CHAPTER VI

PUBLIC HEALTH

Section 600 - Garbage and Refuse

600.01. Definitions. Subdivision 1. For purposes of this section the terms defined in this subsection have the meanings given them.

Subd. 2. "Garbage" means organic refuse resulting from the preparation of food, and decayed and spoiled food from any source.

Subd. 3. "Rubbish" means all inorganic refuse matter such as tin cans, glass, paper, ashes, sweepings, etc.

600.03. Deposit of garbage and refuse restricted. It is unlawful for any person to throw, scatter upon, or deposit, or cause or permit to be thrown, scattered upon or deposited any garbage, rubbish, trash, refuse, waste material, decaying or offensive matter or like substance upon any street, public highway or upon any land not designated as a public sanitary landfill in the city provided that any lawful occupant of land may place such matter thereon for reasonable periods of time so long as the same constitutes neither a fire hazard nor a public nuisance.

600.05. Disposal of garbage. It is unlawful for a person to fail to dispose of garbage and rubbish which may be or may accumulate upon property owned or occupied by that person or persons in a sanitary manner at least as often as provided in subsection 600.15. Every person, firm or corporation who shall fail or refuse to make provision for and secure such disposal shall be guilty of a misdemeanor. Persons desiring to make use of the services of the licensed garbage and rubbish collectors may do so by notifying such collector and paying the fees charged.

Section 605 - Garbage, Refuse and Landspreading Yard Wastes

605.01. Definitions. For the purposes of this section, the following terms shall have the meanings given to them.

(a) "Landspreading" means the application and incorporation of yard waste on land used for agriculture for the purpose of improving the fertility of the soil or reducing soil erosion. This material cannot be used for fill material.

(b) "Yard waste" means leaves, grass clippings and herbaceous plant materials but does not include brush, tree trimmings or other woody plant materials.

(c) "Incorporation" means plowing, disking, chisel plowing, etc. waste into the soil to a depth sufficient to prevent blowing of yard waste.

(d) "Active land management" means conducting a program of soil testing and introduction of additives when needed to correct pH or other soil imbalances. (Revised Ord. No. 90-01, 4/90)

605.03. Landspreading of yard waste shall be permitted only in agriculturally zoned property of at least 40 acres in size under the following conditions:

(a) Yard waste shall be received at the application site in bulk form and not in plastic or other bags.

(b) Yard waste may be applied annually at a rate not to exceed three inches in depth or such lesser amount as may be necessary to allow complete incorporation.

(c) Yard waste may not be stored within 300 feet, nor spread within 100 feet, of any residential building, except the dwelling owned or occupied by the landowner.

(d) No yard waste may be stored within 300 feet, nor spread within 100 feet, of any body of water or any area designated as class "A" on floodplain maps prepared by the federal emergency management agency.

(e) Yard waste must be spread and incorporated during the same year received. Yard waste received between November 15 and April 1 of the following year may be stored for use in the spring but must be spread and incorporated by June 1.

(f) The landspreading site must be located on a paved road if yard waste is delivered in vehicles having a gross weight of nine tons per axle or greater.

(g) Yard waste shall not contain extraneous materials, including animal wastes or municipal solid waste.

(h) The landspreading operation, including delivery, storage, spreading and incorporation, shall not generate off-site nuisances of a greater amount or different type than is typically associated with farming. Such off-site nuisances include, but are not limited to, dust, odor and wind blown debris or yard waste. The operation shall be free of litter and vermin.

(i) Landspreading shall be accomplished in accordance with the regulations and requirements of all other agencies, organizations or entities having jurisdiction over such activity.

(j) Landspreading operations shall be suspended or terminated if at any time it is deemed that conditions exist constituting a fire hazard or if there is a threat to surface or ground water from runoff or leachate.

(k) Landspreading shall be accompanied by a program of active land management designed to enhance fertility and reduce soil erosion.

(l) Yard waste shall not be spread over land having a slope of 10% or greater.

(m) Licenses and fees, in accordance with section 1005 (licensing procedures) fees established by council resolution.

(n) Each property owner will be limited to contracting with one hauler at a maximum of 1,000 cubic yard. (Rev. Ord. No. 90-01, 4/90)

Section 610 - Premises Conducive to High-Risk Sexual Conduct
(Added, Ord. 97-03, Sec. 2)

610.01. Findings and purpose conduct. The city council of the city of Independence makes the following findings regarding the need to regulate commercial premises, buildings, and structures that are conducive to the spread of communicable disease of danger to persons in order to further the substantial interest of public health:

(a) The experience of other cities establishes that certain commercial premises, buildings, and structures, or parts thereof, by reason of the design and use of such premises, buildings, or structures are conducive to the spread of communicable disease of danger to persons frequenting such premises, buildings, or structures, as well as to the general public, and that the risk of spreading infectious and contagious diseases can be minimized by regulating such commercial premises, buildings, and structures.

(b) The experience of other cities where such commercial premises, buildings, and structures are present indicates that the risk of spreading the sexually transmittable disease of acquired immune deficiency syndrome (AIDS) is increased by the presence of such premises, buildings, and structures, because the design or use of such premises, buildings, and structures, or parts thereof can facilitate high-risk sexual conduct.

(c) Medical publications of the center for disease control of the United States Department of Health and Human Services indicate that the sexually transmittable disease of AIDS is currently irreversible and uniformly fatal. Medical research has further established that the risk factors for obtaining or spreading AIDS are associated with high risk sexual conduct.

(d) Certain commercial premises, buildings, and structures, or parts thereof, by reason of their design and use, are conducive to high-risk sexual conduct and hence the spread of communicable disease, and that the risk of spreading infectious and contagious diseases can be minimized by regulating these commercial premises, buildings, and structures.

(e) The public health, safety, morals and general welfare will be promoted by the city adopting regulations governing commercial premises, buildings, and structures conduce to high-risk sexual conduct.

(f) The purpose of these regulations is to prescribe regulations governing commercial premises, buildings, and structures that are conducive, by virtue of design and use, to high-risk sexual conduct which can result in the spread of sexually transmitted diseases to persons frequenting such premises, buildings, and structures.

610.03. Definitions. For purposes of this section, the following terms have the meanings given them.

(a) "Booths, stalls, or partitioned portions of a room or individual room" means (i) enclosures specifically offered to persons for a fee or as an incident to performing high-risk sexual conduct, or (ii) enclosures which are part of a business operated on the premises which offers movies or other entertainment to be viewed within the enclosure, including enclosures wherein movies or other entertainment is dispensed for a fee, but does not include enclosures that are private offices used by the owners, managers or persons employed by the premises for attending to the tasks of their employment, and which are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing movies or other entertainment for a fee, and are not open to any persons other than employees.

(b) "Doors, curtains or portal partitions" means full, complete, non-transparent closure devices through which one cannot see or view activity taking place within the enclosure.

(c) "Hazardous site" means any commercial premises, building or structure, or any part thereof, which is a site of high-risk sexual conduct as defined herein.

(d) "High-risk sexual conduct" means (i) fellatio; (ii) anal intercourse; or (iii) vaginal intercourse with persons who engage in sexual acts in exchange for money.

(e) "Open to an adjacent public room so that the area inside is visible to persons in the adjacent public room" means either the absence of any entire "door, curtain or portal partition" or a door or other device which is made of clear, transparent material such as glass, plexiglass or other similar material meeting building code and safety standards, which permits the activity inside the enclosure to be entirely viewed or seen by persons outside the enclosure.

(f) "Public health official" means an agent or employee of the city, county, or state charged with the enforcement of the state or local health laws.

610.05. Public health regulations.

(a) A commercial building, structure, premises or part thereof, or facilities therein may not be constructed, used, designed or operated in the city for the purpose of engaging in, or permitting persons to engage in, sexual activities which include high-risk sexual conduct.

(b) It is unlawful to own, operate, manage, rent, lease, or exercise control of a commercial building, structure, premises, or portion or part thereof in the city, that contains:

(1) Partitions between subdivisions of a room, portion or part of a building, structure or premises having an aperture which is designed or constructed to facilitate sexual activity, including but not limited to vaginal intercourse. anal intercourse, or fellatio, between persons on either side of the partition.

(2) "Booths, stalls, or partitioned portions of a room or individual room" as defined herein which have "doors, curtains or portal partitions" as defined herein unless the booths, stalls or partitioned portions of a room or individual room have at least one side open to an adjacent public room so that the area inside is visible to persons in the adjacent public room as defined herein. Booths, stalls or partitioned portions of a room or individual room that are so open to an adjacent public room must be lighted in a manner that the persons in the area used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms, but such lighting need not be of such intensity as to prevent the viewing of the motion pictures or other offered entertainment.

610.07. Exceptions. The regulations set forth in this section do not apply to premises, buildings, or structures that are lawfully operating and licensed as hotels, motels, apartment complexes, condominiums, townhomes, or boarding houses which are subject to other general health and sanitation requirements under state and local law.

610.09. Health enforcement powers.

(a) In exercising powers conferred by this or any other section of this code relating to communicable diseases, the public health official is to be guided by the most recent instructions, opinions and guidelines of the center for disease control of the United States Department of Health and Human Services that relate to the spread of infectious diseases.

(b) In order to ascertain the source of infection and reduce its spread, the public health official, and persons under the public health official's direction and control, may inspect or cause to be inspected, and to issue orders regarding any commercial building, structure or premises, or any part thereof, that may be a site of high-risk sexual conduct. If the public health official determines that a hazardous site as defined herein exists, the public health official will declare it to be a public health hazard and public health nuisance and will:

(1) Notify the manager, owner, or tenant of the hazardous site that the public health official has reasonable belief that the premises, building or structure is a hazardous site as defined herein,

(2) Issue two written warnings at least ten days apart to the manager, owner, or tenant of the premises stating the specific reasons for the public health official's opinion that the premises, building, or structure is a hazardous site as defined herein,

(3) Once such notices and warnings have been issued, the public health official must proceed as follows:

(i) After the manager, owner or tenant of the premises has been notified in writing as to the basis of the public health official's determination, the manager, owner or tenant will have ten days from the date of the last warning to request a hearing before the public health official or the public health official's appointee for the determination as to the existence of such hazardous site. If the manager, owner or tenant of the premises does not request a hearing within ten days of the date of the last warning notice, the public health official will then cause the premises to be posted with a warning advising the public that the premises have been declared a hazardous site and the public health official will cause orders to be issued to the manager, owner or tenant of the premises constituting the hazardous site to take specified corrective measures to prevent high-risk sexual conduct from taking place within the premises.

(ii) If the manager, owner, or tenant of the premises requests a hearing, the hearing will be held before the public health official or the public health official's appointee at a date not more than 30 days after demand for a hearing. After considering all evidence, the public health official or the public health official's appointee will make a determination as to whether the premises constitute a hazardous site, as defined herein and issue a decision based upon all hearing evidence presented. If the public health official or the public health official's appointee makes a determination that the premises constitute a hazardous site, the public health official will then issue orders to the manager, owner, or tenant of the premises to take corrective measures to prevent high-risk sexual conduct from taking place within the premises and cause the premises to be posted with a warning, advising the public that the premises have been declared a hazardous site.

(iii) If, within 30 days after issuance of the orders to the manager, owner, or tenant of the hazardous site, the public health official determines that such corrective measures have not been undertaken, the public health official may order the abatement of the hazardous site as a public nuisance, which may be enforced by mandatory or prohibitory injunction in a court of competent jurisdiction; or, may secure a court order for the closure of the premises constituting the hazardous site until the premises, building, or structure is in compliance with all provisions of this code.

610.11. Criminal penalties. A person violating any provision of this section or any person who removes, destroys or defaces warnings posted on premises by the public health official pursuant to this chapter shall be guilty of a misdemeanor.