by law or ordinances of the city.

(b) The director shall have the power to enforce ordinances and standards of safety and healthfulness in regard to heating and cooling of all buildings where the public is invited, where such heating and cooling shall be adverse to the health of the public.

(c) All physicians or medical personnel shall report to the director such information concerning disease, injuries or sanitary conditions which are required or significant in respect to public health.

(Code 1988, § 115.070(C); Code 1996, § 250.030; Ord. No. 525, § 3, 6-26-1978)

#### **Sec. 46-34. Right of entry of director and employees; entry without warrant.**

(a) *Right to ingress and egress.* In carrying out the duties mentioned in this article, the director of the department of public health and sanitation, or his/her employees, shall have the right to ingress and egress in accordance with the Constitution of the United States of America, the state, all statutes and laws made and provided, and all other ordinances of this city, and shall have the right to a warrant for entry where such entry is or would be reasonable and necessary for the preservation of health and the prevention of disease or harm to the people.

(b) *Right to enter certain establishments without warrant.* In such places as the general public would be normally permitted, and the kitchen and storage areas of all food handling establishments licensed to do business in this city, the director and his/her employees have the right to enter without warrant. If the owner or manager does not permit entry under those conditions for reasonable inspection, then and in that event a hearing will be called and a warrant obtained for entry and inspection of the premises, or the matter may be referred to the city attorney for action under nuisance ordinances.

(Code 1988, § 115.070(D), (H); Code 1996, §§ 250.040, 250.080; Ord. No. 525, §§ 4, 8, 6-26-1978)

#### **Sec. 46-35. Cooperation with other agencies.**

The director of the department of public health and sanitation shall cooperate with all other city and state agencies in all things pertaining to public health, including sewage and waste disposal, and the supply of drinking water for the public where it relates to or is concerned with public health, and the director shall be responsible to make the determination when and whether the sewage disposal system and the public drinking water supply do in fact comply with the requirements of health, and this determination shall be made in cooperation with other agencies interested in those areas. The department of health shall be responsible in cooperation with such agencies to bring about a correction of any defect.

(Code 1988, § 115.070(E); Code 1996, § 250.050; Ord. No. 525, § 5, 6-26-1978)

#### **Sec. 46-36. Recommendations for ordinances.**

The director of the department of public health and sanitation shall make such recommendations for ordinances as are required to protect the body politic.

(Code 1988, § 115.070(F); Code 1996, § 250.060; Ord. No. 525, § 6, 6-26-1978)

**Sec. 46-37. Control of carriers of disease.**

The director of the department of public health and sanitation shall take measures and recommend measures to control human or animal carriers of disease, including control of dogs, cats, mosquitoes, rats, flies, fleas, or other vermin which may transmit disease. Dog or cat bites, and all wild animal bites, shall be reported to the health department. The health department shall confine the dog or cat in question, and, if possible, the wild animal in question, in an appropriate place for observation for a period of not less than ten days. At the end of this ten-day period, domestic dogs or cats, if living, will be released upon authority from the proper city, county, or state health officials. All matters relating to possible cases of rabies will be reported to the proper city, county or state health authorities, who will take whatever measures that are needed or required under law. All wild animals confined for observation, at the end of the ten-day period, may be destroyed if necessary, and disposed of in accordance with the rules and regulations of the proper health authority.

(Code 1988, § 115.070(G); Code 1996, § 250.070; Ord. No. 525, § 7, 6-26-1978)

**Sec. 46-38. Toilet facilities and washrooms at eating establishments.**

All established places of business where the public is invited to sit down and eat on the premises shall have a place sanitary and clean for public toilets and washrooms, on the premises or reasonably located nearby. From and after the passage of the ordinance from which this section is derived, all new eating establishments shall have toilet facilities and public washrooms on the premises.

(Code 1988, § 115.070(I); Code 1996, § 250.090; Ord. No. 525, § 9, 6-26-1978)

**Sec. 46-39. Inspection of food handling establishments.**

There is herewith required of all licensed eating establishments that the operator of such establishment maintain the premises and the processes for the storage, handling, preparation, and serving of foods in a sanitary and healthful manner. The department of health, by the director or his/her appointees, shall have the right to inspect all food handling establishments, and if in the opinion of the department of health the premises are not being maintained in a sanitary and healthful manner, then and in that event the department of health shall issue a notice to the proprietor, who shall have 14 days in which to correct all critical defects which shall be specifically noted by the department of health. If the operator chooses not to correct these defects, then and in that event, upon application by the director, the premises may be considered a public nuisance for action by the city attorney, all in accordance with law.

(Code 1988, § 115.070(J); Code 1996, § 250.100; Ord. No. 525, § 10, 6-26-1978)

**Sec. 46-40. Inspection of restrooms.**

All restrooms in service stations, garages, and other public type places, where the public is invited to use such restrooms, shall be kept in a healthful, sanitary fashion, and the director of the department of public health and sanitation and his/her employees have the right and duty to make recommendations and suggestions to the proprietor or manager of such place of business as to the condition of such restrooms, and, after a five-day period, if improvement is not noted,

then and in that event the matter shall be referred to the city attorney for action as a violation of this article.

(Code 1988, § 115.070(L); Code 1996, § 250.110; Ord. No. 525, § 11, 6-26-1978)

**Sec. 46-41. Penalty; additional remedies.**

Upon conviction of any violation of this article, there shall be imposed upon the violator a fine or imprisonment as set out in section 1-11 of this Code. In addition thereto, upon the application of the department of health, the city attorney is authorized to file, in the circuit court of the county, appropriate injunctive proceedings in order to terminate any nuisance detrimental to or a danger to public health.

(Code 1988, § 115.070(M); Code 1996, § 250.120; Ord. No. 525, § 12, 6-26-1978)

Secs. 46-42--46-60. Reserved.

### ARTICLE III. HEALTH PERMIT FEES

#### Sec. 46-61. Fee schedule; payment of fees.

(a) *Enumerated.* Health fees are as follows:

(1) *Laboratory service fees.*

a. Public/private drinking water supply (delivered):

1. Total coliform, E-coli 24-hour test . . . \$ 10.00
2. Total coliform, E-coli 18-hour test . . . 12.00
3. Nitrates . . . 3.00
4. Manganese . . . 3.00
5. Iron . . . 3.00

b. Pool/bathing water (delivered):

1. Total coliform, E-coli (24-hour), including: chlorine residual, pH, and alkalinity, ORP and total hardness . . . 12.00
2. Enterococcus . . . 10.00

c. Above samples collected on-site per customer request as "official sample" . . . 40.00

d. Federal bathing beach samples (delivered): total coliform, E-coli, 24-hour test, batches of 12 or more, per sample . . . 5.00

(2) *Health permit fees.*

a. Massage establishments (permit required) . . . 50.00

b. Body art establishment . . . 50.00

c. Pools, spas (indoor/outdoor), water facilities annual permit fee per unit (permit required) (excluding defined theme parks) . . . 25.00

d. Theme parks, up to 15 submersed water facility units . . . 250.00

e. Food establishments (permit required):

1. High risk . . . 250.00
2. Medium risk . . . 150.00
3. Low risk . . . 50.00
4. Temporary . . . 50.00

f. Theme parks (food):

1. Up to two main kitchens, one commissary, and five mobile units . . . 750.00

2. Up to five main kitchens, two commissaries, and 20 mobile units . . . 1,500.00

g. Commercial animal establishment permit . . . 25.00

h. Temporary animal permit (four days) . . . 25.00

(3) *License and impound fees.*

a. Impound fee . . . 40.00

b. Room and board (per day): Per contract agreement or facility charges.

c. Dog/cat licenses . . . 15.00

d. Dog/cat licenses (spayed and neutered) . . . 5.00

(b) *Payment due date.* The annual permit fees required by subsection (a) of this section shall be paid on or before May 1 of each year. For new establishments opened after November 1, the fee shall be prorated. There shall be no prorating for seasonal recreational water facility permit fees. Animal license fees are due January 1. Animal license fees and impound fees shall be paid in the health department.

(Ord. No. 2001-021, § 1, 2-26-2001; Ord. No. 2003-130, § 1, 7-14-2003; Ord. No. 2006-073, § 1, 5-8-2006; Ord. No. 2007-052, § 1, 5-29-2007)

Secs. 46-62--46-80. Reserved.

## ARTICLE IV. HEALTH CODES AND REGULATIONS

### DIVISION 1. GENERALLY

Secs. 46-81--46-100. Reserved.

### DIVISION 2. FOOD CODE

Sec. 46-101. Food code adopted.

A certain document, three copies of which are on file in the office of the city clerk, being marked and designated as the Food Code, 1999 Recommendations of the United States Public Health Service/Food and Drug Administration, as published by the U.S. Department of Health and Human Services, Public Health Services, Food and Drug Administration, is hereby adopted (chapters 1 through 8 and annex 1) with the changes cited in section 46-102, as the food code of the city for regulating the design, construction, management and operation of all food establishments, and providing for plan submission and approval and the issuance of permits and collection of fees.

(Code 1996, § 255.010; Ord. No. 95-135, § 1, 12-11-1995; Ord. No. 2001-64, § 1, 6-11-2001)

Sec. 46-102. Amendments to food code.

The following provisions of the code adopted in section 46-101 are hereby revised as follows:

Chapter 1, section 1-201.10(B)(31)(c)(i) is hereby deleted.

Chapter 1, section 1-201.10(B)(31)(c)(vi). Change to read as follows:

(vi) A kitchen in a private home, such as a small family day care provider; or a bed-and-breakfast operation that prepares and offers food to guests if the home is owner occupied, the number of available guest bedrooms does not exceed five, breakfast is the only meal offered, the number of guests served does not exceed 15, and the consumer is informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the food is prepared in a kitchen that is not regulated and inspected by the regulatory authority.

Chapter 2-102.11 (page 17). Delete subsections A through O and replace as follows:

Person in Charge--Demonstration of Knowledge.

a. Each full-service food establishment or food manufacturing operation, including but not limited to restaurants, deli operations, bakeries, meat processing plants, ice plants, mobile food operations or temporary food stands, where potentially hazardous foods are prepared and sold, shall have at least one currently certified food service manager on-site during normal business operations.

Such certification shall be from:

(1) A nationally recognized course in applied food service sanitation.

(2) Other course as approved by the city health department.

b. All food employees who work with unpackaged food, food equipment or utensils, or food contact surfaces shall have taken and passed a short course on applied food service sanitation as approved by the city health department.

Chapter 3-305.11-D. Add new section D.

(D) Breeding mix shall be protected by:

(1) Sifting after each use to remove all moist material and refrigerated between uses.

(2) Fresh dry mix shall not be added to moist mix.

(3) Used dry or wet mix shall not be returned to bulk mix.

Chapter 3, section 3-501.12(A). Change to read as follows:

(A) Under refrigeration that maintains the food temperature at five degrees Celsius (41 degrees Fahrenheit) or less, as specified under paragraph 3-501.16(C); or

Chapter 3, section 3-501.13. Change the following sections to read as follows:

(A) Under refrigeration that maintains the food temperature at five degrees Celsius (41 degrees Fahrenheit) or less, as specified under paragraph 3-501.16(C); or

(B)(3) For a period of time that does not allow thawed portions of ready-to-eat food to rise above five degrees Celsius (41 degrees Fahrenheit), as specified under paragraph 3-501.16(C); or

(B)(4) For a period of time that does not allow thawed portions of a raw animal food requiring cooking as specified under paragraph 3-401.11(A) or (B) to be above five degrees Celsius (41 degrees Fahrenheit), as specified under paragraph 3-501.16(C), for more than four hours including:

(B)(4)(b) The time it takes under refrigeration to lower the food temperature to five degrees Celsius (41 degrees Fahrenheit), as specified under paragraph 3-501.16(C);

Chapter 3, section 3-501.14. Change the following sections to read as follows:

(A)(2) Within four hours, from 21 degrees Celsius (70 degrees Fahrenheit) to five degrees Celsius (41 degrees Fahrenheit) or less, as specified under paragraph 3-501.16(C).

(B) Potentially hazardous food shall be cooled within four hours to five degrees Celsius (41 degrees Fahrenheit) or less, as specified under paragraph 3-501.16(C), if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna.

(C) Except as specified in paragraph (D) of this section, a potentially hazardous food received in compliance with laws allowing a temperature above five degrees Celsius (41 degrees Fahrenheit) during shipment from the supplier as specified in paragraph 3-202.11(B), shall be cooled within four hours to five degrees Celsius (41 degrees Fahrenheit) or less, as specified under paragraph 3-501.16(C).

(D) Shell eggs need not comply with paragraph (C) of this section if the eggs are placed immediately upon their receipt in refrigerated equipment that is capable of maintaining food at five degrees Celsius (41 degrees Fahrenheit) or less, as specified under paragraph 3-501.16(C).

Chapter 3, section 3-501.15-A(1). Change A(1) to read as follows:

1. Placing the food in shallow pans, no greater than four inches deep.

Chapter 3, section 3-501.16(C). Amend subsection (C) to state as follows:

(C) Buffet lines.

(1) On a buffet line, when product is not in compliance with temperature control parameters product container shall be clearly marked showing time placed on buffet line and product shall be held no longer than three continuous hours and then discarded.

Chapter 3, section 3-501.17. Delete the following subsections: (A)(2), (B)(2)(b), (B)(3)(b), (C)(2), (D)(2)(b), (D)(3)(b).

Chapter 3, section 3-501.18. Delete the following subsections: (A)(2), (D)(2).

Chapter 4, section 4-204.111(B)(1). Change to read as follows:

(1) In a refrigerated vending machine, the ambient temperature may not exceed five degrees Celsius (41 degrees Fahrenheit) as specified under paragraph 3-501.16(C) for more than 30 minutes immediately after the machine is filled, serviced, or restocked;

Chapter 4, section 4-204.112-F. Add new subsection (F).

(F) Provide an approved thermocouple or metal stem food service thermometer or time/temperature indicator (TTI) to check cooking and serving temperature of all foods.

Chapter 5, section 5-402.13. Change to read as follows:

Grease traps shall be used in all grease/oil/fat producing facilities and shall be designed, installed, and operated in compliance with the city's current grease trap policy and shall be easily accessible for content removal.

Chapter 8, section 8-401.20. Add new subsection (H) as follows:

(H) Other risk factors with the currently used risk assessment form as used by the health department across the jurisdiction.

Chapter 8, section 8-405.11(B). Change to read as follows:

(B) Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the regulatory authority may agree to or specify a longer timeframe, for the permit holder to correct critical code violations or HACCP plan deviations. Unless otherwise specified by the regulatory authority, the corrective actions must be completed prior to 14 days from date of the inspection.

Chapter 8, section 8-405.11(C) and (D). Add new sections C and D.

C. When a food establishment receives a score of less than 70 but greater than 59 on a routine inspection, then that establishment, at the discretion of the regulatory agency, shall have three days to correct all critical and 90 percent of non-critical violations.

D. When a food establishment receives a score of less than 60 on a routine inspection, or with six or more critical violations, it shall have 24 hours to correct all critical and 95 percent of all non-critical violations.

Annex 1, chapter 8. Delete 8-813.10(B).

(Code 1996, § 255.020; Ord. No. 95-135, § 2, 12-11-1995; Ord. No. 98-010, § 2, 1-26-1998; Ord. No. 2001-064, § 1, 6-11-2001)

Sec. 46-103. Health permit fees.

Health permit fees shall be paid according to the fee schedule in section 46-61.

(Code 1996, § 255.030; Ord. No. 95-135, § 3, 12-11-1995; Ord. No. 98-010, § 1, 1-26-1998; Ord. No. 2001-021, § 2(D), 2-26-2001)

Secs. 46-104--46-120. Reserved.

## DIVISION 3. SWIMMING POOLS

### Subdivision I. In General

Sec. 46-121. Scope.

(a) *Applicability of state guidelines.* The swimming pool code set out in this division, as adopted by the city, shall be equal to, if not greater than, the current state health department guidelines for the design and operation of a swimming pool, spa or water facility. In the event of a conflict the more stringent shall apply.

(b) *Inspections.* All public pools, spas and water facilities within the city limits, and those outside the city limits that are serviced by the city water and sewer service, shall be inspected for safety and water quality on a routine schedule by the city health department.

(c) *Health permit.* A health permit shall be issued and displayed in a conspicuous place. The fees for these health permits shall be as found in section 46-61.

(d) *Special pool features or uses.* Standards for unique features of spas, wave pools, zero-depth pools and water slides are provided in separate sections. Any pools used for other special purposes, such as therapy or competition, require additional design consideration and should be handled on an individual basis.

(e) *Exemption of private pools.* These standards do not apply to private pools.

(Code 1996, §§ 260.005, 260.010; Ord. No. 2001-021, § 2(B), 2-26-2001)

Sec. 46-122. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Public swimming pool* means any place open to the public for swimming or recreative bathing whether or not a fee is charged for use thereof, and shall be classified as pools, outdoor or indoor, which are entirely of artificial construction.

(Code 1996, § 260.010)

**Cross references:** Definitions generally, § 1-2.

Sec. 46-123. Patron loading.

(a) *Designation of areas.* For purposes of computing patron load within the pool enclosure, those portions of the swimming pool five feet or less in depth shall be designated the "shallow area." Those portions of the swimming pool over five feet in depth shall be designated the "deep area."

(b) *Area loading.*

(1) *Shallow area.* Fifteen square feet of pool water surface area shall be provided for each patron.

(2) *Deep area.* Twenty-five square feet of pool water surface area shall be provided for each patron.

(3) *Diving area.* Three hundred square feet of pool water surface area shall be reserved around each diving board or diving platform, and this area shall not be included in computing the permissible patron load.

(4) *Excess deck allowance.* Additional allowance will be made on the basis of one additional patron allowed per each 50 square feet of pool deck in excess of the minimum area of deck required.

(Code 1996, § 260.020)

Sec. 46-124. Design details and structural stability.

All swimming pools shall be designed and constructed to withstand all anticipated loading for both full and empty conditions. A hydrostatic relief valve and/or a suitable underdrain system shall be provided. The designing architect or engineer shall be responsible for certifying the structural stability and safety of the pool in both full and empty conditions.

(1) *Shape.* The shape of any swimming pool shall be such that the circulation of pool water and control of swimmers' safety are not impaired. There shall be no underwater or overhead projections or obstructions which would endanger patron safety or interfere with proper pool operation.

(2) *Minimum depth.* The minimum depth of water in the pool shall be at least 2 1/2 feet but not more than three feet six inches except for special purpose pools.

(3) *Bottom slope.* The bottom of the pool shall slope toward the main drain. The slope in water depths less than five feet shall not exceed one foot vertical in 12 feet horizontal.

(4) *Marking of boundary between shallow and deep areas.* The boundary line between the shallow and deep areas shall be marked by a line of contrasting color on the floor and walls of the pool, and by a safety rope and floats equipped with float keepers.

(5) *Pool walls.* Walls of a swimming pool shall be either:

a. Vertical for water depths of at least six feet; or

b. Vertical for a distance of at least three feet below the water level, below which the wall may be curved to the bottom with a radius not greater than the difference between the depth at that point and three feet; provided that vertical is interpreted to permit slopes not greater than one foot horizontally for each five feet of depth of sidewall (11 degrees from vertical).

(6) *Ledges.* Ledges shall not extend into the pool unless they are essential for support of the upper wall construction.

(7) *Diving areas.* The minimum dimensions of the swimming pool and appurtenances in the diving area shall conform to the table in section 46-168. (Note: These diving area dimensions do not meet the requirements of NCAA or AAU.) Dimensions for diving pools shall be in accordance with the Standards of International Amateur Swimming and Diving Federation (FINA).

a. *Headroom.* There shall be a completely unobstructed clear distance of 16 feet above the diving board measured from the center of the front end of the board. This area shall extend at least eight feet behind, eight feet to each side, and 16 feet ahead of the measuring point.

b. *Diving boards and platforms.* Diving boards and platforms in excess of three meters in height are prohibited except where special design considerations and control of use are provided.

c. *Steps and guard rails for diving boards.* Supports, platforms and steps for diving boards shall be of substantial construction and of sufficient structural strength to safely carry the maximum anticipated loads. Steps shall be of corrosion-resistant material, easily cleanable and of nonslip design. Handrails shall be provided at all steps and ladders leading to diving boards more than one meter above the water. Platforms and diving boards which are one meter high or higher shall be protected with guard rails 36 inches high extending at least to the edge of the water. Boards or platforms three meters or higher shall have an effective side barrier.

(8) *Slides.* Slides for use in swimming pools shall conform to part 1207, Safety Standard for Swimming Pool Slides, of the U.S. Consumer Product Safety Act (15 USC 2051 et seq.).

(9) *Ladders, recessed steps and stairs.*

a. *Location.* Recessed steps, ladders or stairs shall be provided at the shallow and deep ends. Recessed steps or ladders shall be provided in the deep portion. If the pool is over 30 feet wide, such steps, ladders or stairs shall be installed on each side.

b. *Ladders.* Pool ladders shall be corrosion-resistant and shall be equipped with nonslip treads. All ladders shall be so designed as to provide a handhold. There shall be a clearance of not more than six inches or less than three inches between any ladder and pool wall.

c. *Recessed steps.* Recessed steps shall be readily cleanable and shall be arranged to drain into the pool. Recessed steps shall have a minimum tread of five inches and a minimum width of 14 inches.

d. *Handrails.* Where recessed steps or ladders are provided, there shall be a handrail at the top of each side thereof extending over the coping or edge of the deck.

e. *Stairs.* Where stairs are provided, they shall be located diagonally in a corner of the pool or be recessed. They shall be equipped with a handrail. Stairs shall be of nonslip design, and have a minimum tread of 12 inches and a maximum rise of ten inches.

(10) *Decks.* A deck shall entirely surround the pool. It shall be not less than five feet wide. The deck shall be of a uniform, easily cleaned, impervious material and be of slip-resistant construction. The deck shall be protected from surface runoff.

a. *Slope.* The deck shall be sloped at least one-fourth inch per foot to deck drains or grade.

b. *Drainage.* Deck drains, when used, shall be spaced and arranged so that not more than 400 square feet of area is tributary to each drain and drains shall not be spaced more than 25 feet apart. There shall be no direct connection between the pool deck drains and the sanitary sewer system, or the pool gutter or recirculation system.

c. *Roll-out gutters.* If the pool is equipped with roll-out deck level gutters, not more than five feet of deck shall be sloped toward the gutters.

d. *Carpeting.* Carpeting shall not be permitted on pool decks unless special design considerations are provided and approved by the health department.

e. *Hose bibs.* Hose bibs shall be provided to facilitate flushing of the deck areas.

f. *Spectator areas.* There shall be an effective separation between spectator areas and swimmer areas.

g. *Pool concessions.* There shall be complete separation between areas where food and drink are served and areas used by pool patrons.

(11) *Fencing.* The deck area must be completely surrounded by walls and/or fencing not less than four feet high and of a design that will control the movement of patrons and restrain the entrance of non-patrons. Any special purpose areas inside the perimeter walls and/or fence must be fenced or constructed to control traffic. These areas shall be designed so they will not drain onto the deck. Any entrance to the pool shall be provided with a self-closing and latching gate capable of being locked. The opening device for the latch on the gate or door shall be at least four feet high, to keep young, unattended children from gaining access to the pool.

(Code 1996, § 260.030)

Sec. 46-125. Safety requirements.

(a) *Depth markings.*

(1) *Location of depth markings.* Depth of water shall be plainly marked at or above the water surface on the vertical pool wall and on the edge of the deck, at maximum and minimum points of break between the deep and shallow portions, and at intermediate increments of depth, spaced at not more than 25-foot intervals measured peripherally. Markings shall be on both sides and ends of the pool. Where depth markings cannot be placed on the vertical walls above the water level, other means shall be used so that the markings will be plainly visible to persons in the pool.

(2) *Size of depth markings.* Depth markings shall be in numerals of four inches minimum height and with color contrasting with the background.

(b) *Lifeguard chairs/stations.* Swimming pools, spas and recreational water facilities having an area of more than 3,400 square feet of water surface shall be provided with an elevated lifeguard chair or station. For each additional 2,000 square feet of water surface area, additional elevated chairs or stations shall be provided. Chairs should be placed in locations which will eliminate sun glare on the water, and in positions which will give complete coverage of the pool within a field of view limited to 45 degrees on either side of direct line of sight extending straight out from the chair.

(c) *Lifesaving equipment.*

(1) *Units required.* One unit of lifesaving equipment shall be provided for each 2,000 square feet of water surface area or major fraction thereof. A minimum of one unit shall be provided.

(2) *Unit composition.* One unit of lifesaving equipment shall consist of the following:

a. *Throwable devices.* A U.S. Coast Guard approved ring, 18 inches in diameter, or throwing buoy fitted with a one-fourth-inch diameter line with a length of 1 1/2 times the maximum width of the pool or 50 feet, whichever is less.

b. *Reaching devices.* A life pole, or shepherd's crook type of pole, having blunted ends with minimum length of 12 feet and able to reach to the center of the bottom of the pool at the deep end.

c. *Location.* Lifesaving equipment shall be mounted in conspicuous places, distributed around the swimming pool deck. Whenever lifeguard chairs/stations are provided, each shall be equipped with one unit of lifesaving equipment.

(d) *First aid equipment.* Every swimming pool shall be equipped with a minimum of a Red Cross standard 16-unit first aid kit, or its equivalent. A spine board should be provided at each pool.

(e) *First aid room.* Swimming pools with a surface area in excess of 4,000 square feet should have a readily accessible room or area designated and equipped for emergency care.

(f) *Emergency exit* . An emergency exit from the pool area shall be provided.

(g) *Attendant alarm* . Any swimming pool, spa, or recreational water attraction which is located such that it is not at all times in direct view of the attendant shall have, in the immediate vicinity of the pool, a clearly labeled alarm device that can be activated when a bather is in trouble and is easily heard throughout the area or building. This alarm shall produce a distinctly different sound than that of the high temperature alarm. Or the facility shall have a nonpay telephone permanently installed at poolside which is readily accessible and conspicuously located. The telephone shall have signage stating call 911 in case of emergency or connect directly with an attendant. All drowning and injuries requiring hospitalization shall be immediately reported to the health department.

(Code 1996, § 260.040; Ord. No. 2006-013, § 1, 2-13-2006)

Sec. 46-126. Ventilation and acoustical requirements.

(a) *Ventilation*. Bathhouses, mechanical equipment rooms, storage areas and indoor swimming pool enclosures shall be adequately ventilated. Room ventilation shall prevent direct drafts on swimmers and shall minimize condensation damage. A heating unit shall be kept from contact with swimmers. A fuel-burning heating unit shall be properly vented to the outdoors.

(b) *Acoustical control*. Acoustical control shall be provided for indoor pools.

(Code 1996, § 260.050)

Sec. 46-127. Water supply and wastewater disposal.

(a) *Water supply*. The source and quality of the water supplied to the pool and all plumbing fixtures including drinking fountains, lavatories and showers shall at all times meet the standards of the health department for potable water.

(b) *Cross connection control*. All portions of the water distribution system serving the swimming pool and auxiliary facilities shall be protected against backflow and backsiphonage. Water introduced into the pool, either directly or to the recirculation system, shall be supplied through an air gap or by another method approved by the health department.

(c) *Sanitary wastes*. An approved method for disposing of sanitary sewage shall be provided. Where available, a municipal sanitary sewerage system shall be used. If a private subsurface disposal system or other system must be used, approval of the system must be obtained from the health and public works departments.

(d) *Pool wastewater*. Pool wastewater shall be discharged in a manner approved by the health and public works departments

(e) *Backflow prevention*. The swimming pool and recirculation system shall be protected against backflow.

(Code 1996, § 260.060)

Sec. 46-128. Recirculation system.

A recirculation system consisting of pumps, piping, filters, water conditioning and disinfection equipment, and other accessory equipment shall be provided which will clarify, chemically balance and disinfect the swimming pool. A minimum turnover of the entire volume in six hours (four times in 24 hours) is required, except that the recirculation rate shall be increased to provide a two-hour turnover for wading pools.

(1) *Capacity*. The sizing of pipes, fittings and valves of the pool recirculation system shall be based on flow velocities not exceeding six feet per second under suction, ten feet per second under pressure and three feet per second in gravity.

(2) *Pipe marking*. All exposed piping shall be marked. The name of the liquid or gas and arrows indicating direction of flow shall be marked on the pipe.

(3) *Overflow systems.* All pools shall be designed to provide continuous skimming (removal of surface water). Make-up water supply equipment shall be provided to maintain continuous skimming.

a. *Gutters (perimeter overflow systems).* The overflow shall extend completely around the pool. It shall be level within a tolerance of plus or minus one-eighth inch. Piping connections shall be provided to permit water to flow from overflows to waste, as well as to the recirculation system.

1. *Size and shape.* The gutter system shall be designed for continuous removal of water from the pool's upper surface at a rate of at least 125 percent of the recirculation rate. The gutter shall be designed to serve as a handgrip and to prevent entrapment of arms or legs. It shall permit ready inspection, cleaning and repair.

2. *Outlets.* Drop boxes, converters, return piping or flumes used to convey water from the gutter shall be designed to handle 125 percent of the recirculation rate. Drainage shall be sufficient to minimize flooding and prevent backflow of skimmed water into the pool.

3. *Surge capacity.* All overflow systems shall be designed with an effective surge capacity of not less than one gallon for each square foot of pool surface area. Surge shall be provided within a surge tank, in the gutter or filter above the normal flow line, or elsewhere in the system. Surge tanks, gutters and filter tanks should have overflow pipes to convey excess water to waste. Surge tanks shall be provided with means for complete draining.

b. *Skimmers.* The use of skimmers shall be limited to pools with widths of 30 feet or less.

1. *Number.* At least one surface skimmer shall be provided for each 500 square feet of surface or fraction thereof. Additional skimmers may be required to achieve effective skimming. At least two skimmers should be provided.

2. *Location.* Skimmers shall be so located as to provide effective skimming of the entire water surface with minimum interference and short-circuiting.

3. *Flow rate.* Skimmers shall be designed for a flow-through rate of at least 30 gallons per minute or 3.75 gallons per minute per lineal inch of weir. The combined capacity of all skimmers in a pool shall be less than the total recirculation rate.

4. *Control.* Skimmers shall have weirs that adjust automatically and operate freely and continuously with variations of at least four inches in water level. All skimmed water shall pass through an easily removable and cleanable basket or screen before encountering control valves or entering the pump suction line. Each skimmer shall be equipped with a device to control flow. If a skimmer is connected directly to the recirculation pump suction pipe, it should include a device to prevent an air lock in the suction line. If equalizer pipes are used, they shall pass an adequate amount of water to meet pump suction requirements should the water in the pool drop below the weir level. The equalizer pipes shall be located at least one foot below the lowest overflow level of the skimmer. A valve or equivalent device that will remain tightly closed under normal operating conditions, but automatically opens when the water level drops below the minimum operating level of the skimmer, shall be provided on each equalizer pipe.

5. *Construction.* Skimmers shall be installed in the pool walls, be sturdy and be constructed of corrosion-resistant materials. Surface skimmers shall be of a type acceptable to the health department.

6. *Handgrips.* Bullnosed coping not more than two inches thick or other handgrip adjacent to the pool wall shall be provided. The handgrip shall not be more than nine inches above the minimum skimmer operating level. When the handgrip is formed by the pool deck, it shall slope away from the pool with a one-inch drop in a one foot distance.

c. *Testing.* Flotation testing should be performed to determine and adjust the recirculation system for optimum skimming.

(4) *Main drain system (outlet).* Main drains of the pool shall be installed in the pool floor at the deepest point.

- a. *Spacing.* The drains shall not be greater than 20 feet on centers and an outlet shall be provided not more than 15 feet from each side wall.
- b. *Gratings.* The main drain shall be protected by antivortex covers or gratings having an open area large enough to have a velocity of less than 1 1/2 feet per second through the grating. Openings in the grate shall not be over one-half inch wide. Gratings or drain covers shall not be removable without the use of tools.
- c. *Piping.* The piping shall be designed to carry 100 percent of the recirculation rate and shall be equipped with a valve.
- d. *Minimum flow.* At least 30 percent of the total recirculation rate should flow through the main drain.

(5) *Pumps and strainers.*

- a. *Strainers.* Strainers shall be provided through which all water shall pass before entering the pump. The strainers shall be of rigid construction, fabricated of corrosion resistant material and sufficiently strong to prevent collapsing when clogged. The openings shall be no greater than one-eighth inch in any dimension. The total clear area of all openings shall be at least four times the area of the connecting pipe. The strainer shall have a quick opening cover. Spare strainer baskets shall be provided. In systems where the filter is located on the suction side of the pump, strainers are not required.
- b. *Pumping equipment.* The recirculation pump shall have adequate capacity to meet the design requirements of the pool, including filter backwashing. It shall be of a self-priming type if installed above the hydraulic gradient. Multiple pumps should not be provided except for standby purposes. A gauge which indicates both pressure and vacuum shall be installed on the pump suction header and a pressure gauge shall be installed on the discharge side of the pump.

(6) *Flow measurement and control.*

- a. *Flow measurement.* A means of continuously measuring rate of flow shall be provided in the recirculation system. For sand filters the flow measuring equipment shall be located where the backwash flow rate can also be determined. The rate of flow indicator shall be of a type approved by the health department. The indicator shall be capable of measuring at least 1 1/2 times the design flow rate, and shall be accurate within ten percent of true flow. The indicator shall have a range of readings appropriate for the anticipated flow rates, and be installed where it is readily accessible for reading and maintenance and with straight pipe upstream and downstream of any fitting or restriction in accordance with the manufacturer's recommendation.
- b. *Flow regulation.* A device for regulating the rate of flow shall be provided in the recirculation pump discharge piping.

(7) *Inlets.* The recirculation system shall have inlets adequate in design, number and location to insure effective distribution of treated water and maintenance of uniform disinfectant residual throughout the swimming pool. All other types of inlet systems not covered in this subsection shall be subject to approval by the health department.

- a. *Number.* Wall inlets shall be spaced not over 20 feet apart, with one inlet within five feet of each corner of the pool and one in each recessed step area.
- b. *Location.* Wall inlets shall be located at least 12 inches below the design water surface. Bottom inlets shall be uniformly spaced with a separating distance of no greater than 20 feet and with rows of inlets within 15 feet of each side wall. In any pool over 60 feet in width, bottom inlets should be provided.
- c. *Type.* Inlet fittings shall be of the adjustable rate of flow type. Directional flow inlets shall be used with skimmer type pools. Inlets shall not extend from the floor or wall to create a hazard.
- d. *Testing.* Dye testing (crystal violet or equivalent) should be performed to determine and adjust the recirculation pattern.

(Code 1996, § 260.070)

**Sec. 46-129. Filtration.**

A swimming pool water treatment system shall have one or more filters. A filter shall be of a type approved by the health department. It shall be installed with adequate clearance and facilities for ready and safe inspection, maintenance, disassembly and repair.

**(1) Sand type filters.**

a. *Filter rate.* The design filtration rate of rapid sand filters shall not exceed three gallons per minute per square foot of filter area. High-rate sand filters shall not exceed a filtration rate of 15 gallons per minute per square foot. The sand filter system shall be equipped to backwash each filter at a rate of 15 gallons per minute per square foot of filter bed area or as recommended by the manufacturer. The backwash water shall be discharged to waste through a suitable air gap.

b. *Filter media.* Sand or other media shall be carefully graded and meet the manufacturer's recommendation for pool use.

c. *Accessories.* Accessories shall include influent pressure gauge, effluent pressure gauge, backwash sight glass and air relief valve.

**(2) Diatomaceous earth.** The design filtration rate for pressure or vacuum filters shall be not greater than 1.5 gallons per minute per square foot of effective filter area except that a maximum filtration rate of 2.0 gallons per minute per square foot may be allowed where continuous "body feed" is provided.

a. *Precoating.* The filter piping shall be designed to refilter or waste the effluent until a uniform body coat is applied. For pressure type filters, precoat feed equipment shall be provided to apply not less than 0.1 pound of diatomaceous earth per square foot of filter area.

b. *Body feed equipment.* Body feed equipment capable of applying not less than 0.1 pound of diatomaceous earth per square foot of filter area per 24 hours should be provided.

c. *Regenerative type filters.* Regenerative type filters shall meet the same standards as other pressure filters. Bumping by air or manual means must be provided for and provision for inspection of elements shall be provided.

d. *Accessories.* Accessories for vacuum filters shall include a vacuum gauge and a vacuum limit switch interconnected with the pump. Pressure filters require a backwash sight glass, effluent pressure gauge, influent pressure gauge and air relief valve.

**(3) Other type filters.** Acceptance shall be determined on an individual basis by the health department.

(Code 1996, § 260.080)

**Sec. 46-130. Disinfection.**

Swimming pools shall be designed to provide for continuous disinfection of the pool water with a chemical which is an effective disinfectant and which imparts an easily measured, active residual.

**(1) Disinfectant feeders.** An automatic feeder which is easily adjustable shall be provided for the continuous application of disinfectant.

a. *Construction.* Feeders shall be of sturdy construction and materials which will withstand wear, corrosion or attack by disinfectant solutions or vapors, and which are not adversely affected by repeated, regular adjustments or other normal use conditions.

b. *Maintenance.* Feeders shall be capable of being easily disassembled for cleaning and maintenance.

c. *Operation.* The design and construction shall be such as to minimize stoppage from chemicals intended to be used or foreign materials that may be contained therein.

- d. *Safeguards.* The feeders shall incorporate antisiphon safeguards so that the disinfectant cannot continue to feed into the swimming pool, the pool piping system, or the swimming pool enclosure if any type of failure of the pool equipment occurs.
- e. *Capacity.* Feeders shall be capable of supplying disinfectant to the pool in the range up to ten ppm chlorine or equivalent.
- (2) *Gas chlorination.* When compressed chlorine gas is used, the following features shall be provided:
- a. *Location.* The chlorinator room shall be located on the opposite side of the pool from the direction of the prevailing winds.
- b. *Chlorine room.* This room shall be at or above grade. Chlorinating equipment shall be in a separate room.
- c. *Venting.* The chlorine room shall have an airtight duct beginning near the floor and terminating at a safe point of discharge to the out-of-doors. A louvered air intake shall be provided near the ceiling. A ventilating fan, capable of one air change per minute and operated from a switch outside the door, shall be provided in conjunction with the airtight duct.
- d. *Lighting.* Adequate lighting shall be provided with the switch located outside the room, adjacent to the door.
- e. *Door.* The door of the chlorinator room shall not open to the swimming pool, and shall open outward to the out-of-doors. The door shall be provided with a shatterproof inspection window and should be provided with panic hardware.
- f. *Chlorine cylinders.* Chlorine cylinders shall be anchored. The cylinders in use shall stand on a scale capable of indicating gross weight with one-half pound accuracy. Storage space shall be provided so that chlorine cylinders are not subjected to direct sunlight.
- g. *Injection location.* The mixing of the chlorine gas and water shall occur in the chlorine room, except where vacuum type chlorinators are used.
- h. *Backflow.* The chlorinators shall be designed to prevent the backflow of water or moisture into the chlorine gas cylinder.
- i. *Breathing apparatus.* A self-contained breathing apparatus designed for use in a chlorine atmosphere, and of a type approved by the health department, shall be provided. A closed cabinet shall be provided to house the breathing apparatus. It shall be accessible without a key and be located outside of the chlorinator room.
- j. *Leak detection.* A plastic bottle of ammonia for leak detection shall be provided.
- k. *pH adjustment.* Mechanical feed equipment for the purpose of adding a chemical for pH adjustment shall be provided.
- (3) *Hypochlorinators.* Where hypochlorinators are used, the following requirements shall apply:
- a. *Feed.* Feed shall be continuous under all conditions of pressure in the recirculation system without constriction of the recirculation pump suction.
- b. *Solution tanks.* If calcium hypochlorite is used, two solution tanks, each with minimum capacity of one-day supply, should be provided.
- (4) *Chemical feed equipment.* Equipment and piping used to apply chemicals to the water shall be of such size, design and material that they may be cleaned. All material used for such equipment and piping shall be resistant to action of chemicals to be used therein.
- (5) *Test kit.*
- a. *Standards.* A DPD (Diethyl-P-Phenylene Diamine) test kit with the following increments; 0.2, 0.4, 0.6, 0.8, 1.0, 1.5, 2.0, and 3.0 as a minimum, shall be provided to measure the chlorine residual. If other halogens are used, an appropriate scale shall be provided.
1. *Colormetric kits.* Colormetric test kits shall be provided for the determination of free disinfectant residual and pH of the pool water. A supply of appropriate reagents for making each

type of test shall be provided. Color standards shall be furnished for each of the tests, and they shall effect an accurate comparison of the sample to be tested, both from the standpoint of color and density, and shall be reasonably permanent and non-fading. Electronic residual and pH monitoring devices may be used in addition to the test kit.

2. *pH kit.* A pH test kit with a range from 6.8 to 8.2, accurate to the nearest 0.2 pH unit, shall be provided.

b. *Cyanuric acid test kits.* In the case of pools using cyanurates for disinfection, a test kit to measure the cyanuric acid concentration shall be provided. It shall permit readings at least to 100 ppm with increments of 25 ppm. A supply of appropriate reagents shall be furnished.

(Code 1996, § 260.090)

#### Sec. 46-131. Bathhouse.

(a) *Generally.* The term "bathhouse" shall refer to the dressing, shower and sanitary facilities that shall be provided for all swimming pools. Omission of part or all of the poolside shower and toilet facilities may be approved by the health department when adequate facilities are conveniently available.

(b) *Design criteria.*

(1) *Bathhouse routing.* Unless approved as above, location of the bathhouse shall be such that the patrons must pass through the bathhouse to enter the pool. The layout of the bathhouse shall be such that the patrons on leaving the dressing room pass the toilets, then the showers, en route to the swimming pool.

(2) *Bathhouse design.* The floor of the bathhouse shall be of smooth-finished material with nonslip surfaces, impervious to moisture, easily cleanable and sloped at least one-fourth inch per foot to drains. Carpeting shall not be permitted in shower and toilet areas. Junctions between walls and floors shall be coved. Walls and partitions shall be of smooth, impervious materials, free from cracks or open joints. Partitions between dressing cubicles shall terminate at least ten inches above the floor or shall be placed on continuous raised masonry or concrete bases at least four inches high. Lockers shall be set either on solid masonry or concrete bases at least four inches high or on legs with the bottom of the locker at least ten inches above the floor. Lockers shall be properly vented.

(3) *Fixture requirements.*

a. *Generally.* Unless exempted by subsection (a) of this section, bathhouse facilities shall be provided based on maximum patron load according to the table set out in section 46-169.

b. *Showers.* Showers shall be supplied with water at a temperature of at least 90 degrees Fahrenheit and no more than 115 degrees Fahrenheit and at a rate of at least 1.5 gallons per minute per shower head. All plumbing shall conform to national and local plumbing codes. Liquid or powdered soap dispensers should be provided. Glass dispensers are not acceptable.

(4) *Suits and towels.* Where towels and/or swimming suits are provided, facilities shall be provided to adequately launder, store and sanitize these items after each usage.

(5) *Footbaths.* The use of footbaths is prohibited.

(6) *Hose bibs.* Hose bibs shall be provided within the bathhouse to enable the entire area to be flushed with a 50-foot hose. All hose bibs shall be provided with approved backsiphonage devices to protect the water distribution system for the pool and appurtenant facilities at all times against cross connection.

(7) *Ventilation.* Bathhouse facilities shall be provided with mechanical ventilation in accordance with current codes.

(8) *Electrical receptacles.* All bathhouse electrical outlets shall be protected by ground fault circuit interrupters.

(Code 1996, § 260.100)

Sec. 46-132. Miscellaneous requirements.

(a) *Pool cleaning system.* A cleaning system shall be provided to remove dirt from the bottom of the pool. When a vacuum system is used as an integral part of the recirculation system, the connection shall be located in the walls of the swimming pool at least eight inches below the water line, and at such points that the floor of the pool can be cleaned with not more than 50 feet of suction hose. Nothing in this section shall prohibit the use of surface skimmers for vacuum cleaning purposes.

(b) *Manual.* A manual for operation of the pool shall be provided. It shall include instructions for each filter, pump or other piece of equipment, drawings, illustrations, chart operating instructions, and a parts list to permit proper installation, operation, winterization and maintenance.

(c) *Starting blocks.* Starting blocks shall be located where the water depth is at least five feet. They shall be of a removable design.

(d) *Sand area rinse showers.* Sand areas shall not be allowed inside of the pool enclosure unless separated by an effective barrier to control access to the swimming pool deck and provided with continuous supervision to enforce the showering requirement. Persons entering the swimming pool area from the sand area shall pass through a water spray or shower which effectively removes sand from the bathers.

(e) *Spray and water features.* Waterfalls, fountains, mushrooms, spray pads and spray pools, or similar features shall be permitted only in water depths not exceeding two feet. Such features shall be of a nonclimbable design, unless specifically manufactured and marketed as a climbing structure. Each feature where bathing takes place shall have a separate sanitizing feeder installed. The feeder shall be of appropriate design with one chlorinator per activity flow pipe, and be capable of supplying sufficient sanitizing to meet the minimum residual required by these regulations. Turnover shall be no greater than every 15 minutes. If the features are part of a larger system that uses surge tanks with chemical controllers, and there are separate feed lines to each feature, then separate chlorinators are not required as long as the chlorine residual is maintained at each feature.

(Code 1996, § 260.110)

Sec. 46-133. Spas.

(a) *Definition.* A spa is a pool designed for recreational and/or therapeutic use and not drained, cleaned and refilled for each individual. It may include, but shall not be limited to, hydrojet circulation, hot water, cold water, mineral baths, air induction systems, or any combination thereof. A pool used under direct supervision of qualified medical personnel is excluded.

(b) *General standards.* Requirements for conventional swimming pools may be modified or waived for spas at the discretion of the health department. Except as modified by this division, compliance is required with all other applicable sections and standards of this Code.

(c) *Patron load.* The patron load shall not exceed one person per three lineal feet of inner edge of seat or bench.

(d) *Maximum depths.* The maximum water depth shall be four feet measured from the water line. The maximum depth of any seat or sitting bench shall be two feet measured from the water line.

(e) *Handholds.* A spa shall have one or more suitable, slip-resistant handholds around the perimeter, located no farther apart than four feet. The handholds may consist of any one or a combination of bullnosed coping, ledges or decks along the immediate top edge of the spa and not over 12 feet above the water line; ladders, steps, or seat ledges; and ropes or railings not over 12 inches above the water line.

- (f) *Stairs, ladders and recessed treads.* Stairs, ladders, or recessed treads shall be provided where spa depths are greater than two feet. A spa shall be equipped with at least one means of egress with handrail for each 50 feet of perimeter or portion thereof.
- (g) *Deck width.* A five-foot minimum width continuous unobstructed deck, which may include the coping, shall be provided on two sides or 50 percent or more of the spa. When the spa is adjacent to another pool, the spa shall be located at the shallow end, with a minimum distance of five feet between the pools.
- (h) *Water temperature controls.* Controls shall be provided to prevent water temperatures in excess of 102 degrees Fahrenheit. The controls shall be accessible only to the pool operator. Each spa shall have an approved spa thermometer on-site.
- (i) *Electrical equipment.* Electrical switches, outlets, and equipment shall be at least 15 feet from the edge of the spa.
- (j) *Spa drainage.* A means to drain the spa shall be provided to allow frequent draining and cleaning.
- (k) *Entrapment protection.* Outlets shall be designed so that each pumping system prevents patron entrapment. Acceptable means include the use of multiple unvalved outlets, an anti-vortex drain, and a 12-inch by 12-inch square grate or one of equivalent area.
- (l) *Surface skimmers.* One surface skimmer shall be provided for each 100 square feet or major fraction thereof of surface area.
- (m) *Inlets.* One wall inlet shall be provided for each 20 feet of pool perimeter, and a minimum of two wall inlets shall be provided.
- (n) *Air induction systems.* An air induction system, when provided, shall prevent water backup that could cause electrical shock hazards. Air intake sources shall not permit the introduction of toxic fumes or other contaminants.
- (o) *Disinfectant feeders.*
- (1) *Capacity.* Feeders shall be capable of supplying at least 20 ppm chlorine or equivalent.
  - (2) *Gas chlorinators.* Gas chlorinators shall not be used.
- (p) *Recirculation flow rates.* The recirculation flow rate shall be 30 gallons per minute per skimmer or provide a 30-minute turnover, whichever is greater.
- (q) *Agitation systems.* The agitation system shall be separate from the water treatment recirculation system. The agitation system shall be connected to a ten-minute timer located out of reach of a person in the spa.
- (r) *Caution signs.* A legible sign visible from the spa shall be provided. It shall state: "Caution. Any person having an acute or chronic disease such that use of the spa might adversely affect their health should consult a physician before using this spa. Do not use the spa immediately following exercise or while under the influence of alcohol. Do not use the spa alone or without supervision. Do not use the spa longer than ten minutes. Children shall be accompanied by an adult."
- (Code 1996, § 260.120)

#### Sec. 46-134. Water slides.

- (a) *Definition.* A water slide consists of one or more flumes, a plunge pool, or dedicated plunge area of a multiple use pool, a pump reservoir, and water treatment facilities. The plunge pool is located at the base of the flume. The pump reservoir is for the flume pump intake.
- (b) *General standards.* Water slides require special consultation with the regulatory agency for consideration of design variations and areas where potential problems may exist. Requirements for conventional swimming pools may be modified or waived for water slides at the discretion of the health department. Except as modified by this division, compliance is required with all other applicable sections and standards of this Code.

(c) *Flumes.*

(1) *Position.* A flume shall be perpendicular to the plunge pool wall for a distance of at least ten feet from the exit end of the flume.

(2) *Clearances.* The distance between the side of a flume terminus and a plunge pool side wall shall be at least four feet. The distance between sides of adjacent flume terminuses shall be at least six feet. The distance between a flume exit end and the opposite side of the plunge pool, excluding steps, shall be at least 20 feet.

(3) *Elevation.* A flume shall terminate either at a depth of at least six inches below the plunge pool operating water surface level or at, or no more than two inches above, the water surface level provided the flume is level for a distance of at least ten feet from its exit end.

(d) *Plunge pools.*

(1) *Depths.* The plunge pool operating water depth at the end of a flume shall be three feet. This depth shall be maintained in front of the flume for a distance of at least ten feet, from which the plunge pool floor may have a constant slope upward to a minimum water depth of two feet.

(2) *Decks.*

a. *Width.* The deck along the exit side of the plunge pool shall be at least ten feet wide. The deck along the side opposite the pump reservoir shall be at least four feet wide.

b. *Slope.* Plunge pool decks may slope to the plunge pool and/or the pump reservoir or to drains which discharge to them.

(e) *Pump reservoirs.*

(1) *Volume.* The pump reservoir shall have sufficient volume to contain two minutes of combined flow from all water treatment and flume pumps.

(2) *Accessibility.* All of the reservoir area shall be accessible by three-foot minimum width decks for cleaning and maintenance.

(3) *Security.* The pump reservoir shall be secured to prevent unauthorized access.

(4) *Flume pumps.*

a. *Intakes.* The flume pump intakes shall be in the pump reservoir. The intakes shall enable cleaning and shall prevent patron entrapment.

b. *Checkvalves.* Each flume pump discharge pipe shall have a checkvalve.

(f) *Walkways.* A four-foot minimum width surfaced walkway or steps shall be provided between the plunge pool deck and the top of the flume.

(g) *Water treatment.*

(1) *Main drains.* The plunge pool and the pump reservoir shall each have a main drain with piping to the water treatment system.

(2) *Overflow systems.* The plunge pool and the pump reservoir shall each have either a surface skimmer system or a perimeter overflow system, with piping to the water treatment system.

a. *Surface skimmers.* Each surface skimmer system shall have at least two surface skimmers.

b. *Perimeter overflow systems.* Perimeter overflows are not required directly under flumes or along weirs which separate the plunge pool and the pump reservoir.

(3) *Turnover.* The water shall be recirculated and treated in a turnover of one hour or less.

(h) *Caution signs.* A legible sign shall be posted at the top of the flume. The sign shall state: "Do not use this slide while under the influence of alcohol or drugs. Only one person allowed at a time. Follow the instructions of the supervisor and lifeguard. No running, standing, kneeling, rotating, tumbling or stopping in the flumes or tunnels. Keep your hands inside the flume. No diving from a flume. Leave the plunge pool promptly after entering it."

(Code 1996, § 260.130)

Sec. 46-135. Wave pools.

(a) *Consultation with health department; applicability of requirements for conventional pools.* The design architect or engineer shall consult with the health department prior to preparation and submission of engineering plans and specifications for wave pools. Requirements for conventional swimming pools may be modified or waived for wave pools at the discretion of the health department. Except as modified by the following subsections, compliance is required with all other applicable sections of these standards.

(b) *Shape and design generally.* Wave pools shall be of such shape and design as to be operated and maintained in a safe and sanitary manner.

(c) *Depth.* The water depth may be reduced to zero at the shallow end to allow for safe access and for dissipation of the waves.

(d) *Gutters.* Overflow gutters shall be provided, but may be omitted along the side of the pool with the wave generating equipment if effective skimming devices are provided instead. Continuous skimming shall be provided during the quiescent period over the entire length of the gutter. The zero-depth end shall have a continuous trench with a grate.

(e) *Recirculation-filtration system.* The recirculation-filtration system of wave pools shall be capable of providing a two-hour turnover.

(f) *Decks and ladders.*

(1) *Barriers.* A safety railing or other effective barrier at least 42 inches in height shall be provided to prevent swimmers from entering the pool at any location other than the zero-water-depth end. It shall have at least one intermediate-height rail or rope.

(2) *Runout.* Runout areas sloping down toward the zero-depth trench should not exceed four feet.

(3) *Access.* Deck areas accessible to swimmers may be omitted along the side of the pool with the wave generating equipment.

(4) *Ladders.* Ladders shall be of a recessed design.

(g) *Waves.*

(1) *Magnitude.* The wave generating equipment shall not be capable of producing waves of a magnitude which could cause swimmers to have contact with the pool bottom in the deep end.

(2) *Emergency shutoff.* An emergency shutoff for the wave generating equipment shall be provided at every lifeguard chair or station at a minimum. At least four emergency shutoffs shall be provided.

(h) *Openings.*

(1) *Inlets.* The zero-depth area shall have bottom inlets. They shall be located as required by the health department.

(2) *Openings to wave generating equipment.* Openings to wave generating equipment shall be designed to prevent entrapment of swimmers.

(Code 1996, § 260.140)

#### Sec. 46-136. Zero-depth pools.

(a) *Generally.* This section applies to zero-depth pools other than wading pools. Except as modified by the following subsections, zero-depth pool facilities must comply with all other applicable provisions of these standards.

(b) *Lifeguarding requirement.* Zero-depth pools are permitted only where continuous lifeguard service is provided.

(c) *Surface skimming.* A gutter or trench with a grate cover is required along all zero-depth areas. It shall be at an elevation which allows effective skimming at the trench at all times.

(d) *Runout.* Runout areas sloping toward the zero-depth trench should not exceed four feet.

(e) *Recirculation rate.* The recirculation rate shall provide a turnover of two hours or less for areas of less than three feet of water depth, and a turnover for other areas as specified elsewhere in these standards.

(f) *Bottom inlets.* A system of bottom inlets must be provided in the shallow end, designed to provide the equivalent of a two-hour turnover for that area.

Secs. 46-137--46-160. Reserved.

## Subdivision II. Operational Standards

### Sec. 46-161. Water quality standards.

(a) *Disinfection.* Swimming pool water shall be continuously disinfected. The disinfecting materials and methods shall not be dangerous to public health, create objectionable physiological effects, or impart toxic properties to the water. All disinfecting materials and methods shall be used only with the approval of the health department.

(1) *Chlorine.* When chlorine is the disinfectant, a free chlorine residual of at least 1.5 mg/l for a pH of 7.2 to 7.5 shall be maintained throughout the pool. For higher pH values, higher free chlorine residuals of at least 0.2 mg/l for each 0.2 pH unit increase shall be maintained.

(2) *Bromine.* When bromine is the disinfectant, a residual of at least 1.0 mg/l shall be maintained throughout the pool for pH below 7.8, and 2.0 mg/l for a pH of 7.8 or higher.

(3) *Other disinfectants.* Another disinfecting material or method may be used when it has been demonstrated to provide a satisfactory residual which is easily measured and is as effective under conditions of use as the chlorine concentrations required in this section.

(4) *Cyanuric acid.* When a chlorinated isocyanurate is used as the disinfectant, a free chlorine residual of at least 1.0 mg/l for a pH of 7.2 shall be maintained throughout the pool. For higher pH values, higher free chlorine residuals of at least 0.4 mg/l for each 0.2 pH unit increase shall be maintained. The cyanuric acid concentration in the pool water shall not exceed 100 mg/l.

(5) *Special purpose pools.* The health department may require a higher disinfectant residual than stated in this section for slide pools, spas, or other special purpose pools.

(b) *pH and alkalinity.*

(1) *pH.* The swimming pool water pH shall be maintained at a level between 7.2 and 8.2.

(2) *Alkalinity.* The alkalinity of the water should be maintained at a level between 70 and 150 mg/l as calcium carbonate.

(c) *Clarity.* The water shall have sufficient clarity that a black and white disc, six inches in diameter, is readily visible when placed at the deepest point of the swimming pool and viewed from the side of the swimming pool. A black drain cover or two-inch circle around the drain cover or a highly contrasting drain cover suffices.

(d) *Bacteriological quality.*

(1) *Sample collection and analysis.* Water samples for bacteriological examination shall be collected while the swimming pool is in use, the residual disinfectant in the sample shall be deactivated, and the samples shall be examined in accordance with procedures acceptable to the health department.

(2) *Standard.*

a. No sample shall contain more than 50 per 100 milliliters of staphylococci organisms per standard sample.

b. No sample shall show a positive test (confirmed test) for coliform or enterococcal organisms. When the bacteriological standard is exceeded, the pool shall be superchlorinated immediately and be retested. The cause of the unsatisfactory sample shall be investigated and corrective action initiated if appropriate.

- (e) *Algae control.* An algicide may be used provided it is acceptable to the health department and is used in accordance with the directions on the label.
- (f) *Superchlorination.* If the concentration of combined residual chlorine is greater than 0.2 mg/l, the swimming pool water should be superchlorinated to reduce the concentration of combined residual chlorine.
- (1) *Chlorine residual.* During superchlorination, the free chlorine residual should be raised to a level between five and ten mg/l.
- (2) *Pool use.* Swimmers shall not be allowed in the swimming pool during superchlorination. They may be allowed in the pool when the free chlorine residual is less than five mg/l.
- (g) *Temperature.* The pool water temperature should be maintained between 72 degrees Fahrenheit and 85 degrees Fahrenheit. The air temperature for an indoor swimming pool should be maintained from two degrees Fahrenheit to five degrees Fahrenheit above the pool water temperatures.
- (Code 1996, § 260.150)

Sec. 46-162. Routine operations.

- (a) *Pool cleaning.* The swimming pool and deck areas shall be cleaned, the pool water surface skimmed, and the pool walls and bottom vacuumed or brushed, all on a daily basis and while the pool is closed from use.
- (b) *Bather preparation facilities.* The bather preparation facilities, including the floors, showers, and toilet facilities, shall be cleaned and disinfected daily and while the pool is closed from use. Public lockers shall be inspected and be cleaned as necessary. All facilities shall be maintained in an operable condition.
- (c) *Water analyses.* Water quality analyses shall be performed at a frequency and at such locations as established by the health department. Test kits shall be properly maintained. Reagents shall be renewed semi-annually for indoor pools and prior to opening for outdoor pools.
- (d) *Mechanical system.* All items of mechanical equipment and all parts of the mechanical system shall be inspected daily.
- (e) *Recirculation system.* The recirculation system shall be inspected daily.
- (1) *Overflow system.* Surface skimmers and perimeter overflow systems shall be cleaned daily and shall be adjusted as necessary.
- (2) *Main drains.* Broken main drain grates shall be repaired or replaced as soon as possible.
- (3) *Inlets.* Inlet flow rates and direction shall be checked and shall be adjusted as necessary.
- (4) *Surge tanks.* Surge tank controls shall be adjusted as necessary for operation in the design range of water levels. Surge tanks shall be drained and cleaned at least annually.
- (5) *Water level.* Water shall be added as needed to keep the pool water at the overflow level.
- (f) *Other equipment.* All safety equipment, deck equipment, and signs shall be checked daily and shall be properly maintained.
- (g) *Records.* Daily operating records shall be maintained by the owner or operator on forms furnished by the health department. The records should contain such information as disinfectant residual, pH, water temperature, amount of chemicals used, flow rate, filter backwashing, equipment breakdowns, amount of makeup water, number of patrons, breathing apparatus usage, and personal accidents. Unusual problems or occurrences should be reported immediately to the health department.
- (h) *Chemicals.* All chemicals shall be handled and stored properly in accordance with the manufacturer's recommendations.
- (Code 1996, § 260.160)

Sec. 46-163. Equipment maintenance.

(a) *Equipment operation.*

(1) *Instructions.* All equipment shall be operated and maintained in accordance with the manufacturer's instructions. A manual of operation provided by the consultant and manufacturer's instructions for operation and maintenance of the equipment shall be maintained and kept available. When such instructions are not available, the health department should be contacted for advice and consultation.

(2) *Continuous operation required.* Pumps, filters, disinfectant feeders, flow indicators, gauges, and all related components of the pool water recirculation system shall be kept in continuous operation, 24 hours per day.

(b) *Recirculation pumps.* The pump and motor shall be checked at regular intervals. The pump shall not be throttled on the suction side during normal operation.

(c) *Filters.*

(1) *Sand filters.*

a. *Air release.* The filter air release valve shall be opened daily, or more frequently if necessary, to remove air which collects in the filter.

b. *Backwashing.* Filters shall be backwashed at a proper flow rate in accordance with the manufacturer's recommendations. The loss of head at the time of backwashing gravity filters shall not exceed eight feet. The pressure differential at the time of backwashing standard rate sand filters should not exceed five pounds per square inch and shall not exceed seven pounds per square inch.

c. *Internal components.* Inspection of the internal components of pressure filters shall be conducted annually or at any time the filters fail to produce clear effluent. Deficiencies shall be corrected.

(2) *Diatomaceous earth filters.*

a. *Precoat amount.* The amount of diatomaceous earth precoat shall be at least 0.1 pound per square foot of element surface area.

b. *Precoat operation.* During precoating, the filter effluent shall be recirculated through the filter until the effluent is clear, or the initial filter effluent shall be discharged to waste until clear water is produced.

c. *Body feed.* When continuous body feed is issued, it should be applied at a rate of 0.5 to 1.5 ounces per square foot of surface area per day or as needed to extend filter cycles.

d. *Backwashing.* Pressure filters shall be backwashed when the pressure differential between the filter influent and effluent lines reaches the manufacturer's recommended maximum pressure differential, or when the rate of flow drops below the design flow rate, whichever occurs earlier. When the recirculation pump stops or is shut off, the filter shall be backwashed. The elements shall be precoated before placing the pump back into operation. Vacuum filters shall be washed when the pump suction gauge reaches the manufacturer's recommended maximum vacuum, or the flow rate drops below the design flow rate, whichever occurs first.

e. *Internal components.* A pressure filter shall be opened for inspection at least once a year, and whenever it fails to produce a clear effluent. Deficiencies shall be corrected.

f. *Extra supplies.* An extra supply of septa and at least two weeks' supply of diatomaceous earth should be available.

(d) *Strainers.* Strainer baskets shall be removed and replaced by clean baskets frequently. The pump shall be stopped before a strainer is opened. In the case of a diatomaceous earth filter, the dirty strainer basket should be replaced with a clean one when the filter is backwashed.

- (e) *Valves.* Valves shall be operated through their entire operation range occasionally to prevent corrosion and dirt from sealing them. Valve stem packing glands shall be tightened or repacked as necessary to prevent leakage.
- (f) *Flow meters.* Flow meters shall be maintained in an accurate operating condition. The glass and the connecting tubes shall be kept clean.
- (g) *Gauges.* The lines leading to gauges shall be bled occasionally to prevent blockage.
- (h) *Positive displacement feeders.*
  - (1) *Inspection.* Positive displacement feeders shall be periodically inspected and serviced.
  - (2) *Intake.* The suction intake should be suspended at least six inches above any sludge layer in the solution tank.
  - (3) *Cleaning.* A small amount of mild acid solution (as vinegar) should be fed through the feeder each week to dissolve sludge accumulations.
- (i) *Erosion feeders.*
  - (1) *Inspection.* Erosion feeders shall be periodically inspected and serviced.
  - (2) *Chemicals.* Only chemicals recommended by the feeder manufacturer shall be used in the feeder.
- (j) *Gas chlorinators.* Gas chlorinators shall be serviced or repaired only by qualified personnel.
- (k) *Pool structure and decks.*
  - (1) *Cracks.* Cracks in the pool walls, floors, perimeter overflow systems and decks shall be repaired as soon as possible and prior to the pool cleaning.
  - (2) *Painting.* The pool walls, floor, and deck equipment shall be painted as often as necessary to keep them in good condition and free of corrosion. Paint for the pool structure shall be white or a light color. Steps which lead into a pool should be painted to contrast with the rest of the pool.
- (l) *Electrical systems.*
  - (1) *Repairs to be made by qualified electrician.* Repairs to any electrical system shall be made only by a qualified electrician.
  - (2) *Lights.* Defective underwater and overhead lights, including their lenses, shall be immediately repaired or replaced.
  - (3) *Coderequirements.* All repairs shall be made in strict compliance with the National Electrical Code and all applicable state and local codes.  
(Code 1996, § 260.170)

Sec. 46-164. Patrons, spectators and staff.

- (a) *Patrons.*
  - (1) *Disease.* A person having an infectious or communicable disease shall not be permitted in a swimming pool.
  - (2) *Showers.* A person using a swimming pool shall shower before entering the pool enclosure. A person leaving the pool to use a toilet shall shower before returning to the pool.
  - (3) *Apparel.* Only clean apparel shall be worn in a swimming pool.
- (b) *Patron load limit .* The number of patrons within the swimming pool enclosure shall not exceed the approved design capacity.
- (c) *Spectators.*
  - (1) *Street clothes.* A person in street clothes or shoes shall not be permitted on the swimming pool deck.
  - (2) *Food and drink .* No food, drink, gum, tobacco, or glass shall be permitted at the pool deck or in the pool/spa.
- (d) *Staff.*

(1) *Supervisor*. Every pool shall be under the supervision of a responsible supervisor or lifeguard. This person shall require careful observance of sanitary and safety regulations.

(2) *Lifeguards*.

a. *Number* . All required lifeguard chairs/stations shall be occupied by lifeguards. Additional lifeguards shall be provided, the number to be determined by the health department, based on anticipated usage and design characteristics A proposed lifeguard staffing plan for a swimming pool, spa, or water recreation attraction shall be submitted, in writing, to the department for approval.

b. *Additional lifeguards*. At least one lifeguard shall be provided for swimming pools, spas, and recreational water attractions equal to or greater than 3,400 square feet of pool surface area. One additional lifeguard shall be provided for each additional 2,000 square feet of pool surface area thereafter. For pools with depths of five-foot or less, every other lifeguard requirement (additional 2,000 square feet) may be substituted with a trained attendant. Pool operators may limit the portions of the pool open to bathers and provide the required lifeguard staff consistent with the pool area open.

c. *Certification*. Each lifeguard shall have a valid and current advanced lifeguard certificate from the American National Red Cross, National YMCA or equivalent.

d. *Dress* . Each lifeguard on duty shall be appropriately dressed and identifiable.

e. *Attention*. A lifeguard on duty shall not engage in activities which would distract his/her attention from the lifeguard duties.

f. *First aid*. A person trained in first aid shall be available on the premises whenever the swimming pool is open for use. A person trained in cardiopulmonary resuscitation (CPR) also should be available.

g. *Operator*. A person knowledgeable in poolside testing of the water and in operating the water treatment equipment shall be available whenever the pool is open for use.

(3) *Attendants*. A qualified attendant is required at regulated facilities with 2,000--3,400 square feet of surface area, regardless of pool depth. The pool shall have the attendant on duty at all times when the pool is open. If an attendant who is working alone must leave poolside, for whatever reason, he/she shall take whatever steps are necessary to ensure that no one remains in or enters the water in his/her absence. Copies of training/certification documentation for all attendants currently employed by the pool's management shall be present at the pool when it is open.

a. *Qualifications*. No person shall serve as an attendant unless he or she meets all of the following training requirements and can produce the appropriate documentation upon request of the health department.

b. *CPR*. Current certification in American Red Cross, American Heart Association or NSC Cardiopulmonary Resuscitation (CPR), or approved equivalent that includes training in: one person adult CPR, child CPR and infant CPR; and

c. *Airway*. Current certification in American Red Cross First Aid, or approved equivalent, that includes training in: obstructed airway, artificial breathing, control of bleeding, and treatment of shock.

(4) *Table of required lifeguard and attendants*

TABLE INSET:

	2,000 sq. ft.	2,000--3,400 sq. ft.	3,400 sq. ft.	5,400 sq. ft. Depth 5 feet or less	5,400 sq. ft.
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Lifeguard	NO	NO	1	2 or 1*	2
Attendant	NO	1 or Poseidon	NO	1	NO
*Alarm or Telephone	Yes(one year)	NO	NO	NO	NO
NO Lifeguard Signage	Yes	Yes	NO	NO	NO
First Aid Kit	Yes	Yes	Yes	Yes	Yes

\*For pools five feet or less, every other lifeguard requirement (additional 2,000 square feet) may be substituted with a trained attendant.

\*Pools, spas, or recreational water attractions that are not at all times in direct view of an attendant.

(Code 1996, § 260.180; Ord. No. 2006-013, § 1, 2-13-2006)

Sec. 46-165. Closure.

Any of the following conditions shall constitute sufficient grounds to order an immediate closure of the swimming pool, spa or water facility:

- (1) Failure to comply with the disinfectant residual levels established in section 46-161(a)(1)--(5).
- (2) Failure to comply with the water clarity requirement in 46-161(c).
- (3) Inoperable pump, filter, or disinfectant feeder.
- (4) Presence of bare electrical wires or other obvious electrical deficiency.
- (5) Absence of supervisor or required lifeguard.
- (6) Existence of any condition creating an immediate danger to health or safety as determined by the health department.

(Code 1996, § 260.190)

Sec. 46-166. Safety.

(a) *Accident prevention.*

- (1) *Decks.* Decks shall be kept slip-resistant and in good repair, without litter, obstructions, tripping hazards, and sharp edges.
- (2) *Deck equipment.* Ladders, handrails, diving apparatus, lifeguard chairs, slides, and other deck equipment shall be kept secured and in good repair, without sharp edges.
- (3) *Depth markings.* Depth markings shall be maintained to be plainly visible.
- (4) *Entrances.* Doors and gates at pool entrances shall be kept closed at all times and locked when the pool is not open for use.
- (5) *Glass objects.* Glass objects shall not be permitted in a swimming pool enclosure.
- (6) *Horseplay.* Horseplay and running shall not be permitted.

(b) *Safety equipment.*

- (1) *Lifesaving equipment.* The lifesaving equipment shall be kept in good repair and ready condition and in a conspicuous location. It shall be kept in its established location and shall be used only for the intended purpose.

(2) *First aid equipment.* The first aid kit shall be kept locked and be readily available at a location identified at the pool. The spineboard shall be kept in good repair and ready condition at the swimming pool.

(3) *Life lines.* Life lines separating shallow and deep areas shall be kept in good repair. They should be kept in place.

(4) *Breathing apparatus.* Self-contained breathing apparatus shall be kept in good repair and in a ready condition.

(c) *Emergency plan.* A plan of action for emergencies should be prepared, put in writing, made known to the staff, and practiced.

(Code 1996, § 260.200)

Sec. 46-167. Pool rules.

(a) *Location and maintenance* . All pool use rules shall be located at conspicuous places and be legible.

(b) *Contents.* The posted rules shall include: "Persons with infections not permitted. No food, drink, gum or tobacco permitted in pool or on deck. No containers made of glass or shatterable plastic. Shower before entering and after use of toilet facilities. No running or rough play. No pets allowed. Do not leave small or young children unattended."

(c) *Additional rules.* Whenever additional rules are needed to protect the health and safety of patrons, the management shall post and enforce such rules.

(d) *Warning signs.* Whenever the pool area is opened for use and no lifeguard service is required or provided, warning signs shall be placed in plain view to the entrances and inside the pool area which state "WARNING--NO LIFEGUARD ON DUTY" with clearly legible letters at least four inches high. Signage shall also indicate that children shall not use pool/spa without an adult in attendance.

(Code 1996, § 260.210; Ord. No. 2006-013, § 1, 2-13-2006)

Sec. 46-168. Minimum dimensions for pools with diving equipment.

(a) Minimum dimensions for pools with diving equipment are as follows:

GRAPHIC LINK:[Click here](#)

TABLE INSET:

		Minimum Dimensions			
Maximum Board Height Over Water	Maximum Diving Board Length	D	L1	L2	Pool Width
26" ( 2/3 meter)	10'	8'6"	2'6"	10'0"	20'0"
30"( 3/4 meter)	12'	9'0"	3'0"	10'0"	20'0"
1 meter	16'	10'0"	4'0"	12'0"	20'0"
3 meters	16'	12'0"	6'0"	12'0"	20'0"

(b) Placement of boards shall observe the following minimum dimensions. With multiple board installations minimum pool widths must be increased accordingly.

TABLE INSET:

1 meter or less board to pool side	10'0"
3 meters board to pool side	12'0"
Distance between adjacent boards	10'0"

(Code 1996, § 260.220)

Sec. 46-169. Fixtures required.

Fixtures required are as follows:

TABLE INSET:

Patron Load	Fixtures Required* Male						Fixtures Required* Female			
	Toilets		Urinals		Lavatories	Showers	Toilets		Lavatories	Showers
Dry	Wet	Dry	Wet	Dry			Wet	Lavatories		
0--50	1		1		1	1	1		1	1
51--100	1		1		1	2	2		1	1
101--150	1		2		1	2	3		1	2
151--200	1		2		1	2	3		1	2
201--250	2		2		1	3	4		2	3
251--300	1	1	1	2	2	4	2	3	2	4
301--400	1	1	1	2	2	5	2	3	2	5
401--500	1	2	1	2	2	6	2	4	2	6
501--1,000	1	2	1	3	2	7	2	5	2	7
1,001--	1	3	2	3	2	10	3	6	2	10

1,500										
1,501- - 2,000	2	3	2	4	2	15	4	7	2	15
2,001 or more	2	4	3	4	3	20	5	8	3	20

\*For swimming pools at schools, camps or similar locations where patron loads may reach peaks due to schedules of use, the fixture schedules should be increased.  
(Code 1996, § 260.230)

Secs. 46-170--46-190. Reserved.

#### DIVISION 4. MASSAGE ESTABLISHMENTS

##### Sec. 46-191. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Certified mentor* means a practitioner who is qualified for license in this state pursuant to RSMo 324.240--324.275, and who has practiced professionally for five years, with an average of 450 hours per year of teaching and massage hours and who has been approved by the board as a massage therapy instructor.

*Employee* means any and all persons, other than the masseurs or masseuses, who render any service to the permittee, who receive compensation directly from the permittee, and who have no physical contact with customers and clients.

*Massage* means the act or art of treating the body by rubbing, kneading, or the like, to stimulate circulation, increase suppleness, and the like.

*Massage establishment* means any establishment having a fixed place of business where any person engages in or carries on or permits to be engaged in or carried on any massage activities.

*Massage therapist* means a health care practitioner who provides or offers to provide massage therapy, as provided in RSMo 324.240--324.275, to any person at no cost or for a fee, monetary or otherwise, implying that the massage therapist is trained, experienced and licensed in massage therapy, who holds a current, valid license to practice massage therapy.

*Massage therapy* means a health care profession which involves the treatment of the body's tonus system through the scientific or skillful touching, rubbing, pressing or other movements of the soft tissues of the body with the hands, forearms, elbows, or feet, or with the aid of mechanical apparatus, for relaxation, therapeutic, remedial or health maintenance purposes to enhance the mental and physical well-being of the client, but does not include the prescription of medication, spinal or joint manipulation, the diagnosis of illness or disease or any service or procedure for which a license to practice medicine, chiropractic physical therapy or podiatry is required by law, or to those occupations defined in RSMo ch. 329.

*Person* means any individual, copartnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

*Recognized school* means any school or institution of learning which has for its purpose the teaching of the theory, method, profession, or work of massage, and which school has been recognized and approved by the state.

(Code 1996, § 620.010; Ord. No. 2001-007, § 1, 1-22-2001)

**Cross references:** Definitions generally, § 1-2.

**Sec. 46-192. Enforcement.**

The health director may, after a notice and opportunity for hearing, enforce reasonable orders not in conflict with, and to carry out, the intent of this division.

(Code 1996, § 620.150; Ord. No. 2001-007, § 1, 1-22-2001)

**Sec. 46-193. State license, city health permit and city business license required.**

It shall be unlawful for any person to engage in, conduct or carry on or to permit to be engaged in, conducted or carried on, in or upon any premises in the city, the operation of a massage establishment, as defined in this division, without first having obtained a license as a massage therapist from the state board of therapeutic massage, pursuant to RSMo ch. 324, a health permit from the city health department and a city business license.

(Code 1996, § 620.020; Ord. No. 2001-007, § 1, 1-22-2001)

**Sec. 46-194. Application for permit.**

(a) Every applicant for a permit to maintain, operate or conduct a massage establishment shall file an application with the health director, together with a prorated permit fee for the balance of the permit year to May 1.

(b) The application for a permit to operate a massage establishment shall set forth the exact nature of the massage to be administered, the proposed place of business and facilities therein and the name and address of each applicant. In addition to the foregoing, any applicant for a permit shall furnish written proof that the applicant is licensed by the state.

(Code 1996, § 620.030; Ord. No. 2001-007, § 1, 1-22-2001)

**Sec. 46-195. Filing of copy of state license.**

Any person, including an applicant for a massage establishment permit, who engages in the practice of massage therapy as defined in this division shall file a copy of the applicant's state license, issued by the state board of therapeutic massage. No massage therapist shall engage in the practice of massage therapy in the city without a current state license.

(Code 1996, § 620.040; Ord. No. 2001-007, § 1, 1-22-2001)

**Sec. 46-196. Issuance of permit; term; expiration.**

The health director shall issue a permit expiring on May 1 of the following year, within 30 days following the application, if all requirements for a massage establishment described in this division are met and a business license fee is paid to the finance director for a business license as provided in article II of chapter 26. Thereafter, upon satisfactory inspection and receipt of an annual permit fee as per the fee schedule in section 46-61, the health director shall issue an annual license, subject only to revocation pursuant to section 46-197.

(Code 1996, § 620.050; Ord. No. 2001-007, § 1, 1-22-2001; Ord. No. 2001-021, § 2(A), 2-26-2001)

**Sec. 46-197. Revocation or suspension of permit.**

Any permit issued for a massage establishment may be revoked or suspended where it is found that any of the provisions of this division are violated or where the permittee, including a

massage therapist, has been convicted of any violation of this division, or where the permittee or licensee refuses to permit any duly authorized police officer or health inspector of the city to inspect the premises or the operations therein.

(Code 1996, § 620.060; Ord. No. 2001-007, § 1, 1-22-2001)

#### Sec. 46-198. Required facilities.

(a) No permit to conduct a massage establishment shall be issued unless an inspection by the health director reveals that the establishment has complied with each of the following minimum requirements:

(1) Construction of rooms used for toilets, tubs, steam baths and showers shall be waterproof with approved waterproof materials.

(2) Toilet facilities shall be provided in convenient locations. When five or more employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. A single restroom per sex shall be provided for each 20 or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for toilets after one restroom has been provided.

(3) Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or vestibule. Lavatories or washbasins shall be provided with soap in a dispenser and with sanitary towels.

(b) The city health director or his/her authorized representative shall certify that the proposed massage establishment complies with all of the requirements of this section.

(Code 1996, § 620.070; Ord. No. 2001-007, § 1, 1-22-2001)

#### Sec. 46-199. Operating requirements.

(a) Every portion of a massage establishment, including appliances, apparatus, and personnel, shall be kept clean and operated in a sanitary condition, tables and chairs shall be of a material that is smooth, easily cleanable and nonabsorbent and be sanitized after each use, and the massage tables must be cleaned after every use.

(b) All employees shall be clean and wear clean outer garments whose use is restricted to the massage establishment. Provisions for a separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing.

(c) All employees, masseurs, and masseuses must be modestly attired.

(d) The private parts of patrons must be covered by towels, cloths, or undergarments when in the presence of an employee, masseur, or masseuse. Any contact with a patron's genital area is strictly prohibited.

(e) All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity, which shall be laundered after each use thereof and stored in approved sanitary manner. A laundry hamper, with a lid, shall be provided by the operator for the storage of used linen.

(f) Wet and dry heat rooms, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use.

(g) All services enumerated in this division must be carried on within a massage establishment duly permitted pursuant to this division, except as exempted in subsection (h) of this section.

(h) A massage therapist shall not practice massage therapy at a site, location or place which is not duly licensed as a massage therapy business, except in accordance with the regulations of the state board of therapeutic massage.

(Code 1996, § 620.080; Ord. No. 2001-007, § 1, 1-22-2001)

Sec. 46-200. Daily register.

(a) Every person who engages in or conducts a massage establishment shall keep a daily register, approved as to form by the health department, of all patrons, with names, addresses and hours of arrival and, if applicable, the rooms or cubicles assigned.

(b) The daily register shall at all times during business hours be subject to inspection by health department officials and shall be kept on file for one year.

(Code 1996, § 620.090; Ord. No. 2001-007, § 1, 1-22-2001)

Sec. 46-201. Inspection.

The health department shall from time to time, and at least twice a year, make an inspection of each massage establishment in the city for the purposes of determining that the provisions of this division are complied with. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any permittee to fail to allow such inspection officer access to the premises or to hinder such officer in any manner.

(Code 1996, § 620.100; Ord. No. 2001-007, § 1, 1-22-2001)

Sec. 46-202. Transfer of permit.

No massage establishment permit shall be transferable except with the written consent of the health department; provided, however, that upon the death or incapacity of the permittee the massage establishment may continue in business for a reasonable period of time to allow for an orderly transfer of permit.

(Code 1996, § 620.110; Ord. No. 2001-007, § 1, 1-22-2001)

Sec. 46-203. Applicability of regulations to existing businesses.

Holder of any outstanding massage establishment permit heretofore issued under any provision of law are required to comply with all provisions of this division.

(Code 1996, § 620.120; Ord. No. 2001-007, § 1, 1-22-2001)

Sec. 46-204. Time limit for filing application for permit for existing business.

All persons who possess any outstanding permit heretofore issued as the operator of a massage establishment must file for a new permit within six months of January 22, 2001.

(Code 1996, § 620.130; Ord. No. 2001-007, § 1, 1-22-2001)

Sec. 46-205. Exceptions.

The following classes of persons and establishments are exempted from this division:

(1) Physicians, osteopaths, physical therapists, chiropractors, or podiatrists licensed or registered to practice in the state while performing such services in the practice of their respective professions.

(2) Registered nurses and licensed practical nurses who are licensed to practice in the state while performing such services in their usual nursing duties.

(3) Barbers and cosmetologists duly licensed under the laws of this state in the course of practice of their usual and ordinary licensed vocation and profession, as defined in state law.

(4) Hospitals, clinics, nursing and convalescent homes and other similar institutions dedicated to medical or nursing practices licensed under the laws of this state where massage and baths may be given.

(5) Health care facilities licensed by the state, and not specified in this division.

(Code 1996, § 620.140; Ord. No. 2001-007, § 1, 1-22-2001)

Secs. 46-206--46-230. Reserved.

## DIVISION 5. BODY ART ESTABLISHMENTS

### Subdivision I. In General

#### Sec. 46-231. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: *Body art* means the practice of physical body adornment using, but not limited to, the following techniques: tattooing, body piercing, or branding. This definition does not include piercing of the outer perimeter or the lobe of the ear or any procedure performed by a physician or health practitioner licensed by the state.

*Body art establishment* means any place or facility where body art procedures are performed.

*Operator* means a dermagraphic technician, or person trained in the technique of applying micro-insertions of natural pigments to the dermal layer of the skin, perforation of human tissue for a nonmedical purpose, or permanently marking human tissue by burning with a hot instrument or by the causing of scarring, or any person who practices tattooing, body piercing or branding.

*Patron* means a person receiving a tattoo, body piercing or branding at a body art establishment.

(Ord. No. 2002-029, § 1, 3-25-2002)

**Cross references:** Definitions generally, § 1-2.

#### Sec. 46-232. General regulations.

Operators shall comply with the following regulations:

- (1) No person less than 18 years of age shall receive body art without parental consent. The operator shall obtain proof of age before the body art procedure is done.
- (2) No patron shall receive a tattoo unless the patron has signed a cautionary notice advising the patron that the tattoo should be considered permanent, that it can be removed only with a surgical procedure, and that any effective removal may leave permanent scarring and disfigurement. Written cautionary notices shall be signed by the patrons and retained on file at the body art establishment for a period of three years from the date thereof.
- (3) No patron shall receive a body piercing unless the patron has signed a cautionary notice advising the patron that body piercings are not permanent and must be cared for to keep the body piercing functional and free of infection. Written cautionary notices shall be signed by the patrons and retained on file at the body art establishment for a period of three years from the date thereof.
- (4) No patron shall receive a branding unless the patron has signed a cautionary notice advising the patron that the branding should be considered permanent, has a high risk of infection and must be cared for to keep it free of infection. Written cautionary notices shall be signed by the patrons and retained on file at the body art establishment for a period of three years from the date thereof.
- (5) The skin surface to be tattooed, pierced or branded must be free of rash, pimples, infection or recent scar tissue. The patron must be in apparent good health, and the skin to be tattooed, pierced or branded must be generally free of all appearances of obvious pathological conditions, such as the skin must not appear jaundiced (yellowed).
- (6) Body art shall not be administered to any person under the influence of drugs or alcohol. The operator is responsible for making reasonable observation and inquiry to assure himself/herself that the patron is sober and not under the influence of drugs or alcohol.

(7) An operator shall provide written instructions, approved by the health director, regarding the proper care of the tattooed, pierced or branded skin as a precaution against infections to each patron following the body art procedure.

(8) An operator shall not perform or attempt to perform any procedure intended to remove a tattoo. Any attempt by an operator to perform a tattoo removal procedure shall be grounds for revocation of the body art health permit.

(9) Operators shall have received the Hepatitis B vaccine. The health department may make this available to operators at cost. The health director may waive this requirement for good cause. (Ord. No. 2002-029, § 1, 3-25-2002)

#### Sec. 46-233. Requirements for premises.

Operators shall comply with the following regulations:

(1) Body art establishments and equipment shall be maintained in a sanitary manner. This includes physical cleanliness as well as antiseptic precautions.

(2) Body art establishments shall be equipped with hot (minimum 100 degrees Fahrenheit) and cold running water. Adequate toilet facilities with soap and sanitary towels properly installed and in compliance with applicable ordinances, rules and regulations of the city shall be provided and be accessible to patrons. At least one additional hand washing facility with soap and sanitary towels shall be located within the immediate area of the procedure area.

(3) The premises shall be kept clean and free of vermin at all times. There shall be no fly or mosquito breeding places or rodent harborages on the premises. Litter shall not be permitted to accumulate on the premises. Animals shall not be allowed in the procedure room.

(4) Body art establishments shall be well lit with not less than 20 footcandles in all cleaning and working areas and ten footcandles in all other areas.

(5) The health director shall be permitted access to all areas of the premises and all records at any reasonable time.

(Ord. No. 2002-029, § 1, 3-25-2002)

#### Sec. 46-234. Equipment.

Operators shall comply with the following regulations:

(1) Nonreusable items such as needles, gauze and styptic pencils shall be treated as contaminated after a single use upon a patron and be disposed of in appropriate isolation boxes in accordance with state and federal guidelines.

(2) Single-service or individual portions of ink or colors in clean, sterilized containers or single-service containers of cups of ink or colors shall be used for each patron and shall be discarded after use. Unused ink or colors shall be discarded after use on each patron.

(Ord. No. 2002-029, § 1, 3-25-2002)

Secs. 46-235--46-260. Reserved.

### Subdivision II. Permit

#### Sec. 46-261. Generally.

(a) *Permit required.* It shall be unlawful for any person to tattoo, body pierce or brand another person except at a body art establishment where the establishment and operators, as individuals, have obtained a license from the state division of professional registration and where a current body art business license and health permit has been issued by the city.

(b) *Application.* Any person desiring a body art health permit shall make written application for a permit on forms provided by the health director. The application shall include the applicant's

full name, address, telephone number, location of the proposed body art establishment and such other information as may be required.

(c) *Issuance.* After receipt of an application for a body art health permit, the health director shall inspect the proposed body art establishment to determine compliance with the provisions of this division. If applicable requirements of this division have been met, the health director shall issue a body art health permit.

(d) *Annual inspection fee.* An annual inspection fee shall be paid pursuant to section 46-61 at the time the health permit is issued.

(e) *Expiration; transfer; existing establishments.* A permit for a body art establishment may be granted at any time during the year, but all such permits shall expire on the next succeeding April 30. Any body art establishment currently operating in the city shall be in compliance with this division within 90 days of the effective date of the ordinance from which this division is derived. Body art health permits shall not be transferable.

(f) *Posting.* A current body art health permit shall be posted at all times in a prominent and conspicuous place in the body art establishment where it may be readily observed by patrons. (Ord. No. 2002-029, § 1, 3-25-2002)

#### Sec. 46-262. Suspension or revocation.

(a) Body art health permits may be suspended by the health director for failure of the holder to comply with the requirements of this division. Whenever the health director finds unsanitary or other conditions in the operation of a body art establishment which, in his/her judgment, constitute a substantial hazard to the public health, or for interference with the health director in the performance of his/her duties, the health director may issue a written notice to the permit holder citing such condition, specifying the corrective action to be taken, and specifying the time period within which such action shall be taken. If deemed a substantial hazard to the public health, such order shall state that the permit is immediately suspended and all body art operations are to be immediately discontinued. Any person to whom such an order is issued shall comply immediately, but upon written petition to the health director shall be afforded a hearing within five days before the city clerk as hearing officer.

(b) Any person whose permit has been suspended may, at any time, make application for a reinspection for the purpose of reinstatement of the permit. Within five business days following the receipt of a written request, the health director shall make a reinspection. If the applicant is complying with the requirements of this division, the permit shall be reinstated.

(c) For serious or repeated violations of any of the requirements of this division or for interference with the health director in the performance of his/her duties, the permit may be permanently revoked after an opportunity for a hearing before the city clerk as hearing officer has been provided by the health director. Prior to such action, the health director shall notify the permit holder in writing, stating the reasons for which the permit is subject to revocation and advising that the permit shall be permanently revoked at the end of ten days following service of such notice, unless a request for a hearing is filed with the health director by the permit holder within such ten-day period. A permit may be suspended for cause pending its revocation or a hearing on the revocation. Appeal from the decision of the hearing officer may be made to the circuit court pursuant to RSMo ch. 536.

(d) The hearings provided for in this section shall be conducted by the city clerk as hearing officer in accordance with the requirements of RSMo ch. 536.

(Ord. No. 2002-029, § 1, 3-25-2002)

Secs. 46-263--46-290. Reserved.

## DIVISION 6. ANIMALS\*

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**\*Cross references:** Animals or vehicles endangering people in streets, § 58-95; animals in parks, § 62-8; persons propelling pushcarts or riding animals to obey traffic regulations, § 86-45.

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### Subdivision I. In General

#### Sec. 46-291. Location of pens and coops.

Any person who shall own, keep or maintain any of the following named fowls or animals on his/her own or leased premises, namely, chickens, ducks, geese, turkeys, pigeons, rabbits or other pet animals, and including swine, within the corporate limits of the city, shall conform with the following regulations: All pens, houses, and coops shall be located on the rear of the lot or premises, at least 40 feet from any front property line, at least ten feet from any side property line, and at least 20 feet from any side street property line.

(Code 1988, § 250.010; Code 1996, § 275.250; Ord. No. 84, § 2, 3-1-1926)

#### Sec. 46-292. Keeping swine.

It shall be unlawful and a violation of this division for any person to keep, maintain, or house any swine upon any lot or tract of land containing less than five acres in an agricultural zone, and then only in such numbers as would not constitute a nuisance under the meaning of such word, or in any lot, pen or building within 100 feet of any residence or business building within the corporate limits of the city.

(Code 1988, § 250.020; Code 1996, § 275.260; Ord. No. 84, § 3, 3-1-1926)

#### Sec. 46-293. Depositing carcass of dead animal.

No person shall deposit or leave the carcass, or any part thereof, of any dead animal in any part of this city.

(Code 1988, § 210.040; Code 1996, § 275.270; Ord. No. 22, § 8, 9-22-1913)

#### Sec. 46-294. Migratory bird feeding.

(a) No person shall feed or cause to be fed any migratory birds in areas designated as "no feeding zones".

(b) For the purpose of this section, "migratory bird" means: ducks, geese, pigeons and starlings; whether or not raised in captivity or which is a mutation or a hybrid of such species.

(c) Upon recommendation from the health director, the city administrator may designate specific no feeding zones on public property.

(d) Any commercial property may be designated a no feeding zone upon request of the owner.

(Ord. No. 2006-072, § 1, 5-8-2006)

Secs. 46-295--46-330. Reserved.

### Subdivision II. Animal Control

#### Sec. 46-331. Definitions.

The following words, terms and phrases, when used in this subdivision, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: *At large* means off the premises of the owner and not on a leash controlled by some person physically able to prevent the dog or cat from escaping.

*Dogs* and *cats* mean both male and female, whether spayed or neutered.

(Code 1988, § 245.010; Code 1996, § 275.010; Ord. No. 87-31, § 1, 7-27-1987; Ord. No. 88-49, § 2, 4-11-1988)

**Cross references:** Definitions generally, § 1-2.

Sec. 46-332. License required; fee.

On January 1 of each year, the owner of each dog or cat kept within the corporate limits of the city shall secure from the health department a license tag for such dog or cat and shall pay for such license tag the sum which is listed in section 46-61. This purchase may be made during normal business hours.

(Code 1988, § 245.020; Code 1996, § 275.020; Ord. No. 88-49, § 4, 4-11-1988; Ord. No. 95-90, § 1, 8-28-1995; Ord. No. 2001-021, § 2(F), 2-26-2001)

Sec. 46-333. Records of licenses; issuance of tag; rabies immunization.

It shall be the duty of the owner of every dog and cat kept within the city to cause the dog or cat to be registered with the health department, and such health department employee shall keep a record of the date of application for the license tag, the number of the tag issued, to whom and for whom issued, and the breed, sex and color of such dog or cat. The health department shall thereupon furnish to the person a plate or tag having plainly marked or stamped thereon the figures indicating the year for which the tag was issued and a number corresponding with the number of the entry on the dog or cat register for which such plate or tag was issued; provided, however, that before any dog or cat required by section 46-332 to have a city license tag shall be registered at the health department as in this section, there shall be presented a written statement briefly describing such dog or cat sought to be registered and naming the owner thereof, signed by a licensed veterinarian, who shall certify that such dog or cat has been immunized against rabies and the date of such immunization. Such date of immunization shall be current at the time of registration of such dog or cat. Rabies immunization shall not be required for dogs and cats under six months of age.

(Code 1988, § 245.030; Code 1996, § 275.030; Ord. No. 87-31, § 3, 7-27-1987)

Sec. 46-334. Procurement of tags.

The health department is authorized annually to procure, on behalf of the city, a supply of dog and cat license plates or tags sufficient for the needs of the particular year.

(Code 1988, § 245.040; Code 1996, § 275.040; Ord. No. 87-31, § 4, 7-27-1987)

Sec. 46-335. Animals at large prohibited.

(a) It shall be unlawful for any owner to permit any animal to suffer or run at large in the city.

(b) Any animal that has strayed from, but then returned to, the private property of its owner may be seized or impounded; however, if the owner is present, in lieu of impoundment, a citation for running at large may be issued.

(Code 1988, § 245.050; Code 1996, § 275.050; Ord. No. 87-31, § 5, 7-27-1987; Ord. No. 95-90, § 2, 8-28-1995)

Sec. 46-336. Impoundment of animals in violation.

It shall be the duty of the animal control officer or his/her designee or persons authorized, finding any animal in the city contrary to the provisions of this subdivision on view, to take such animal, and confine the animal in the city animal pound or facility designated as such.

(Code 1988, § 245.060; Code 1996, § 275.060; Ord. No. 87-31, § 6, 7-27-1987)

Sec. 46-337. Notice of impoundment.

It shall be the duty of the animal control officer or his/her designee to post a notice describing every animal caught and impounded. He/she shall also notify the media from day to day of the animals so caught and impounded, giving them the same information as posted pursuant to this section.

(Code 1988, § 245.080; Code 1996, § 275.070; Ord. No. 87-31, § 8, 7-27-1987)

Sec. 46-338. Care of impounded animals.

It shall be the duty of the animal control officer or his/her designee to ensure the impounded animals are housed in a sanitary condition and to ensure food and water are provided to impounded animals daily and that impounded animals will receive any necessary veterinarian care. He/she shall also ensure humane treatment of the animals impounded and protect them from cruel treatment.

(Code 1988, § 245.090; Code 1996, § 275.080; Ord. No. 87-31, § 9, 7-27-1987)

Sec. 46-339. Claiming impounded animals.

(a) Within ten consecutive days after the impounding of any animal, the owner may redeem such animal during normal business hours, upon payment to the health department of all expenses incurred by the city in the care, including veterinary care, of such animal. Such expenses shall include impound fees, housing, and boarding fees as specified in section 46-61. No animal whose owner is a resident of the city shall be released unless the owner shall provide proof of a current animal license and rabies inoculation.

(b) If the owner of any animal impounded pursuant to the provisions of this subdivision does not apply to the city health department and pay such fees as are provided in this section within ten consecutive days from the time the animal is confined at any contracted housing facility, the animal control officer or his/her designee is hereby authorized to dispose of such animal in the most humane manner possible and in keeping with the other provisions of this subdivision; provided, however, that any competent person may select an animal which has been unclaimed for such ten consecutive days, upon compliance with the same provisions of this division as an owner.

(Code 1988, § 245.100; Code 1996, § 275.090; Ord. No. 2001-021, § 2(G), 2-26-2001; Ord. No. 2006-073, § 2, 5-8-2006)

Sec. 46-340. Authority of animal control officer or police officer to destroy certain animals.

It shall be the duty of the animal control officer or his/her designee or police officer, upon finding any animal in the city contrary to the provisions of this subdivision, to destroy any such animal if such animal cannot be safely taken up and impounded or is rabid or injured to the extent that the destruction of such animal would be merciful.

(Code 1988, § 245.110; Code 1996, § 275.100; Ord. No. 87-31, § 11, 7-27-1987)

Sec. 46-341. Animals disturbing the peace.

No person shall keep any animal which, by howling, barking, baying, yelping, or running at large, shall disturb the peace of the neighborhood.

(Code 1988, § 245.130; Code 1996, § 275.110; Ord. No. 89-13, § 1, 4-24-1989)

Sec. 46-342. Vicious dogs; guard dogs.

(a) *Vicious dogs.*

(1) Any dog with the following characteristics shall be defined as having a vicious nature or disposition: any dog which has inflicted severe or fatal injury upon a human being, or has killed a domestic animal without provocation, or has bitten a human being without provocation; or any dog which, when not provoked, chases or approaches persons on the streets, sidewalks, or any public or private property other than the property of the owner, in a menacing fashion, or any dog with a known propensity, tendency or disposition to attack human beings or other animals, and possessing the ability to cause serious injury.

(2) No dog of a vicious nature or disposition shall be allowed to attack any person or animal or cause annoyance to the neighborhood or persons using the public streets, or chase, worry or molest livestock, other dogs or children, or cause any damage or injury.

(3) Following the filing of charges for violation under this section, and pending final disposition of such charges, upon affidavit of the health director or of the animal control officer or his/her designee that the dog is a vicious dog and upon motion of the city attorney, the judge of the municipal court may order any of the following:

- a. The dog be seized and impounded at the owner's expense.
- b. The dog be impounded past the ten-day rabies observation period.
- c. The dog be impounded during the pendency of the charges and not be released while the charges are pending without an order of release from the municipal judge. If the owner requests in writing a hearing regarding the impoundment of the dog, such hearing shall be granted and held in accordance with due process procedures established for the municipal court, upon due notice.

(4) If upon violation and conviction of the provisions of this section relating to vicious dogs it shall appear to the judge of the municipal court that it is necessary for the public safety and welfare that the dog concerned be euthanized, the judge shall so order and the animal control officer his/her designee or the chief of police shall execute the order of the court.

(5) If upon violation and conviction of the provisions of this section relating to vicious dogs it shall not appear to the judge of the municipal court that it is necessary for the public safety and welfare that the dog concerned be euthanized, and the court finds that the dog is of a vicious nature or disposition, the court may order that the dog be declared dangerous.

(6) If any dog is determined to be dangerous as described in this section, the owner of the dog shall have the following responsibilities related to the dog:

- a. Any dangerous dog shall wear, at all times, a bright orange collar with a large brightly colored metal tag attached to the collar so the dog can be readily identified as a dangerous dog.
- b. The owner or keeper shall notify the health department immediately if a dangerous dog is loose, unconfined, or missing, has attacked another animal or has attacked a human being.
- c. The owner or keeper shall notify the health department within 24 hours if a dangerous dog has died or has been sold or given away. If the dog has been sold or given away, the owner or keeper shall provide the health department with the name, address and telephone number of the new owner, and the new owner, if the dog is kept within the confines of the city limits, must comply with the requirements of this section.
- d. While on the owner's property, a dangerous dog must be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping.
- e. No dangerous dog may be kept on the porch, on the patio or in any part of the house or structure that would allow the dog to exit such building on its own volition.
- f. The owner or keeper shall display a sign on his/her premises that there is a dangerous dog on the property. This sign shall be visible and capable of being read from the public highway or thoroughfare from which the property is entered.

- g. A dangerous dog may be off the owner's premises if it is muzzled and restrained by a substantial chain or leash not exceeding six feet in length and under the control of a responsible person.
- h. The owner or keeper of a dangerous dog shall present to the health department proof that the owner or keeper has procured liability insurance in the amount of at least \$100,000.00, covering the 12-month period during which the dog shall be licensed.
- i. It shall be unlawful for the owner or keeper of a dangerous dog within the city to fail to comply with the requirements and conditions set forth in this section. Any dog found to be the subject of a violation of this section may be, in addition to other penalties provided by this section, subject to immediate seizure and impoundment for a minimum of ten days or the time necessary for the owner or keeper to show compliance with this section, whichever is shorter.
- j. In addition, the dangerous dog, if so ordered by the court, shall be destroyed in a humane manner.

(b) *Guard dogs.*

(1) No person shall own, keep, harbor, maintain or allow to be upon any premises occupied by him/her or under his/her charge or control any guard dog (for the purposes of this section defined as a dog not owned by a governmental unit, which dog is used to guard public or private property) without such dog being confined behind a fence from which it cannot escape, or within any part of a house or structure except when the windows are closed or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure; and such guard dog must not be used or maintained in a manner which, as determined by the animal control officer or his/her designee, endangers individuals on or off the premises guarded.

(2) Any guard dog, including law enforcement dogs, used in the city by virtue of such use is hereby declared to be subject to the license and rabies vaccination requirements of this subdivision.

(3) It shall be the duty of the owner of all guard dogs residing in or used as such in the city to register such dog annually with the animal control officer or his/her designee.

(Code 1988, § 245.130; Code 1996, § 275.120; Ord. No. 89-13, § 1, 4-24-1989)  
Secs. 46-343--46-370. Reserved.

### Subdivision III. Keeping of Certain Animals

#### Sec. 46-371. Definitions.

The following words, terms and phrases, when used in this subdivision, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Adopter* is any person who is legally competent to enter into a contract and who is adopting or buying any animal from a releasing agency.

*Adoption facility* means any place or facility that is in compliance with its licensing authority that allows for the adoption of unwanted animals to the general public.

*Animal* means every nonhuman species of animal, both domestic and wild.

*Animal adoption* means the transfer of custody and/or control of any animal, for a fee or not, from any person or facility to another, and allows any person to take custody and or control of any animal as his or her own property. Provisions shall be made for the sterilization of all animals sold, released for adoption or purchased from any public or private shelter or animal control agency operated by a humane society, or by a city or county, or other political subdivision.

*Animal at large* means any animal not under the restraint of a person capable of controlling the animal and/or off the premises of the owner.

*Animal occupancy permit* means the annual permit issued to any establishment when it becomes a commercial animal establishment by providing for animal occupancy or handling on its premises for a continuing period of time for an animal exhibit or various animal exhibits and said occupancy is in compliance with the licensing authority rules.

*Animal shelter* means any facility which is used to house or contain animals, which is owned, operated, or maintained by an incorporated humane society, animal welfare society, society for the prevention of a cruelty to animals, municipal agency, or other not for profit organization devoted to the welfare, protection, and humane treatment of such animals, or a person whose primary purpose is to act as an animal rescue, to collect and care for unwanted animals or to offer them for adoption.

*Auction* means any place or facility where animals are regularly bought, sold, or traded, except for those facilities otherwise defined in this subdivision. This definition does not apply to individual sales of animals by owners.

*Circus* means a commercial variety show featuring animal acts for public entertainment.

*Commercial animal establishment* means any facility or place that is issued a permit, by its licensing authority, to house and/or hold animals, exhibit animals, display animals, perform animal acts, shelter and/or harbor animals for commercial use, adoption and/or sale of animals. This includes but is not limited to: dog pounds, animal control facilities, humane animal shelters, pet shops, grooming facilities, animal auctions, horse riding schools or stables, horse-drawn carriages, zoological parks, circuses, boarding or breeding kennels, and performing animal exhibitions. This does not include an individual who occasionally renders humane assistance or shelter in his or her home to any animal or their privately owned pets.

*Exhibited animal* means any animal, "animal" as is defined by the licensing authority or the promulgated regulations, that is exhibited, put on display, used as a spectacle, performing act, labored or kept for any means other than personal pleasure as a pet.

*Grooming shop* means a commercial establishment where animals are bathed, clipped, plucked, or otherwise groomed.

*Guard dog* means any dog:

- (1) Trained by a certified trainer from an approved dog training school;
- (2) Used by a security company licensed by the city; or
- (3) That obeys specific obedience training commands under the control of a responsible party that will detect and warn its handler that an intruder is present in or near an area that is being secured.

*Health official* means the director or employee of the city health department.

*Humane officer* and *animal control officer* mean any person designated by the state, the county, the city, or a humane society as a law enforcement officer who is qualified to perform such duties under the laws of this state.

*Kennel* and *cattery* mean any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs and cats, or any premises having more than five dogs or cats over six months of age.

*Licensing authority* means any and all federal government, state government, county government and city government agencies that have regulating and licensing authority by promulgating any relative regulations, statutes, or guidelines. Including but not limited to USDA, AAZPA, MDA, MDC, and all local municipalities.

*Owner* means any person owning, keeping, or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more.

*Performing animal exhibition* means any spectacle, display, act, or event, other than circuses, in which performing animals are used or animals are displayed.

*Pet and companion animal* mean any animal kept for pleasure rather than utility; an animal of a species that has been bred and raised to live in or about the habitation of humans and is dependent on people for food and shelter.

*Pet shop* means any facility, whether operating separately or in connection with another business where animals are bought, sold, exchanged, or offered for retail sale to the general public.

*Pound or dog pound* means a facility operated by the state or any political subdivision of the state for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted animals, which is licensed by the licensing authority referenced in the RSMo 325-357.

*Public nuisance animal* means any animal that unreasonably annoys humans, endangers the life or health of other animals or persons, or substantially interferes with the rights of citizens other than their owners to enjoyment of life or property. This term shall include, but is not limited to, any animal that:

- (1) Is repeatedly found at large;
- (2) Damages the property of anyone other than its owner;
- (3) Molests or intimidates pedestrians or passersby;
- (4) Chases vehicles;
- (5) Excessively makes disturbing noises, including but not limited to continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- (6) Causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;
- (7) Is offensive or dangerous to the public health, safety, or welfare by virtue of the number and/or types of animals maintained;
- (8) Attacks other domestic animals; or
- (9) Has been found by the health director, after notice to its owner and a hearing, to be a public nuisance animal by virtue of being a menace to the public health, welfare, and safety.

*Releasing agency* means any animal pound, shelter, humane organization, animal welfare society, society for the prevention of cruelty to animals, or animal control agency, whether public or private, that is regulated by a licensing authority, not including an individual person who occasionally renders humane assistance or shelter in his home to any animal.

*Restraint* means any animal secured by a leash or lead under the control of a responsible person and obedient to that person's commands, or within the real property limits of its owner.

*Riding school or stable* means any place that has available for hire, boarding, and/or riding instruction any horse, pony, donkey, mule, or burro; or any place that regularly buys, sells, or trains such animals, including a racetrack, trotting track, or rodeo.

*Temporary animal event* means a public event (by itself or part of a larger event) which is sponsored by a bona fide nonprofit organization or a governmental organization, and is planned for a time of less than four days and includes animals in its event. Animals are either provided approved temporary housing at the event or are removed daily to their usual approved occupancy. A "temporary animal adoption event" means adoption events by approved releasing agencies.

*Veterinary hospital* means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, and treatment of diseases and injuries of animals.

*Vicious animal* means any animal that attacks, bites, or injures human beings or domesticated animals without adequate provocation, or which, because of temperament, conditioning or training, has a known propensity to attack, bite, or injure human beings or domesticated animals.

*Wild animal* means any living member of the animal kingdom, including those born or raised in captivity, except for the following: human beings, domestic dogs (excluding hybrids with wolves, coyotes or jackals), domestic cats (excluding hybrids with ocelots or margays), farm animals, rodents, any hybrid animal that is part wild, and captive-bred species of common cage birds.

*Wild dangerous animal* means lion, tiger, leopard, ocelot, jaguar, cheetah, margay, mountain lion, Canada lynx, bobcat, jaguarundi, bear, hyena, wolf, coyote, nonhuman primates, or dangerous or poisonous reptiles.

*Zoological park* means any facility operated by a person, partnership, corporation, or government agency, other than a pet shop or kennel, displaying or exhibiting one or more species of nondomesticated animals, which is accredited by the AAZPA or USDA.

(Code 1988, § 280.010; Code 1996, § 275.140; Ord. No. 90-30, § 1, 8-13-1990; Ord. No. 2007-052, § 1, 5-29-2007)

**Cross references:** Definitions generally, § 1-2.

Sec. 46-372. Applicability to existing establishments.

This subdivision shall be in effect from and after the date of passage of the ordinance codified in this subdivision, and is applicable to all existing animal establishments, acts, displays, and events, except that private homes which become kennels by this subdivision or by annexation may keep the present number of animals and not be subject to any zoning requirements as may be incurred by this subdivision, provided all animals are permitted with the health department, that nonconforming use be registered with zoning, that minimum standards of health and sanitation are met, and that no new animals will be permitted without the kennel meeting all zoning, fire, building, and health codes as currently adopted by the city.

(Code 1988, § 280.100; Code 1996, § 275.230; Ord. No. 90-30, § 10, 8-13-1990)

Sec. 46-373. Permit required for commercial animal establishments, animal shelters, temporary animal events, temporary animal adoption events and pet shops; issuance.

(a) No person shall operate a commercial animal establishment, animal shelter, or have or hold a temporary animal event or animal adoption event from any outdoor location without first obtaining a permit in compliance with this subdivision.

(b) The licensing authority shall promulgate regulations for the issuance of permits and shall include requirements for humane care of all animals and for compliance with provisions of this subdivision and other applicable laws. The licensing authority may amend such regulations from time to time as deemed desirable for public health and welfare and for the protection of animals.

(c) No person or entity shall operate a pet shop or any other facility or event where animals are bought, sold, exchanged, offered for retail sale or adoption to the general public without the required Missouri Department of Agriculture Pet Shop License, and city business license.

(d) No person shall be issued a permit for a temporary animal adoption event without making provisions for the sterilization of all animals sold, released for adoption, or purchased from any public or private shelter or animal control agency operated by a humane society, or by city or county, or other political subdivision.

(e) The permit period shall begin May 1 and shall run for one year. Renewal applications for permits shall be made 30 days prior to and up to 60 days after May 1. Application for a permit to establish a new commercial animal establishment under the provisions of this subdivision may be made at any time. The required permit fee is listed in section 46-61. Temporary animal events shall require a temporary permit from the health department, which is valid for four days. At the discretion of the director, temporary animal adoption event permit fees may be waived for nonprofit and governmental agencies.

- (f) If there is a change in ownership of a commercial animal establishment, the new owner may have the current permit transferred to his/her name upon application.
- (g) No commercial animal establishment shall train any dog to be used as a guard or sentry dog without possessing a valid license. This section shall not apply to the city/county government or any of its agencies. The application for a guard or sentry dog training license shall state the name and address of the owner and trainer, the location of the facility, and the maximum number of dogs to be housed at the training facility.
- (h) Every facility regulated by this subdivision shall be considered a separate enterprise requiring an individual permit.
- (i) All facilities shall be in compliance with zoning, building, fire, health, and other current codes as adopted by the city.
- (j) Failure to obtain a permit before opening any facility covered in this subdivision shall be considered in violation.  
(Code 1988, § 280.020; Code 1996, § 275.150; Ord. No. 90-30, § 2, 8-13-1990; Ord. No. 2001-021, § 2(E), 2-26-2001; Ord. No. 2007-052, § 1, 5-29-2007)

#### Sec. 46-374. Denial or revocation of permit.

- (a) After an application is filed pursuant to section 46-373, the health department shall inspect the facility prior to issuing the permit. The health department may revoke any permit or license if the person holding the permit or license refuses or fails to comply with this subdivision, the regulations promulgated by the licensing authority, or any law governing the protection and keeping of animals.
- (b) Any person whose permit or license is revoked shall, within ten days thereafter, humanely dispose of or make suitable arrangements for all animals owned, kept, or harbored.
- (c) It shall be a condition of the issuance of any permit or license that the health department shall be permitted to inspect all animals and the premises where animals are kept at any time and shall, if permission for such inspection is refused, revoke the permit or license of the refusing owner.
- (d) If the applicant has withheld or falsified any information on the application, the health department shall refuse to issue a permit or license or may revoke after issuance.
- (e) No person who has been convicted of cruelty to animals shall be issued a permit or license to operate a commercial animal establishment.
- (f) Any person having been denied or revoked a license or permit may not reapply for a period of 30 days.  
(Code 1988, § 280.030; Code 1996, § 275.160; Ord. No. 90-30, § 3, 8-13-1990)

#### Sec. 46-375. Animal habitats to be clean and sanitary; inspections authorized.

- (a) All pens, coops or yards wherein animals are kept or permitted to stay shall be maintained in a clean and sanitary condition at all times, free from offensive, disagreeable or noxious smell or odor to the injury, annoyance or inconvenience of any inhabitant of the neighborhood.
- (b) Animals shall be properly restrained or enclosed sufficiently to prevent their running at large.
- (c) Enclosures shall be species-specific and of a design that provides for sanitary drainage and public safety.
- (d) Feed shall be stored in a ratproof, flytight building, box, container, or receptacle.
- (e) Animal waste is the responsibility of the animal owner. It shall be collected as frequently as necessary to maintain a sanitary condition and disposed of in a verminproof, flytight container.

(f) The health director may at any time inspect, or cause to be inspected, any premises and issue such order as may be necessary to carry out the provisions of this subdivision. No person shall deny access for inspections during reasonable hours.

(Code 1988, § 280.040; Code 1996, § 275.170; Ord. No. 90-30, § 4, 8-13-1990)

Sec. 46-376. Animal abuse.

(a) *Prohibited.* No person shall cruelly overwork any animal or shall cruelly drive or work the animal when unfit for labor, or shall abandon the animal to die, or shall beat, ill-treat, torment or cause injury or unnecessary pain to any animal, or shall carry or cause the animal to be carried, moved or kept in or upon any vehicle in a cruel or inhumane manner, or shall impound or confine or cause to be impounded or confined in any place any animal or creature and fail to supply the animal during such confinement with the following:

(1) A structurally sound, properly ventilated, sanitary, dry and weatherproof shelter suitable for the species, age and condition of the animal, which is free of litter or hazardous substances and objects and which provides access to shade from direct sunlight and regress from exposure to inclement weather conditions.

(2) Wholesome foodstuffs suitable for the species which are provided at suitable intervals in a sanitary manner in quantities sufficient to maintain good health in the animal considering its age and condition.

(3) Constant access or access at suitable intervals to a supply of clean, potable, unfrozen water, provided in a sanitary manner and in sufficient amounts for the species to maintain good health in the animal.

(4) Normal and prudent attention to the needs of the animal, including all necessary immunizations, sufficient exercise and rest to maintain good health and the provision to each sick or injured animal of the necessary veterinary care or humane death.

Nothing in this section shall be construed so as to prevent a person from taking whatever action is necessary to defend himself/herself, another individual or an animal when endangered by an animal attack, from engaging in standard acceptable farming methods, and other provisions as listed in RSMo 578.007.

(b) *Removal and impoundment of animals.* Trained representatives from the Humane Society of the Branson Tri-Lakes Area, or any licensed veterinarian, may make recommendations to the health director, animal control officer, or any duly authorized representative that animals be removed from private owners and placed in the custody of such health director or animal control officer or authorized representative in cases where the health or safety of the animal is, in the opinion of the health director, animal control officer, or authorized representative, in immediate danger. Such director, animal control officer, or representative, upon obtaining a court order, shall have the power to remove such animals, except from houses, without the consent of the owners, for the protection of the animals, and shall have the right to retain custody of such animals until the threat to the health or safety of the animals, in the opinion of the director, animal control officer, or representative, has been removed. Any expense incurred in such impoundment becomes a lien on the animal impounded and must be discharged before the animal is released from custody.

(c) *Disposal of unredeemed animals.* Disposal of unredeemed animals shall be in accordance with current city ordinances.

(d) *Revocation of permit.* If any person is found guilty by a court of violating this section 46-376, his/her permit to own, keep, harbor, or have custody of animals shall be deemed automatically revoked and no new permit may be issued.

(Code 1988, § 280.050; Code 1996, § 275.180; Ord. No. 90-30, § 5, 8-13-1990)

Sec. 46-377. Abandonment of animals.

It shall be unlawful for any person to willfully abandon any animal within the city.  
(Code 1996, § 275.130; Ord. No. 95-90, § 4, 8-28-1995)

Sec. 46-378. Disposition of animals biting or attacking persons.

Any animal which bites, injures or attacks any person shall be placed under observation for the ten-day period immediately following the bite. A vaccinated animal shall be taken up and impounded at a veterinarian of the owner's choice or securely confined by the owner for a period of ten days. A nonvaccinated animal shall be taken up and impounded by the health officer, animal control officer, or authorized representative, in a contracted licensed kennel, or with a veterinarian of the owner's choice, for a period of ten days from the date of the bite. If, within such period of ten days, such animal does not develop or manifest signs of rabies, it may be redeemed by the owner upon payment of a daily boarding fee, or the payment of usual and customary fees to the contractual animal shelter or pound or to a veterinarian of the owner's choice. If such animal is not redeemed at the end of such ten-day period, it shall be humanely euthanized. If such animal does develop signs of rabies, it shall be the duty of the health officer, animal control officer, or authorized representative to cause such animal to be examined by a licensed veterinarian. Any other warm-blooded animal which bites, injures or attacks any person in which rabies is suspected may, upon order of the municipal court, be impounded and humanely euthanized, and the brain and/or structures submitted for rabies diagnosis.  
(Code 1988, § 280.060; Code 1996, § 275.190; Ord. No. 90-30, § 6, 8-13-1990)

Sec. 46-379. Harboring and sale of wild or dangerous exotic animals.

(a) *Prohibited animals.* No person shall, whether gratuitously or for a fee, keep, harbor, own or knowingly allow any lion, tiger, leopard, ocelot, jaguar, cheetah, margay, mountain lion, Canada lynx, bobcat, jaguarundi, bear, hyena, wolf, coyote, nonhuman primates, or dangerous or poisonous reptile to be in or upon their premises, or to be transported. The provisions of this section shall not apply to a properly maintained AAZPA or USDA accredited commercial animal establishment, performing animal exhibit, zoological park, circus, scientific or educational institution, research laboratory or veterinary hospital.

(b) *Ferrets.* Harboring and sale of ferrets is prohibited until such time as the USDA approves a rabies vaccine for ferrets and medical authorities establish an observation period after a bite altercation. Any person who presently owns or keeps a ferret may, upon registration of such animal with the city health department, retain possession of such animal. Offspring of registered ferrets may be retained until such time as the offspring is weaned or independent of essential maternal care.

(c) *Wild, nondangerous animals.* No person shall keep or permit to be kept any wild, nondangerous animal as a pet, except as permitted by the state department of conservation and the city health department.

(d) *Release of infant wild animals.* The licensing authority shall have the power to release or order the release to the state department of conservation of any infant wild animal under temporary permit that is deemed capable of survival.

(Code 1988, § 280.070; Code 1996, § 275.200; Ord. No. 90-30, § 7, 8-13-1990)

Sec. 46-380. Performing animal exhibitions.

(a) No person may sponsor, promote, or train a wild animal to participate in, or contribute to the involvement of any wild animal in, or attend as a spectator, any activity or event in which any wild animal engages in unnatural behavior or is wrestled, fought, mentally or physically

harassed, or displayed in such a way that the animal is abused or stressed mentally or physically or is induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a manner that will cause or is likely to cause physical injury or suffering. This prohibition applies to events and activities taking place in either public or private facilities or property, and applies regardless of the purpose of the event or activities and irrespective of whether or not a fee is charged to spectators.

(b) All equipment used on a performing animal shall fit properly and be in good working condition.

(Code 1988, § 280.080; Code 1996, § 275.210; Ord. No. 90-30, § 8, 8-13-1990)

Sec. 46-381. Removal of animal waste.

The owner of every animal shall be responsible for the removal of any excreta deposited by his/her animal on public walks, recreation areas, or private property.

(Code 1988, § 280.090; Code 1996, § 275.220(A); Ord. No. 90-30, § 9, 8-13-1990)

Sec. 46-382. Exposure of poisons liable to be eaten by animals.

No person shall expose any known poisonous substance, whether mixed with food or not, so that such substance shall be liable to be eaten by any animal, and it shall be unlawful for a person to expose on his/her own property common rat poison mixed only with vegetable substance.

(Code 1988, § 280.090; Code 1996, § 275.220(B); Ord. No. 90-30, § 9, 8-13-1990)

Secs. 46-383--46-450. Reserved

## **ARTICLE V. ENVIRONMENTAL REGULATIONS**

### **DIVISION 1. GENERALLY**

Secs. 46-451--46-470. Reserved.

### **DIVISION 2. USE, SALE, MANUFACTURE, DISTRIBUTION OR DISPOSAL OF CERTAIN CLEANING AGENTS**

#### **Sec. 46-471. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*City* means the corporate limits of the City of Branson proper as well as any city, corporation, business, school or individual connected to or using the city sanitary sewer or stormwater system.

*Cleaning agent* means a laundry detergent, dishwashing compound, household cleaner, metal cleaner, degreasing compound, commercial cleaner, industrial cleaner, phosphate compound, or other substance that is intended to be used for cleaning purposes.

*Phosphorous* means elemental phosphorous.

(Code 1988, § 515.250; Code 1996, § 710.250; Ord. No. 92-72, § 1, 11-9-1992)

**Cross references:** Definitions generally, § 1-2.

#### **Sec. 46-472. Exemptions.**

This division does not apply to a cleaning agent that is:

- (1) A detergent used in dairy, beverage, or food processing cleaning equipment.
- (2) A phosphoric acid product, including a sanitizer, brightener, acid cleaner, or metal conditioner.
- (3) A detergent used in hospitals, veterinary hospitals or clinics, or health care facilities, or in agricultural production.
- (4) A detergent used by industry for metal cleaning or conditioning.
- (5) Manufactured, stored, or distributed for use or sale outside of the state.
- (6) Used in any laboratory, including a biological laboratory, research facility, chemical laboratory, and engineering laboratory.
- (7) Used in a commercial laundry that provides laundry services for a hospital, health care facility, or veterinary hospital.

(Code 1988, § 515.260; Code 1996, § 710.260; Ord. No. 92-72, § 2, 11-9-1992)

### **Sec. 46-473. Restrictions.**

(a) Except as provided in section 46-472, no person shall use, sell, manufacture, distribute or dispose of within the city any cleaning agent that contains more than 0.0 percent phosphorus by weight expressed as elemental phosphorous except for an amount not exceeding 0.5 percent phosphorus that is incidental to manufacturing.

(b) No person shall use, sell, manufacture, distribute or dispose of within the city any cleaning agent used in a dishwashing machine, whether commercial or household, that exceeds 8.7 percent phosphorus by weight.

(Code 1988, § 515.270; Code 1996, § 710.270; Ord. No. 92-72, § 3, 11-9-1992)

### **Sec. 46-474. Seizure of products in violation.**

The department of health, department of public works, or any authorized deputies may seize any cleaning agent held for sale, distribution, or use in violation of this division. The seized cleaning agents are considered forfeited.

(Code 1988, § 515.280; Code 1996, § 710.280; Ord. No. 92-72, § 4, 11-9-1992)

Secs. 46-475--46-500. Reserved.

## **DIVISION 3. WATER POLLUTION**

### **Sec. 46-501. Effluent from wastewater treatment facilities.**

(a) When used in this section, the following words and phrases shall have the meanings set out in this subsection:

*Conference, conciliation and persuasion* means a process of verbal or written communications consisting of meetings, reports, correspondence or telephone conferences between authorized representatives of the city or state department and the alleged violator. The process shall, at a minimum, consist of one offer to meet with the alleged violator tendered by the state department of natural resources. During any such meeting, the state department of natural resources and the alleged violator shall negotiate in good faith to eliminate the alleged violation and shall attempt to agree upon a plan to achieve compliance.

*Discharge* means the causing or permitting of one or more water contaminants to enter the waters of the state.

*Effluent control regulations* means limitations on the discharge of water contaminants.

*Income* includes retirement benefits, consultant fees, and stock dividends.

*Minor violation* means a violation which possesses a small potential to harm the environment or human health or cause pollution, was not knowingly committed, and is not defined by the United States Environmental Protection Agency as other than minor.

*Permit holders* and *applicants for a permit* shall not include officials or employees who work full time for any department or agency of the state.

*Person* means any individual, partnership, copartnership, firm, company, public or private corporation, association, joint stock company, trust, estate, or political subdivision, or any agency, board, department, or bureau of the state or federal government, or any other legal entity whatever which is recognized by law as the subject of rights and duties.

*Point source* means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

*Pollution* means such contamination or other alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is reasonably certain to create a nuisance or render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, industrial, agricultural, recreational, or other legitimate beneficial uses, or to wild animals, birds, fish or other aquatic life.

*Pretreatment regulations* means limitations on the introduction of pollutants or water contaminants into publicly owned treatment works or facilities which the state department of natural resources determines are not susceptible to treatment by such works or facilities or which would interfere with their operation, except that wastes as determined compatible for treatment under any federal water pollution control act or guidelines shall be limited or treated pursuant to this section only as required by such act or guidelines.

*Sewer system* means pipelines or conduits, pumping stations, and force mains, and all other structures, devices, appurtenances and facilities used for collecting or conducting wastes to an ultimate point for treatment or handling.

*Significant portion of his/her income* means ten percent of gross personal income for a calendar year, except that it shall mean 50 percent of gross personal income for a calendar year if the recipient is over 60 years of age, and is receiving such portion pursuant to retirement, pension, or similar arrangement.

*Treatment facilities* means any method, process, or equipment which removes, reduces, or renders less obnoxious water contaminants released from any source.

*Water contaminant* means any particulate matter or solid matter or liquid or any gas or vapor or any combination thereof, or any temperature change, which is in or enters any waters of the state either directly or indirectly by surface runoff, by sewer, by subsurface seepage or otherwise, which causes or would cause pollution upon entering waters of the state, or which violates or exceeds any of the standards, regulations or limitations set forth in RSMo 644.006--644.141, or any federal water pollution control act (33 USC 1251--1387), or is included in the definition of pollutant in such federal act.

*Water contaminant source* means the point of discharge from a single tract of property on which is located any installation, operation or condition which includes any point source defined in RSMo 644.006--644.141, and nonpoint source under any federal water pollution control act, which causes or permits a water contaminant therefrom to enter waters of the state either directly or indirectly.

*Water quality standards* means specified concentrations and durations of water contaminants which reflect the relationship of the intensity and composition of water contaminants to potential undesirable effects.

*Waters of the state* means all rivers, streams, lakes and other bodies of surface and subsurface water lying within or forming a part of the boundaries of the state which are not entirely confined and located completely upon lands owned, leased or otherwise controlled by a single person or by two or more persons jointly or as tenants in common, and includes waters of the United States lying within the state.

(b) No person shall operate or cause to be operated a wastewater treatment facility inside the corporate limits of the city which discharges effluent which exceeds either or any of the following standards:

- (1) Biochemical oxygen demand: 30 mg/l;
- (2) Suspended solids: 30 mg/l;
- (3) pH units (not to be averaged): 6.0 to 9.0; or
- (4) Fecal coliform (organisms per 100 mg/l): 200.

(c) Such discharge or effluent in excess of the standards provided in subsection (b) of this section shall be held to be water contamination and shall constitute pollution as defined in this section.

(d) The city shall have the right to monitor any effluent at the point source and water contaminant source at any time.

(e) If the city determines that such effluent exceeds the limits set out in subsection (b) of this section, the city shall so notify such person in writing, describing such effluent limit excess. Such notice shall be delivered personally to such person or by posting the notice on such wastewater treatment facilities in a conspicuous place.

(f) If such wastewater treatment facilities operation is not brought within compliance with this section within ten days after such notice having been given, then such discharge shall be deemed to be detrimental and injurious to public health, safety and welfare of people within the city, and the discharge shall be considered to be a public nuisance and the municipal water supply to such person shall be disconnected immediately. Such municipal water supply shall not be reconnected until the city inspector has determined from subsequent inspection that the operation of the wastewater treatment facilities is in compliance with the limits provided in this section. The city shall use approved analytical methods (as specified by section 304(G) of the Federal Water Pollution Control Act, 33 USC 1314(g)) in monitoring the operation of the wastewater treatment facilities.

(g) The city shall not be precluded from bringing a suit in the circuit court of the county to abate such nuisance in addition to other remedies and punishment as set out in this section.

(Code 1988, § 210.060; Code 1996, § 280.040; Ord. No. 472, §§ 1, 2, 8-23-1976; Ord. No. 494, § 2, 6-27-1977)

**Cross references:** Sewers and sewage disposal, § 90-81 et seq.

Secs. 46-502--46-520. Reserved.

## **DIVISION 4. AIR POLLUTION**

**Sec. 46-521. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Air pollutants* means the National Ambient Air Quality Standards (NAAQS), for six primary pollutants as established by the EPA Clean Air Act, 42 USC 7401 et seq.

*Air pollution* means the presence in the ambient air of one or more air contaminants in quantities, of characteristics and of a duration which directly and proximately cause or contribute to injury to human, plant or animal life or health, or to property, or which unreasonably interfere with the enjoyment of life or use of property.

*Ambient air* means all space outside of buildings, stacks or exterior ducts.

*Health officer or his/her designee* means the health officer of the city or his/her duly authorized agent.

*Person* means any individual, partnership, firm, association, company, corporation, syndicate, or other group of organized individuals or their agents, servants, or employees who may employ, own, use, or operate any fuel consuming device or any other device capable of polluting the atmosphere.

*Ringelmann Smoke Chart* means standards, published by the United States Bureau of Mines, United States Department of Interior, Information Circular No. 7718 (August 1955), to determine the density of smoke.

(Code 1988, § 260.010; Code 1996, § 270.010; Ord. No. 356, § 1, 10-10-1966)

**Cross references:** Definitions generally, § 1-2.

**Sec. 46-522. Emission of dense smoke prohibited.**

It is unlawful for any person to cause or permit the emission of any smoke from any source whatever of a density equal to or greater than that density described as No. 2 on the Ringelmann Smoke Chart except as permitted by the fire department in accordance with city ordinances and state department of natural resources regulations.

(Code 1988, § 260.020; Code 1996, § 270.020; Ord. No. 356, § 2, 10-10-1966)

**Sec. 46-523. Escape of certain matter prohibited.**

It is unlawful for any person to permit or cause the escape of such quantities of soot, cinders, noxious acids, fumes, and gases or other particulate matter in any quantity that exceeds the National Air Quality Standards from whatever source in such place or manner as to be detrimental to any person or to the public or to endanger the health, comfort, and safety of any such person or the public or in any such manner as to cause or have a tendency to cause injury or damage to property or business. The escape of such matter is to be declared a public nuisance. Each day wherein the violation of this section occurs shall constitute a separate offense.

(Code 1988, § 260.050; Code 1996, § 270.050; Ord. No. 356, § 5, 10-10-1966)

**Sec. 46-524. Tests to determine quantity of substance or elements.**

In order to determine the quantity of fly ash, dust, soot, cinders, dirt, grime, noxious acids, fumes, and gases or other particulate matter being emitted or escaping into the open air, it shall be the duty of the owner or operator of any furnace or other combustion device or of any machine, contrivance, equipment, process operation, or other source that may cause the emission or escape of any of the above pollutants to make or cause to be made at his/her expense, and under the direction and supervision of the health officer or his/her designee, when requested in writing by the health officer or his/her designee, an examination and test thereof and of any equipment and devices or contrivance operated in conjunction therewith for the purpose of controlling such emission.

(Code 1988, § 260.060; Code 1996, § 270.060; Ord. No. 356, § 6, 10-10-1966)

**Sec. 46-525. Entry onto premises.**

In the general performance of his/her duties, the health officer or his/her designee and other duly authorized persons of the city are hereby authorized to enter at all reasonable hours upon and into any buildings, establishments, premises, and enclosures in or from which they have reason to believe the provisions of this division are being violated to inspect or examine such buildings, establishments, premises, or enclosures and to collect and preserve evidence of all facts as to the violations of this division.

(Code 1988, § 260.080; Code 1996, § 270.080; Ord. No. 356, § 8, 10-10-1966)

**Sec. 46-526. Interference with enforcement.**

Any person interfering in any manner or impeding the performance of this duty of the health officer or his/her designee shall be deemed guilty of a violation of this division and shall be subject to the penalties provided in this chapter for the violations of provisions of this chapter. This section shall likewise apply to the performance of duty of those employees and representatives of the health officer or his/her designee.

(Code 1988, § 260.090; Code 1996, § 270.090; Ord. No. 356, § 9, 10-10-1966)

Secs. 46-527--46-550. Reserved.

**DIVISION 5. SOLID WASTE\***

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\*Cross references: Utilities, ch. 90.

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**Subdivision I. In General**

**Sec. 46-551. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Solid waste management system* means the entire process of storage, collection, transportation, processing, and disposal of solid wastes by the city or by any combination of the methods set forth in section 46-581.

(Code 1988, § 255.010; Code 1996, § 265.010; Ord. No. 519, § 5, 4-10-1978)

**Cross references:** Definitions generally, § 1-2.

**Sec. 46-552. Penalty.**

Any person violating any of the provisions of this division shall be deemed guilty of an ordinance violation and shall be punished upon conviction pursuant to section 1-11 of this Code.

(Code 1988, § 255.110; Code 1996, § 265.110; Ord. No. 519, § 12, 4-10-1978)

**Sec. 46-553. City to be responsible for system.**

The city shall continue the responsibility for and provide for a solid waste management system, and the collection and the removal of solid waste from all residential and commercial units and establishments in the city pursuant to the provisions of RSMo ch. 260.

(Code 1988, § 255.020; Code 1996, § 265.020; Ord. No. 519, § 1, 4-10-1978)

**Sec. 46-554. Prevention of nuisances.**

All trash, solid waste, garbage, refuse and other discarded materials, including but not limited to solid or semisolid vegetable, animal or mineral waste and rubbish or a combination of all of such materials, shall be handled, stored, collected, and disposed of in compliance with all laws, both local and state law, so as to prevent nuisance.

(Code 1988, § 255.050; Code 1996, § 265.050; Ord. No. 519, § 4, 4-10-1978)

**Sec. 46-555. Containers.**

The occupant of every dwelling unit and of every institutional, commercial, business, industrial or agricultural establishment within the corporate limits of the city shall provide sufficient and adequate containers for the storage of all solid waste, and maintain such containers in good repair, and the area surrounding them in a clean, neat and sanitary condition, at all times. The containers and the area around them shall be maintained rodentproof and free of rodents. Containers to be manually lifted shall not exceed 35 gallons in capacity nor weigh more than 65 pounds when full. Waste containers shall be placed at the curb on the day of collection and before such collection. Items which the city or the service does not handle and as set forth in the published rules and regulations shall be safely disposed of by the inhabitants in accordance with the law.

(Code 1988, § 255.060; Code 1996, § 265.060; Ord. No. 519, § 6, 4-10-1978)

### **Sec. 46-556. Construction and condition of collection vehicles.**

All collection vehicles shall be maintained in a safe, clean and sanitary condition and shall be so constructed, maintained and operated as to prevent spillage of waste therefrom. Such vehicles shall operate only by permit from the health officer, which permit shall be given annually upon inspection and finding that this division is complied with.

(Code 1988, § 255.080; Code 1996, § 265.080; Ord. No. 519, § 8, 4-10-1978)

### **Sec. 46-557. Exceptions.**

This division does not have application to the removal, hauling or disposal of earth and rock material from grading or excavation activities, or the transportation and disposal of demolition and construction waste; however, all such material, including the transportation of earth and rock materials, sand and gravel or other like products to construction sites, shall be conveyed in tight vehicles, trucks or receptacles, so constructed and maintained that none of the material being transported shall spill upon the public rights-of-way, and all such transportation of such materials shall be in compliance with state law.

(Code 1988, § 255.090; Code 1996, § 265.090; Ord. No. 519, § 9, 4-10-1978)

### **Sec. 46-558. Prohibited acts.**

It shall be unlawful for any person to:

- (1) Deposit solid waste in any container other than his/her own without the written consent of the owner when such is done to avoid the payment of the service charges in this division.
- (2) Interfere with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such.
- (3) Burn solid waste unless done in conformity with ordinances of the city related to such burning.
- (4) Dispose of solid waste in any manner or at any facility which is a nuisance or would be or is a violation of law.
- (5) Engage in the business of collecting, transporting, processing or disposing of solid waste within the corporate limits of the city without a contract with or a permit from the city.
- (6) Refuse to pay the charges called for pursuant to this division.

(Code 1988, § 255.100; Code 1996, § 265.100; Ord. No. 519, § 10, 4-10-1978)

### **Sec. 46-559. Unlawful dumping or accumulation of waste.**

No person shall pile, dump, scatter or accumulate any garbage, waste, debris or refuse on either public or private property within the city, or permit such acts to be done.

(Code 1988, § 255.120; Code 1996, § 265.120; Ord. No. 407, § 1, 9-13-1971)

Secs. 46-560--46-580. Reserved.

## **Subdivision II. Collection and Disposal**

### **Sec. 46-581. City to provide services; method of providing services.**

The city shall provide the solid waste collection and management system and services to all inhabitants, both residential and commercial, in the city either by:

- (1) A city-operated plan and system;
- (2) Contracting for such services with an independent contractor person or firm;
- (3) Contract with, or together with, another or other cities or the county;
- (4) Permitting all inhabitants to make private arrangements for disposal of solid waste under permit of health officer; or
- (5) Permitting under supervision of the health officer and by his/her permit the commercial or institutional inhabitants to make private arrangements for the disposition of solid waste from the business premises.

(Code 1988, § 255.030; Code 1996, § 265.030; Ord. No. 519, § 2, 4-10-1978)

### **Sec. 46-582. Charges for service; establishment of regulations for private haulers.**

The board of aldermen is herewith authorized from time to time to fix, levy, and collect a service charge for solid waste management services from the resident or occupant of every dwelling unit and commercial establishment in the city that takes advantage of the city service (except those units that might be vacant and except those units which may make suitable arrangements for the disposition of their solid waste under and by permit of the health officer). The charges shall be in such amounts as are appropriate and necessary to pay the expenses required to operate the service and maintain the service. In addition, by such resolution from time to time, the board of aldermen may determine, provide, and publish such rules and regulations as are expedient, convenient and necessary for the proper operation of the management system both for the benefit of private haulers under contract with the city or for the benefit of the city, including the setting of performance bonds and other requirements and qualifications of private haulers.

(Code 1988, § 255.040; Code 1996, § 265.040; Ord. No. 519, § 3, 4-10-1978)

### **Sec. 46-583. Frequency of collections.**

All trash in the city shall be collected at least once each week, or as frequently as is necessary to prevent nuisance if once-a-week collection is not adequate.

(Code 1988, § 255.070; Code 1996, § 265.070; Ord. No. 519, § 7, 4-10-1978)

**Sec. 46-584. Disposal of commercial and industrial waste.**

All commercial or industrial garbage, waste, debris and refuse shall be disposed of by the person in charge of and in control of the garbage, waste, debris or refuse, on a regular and periodic basis so as not to permit the accumulation of such garbage, waste, debris or refuse on either public or private property within the city.

(Code 1988, § 255.140; Code 1996, § 265.130; Ord. No. 407, § 4, 9-13-1971)

**Sec. 46-585. Depositing petroleum products on streets.**

No person shall dump, drain, spill or deposit any oil, grease, gasoline or petroleum products of any kind on any public road, street, ditch, storm sewer or alley or upon any private property which will drain or flow into or upon any public road, street, ditch or alley.

(Code 1988, § 255.150; Code 1996, § 265.140; Ord. No. 407, § 5, 9-13-1971)