

Chapter 54 HEALTH AND SANITATION

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Cross reference— Animals, ch. 10; rabies control, § 10-146 et seq.; buildings and building regulations, ch. 18; businesses, ch. 22; floods, ch. 50; solid waste, ch. 82; utilities, ch. 98. [\(Back\)](#)

State Law reference— Local Public Health Reorganization Act, V.T.C.A., Health and Safety Code § 121.001 et seq.; authority of home rule municipalities to enact health ordinances, V.T.C.A., Health and Safety Code § 341.081; local regulation of sanitation, V.T.C.A., Health and Safety Code ch. 342; food, drugs, alcohol and hazardous substances, V.T.C.A., Health and Safety Code ch. 431 et seq.; Texas Controlled Substances Act, V.T.C.A., Health and Safety Code § 481.001 et seq.; community services for mental health and mental retardation, V.T.C.A., Health and Safety Code § 534.001 et seq.; preservation of health in home rule municipality, V.T.C.A., Local Government Code § 54.004; nuisance in home rule municipality, V.T.C.A., Local Government Code § 217.042. [\(Back\)](#)

ARTICLE I. IN GENERAL

[Sec. 54-1. State regulations adopted.](#)

[Sec. 54-2. Offensive deposits generally.](#)

[Secs. 54-3—54-35. Reserved.](#)

Sec. 54-1. State regulations adopted.

The rules and regulations of the state adopted pursuant to the Texas Health and Safety Code, relating to health, are adopted by the city to the extent they are not inconsistent with this Code or any other ordinance.

(Code 1978, § 14-1)

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Sec. 54-2. Offensive deposits generally.

It shall be unlawful for any person to throw, place or deposit in any street, alley, square, sidewalk, gutter, lot or other premises or place, or the creeks in the city limits, any carcass of any dead animal or fowl, any putrid beef, pork or other meat, fish, hides, skins, filth, offal, dung, melon rinds, vegetables, bones, slops, dishwater, or other unsound or offensive matter, or which is liable to become offensive, or allow any such offensive matter to remain in or about or immediately in front of any premises owned or controlled by him.

(Code 1978, § 18-4)

State Law reference— Depositing dead animal, garbage, etc., in certain waters, V.T.C.A., Water Code § 11.090.

Secs. 54-3—54-35. Reserved.

ARTICLE II. MEAT AND MEAT PRODUCTS

[Sec. 54-36. Regulations adopted.](#)

[Sec. 54-37. Meats permitted to be sold.](#)

[Sec. 54-38. Imported meats.](#)

[Sec. 54-39. Feeding garbage to animals for production of meat.](#)

[Secs. 54-40—54-70. Reserved.](#)

Sec. 54-36. Regulations adopted.

The rules, regulations and standards for the inspection of meat, meat products and meat food products, promulgated by the commissioner of health of the State of Texas, are hereby in all things adopted and made a part of this Code as if set forth in full in this article, and the provisions, standards, rules and regulations contained therein are made mandatory requirements for the inspection and labeling of meat and meat food products produced, sold or offered for sale within the limits of the city, with the "Texas inspected and passed" label thereon. Any establishment desiring to sell or offer for sale meat, meat products and meat food products in the city containing the "Texas inspected and passed" label on such meat, meat products and meat food products shall be governed by the specifications and regulations promulgated by the commissioner of health adopted in this article, and all requirements specified in such specifications and regulations shall be complied with.

(Code 1978, § 14-13)

Sec. 54-37. Meats permitted to be sold.

Only meats bearing the inspection mark, stamp, tag or label of the United States Department of Agriculture, the Texas State Department of Health, any municipality bearing Texas State Approved legend, or the city, shall be acceptable for sale in the city.

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(Code 1978, § 14-14)

Sec. 54-38. Imported meats.

- (a) *Defined.* Imported meat means all fresh, frozen or processed meats other than fish or poultry that originates in any state, nation or country outside the continental limits of the United States, with the exception of Alaska, Hawaii, Puerto Rico and the Virgin Islands.
- (b) *Labeling required.* No person shall sell, offer for sale, display for sale or advertise for sale within the corporate limits of the city, any imported meats, unless such meat shall be labeled as imported.

(Code 1978, § 14-15)

Sec. 54-39. Feeding garbage to animals for production of meat.

No garbage originating in the city shall be fed to any animal for the production of meat.

(Code 1978, § 14-16)

Secs. 54-40—54-70. Reserved.

ARTICLE III. MILK AND MILK PRODUCTS

DIVISION 1. - GENERALLY

DIVISION 2. - STANDARDS FOR MILK AND MILK PRODUCTS

DIVISION 1. GENERALLY

[Sec. 54-71. Definitions.](#)

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[Sec. 54-74. Labeling.](#)

[Sec. 54-75. Inspection of dairy farms and milk plants.](#)

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[Secs. 54-86—54-105. Reserved.](#)

Sec. 54-71. Definitions.

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

Acidified lowfat milk (buttermilk, etc.) means the product defined in 21 CFR 131.136.

Acidified milk (buttermilk, etc.) means the product defined in 21 CFR 131.111.

Acidified skim milk (buttermilk, etc.) means the product defined in 21 CFR 131.144.

Acidified sour cream means the product defined in 21 CFR 131.162.

Acidified sour half-and-half means the product defined in 21 CFR 131.187.

Adulterated milk and milk products means milk or milk product in which one or more of the conditions described in Section 402 of the Federal Food, Drug and Cosmetic Act (21 USC) exist.

And/or. Where the term "and/or" is used, "and" shall apply where appropriate, otherwise "or" shall apply.

Appendix means an appendix to the 1983 edition of the Grade A Pasteurized Milk Ordinance with Administrative Procedures, of the United States Public Health Service/Food and Drug Administration.

Aseptic processing means the product has been subjected to sufficient heat processing, and packaged in a hermetically sealed container, to conform to the applicable requirements of 21 CFR 113 and the provisions of section 54-177, and maintain the commercial sterility of the product under normal nonrefrigerated conditions.

Aseptically processed milk and milk products means products hermetically sealed in a container and so thermally processed in conformance with 21 CFR 113 and the provisions of this article as to render the product free of microorganisms capable of reproducing in the product under normal nonrefrigeration conditions of storage and distribution. The product shall be free of viable microorganisms (including spores) of public health significance.

Bulk milk pickup tanker means a vehicle including the truck, tank and those appurtenances necessary for its use, used by a milk hauler to transport bulk raw milk for pasteurization from a dairy farm to a transfer station, receiving station or milk plant.

Buttermilk means a fluid product resulting from the manufacture of butter from milk or cream. Buttermilk shall contain not less than 8¼ percent of milk solids not fat.

Concentrated milk means a fluid product, unsterilized and unsweetened, resulting from the removal of a considerable portion of the water from the milk which, when combined with potable water in accordance with instructions printed on the container, results in a product conforming with the milkfat and milk solids not fat levels of milk as defined in the definition of "Buttermilk" in this section.

Concentrated milk products means and includes homogenized concentrated milk, concentrated skim milk, concentrated lowfat milk and similar concentrated products made from concentrated milk or concentrated skim milk, and which, when combined with potable water in accordance with instructions printed on the container, conform with the definitions of the corresponding milk products in this section.

Cream means the product defined in 21 CFR 131.3(a).

Cultured lowfat milk (buttermilk, etc.) means the product defined in 21 CFR 131.138.

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Cultured milk (buttermilk, etc.) means the product defined in 21 CFR 131.112.

Cultured skim milk (buttermilk, etc.) means the product defined in 21 CFR 131.146.

Dairy farm means any place or premises where one or more cows or goats are kept, and from which a part or all of the milk or milk products is provided, sold or offered for sale to a milk plant, transfer station or receiving station.

Eggnog means the product defined in 21 CFR 131.170.

Frozen milk concentrate means a frozen milk product with a composition of milkfat and milk solids not fat in such proportions that when a given volume of concentrate is mixed with a given volume of water the reconstituted product conforms to the milkfat and milk solids not fat requirements of whole milk. In the manufacturing process, water may be used to adjust the primary concentrate to the final desired concentration. The adjusted primary concentrate is pasteurized, packaged and immediately frozen. This product is stored, transported and sold in the frozen state.

Goat milk means the lacteal secretion, practically free from colostrum, obtained by the complete milking of healthy goats. The word "milk" shall be interpreted to include goat milk.

Grade A dry milk and whey products means products which have been produced for use in Grade A pasteurized or aseptically processed milk products, and which have been manufactured under the provisions of the Grade A Condensed and Dry Milk Products and Condensed and Dry Whey—1978 Recommended Sanitation Ordinance for Condensed and Dry Milk Products and Condensed and Dry Whey Used in Grade A Pasteurized Milk Products.

Half-and-half means the product defined in 21 CFR 131.180.

Heavy cream or *heavy whipping cream* means the product defined in 21 CFR 131.150.

Hermetically sealed container means a container that is designed and intended to be secure against the entry of microorganisms and maintains the commercial sterility of its contents after processing.

Homogenized means a milk or milk product has been treated to ensure breakup of the fat globules to such an extent that, after 48 hours of quiescent storage at 40 degrees Fahrenheit (seven degrees Celsius), no visible cream separation occurs on the milk; and the fat percentage of the top 100 milliliters of milk in a quart, or of proportionate volumes in containers of other sizes, does not differ by more than ten percent from the fat percentage of the remaining milk as determined after thorough mixing.

Lactose-reduced milk, lactose-reduced lowfat milk or *lactose-reduced skim milk* means the product resulting from the treatment of milk, lowfat milk or skim milk as defined in this section by addition of safe and suitable enzymes to convert sufficient amounts of the lactose to glucose and/or galactose so that the remaining lactose is less than 30 percent of the lactose in milk, lowfat milk or skim milk.

Light cream means the product defined in 21 CFR 131.155.

Light whipping cream means the product defined in 21 CFR 131.157.

Lowfat milk means the product defined in 21 CFR 131.135.

Lowfat yogurt means the product defined in 21 CFR 131.203.

Low-sodium milk, low-sodium lowfat milk or *low-sodium skim milk* means the product resulting from the treatment of milk, lowfat milk or skim milk as defined in this section, by a process of passing the milk, lowfat milk or skim milk through an ion exchange resin process or any other process which has been recognized by the Food and Drug Administration that effectively reduces the sodium content of the product to less than ten milligrams in 100 milliliters.

Milk means the product defined in 21 CFR 131.110.

Milk distributor means any person who offers for sale or sells to another any milk or milk products.

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Milk hauler means any person who transports raw milk and/or raw milk products to or from a milk plant, receiving station or transfer station.

Milk plant means any place, premises or establishment where milk or milk products are collected, handled, processed, stored, pasteurized, aseptically processed, bottled or prepared for distribution.

Milk producer means any person who operates a dairy farm and provides, sells or offers milk for sale to a milk plant, receiving station or transfer station.

Milk products means and includes cream, light cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, whipped light cream, sour cream, acidified sour cream, cultured sour cream, half-and-half, sour half-and-half, acidified sour half-and-half, cultured half-and-half, reconstituted or recombined milk and milk products, concentrated milk, concentrated milk products, skim milk, lowfat milk, frozen milk concentrate, eggnog, buttermilk, cultured milk, cultured lowfat milk, cultured skim milk, yogurt, lowfat yogurt, nonfat yogurt, acidified milk, acidified lowfat milk, acidified skim milk, low-sodium milk, low-sodium lowfat milk, low-sodium skim milk, lactose-reduced milk, lactose-reduced lowfat milk, lactose-reduced skim milk, aseptically processed and packaged milk and milk products as defined in this section, and milk, lowfat milk or skim milk with added safe and suitable microbial organisms. Items included in the term "milk products" are not intended to include milk products such as evaporated milk, evaporated skim milk, condensed milk (sweetened or unsweetened), dietary products (except as defined in this section), infant formula, ice cream and other desserts, dry milk products (except as defined in this section), canned eggnog in a rigid metal container, butter or cheese except when they are combined with other substances to produce any pasteurized aseptically processed milk or milk product defined in this section.

Milk tank truck means both a bulk milk pickup tanker and a milk transport tank.

Milk transport tank means a vehicle, including the truck and tank used by a milk hauler, to transport bulk shipments of milk from a transfer station, receiving station or milk plant to another transfer station, receiving station or milk plant.

Misbranded milk and milk products means if one or more of the conditions described in Section 403 of the Federal Food, Drug and Cosmetic Act, as amended (21 USC) exist.

Nonfat yogurt means the product defined in 21 CFR 131.206.

Official laboratory means a biological, chemical or physical laboratory which is under the direct supervision of the state or a local regulatory agency.

Officially designated laboratory means a commercial laboratory authorized to do official work by the regulatory agency, or a milk industry laboratory officially designated by the regulatory agency for the examination of producer samples of Grade A raw milk for pasteurization and commingled milk tank truck samples of raw milk for antibiotic residues and bacterial limits.

Pasteurization means the process of heating every particle of milk or milk product in properly designed and operated equipment, to one of the temperatures given in the following table and held continuously at or above that temperature for at least the corresponding specified time:

Temperature (degrees Fahrenheit)	Time
*145 (63 degrees Celsius)	30 minutes
*161 (72 degrees Celsius)	15 minutes

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191 (89 degrees Celsius)	1.0 second
194 (90 degrees Celsius)	0.5 second
201 (94 degrees Celsius)	0.1 second
204 (96 degrees Celsius)	0.05 second
212 (100 degrees Celsius)	0.01 second

* If the fat content of the milk product is ten percent or more, or if it contains added sweeteners, the specified temperature shall be increased by five degrees Fahrenheit (three degrees Celsius); provided, eggnog shall be heated to at least the following temperature and time specifications:

Temperature (degrees Fahrenheit)	Time
155 (69 degrees Celsius)	30 minutes
175 (80 degrees Celsius)	25 seconds
180 (83 degrees Celsius)	15 seconds

Provided further, nothing in this definition shall be construed as barring any other pasteurization process which has been recognized by the Food and Drug Administration to be equally efficient and which is approved by the regulatory agency.

Person means any individual, plant operator, partnership, corporation, company, firm, trustee, association or institution.

Receiving station means any place, premises or establishment where raw milk is received, collected, handled, stored or cooled and prepared for further transporting.

Reconstituted or recombined milk and milk products means milk or milk products defined in this section which result from reconstituting or recombining of milk constituents with potable water, when appropriate.

Regulatory agency means the city or county health officer or his authorized representative. The term "regulatory agency," whenever it appears in this article, shall mean the appropriate agency having jurisdiction and control over the matters embraced within this article.

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Sanitization means the application of any effective method or substance to a clean surface for the destruction of pathogens, and of other organisms as far as is practicable. Such treatment shall not adversely affect the equipment, the milk or milk product or the health of consumers, and shall be acceptable to the regulatory agency.

Skim milk means the product defined in 21 CFR 131.143.

Sour cream or *cultured sour cream* means the product defined in 21 CFR 131.160.

Sour half-and-half or *cultured sour half-and-half* means the product defined in 21 CFR 131.185.

Sterilized when applied to piping, equipment and containers used for milk and milk products, means the condition achieved by application of heat, chemical sterilants or other appropriate treatment that renders the piping, equipment and containers free of viable microorganisms.

Transfer station means any place, premises or establishment where milk or milk products are transferred directly from one milk tank truck to another.

Ultra-pasteurized, when used to describe a dairy product, means such product shall have been thermally processed at or above 280 degrees Fahrenheit (138 degrees Celsius) for at least two seconds, either before or after packaging, as to produce a product which has an extended shelf life under refrigerated conditions.

Whipped cream means the product defined in 21 CFR 131.150 or 21 CFR 131.157, into which air or gas has been incorporated.

Whipped light cream means the product defined in 21 CFR 131.155, into which air or gas has been incorporated.

Yogurt means the product defined in 21 CFR 131.200.

Cross reference— Definitions generally, § 1-2.

Sec. 54-72. Adulterated or misbranded milk or milk products.

No person shall, within the city or its police jurisdiction, produce, provide, sell, offer or expose for sale, or have in possession with intent to sell any milk or milk product which is adulterated or misbranded; provided, in an emergency, the sale of pasteurized milk and products which have not been graded, or the grade of which is unknown, may be authorized by the regulatory agency, in which case, such products shall be labeled "ungraded." Any adulterated or misbranded milk or milk product may be impounded by the regulatory agency and disposed of in accordance with applicable laws or regulations.

Sec. 54-73. Permits.

- (a) It shall be unlawful for any person who does not possess a permit from the regulatory agency, to bring into, send into or receive into the city, or its police jurisdiction, for sale, or to sell or offer for sale in the city, or to have in storage any milk or milk products defined in section 54-71; provided, grocery stores, restaurants, soda fountains and similar establishments where milk or milk products are served or sold at retail, but not processed, may be exempt from the requirements of this section. Only a person who complies with the requirements of this article shall be entitled to receive and retain such permit. Permits shall not be transferable with respect to persons and/or locations.
- (b) The regulatory agency shall suspend such permit, whenever it has reason to believe that a public health hazard exists, or whenever the permit holder has violated any of the requirements of this article; or whenever the permit holder has interfered with the regulatory agency in the performance of its duties; provided, the regulatory agency shall, in all cases except where the milk or milk product involved creates, or appears to create, an imminent hazard to the public health; or in any case of a

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willful refusal to permit authorized inspection, serve upon the holder a written notice of intent to suspend such permit, which notice shall specify with particularity the violation in question and afford the holder such reasonable opportunity to correct such violation as may be agreed to by the parties, or in the absence of agreement, fixed by the regulatory agency before making any order of suspension effective. A suspension of such permit shall remain in effect until the violation has been corrected to the satisfaction of the regulatory agency.

- (c) Upon notification acceptable to the regulatory agency by any person whose permit has been suspended, or upon application within 48 hours of any person who has been served with a notice of intention to suspend, and in the latter case before suspension, the regulatory agency shall, within 72 hours, proceed to a hearing to ascertain the facts of such violation or interference, and upon evidence presented at such hearing, shall affirm, modify or rescind the suspension or intention to suspend.
- (d) Upon repeated violation, the regulatory agency may revoke such permit following reasonable notice to the permit holder and an opportunity for a hearing. This section is not intended to preclude the institution of court action as provided in sections 54-75 and 54-76.

Sec. 54-74. Labeling.

All bottles, containers and packages enclosing milk or milk products defined in section 54-71, shall be labeled in accordance with the applicable requirements of the Federal Food, Drug and Cosmetic Act, as amended, the Fair Packaging and Labeling Act, and regulations developed under such acts; and in addition, shall comply with applicable requirements of this section as follows:

- (1) All bottles, containers and packages enclosing milk or milk products, except milk tank trucks, storage tanks and cans of raw milk from individual dairy farms, shall be conspicuously marked with:
 - a. The words "Grade A."
 - b. The identity of the plant where pasteurized, ultra-pasteurized or aseptically processed.
 - c. The word "reconstituted" or "recombined," if the product is made by reconstitution or recombination.
 - d. The volume or proportion of water to be added for reconstituting or recombining in the case of concentrated milk or milk products.
 - e. The words "keep refrigerated after opening" in the case of aseptically processed milk and milk products.
 - f. In the case of aseptically processed and packaged milk and milk products, the words "UHT Long Shelf Life" preceding the name of the milk product.
 - g. The words "ultra-pasteurized" if the milk or milk product has been ultra-pasteurized.
 - h. The word "goat" shall precede the name of the milk or milk product when the product is or is made from goat milk.
- (2) All vehicles and milk tank trucks containing milk products shall be legibly marked with the name and address of the milk plant or hauler in possession of the contents.
- (3) Milk tank trucks transporting raw milk and milk products to a milk plant from sources of supply not under the routine supervision of the regulatory agency are required to be marked with the name and address of the milk plant or hauler and shall be sealed. In addition, for each such shipment, a shipping statement shall be prepared containing at least the following information:
 - a. Shipper's name, address and permit number.

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- b. Permit identification of hauler, if not an employee of the shipper.
 - c. Point of origin of shipment.
 - d. Tanker identity number.
 - e. Name of product.
 - f. Weight of product.
 - g. Grade of product.
 - h. Temperature of product.
 - i. Date of shipment.
 - j. Name of supervising regulatory agency at the point of origin.
 - k. Whether the contents are raw, pasteurized or in the case of cream, lowfat or skim milk, whether it has been heat-treated.
- (4) One copy of the shipping statement shall be retained by the consignor, one by the common carrier, and at least two copies shall be delivered to the consignee with the shipment. The consignee shall forward at least one copy to the local regulatory agency or state authority in the receiving area. Upon request, the local regulatory agency or state authority shall return to the official supervising agency the following information:
- a. Date and time of arrival of product.
 - b. Temperature of product.
 - c. Bacterial count and butterfat test of product on individual shipment.
 - d. Adequacy of seals.
 - e. Other pertinent information.
- (5) Entries made on shipping statements by consignors or consignees shall be legible. When the interstate shipment is derived from more than one point of origin, separate shipping statements for each of the sources involved shall accompany the shipment. Shipping statements shall be retained on file for a period of at least six months.
- (6) All cans of raw milk from individual dairy farms shall be identified by the name or number of the individual milk producer.

Sec. 54-75. Inspection of dairy farms and milk plants.

- (a) Each dairy farm, milk plant, receiving station and transfer station, whose milk or milk products are intended for consumption within the city or its police jurisdiction, and each milk hauler who collects samples of raw milk for pasteurization, for bacterial, chemical or temperature standards, and hauls milk from a dairy farm to a milk plant, transfer station or receiving station, and his bulk milk pickup tank and its appurtenances, shall be inspected by the regulatory agency prior to the issuance of a permit. Following the issuance of a permit, the regulatory agency shall:
- (1) Inspect each bulk milk pickup tanker and its appurtenances used by a milk hauler who collects samples of raw milk for pasteurization for bacterial, chemical or temperature standards and hauls milk from a dairy farm to a milk plant, transfer station or receiving station at least every 12 months.
 - (2) Inspect each such hauler's pickup and sampling procedures at least once every 24 months.
 - (3) Inspect each dairy farm and transfer station at least once every six months.

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- (4) Inspect each milk plant and receiving station at least once every three months.
- (b) Should the violation of any requirement set forth in section 54-107, or in the case of a milk hauler, also section 54-76, be found to exist on an inspection, a second inspection shall be required after the time deemed necessary to remedy the violation, but not before three days. The second inspection shall be used to determine compliance with the requirements of section 54-107, or in the case of a milk hauler also section 54-76. Any violation of the requirement of section 54-107, or in the case of a milk hauler also section 54-76 on such second inspection shall call for permit suspension in accordance with section 54-73 and/or court action; provided, in the case of dairy plants producing aseptically processed milk and milk products, when an inspection of the dairy plant and its records reveal that the process used has been less than the required scheduled process, it shall be considered an imminent hazard to public health and the regulatory agency shall take immediate action to suspend the permit of the plant for the sale of aseptically processed milk and milk products in conformance with section 54-73 of this division.
- (c) One copy of the inspection report shall be handed to the operator, or other responsible person, or be posted in a conspicuous place on an inside wall of the establishment. The inspection report shall not be defaced and shall be made available to the regulatory agency upon request. An identical copy of the inspection report shall be filed with the records of the regulatory agency.
- (d) Every milk producer, hauler, distributor or plant operator shall, upon request of the regulatory agency, permit access of officially designated persons to all parts of his establishment or facilities to determine compliance with the provision of this section. A distributor or plant operator shall furnish the regulatory agency, upon request, for official use only, a true statement of the actual quantities of milk and milk products of each grade purchased and sold, and a list of all sources of such milk and milk products, records of inspections, tests and pasteurization time and temperature records.
- (e) It shall be unlawful for any person who, in an official capacity, obtains any information under the provisions of this section, which is entitled to protection as a trade secret (including information as to the quantity, quality, source or disposition of milk or milk products, or results of inspections or tests thereof), to use such information to his own advantage or to reveal it to any unauthorized person.

Sec. 54-76. Examination of milk and milk products.

- (a) It shall be the responsibility of the milk hauler to collect a representative sample of milk from each farm bulk tank prior to transferring milk from a farm bulk tank, truck or other container. All samples shall be collected and delivered to a milk plant, receiving station, transfer station or other location approved by the regulatory agency.
- (b) During any consecutive six months, at least four samples of raw milk for pasteurization, taken and delivered in accordance with this section, from each producer, shall be obtained under the direction of the regulatory agency, or shall be taken from each producer under the direction of the regulatory agency. During any consecutive six months, at least four samples of raw milk for pasteurization, ultra-pasteurization or aseptic processing, shall be taken, under the direction of the regulatory agency, from each milk plant after receipt of the milk by the plant and prior to pasteurization, ultra-pasteurization or aseptic processing. In addition, during any consecutive six months, at least four samples of pasteurized milk and at least four samples of each milk product defined in section 54-71, except aseptically processed, shall be taken from every milk plant. Samples of milk and milk products shall be taken while in the possession of the producer or distributor at any time prior to delivery to the store or consumer. Samples of milk and milk products from dairy retail stores, food service establishments, grocery stores and other places where milk and milk products are sold, shall be examined periodically as determined by the regulatory agency. The results of such examination shall be used to determine compliance with sections 54-72, 54-74 and 54-79. Proprietors of such establishments shall furnish the regulatory agency, upon request, with the names of all distributors from whom milk or milk products are obtained.

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- (c) Required bacterial counts, somatic cell counts and cooling temperature checks shall be performed on raw milk for pasteurization. Antibiotic tests on each producer's milk or on commingled raw milk shall be conducted at least four times during any consecutive six months. When commingled milk is tested, all producers shall be represented in the sample. All individual sources of milk shall be tested when test results on the commingled milk are positive. Required bacterial counts, antibiotic tests, coliform determinations, phosphatase and cooling temperature checks shall be performed on pasteurized milk and milk products.
- (d) If two of the last four consecutive bacterial counts (except those for aseptically processed milk and milk products), somatic cell count, coliform determinations or cooling temperatures, taken on separate days, exceed the limit of the standard for the milk and/or milk products, the regulatory agency shall send a written notice to the person concerned. This notice shall be in effect so long as two of the last four consecutive samples exceed the limit of the standard. An additional sample shall be taken within 21 days of the sending of such notice, but not before the lapse of three days. Immediate suspension of such permit in accordance with section 54-73 and/or court action shall be instituted whenever the standard is violated by three of the last five bacterial counts (except those for aseptically processed milk and milk products), coliform determinations, cooling temperatures or somatic cell counts.
- (e) If a phosphatase test is positive, the cause shall be determined. Where the cause is improper pasteurization, it shall be corrected and any milk or milk product involved shall not be offered for sale.
- (f) If an antibiotic or pesticide residue test is positive, an investigation shall be made to determine the cause, and the cause shall be corrected. An additional sample shall be taken and tested for antibiotic or pesticide residues, and no milk shall be offered for sale until it is shown by a subsequent sample to be free of antibiotic or pesticide residues or below the actionable levels established for such residues.
- (g) If a container or containers of aseptically processed milk or milk product is found to be unsterile due to underprocessing, the regulatory agency shall consider this to be an imminent hazard to public health and shall suspend the permit of the milk plant for the sale of aseptically processed milk and milk products. No aseptically processed milk and milk product shall be sold until it can be shown that the processes, equipment and procedures used are suitable for consistent production of a sterile product. All product from the lot that was found to contain one or more unsterile units shall be recalled and disposed of as directed by the regulatory agency.
- (h) Samples shall be analyzed at an official or appropriate officially designated laboratory. All sampling procedures and required laboratory examinations shall be in substantial compliance with the current edition of Standard Methods for the Examination of Dairy Products of the American Public Health Association, and the current edition of Official Methods of Analysis of the Association of Official Analytical Chemists. Such procedures, including the certification of sample collectors and examinations, shall be evaluated in accordance with the Evaluation of Milk Laboratories, 1978 Recommendations of the United States Public Health Service/Food and Drug Administration. Aseptically processed milk and milk products packaged in hermetically sealed containers shall be tested in accordance with Chapter XXI of the Food and Drug Administration's Bacteriological Analytical Manual, fifth edition, 1978. Examinations and tests to detect adulterants, including pesticides, shall be conducted as the regulatory agency requires. Assays of milk and milk products to which vitamin A and/or D have been added, shall be made at least annually in a laboratory acceptable to the regulatory agency.

Sec. 54-77. Animal health.

All milk for pasteurization shall be from herds which are located in a modified accredited tuberculosis area, as determined by the United States Department of Agriculture; provided, herds located in an area that fails to maintain such accredited status shall have been accredited by the department of agriculture

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as tuberculosis free, or shall have passed an annual tuberculosis test. All milk for pasteurization shall be from herds under a brucellosis eradication program which meets one of the following conditions:

- (1) Located in a certified brucellosis-free area as defined by the United States Department of Agriculture and enrolled in the testing program for such areas;
- (2) Meets United States Department of Agriculture requirements for an individually certified brucellosis free herd;
- (3) Participates in a milk ring testing program which is conducted at least three times per year at approximately equal intervals, and all herds with positive milk ring test results shall have the entire herd blood tested within 30 days from the date of the laboratory ring tests; or
- (4) Have an individual blood agglutination test annually with an allowable maximum grace period not exceeding two months.

For diseases other than brucellosis and tuberculosis, the regulatory agency shall require such physical, chemical or bacteriological tests as it deems necessary. The diagnosis of other diseases in dairy cattle shall be based upon the findings of a licensed veterinarian or a veterinarian in the employ of an official agency. Any diseased animal, disclosed by such tests, shall be disposed of as the regulatory agency directs.

Sec. 54-78. Milk and milk products which may be sold.

Only Grade A pasteurized, ultra-pasteurized or aseptically processed milk and milk products, shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores or similar establishments; provided, in an emergency, the sale of pasteurized milk, milk and milk products, which have not been graded, or the grade of which is unknown, may be authorized by the regulatory agency, in which case, such milk and milk products shall be labeled "ungraded."

Sec. 54-79. Transferring; delivery containers; cooling.

- (a) No milk producer, milk hauler or distributor shall transfer milk or milk products from one container or milk tank truck to another on the street, in any vehicle, store or in any place except a milk plant, receiving station, transfer station or milkhouse especially used for that purpose, except as permitted in this section. The dipping or ladling of milk or fluid milk products is prohibited.
- (b) It shall be unlawful to sell or serve any milk or fluid milk product except in the individual, original container received from the distributor, or from an approved bulk dispenser; provided, this requirement shall not apply to milk for mixed drinks requiring less than one-half pint of milk, or to cream, whipped cream or half-and-half which is consumed on the premises and which may be served from the original container of not more than one-half-gallon capacity, or from a bulk dispenser approved for such service by the regulatory agency.
- (c) It shall be unlawful to sell or serve any pasteurized milk or milk product which has not been maintained at the temperature set forth in section 54-106. If containers of pasteurized milk or milk products are stored in ice, the storage container shall be properly drained.

Sec. 54-80. Milk and milk products from points beyond the limits of routine inspection.

Milk and milk products from points beyond the limits of routine inspection of the city, or its police jurisdiction, may be sold in the city, or its police jurisdiction; provided, they are produced and pasteurized, ultra-pasteurized or aseptically processed under regulations which are substantially equivalent to this article and have been awarded an acceptable milk sanitation compliance and enforcement rating made by a state milk sanitation rating officer certified by the Food and Drug Administration.

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Sec. 54-81. Future dairy farms and milk plants.

Properly prepared plans for all milk houses, milking barns, stables and parlors, transfer stations, receiving stations, and milk plants regulated under this article, which are constructed, reconstructed or extensively altered after July 30, 1974, shall be submitted to the regulatory agency for written approval before work is begun.

Sec. 54-82. Personnel health.

No person affected with any disease in a communicable form, or while a carrier of such disease, shall work at any dairy farm or milk plant in any capacity which brings him into contact with the production, handling, storage or transportation of milk, milk products, containers, equipment and utensils. No dairy farm or milk plant operator shall employ in any such capacity any such person, or any person suspected of having any disease in a communicable form, or of being a carrier of such disease. Any producer or distributor of milk or milk products, upon whose dairy farm, or in whose milk plant, any communicable disease occurs, or who suspects any employee has contracted any disease in a communicable form, or has become a carrier of such disease, shall notify the regulatory agency immediately.

Sec. 54-83. Procedure when infection is suspected.

When reasonable cause exists to suspect the possibility of transmission of infection from any person concerned with the handling of milk and/or milk products, the regulatory agency is authorized to require any or all of the following measures:

- (1) The immediate exclusion of such person from milk handling;
- (2) The immediate exclusion of the milk supply concerned from distribution and use; and
- (3) Adequate medical and bacteriological examination of the person, of his associates, and of their body discharges.

Sec. 54-84. Enforcement.

This article shall be enforced by the regulatory agency in accordance with the Grade A Pasteurized Milk Ordinance with Administrative Procedures, 1983 edition, of the United States Public Health Service/Food and Drug Administration, a certified copy of which shall be on file at the city secretary's office.

Sec. 54-85. Penalty.

Any person who shall violate any of the provisions of this article, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$2,000.00, and/or such persons may be enjoined from continuing such violations. Each day upon which such a violation occurs shall constitute a separate violation.

Secs. 54-86—54-105. Reserved.

DIVISION 2. STANDARDS FOR MILK AND MILK PRODUCTS

Subdivision I. - In General

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Subdivision II. - Sanitation Requirements For Grade A Raw Milk For Pasteurization; Ultra-Pasteurization or Aseptic Processing

Subdivision III. - Sanitation Requirements For Grade A Pasteurized, Ultra-Pasteurized and Aseptically Processed Milk and Milk Products

Subdivision I. In General

[Sec. 54-106. Standards.](#)

[Secs. 54-107—54-125. Reserved.](#)

Sec. 54-106. Standards.

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

Appendix G means appendix G to the most current edition of the United States Public Health Service Grade A Pasteurized Milk Ordinance.

(b) All Grade A raw milk for pasteurization, ultra-pasteurization or aseptic processing, and all Grade A pasteurized, ultra-pasteurized or aseptically processed milk and milk products shall be produced, processed and pasteurized, ultra-pasteurized or aseptically processed to conform with the following chemical, bacteriological and temperature standards, and the sanitation requirements of this division. No process or manipulation, other than pasteurization, ultra-pasteurization or aseptic processing, processing methods integral with pasteurization, ultra-pasteurization or aseptic processing, and appropriate refrigeration, shall be applied to milk and milk products for the purpose of removing or deactivating microorganisms; provided, in the bulk shipment of raw cream, skim milk or lowfat milk, the heating of the raw milk to temperatures no greater than 125 degrees Fahrenheit (52 degrees Celsius) for separation purposes is permitted when the resulting bulk shipments of cream, skim milk and lowfat milk are labeled heat-treated.

TABLE 1. CHEMICAL, BACTERIOLOGICAL AND TEMPERATURE STANDARDS

Grade A raw milk for pasteurization, ultra-pasteurization or aseptic processing	
Temperature	Cooled to 45 degrees Fahrenheit (seven degrees Celsius), or less, within two hours after milking; provided, the blend temperature after the first and subsequent milkings does not exceed 50 degrees Fahrenheit (ten degrees Celsius).
Bacterial limits	Individual producer milk not to exceed 100,000 per milliliter prior to commingling with other producer milk. Not to exceed 300,000 per milliliter as commingled milk prior to

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		pasteurization.
	Antibiotics	No zone greater than or equal to 16 millimeters with Bacillus Sterothermophilus disc assay method specified in appendix G.
	Somatic cell count	Individual producer milk, not to exceed 1,500,000 per milliliter.
	Grade A pasteurized milk and milk products	
	Temperature	Cooled to 45 degrees Fahrenheit (seven degrees Celsius) or less and maintained at such temperature.
	Bacterial limits*	20,000 per milliliter.
	Coliform	Not to exceed ten per milliliter; provided, in the case of milk transport tank shipments, shall not exceed 100 per milliliter.
	Phosphatase	Less than one microgram per milliliter by the Scharer Rapid Method or equivalent.
	Antibiotics	No zone greater than or equal to 16 millimeters with the Bacillus Sterothermophilus disc assay method specified in appendix G.
	Grade A aseptically processed milk and milk products	
	Temperature	None
	Bacterial limits	No growth by test specified in section 54-76.
	Antibiotics	No zone greater than or equal to 16 millimeters with the Bacillus Sterothermophilus disc assay method specified in appendix G.

*Not applicable to cultured products.

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Secs. 54-107—54-125. Reserved.

Subdivision II. Sanitation Requirements For Grade A Raw Milk For Pasteurization; Ultra-Pasteurization or Aseptic Processing

[Sec. 54-126. Abnormal milk.](#)

[Sec. 54-127. Milking barn, stable or parlor construction.](#)

[Sec. 54-128. Milking barn, stable or parlor cleanliness.](#)

[Sec. 54-129. Cowyard.](#)

[Sec. 54-130. Milkhouse or rooming construction.](#)

[Sec. 54-131. Milkhouse or room cleanliness.](#)

[Sec. 54-132. Toilet.](#)

[Sec. 54-133. Water supply.](#)

[Sec. 54-134. Utensils and equipment.](#)

[Sec. 54-135. Milking.](#)

[Sec. 54-136. Protection from contamination.](#)

[Sec. 54-137. Personnel.](#)

[Sec. 54-138. Cooling.](#)

[Sec. 54-139. Vehicles.](#)

[Sec. 54-140. Insect and rodent control.](#)

[Secs. 54-141—54-160. Reserved.](#)

Sec. 54-126. Abnormal milk.

Cows which show evidence of the secretion of abnormal milk, in one or more quarters, based upon bacteriological, chemical or physical examination, shall be milked last or with separate equipment and the milk shall be discarded. Cows treated with, or cows which have consumed chemical, medicinal or radioactive agents which are capable of being secreted in the milk and which, in the judgment of the regulatory agency, may be deleterious to human health, shall be milked last or with separate equipment and the milk disposed of as the regulatory agency may direct.

Sec. 54-127. Milking barn, stable or parlor construction.

A milking barn, stable or parlor shall be provided on all dairy farms in which the milking herd shall be housed during milking time operations. The areas used for milking purposes shall:

- (1) Have floors constructed of concrete or equally impervious material;
- (2) Have walls and ceiling which are smooth, painted or finished in an approved manner, in good repair, and the ceiling shall be dusttight;
- (3) Have separate stalls or pens for horses, calves and bulls;
- (4) Be provided with natural and/or artificial light, well distributed, for day and/or night milking;

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- (5) Provide sufficient air space and air circulation to prevent condensation and excessive odors;
- (6) Not be overcrowded; and
- (7) Have dusttight covered boxes or bins, or separate storage facilities for ground, chopped or concentrated feed.

Sec. 54-128. Milking barn, stable or parlor cleanliness.

The interior of a milking barn, stable or parlor shall be kept clean. Floors, walls, ceilings, windows, pipelines and equipment shall be free of filth and/or litter and shall be clean. Swine and fowl shall be kept out of the milking barn.

Sec. 54-129. Cowyard.

The cowyard shall be graded and drained and shall have no standing pools of water or accumulations of organic wastes; provided, in loafing or cattle-housing areas, cow droppings and soiled bedding shall be removed, or clean bedding added, at sufficiently frequent intervals to prevent the soiling of the cow's udders and flanks. Waste feed shall not be allowed to accumulate. Manure packs shall be properly drained and shall provide a reasonably firm footing. Swine shall be kept out of the cowyard.

Sec. 54-130. Milkhouse or rooming construction.

- (a) A milkhouse or room of sufficient size shall be provided, in which the cooling, handling and storing of milk, and the washing, sanitizing and storing of milk containers and utensils shall be conducted, except as provided for in section 54-134(d). There shall be a smooth floor constructed of concrete, or equally impervious material, graded to drain and maintained in good repair. Liquid waste shall be disposed of in a sanitary manner. All floor drains shall be accessible and shall be trapped if connected to a sanitary sewer system. The walls and ceilings shall be constructed of smooth material, in good repair, well painted or finished in an equally suitable manner. There shall be adequate natural and/or artificial light and shall be well ventilated.
- (b) The milkhouse shall be used for no other purpose than milkhouse operations. There shall be no direct opening into any barn, stable or into a room used for domestic purposes; provided, a direct opening between the milkhouse and milking barn, stable or parlor is permitted when a tightfitting, self-closing solid door, hinged to be single or double acting, is provided.
- (c) Water under pressure shall be piped into the milkhouse.
- (d) The milkhouse shall be equipped with a two-compartment wash vat and adequate hot water heating facilities.
- (e) When a transportation tank is used for the cooling and/or storage of milk on the dairy farm, such tank shall be provided with a suitable shelter for the receipt of milk. Such shelter shall be adjacent to, but not a part of, the milkroom and shall comply with the requirements of the milkroom with respect to construction, light, drainage, insect and rodent control and general maintenance.

Sec. 54-131. Milkhouse or room cleanliness.

The floors, walls, ceilings, windows, tables, shelves, cabinets, wash vats, non-product contact surfaces of milk containers, utensils and equipment and other milkroom equipment shall be clean. Only articles directly related to milkroom activities shall be permitted in the milkroom. The milkroom shall be free of trash, animals and fowl.

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Sec. 54-132. Toilet.

Every dairy farm shall be provided with one or more toilets, conveniently located and properly constructed, operated and maintained in a sanitary manner. The waste shall be inaccessible to flies and shall not pollute the soil surface or contaminate any water supply.

Sec. 54-133. Water supply.

Water for milkhouse and milking operations shall be from a supply properly located, protected and operated, and shall be easily accessible, adequate, and of a safe, sanitary quality.

Sec. 54-134. Utensils and equipment.

- (a) *Construction.* All multiuse containers, equipment and utensils used in the handling, storage or transportation of milk, shall be made of smooth, nonabsorbent, corrosion-resistant, nontoxic materials, and shall be so constructed as to be easily cleaned. All containers, utensils and equipment shall be in good repair. All milk pails used for hand milking and stripping shall be seamless and of the hooded type. Multiple-use woven material shall not be used for straining milk. All single-service articles shall be manufactured, packaged, transported and handled in a sanitary manner and shall comply with the applicable requirements of section 54-172. Articles intended for single-service use shall not be reused. Farm holding/cooling tanks, welded sanitary piping and transportation tanks shall comply with the applicable requirements of sections 54-171 and 54-172.
- (b) *Cleaning.* The product-contact surfaces of all multiuse containers, equipment and utensils used in the handling, storage or transportation of milk, shall be cleaned after each use.
- (c) *Sanitization.* The product-contact surfaces of all multiuse containers, equipment and utensils used in the handling, storage or transportation of milk, shall be sanitized before each use.
- (d) *Storage.* All containers, utensils and equipment used in the handling, storage or transportation of milk, unless stored in sanitizing solutions, shall be stored to ensure complete drainage, and shall be protected from contamination prior to use; provided, pipeline milking equipment such as milker claws, inflations, weigh jars, meters, milk hoses, milk receivers and milk pumps, which are designed for mechanical cleaning, may be stored in the milking barn or parlor, provided this equipment is designed, installed and operated to protect the product and solution-contact surfaces from contamination at all times.
- (e) *Handling.* After sanitization, all containers, utensils and equipment, shall be handled in such manner as to prevent contamination of any product-contact surface.

Sec. 54-135. Milking.

- (a) *Flanks, udders and teats.* Milking shall be done in the milking barn, stable or parlor. The flanks, udders, bellies and tails of all milking cows shall be free from visible dirt. All brushing shall be completed prior to milking. The udders and teats of all milking cows shall be cleaned and treated with a sanitizing solution just prior to the time of milking, and shall be relatively dry before milking. Wet hand milking is prohibited.
- (b) *Surcingles, milk stools and antikickers.* Surcingles, milk stools and antikickers shall be kept clean and stored above the floor.

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Sec. 54-136. Protection from contamination.

Milking and milkhouse operations, equipment and facilities shall be located and conducted to prevent any contamination of milk, equipment, containers and utensils. No milk shall be strained, poured, transferred or stored unless it is properly protected from contamination.

Sec. 54-137. Personnel.

- (a) *Hand-washing facilities.* Adequate hand-washing facilities shall be provided, including a lavatory fixture with running water, soap or detergent, and individual sanitary towels, convenient to the milkhouse, milking barn, stable, parlor and flush toilet.
- (b) *Cleanliness.* Hands shall be washed clean and dried with an individual sanitary towel immediately before milking, before performing any milkhouse function, and immediately after the interruption of any of these activities. Milkers and milk haulers shall wear clean outer garments while milking or handling milk, milk containers, utensils or equipment.

Sec. 54-138. Cooling.

Raw milk for pasteurization shall be cooled to 45 degrees Fahrenheit (seven degrees Celsius) or less within two hours after milking; provided, the blend temperature after the first milking and subsequent milkings does not exceed 50 degrees Fahrenheit (ten degrees Celsius).

Sec. 54-139. Vehicles.

Vehicles used to transport milk from the dairy farm to the milk plant or receiving station shall be constructed and operated to protect their contents from sun, freezing and contamination. Such vehicles shall be kept clean, inside and out, and no substance capable of contaminating milk shall be transported with milk.

Sec. 54-140. Insect and rodent control.

Effective measures shall be taken to prevent the contamination of milk, containers, equipment and utensils by insects and rodents, and by chemicals used to control such vermin. Milk rooms shall be free of insects and rodents. Surroundings shall be kept neat, clean and free of conditions which might harbor or be conducive to the breeding of insects and rodents.

Secs. 54-141—54-160. Reserved.

Subdivision III. Sanitation Requirements For Grade A Pasteurized, Ultra-Pasteurized and Aseptically Processed Milk and Milk Products

[Sec. 54-161. Receiving and transfer stations.](#)

[Sec. 54-162. Floors; construction.](#)

[Sec. 54-163. Walls and ceilings; construction.](#)

[Sec. 54-164. Doors and windows.](#)

[Sec. 54-165. Lighting and ventilation.](#)

[Sec. 54-166. Separate rooms.](#)

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[Sec. 54-167. Toilet-sewage disposal facilities.](#)

[Sec. 54-168. Water supply.](#)

[Sec. 54-169. Hand-washing facilities.](#)

[Sec. 54-170. Milk plant cleanliness.](#)

[Sec. 54-171. Sanitary piping.](#)

[Sec. 54-172. Construction and repair of containers and equipment.](#)

[Sec. 54-173. Cleaning and sanitizing of containers and equipment.](#)

[Sec. 54-174. Storage of cleaned containers and equipment.](#)

[Sec. 54-175. Storage of single-service containers, utensils and materials.](#)

[Sec. 54-176. Protection from contamination.](#)

[Sec. 54-177. Pasteurization; aseptic processing.](#)

[Sec. 54-178. Cooling of milk.](#)

[Sec. 54-179. Bottling and packaging.](#)

[Sec. 54-180. Capping.](#)

[Sec. 54-181. Personnel; cleanliness.](#)

[Sec. 54-182. Vehicles.](#)

[Sec. 54-183. Surroundings.](#)

[Secs. 54-184—54-201. Reserved.](#)

Sec. 54-161. Receiving and transfer stations.

- (a) A receiving station shall comply with sections 54-162—54-176 and sections 54-178, 54-181 and 54-183, except that the partitioning requirement of section 54-166 shall not apply.
- (b) A transfer station shall comply with sections 54-162, 54-165, 54-167—54-173, 54-175, 54-176, 54-181 and 54-183; and as climatic and operating conditions require, the applicable provisions of sections 54-163 and 54-164; provided, in every case, overhead protection shall be provided. Facilities for the cleaning and sanitizing of milk tank trucks shall comply with sections 54-162, 54-165, 54-167—54-173, 54-175, 54-176, 54-181 and 54-183; and as climatic and operating conditions require, the applicable provisions of sections 54-163 and 54-164; provided, in every case, overhead protection shall be provided.

Sec. 54-162. Floors; construction.

The floors of all rooms in which milk or milk products are processed, handled or stored, or in which milk containers, equipment and utensils are washed, shall be constructed of concrete or other equally impervious and easily cleaned material; and shall be smooth, properly sloped, provided with trapped drains, and kept in good repair. Cold-storage rooms used for storing milk and milk products need not be provided with floor drains when the floors are sloped to drain to one or more exits; provided, storage rooms for storing dry ingredients and/or packaging materials need not be provided with drains. Floors may be constructed of tightly joined wood.

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Sec. 54-163. Walls and ceilings; construction.

Walls and ceilings of rooms in which milk or milk products are handled, processed or stored, or in which milk containers, utensils and equipment are washed, shall have a smooth, washable, light colored surface, in good repair.

Sec. 54-164. Doors and windows.

Effective means shall be provided to prevent the access of flies and rodents. All openings to the outside shall have solid doors or glazed windows which shall be closed during dusty weather.

Sec. 54-165. Lighting and ventilation.

All rooms in which milk or milk products are handled, processed or stored and/or in which milk containers, equipment and utensils are washed, shall be well lighted and well ventilated.

Sec. 54-166. Separate rooms.

(a) There shall be separate rooms for:

- (1) The pasteurizing, processing, cooling and packaging of milk and milk products.
- (2) The cleaning of milk cans, bottles and cases.
- (3) Cleaning and sanitizing facilities for milk tank trucks in plants receiving milk in such tanks.
- (4) Receiving cans of milk and milk products in plants receiving such cans.

(b) Rooms in which milk or milk products are handled, processed or stored, or in which milk containers, utensils and equipment are washed or stored, shall not open directly into any stable or any room for domestic purposes. All rooms shall be of sufficient size for their intended purposes.

Sec. 54-167. Toilet-sewage disposal facilities.

Every milk plant shall be provided with toilet facilities conforming with the ordinances of the city. Toilet rooms shall not open directly into any room in which milk and/or milk products are processed. Toilet rooms shall be completely enclosed and shall have tightfitting, self-closing doors. Dressing rooms, toilet rooms and fixtures shall be kept in a clean condition, in good repair, and shall be well ventilated and well lighted. Sewage and other liquid wastes shall be disposed of in a sanitary manner.

Sec. 54-168. Water supply.

Water for milk plant purposes shall be from a supply properly located, protected and operated and shall be easily accessible, adequate and of a safe, sanitary quality.

Sec. 54-169. Hand-washing facilities.

Convenient hand-washing facilities shall be provided, including hot and cold and/or warm running water, soap and individual sanitary towels or other approved hand-drying devices. Hand-washing facilities shall be kept in a clean condition and in good repair.

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Sec. 54-170. Milk plant cleanliness.

All rooms in which milk and milk products are handled, processed or stored, and/or in which containers, utensils or equipment are washed or stored, shall be kept clean, neat and free of evidence of insects and rodents. Only equipment directly related to processing operations or to handling of containers, utensils and equipment shall be permitted in the pasteurizing, processing, cooling, packaging and bulk milk storage rooms.

Sec. 54-171. Sanitary piping.

All sanitary piping, fittings and connections which are exposed to milk or milk products, or from which liquids may drip, drain or be drawn into milk or milk products, shall consist of smooth, impervious, corrosion-resistant, nontoxic, easily cleanable material. All piping shall be in good repair. Pasteurized milk and milk products shall be conducted from one piece of equipment to another only through sanitary piping.

Sec. 54-172. Construction and repair of containers and equipment.

All multiuse containers and equipment with which milk or milk products come into contact, shall be of smooth, impervious, corrosion-resistant, nontoxic material; shall be constructed for ease of cleaning; and shall be kept in good repair. All single-service containers, closures, gaskets and other articles with which milk or milk products come in contact, shall be nontoxic, and shall have been manufactured, packaged, transported and handled in a sanitary manner. Articles intended for single-service use shall not be reused.

Sec. 54-173. Cleaning and sanitizing of containers and equipment.

The product-contact surfaces of all multiuse containers, utensils and equipment used in the transportation, processing, handling and storage of milk or milk products, shall be effectively cleaned and shall be sanitized before each use; provided, piping, equipment and containers used to process, conduct or package aseptically processed milk and milk products beyond the final heat treatment process, shall be sterilized before any aseptically processed milk or milk product is packaged, and shall be resterilized whenever any unsterile product has contaminated it.

Sec. 54-174. Storage of cleaned containers and equipment.

After cleaning, all multiuse milk or milk product containers, utensils and equipment, shall be transported and stored to assure complete drainage, and shall be protected from contamination before use.

Sec. 54-175. Storage of single-service containers, utensils and materials.

Single-service caps, cap stock, parchment paper, containers, gaskets and other single-service articles for use in contact with milk and milk products, shall be purchased and stored in sanitary tubes, wrappings or cartons; shall be kept in a clean, dry place until used; and shall be handled in a sanitary manner.

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Sec. 54-176. Protection from contamination.

Milk plant operations, equipment and facilities shall be located and conducted to prevent any contamination of milk or milk products, ingredients, equipment, containers and utensils. All milk or milk products or ingredients which have been spilled, overflowed or leaked shall be discarded. The processing or handling of products other than milk or milk products in the pasteurization plant shall be performed to preclude the contamination of such milk and milk products. The storage, handling and use of poisonous or toxic materials shall be performed to preclude the contamination of milk and milk products, or ingredients of such milk and milk products, or the product-contact surfaces of all equipment, containers or utensils.

Sec. 54-177. Pasteurization; aseptic processing.

Pasteurization shall be performed as defined in section 54-71. Aseptic processing shall be performed in accordance with 21 CFR 113 and 21 CFR 108.

Sec. 54-178. Cooling of milk.

All raw milk and milk products shall be maintained at 45 degrees Fahrenheit (seven degrees Celsius) or less until processed. All pasteurized milk and milk products, except those to be cultured, shall be cooled immediately prior to filling or packaging in approved equipment to a temperature of 45 degrees Fahrenheit (seven degrees Celsius) or less. All pasteurized milk and milk products shall be stored at a temperature of 45 degrees Fahrenheit (seven degrees Celsius) or less. On delivery vehicles, the temperature of milk and milk products shall not exceed 50 degrees Fahrenheit (ten degrees Celsius). Every room or tank in which milk or milk products are stored shall be equipped with an accurate thermometer; provided, aseptically processed milk and milk products to be packaged in hermetically sealed containers shall be exempt from the cooling requirements of this section.

Sec. 54-179. Bottling and packaging.

Bottling and packaging of milk and milk products shall be done at the place of pasteurization in approved mechanical equipment.

Sec. 54-180. Capping.

Capping or closing of milk and milk product containers shall be done in a sanitary manner by approved mechanical capping and/or closing equipment. The cap or closure shall be designed and applied in such a manner that the pouring lip is protected to at least its largest diameter and, with regard to fluid product containers, removal cannot be made without detection.

Sec. 54-181. Personnel; cleanliness.

Hands shall be thoroughly washed before commencing plant functions and as often as may be required to remove soil and contamination. No employee shall resume work after visiting the toilet room without thoroughly washing his hands. All persons, while engaged in the processing, pasteurization, handling, storage or transportation of milk, milk products, containers, equipment and utensils shall wear clean outer garments. All persons, while engaged in the processing of milk or milk products, shall wear adequate hair coverings and shall not use tobacco.

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Sec. 54-182. Vehicles.

All vehicles used for transportation of pasteurized milk and milk products shall be constructed and operated so that the milk and milk products are maintained at 45 degrees Fahrenheit (seven degrees Celsius) or less, and are protected from sun, freezing and contamination.

Sec. 54-183. Surroundings.

Milk plant surroundings shall be kept neat, clean and free from conditions which might attract or harbor flies, other insects and rodents, or which otherwise constitute a nuisance.

Secs. 54-184—54-201. Reserved.

ARTICLE IV. OFFENSIVE CONDITIONS ON PROPERTY [\[2\]](#)

DIVISION 1. - HIGH WEEDS AND GRASS

DIVISION 2. - NUISANCES

FOOTNOTE(S):

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Editor's note— Ord. No. 2009-07-01, adopted Aug. 4, 2009, deleted the former Art. IV, §§ 54-201—54-207 and enacted a new Art. IV as set out herein. The former Art. IV pertained to offensive conditions on property and derived from Code 1978, §§ 18-21—18-27; Ord. No. 2005-4-12, adopted Apr. 19, 2005. [\(Back\)](#)

State Law reference— Authority to prohibit conditions described in this article, V.T.C.A., Health and Safety Code ch. 342. [\(Back\)](#)

DIVISION 1. HIGH WEEDS AND GRASS

[Sec. 54-202. Prohibited generally.](#)

[Sec. 54-203. High weeds and grass prohibited.](#)

[Sec. 54-204. Abatement of high weeds or grass.](#)

[Sec. 54-205. Abatement of weeds or grass in excess of 48 inches.](#)

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[Sec. 54-208. Prosecution for violations.](#)

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Sec. 54-202. Prohibited generally.

It shall be unlawful for any owner of real property within the corporate limits of the city to fail to keep such real property free of any unsightly, unwholesome, unsanitary or dangerous condition, including, but not limited to, the failure of such owner to remove, or cause to be removed from such property, all debris, brush, weeds, garbage not in regulation containers, carrion, rubbish, filth or any other impure, unwholesome, unsightly or unsanitary matter of any nature.

(Ord. No. 2009-07-01, Exh. A, 8-4-09)

Sec. 54-203. High weeds and grass prohibited.

- (a) Any property upon which weeds or grass exceed an average of 12 inches in height, is hereby declared to be a nuisance.
- (b) A person commits an offense if the person owns, occupies, or controls any real property upon which weeds or grass exceed an average of 12 inches in height.
- (c) A person commits an offense if the person owns, occupies, or controls any real property and fails to maintain the parkway adjacent to the property free of weeds and grass that exceed an average of 12 inches in height.
- (d) In a prosecution or other enforcement action of subsections (a) or (b) above, it is an exception that the real property was a lot, tract, or parcel of land of two or more acres under common ownership and the high grass or weeds was no closer than 100 feet to:
 - (1) Any adjacent street; or
 - (2) Any structure or other improvement on any adjacent property owned by another person.
- (e) The provisions of this section apply to real property located within the city.

(Ord. No. 2009-07-01, Exh. A, 8-4-09)

Sec. 54-204. Abatement of high weeds or grass.

- (a) The chief of police, or his duly appointed agent, is hereby authorized to give notice to the owner of any property upon which high grass and weeds exist to abate the nuisance.
- (b) If the owner of the property does not comply with an abatement notice issued by the city within ten days after the date the notice is received, the city may:
 - (1) Enter the property and do or cause to be done the work required to abate the nuisance; and
 - (2) Pay for the work done and charge the expenses to the owner of the property.
- (c) The notice must be given:
 - (1) Personally to the owner in writing;
 - (2) By letter addressed the owner at the owner's post office address; or
 - (3) If personal service cannot be obtained or the owner's post office address is unknown:
 - a. By publication at least twice within ten consecutive days;
 - b. By posting the notice on or near the front door of each building on the property to which the violation relates; or

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- c. By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings.
- (d) Notice will be deemed to have been received:
 - (1) For personal service, as of the date the notice was given personally to the owner;
 - (2) For mailed notice, three days after it was mailed;
 - (3) For notice by publication, on the date that the last notice was published in the official newspaper; or
 - (4) For notice by posting, ten days after notice was posted.
- (e) The city in the notice of a violation may inform the owner by certified mail, return receipt requested, that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the city without further notice may correct the violation at the owner's expense and assess the expense against the property.
- (f) If a violation covered by a notice under subsection (e) occurs within the one-year period, and the city has not been informed in writing by the owner of an ownership change, then the city without notice may take any action permitted by subsections (a)(1) and (2) and assess its expenses as provided by section 54-205.

(Ord. No. 2009-07-01, Exh. A, 8-4-09)

Cross reference— Notice requiring correction, V.T.C.A., Health and Safety Code § 342.006.

Sec. 54-205. Abatement of weeds or grass in excess of 48 inches.

- (a) The city may abate, without notice, weeds or grass that:
 - (1) Have grown higher than 48 inches; and
 - (2) Are an immediate danger to the health, life, or safety of any person.
- (b) Not later than the tenth day after the date the director abates weeds or grass under this section, the director shall give notice to the property owner in the manner required by section 54-204.
- (c) This notice shall contain:
 - (1) An identification, which is not required to be a legal description, of the property;
 - (2) A description of the violations that occurred on the property;
 - (3) A statement that the city abated the weeds or grass; and
 - (4) An explanation of the property owner's right to request an administrative hearing about the city's abatement of weeds or grass.
- (d) The city shall conduct an administrative hearing on the abatement of weeds or grass under this section if, not later than the 30th day after the date of the abatement of the weeds, the property owner files with the city a written request for a hearing.
- (e) A hearing conducted under this section shall be conducted not later than the 20th day after the date a request for a hearing is filed. The owner may testify or present any witnesses or written information relating to the city's abatement of the weeds.
- (f) The city may assess expenses and create liens under this section in accordance with section 54-205.

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(Ord. No. 2009-07-01, Exh. A, 8-4-09)

Sec. 54-206. Hazards to health, safety and welfare.

It shall be unlawful for any owner of real property within the city to fail to keep such property free of sink holes, stagnant water, any unauthorized outdoor privies, dilapidated buildings, wrecked automobiles or free from any other dangerous, unsightly, unsanitary or unwholesome condition, matter or instrumentality, or to fail to keep such property clear of any condition liable to produce or communicate disease or likely to constitute a hazard to the health, safety or welfare of the inhabitants of the city.

(Ord. No. 2009-07-01, Exh. A, 8-4-09)

Sec. 54-207. Lien for expenses.

On filing with the county clerk a statement by the mayor or duly authorized agent, of the amount of such expenses. The city shall then have a privileged lien on such lot or real estate upon which the work was done or improvements made to secure the expenditures so made in accordance with the provisions of the Revised Civil Statutes of Texas, article 4436, which lien shall be second only to tax liens and liens for street improvements, to secure the expenditure so made; and from the date of such filing by the mayor or authorized agent, the expenditure so made by the city shall draw interest at the rate of ten percent per annum from the date of payment by the city until paid.

(Ord. No. 2009-07-01, Exh. A, 8-4-09)

State Law reference— Lien for expenses, V.T.C.A. Health and Safety Code § 342.007.

Sec. 54-208. Prosecution for violations.

In addition to all other penalties for violation of this chapter, such owner so violating this article, may be punished as provided by section 1-11 for each day such violation continues after such owner has received personal written notice or citation as described in this article that such condition exists and such owner fails to remedy, correct or abate such condition on such property within such ten-day period thereafter.

(Ord. No. 2009-07-01, Exh. A, 8-4-09)

State Law reference— Authority to punish for violations, V.T.C.A., Health and Safety Code § 342.005.

DIVISION 2. NUISANCES

[Sec. 54-209. Purpose.](#)

[Sec. 54-210. Miscellaneous sanitation nuisances.](#)

[Sec. 54-211. Storage of discarded, used, and broken items.](#)

[Sec. 54-212. Accumulation of carrion, filth, trash, rubbish or other unwholesome matter.](#)

[Sec. 54-213. Duty to maintain property free from litter.](#)

[Sec. 54-214. Nuisance abatement order.](#)

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[Secs. 54-215—54-240. Reserved.](#)

Sec. 54-209. Purpose.

The purpose of this subdivision is to define as nuisances within the City of Alpine, certain conditions which are detrimental to the health and safety of persons or property or which are detrimental to the senses. The conditions made unlawful by this subdivision are hereby declared to be nuisances.

(Ord. No. 2009-07-01, Exh. A, 8-4-09)

Sec. 54-210. Miscellaneous sanitation nuisances.

- (a) A person commits an offense if the person owns or is in control of property that contains a pond, pool, or container holding unwholesome, impure, or offensive water that creates an unreasonable and noxious odor in a public place or that is detrimental to the health of humans.
- (b) A person commits an offense if the person owns or is in control of property which contains any drain, ditch, tank or gutter that is maintained in such a manner that creates an unreasonable and noxious odor in a public place or that is detrimental to the health of humans.
- (c) A person commits an offense if the person owns or is in control of property which has an overflowing septic tank or has sewage leaking from any pipes onto the premises.
- (d) A person commits an offense if the person owns or is in control of property that contains a condition or place that is a breeding ground for rats.
- (e) A person commits an offense if the person owns or is in control of property that contains a collection of water that is a breeding place for mosquitoes.
- (f) A person commits an offense if the person owns or is in control of property that contains a condition or place that is a breeding ground for flies or cockroaches.
- (g) A person commits an offense if the person owns or is in control of a place where sleeping accommodations are offered to the public where ectoparasites suspected to be disease carriers are present.
- (h) A person commits an offense if the person operates or causes the operation of a vehicle or container used to transport garbage, human excreta, or other organic material, when such vehicle or container allows the leaking or spillage of its contents.
- (i) A person commits an offense if the person owns or is in control of property and accumulates or allows the accumulation of garbage on the property in a manner that creates an unreasonable and noxious odor in a public place, that provides a breeding ground or harborage for vectors, or that is detrimental to the health of humans.
- (j) A person commits an offense if the person owns or is in control of property and accumulates or allows the accumulation of any solid waste or recyclables upon the property except in solid waste containers of a type approved by the director of department of environmental management.
- (k) A person commits an offense if the person owns or is in control of property and accumulates or allows the accumulation of solid waste or recyclables upon the property in any leaking or unsecured solid waste containers.

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- (l) A person commits an offense if the person owns or is in control of property and accumulates or allows the accumulation of solid waste or recyclables upon the property, even in approved containers, for a period in excess of one week.
- (m) A person commits an offense if the person owns or is in control of property and accumulates or allows the accumulation of materials in a composting pile or bin on such property in a manner that:
 - (1) Breeds or allows the harborage of vectors; or
 - (2) Creates an unreasonable and noxious odor in a public place.
- (n) A person commits an offense if the person owns or is in control of property and accumulates or allows the accumulation of recyclables on such property in a manner that:
 - (1) Breeds or allows the harborage of vectors; or
 - (2) Creates an unreasonable and noxious odor in a public place.
- (o) In a prosecution of subsections (j), (k), or (l), it is an exception that the property was a solid waste facility regulated by the state natural resource conservation commission or was a recycling facility.

(Ord. No. 2009-07-01, Exh. A, 8-4-09)

Sec. 54-211. Storage of discarded, used, and broken items.

- (a) A person commits an offense if the person accumulates or allows the accumulation on any property of any:
 - (1) Broken, inoperable, or discarded household furnishings, appliances, machines, tools, boxes and cartons, lawn maintenance equipment, play equipment, toys, and similar items;
 - (2) Used or discarded building materials;
 - (3) Materials or items stored on rooftops or porches of buildings when visible from the public right-of-way or neighboring property;
 - (4) Factory or mill wastes;
 - (5) Damaged merchandise;
 - (6) Wet, broken, or leaking barrels, casks, or boxes;
 - (7) Used, discarded, or broken automotive parts or equipment; or
 - (8) Any other materials which tend by decay to become putrid or to provide harborage for rodents and other vectors.
- (b) It is defense to prosecution of subsection (a) that the person was engaged in the business of dealing in junk, and was in compliance with the comprehensive zoning ordinance and all other applicable provisions of this Code relating to junk dealers.

(Ord. No. 2009-07-01, Exh. A, 8-4-09)

Sec. 54-212. Accumulation of carrion, filth, trash, rubbish or other unwholesome matter.

- (a) It shall be unlawful for any person who shall own or occupy any house, buildings, establishment, lot or yard in the city, to permit or allow any carrion, filth, trash, rubbish or other impure or unwholesome matter to accumulate or remain thereon.

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- (b) The term "rubbish" as that term is used in this article, shall include, but not be limited to, the debris left upon properties after any building or other structure on such properties have been:
 - (1) Destroyed by fire or other calamity and the same not restored to its original or better condition or removed from the property within 90 days from the date of such destruction;
 - (2) Intentionally wrecked or demolished by the owner;
 - (3) Moved from such property to another location; and/or
 - (4) Vacated by prior owner or tenant.

(Ord. No. 2009-07-01, Exh. A, 8-4-09)

Sec. 54-213. Duty to maintain property free from litter.

- (a) An owner, occupant, or person in control of private property commits an offense if he or she fails to maintain the property free of litter, unless the litter has been deposited in a trash receptacle that securely contains the litter.
- (b) Construction sites within the city and sidewalks, streets, alleys and public or private properties in the vicinity of the construction sites shall be maintained free of construction trash, litter, and debris that is not securely contained.
 - (1) Any applicant for a permit for new residential construction issued by the city shall identify the owner, occupant, or person in control of the property on the permit, by name, driver's license number, and date of birth, who is responsible for maintaining the construction site in a manner that securely contains all construction trash, litter, and debris until a final inspection is delivered or the permit expires.
 - (2) A person or owner commits an offense under this section when the individual identified on a permit under subsection (b)(1) fails to maintain the construction site in such a manner as described in this section.

(Ord. No. 2009-07-01, Exh. A, 8-4-09)

Sec. 54-214. Nuisance abatement order.

The city is hereby authorized to give notice to the owner of any property upon which a nuisance under this division exists to abate the nuisance in accordance to the process described in sections 54-204 through 54-206.

(Ord. No. 2009-07-01, Exh. A, 8-4-09)

Secs. 54-215—54-240. Reserved.

ARTICLE V. HERBICIDES; PESTICIDES

[Sec. 54-241. V.T.C.A., Agriculture Code ch. 76 adopted.](#)

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Sec. 54-241. V.T.C.A., Agriculture Code ch. 76 adopted.

- (a) The city council does hereby adopt V.T.C.A., Agriculture Code ch. 76, to the extent that it may, as a governmental entity, be of such assistance to the state department of agriculture in the receiving and transmission of complaints, investigating, under the state department of agriculture's supervision and/or at its request, such matters within the city that the state department of agriculture may deem helpful and/or necessary in its investigation and enforcement of possible violations of these regulations that may occur within the city limits of the City of Alpine, Brewster County, Texas.
- (b) By adopting V.T.C.A., Agriculture Code ch. 76, the city does hereby, as a political subdivision of the state, being a Texas Municipal Corporation chartered under the General Laws of the State of Texas and thereby being a governmental entity of the State of Texas, accept the role as local auxiliary investigative, complaint receiving and transmitting governmental entity, under the direction and supervision of the state department of agriculture, and at its request, or at the request of any of its duly authorized investigative agents who may make such requests for any aid or assistance of the city that are within the scope of the city's authority to give, grant or accomplish, in full cooperation with the state department of agriculture in its enforcement efforts of the regulatory laws concerning the use, sale, storage, transportation and application of herbicides and/or pesticides within the city limits, all as set out in V.T.C.A., Agriculture Code ch. 76, that are here adopted to the full extent of their applicability to the city.

(Code 1978, § 14-51)