

## **CHAPTER 40**

### **FOOD SAFETY AND ENVIRONMENTAL HEALTH**

#### **SCOPE**

##### **4000. Food Service Code Adopted.**

The current edition, as amended, of the Missouri Department of Health=s rules governing sanitation of food establishments, 19 CSR 20-1.025, and rules governing the sanitation of frozen desserts, 19 CSR 20-1.030, and Section 2.0 of the Department of Health=s guidelines, entitled AFood Protection,@ which together constitute the Missouri Food Code, are hereby adopted by reference and incorporated into this chapter as if fully set forth herein and shall be in full force and effect as the Food Service Sanitation Code of Jackson County, and may be cited as such. Copies of these rules and guidelines shall be filed with the Office of the Clerk of the County Legislature and Environmental Health Administrator. (Ord. 3168, Eff. 08/31/01; Ord. 3889, 04/24/07; Eff. 07/07/14; Ord.4635; Ord.5393 Eff. 9/14/20)

##### **4001. Application.**

This chapter shall apply to all Food Establishments, Temporary Food Establishments, Food Processor/Warehouses, Farmers' Market Vendors, Lodging Establishments, and Aquatic Venues in the unincorporated area of the County. Incorporated cities, towns, and villages may, by agreement, contract with the County to apply and enforce this chapter. The provisions of this chapter shall govern in the unincorporated County and its cities, towns, and villages under contract to the County. This chapter shall also apply to all Persons within the County outside the corporate limits of the City of Kansas City, MO, for the purpose of the enforcement of the provisions of sections 192.300 and .320, RSMo. (Ord. 3168, Eff. 08/31/01; Ord. 4390, Eff. 02/27/12; Ord. 5008, Eff. 09/05/2017; Ord.5393 Eff. 9/14/20)

#### **DEFINITIONS**

##### **4010. Definitions.**

As used in this chapter and in the Missouri Department of Health rules governing sanitation of food establishments, the following words and phrases shall have indicated meanings, unless the context clearly indicates otherwise. In the event of a discrepancy between a definition contained in the Missouri Department of Health rules and a definition contained in this section, the definition contained in this section shall prevail. (Ord. 3168, Eff. 08/31/01; Ord. 3889, Eff. 04/24/07; Ord. 4390, Eff. 02/27/12; Ord. 4485, Eff. 12/3/12; Ord. 5008, Eff. 09/05/2017)

**Aquatic Venue.** Includes Swimming Pools, Wading Pools, Aquatic Play Features, Spray Grounds, Spas, Hot-Tubs, and Whirlpool Baths. (Ord. 5008, Eff. 09/05/2017)

**Category I Aquatic Venue.** Includes Swimming Pools, Wading Pools, Spas, Hot-Tubs, Whirlpool Baths, and Aquatic Play Features owned and/or operated by a municipality, other political subdivision, or any other

government agency, that are available for use by the general public. (Ord. 5008, Eff. 09/05/2017)

Category II Aquatic Venue. Includes Swimming Pools, Wading Pools, Spas, Hot-Tubs, Whirlpool Baths, and Aquatic Play Features operated by an entity such as a hotel, motel, rental apartment, athletic club, hospital, rehabilitation center, fraternal or social organization, retirement center, camp, school, home association (including, without limitation, a subdivision, town home, planned unit development, or condominium association), country club, day care center, health spa and any other similar facility not specifically included in Category I or Category II, that is offering use to members, patrons, residents, and guests of such establishment. (Ord. 5008, Eff. 09/05/2017)

Category III Aquatic Venue. Includes Spray Grounds owned and/or operated by a municipality, political subdivision, any other government agency, hotel, motel, rental apartment, athletic club, hospital, rehabilitation center, fraternal or social organization, retirement center, camp, school, home association (including, without limitation, subdivision, town home, planned unit development, or condominium association), country club, day care center, health spa, and any other similar facility not specifically included in this listing, that is offering use to the general public, members, patrons, residents, and guests of such establishment. (Ord. 5008, Eff. 09/05/2017)

Aquatic Play Feature. Any feature that provides patron play and recreational activity. Aquatic Play Feature includes, but is not limited to: water slides, lazy river rides, water course rides, water activity pools, interactive water features, water fountains that permit bathing, and wave pools. A Spray Ground shall not be considered an Aquatic Play Feature. (Ord. 5008, Eff. 09/05/2017)

Blood Incident. The spill of any human blood in an Aquatic Venue. In the event of a Blood Incident, a test shall be performed to determine if chlorine is at proper concentration to ensure safety. If the concentration is low, the venue shall remain empty until the concentration is corrected. (Ord. 5008, Eff. 09/05/2017)

Catering Operation. The process of an individual or business with a restaurant-type food permit that conducts food service activities outside of the permitted establishment. (Ord. 4390, Eff. 02/27/12)

Commissary. A catering establishment, kitchen, or mobile food service base of operations, or any place in which food, containers, or supplies are kept, handled, prepared, packaged, or stored. A commissary must meet all requirements of this chapter. (Ord. 4390, Eff. 02/27/12)

Contamination Response Plan. A written procedure for handling contamination from formed-stool, diarrheal-stool, vomit, and/or contamination involving blood. (Ord. 5008, Eff. 09/05/2017)

Deep Area. The area of an Aquatic Venue which has, or can have, a water depth of five (5) feet or more. (Ord. 5008, Eff. 09/05/2017)

Department. The Jackson County Department of Public Works, Planning and Environmental Health Division. (Ord. 4390, Eff. 02/27/12; Ord.5393 Eff. 9/14/20)

Director. The Environmental Health Administrator of Jackson County or designated representative.

Farmers' Market. A designated location used by local farmers and producers primarily for distribution and sale of locally produced agricultural products, or a limited amount of non-agricultural, locally produced products. (Ord. 4390, Eff. 02/27/12)

Fecal/Vomit Incident. There are two types of Fecal Incidents: formed stool and diarrhea. Diarrhea must be reported. A Vomit Incident occurs when the full contents of the stomach are emptied into the water. This does not include vomiting from swallowing too much water. (Ord. 5008, Eff. 09/05/2017)

Food Establishment.

a. An operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption such as a restaurant, satellite or central preparation facility, catered feeding location, catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people, market, vending (location) operation if the operation provides potentially hazardous foods, conveyance used to transport people; institution, or food bank; and that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

b. "Food Establishment" includes an element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the Health Officer, satellite catered feeding location, a vending location or satellite feeding location unless the vending or feeding location is permitted by the Health Officer, and an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location, where consumption is on or off the premises.

c. "Food Establishment" does not include an establishment that offers only prepackaged foods that are not potentially hazardous, a produce stand that only offers whole, uncut fresh fruits and vegetables, a food processing plant, a kitchen in a private home if only food that is not potentially hazardous is

prepared for sale or service at a function such as a religious or charitable organization's bake sale, if allowed by law, and if the consumer is informed by a clearly visible placard at the sales or service location that the food is prepared in a kitchen that is not subject to regulation and inspection by the Health Officer, an area where food that is prepared as specified in subparagraph (c) (iv) of this definition is sold or offered for human consumption, a kitchen in a private home, such as a small family daycare 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 4, breakfast is the only meal offered, the number of guests served does not exceed 12, 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 Health Authority, or a private home that receives catered or home-delivered food.

Food Processor/Warehouse. A commercial operation, such as a food manufacturer, warehouse, processor, or distribution center, that manufactures, packages, labels, or stores food for human consumption and does not provide food directly to the consumer. (Ord. 4390, Eff. 02/27/12)

Health Officer. The Environmental Health Administrator of Jackson County or designated representative.

Licensed Aquatic Venue Operator. A person who has been formally trained in aquatic operations and safety and has received a license from that training. Licensing can be achieved by receiving certification from Certified Pool Operator, Aquatic Facility Operator, Association of Pool and Spa Professionals, or other courses with the Health Officer's approval, in aquatic operations and safety. The license must be renewed upon expiration. (Ord. 5008, Eff. 09/05/2017)

Lifeline. A continuous line of rope attached to opposite sides of an Aquatic Venue that divides shallow from deep water and serves as a barrier to prevent non-swimmers from venturing into deep water. The line of rope shall not be less than ¼ inch in diameter, supported by brightly colored buoys, not less than 12 inches apart and tight enough to support the weight of an adult. (Ord. 5008, Eff. 09/05/2017)

Lodging Establishment. Any building, group of buildings, structure, facility, place, or places of business where five (5) or more guest rooms are provided, which is owned, maintained, or operated by any person and which is kept, used, maintained, advertised, or held out to the public for hire, which can be construed to be a hotel, motel, motor hotel, apartment hotel, tourist court, resort, cabins, tourist home, bunkhouse, dormitory, or other similar place by whatever name called, and includes all such accommodations operated for hire as lodging establishments for either transient guests, permanent guests, or for both transient and permanent guests. This definition shall not apply to dormitories and other living or sleeping facilities

owned or maintained by public or private schools, colleges, universities, or churches unless made available to the general public and not used exclusively for students and faculty, school sponsored events, baseball camps, conferences, dance camps, equitation camps, football camps, learned professional society meetings, music camps, retreats, seminars, soccer camps, swimming camps, track camps, youth leadership conferences, or church-sponsored events. (Ord. 4390, Eff. 02/27/12)

Mobile Food Unit. A vehicle-mounted food service establishment, designed to be readily movable, that returns to a commissary daily for clean-up and service. (Ord. 4390, Eff. 02/27/12)

Non-Profit Organization Food Establishment. A Food Establishment operated by a non-profit organization. A non-profit organization shall submit proof of 501(c) exemption form or other tax-exempt letter with its application. (Ord. 4485, Eff. 12/3/12)

Non-Profit Organization Temporary Food Establishment. A Food Establishment operated by a non-profit organization for a period of no more than fourteen (14) consecutive days in conjunction with a single event or celebration. A non-profit organization shall submit proof of 501(c) exemption form or other tax-exempt letter with its application. (Ord. 4390, Eff. 02/27/12)

Person. Any individual, firm, partnership, association, corporation, company, municipality, political subdivision, governmental agency, lab, organization or other entity owning or operating an establishment required by this chapter. (Ord. 5008, Eff. 09/05/2017)

Potentially Hazardous Food. Foods that require time and temperature controls to remain safe for human consumption. (Ord. 4635, Eff. 07/07/14)

Pushcart. A non-self-propelled vehicle limited to serving non-potentially hazardous foods or commissary-wrapped food maintained at proper temperatures, or limited to the preparation and serving of frankfurters. (Ord. 4390, Eff. 02/27/12)

Seasonal Food Establishment. Any Food Establishment meeting the requirements of this chapter which operates for a period in excess of fourteen (14) days but not longer than six (6) months. (Eff. 07/07/14; Ord.4635)

Shallow Area. The area of an Aquatic Venue which has, or can have, a water depth of less than five (5) feet. (Ord. 5008, Eff. 09/05/2017)

Soft Serve Frozen Dessert Machine. Any machine that dispenses any type of mix or ice cream mix, whipped cream mix, ice cream, milk sherbet, ice milk, fruit ice, or ice sherbet, frozen custard, frozen dietary food, diabetic or dietetic ice cream, diabetic or dietetic ice milk, ice milk mix, frozen malted milk, novelty, or other similar product designated as a frozen dessert by the Health Officer, but only if operated in

connection with a Food Establishment, Temporary Food Establishment, or Seasonal Food Establishment.

Spa, Hot-tub, or Whirlpool Bath. A pool designed for relaxation, recreational, or therapeutic use where the user is sitting, reclining, or at rest and the pool is not drained, cleaned, or refilled for each user. A Spa may include, but is not limited to features such as, hydrojet circulation, hot water, cold water, mineral baths, or air induction bubbles, or any combination thereof. (Ord. 5008, Eff. 09/05/2017)

Spray Feature. A device that creates a spray of water. This includes, but is not limited, to fountains and waterfalls. (Ord. 5008, Eff. 09/05/2017)

Spray Ground. A structure designed to allow for recreational activities with recirculated, filtered, and/or treated water, but having minimal collective water. Water from the interactive fountain-type feature is collected by gravity below grade in a collector tank or sump. The water is filtered, disinfected, and then pumped to the feature spray discharge heads.

Swimming Pool. Any artificial basin of water which has been wholly designed, modified, improved, constructed or installed for the purposes of swimming, diving, recreational activity, rehabilitation, and/or therapeutic exercising, and shall include any and all accessory equipment. (Ord. 5008, Eff. 09/05/2017)

Temporary Food Establishment. Any Food Establishment which operates for a period of no more than fourteen (14) consecutive days in conjunction with a single event or celebration. Temporary food service may be in conjunction with a fair, carnival, circus, public exhibition, or similar gathering. (Ord. 3168, Eff. 08/31/01; RD. 3889, Eff. 04/24/07; Ord. 4390, Eff. 02/27/12)

Transition Point. The area of the floor of an Aquatic Venue where an abrupt change in slope occurs between the shallow and deep areas of the Aquatic Venue. (Ord. 5008, Eff. 09/05/2017)

Vending Machine. Any self-service device that, upon insertion of a coin, paper currency, token, card, or key, or by optional manual operation, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation. (Ord. 4635, Eff. 07/07/14)

Wading Pool. Any artificial pool of water less than or equal to 24 inches deep and intended for wading purposes. (Ord. 5008, Eff. 09/05/2017)

## PERMITS

### 4028. Food Handler, Permit Required.

No person shall prepare, handle, or dispense food for human consumption, or come into contact with food or food preparation utensils, at any Food Establishment, unless that

person has applied for and obtained a food handler permit, with fifteen days of commencement of employment or operation of an establishment, from the County's online vendor or other vendor approved by the Director. (Ord. 4390, Eff. 02/27/12)

4028.1 Permit, Standards.

Food handler permits shall be issued by the County's designated online vendor or other approved vendor and governed by the standards of the issuing authority as to fee, required training, and duration, then in effect at the time of application. (Ord. 4390, Eff. 02/27/12)

4028.2 Permit, Disposition and Display.

Each holder of a permit required under this section shall keep said permit on his or her person at all times while working in a Food Establishment.

4028.3 Permit, Failure to Produce.

Failure of any person to produce a valid food handler permit upon the demand of the Health Officer shall be presumptive evidence that such person is not a permitted food handler, in violation of this section. (Ord. 3364, Eff. 05/28/03)

4029. Food Establishment Operator Not to Permit Violation.

No holder of a permit to operate a Food Establishment shall suffer or allow any person in such establishment to prepare, handle, or dispense food for human consumption, or come into contact with food or food preparation utensils, unless that person has applied for and obtained, within fifteen days of commencement of employment or operation of the establishment, a food handler permit from the County's online vendor or other approved vendor. (Ord. 4390, Eff. 02/27/12)

4029.1 Food Establishment Operator Maintenance of Listing Required.

Each holder of a Food Establishment permit shall maintain a listing of all employees who possess food handler permits, which listing shall be updated at least once every three months. (Ord. 3364, Eff. 05/28/03)

4030. Permit Required.

No person, firm, partnership, or corporation shall operate a Food Establishment, Temporary Food Establishment, Non-Profit Organization Temporary Food Establishment, Seasonal Food Establishment, Soft Serve Frozen Dessert Machine, Mobile Food Unit, Pushcart, Lodging Establishment, Food Processor/Warehouse, Farmers' Market Stall, Catering Operation, or Aquatic Venue without the appropriate permit issued by the Health Officer. (Ord. 3168, Eff. 08/31/01; Ord. 3889, Eff. 04/24/07; Ord. 4390, Eff. 02/27/12; Ord. 5008, Eff. 09/05/2017)

4030.1 Farmers' Market Vendor Stall Permit.

Issued to and required of any vendor at a farmers' market that will offer samples of produce, or that will sell pre-packaged, potentially hazardous foods such as inspected frozen meats or eggs. This does not include concession-type sales for immediate consumption (no cooking or food preparation, except for sampling). (Ord.

4390, Eff. 02/27/12)

4030.2 Catering Operation Permit.

Issued to a permitted restaurant-type establishment that may apply for a catering permit issued by the Health Officer to conduct food service activities outside of the permitted establishment. A Catering Operation permit will be issued to any establishment that has demonstrated proper food safety knowledge relating to food preparation and transportation techniques. The Health Officer reserves the right to deny a Catering Operation permit, and/or revoke any previously issued permit, to any establishment that has not demonstrated the ability to safely conduct food service operations off-site. (Ord. 4390, Eff. 02/27/12)

4030.3 Lodging Establishments.

Any Lodging Establishment shall be constructed and operated in a safe and sanitary manner, and in accordance with this chapter and any other applicable local code and the State of Missouri's laws and regulations for Lodging Establishments. (Ord. 4390, Eff. 02/27/12; Ord. 4635, Eff. 07/07/14; Eff. 07/07/14; Ord.4635)

a. Compliance Procedures.

Prior to approval of an application for a permit, the Health Officer shall inspect the proposed Lodging Establishment to determine compliance with the requirements of this chapter. The Health Officer shall issue a permit to the applicant if the inspection reveals that the proposed Lodging Establishment complies with the requirements of this chapter. (Ord. 4390, Eff. 02/27/12)

b. Inspection, Annual.

An inspection of a Lodging Establishment shall be performed at least once every year. Additional inspections of a lodging establishment shall be performed as often as necessary for the enforcement of this chapter. (Ord. 4390, Eff. 02/27/12)

c. Inspection, Other.

The Health Officer or designee, after proper identification, is authorized to enter any Lodging Establishment at any reasonable time for the purpose of making inspections to determine compliance with this chapter. (Ord. 4390, Eff. 02/27/12)

4030.4 Vending Machine Permit.

A vending machine permit shall be required for each individual vending machine that holds Potentially Hazardous Food. (Ord.4635, Eff. 07/07/14)

4031. Permit Application.

Any person, firm, partnership, or corporation desiring to operate a Food Establishment, Temporary Food Establishment, Non-Profit Organization Temporary Food Establishment, Seasonal Food Establishment, Soft Serve Frozen Dessert Machine, Mobile Food Unit,

Pushcart, Lodging Establishment, Food Processor/Warehouse, Farmers' Market Vendor Stall, Catering Operation, or Aquatic Venue shall make written application for a permit. (Ord. 4390, Eff. 02/27/12; Ord. 5008, Eff. 09/05/2017)

4031.1 Forms and Fees.

All applications for permits shall be made on forms provided by the Health Officer, and shall be accompanied by the appropriate fee as set out on Schedule 1 to this chapter.

a. Parcel Number. For a new applicant to obtain a permit, the establishment must first obtain a business personal property parcel number from the Jackson County Assessment Department. (Ord. 4390, Eff. 02/27/12)

b. Business Personal Property Tax. For any permitted establishment to renew its annual permit, the establishment must also submit a copy of its previous year's paid business personal property tax receipt (if in business on January 1<sup>st</sup>). (Ord. 4390, Eff. 02/27/12; Ord. 5901, Eff. 12/16/24)

4031.2 Temporary Food Establishment.

Applications for a Temporary Food Establishment permit shall include the dates of the proposed operation. (Ord. 3168, Eff. 08/31/01; Ord. 3889, Eff. 04/24/07)

4031.3 Non-Profit Organizations, Temporary Events.

Applications for a non-profit organization's temporary food establishment permit shall include the dates and location of the proposed events. A non-profit organization shall submit proof of 501(c)3 exemption form or other tax-exempt letter with the application. (Ord. 4200, Eff. 04/05/10)

4031.4 Authorized Events by County Employees in County Facilities.

Applications for permits for fundraising events by County or Circuit Court employees within County facilities that are open to the public and that have been authorized by the County shall include the dates and locations of the authorized events. (Ord. 4200, Eff. 04/05/10)

4031.5 Authorized Events Conducted by County Employees in County Facilities Fee, Waiver.

No fee shall be charged for any approved one-day fundraising event that is sponsored by the County or Circuit Court within County facilities and open to the public for a nonprofit/charitable cause. (Ord. 5008, Eff. 09/05/2017)

4031.6 Public Agencies. Whenever a public agency with taxing authority is the applicant for a permit, any fee authorized by this chapter may be reduced or abated by the Health Officer for the purpose of conserving public tax resources. (Ord. 5008, Eff. 09/05/2017)

4032. Inspection Prior to Issuance.

On receipt of the application and payment of the appropriate fee, the Health Officer shall inspect the establishment to determine its priority assessment. (Ord. 3168, Eff. 08/31/01)

4033. Permit Issuance.

If the Health Officer determines that the establishment complies with the provisions of this chapter, the permit shall be issued. (Ord. 3168, Eff. 08/31/01)

4034. Nontransferable.

A permit issued under this chapter is not transferable. (Ord. 3168, Eff. 08/31/01)

4035. Posting of Permit.

Each permit issued under this chapter shall be posted in a conspicuous place in the permitted establishment. (Ord. 3168, Eff. 08/31/01)

4035.1 Mobile Food Unit/Pushcart, Sticker Permit.

A sticker permit shall be affixed by the Health Officer to any permitted Mobile Food Unit or Pushcart which shall be visible to the public at all times. (Ord. 4390, Eff. 02/27/12)

4036. Time Permit Valid.

Each permit issued under this chapter is valid for one (1) year from the date of issuance. (Ord. 3168, Eff. 08/31/01)

4037. Replacement Permit.

If a permit is lost or destroyed, a replacement permit will be issued upon receipt of a written application and the appropriate fee. (Ord. 3168, Eff. 08/31/01)

AUTHORITY OF HEALTH OFFICER

4038. Enforcement.

The Health Officer shall enforce this chapter. (Ord. 3168, Eff. 08/31/01)

4038.1 Authority to Issue Citations.

The Director or any authorized representative is authorized to issue and serve a general ordinance summons on any person charged with a violation of this chapter. (Ord. 4390, Eff. 02/27/12)

4039. Suspend or Revoke Permits.

The Health Officer may suspend or revoke permits of establishments which fail to comply with this chapter. (Ord. 3168, Eff. 08/31/01)

4039.1 New Permit Required, When.

Whenever revocation of a permit is final, the holder of the permit or certificate may make written application for a new permit following correction of violations. (Ord. 4390, Eff. 02/27/12)

#### 4039.2 Resumption of Operation, When.

Whenever an establishment is required under any provision of this chapter to cease operations and close, that establishment shall not resume operations until it has shown on reinspection that the conditions giving rise to the order to cease operations no longer exist. Opportunity for reinspection shall be offered within a reasonable time, but not more than 48 hours (excluding county holidays). (Ord. 4390, Eff. 02/27/12)

### 4040. Inspection and Form.

#### 4040.1 Food Establishment.

The frequency of inspection of a Food Establishment is to be determined by the Health Officer based on a Food Establishment public health priority assessment worksheet. The Health Officer shall determine if a Food Establishment is a high, medium, or low priority. A high priority establishment shall be inspected 3 to 4 times per year; a medium priority establishment shall be inspected 2 to 3 times per year; and a low priority establishment shall be inspected 2 times per year. The Health Officer shall utilize a Food Establishment inspection report similar to that of the Missouri Division of Health Food Establishment Inspection Report E6.37 during the inspection. An annual fee shall be charged for each Food Establishment requiring an inspection, as set out in Schedule I. Any Food Establishment that engages in both food service and retail business in the same location is subject to fees based on low, medium, or high priority classification as defined in the Missouri Department of Health Rules. (Ord. 3168, Eff. 08/31/01; Ord. 5008, Eff. 09/05/2017)

#### 4040.2 Aquatic Venue.

Each indoor Aquatic Venue facility will receive a minimum of three (3) inspections per year. Each outdoor Aquatic Venue facility will receive a minimum of two (2) inspections per year. An annual fee shall be charged for each Aquatic Venue requiring an inspection, as set out in Schedule I. (Ord. 5008, Eff. 09/05/2017)

#### 4040.3 Posting of Inspection.

Each inspection report issued under this chapter shall be posted with the permit in a conspicuous place in the permitted establishment. (Ord. 3168, Eff. 08/31/01)

#### 4040.4 Additional Inspections.

The Health Officer may also make such additional inspections and re-inspections as are reasonably necessary for the enforcement of this chapter. (Ord. 3168, Eff. 08/31/01)

### 4041. Access to Health Officer.

Any person, firm, partnership, or corporation operating any establishment regulated by this chapter shall grant the Health Officer, upon request, access to all parts of the establishment and shall permit an examination of all records of food and supplies purchased, received, or used, and employees. (Ord. 3168, Eff. 08/31/01)

4042. Examination of Food.

The Health Officer may examine or take samples of food as necessary to detect adulterated or misbranded food. (Ord. 3168, Eff. 08/31/01)

4043. Condemnation of Food.

The Health Officer may condemn and forbid the sale of, or cause to be removed or destroyed, any food which is adulterated or misbranded. (Ord. 3168, Eff. 08/31/01)

4044. Review Future Construction.

Each person, firm, partnership, or corporation seeking to construct, remodel, or alter a Food Establishment or any other establishment subject to regulation under this chapter shall submit properly prepared plans and specifications for such construction, remodeling, or alteration to the Health Officer for review and approval prior to the commencement of work. (Ord. 3168, Eff. 08/31/01; Ord. 4390, Eff. 02/27/12)

4044.1 Plans Required.

The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans, and construction materials of work areas, and the type and model of proposed fixed equipment and facilities. All equipment and utensils must meet the standards set forth in Department of Health rule governing sanitation of food establishments. The Health Officer shall approve the plans and specifications if they meet the requirements of this chapter. (Ord. 3168, Eff. 08/31/01)

4044.2 Equipment. Kitchens are required to use dishmachines that are certified or classified for sanitation by an American National Standards Institute (generally referred to as "commercial grade." Any permitted establishment operating prior to February 27, 2012, that replaces an existing dishmachine, shall replace with certified or classified equipment. Kitchens may be required to use refrigeration certified for restaurant use in instances where the menu dictates a large amount of cooling is done. (Ord. 4390, Eff. 02/27/12; Eff. 07/07/14; Ord. 4635)

4044.3 Building Permits. The Director shall not issue a building permit for a Food Establishment under chapter 54 of this code unless the plans have been approved by the Health Officer. (Ord. 3168, Eff. 08/31/01; Ord. 4390, Eff. 02/27/12)

4045. Temporary Food Establishment.

The following apply to Temporary Food Establishments. (Ord. 3168, Eff. 08/31/01)

4045.1 Modification of Physical Facility Requirements.

The Health Officer may modify specific requirements of physical facilities when, in his judgment, no imminent health hazard will result. (Ord. 3168, Eff. 08/31/01)

4045.2 Prohibit Sale of Hazardous Food.

The Health Officer may prohibit sale of potentially hazardous food. (Ord. 3168, Eff. 08/31/01)

## PROCEDURE

### 4046. Notice.

When the Health Officer discovers a violation of this chapter, the Health Officer shall notify the permit holder or the operator of the establishment of the violation by means of an inspection report form or other written notice.

#### 4046.1 Temporary Food Establishment Inspection Violations.

In the case of a Temporary Food Establishment, all violations shall be corrected immediately. Once all violations are corrected a permit will be issued. (Ord. 4390, Eff. 02/27/12; Eff. 07/07/14; Ord.4635)

#### 4046.2 Imminent Health Hazard.

If an imminent health hazard exists, such as complete lack of refrigeration, sewage backup into the establishment, fire, misuse of poisonous or toxic materials, gross unsanitary occurrence or conditions, or other circumstances that may endanger public health, the establishment shall immediately cease food service operations. Operations shall not be resumed until authorized by the Health Officer. (Ord. 3168, Eff. 08/31/01; Ord. 3889, Eff. 04/24/07; Ord. 4390, Eff. 02/27/12)

### 4047. Content of Violation Notification.

The notice of violation shall include the following. (Ord. 3168, Eff. 08/31/01)

#### 4047.1 Violation.

The notice shall include the specific violation(s) found. (Ord. 3168, Eff. 08/31/01)

#### 4047.2 Time to Correct.

The notice shall include a specific and reasonable period of time for the correction of the violations. (Ord. 3168, Eff. 08/31/01)

#### 4047.3 Effect of Noncompliance.

The notice shall include a statement that failure to comply with the notice within the time period specified may result in the immediate closure of the permitted establishment and suspension of the permit. (Ord. 3168, Eff. 08/31/01; Ord. 4390, Eff. 02/17/12)

#### 4047.4 Appeal.

The notice of violation shall include a statement that an opportunity for an appeal from the order/notice or inspection findings will be provided on written request to the Director within the period of time established in the notice for correction. (Ord. 3168, Eff. 08/31/01)

### 4048. Service of Notice.

Proper service of a notice of violation shall be by personal delivery to the permit holder or to the person in charge of the establishment, or by certified mail, return receipt requested, to the last known address of the permit holder. (Ord. 3168, Eff. 08/31/01)

#### 4049. Failure to Comply.

When a permit holder fails to comply with a notice of violation issued by the Health Officer, the permit holder shall be notified of the following:

##### 4049.1 Immediate Suspension and Closure of the Food Establishment.

The current permit is immediately suspended and the food establishment is closed effective on service of notice. (Ord. 3168, Eff. 08/31/01)

- a. Notice of Closure. On closure of an establishment, a “Notice of Closure” sign shall be conspicuously placed upon that part of the establishment to which the public has access. It shall be unlawful for any person to remove a “Notice of Closure” sign unless authorized to do so by the Health Officer. (Ord. 4390, Eff. 02/27/12)

##### 4049.2 Closing Procedures.

Suspension is effective upon service of the notice required by this chapter. When a permit is suspended, establishment operations shall immediately cease and the establishment shall be closed. (Ord. 4390, Eff. 02/27/12)

- a. Whenever a permit is suspended, the holder of the permit or the person then in charge of the Food Establishment shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for hearing shall be provided if a written request for hearing is filed with the Health Officer within ten (10) calendar days. If no written request for hearing is filed within ten (10) calendar days, then no hearing shall be held and the suspension is final. The Health Officer may rescind the suspension at any time if the reason(s) for suspension no longer exist. (Ord. 4390, Eff. 02/27/12)
- b. The Health Officer may, after providing an opportunity for a hearing, revoke a permit for serious or repeated violations of any of the requirements of this chapter or for interference with the Health Officer in the performance of duty. (Ord. 4390, Eff. 02/27/12)
- c. Prior to revocation, the Health Officer shall provide written notice to the holder of the permit, or the person then in charge of the Food Establishment, of the specific reason(s) for which the permit is to be revoked and that the permit shall be revoked at the expiration of ten (10) days following service of the notice. Unless a written request for a hearing is filed with the Health Officer by the holder of the permit or certificate within the ten (10) day period, the revocation of the permit is final. (Ord. 4390, Eff. 02/27/12)
- d. Examples of violations of this chapter that may result in suspension or revocation of a permit include:

i. One (1) or more critical violations that remains uncorrected after two (2) reinspections. (Ord. 4390, Eff. 02/27/12)

ii. An imminent health hazard at any establishment. (Ord. 4390, Eff. 02/27/12)

iii. A score of 65 out of 100 received on an inspection. The point value is determined by the severity of the violation as determined by the currently adopted Food Service Code as defined in section 4000 of this chapter. (Ord. 4390, Eff. 02/27/12)

iv. Continual, repeated violations at a Lodging Establishment. (Ord. 4390, Eff. 02/27/12)

e. A notice provided for in this chapter is properly served when it is delivered to the holder of the permit or the person then in charge of the establishment, or it is mailed by certified mail to the last known address of the holder of the permit or when the notice is posted on the entrance to the establishment. A copy of the notice shall be retained in the records of the Health Officer. (Ord. 4390, Eff. 02/27/12)

4049.3 Hearing. In the event of the suspension of a permit and/or the closure of any permitted establishment, on written request to the Health Officer, a hearing shall be afforded within twenty (20) calendar days of receipt of the request. (Ord. 3168, eff. 08/31/01; Ord. 4390, Eff. 02/27/12)

a. Any hearing provided for in this section shall be conducted by the Health Officer at a time and place designated. Oral testimony shall be recorded verbatim. The Health Officer shall make a decision based upon the complete hearing record and shall sustain, modify or rescind any notice or order at issue in the hearing. A written report of the decision shall be furnished to the holder of the permit by the Health Officer via mailing the decision certified U.S. Mail, return receipt requested. (Ord. 4390, Eff. 02/27/12)

#### 4050. Disease Control.

No person who is infected with any disease in a communicable form, or who is a carrier of such disease, or who is afflicted with boils, infected wounds, sores, or an acute respiratory infection, shall work in any area of a Food Establishment or any other permitted food operation in any capacity where there is a likelihood that the person may contaminate food or food-contact surfaces or transmit disease to other individuals. (Ord. 3168, Eff. 08/31/01; Ord. 4390, Eff. 02/27/12)

##### 4050.1 Communicable Disease Suspected by Food Service Operator.

If the operator of an establishment suspects that any employee has contracted a communicable disease or has become a carrier of such a disease, he shall

immediately notify the Health Officer. (Ord. 3168, Eff. 08/31/01)

4051. Aquatic Venue Regulations.

Aquatic Venues shall be licensed and inspected pursuant to this section. (Ord. 5008, Eff. 09/05/2017)

4051.1 Operating Permit.

- a. No Person shall operate any Aquatic Venue unless the facility holds a valid operating permit from the Health Officer for each Aquatic Venue being operated.
- b. All applicants for an operating permit of an Aquatic Venue shall provide proof of the Licensed Aquatic Venue Operator who will supervise that facility.
- c. Each operating permit shall be issued for one year from the date of issuance.
- d. No operating permit shall be transferable.
- e. Each operating permit shall be conspicuously posted at the permitted facility.

4051.2 Plans and Specifications.

- a. No Person shall begin construction, installation or structural renovation of any Aquatic Venue without first having submitted plans to the Health Officer for review.
- b. Plans shall include the following:
  - i. Illustrations showing the Aquatic Venue, bathhouse, and equipment room;
  - ii. Specifications and layout of all treatment equipment;
  - iii. Piping schematic;
  - iv. Layout of chemical storage room;
  - v. Specifications for the water supply and wastewater disposal systems; and
  - vi. Certification by a professional engineer, architect, or other professional.

c. No permit for operation of an Aquatic Venue shall be issued until an inspection of the completed Aquatic Venue is made by the Health Officer and compliance with the requirements of this chapter is satisfied.

d. Existing Aquatic Venues constructed prior to the effective date of this section may continue in use so long as equipment, water quality, safety, supervision, operation, and maintenance can comply with this chapter.

#### 4051.3 Variances.

a. A variance from a requirement of this chapter may be considered and granted by the Health Officer if the variance does not jeopardize public health or safety.

b. Any request for variance must be submitted in writing to the Health Officer.

#### 4151.4 Shower Rooms, Showers, Toilets, and Lavatories

a. Shower facilities are required for all Category I Aquatic Venues. Showers shall be supplied with hot and cold running water from an approved source.

b. The number of showers, toilets, drinking fountains, and lavatories shall comply with applicable building permit requirements.

c. At all Aquatic Venues, if shower rooms are provided, they shall be maintained in good repair, in a clean condition at all times, with sanitary supplies provided, and free from dirt, standing water, mold, and/or algae.

d. If towels are furnished, they shall be thoroughly washed with detergent and water, rinsed, dried, and stored in a clean place.

#### 4051.5 Licensed Aquatic Venue Operators

a. Licensing shall be achieved by successfully completing a Health Officer approved course, examination, and payment of any applicable fees. Any license shall be valid for not more than five (5) years from the date of issuance.

b. Any license may be suspended or revoked by the Health Officer if:

i. The Aquatic Venue that the Licensed Aquatic Venue Operator is supervising is closed by the Health Officer two or more times within a 365-day period; or

ii. The Licensed Aquatic Venue Operator is not readily available, reachable by phone generally within 30 minutes, at the time of Health

Officer's inspection.

4051.6 Supervision.

a. Each Aquatic Venue shall be under the supervision of a Licensed Aquatic Venue Operator who shall be responsible for compliance with this chapter. The Licensed Aquatic Venue Operator is not required to be present on site at all times, but shall be readily available during all times the facility is open. The Licensed Aquatic Venue Operator's contact information must be posted in a conspicuous place at the permitted facility. The Licensed Aquatic Venue Operator shall have his/her license readily accessible at the time of inspection. If an Aquatic Venue has a history of violations, the Health Officer may require the Licensed Aquatic Venue Operator be present on site during all times the Aquatic Venue is open.

b. Each Category I Aquatic Venue must provide qualified lifeguards. When qualified lifeguards are used the staffing plan shall include diagrammed zones of patron surveillance for each Aquatic Venue such that:

i. A qualified lifeguard is capable of viewing the entire area of the assigned zone of patron surveillance;

ii. A qualified lifeguard is able to reach the furthest extent of the assigned zone of patron surveillance within 20 seconds;

iii. The diagram shall identify whether each qualified lifeguard is in an elevated stand, walking, in-water, and/or other approved position;

iv. The diagram shall identifying any additional responsibilities for each zone; and

v. All areas of each aquatic venue are assigned a zone of patron surveillance.

c. Each Category II Aquatic Venues is recommended to have lifeguard services but it is not required. If no lifeguard is present, a proper "WARNING – NO LIFEGUARD ON DUTY" signage shall be placed throughout the pool.

d. The minimum qualifications for a lifeguard shall be satisfactory completion and current certification from a nationally recognized lifeguard training program. Each lifeguard shall have current CPR and First Aid certification.

e. All lifeguards shall wear distinguishing swimsuits or emblems while on duty.

f. Each Category I and Category II Aquatic Venue that has a water surface area in excess of 2,000 square feet and a depth of six feet shall provide at least one elevated lifeguard chair or platform. One (1) additional elevated lifeguard chair or platform shall be provided for each additional 2,000 square feet of water surface area and a depth of six feet.

g. Each Category II Aquatic Venue where lifeguard service is not required or continuously provided, shall display a warning sign stating “WARNING – NO LIFEGUARD ON DUTY” in letters at least four (4) inches high that shall be conspicuously placed at the entrance to the venue.

h. Each Category I and II Aquatic Venue shall have “Pool/ Spa Rules” posted in a conspicuous place, which rules shall include, but not be limited to, the following:

i. No person with open cuts, sores, lesions, infections, obvious communicable disease, or diarrhea shall use the Swimming Pool;

ii. Animals are not allowed in or around the Swimming Pool, except that service animals as defined by the Americans with Disabilities Act must be allowed on pool decks and any other places the public is allowed. Service animals are not allowed in the water, on diving boards, on water slides, on floatation rafts, etc;

iii. Glass containers are not allowed in or around the Swimming Pool;

iv. Children who are not toilet trained shall wear tight fitting plastic underwear or swim diapers that will prevent leakage;

v. No diving (at Swimming Pools without an approved diving well configuration);

vi. Children, as defined by the Aquatic Venue, shall be accompanied by an adult; and

vii. The following only apply to Spas, Hot-Tubs and Whirlpool Baths:

(1) Due to high temperature and humidity the spa can be dangerous to your health, so consult your physician before use;

(2) Observe reasonable time limits (no longer than 15 minutes), then leave the water and cool down before returning.

i. Each Category III Aquatic Venue shall display “Spray Ground Rules” posted in a conspicuous place, which rules shall include, but not limited to the following:

- i. No person with open cuts, sores, lesions, infections, obvious communicable disease, or diarrhea shall use the Spray Ground;
- ii. Animals are not allowed in or around the Spray Ground;
- iii. Glass containers are not allowed in or around the Spray Ground;
- iv. Children who are not toilet trained shall wear tight fitting plastic underwear or swim diapers that will prevent leakage;
- v. Spray features use recirculated water, DO NOT DRINK THE WATER; and
- vi. Children shall be accompanied by an adult.

j. Each Category I and Category II Aquatic Venue shall post its maximum design patron load and shall not permit more patrons than indicated. Patron load shall be calculated as follows:

- (1) One (1) person per 20 square feet of water surface area for Swimming Pools and Aquatic Play Features;
- (2) One (1) person per 10 square feet of water surface area for Spas, Hot-Tubs, and Whirlpool Baths.

#### 4051.7 Safety Requirements.

a. The following shall be provided at each Category I and Category II Aquatic Venue:

- i. A life pole or shepherd’s crook 12-feet long or a reach beyond half the distance of the width of the pool;
- ii. A ring buoy, Coast Guard approved or equivalent, fitted with a ¼ inch-diameter line attached with a length of 1.5 times the maximum width of the Swimming Pool or 50 feet, whichever is less;
- iii. A blanket; and
- iv. A first aid kit with the following minimum supplies:
  - (1) Triangular bandages;
  - (2) One roll 1-inch tape;

- (3) Plain gauze pads, 3" X 3" and 4" X 4";
- (4) One roll 2-inch gauze bandage;
- (5) One tube or bottle of antiseptic;
- (6) First Aid Book;
- (7) Scissors; and
- (8) Assorted band-aids.

b. All lifesaving equipment shall be mounted in a conspicuous place, readily accessible, and in a condition ready for use, except that the blanket and first aid kit may be kept in a designated place approved by the Health Officer.

c. Each Category I and II Aquatic Venue shall have a readily accessible emergency telephone or other means of emergency communication that is operational and only for emergency use. Directions for use of the emergency telephone shall be clearly posted. Emergency phone numbers along with the venue's address must be prominently posted.

d. All chemicals used in an Aquatic Venue's maintenance shall be stored under conditions where they are only accessible to authorized persons, in a dry, well-ventilated storage room according to manufacturers' instructions. The following additional requirements shall be observed:

- i. Chemicals shall be stored in their original containers, tightly closed. All chemical containers, drums, boxes, and bags shall be stored at least 6 inches off the floor or in a manner to eliminate contact with standing water. Overhead storage of chemicals is prohibited;

- ii. Incompatible chemicals shall be stored away from each other in specifically identified locations in the chemical storage room;

- iii. "No Smoking" signs shall be posted in the chemical storage room; and

- iv. Swimming pool chemicals and test kit reagents shall be stored out of direct sunlight.

e. In each Category I and Category II Aquatic Venue the depth of the water shall be plainly marked at or above the water surface on the vertical wall of the Aquatic Venue, and on the edge of the deck next to the Aquatic Venue. Where depth markers cannot be placed on the vertical walls above the water level, other means shall be used so that markings shall be plainly visible to persons in the Aquatic Venue. Markers shall be at least 4-inch high numbers and of a color contrasting with the background. Depth markers shall be:

- i. located at the points of maximum and minimum depths;

- ii. On both sides and both ends of the Aquatic Venue;
  - iii. Spaced so that the distance between adjacent markers is not greater than 25 feet when measured peripherally; and
  - iv. At appropriate points as to denote water depth in diving areas, if the Swimming Pool is designed for diving (Swimming Pools without an approved diving well configuration shall also have “NO DIVING” included in the posted pool rules).
- f. The point of transition with an abrupt change between the deep and the shallow areas shall be identified by a buoyed lifeline that separates the deep area from the shallow area and is located 2-feet toward the shallow end from the point of transition or by a line of contrasting color on the floor and walls of the pool, present at the point of transition.
- g. If night swimming is permitted, deck and underwater lighting shall be provided to illuminate all underwater areas so that water clarity requirements will be maintained.
- h. Electrical equipment and wiring in or adjacent to any Aquatic Venue shall meet the requirements of the National Electric Code (NEC 70), Article 680 and any additional local requirements.
- i. Steps, ladders, stairs, or ramps shall be provided at the shallow and deep ends of the Aquatic Venue. If the Aquatic Venue is over 30 feet wide steps, ladders, stairs, or ramps shall be installed on each side. Ramps shall not exceed a slope of 1:12. Handrails shall be provided for use with all ladders, steps, and stairs. Handrails shall be maintained in sound working condition.
- j. All steps, ramps, and diving boards are to be of non-slip construction or be covered with non-slip materials.
- k. An Aquatic Venue shall be immediately closed and the swimmers removed from the water when any of the following occurs. Closure resulting from an inspection will require a re-inspection before the Aquatic Venue begins operating again.
- i. Failure to meet required disinfectant concentrations;
  - ii. Failure to meet water clarity requirements;
  - iii. The grate on the main drain is missing or broken;
  - iv. Failure to meet lifeguard requirements;

- v. A recirculation or filter pump is non-operational;
- vi. The water temperature exceeds 104° Fahrenheit;
- vii. A Fecal or Vomit Incident (documentation of the incident and measures taken must be documented and submitted to the health officer.);
- viii. The presence of an electrical storm at an outdoor venue; or
- ix. Readily accessible emergency telephone/communications device is inoperable.

l. Each Aquatic Venue shall be in compliance with all current and any future state and federal regulations. This includes but not limited to the Virginia Graeme Baker Pool and Spa Safety Act and the Americans with Disabilities Act (ADA).

m. A Licensed Aquatic Venue operator shall notify the Health Officer as soon as possible in the event of a drowning that result in a death or Fecal/Vomit Incident. Each Aquatic Venue shall have and follow an approved *Contamination Response Plan* for dealing with Fecal, Blood, and Vomit contamination. The Aquatic Venue shall document each Fecal, Blood, and Vomit Incident. Documentation of Fecal, Blood, and Vomit Incidents shall be retained for at least one (1) year after the incident.

n. The water supply for each Aquatic Venue shall be from a water source approved by the Health Officer. No piping arrangements shall exist which, under any conditions, will permit sewage or wastewater to enter the Aquatic Venue's water system or permit water from an Aquatic Venue to enter the make-up water supply.

o. Because of serious safety considerations, the use of gas chlorine is not recommended and may not be approved. When used, the operation must be in compliance with all state and federal safety requirements.

#### 4051.8 Water Quality of Swimming Pools.

- a. The water shall have sufficient clarity at all times so that either a black disc six (6) inches in diameter is readily visible in the deepest portion of the Swimming Pool or the bottom drain at the deepest point is clearly visible.
- b. The water shall be free of all scum and floating matter on the surface and dirt and other material on the floor of the Swimming Pool.
- c. Disinfection shall be provided by mechanical feeders. The water in all parts

of the Swimming Pool shall have a minimum free available chlorine (FAC) content of at least 1.0 ppm, but FAC shall not exceed 10.0 ppm.

i. Bromine used as a disinfectant shall be maintained at a residual level of not less than 2.0 ppm but shall not exceed 10.0 ppm; and

ii. Other disinfecting materials or methods must be approved by the Health Officer.

d. If cyanuric acid or chlorinated isocyanurates are used, the concentration of cyanuric acid in the water should be at least 30 ppm to 50 ppm and shall not exceed 1000 ppm and the free available chlorine (FAC) shall be at least 2.0 ppm.

e. The water shall be maintained at a pH of not less than 7.2 and not over 7.8.

f. The total alkalinity is recommended to be within the range of 60 ppm to 180 ppm.

g. No harsh or irritating chemical in concentrated form shall be added manually and directly to the water of any Swimming Pool while any person is present in the water. When chemicals are added, use of the Swimming Pool shall cease until such time as the chemical is completely dissolved and is thoroughly diffused throughout the Swimming Pool water.

h. The water in a Swimming Pool shall be continuously recirculated. The circulation system for Swimming Pools shall achieve a turnover rate of six (6) hours or less. The circulation system for any Wading Pool shall achieve a turnover rate of two (2) hours or less. Each Category I and Category II Swimming/Wading Pool shall have a flow meter installed that is capable of measuring from  $\frac{1}{2}$  to at least 1-1/2 times the designed flow of the circulation system.

#### 4051.9 Spas, Hot-Tubs, and Whirlpool Baths.

a. Maximum water depth shall be four (4) feet measured from the water line. The maximum depth of any seat or sitting bench shall be two (2) feet measured from the water line.

b. The water shall be clear at all times, and free of scum and floating matter on the surface and dirt and other material on the floor.

c. Water temperature controls shall be provided to prevent the water temperature from exceeding 104° F.

d. A thermometer shall be available to monitor water temperature.

e. Each Spa, Hot-Tub, or Whirlpool Bath shall be equipped with a 15-minute timer controlling the hydrotherapy jets and blower operation.

f. Each Spa, Hot-Tub, or Whirlpool Bath shall be equipped with an emergency shut-off switch to stop all circulation. The shut-off switch shall be visible from the Spa, Hot-Tub, or Whirlpool Bath.

g. Spray features are prohibited in any Spa, Hot-Tub, or Whirlpool Bath.

h. Disinfection shall be provided by mechanical feeders and water shall have a minimum free available chlorine (FAC) content of 3 ppm but FAC shall not exceed 10 ppm, with a maximum combined chlorine level of 0.5 ppm. For bromine disinfection the minimum total bromine level shall be 4.0 ppm but shall not exceed 10 ppm.

i. Other disinfecting materials or methods must be approved by the Health Officer;

ii. Water shall be maintained at a pH of not less than 7.2 and not over 7.8;

iii. Total alkalinity shall be maintained within the range of 60 to 180 ppm; and

iv. The calcium hardness shall be maintained within the range of 150 to 250 ppm but not exceed 1000 ppm.

i. Water in a Spa, Hot-Tub, or Whirlpool Bath shall be continuously recirculated. The circulation system for any Spa, Hot-Tub, or Whirlpool Bath shall achieve a turnover rate of 30 minutes or less. Each Category I or Category II Spa, Hot-Tub, or Whirlpool Bath shall have a flow meter installed that is capable of measuring from  $\frac{1}{2}$  to at least 1-1/2 times the designed flow of the circulation system.

j. Each Spa, Hot-Tub, or Whirlpool Bath shall have posted in a conspicuous place the "Spa Rules" for the facility.

k. Each Spa, Hot-Tub, or Whirlpool Bath not drained weekly shall superchlorinate its water and filtering system to a level of 10 ppm at least once a week.

l. Each Spa, Hot-Tub, or Whirlpool Bath shall be drained and refilled as needed to maintain proper water quality.

m. No harsh or irritating chemical in concentrated form shall be added

manually and directly to the water of any Spa, Hot-Tub, or Whirlpool Bath while any person is present in the water. When chemicals are added, use of the Spa, Hot-Tub, or Whirlpool Bath shall cease until such time as the chemical is completely dissolved and is thoroughly diffused throughout the Spa, Hot-Tub, or Whirlpool Bath water.

n. Any Spa, Hot-Tub, or Whirlpool Bath shall be closed immediately and the patrons removed from the water when any of the following health or safety hazards exist. Closure resulting from an inspection will require a re-inspection before the Aquatic Venue begins operating again.

- i. Failure to meet required disinfectant concentrations;
- ii. Failure to meet water clarity requirements;
- iii. The grate on the main drain is missing or broken;
- iv. Failure to meet lifeguard requirements;
- v. A recirculation or filter pump is non-operational;
- vi. The spa water temperature exceeds 104° Fahrenheit;
- vii. A Fecal, Blood or Vomit Incident;
- viii. The presence of an electrical storm at an outdoor venue; or
- ix. The readily accessible emergency telephone/communications device is inoperable.

#### 4051.10 Spray Grounds.

a. Disinfection shall be provided by mechanical feeders and water shall have a minimum free available chlorine (FAC) content of 2 ppm, but FAC shall not exceed 10 ppm.

- i. Other disinfecting materials or methods must be approved by the Health Officer;
- ii. The water shall be maintained at a pH of not less than 7.2 and not over 7.8; and
- iii. The total alkalinity shall be maintained within the range of 60 to 180 ppm.

b. Each Spray Ground shall have posted in a conspicuous place the "Spray

Ground Rules” for the facility.

c. The water in a Spray Ground shall be continuously circulated, filtered and disinfected.

d. The spray pad shall be adequately cleaned and flushed daily.

e. Each Spray Ground shall be closed immediately and the patrons removed from the Spray Ground when any health or safety hazard exists, such as:

i. Failure to meet required disinfectant concentrations;

ii. The grate on the main drain is missing or broken;

iii. A reported fecal, blood or vomit accident;

iv. The presence of an electrical storm; (A sign may be posted warning of danger during electrical storms in unattended areas); or

v. Readily accessible emergency telephone/communications device is inoperable.

f. Each Spray Ground shall be fenced to prevent access by animals.

#### 4051.11 Air Circulation for Indoor Aquatic Venues.

Each indoor Aquatic Venue constructed after the effective date of this section shall meet the ventilation standards established by the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE).

#### 4051.12 Pool and Spa Heaters.

All heaters shall be installed per the American National Standards Institute guidelines: ANSI Standard 2223.1 and comply with all applicable local codes.

#### 4051.13 Operating Records.

a. Each Category I, II, or III Aquatic Venue shall maintain records showing:

i. Disinfectant residuals testing a minimum of two times daily or as often as needed to maintain the water quality as indicated in this section;

ii. pH reading testing a minimum of two times daily or as often as needed to maintain the water quality as indicated in the section;

iii. Chemicals used during the operation period;

iv. Cyanuric acid level testing at least once a week;

v. Alkalinity testing at least once a week; and

vi. All Fecal, Blood, and Vomit Incidents.

b. Additional records required for each Spa, Hot-Tub, and Whirlpool Bath are:

i. Dates of superchlorination;

ii. Temperature reading testing a minimum of every 3 hours of operation;

iii. Calcium Hardness testing at least once a week; and

iv. Dates of drain and refill.

c. All records shall be retained for at least one (1) year from date of test.

#### 4051.14 Testing Equipment.

a. The following test equipment shall be maintained at each Swimming Pool, Wading Pool, Spa, Hot-Tub, or Whirlpool Bath:

i. A DPD chlorine tester or bromide tester, capable of measuring residuals in the range of 0 to 10.0 ppm. When chlorine is used, the test equipment shall be capable of measuring both free available chlorine and total combined chlorine;

ii. A pH tester capable of measuring pH between 6.8 and 8.2;

iii. An alkalinity tester capable of measuring the range of 50 to 200 ppm;

iv. A cyanuric acid test kit (where applicable); and

v. A calcium hardness tester capable of measuring the range of 150 to 500 ppm. (required for each Spa, Hot-Tub, or Whirlpool Bath, recommended for all Aquatic Venues)

#### 4051.15 Fences/Enclosures/Safety Covers.

a. Each Category I, II, or III Aquatic Venue shall be protected by a fence, wall, building, or other enclosure, or any combination thereof which completely encloses the Aquatic Venue area such that all the following conditions are met:

- i. Constructed so as to afford no external handholds or footholds;
  - ii. Constructed of durable materials;
  - iii. A four (4) foot minimum height is provided entirely around the Aquatic Venue;
  - iv. The horizontal space between vertical members of the enclosure shall not exceed four (4) inches;
  - v. The height of any opening under the bottom of the enclosure shall not exceed two (2) inches; and
  - vi. Where no lifeguards are present, all gates and doors shall be equipped with self-closing and positive self-latching closure mechanisms which shall be located as high as possible and comply with the Americans with Disabilities Act (ADA) requirements.
- b. If a safety cover is used it must meet ASTM standard F1346-91 Standard Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas, and Hot Tubs.

#### 4051.16 Wastewater Disposal.

All wastewater from any Category I, II, or III Aquatic Venue shall be disposed of in a manner which will not create a nuisance and is in accordance with applicable local regulations.

#### 4051.17 General Maintenance.

Each Category I, II, or III Aquatic Venue must be maintained in such a way as not to create a nuisance or public health risk.

#### 4051.18 Inspections.

- a. The Health Officer shall conduct such inspections as often as deemed necessary to ensure compliance with all the provisions of this chapter and he/she shall have right of entry at any reasonable time to the Aquatic Venue, its records, and accompanying facilities.
- b. Upon investigation or inspection of an Aquatic Venue, the Health Officer determines that conditions exist that warrant the closing of the facility, the Health Officer shall issue a written closing order to the owner or operator of the Aquatic Venue, noting the violations. A “notice of closure” sign shall be conspicuously placed at the entrance to the facility. It shall be unlawful for any Person to remove a “notice of closure” sign unless authorized to do so by the Health Officer. The owner or operator, thereafter, shall be responsible for prohibiting any Person from using the facility until the violations have been

abated. If the Health Officer notes violations, which do not warrant closing the facility, a written notice shall be provided to the owner or operator with reasonable times for compliance. If the noted violations are not abated within the time set forth in the notice, the facility shall then be automatically closed unless the Health Officer, upon good cause, extends the time for compliance.

c. The following violations shall warrant immediate closure by the Health Officer. Closure resulting from an inspection will require a re-inspection before the Aquatic Venue begins operations again.

- i. Any hazardous condition that may create an immediate danger to life, health, or safety;
- ii. Failure of the Aquatic Venue's equipment or structure that may jeopardize the health or safety of the persons using or operating it;
- iii. Failure to meet required disinfectant concentrations;
- iv. Failure to meet water clarity requirements;
- v. The grate on the main drain is missing or broken;
- vi. Failure to meet lifeguard requirements;
- vii. A Spa's water temperature exceeds 104° Fahrenheit;
- viii. Readily accessible emergency telephone/communications device is inoperable;
- ix. Failure to have all entrances equipped with self-closing and self-latching door/gate;
- x. Lack of required safety equipment;
- xi. Failure to meet the Licensed Aquatic Venue Operator requirement;
- xii. Repeat violations from previous inspection(s); or
- xiii. If an Aquatic Venue has been linked to a recreational water illness outbreak confirmed by a licensed physician.

d. The Health Officer shall conduct a follow-up inspection to insure all violations from the initial investigation(s)/inspection(s) have been abated. Fees shall apply for all follow-up inspections.

e. If violation(s) are corrected at the time of the initial investigation/inspection

a follow-up inspection will not be required.

f. Closing orders shall be repealed once all violations that warranted the closing order have been abated and inspected by the Health Officer.

4052. Enforcement of Missouri State Public Health Rules and Regulations.

The Health Officer shall have authority to issue general ordinance summonses to Persons for alleged violations of sections 192.300 and .320, RSMo, and corresponding provisions of the Missouri Code of State Regulations which, upon conviction, are punishable pursuant to section 4054. of this chapter.

4053. More Restrictive Provision Shall Govern.

In the case of a conflict between any provision of this chapter and a provision of any other rule, regulation, and statute or law, whether federal, state, or local, the more restrictive provision shall govern.

4054. Penalty Provision.

Any person, firm, partnership, or corporation who violates any provision of this chapter shall, on conviction, be fined not more than one thousand dollars (\$1,000.00) or sentenced to not more than one (1) year in the county jail, or both. (Ord. 3168, Eff. 08/31/01)

4054.1 Separate Offense.

Each day that a violation of this chapter exists shall constitute a separate offense. (Ord. 3168, Eff. 08/31/01)

## CHAPTER 40

### SCHEDULE I

#### FOOD SAFETY AND ENVIRONMENTAL HEALTH

##### Required permits and Permit Fees.

Establishments, events, and public engagements that require a permit and inspection are listed in this schedule I. Annual permit fees shall be charged according to schedule I.

The schedule below reflects current fees. Increases shall be implemented every two years by the rate of inflation as determined by the consumer price index. (Ord. 5008, Eff. 09/05/2017; Ord.5393 Eff. 9/14/20; Ord.5901 Eff.12/16/24)

| <b>Permit</b>                                                                                                           | <b>Current</b> | <b>2025</b> | <b>2027 TBD</b> |
|-------------------------------------------------------------------------------------------------------------------------|----------------|-------------|-----------------|
| Replacement Fee                                                                                                         | \$5            | \$5         |                 |
| Plan Review Fee                                                                                                         | \$320          | \$360       |                 |
| Re-inspection Fee                                                                                                       | \$110          | \$125       |                 |
| Low Priority Food Establishment permit                                                                                  | \$260          | \$290       |                 |
| Medium Priority Food Establishment Permit                                                                               | \$475          | \$530       |                 |
| High Priority Food Establishment Permit                                                                                 | \$795          | \$890       |                 |
| Mobile Unit/Push Cart Permit                                                                                            | \$215          | \$240       |                 |
| Non-Profit Food Establishment Permit                                                                                    | \$30           | \$35        |                 |
| School Cafeteria Permit                                                                                                 | \$55           | \$60        |                 |
| Seasonal Permit                                                                                                         | \$105          | \$120       |                 |
| Soft Serve Dessert Machine Permit                                                                                       | \$55           | \$60        |                 |
| Temporary Food Establishment Permit                                                                                     | \$55           | \$60        |                 |
| Catering Permit                                                                                                         | \$400          | \$450       |                 |
| Farmer's Market Vendor Stall Permit                                                                                     | \$30           | \$35        |                 |
| Non-Profit Temporary Food Permit                                                                                        | \$30           | \$35        |                 |
| Lodging Establishment Permit                                                                                            | \$160          | \$180       |                 |
| Food Processor/Warehouse Permit                                                                                         | \$160          | \$180       |                 |
| Aquatic Venue Permit                                                                                                    | \$160          | \$180       |                 |
| Vending Machine Permit Fee                                                                                              | \$30           | \$35        |                 |
| Food Permit Late Filing Fee                                                                                             | \$55           | \$60        |                 |
| Temporary Food Permit Late Fee –<br>Application is considered late if submitted<br>less than 48 hours before the event. | \$30           | \$35        |                 |