

## Chapter 46 - FIRE PREVENTION AND PROTECTION<sup>[1]</sup>

**Footnotes:**

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*Cross reference—Buildings and building regulations, ch. 18; smoke detectors, § 18-371; emergency services, ch. 38; fires on public beaches, § 74-199.*

### ARTICLE I. - IN GENERAL

#### Secs. 46-1—46-30. - Reserved.

### ARTICLE II. - FIRE-RESCUE DEPARTMENT<sup>[2]</sup>

**Footnotes:**

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*Cross reference—Officers and employees, § 2-136 et seq.*

#### Sec. 46-31. - Position of chief established.

There is hereby established the position of chief of the fire-rescue department, who shall be an appointive administrative official within the meaning of [section 4.04\(a\)](#) of the Charter, to be appointed by and serve at the will of the town council upon the recommendation of the town manager.

(Code 1982, § 7-1)

#### Sec. 46-32. - Composition of department; other personnel.

The fire-rescue department is created and shall be composed of the chief of the department and such other personnel and employees as may be appointed thereto in accordance with [section 4.04\(b\)](#) of the Charter. The fire-rescue chief shall have the authority to recommend to the town manager the appointment of such fire-rescue personnel and subordinate officers of the department as he deems in the best interest of the town.

(Code 1982, § 7-2; [Ord. No. 023-2023](#), § 1(Exh. A), 1-9-24)

#### Sec. 46-33. - General supervision of department by chief.

The chief of the fire-rescue department shall have control and supervision of all the matters relating to the fire-rescue department, under the supervision of the town manager. The Fire Chief shall have the custody and control of all apparatus, machinery or other paraphernalia of the fire-rescue department, and shall have power to use and cause to be put in service all or any part of the apparatus belonging to the fire-rescue department. The chief of the fire-rescue department, or their designee, shall be the Authority Having Jurisdiction (AHJ) for the purposes of all matters related to application and enforcement of the fire code.

(Code 1982, § 7-3; [Ord. No. 023-2023](#), § 1(Exh. A), 1-9-24)

#### Sec. 46-34. - Regulations governing department.

It shall be the duty of the chief of the fire-rescue department, with the approval of the town manager and the town council, to make and promulgate rules and regulations governing the conduct and duties of the officers and employees of the fire-rescue department, including penalties for the violation of such rules and regulations; and such rules and regulations shall have all the authority and force of law.

(Code 1982, § 7-4)

#### Sec. 46-35. - Authority to destroy buildings to prevent spread of fire.

If the officer of the fire-rescue department in command at a fire scene shall deem it necessary to pull down, blow up or destroy any building to arrest the fire, such building shall be removed or destroyed as the officer shall direct.

(Code 1982, § 7-6)

#### Sec. 46-36. - Duties and powers of the incident commander.

- (a) *Authority.* The incident commander conducting operations in connection with the extinguishment and control of any fire, explosion, hazardous materials incident, natural disaster, rescue, and/or other emergency shall have authority to direct all operations of fire extinguishment, mitigation of a hazardous materials incident, natural disaster, rescue, and/or control and to take necessary precautions to save life, protect property, and prevent further injury or damage.
- (b) *Controlling scene.* During any emergency described in 46.36a, including the investigation of the cause of such emergency, the incident commander or authorized representative shall be permitted to control or prohibit the approach to the scene of such emergency by any vehicle, vessel, or person.
- (c) *Obstruction of operations.* Persons shall not obstruct the operations of the fire department or disobey any command of the incident commander or authorized representative or any part thereof, or any order of a police officer assisting the fire department.
- (d) *Scene barrier.* The incident commander or authorized representative in charge of an emergency scene shall have the authority to establish barriers to control access in the vicinity of such emergency and to place, or cause to be placed, ropes, guards, barricades, or other obstructions across any street or alley to delineate such emergency scene barrier. Persons, except as authorized by the incident commander in charge of the emergency, shall not be permitted to cross barriers established in this section.

([Ord. No. 023-2023](#), § 1(Exh. A), 1-9-24)

#### Secs. 46-37—46-65. - Reserved.

### ARTICLE III. - FIRE PREVENTION CODE

#### Sec 46 66 Code adopted; copies on file

- (a) There are hereby adopted by the town, for the purpose of prescribing regulations governing conditions hazardous to the health, safety, welfare, life and property from fire or explosion, certain codes in accordance with F §§ 633.202 and 633.208 the "Florida Fire Prevention Code" adopted by the State Fire Marshal Chapter 69A.60 of the Florida Administrative Code, as may be amended, including NFPA 1 Fire Code, Florida Edition, and the NFPA 101 Life Safety Code, Florida Edition, both as modified by Chapter 69A.60 of the Florida Administrative Code, all of which are deemed adopted by reference, as fully

as if set out at length herein, as the minimum fire safety code. If conflicts exist between the codes, the more stringent shall be applied at the discretion of the fire chief or his or her representatives.

(b) A copy of each of the above codes is on file and open to inspection by the public in the office of the town clerk.

(Code 1982, § 7-17; Ord. No. 24-95, § 2, 11-14-95; Ord. No. 13-98, § 1, 10-13-98; Ord. No. 12-01, § 1, 6-12-01; Ord. No. 28-04, § 1, 1-11-05; Ord. No. 28-08, § 1, 11-12-08; Ord. No. 33-2011, § 1, 1-10-12; Ord. No. 16-2014, § 1, 11-13-14; Ord. No. [32-2017](#), § 1, 12-12-17; [Ord. No. 17-2020](#), § 1, 12-8-20; [Ord. No. 023-2023](#), § 1(Exh. A), 1-9-24)

## Sec 46 67 Permit

All permits required pursuant to the provisions of [section 46 66](#) will be issued by the chief of the fire rescue department or the chief's designee. Applications for permits shall be made through an application process as determined by the town. The permit application will include all information required by the town. Applications shall be accompanied by a fee which shall be in accordance with the schedule of fees adopted by resolution by the town council and amended in the same manner.

(Code 1982, § 7 26; Ord. No. 24 95, § 2, 11 14 95; Ord. No. 13 98, § 2, 10 13-98; Ord. No. 12-01, § 2, 6 12 01; Ord. No. 28 04, § 2, 1 11 05; Ord. No. 13 05, § 1, 9 13 05; Ord. No. 24 08, § 1, 10 13 08; [Ord. No. 011 2022](#), § 1, 7 12 22)

## Sec 46 68 Fire and life safety in protection

- (a) Unless otherwise provided by law, the fire marshal or their designees shall conduct a fire safety inspection of all multifamily and commercial premises operating within the town, excluding one and two family dwellings, on at least an annual basis.
- (b) Buildings Under Construction All new buildings shall be inspected to ensure compliance with this Code. The permit holder or his agent shall notify the AHJ to conduct the following inspections of buildings and such other inspections as may be necessary. The AHJ shall either approve that portion of the construction or shall notify the permit holder or his agent of any correction to be made to comply with this Code.
  - a Frame Inspection To be made at the time of Building Department inspection. Items to be inspected shall include, but not be limited to
    - i Fire hydrant locations
    - ii Fire Department access
    - iii Rough ins for stair dimensions
    - iv Egress windows
    - v Smoke detector locations and
    - vi Fire alarm device locations
  - b Fire Protection Systems To be inspected and tested upon completion of that system or portion of system prior to final fire safety inspection
  - c Final Fire Safety Inspection To be made upon completion of the building and all installed systems
  - d Certificate of Occupancy Once all provisions of the Florida Fire Prevention Code have been met, a letter of Fire Code Compliance shall be issued by the Authority Having Jurisdiction (AHJ) to the Building Official prior to the Building Official issuing a Certificate of Occupancy for the premises for which the building permit had been issued. The Certificate of Occupancy shall not be issued until approved by the AHJ for fire code enforcement
- (c) Pursuant to subsection [46 66](#) of this article, all new occupancies, new buildings or structures, building renovations or additions, site improvements, or building alterations requiring fire department inspection services or fire plan review shall be subject to a fee which shall be paid at the time of construction permit issuance and in accordance with a schedule established by resolution of the town council
- (d) Pursuant to subsection [46 66](#) of this article, all multifamily and commercial premises requiring an annual fire safety inspection shall be subject to a fee which shall be paid at the time of business tax receipt issuance or renewal in accordance with a schedule established by resolution of the town council. Premises requiring an annual fire safety inspection that do not pay a business tax receipt fee shall be invoiced
- (e) A re-inspection fee may be charged due to violations, incompleteness, lack of accessibility or deviation from approved plans. Following the initial inspection, one re-inspection for compliance will be included in the original fee. If additional re-inspections are necessary due to the above criteria, re-inspection fees may be required in accordance with a schedule established by resolution of the town council

(Code 1982, § 7 18; Ord. No. 13-05, § 2, 9 13 05; Ord. No. 24 08, § 1, 10 13 08; [Ord. No. 011 2022](#), § 1, 7 12 22; [Ord. No. 023 2023](#), § 1(Exh. A), 1 9 24)

## Sec 46 69 Ordering correction of hazard ; compliance required; appeal

- (a) Whenever the chief of the fire rescue department or their designee shall find on any building or upon any premises, or in any public place, violations of the currently adopted fire codes by the Town of Palm Beach, combustible or explosive material or dangerous accumulation or rubbish or unnecessary accumulation of wastepaper, boxes, shavings or other highly combustible materials especially liable to fire, and which are so situated as to endanger property, or shall find obstructions to or on fire escapes, stairs, passageways, doors, or windows liable to interfere with the operation of fire rescue or the egress of occupants in case of fire, the chief, or their designee, shall order same to be removed or remedied. Such order shall be forthwith complied with by the owner or occupant of such place or building. If such remedy shall require an alteration of the structure of such buildings or place, the owner or occupant may appeal that order pursuant to this section to the board of adjustments and appeals.
- (b) The board of adjustments and appeals shall within 90 days review such order and file its decision thereon; and unless the order is revoked or modified, it shall remain in full force and be obeyed by such owner or occupant. The board of adjustments and appeals must find the appeal remedy equal to or greater than the code requirement. Further appeal would be to the town council.

(Code 1982, § 7 19; Ord. No. 24 95, § 2, 11 14 95; Ord. No. 13 98, § 2, 10 13-98; Ord. No. 12-01, § 2, 6 12 01; Ord. No. 28 04, § 2, 1 11 05; Ord. No. 18 2011, § 1, 9 13 11; [Ord. No. 023 2023](#), § 1(Exh. A), 1 9 24)

## Sec 46 70 Form, service of order

The order provided for in [section 46 69](#) shall be by email or in writing and signed by the person making such inspection and shall state specifically the conditions to be remedied. Service of such order shall be made upon the occupant of the premises to whom it is directed by either delivering an email, or delivering a true copy of same to such occupant personally, or by delivering the same to and leaving it with any person in charge of the premises or in case no such person is found upon the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of the premises. Whenever the owner of the premises, building or structure is responsible for the condition that is required to be remedied, or is otherwise liable therefor, the order shall be served upon such owner, or their agent by email, or delivering to and leaving with the person a true copy thereof, or if such owner is absent from the jurisdiction of the town by emailing, or mailing such copy to the owner's last known address, or if they shall have a business agent resident in the town by delivering a true copy of such order to such business agent.

(Code 1982, § 7 20; [Ord. No. 023 2023](#), § 1(Exh. A), 1 9 24)

## Sec 46 71 Owner responsible for vacant premise

The duties imposed upon occupants of buildings and premises by this article, including the requirements for annual fire inspections, are imposed upon the owners of such buildings and premises when such buildings and premises are vacant. Every person owning or having charge or control of any vacant building or premises shall remove all combustible storage, waste, refuse and vegetation and shall lock, barricade or otherwise secure all windows, doors and other openings to prohibit entry by unauthorized persons. All fire protection systems shall be maintained and in service in vacant buildings. The fire rescue chief, or their designee, may make an exception if the building has limited use of utilities or the construction is fire resistant and void of any combustible materials. Violation of this section shall be subject to the penalty for a Class III violation as set forth in [section 2 439](#) of this Code.

(Code 1982, § 7 21; Ord. No. 18-2011, § 2, 9 13 11; [Ord. No. 023 2023](#), § 1(Exh. A), 1 9 24)

## Sec 46 72 Property manager required for certain building

For every building in the town having a public assembly occupancy capacity of more than 500 persons, and for every building four or more stories in height, there shall be provided by the owner or owners a person who shall be designated as the property manager of the building. The property manager shall be qualified to hold this position by virtue of sufficient knowledge and experience so as to be in responsible charge in a competent manner of the property at all times the building is occupied. They shall

ensure that all types of mechanical and electrical equipment in use in the building and any fire safety equipment and fire stair or passageway installed in the building shall be in a proper state of maintenance and repair so as to secure the building and the occupants thereof. The name, address and telephone number of each property manager representing each building as provided in this section must be kept on file at the town fire-rescue department. The property owner shall notify the fire-rescue, in writing, whenever there is a change of property manager. The fire-rescue chief may cause any such buildings as set out herein to be immediately closed and vacated if there is not a currently appointed property manager actively engaged in the proper maintenance and operation of said building.

(Code 1982, § 7-22; [Ord. No. 023-2023](#), § 1(Exh. A), 1-9-24)

### Sec. 46-73. - Accumulations endangering adjacent premises.

Any accumulation of wood, fuel, lumber, poles, shingles or other combustible material outside of a building shall be subject to removal or relocation upon order of the chief of the fire-rescue department, or their designee, whenever in their opinion the quantity or position of the same shall increase the danger of fire to adjacent property.

(Code 1982, § 7-23; [Ord. No. 023-2023](#), § 1(Exh. A), 1-9-24)

### Sec. 46-74. - Open burning.

It shall be unlawful for any person to kindle a fire on any lot, street, alley, park or other public or private place, except in devices designed for heating, cooking or approved by permit application review process. Outdoor fire pits or any fire that is not for cooking, heating or approved by permit application shall obtain a bonfire permit from the Town of Palm Beach Fire Rescue Department. All devices designed for outdoor use shall be operated no closer than five feet from any building or combustible material and shall not be operated on any balcony or roof, unless approved by building permit application review. Violation of this section shall be subject to the penalty for a Class III violation as set forth in [section 2-439](#) of this Code.

(Code 1982, § 7-24; Ord. No. 18-2011, § 3, 9-13-11; [Ord. No. 023-2023](#), § 1(Exh. A), 1-9-24)

### Sec. 46-75. - Exit doors and means of egress.

Any person, business or organization found guilty of violating those sections of the currently adopted fire codes by the Town of Palm Beach or the Life Safety Code (NFPA 101), relative to illegally locking exits or blocking means of egress, shall be subject to the penalty for a Class III violation as set forth in [section 2-439](#) of this Code.

(Code 1982, § 7-25; Ord. No. 18-2011, § 4, 9-13-11; [Ord. No. 023-2023](#), § 1(Exh. A), 1-9-24)

### Sec. 46-76. - Processes deemed hazardous to life and property.

- (a) The chief of the fire-rescue department, or their designated representative, may order the immediate cessation of any activity, operation or process when such activity, operation or process is in violation of the fire prevention code, or other safety ordinance, or when in the judgment of the chief of the fire-rescue department, or their designated representative, such operation, activity or process constitutes a severe and immediate hazard to persons or property.
- (b) Any person who, after being served with either a verbal or written order to cease such severe and immediate hazardous activity, operation, or process, willfully fails or refuses to comply with such an order shall be subject to immediate arrest.

(Ord. No. 4-98, § 1(7-27), 3-10-98; [Ord. No. 023-2023](#), § 1(Exh. A), 1-9-24)

### Sec. 46-77. - Evacuation of occupied buildings or structures.

The chief of the fire-rescue department, or their designated representative, may order the immediate evacuation of any occupied building or structure or assembly area when such building, structure or assembly area is deemed hazardous due to fire hazard, obstruction to exits, overcrowding of the premises, or any other hazard or potential which presents immediate danger to the occupants. The premises, or any portion thereof, may not be reoccupied until it has been examined and deemed free of the hazard or potential which caused the evacuation to be ordered. Persons refusing to obey either a verbal or written order of any of the chief of the fire-rescue department or their designated representative shall be subject to immediate arrest.

(Ord. No. 4-98, § 1(7-28), 3-10-98; [Ord. No. 023-2023](#), § 1(Exh. A), 1-9-24)

### Sec. 46-78. - Fire alarm systems.

All buildings that have or are required to have fire alarm systems will with the exception of one- and two-family dwellings have such fire alarm systems monitored by a central receiving station in compliance with NFPA 72. For all newly installed fire alarm systems or existing systems that are undergoing renovations/alterations, when the fire department is required to be notified, such notification shall be accomplished through central station monitoring, which shall be listed for central station services, per NFPA 72. The central station shall be certified by an approved certificated nationally recognized testing laboratory.

(Ord. No. 24-95, § 1, 11-14-95; [Ord. No. 023-2023](#), § 1(Exh. A), 1-9-24)

**Cross reference—** Alarm systems generally, [§ 38-31](#) et seq.

### Sec. 46-79. - Fireworks.

- (a) *Manufacturing, storage, sale and use unlawful.* It shall be unlawful for any person, firm, partnership, corporation or entity to store, manufacture, display, discharge, explode or use any fireworks or pyrotechnic materials within the town except upon permit granted by the town in accordance with the provisions of this Code.
- (b) *Definitions.*

*Fireworks* shall mean and include any combustible or explosive composition or any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation as defined by F.S. ch. 791.

*Pyrotechnic materials* shall include, but are not limited to, chemical mixtures used in the entertainment industry to produce visible, audible or thermal effects by combustion, deflagration or detonation; flame effects and/or similar devices not limited to batons or torches fueled by liquid, solid or gaseous fuels; flame projectors which produce heat effects and/or flames; flash powders composed of fuels and oxidizers; flares and similar devices.

- (c) *Permit required.* Any person, firm, partnership, corporation or entity which wishes to display fireworks or use pyrotechnics within the town may do so only upon application approved by the fire chief or the fire chief's designee. Applications shall be made at least 30 days in advance of the date of the display requested on an application form provided by the town. No firework displays shall be permitted in the town other than on approved offshore barges, floating vessels or floating platforms located a minimum of 300 feet from the nearest dwelling, building or structure. Permits shall be issued for firework displays only between the hours of 6:30 p.m. and 9:30 p.m., except on December 31, January 1 and July 4, when said times may be extended if authorized. Displays of fireworks and the use of pyrotechnics, in order to be permitted, shall comply with all rules and regulations promulgated by the town through its fire chief or the fire chief's designee from time to time, including, but not limited to, NFPA 1123 for fireworks and NFPA 1126 for pyrotechnics. No fireworks or pyrotechnic displays shall be permitted which are determined to be unsafe in the sole discretion of the fire chief or the fire chief's designee.

In addition, before any permit for fireworks or pyrotechnics display shall be issued, the following shall be provided:

- (1) A \$1,000.00 nonrefundable fee is required at time of application for a permit. Permits shall be nontransferable. (This application fee may be modified by resolution of the town council from time to time.)
- (2) A performance bond or similar security acceptable to the town naming the town as beneficiary in the sum of \$5,000.00 to cover any costs incurred by the town as a result of the display, which costs are not otherwise reimbursed by applicant. The amount of this bond may be increased at the discretion of the fire chief or the fire chief's designee upon a determination that a greater amount is required as a result of the nature and size of the event.
- (3)

Proof of financial responsibility to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of such person or any agent or employee of the applicant in such amount, character and form as the fire chief or the fire chief's designee determines to be necessary for the protection of the public.

- (4) General liability insurance coverage with limits of liability no less than \$5,000,000.00 per occurrence. Said insurance policy shall be issued by a company authorized to do business under the laws of the state. A copy of the certificate of insurance endorsing the town as additional insured under the general liability policy is required.
- (5) A sufficient amount of money to compensate the town for any and all town fire-rescue apparatus and personnel deemed necessary by the fire chief or the fire chief's designee required to standby and oversee the event to insure public safety.
- (6) An acknowledgment that the applicant will abide by all rules and regulations promulgated by the fire chief or the fire chief's designee relating to the display.
- (7) Applications shall include, but not be limited to the following information:
  - a. The name, address and telephone number of the organization sponsoring the display, the supplier of the fireworks, the operator (pyrotechnician) and all assistants.
  - b. Copy of valid driver's license or other valid photo identification for all operators and assistants. Operators to be at least 21 years of age, assistants to be at least 18 years of age.
  - c. For barge displays, a current United States Coast Guard permit or operation shall be supplied along with any FAA approvals required to proceed with the event.
  - d. References for the three most recent firework displays of the operator.
  - e. The date and time of day at which the display is to be held and the duration of time for such display.
  - f. The exact location for the display, event or production.
  - g. A copy of a location site plan with the dimensions indicating the exact location planned for the display site and all grounds and facilities at which the event will be held.
  - h. The size, type and description of displays of fireworks and/or pyrotechnics. The type and number of fireworks to be displayed, including for aerial displays the size and number of each type of burst; and the manner and place of storage of fireworks in the town prior to the display. Only aerial displays which are ignited electronically will be allowed.
  - i. Signature of the sponsoring organization representative, and operator (pyrotechnician).

(Code 1982, § 13-22; Ord. No. 4-05, § 1, 6-14-05)

**State Law reference**— Sale, use of fireworks, F.S. ch. 791.

### Sec. 46-80. - Sprinklers.

- (a) Approved automatic sprinkler systems meeting the requirements of NFPA 13, NFPA 13D, or NFPA 13R, as applicable, shall be installed in all new commercial and multi-family (three or more units) buildings.
- (b) Approved automatic sprinkler systems meeting the requirements of NFPA 13, NFPA 13D, or NFPA 13R, as applicable, shall be installed in all new one- and two-family dwelling structures totaling 10,000 square feet or greater (enclosed area).
- (c) Approved automatic sprinkler systems meeting the requirements of NFPA 13, NFPA 13D, or NFPA 13R, as applicable, shall be installed in all existing commercial and multifamily (three or more units) buildings that undergo Extensive Modifications, Reconstruction as defined in NFPA 101, chapter 43; or that undergo expansion or addition that increases the existing total gross floor area to more than 10,000 square feet or greater (enclosed area) or that undergo a Level III Alteration as defined in the Florida Building Code; or that undergo a change in occupancy as defined in NFPA 101.
- (d) Approved automatic sprinkler systems meeting the requirements of NFPA 13, NFPA 13D, or NFPA 13R, as applicable, shall be installed in all existing one and two family dwelling structures totaling 10,000 square feet or greater (enclosed area) that undergo Extensive Modifications, Reconstruction as defined in NFPA 101, Chapter 43; or that undergo a Level III Alteration as defined in the Florida Building Code; or that undergoing expansion or addition that increases the existing total gross floor area to more than 10,000 square feet or greater (enclosed area); or that undergo a change in occupancy as defined in NFPA 101.
- (e) Definitions:

**Enclosed area** All space between a floor and a ceiling that has thirty three percent or more of the surface area of its perimeter bounded by opened or closed walls, windows or doorways. A wall includes any physical barrier regardless of whether it is open or closed, temporary or permanent, or contains openings of any kind, and includes retractable dividers and garage doors

(Ord. No. 6 02, § 1, 2 19 02; [Ord. No. 023-2023](#), § 1(Exh. A), 1-9-24)

### Sec. 46-81. - Fire district.

- (a) Scope. For the purpose of this Code, there shall be established a fire district or zone which shall be known as the fire district. The fire district shall consist of all land classified as R-C, R-D(1), R-D(2), C-TS, C-WA, C-OPI, C-PC, C-B all PUD districts as found in the town zoning code ([chapter 134](#), town Code of Ordinances) and any social club or similar use in any residential zoning district.
- (b) All buildings in the fire district (except group R-3 occupancy, type III heavy timber construction or sprinkled throughout), shall have all bearing walls, floors, roofs and their supporting structural members provide not less than one-hour fire resistance.

(Ord. No. 6-02, § 1, 2-19-02)

### Sec. 46-82. - Access to gated properties.

Where fire department access to a property or building is provided through one or more gate(s), that are not manned 24/7/365, a Click2Enter "C2E" system shall be installed as the primary access system for fire rescue entry into the property and a key switch system shall be installed as a secondary access system. These systems shall simultaneously open all gates and/or traffic arms that are in the fire department vehicle access lane. The gates and/or traffic arms shall remain open until restored to the normal position by the fire department. If at any time the primary or secondary access system is not functioning, the gate(s)/traffic arm(s) shall be left in the open position until such time they are repaired.

([Ord. No. 023-2023](#), § 1(Exh. A), 1-9-24)

### Secs. 46-83—46-110. - Reserved.

## ARTICLE IV. - HAZARDOUS SUBSTANCES AND HAZARDOUS WASTE<sup>[3]</sup>

#### Footnotes:

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**Cross reference**— Environment, ch. 42.

**State Law reference**— Hazardous substance law, F.S. § 501.061 et seq.

### DIVISION 1. - GENERALLY

### Secs. 46-111—46-140. - Reserved.

**DIVISION 2. - ABATEMENT AND RECOVERY OF COSTS<sup>[4]</sup>****Footnotes:**

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**Cross reference—** *Finance, § 2-471 et seq.***Sec. 46-141. - Definitions.**

*Emergency action* shall mean all of the activities conducted in order to prevent or mitigate injury to human health or to the environment from a release or threatened release of any material into or upon the environment.

*Hazardous substance or hazardous waste* means any substance or material in a quantity or form which, in the determination of the fire-rescue chief or his authorized designee, poses an unreasonable and imminent risk to the life, health, safety or welfare of persons or property within the town, including but not limited to those substances listed in the National Fire Protection Association's "Guide to Hazardous Materials"; the EPA's list of "Extremely Hazardous Substances"; or the "Florida Substance List" promulgated by the state department of labor and security, or by C.R.C.L.A. in 40 CFA 300.6.

*Recoverable expenses*, in general, are those expenses that are reasonable, necessary and allocable to the emergency action. Recoverable expenses shall not include normal expenditures that are incurred in the course of providing what are traditionally local services and responsibilities, such as routine firefighting. Expenses allowable for recovery may include, but are not limited to:

- (1) Disposable materials and supplies acquired, consumed and expended specifically for the purpose of the emergency action including, but not limited to, firefighting foam, chemical extinguishing agents, absorbent materials, sand, recovery drums, chemical protective clothing, gloves and testing equipment.
- (2) Compensation of employees for the time and efforts devoted specifically to the emergency action.
- (3) Operation or rental of equipment used specifically for the emergency action.
- (4) Replacement costs for equipment owned by the town that is contaminated beyond reuse or repair if the equipment was a total loss and the loss occurred during the emergency action.
- (5) Decontamination of equipment contaminated during the response.
- (6) Special technical services specifically required for the response.
- (7) Other special services specifically required for the emergency action.
- (8) Costs to prevent or minimize mitigation off the site, as well as costs for any actions the town may take in this regard out of the town's jurisdiction or off the site.
- (9) Laboratory costs of analyzing samples taken during the emergency action.
- (10) Costs of cleanup, storage or disposal of the released material.
- (11) Costs associated with the services, supplies and equipment procured for a specific evacuation.
- (12) Medical expenses incurred as a result of the response activities.
- (13) Legal expenses that may be incurred as a result of the emergency action, including efforts to recover expenses pursuant to this division.

*Release* shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into or upon the environment, which causes danger or harm to the public health or to the environment, including, but not limited to, the release of any material classified as hazardous material by any federal legislation or regulation, by any state legislation or regulation or by any town ordinance.

*Threatened release* shall mean any imminent or impending event potentially causing but not resulting in a release but causing the town to undertake an emergency action.

(Code 1982, § 7-27(a); Ord. No. 19-08, § 1, 7-8-08)

**Cross reference—** Definitions generally, [§ 1-2](#).

**Sec. 46-142. - Authority to initiate action.**

The fire-rescue department is authorized to take or cause to be taken such steps as may be necessary to clean up, remove, or abate the release or threatened release of any hazardous substance or hazardous waste upon or into public or private property or facilities located within the corporate limits of the town and any actions associated therewith which occur off the site designed to mitigate the release or threatened release of a hazardous substance or hazardous waste.

(Code 1982, § 7-27(b)(1); Ord. No. 19-08, § 1, 7-8-08)

**Sec. 46-143. - Liability for costs of abatement of discharge.**

- (a) Any and all persons causing or contributing to the causing of a release or threatened release of hazardous substances or hazardous waste which results in an emergency action by the fire-rescue department of the town or its authorized agents in order to protect the health, safety or welfare, shall be strictly liable both jointly and severally to the town for the recoverable expenses resulting from the emergency action. This shall be in addition to any and all penalties provided by law.
- (b) When responding to an emergency action, the fire-rescue department shall keep a detailed record of the recoverable expense attributable thereto.

(Code 1982, § 7-27(b)(2)—(4); Ord. No. 19-08, § 1, 7-8-08)

**Sec. 46-144. - Recovery of costs of hazardous substance and hazardous waste cleanup.**

- (a) Any and all persons causing or contributing to the causing of a release or threatened release of hazardous substances or hazardous waste which results in an emergency action shall reimburse the town for the full amount of the recoverable expenses resulting from the emergency action within a period of 30 days after receipt of an itemized bill for such recoverable expenses from the town.
- (b) Any and all persons causing or contributing to the causing of a release or threatened release of hazardous substances or hazardous waste which results in an emergency action who fails to reimburse the town within the time set forth in subsection (a) shall be subject to a surcharge equal to \$100.00 per day or ten percent of the total amount of the bill, whichever is greater, for each additional day that the bill for such recoverable expenses remains unpaid.

(Code 1982, § 7-27(c); Ord. No. 19-08, § 1, 7-8-08)

[Sec. 42-402. - Enforcement, penalties, injunctive relief.](#)