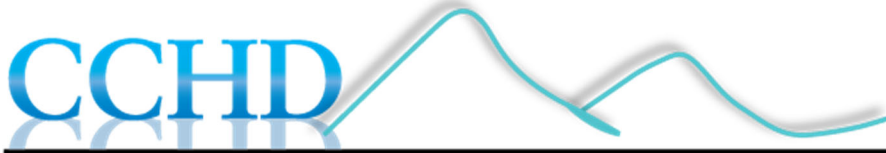


# SANITARY CODE

of the

## Clinton County Health Department

# 2024



Clinton County **HEALTH** Department

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[health.clintoncountyny.gov](http://health.clintoncountyny.gov)



**Public Health**  
Prevent. Promote. Protect.

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## ARTICLE 1: SHORT TITLE, GENERAL DEFINITIONS, GENERAL PROVISIONS

### A. Short Title

1. The rules and regulations herein contained together with any and all amendments thereto shall constitute and comprise the Sanitary Code of the Clinton County Health Department and be known and may be cited as the Clinton County Sanitary Code.

### B. General Definitions

1. Whenever used in this Sanitary Code, unless otherwise expressly stated or unless the context or subject matter requires a different meaning, the following terms shall have the respective meanings hereafter set forth or indicated:
  - i. **“Board”** shall mean the Board of Health of Clinton County.
  - ii. **“Code”** shall mean the Clinton County Sanitary Code.
  - iii. **“County”** shall mean *the County of Clinton*.
  - iv. **“Department”** shall mean the Department of Health of the Clinton County Health District.
  - v. **“Director”** shall mean the Director of Public Health of the Clinton County Health Department or his/her duly authorized representative.
  - vi. **“Health District”** shall mean the Clinton County Health District (the area of Clinton County) *established pursuant to the provisions of Section 340 of the Public Health Law*.
  - vii. **“Municipality”** shall mean a city, town, village or special district located within *Clinton County*.
  - viii. **“Permit”** shall mean a written license and/or an authorization to carry on a specified activity or activities as regulated by the Clinton County Sanitary Code, the New York State Sanitary Code, or the New York State Public Health Law, and includes any written approval issued by the Director.
  - ix. **“Permit Application Fee”** shall mean the monetary fees to cover a portion of the cost of issuing the permit.
  - x. **“Permittee”** shall mean a person who holds a valid permit issued by the Director.
  - xi. **“Person”** shall mean an individual, group of individuals, partnership, firm, corporation, association, county, city, town, or village or improvement district, and include the plural as well as the singular.
  - xii. **“Public Place”** shall mean any place or premises, wherein the general public is or may be invited, regardless of whether or not such place is owned, maintained or operated by a private organization or agency, but shall not be construed as conferring jurisdiction over a state or federal agency.
  - xiii. **“Sanitary Code”** shall mean and comprise the rules and regulations now or hereafter formulated, promulgated and adopted by the Board of Health of the Clinton County Health District pursuant to Section 347 of the Public Health Law.
  - xiv. **“State”** shall mean *the State of New York*.
  - xv. **“State Sanitary Code”** shall mean the rules and regulations promulgated by the Public Health Council of the State of New York and designated as the State Sanitary Code.

### **C. Applicability; Legal Effect**

1. The provisions of the Sanitary Code shall be in force throughout Clinton County.
2. The provisions of the Sanitary Code shall have the force and effect of law.
3. The Clinton County Sanitary Code shall be supplemental to the State Public Health Law, the State Sanitary Code and other New York State laws, and shall supersede all local ordinances heretofore or hereafter enacted or promulgated which are inconsistent with the provisions of this Code.
4. It shall be the duty of the Board and the Director to enforce every provision of the Sanitary Code.
5. Nothing herein contained shall be construed to restrict the power of any city, town or village to adopt and enforce additional or existing ordinances relating to health and sanitation, provided that such ordinances are not inconsistent with the provisions of the New York State Public Health Law or the State Sanitary Code.

### **D. Legal Presumptions; Evidence, Reports as Evidence**

1. As provided by the Public Health Law, certified copies of the Sanitary Code shall be received in evidence in all courts and proceedings in the state.
2. As provided by the Public Health Law, every rule, regulation, order and direction adopted by the Board shall state the date on which it takes effect and a copy thereof signed by the Director shall be filed as a public record in the Department, in the State Department of Health and in the office of the Clinton County Clerk and shall be published in such manner as the Board may from time to time determine. No such rule, regulation, or order of direction shall be effective prior to filing as a public record in the New York State Department of Health.
3. As provided by the Public Health Law, the written reports of state and local health officers, inspectors, code enforcement officers, law enforcement officers, environmental conservation officers, investigators, nurses and other representatives of state and local health officers on questions of fact pertaining to, concerning or arising under and in connection with complaints, alleged violations, investigations, proceedings, action, authority and orders related to the enforcement of the Sanitary Code, the Public Health Law, the State Sanitary Code or any local health regulation shall be presumptive evidence of the facts so stated therein, and shall be received as such in all courts and places.

### **E. Construction**

1. This Sanitary Code is intended to be consistent with applicable federal and state law and shall be construed, whenever necessary, to achieve such consistency.
2. This Sanitary Code shall be liberally construed for the protection of health and safety in the Health District.

## **F. Severability of Provision**

1. In the event that any provision of this Sanitary Code is declared unconstitutional or invalid, or the application thereof to any person or circumstance is held invalid, the applicability of such provision to other persons and circumstances and the constitutionality or validity of every other provision of the Sanitary Code shall not be affected thereby.

## ARTICLE 2: ADMINISTRATION AND ENFORCEMENT

### A. The Board of Health; Officers, Meetings

1. The Board of Health shall advise the Director and the County Legislature in matters relating to the Department. The members of the Board shall further have the power to inspect and review all facilities and programs of the Department, with or without notice to the Director and, as it regards as necessary and desirable, may report and make recommendations to the County Legislature and the Director. All such reports shall be public records, posted on the website of the County government and/or made available for inspection at the offices of the Director and the County Legislature at all reasonable times. The Board shall also advise and consult with respect to all capital projects necessary for the Department. The Board shall have and exercise such other and related duties required by the County Legislature.
2. The Board of Health shall consist of eight voting members who shall be appointed by the Clinton County Legislature, plus a legislative liaison, who is also a voting member for a total of 9 members, and the Director who shall be a non-voting member appointed by the Board.
3. The Board shall ordinarily meet at least eight times per year. During the first meeting of each year, the Board of Health Bylaws shall be reviewed and acknowledged by the Board.
4. The President, other presiding officer of the Board, or the Director, may call special meetings thereof when in his/her judgment, the protection, preservation or improvement of the public health of the Health District or any part thereof requires it.
5. A majority of the membership of the Board shall constitute a quorum at any regular or special meeting of the Board and not less than the majority of the total number of the Board may perform and exercise the power of the Board. All Board of Health meetings shall be open to the public, except where the Board moves into an executive session, and shall comply with the Open Meetings Law and the Freedom of Information Act.
6. The Board shall elect a President in accordance to the Board of Health Bylaws from among its members who shall serve as presiding officer of the Board.
7. The Board shall elect a Vice-President from among its members who shall serve as presiding officer of the Board in the absence of the President.
8. The Director shall serve as Secretary to the Board.

### B. The Board and Director; Quasi-Judicial Powers

1. As provided by the Public Health Law, the Board or the Director may:
  - i. Issue subpoenas which shall be regulated by the NYS Civil Practice Laws and Rules;
  - ii. Compel the attendance of witnesses;
  - iii. Administer oaths to witnesses and compel them to testify;
  - iv. Designate, by resolution, one of its members to sign and issue subpoenas;
  - v. Appoint one or more Hearing Officers as shall be necessary to carry out its functions and duties. The Hearing Officer shall have the same powers possessed by the Board to hold hearings, take testimony, and shall make findings of fact and recommendations to the Board;
  - vi. Issue warrants to any peace officer of any municipality in the County to apprehend and remove such person or persons subject to its orders or regulations;

- vii. Issue warrants to the County Sheriff to bring to its aid the power of the County when it shall be necessary to do so;
- viii. Prescribe and impose penalties for the violation of, or failure to comply with any provision of the Sanitary Code, of the provisions of the State Sanitary Code as provided for in Article 2.O, to be sued for, and recovered by it in any court of competent jurisdiction;
- ix. Make such orders and regulations as may be deemed necessary for the suppression of nuisances or other matters in its judgment is detrimental to public health; and to publish or post same in any such manner deemed appropriate; and,
- x. Maintain actions in any court of competent jurisdiction to restrain by injunction violators of their orders, rules and regulation of the Board, or otherwise to enforce such orders and regulations.

**C. Director; General Powers**

- 1. As provided by the Public Health Law, the Director shall:
  - i. Make an annual sanitary survey and maintain sanitary supervision over the territory within the Health District;
  - ii. Make a sanitary inspection, periodically, of all places of public assemblage, and report thereon to those responsible for the maintenance of such places of public assemblage;
  - iii. Promote the spread of information as to the cause, nature and prevention of prevalent diseases, and the preservation and improvement of health;
  - iv. Take such steps as may be necessary to secure prompt and complete reports by physicians of reportable diseases;
  - v. Take such steps as may be necessary to secure prompt and complete registration of births and deaths;
  - vi. Attend conferences called by the State Commissioner of Health or his/her authorized representatives; and,
  - vii. Enforce within the Health District the provisions of the Public Health Law, State Sanitary Code, and this Sanitary Code.
  - viii. Appoint an officer or employee of the Department to exercise any of the above referenced powers or actions.

**D. Inspections; General**

- 1. During their regular business hours, the Director may inspect any premises, matter, or thing, subject to the provisions of this Sanitary Code and the State Sanitary Code.
- 2. The authorized representatives of the Department may, during their business hours, inspect any record required to be kept pursuant to the Public Health Law, State Sanitary Code, or the Sanitary Code.

## **E. Inspections; Interference**

1. No person shall interfere with, obstruct or refuse to allow an employee or authorized representative of the Department to enter upon and inspect any premises, place or thing within the jurisdiction of the Department, in the discharge of his/her official duties or Department business.
2. No person shall interfere with, obstruct, harass, molest, resist or refuse to cooperate with any representative of the Department in the discharge of his/her official duties.

## **F. Inspection; Taking Samples**

1. The Director, in compliance with constitutional mandates, or with the assistance of a law enforcement officer, may take and remove any substance or thing or any necessary part or portion thereof from any premise or place as a sample for investigation or evidence when in the opinion of such representative such substance or thing may be dangerous or detrimental to public health.

## **G. Notices; Postings**

1. Notices shall be in the English Language, provided, however, if the Department is of the opinion that the person or persons to whom a required warning, notice or instructional sign is addressed may not understand the English Language, the Department may require that such warning, notice or sign shall appear legibly both in English and other designated language(s).
2. No person shall remove, mutilate, conceal, obstruct or tear down any notice or placard of the Department posted in or on any premises or public place without written permission of the Director or his/her designee.

## **H. Service of Notice**

1. Unless otherwise expressly provided by the Public Health Law, by any other provision of this Sanitary Code, or by the State Sanitary Code, service of Notice of Hearings shall be made in the manner prescribed for personal service of a summons as set forth in the New York State Civil Practice Law and Rules or by registered or certified mail. If service is to be made upon an infant, incompetent, partnership, corporation, governmental subdivision, board or commission, it shall be made upon the person or persons designated to receive personal service pursuant to Article Three of the New York State Civil Practice Law and Rules.

## **I. Enforcement Office Conferences**

1. The Director or his/her designee may conduct an office conference to address, rectify, and/or correct any application, complaint, circumstances or alleged violation of this Sanitary Code or the State Sanitary Code.
2. Such conference shall be scheduled for a specific date and time, with adequate notice provided to the person or persons concerned. The Respondent may attend any such conference with legal representation, in their discretion and at their expense.
3. Notice for such conference shall set forth the date and time and place of the conference; the name of the person or persons concerned; the purpose of the conference; and general specification with reference to the particular provisions of this Sanitary Code, State Sanitary Code, Public Health Law or other health law or rule or regulation involved, if any.



4. On the day of the conference, the Director or his/her designee shall note the names and addresses of the persons appearing at such conference and shall thereafter proceed with the business of the conference.
5. Nothing herein contained shall preclude the Department from taking any action which may be deemed appropriate or advisable in the circumstances, other than conducting such conference.
6. The person who conducted the conference shall make and file a report with the Board of Health
7. Subsequent to the office conference, the Director may do one of the following:
  - i. Enter into a stipulation with the person(s) concerned, which shall be reviewed by the Board of Health and with Board of Health final approval, shall become a final order.
  - ii. Set the matter down for a formal hearing.
  - iii. Direct that any other action shall be taken as authorized by law or this Sanitary Code.

## **J. Hearings**

1. The Board or the Director may cause to be held a formal hearing on any application, complaint, circumstance, or alleged violation of the Public Health Law, Sanitary Code and any other rule, regulation or code under jurisdiction of the Department. For purposes of such hearing, the Board or Director shall appoint a Hearing Officer, who shall be an attorney licensed in New York State.
2. Unless otherwise provided in the Public Health Law or Sanitary Code, such hearings shall be on at least fifteen (15) days notice to the person or persons concerned.
3. The Notice of Hearing shall set forth:
  - i. The time and place of the hearing;
  - ii. The purpose of the hearing;
  - iii. Charges and violations complained of, if any, with specific reference to the provisions and section of the Public Health Law, State Sanitary Code, and the Sanitary Code involved;
  - iv. The right to present evidence;
  - v. The right to examine and cross-examine witnesses; and
  - vi. The right to be represented by counsel
4. Witnesses shall be sworn in and testimony shall be recorded or transcribed by a certified court stenographer or transcriptionist. The copy of audio or digital recording of the hearing shall be provided within a reasonable time after the conclusion of the hearing, if requested by the hearing officer, the respondent or representative of the Department. The Director may employ the use of a Court stenographer or transcriptionist, with the cost for such being borne by the Department.
5. On the return day of the hearing, the Hearing Officer shall note the appearances of the persons attending the hearing. All witnesses shall be sworn and testimony shall be recorded and/or transcribed.
6. The Hearing Officer shall thereafter recommend proposed findings of fact and conclusions, thereafter, the Board or the Director shall make a formal order, setting forth the determination, conditions, if any, to be complied with, and penalties, if any.

7. The order provided for in Article 2.J.6 shall be maintained in the Department and a copy thereof shall be served on all respondents.
8. Nothing herein contained shall preclude the Department from taking any other action, as may be prescribed by law, nor shall the Department be precluded from taking such other action by virtue of the order made pursuant to this section.

#### **K. Hearings; Appearances**

1. At any hearing conducted pursuant to this code, any party to the proceedings may appear personally with or without counsel and shall be given the opportunity to present evidence and to examine and to cross-examine witnesses. All appearances shall be noted on the official record of hearings.
2. At any hearing conducted pursuant to this Sanitary Code, if a party shall appear without counsel, the Hearing Officer shall advise such party of his/her right to obtain counsel and their sole expense; and that if he/she desires to proceed without counsel, that he/she may call witnesses, cross-examine witnesses, and produce evidence in his/her behalf.

#### **L. Investigations; Hearings; Adjournments**

1. The Hearing Officer may grant adjournments upon request of any party to the proceedings, provided that an adjournment shall not be for an indefinite period of time, but shall be set down for a certain day.
2. If any adjournment is requested in advance of the hearing date, such request shall be submitted to the Hearing Officer, in writing, and shall specify the reason for such request.
3. In considering an application for adjournment of a hearing, the Hearing Officer shall consider whether the purpose of the hearing will be affected or defeated by the granting of such adjournment. Further, the Hearing Officer shall consider whether the allegations involve any imminent public health or safety concerns.

#### **M. Investigations; Hearings; Subpoenas**

1. The Hearing Officer or the Director may issue subpoenas upon request of any party to the proceedings of any hearing.

#### **N. Investigations; Hearings; Procedures**

1. The Hearing Officer shall not be bound by the formal rules of evidence in the conduct of a hearing, but the determination shall be founded upon sufficient legal evidence.
2. Upon the conclusion of a hearing, the Board or the Director shall take such action as it deems proper, and shall execute an order setting forth its findings and determinations.
3. The action of the Board or the Director may include the assessment of civil penalties as provided by law or this code.
4. An order of suspension or revocation of any permit or license may contain such provisions as to renewal or reinstatement as the Board or the Director shall direct.
5. The Board alone may direct a rehearing or require the taking of additional evidence, and may rescind or affirm a prior determination after such rehearing.

6. The minutes of a formal hearing shall be made available to all parties for examination at the office of the Department. Copies of the transcript of the hearing may be obtained at the Department's current rate for copying of records.

#### **O. Post-Hearing Procedures**

1. The Director shall serve upon the respondent(s) copies of findings of fact, conclusions and orders made as a result of a formal hearing.
2. Service of findings of fact, conclusions and order(s) shall be made in the manner prescribed for the service of Notice of Hearings.
3. The Director, without notice, may order service of notice by any means reasonably determined to give notice to the person or entity if service, after due diligence, cannot be made in a prescribed method as set forth in the CPLR of the State of New York.

#### **P. State and County Code Enforcement: Violations; Criminal Penalties**

1. Any Person who violates, disobeys or disregards the terms of any lawful order or regulation of the State Sanitary Code, the Sanitary Code, this Code, or the Board shall be subject to the imposition of a civil penalty by the Board, not to exceed the maximum civil penalty set forth by NYS Public Health Law § 309(1)(f) for each single violation or failure or omission to act.
2. As provided by Section 348 of the Public Health Law, the provisions of this code shall have the force and effect of law and any non-conformance or non-compliance with any provision thereof shall constitute a violation punishable on conviction which may include a term of imprisonment not exceeding fifteen (15) days.
3. As provided by Section 229 of the Public Health Law, the provisions of the State Sanitary Code shall have the force and effect of law and the non-compliance or non-conformance with any provision thereof shall constitute a violation punishable on conviction which may include a term of imprisonment not exceeding fifteen (15) days.
4. The penalty provided in this section may be recovered by an action brought by the Director or Board in any Court of competent jurisdiction.

#### **Q. Willful Violation of Health Laws**

1. As provided by Section 12-b of the Public Health Law, a person who willfully violates or refuses or omits to comply with any lawful order or regulation prescribed by the Board or Director, is guilty of a misdemeanor; except, however, that where such order or regulation applies to a tenant with respect to his/her own dwelling unit or to an owner occupied one (1) or two (2) family dwelling unit, such person is guilty of an offense for the first violation punishable by a fine not to exceed fifty dollars (\$50.00) and for a second or subsequent violation is guilty of a misdemeanor punishable by a fine not to exceed -one hundred dollars(\$100.00) or by imprisonment not to exceed six (6) months or by both such fine and imprisonment.
2. A person who willfully violates any provision of this chapter, or any regulation lawfully made or established by any public officer or board under authority of this chapter, the punishment for violating which is not otherwise prescribed by this chapter or any other law is punishable by imprisonment not exceeding one year or by a fine not exceeding two thousand (\$2,000.00) dollars or by both.

## **R. Separate Violation**

1. Each day or part of a day on which the violation occurs shall constitute a separate violation.

## **S. Enforcement; Violations, other than by Prosecution**

1. The Department may seek to obtain the voluntary compliance with this code by way of notice, warning or educational means.
2. This Section shall not be construed to require that such non-compulsory methods must be employed or attempted before proceedings by way of compulsory or other legally prescribed procedures.

## **T. Permits and Licenses; Operation with Permit**

1. The Director shall have the authority and power to order the cessation of operations or construction of any business, establishment, or facility required by the code to obtain a permit.
2. The Director may employ the assistance of law enforcement officers and other officials as provided by the provisions of the Public Health Law and other applicable statutes and rules and regulations to enforce the order herein provided for.
3. The owner or operator of any business, establishment, or facility closed or directed to cease operation or construction pursuant to this section shall be entitled to a hearing to be held within a reasonable time if the owner or operator of the facility requests a hearing, in writing, within ten (10) days of the order of the Director.

## ARTICLE 3: PERMITS AND LICENSES

### A. Permits and Licenses; Applications

1. Application for a permit or the renewal of a permit shall be made on forms furnished by the Department and shall contain all information called for by said forms and include the required application fees.
2. Application for a permit or for the renewal of a permit shall be accompanied by such other information, evidence or documentation as the Department may require or as may be provided by the code.
3. A permit issued to a particular person, or for a designated place, purpose, or vehicle, shall not be valid for use by any other person, or for any other place, purpose or vehicle than that designated therein. Such permits or written approvals may contain general and specific conditions and every person who shall have obtained a permit or written approval, as herein required, shall conform to the conditions prescribed in said permit or written approval, and to the provisions of the Code.
4. In addition to the information specifically required to be submitted to the Department, or if no specific information is required for certain permits, the Department shall require the following information:
  - i. The name, residence and business address of the applicant; and, if the applicant is a partnership, company, or group, the name of each partner or member and, if the applicant is a corporation, the name of each officer, shareholder and director(s) of the corporation;
  - ii. Information concerning the applicant, its individual members or officers, relating to education, training or experience, moral character, physical health, and history of prior criminal conviction, including violations and offenses, other than motor vehicle offenses, and record of insolvency or bankruptcy;
  - iii. Proof of compliance with the New York State Workers' Compensation Laws;
  - iv. The ability of the applicant, or of its individual members or officers, to read and write English or provide an interpreter;
  - v. For the initial permit application, a written official document or a statement issued by the appropriate municipal authority having jurisdiction and concern with the zoning laws, ordinances, or regulations of the municipality in the operation, facility, premises, or use for the permit is sought stating that the operation, facility, activity, premises or use, if permitted, will not violate any existing zoning law, ordinance or regulation of such municipality;
  - vi. Application for a permit or for the renewal of a permit shall be accompanied by such other information, evidence or documentation as the Department may require, or as may be otherwise provided by the code.
5. Application for a permit or for the renewal of a permit shall be made by and signed by:
  - i. In the case of an individual who is to be the permittee, by the individual or his/her representative duly authorized in writing; or,
  - ii. In the case of a partnership, by a general partner or a representative of the partnership duly authorized in writing; or,
  - iii. In the case of an unincorporated association, company, or group, by an officer or representative duly authorized in writing of the association or group authorizing the making of such application; or,

- iv. In the case of a corporation, by a duly authorized officer or representative of the corporation, who shall submit a certified copy of a resolution of the board of directors of the corporation, authorizing the making of such application and designating the duly authorized officer or representative to act on behalf of the corporation;
  - v. In the case of a municipality, other than the county, by the executive officer or representative duly authorized in writing.
6. Every individual application for a permit or for renewal of a permit shall be eighteen (18) years of age or over; and, in the case of a partnership application, the partner signing the application shall be eighteen (18) years of age or over.
7. Application for a permit or for renewal of a permit shall constitute an agreement that the permittee assumes responsibility for the operation, conduct and maintenance of the activity authorized by the permit, in accordance with the provisions of the Sanitary Code and the conditions required by the permit, and to inspections pertaining thereto.
8. Application for a permit or for renewal of a permit shall constitute consent to fully inspect and investigate the premises including but not limited to: the collection and analysis of samples, testing, photographing and/or videotaping, and interviewing.

## **B. Permit Applications; Fees**

1. The fees as adopted by the Board for various permits must be paid at the time of application for the permit.
2. Application for a permit or for the renewal of a permit shall be accompanied by all outstanding fees and/or previous violation fines, as relating to prior County Sanitary Code enforcement actions levied against the specific facility owner making application for a permit.
3. The Director may also establish and charge reasonable fees for the filing in his/her office of required reports, plans or necessary documents.

## **C. Permits and Licenses; Posting; Expiration**

1. Every permit shall expire on the date stated on the permit and may only be extended by the Department, in writing, for a specified limited time not to exceed sixty (60) days.
2. Every permittee shall apply for a renewal of a permit no later than thirty (30) days prior to the expiration date of such permit unless otherwise required by this code, the State Sanitary Code, or the Public Health Law.
3. It is the responsibility of the permittee to contact the Department for necessary forms for the renewal of permit.
4. A permittee shall comply with the conditions contained in the permit and the provisions and requirements of this code, the Department, the State Sanitary Code, and the Public Health Law under which such permit was issued.
5. Every permit shall be kept on the premises designated or covered by the permit and shall be posted in a conspicuous place on such premises in such manner as to be clearly visible to the public. It shall be available for inspection at all times by the Department.

6. Permits shall remain the property of the Department and shall be surrendered to a duly authorized representative of the Department on demand upon the expiration thereof or when suspended or revoked as herein provided.

#### **D. Permits and Licenses; Not Transferable**

1. Any attempted or purported transfer of a permit to a person not designated as the permittee therein, or for a purpose or place or vehicle not authorized by such permit, shall be cause to revoke such permit.
2. In the event of a reorganization of a permitted entity, the Department may approve, in writing, the continuation of an activity authorized by a permit provided that such change of organization has been duly recorded with the Department within ten (10) days after such change of organization and the Department receives acceptable proof that the reorganized entity is the legal successor to the permitted entity.
3. In the event that the facility is transferred to new ownership and/or operator, if applicable, the owner/operator must improve the facility to meet all applicable current codes prior to this Department issuing a permit.

#### **E. Permits and Licenses; Suspension and Revocation**

1. The Board may suspend or revoke a permit for violation or non-conformance with the conditions or requirements of the permit or provisions of the code under which such permit was issued.
2. The Board may suspend or revoke a permit for cause after due notice and hearing.

#### **F. Permits and Licenses; Refusal to Issue**

1. Except as may be otherwise provided in the Public Health Law or the State Sanitary Code:
  - i. The Department may refuse to issue a permit or a renewal thereof when the application is incomplete or not accompanied by the required fee, if any;
  - ii. The Department may refuse to issue a permit or renewal thereof when the applicant fails to provide information required by the Department;
  - iii. The Department may refuse to issue a permit or renewal thereof if the application or investigation thereof indicates to the Department that the activity, operation or premises to be covered by the permit applied for does not meet the requirements of the code or other provisions of law; or that the maintenance, conduct or operation of such activity, operation or premises does not meet the requirements or provisions of the law or may result in a public health hazard or in a condition which may be dangerous or harmful to health and life;
2. Except upon the express written authorization of the Board, no permit shall be issued to a person who previously had a permit revoked, within the preceding six (6) months, nor to a person who was an officer, director, owner or operator of an entity whose permit was revoked within the preceding six (6) months.

3. Approval of an application for a permit shall be denied for any sufficient or competent reason, including but not limited to any of the following:
  - i. The proposed construction, location, purpose, business or other act is in violation of the provisions of the Public Health Law, the State Sanitary Code, this code or any local municipal law, ordinance or regulation;
  - ii. Inaccurate, incomplete, false or misleading information stated in the application, including any plans or other data submitted in support thereof;
  - iii. Failure of the applicant to demonstrate competency to perform to the satisfaction of the Department;
  - iv. Conviction in a court of competent jurisdiction of a violation of the Public Health Law, the State Sanitary Code, this code, or any local municipal law, ordinance or regulation within the preceding six (6) months; provided, however, that the Board may waive the application of this provision upon evidence satisfactory to the Board that the convictions are not likely to be repeated, or for other good and substantial reason or reasons;
  - v. Failure to correct any existing violations or deficiencies pertaining to any particular place, vehicle or business after service of written notice thereof, whether or not related to the pending application.
4. Notwithstanding any other provision of this Code to the contrary, the Department shall not issue or renew any permit required under this Code to any person who has an outstanding and/or overdue fee, fine and/or unpaid civil penalty imposed by the Department pursuant to provisions of State Public Health Law, State Sanitary Code or the Clinton County Sanitary Code.

#### **G. Permits and Licenses; Denial; Suspension; Revocation; Forfeiture; Effective Date**

1. Except as may otherwise be ordered by the Board or by the Director, the denial of a permit or certificate of approval or the suspension or revocation of a permit or certificate of approval, shall become final upon notice thereof to the applicant or permittee concerned.
2. Service of a notice of denial or refusal to issue a permit or certificate of renewal shall be made in the manner provided in the code (Article 2.H) for the service of a notice of hearing.
3. A permit or written approval shall terminate upon service of a written notice from the Department and hearing and be considered forfeit and shall become null and void under any of the following circumstances:
  - i. That the process of construction or the operation involved reveals conditions otherwise than as indicated in the approved plans and application; or,
  - ii. That the construction or operation involved is in violation of any ordinance or regulation of any duly constituted government authority or any political subdivision thereof; or,
  - iii. That the construction or operation involved is otherwise than in accordance with standards, rules, and regulations pertaining to such construction or the conditions of a permit or written approval issued pursuant to the provisions of the Public Health Law, the State Sanitary Code, or this Code; or,
  - iv. That no action has been taken under such permit or written approval within the period specified in the permit or if no period is specified, within a period of one (1) year following the date of issuance thereof, or within a period beyond which the purpose, need or usefulness of the permit or written approval no longer exists, whichever is shorter.



## **H. Permits and Licenses; Denial Appeal**

1. Unless otherwise provided in the Public Health Law or State Sanitary Code, whenever the Department refuses to issue a permit or a renewal thereof or a certificate of approval and no hearing has been had in the matter, the applicant may appeal such action to the Director or Board by serving a notice of appeal in writing on the Department addressed to the Director or to the Board within ten (10) days following the service of notice of denial or refusal to issue the permit.
2. The Notice of Appeal shall set forth in detail the basis for the appeal and shall contain:
  - i. The full name of the applicant, permittee or party affected;
  - ii. The type of permit or certificate of approval for which the application was made or the nature of the action complained of;
  - iii. The place of business listed in the application to which the appeal relates;
  - iv. The statement that the applicant or permittee or other party affected appeals to the Board to review the action of the Department; and,
  - v. The signature of the applicant, permittee or party affected, or if the permittee or party affected is not the individual signature and title of a party or other individual of the partnership or group, or of an officer of a corporate applicant permittee or party affected.
3. Unless otherwise provided in the Public Health Law, within ten (10) days following service of the notice of appeal, the applicant, permittee or party affected shall submit a memorandum addressed to the Director or to the Board containing his/her objection to the action of the Department.
4. The Board may, without hearing, reverse, modify or affirm the action of the Department or may require a hearing upon notice as provided in Article 2 of this code.

## **I. Operation Without a Permit**

1. The Board or Director may issue a written notice to be served upon the person or permittee involved, or upon any person connected with or working in or about a construction operation to cease the construction or operation, whereupon the construction or operation shall immediately cease, under the following circumstances:
  - i. The process of construction or the operation involved reveals conditions otherwise than as indicated in the approved plans and application, and permits as issued; or
  - ii. The construction or operation involved is in violation of any ordinance or regulation of any duly constituted government authority or any political subdivision; or,
  - iii. The construction or operation involved is otherwise than in accordance with standards, rules and regulations pertaining to such construction or the condition of a permit or written approval issued pursuant to the provisions of the Public Health Law, the Environmental Conservation Law within the jurisdiction of the Department, the State Sanitary Code or this Code.

## **J. Service of Notice**

1. Service of the written notice shall be made in the manner prescribed in Article 2.H for the service of notice of hearings.

## ARTICLE 4: GENERAL SANITATION

### A. Definitions

1. “**Container**” shall mean any device in which material is stored, transported, treated, disposed of, or otherwise handled.
2. “**Garbage**” shall mean putrescible solid waste, including animal and vegetable waste resulting from the handling, storage, sale, preparation, cooking or serving of foods. Garbage originates primarily in home kitchens, stores, markets, restaurants and other places where food is stored, prepared or served.
3. “**Hazardous Material**” shall mean a material or combination of materials which, because of its quantity, concentration, use, physical, chemical, infectious, or radiological characteristics and/or effects, constitute a nuisance or public health hazard.
4. “**Hazardous Waste**” shall mean a waste or combination of wastes which, because of its quantity, concentration, or physical, chemical, infectious, or radiological characteristics and/or effects, may constitute a nuisance or public health hazard.
5. “**Public Health Nuisance**” shall mean any activity or failure to act that adversely affects Public Health.
6. “**Offensive Material**” shall mean any, garbage, refuse, rubbish, hazardous material, hazardous waste, septage, sewage sludge, sludge, stabilized sludge or any substance or liquid dangerous or detrimental to health.
7. “**Person**” shall mean any individual, firm, company, public or private corporation, association, partnership, institution, political subdivision, government agency, public body, joint stock association, trust, estate, or other group of individuals or combination of the foregoing, or any legal entity whatsoever, and includes the plural as well as the singular.
8. “**Public Health Hazard**” shall mean a condition, potential condition, event or sequence of events, deemed by the Director, which may impact or threaten the health of the public.
9. “**Refuse**” shall mean all waste material including, but not limited to; incinerator residue, street sweepings, blood, fecal matter, manure, dead animals and offal.
10. “**Rubbish**” shall mean solid or liquid waste material including, but limited to, paper and paper products, rags, furniture, cans, crockery, plastic cartons, plastics, chemicals, paint, greases, sludges, oils and some petroleum products, wood, demolition materials, and tires.
11. “**Septage**” shall mean the contents of a privy, septic tank, cesspool, chemical toilet, either liquid or solid state or other individual sewage treatment facility which receives domestic sewage wastes.
12. “**Sewage Sludge**” shall mean the accumulated semisolid suspension of solids deposited from waste waters from municipal or private sewage treatment plants.

13. **“Sludge”** shall mean any solid, semisolid or liquid waste generated from a municipal, commercial or industrial waste water treatment plant, water supply treatment plant or air pollution control facility. Sludge does not include the treated effluent from a wastewater treatment plant.
14. **“Stabilized Sludge”** shall mean sludge that has been treated by a process to reduce putrescibility, significantly reduce pathogenic organisms, and except for lime stabilization, reduce the volatile solids content. Acceptable stabilization processes are defined in 40 CFR Part 257, U.S. Environmental Protection Agency, Code of Federal Regulations.
15. **“Vehicle”** shall mean any motor vehicle, water vessel, railroad car, airplane, or other means of transporting offensive material, including hazardous waste.

## **B. Removal and Transportation**

1. No person shall remove or transport or permit the removal or transportation of any offensive material, garbage, hazardous material, hazardous waste, refuse, septage, sewage sludge, sludge or stabilized sludge except in such a manner and in or by such conveyance as will prevent the creation of a nuisance or the loss or discharge of such material in any public place. All such material shall be so handled, covered, or treated that it cannot be released, leached or migrated or be accessible to rodents, flies, or other insects or create a nuisance. All vehicles and implements used in connection therewith shall be kept in a non-offensive and sanitary condition and when not in use shall be stored or kept as to not create a nuisance.

## **C. Storage and Disposal**

1. No person shall allow any offensive material to be deposited, stored or held on any premises or place or in any building or structure unless such material is treated, screened, covered, or placed as not to create a nuisance detrimental to health. All containers for the storage of such material shall completely confine the material, shall be rodent and insect proof, and shall be kept in a non-offensive and sanitary condition at all times. All offensive material shall be buried at such distance from any source of water supply or be disposed of at other places so that water supplies will not be subject to pollution or where a nuisance will not be created subject to regulations for the protection of public water supplies adopted pursuant to the provisions of the Public Health Law. Such material shall not be discharged into streams, ponds, or other bodies of water or onto the surface of the ground except with the special permission of the Department or unless a permit is issued in accordance with the provisions of the State Public Health Law. Earth pit toilets hereafter constructed shall be located a minimum of one-hundred (100) feet from any source of water and shall be located so as not to contaminate a potable water source. Earth pit toilets shall be constructed in a manner approved by the Department. All privies now existing or hereafter constructed shall be properly enclosed and screened, provided with self-closing doors, self-closing seat covers, ventilated, kept in repair and shall be maintained at all times in a clean and sanitary condition.

#### **D. Permit Required for Collection and Disposal**

1. No person shall engage in the business of removing, collecting, transporting or disposing of offensive material, garbage, hazardous material, hazardous waste, refuse, rubbish, septage, sewage sludge, sludge or stabilized sludge within Clinton County regardless of the point of origin without permit therefore issued by the Department, the Clinton County Highway Department, or by the New York State Department of Environmental Conservation, New York State Department of Transportation and/or any other required governmental subdivision or agency.

#### **E. Public Toilets**

1. Every person who shall provide a toilet for the use of employees, patrons, members or otherwise available to the public shall maintain such toilets at all times in a clean, well-lighted, ventilated and sanitary condition and in conformance with the applicable building code. The floor of any such toilet under and adjacent to a urinal fixture shall be impervious to moisture and properly drained. No towel, hairbrush or comb shall be provided for common use in any such toilet or in wash room, rest room or locker adjacent thereto. The term “common use” shall mean use by more than one (1) person without effective disinfection.

#### **F. Water Supplies**

1. No person shall have contracted, undertaken or who is bound by the terms of a lease or any agreement to supply water for any habitable building owned thereby shall shut off or cause to be shut off such water supply so as to result in an unsanitary condition. Whenever a public water supply is available, no other supply shall be furnished for drinking and domestic purposes unless such other supply shall be potable.
2. The Director may order the treatment, abandonment, sealing, or posting, at his/her discretion, of any water supply not of a safe, sanitary quality.

#### **G. Ice**

1. No person shall sell, offer for sale, or deliver any ice for human consumption unless it shall be produced from a potable water supply and manufactured, stored and delivered under clean and sanitary conditions.

## ARTICLE 5: LEAD POISONING CONTROL

### A. Definitions

1. “**Lead Paint**” shall be defined as set forth in Subpart 67-2 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York.
2. Other definitions set forth in Subpart 67-2 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York and as amended are hereby adopted and become part of this code.

### B. Use of Lead Paint

1. Lead paint shall not be applied or otherwise used on or in a dwelling.

### C. Environmental Investigation

1. Environmental investigation shall be in accordance with Subpart 67-2 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York and as amended.

### D. Sampling for Lead

1. Sampling for lead shall be in accordance with Subpart 67-2 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York and as amended.

### E. Environmental Testing and Reporting

1. Environmental testing and reporting shall be in accordance with Subpart 67-2 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York and as amended.

### F. Notice and Demand

1. The Notice and Demand shall be in accordance with Subpart 67-2 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York and as amended.
2. The Notice and Demand and associated Work-Plan(s) shall be recorded in the Office of the Clinton County Clerk as a “Miscellaneous Filing” attached to the involved real property. The property owner and location shall be identified in such filing.

### G. Environmental Intervention and Abatement

1. Environmental intervention and abatement shall be in accordance with Subpart 67-2 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York and as amended.

## **H. Enforcement**

1. When an owner of a dwelling fails to comply with a written statement and demand for discontinuance of a condition conducive to lead poisoning, the procedures for enforcement, including formal hearings, receivership and cooperation and assistance from those public officers, departments and agencies of the State and its political subdivisions, as provided in Sections 1373, 1374 and 1375 of the Public Health Law shall be followed.
2. The Director can placard a dwelling without an initial Hearing under the following conditions, in accordance with Subpart 67-2.7 (Environmental Intervention and Abatement) of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York:
  - i. If an Owner fails to comply with the Notice and Demand for discontinuance of conditions conducive to lead poisoning, and/or;
  - ii. If the Director determines that prior to commencing or during certain work activities the dwelling(s) unit(s) need to be vacated to prevent a condition conducive to lead poisoning.

## ARTICLE 6: NUISANCES

### A. Nuisances; Director's Duty to Investigate

1. The Director shall receive and investigate all complaints concerning nuisances, or causes of danger or injury to life and health in the Health District and may request such complaints to be made in writing in accordance with this Article, Part 8 of the State Sanitary Code and Title 1 of Article 13 of the Public Health Law.

### B. Nuisances; Investigation; Reports

1. The Director may enter to inspect or examine upon or within any place or premises where nuisances or conditions dangerous to life and health are occurring or are reasonably believed to be occurring, or which are reasonably believed to be the cause of nuisances existing elsewhere.
2. The owners, agents and/or occupants of any premises shall permit sanitary examinations and inspections to be made pursuant to the provisions of this Article, Part 8 of the State Sanitary Code, and Title 1 of Article 13 of the Public Health Law.
3. The Director shall furnish the owners, agents and/or occupants of the premises with a written statement of the results and conclusions of any examination or inspection conducted pursuant to this article.

### C. Nuisances; Abatement and Suppression

1. The Board and/or Director may order the suppression and removal of all nuisances and conditions detrimental to life and health found to exist within the Health District.
2. The Board and/or Director may, in the event of non-compliance with any such order, enter upon the premises to remove or suppress such nuisance, condition, or matter to which said order relates.
3. The expenses of such removal and abatement shall be paid and may be collected in the manner prescribed in Public Health Law 1306, 1307, and 1308.
4. Dead Animals - A dead domestic or farm animal shall be buried a minimum of 2 feet below grade, unless otherwise approved by the Department, or disposed of in a sanitary manner, at least 200 feet from any water source (i.e., water supply, wetland, river, stream, or surface water source), by its owner within seventy-two (72) hours after its death or after its carcass has been discovered.

### D. Nuisances; Enforcement

1. Any non-compliance or non-conformance with an order issued by the Director pursuant to this Article shall constitute a violation of the provisions of the Sanitary Code and may be subject to the imposition of a civil penalty pursuant to Section 309 of the Public Health Law.

## ARTICLE 7: DWELLINGS

### A. Definitions

1. “**Dwelling**” means any building, house structure, vehicle or portion thereof, which is occupied, in whole or part, or intended to be used as a home, residence, living or sleeping place of one or more human beings, either permanently or temporarily, and not regulated under any other article of this Sanitary Code.
2. “**Dwelling Unit**” means any room or group of rooms, within a dwelling, which are used or intended to be used by one or more persons for living and sleeping with or without facilities for cooking and eating.
3. “**Extermination**” means the control and elimination of insects, rodents, vermin or other pests by eliminating their harborage places; by removing or making inaccessible material that may serve as their food; by poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods approved by the County or State authority having such administrative authority.
4. “**New York State Code**” means the New York State Uniform Fire Prevention and Building Code.
5. “**Building Inspector and Local Codes Enforcement Officers**” means the Municipal Officials who enforce the New York State Code in their municipality.

### B. Plumbing

1. Each and every plumbing fixture, pipe, drain, sewer and sewer connection in every habitable public or private building which is in whole or part leased by the owner or his agent or which is permitted to be used by patrons or the general public, shall be properly plumbed in accordance with the New York State Code, of sanitary design and construction and shall be repaired and maintained in a sanitary condition. The owner, operator or occupant of a building or dwelling or his/her agent in charge thereof wherein two (2) or more tenants shall have common use of a toilet shall be responsible for the satisfactory and sanitary maintenance of such toilet.
2. Every owner, agent, or tenant, who is responsible for the plumbing or sanitary facilities of a building or dwelling shall maintain each and every plumbing fixture, pipe, drain, sewer and sewer connection of such building or dwelling in a sanitary condition and shall remove blockages, repair leaks, and replace broken, worn or faulty fixtures or pipes which shall be the cause of an unsanitary condition.

### C. Occupancy Without Sewerage Facilities

1. No person shall occupy any dwelling or vehicle as a place of habitation unless adequate and sanitary facilities for the disposal of sewage shall have been provided.



#### **D. Rental of Dwelling Without Water Supply**

1. No person shall lease or rent any dwelling or dwelling unit unless a safe and adequate supply of potable water is available.

#### **E. Water Supply – Cutting Off**

1. No owner or lessee of a dwelling, dwelling unit, apartment or business establishment shall cut or turn off the water supply or cause such water supply to be shut off except in case of necessity arising from a serious leak, public health hazard or bursting of pipes. In such cases, repairs shall be made and the water service restored promptly.

#### **F. Connection to Public Sewer**

1. Where a public sanitary sewer is available and accessible to a dwelling or habitable building, the owner of such dwelling or building shall connect such building to said sanitary sewer within one year of availability.

#### **G. Garbage and Rubbish Disposal**

1. Every dwelling and every dwelling unit shall be provided with a suitable receptacle(s) as may be necessary to contain all garbage and rubbish and all such receptacles shall be maintained in good repair. Receptacles for garbage shall be watertight and provided with tight fitting covers.
2. Every dwelling including the lot on which such dwelling is located shall be kept free from any excessive accumulation of offensive material.
3. Garbage must be disposed of in accordance with local ordinances and in any case in such fashion as not to serve as a breeding or harboring place for vermin, or to create a nuisance.

#### **H. Flies, Insects, Rodents and Vermin**

1. All means necessary or required shall be taken to eliminate vermin from any habitable building and to prevent the breeding or harboring of such vermin on the premises. Any poison or chemical used for the elimination of vermin must be used in accordance with the U.S. Department of Environmental Protection Agency (EPA) or the New York State Department of Environmental Conservation (DEC) laws and any other statute or regulation governing the use of such poison or chemical.
2. Responsibility for Extermination: Every occupant of a Dwelling containing a single Dwelling Unit shall be responsible for the extermination of any insects, rodents, vermin or other pests therein or on the Premises; and every Occupant of a Dwelling Unit in a Dwelling containing more than one (1) Dwelling Unit shall be responsible for such extermination whenever his/her Dwelling Unit is the only unit with an infestation. Notwithstanding the foregoing provisions of this section, whenever infestation is caused by failure of the Owner to maintain a Dwelling in a rat-proof or insect-proof condition, Extermination shall be the responsibility of the Owner. Whenever infestation exists in two (2) or more of the Dwelling Units in any Dwelling, or in the shared or public parts of any Dwelling containing two (2) or more Dwelling Units, Extermination thereof shall be the responsibility of the Owner. When Extermination is required, the Owner shall use a New York State License/Certified Pesticide Applicator/Technician, unless waived by the Department.

## **I. Unsanitary Building**

1. When the Director determines that any building, dwelling or part thereof is so unsanitary as to be unfit for human habitation or shall cause an unsanitary condition on or adjacent to the premises, a hearing can be scheduled with due notice to the owner. If at the hearing it is determined that the situation constitutes a nuisance or condition detrimental to life and health, the Director may issue an order requiring the owner to abate said nuisance or condition by placing said building or dwelling in a sanitary or habitable condition within a time specified in said order. Upon the failure of said owner to comply with said order, the Director may issue a further order to be affixed conspicuously upon such building or dwelling and served upon the occupant(s) or lessee(s) and upon the owner thereof or his or her agent requiring all persons to vacate such building or dwelling and to discontinue its use at such time as shall be stated in said order. Upon failure of such building or dwelling to be vacated within the time specified, the Board may issue a warrant to the County Sheriff directing that such building or dwelling be vacated and that all persons be removed and the County Sheriff shall forthwith execute such warrant pursuant to law.

## **J. Local Laws, Ordinances, Enforcement, and Criminal Penalties**

1. In enforcing this Article, the Director will be guided by the Building Codes in effect in the municipality (city, town or village) in which such buildings are located, and such other state laws or regulations, as may apply, provided that such other codes or regulations do not permit lower or less exacting requirements than this Sanitary Code.
2. The Director may request the assistance of a municipality's Building Inspector or Local Codes Enforcement Officer(s) to inspect properties in accordance with the New York State Code or to perform joint inspections of a property or properties with representatives of the Department.
3. In cases of Dwellings and Building Codes enforcement matters involving the Department and the Municipal Building Inspector or Codes Enforcement Officer, the Municipal Building Inspector or Codes Enforcement Officer shall have primary enforcement jurisdiction.
4. Criminal penalties for violations of this Article shall be those provided for in Section 229 of the Public Health Law.
5. Civil penalties for violations of this Article shall be those provided in Sections 12 and 309 of the Public Health Law. Determinations with respect to violations and/or assessing of penalties shall be subject to review as provided in Article 78 of the CPLR.

## ARTICLE 8: WATER SUPPLIES

### A. Definitions

1. All definitions found in Part 5, Subpart 5-1 of the New York State Sanitary Code entitled “*Public Water Systems*” are hereby adopted and incorporated by reference as definitions applicable to this Article of the Sanitary Code.

### B. Requirements for Public Water Systems

1. All public water supplies shall satisfy all applicable portions of Part 5, Subpart 5-1 of the State Sanitary Code entitled “*Public Water Systems.*”

### C. General Provisions for Public Water Systems

1. The Department may declare a public water system to be a public health hazard, if it is found to be in violation of any conditions stated in 10 NYCRR Part 5, Subpart 5-1.
2. The supplier of water for a public water system which has been declared a public health hazard shall make all necessary improvements and perform any necessary maintenance or operational tasks to eliminate such hazards within the length of time established by the Department. The supplier of water shall also notify the public that such hazards exist in the manner prescribed by 10 NYCRR Part 5, Subpart 5-1.
3. If the supplier of water for a public water system which has been declared a public health hazard fails to comply with a Department directive forthwith, the Director shall enforce compliance with such directive in accordance with Public Health Law, Article 3.
4. The supplier of water for a public water system shall submit sample results to the Department used to determine compliance with the provisions of 10 NYCRR Part 5, Subpart 5-1.
5. Where required by 10 NYCRR Subpart 5-4, the owner of a public water system shall designate an operator in responsible charge as defined in 10 NYCRR Part 5, Subpart 5-1. The supplier of water shall demonstrate to the Department that the operator in responsible charge makes all decisions regarding the daily operation and maintenance of the water system that directly impact drinking water quality or quantity.
6. Public water systems that are not part of a permitted facility shall be required to submit an annual public water system registration fee.

### D. Requirements for the Planning, Siting, Treatment and Approval of Public Water Systems

1. The applicable portions of Part 5, Subpart 5-1 of the State Sanitary Code shall apply to all public water systems.
2. No supplier of water shall make, install or construct, or allow to be made, installed or constructed, a public water system or any addition or deletion to or modification of a public water system until the plans and specifications have been submitted to and approved by this Department or the New York State Department of Health.

3. Prior to construction of a new public water system, new public water system component or renovation/modification of a public water system, acceptable plans and specifications must be submitted to the Department, no later than 30 days prior to the commencement of planned new facility construction or existing facility renovation/modification.
4. All plans and specifications for public water systems to be approved must be in accordance with the applicable portions of Part 5, Subpart 5-1 of the State Sanitary Code. Plans prepared by a New York State Licensed Professional Engineer or Registered Architect may be required by the Department depending upon the size and complexity of the facility.
5. A supplier of water must receive the final approval of the Department or the New York State Department of Health before placing into service any public water system constructed under the requirements of this Article.
6. The Department shall not review or approve any such Public Water System plans submitted for approval until the required application (and all required documents) and the required fee have been received. If any plans submitted to the Department cannot be approved, after review by the Department, all fees shall be retained by the County.

#### **E. Requirements for Public Water System Maintenance, Operation and Management**

1. Maintenance, operation and management of any public water system shall be in conformance with applicable policies, procedures, regulations of the NYSDOH and the Department. The Director may grant variances, waiver or exemption(s) from the aforementioned standards where such waiver or exemption is given in accordance with 10 NYCRR Part 5, Subpart 5-1 and guidance established by the NYSDOH.

#### **F. Public Water Systems - Connections and Interconnections**

1. No person shall establish or permit a cross connection between a potable water system or water course, and any apparatus, facility, piping, structure or vehicle containing sewage, non-potable water, or other substance harmful or potentially harmful to health, except where constructed with an appropriate cross connection control device approved by the NYSDOH.
2. Prior to installation of a cross connection control device, an “Application for the Approval of a Backflow Prevention Device” must be completed with Design Plans. The Application must be signed and sealed by a New York State Licensed Professional Engineer or a New York State Registered Architect. The completed Application and Design Plans must be submitted to the local water district/authority for approval and then to the Department for review and approval. Once approved, the Backflow Prevention Device must be installed and tested in accordance with Part 5, Subpart 5-1 of the New York State Sanitary Code.

#### **G. Reporting Emergencies for Public Water Systems**

1. The supplier of water must report all emergencies in accordance with Part 5 of the New York State Sanitary Code.

## ARTICLE 9: SEWAGE TREATMENT SYSTEMS

### A. Applicability

1. This Article shall apply to the construction and use of any new or modified sewage treatment system designed to discharge sewage without the mixture of industrial or other wastes to the ground or surface waters of the County.

### B. Definitions

1. “**Applicable Water Quality Standards and Effluent Standards and Limitations,**” means all State and Federal water quality standards and limitations to which a discharge is subject under the Federal Water Pollution Control Act, or under State law including but not limited to water quality standards, effluent limitations, standards of performance and pretreatment standards.
2. “**Commercial Sewage System,**” means a system utilized for the collection and disposal of sewage, including the various devices for the treatment of such wastes, from a commercial establishment.
3. “**Community Sewage System,**” means a system utilized for the collection, treatment and disposal of sewage or other waste of a liquid nature, including the various devices for the treatment of such wastes, serving more than one dwelling or residence and owned and operated by a person other than a municipality or sewage works corporation and not an individual or public sewage system.
4. “**Dwelling**” means any building or structure which is wholly or partly used or intended to be used for living or sleeping by human occupants.
5. “**Individual Sewage Treatment System,**” means a system of piping, tanks or other facilities for the on-site collection, treatment and disposal of sewage.
6. “**Industrial Wastes,**” means any liquid, gaseous, solid or waste substance or a combination thereof resulting from any process of industry, manufacturing, trade or business or from the development or recovery of any natural resources which may cause or might reasonably be expected to cause a nuisance, danger or hazard or pollution of the waters of the County and which is determined by the Director to be dangerous or prejudicial to public health and safety.
7. “**Offensive Material,**” means any sewage, fecal matter, manure, offal, garbage, dead animals, meat wastes, pool waste water, any putrescible organic matter, the contents of sewage disposal systems (either liquid or solid state), or any substance or liquid dangerous or prejudicial to health, safety or general welfare, or gives rise to offensive odors as may be determined by the Director or his/her designee.
8. “**Other Wastes,**” means shavings, bark, sand, lime, salt, ashes, petroleum products, tar, dye stuffs, acids, chemicals, and all other discarded matter not sewage, industrial wastes or offensive material which is determined by the Director to be dangerous or prejudicial to health and safety.

9. “**Permitee**,” means the holder of a State Pollution Discharge Elimination System (SPDES) or Department Permit.
10. “**Point Source**,” means any discernable, confined or discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft, from which pollutants are or may be discharged.
11. “**Pollution Hazard**,” means a condition resulting from the entry of wastes into any of the waters of the County whereby;
  - i. The quality of such waters may be adversely affected in their use for bathing, drinking, culinary and other water supply uses; or
  - ii. A situation determined by the Director to be prejudicial to health and safety of the public is created.
12. “**Privy**” means any facility or structure provided for the storage or disposal of human excreta without water carriage.
13. “**Public Sewage System**,” means the whole or any part of a system or facilities or means for the collection, treatment or modification or ultimate disposal of waterborne sewage, domestic wastes, trade wastes, industrial wastes, or offensive material, regardless of location, with respect to any building or structure or premises thereby served; and shall include but shall not be limited to facilities for treatment, modification, or required control of harmful or deleterious substances.
14. “**Reserve or Replacement Area**,” means the area on the site that is kept available for the future individual sewage treatment system should the primary individual sewage treatment system fail.
15. “**Sanitary Sewer**,” means a system of piping or other facilities used for the collection and transportation of wastes to a community, individual, commercial or public sewage system under the control of the person owning or responsible for the community, individual, commercial or public sewage system or jurisdiction of the Department.
16. “**Sewage**” means water-carried human waste, human excreta and liquid or water carried waste and laundry wastes from residences and buildings (from water closets, lavatories, sinks, bathtubs, laundry tubs or devices, floor drains or other sanitary fixtures), together with such groundwater infiltration and surface water as may be present, without the admixture of industrial or other wastes.
17. “**Sewage System**” means all types of sewage related systems listed and defined in this Article (i.e., Commercial, Community, Individual, Public).
18. “**SPDES**,” means New York State Pollutant Discharge Elimination System and all pertinent applications, forms, permits and reporting forms.

19. **“Water or Waters of the State,”** shall be construed to include lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, and all the ground-waters which are either wholly or in part within New York State (including the County) or which touch any part of the land within New York State (including the County).

### **C. General Provisions**

1. All sanitary facilities or any other facility from which sewage flows shall be connected to a Community or Public Sewage Treatment System, if available and accessible.
2. If there is no Community or Public Sewage Treatment System available and accessible, only a Sewage Treatment System approved by the Department may be used.
3. Whenever a Community or Public Sewage Treatment System becomes available and accessible, the Department may direct the owner of any property using an Individual Sewage Treatment System to abandon the use of such Individual Sewage Treatment System within ninety (90) days and to connect to such Community or Public Sewage Treatment System and the use of any other sewage system or facility shall be discontinued and every tank or pit in such system shall be opened, emptied of any sewage and be abandoned and completely filled with inert material so as to prevent accidents.
4. An abandoned septic tank, seepage pit, or other device or equipment for the treatment of sewage shall be cleaned and filled to the ground surface in a manner acceptable to the Department.
5. Roof water, foundation drain, cistern overflow, or surface or subsoil drainage shall not be discharged into any individual sewage treatment system.
6. No person shall construct or maintain a Sewage Treatment System, pipe, or drain in the County so as to expose or discharge the sewage contents therefrom to the atmosphere or onto the surface of the ground, by subsurface disposal, by groundwater injection or into any storm sewer, drain or roadside ditch, nor so as to discharge into any watercourse or body of water contained within or touching any part of the land within the County, unless approval for such discharge shall have been issued in accordance with the provisions of the New York State Environmental Conservation Law and the Department is satisfied that such discharges will not adversely affect public health or create a condition which is detrimental to public health.

### **D. Application, Approval and Permits**

1. No person shall make, install, construct, modify or place in operation or allow to be made, installed, constructed, modified or placed in operation any Sewage System with a flow of one-thousand (1,000) gallons per day or greater, or any part thereof, without first having obtained a SPDES Permit from the appropriate government agency and written approval of plans and specifications from the NYSDEC and/or the Department, where applicable.
2. No person shall make, install, construct, modify or place in operation or allow to be made, installed, constructed, modified or placed in operation a sanitary sewer under the jurisdiction of the NYSDEC or the Department without first having obtained written approval of plans from the NYSDEC or the Department.

3. All Sewage Systems with a flow of one-thousand (1,000) gallons per day or greater under the jurisdiction of the NYSDEC shall be operated and maintained in accordance with required SPDES permits and any other approvals.
4. No person shall make, install, construct, modify or place in operation or allow to be made, installed, constructed, modified or placed in operation any Individual Residential or Commercial Sewage System with a flow of less than one-thousand (1,000) gallons per day or to construct such system to serve any new building or structure until a Construction Permit has been issued and approval granted by the Director.
5. All components of Sanitary Sewers and Sewage Systems under the jurisdiction of the Department shall be maintained in an acceptable manner and operating condition in accordance with the design, construction and approval of any amendments and modifications thereof.
6. Application for a Construction Permit for any Sewage System shall be made in writing on forms prescribed by the Department and shall contain such information as required by the Department, pursuant to the rules and regulations adopted by the Director and the Department.
7. Each new application for a Construction Permit and each renewal application for a Construction Permit shall be accompanied by the required fee.
8. The provisions of this Article, as determined by the Director, shall be applicable to any new building or structure for which any alteration, modification or change of use or method, purpose or intensity of operation is contemplated or effective.
9. If a home addition is planned which increases the number of bedrooms (or rooms that could be converted to bedrooms in the future) the Individual Sewage Treatment System must be evaluated to determine if it is sized to accommodate future increases in wastewater flow. If the Individual Sewage Treatment System cannot accommodate future increases in wastewater flow, such Individual Sewage Treatment System must be upgraded.
10. Applicants for Individual Sewage Treatment System Construction Permits may be required to submit satisfactory evidence that there is not a Public or Community Sewage System available and accessible to the building site to be served.
11. Applications for Construction Permits required by this Article shall be accompanied by engineering reports, plans and specifications and other information required by the Department.
12. The Department may refuse issuance of a Construction Permit or renewal thereof to construct, install, alter or extend an Individual Sewage Treatment System, or revoke or suspend same, if upon investigation and/or review of submitted information it determines the site lacks sufficient usable area, suitable soil, satisfactory ground-water conditions for proper construction, installation, alteration or extension of the proposed system, or sufficient area to provide adequate separation of such system from water supplies on the same site or adjoining properties, or if the proposed system does not otherwise comply with design, construction, installation, location or operation standards as required by the New York State Codes, Rules and Regulations, 10 NYCRR Appendix 75-A.



## **E. Renewal of Construction Permit**

1. Any Construction Permit issued pursuant to this Article shall be valid for twenty-four (24) months after its issuance and may be renewed for up to an additional twenty-four (24) months. A Construction Permit may not be renewed unless written application therefore is made not less than thirty (30) days prior to the expiration of a valid existing Construction Permit.

## **F. Transfer of Permit**

1. Should the property for which a Construction Permit has been issued change ownership, the Construction Permit may, with the written approval of the Department, be transferred to the new record owner. Such transfer must be requested in writing on a form prescribed by the Department and signed by the original Construction Permit holder.

## **G. General Engineering Design, Construction, Installation, Maintenance and Operation**

1. The design, construction, installation, location, maintenance and operation of Individual Sewage Treatment Systems shall be in accordance with standards of the State Commissioner of Health as set forth in 10 NYCRR Appendix 75-A entitled Wastewater Treatment Standards - Individual Household Systems and the more recent Individual Wastewater Treatment Systems Design Handbook (Latest Edition), or, where applicable, the New York State Department of Environmental Conservation manual, Design Standards for Wastewater Treatment Works Intermediate Sized Sewage Treatment Facilities (Latest Edition).
2. Plans and specifications for all new Sewage Systems shall be required to be prepared (in part or whole depending on complexity) by a New York State Licensed Professional Engineer or other professional person licensed for such purpose. Sewage Systems shall be designed, constructed and maintained in accordance with the Standards of the NYSDOH, and/or the NYSDEC, as applicable, and all additional requirements of the Department.
3. Application for a Construction Permit shall be made in writing on forms provided by the Department and shall be accompanied by such data, including but not limited to drawings, maps, soil analysis, test borings, percolation tests, ground-water flood elevations, and detailed plans of the proposed Individual Sewage Treatment System, as the Department may require or direct.
4. Plans shall include field contours, using two (2) feet maximum intervals in the location of the house or facility, Individual Sewage Treatment System, and water supply well. Contours elsewhere shall be a maximum of five (5) feet and the origin referenced. Under special circumstance and by prior approval by the Department, this requirement may be waived.

5. Where public water is available to a building lot, construction of a new Individual Sewage Treatment System is prohibited on such lot where the lot size is smaller than 15,000 square feet. Where public water is not available to a building lot, construction of a new Individual Sewage Treatment System is prohibited on such lot where the lot size is smaller than 40,000 square feet. In both cases, there shall be available lot reserve area to provide for the one-hundred percent replacement of the Individual Sewage Treatment System.
6. The Director may require that a representative of the Department be present during the performance of tests conducted to determine the characteristics of the soil on the building site and the depth to groundwater and rock.
7. Field data shall be valid for up to five (5) years from the date of inspection, unless the building site/property has been altered, and at the discretion of the Director.

#### **H. Construction, Inspection and Compliance**

1. No Sewage System or part thereof shall be constructed, installed, altered, or extended until the property owner or his/her duly designated representative shall have first applied for and received a Construction Permit or a renewal thereof.
2. No sewage system shall be constructed otherwise than in accordance with the plans and specification or amendments thereto filed with and approved by the Director.
3. No person shall construct, install or alter any Individual Sewage Treatment System or parts thereof unless he/she verifies that the property owner holds a valid Construction Permit issued by the Department.
4. The final construction approval for engineered Individual Sewage Treatment Systems shall be issued upon receipt of a certification in writing by a New York State Licensed Professional Engineer, or other professional person licensed for such purposes, stating that the system has been installed under his/her direction and responsibility, and in accordance with the terms and conditions of the permit to construct, certificate of approval, or approved plans or any approved amendments thereto.
5. The Individual Sewage Treatment System may not be back-filled without authorization of the Department, and the Department may require it to be uncovered if back-filled without such authorization.
6. During any stage of, or after completion of construction, installation, alteration or inspection of the Individual Sewage Treatment System, no portion of the system shall be covered with soil or placed in operation until it is first inspected and approved by an authorized representative of the Department.
7. The property owner or his designated representative shall not use or permit the use of the Sewage System until a Certificate of Approval has been issued by the Department.
8. A permit to construct all Sewage Systems shall be subject to modification or change as may be directed in writing by the Director, due to conditions found prior to or during construction.
9. The Director may require all or part of the Sewage System construction to cease until approval of the required modification or change has been obtained.

10. Whenever inspection indicates the construction of a Sewage System to be otherwise than in accordance with this Article, or the conditions of any permit or approval of plans issues pursuant thereto or the Standards applicable to said construction, all work shall cease and verbal and/or written notice may be served upon any person connected with or working in or about the said system or any part thereof, or be registered or certified mail to the last recorded address of the person named in such permit to construct such system.
11. After the notice to cease construction of a Sewage System as herein provided, no further work shall be done other than to remedy such violation and to proceed with work in compliance with the aforementioned requirements, provided that the Director determines that the work may properly proceed.
12. In the event that the remedial construction of a Sewage System does not result in the removal of the violation or violations and further construction does not proceed in accordance with the terms and conditions of the original Construction Permit or approved amendments thereto, the original Construction Permit shall terminate and be deemed null and void, and no further work shall be undertaken until a new Construction Permit for such system shall have been obtained.
13. It is the responsibility of the Contractor to construct the Individual Sewage Treatment System in full conformance with the approved Construction Permit and/or the approved Design Plans and Specifications and schedule any necessary inspection by the Department.

#### **I. Privies**

1. No Privy, other than a self-contained, portable privy, shall be constructed or used without first obtaining a Construction Permit as prescribed in Article 9.H.
2. Privies shall be constructed according to standards set forth in The New York State Codes, Rules and Regulations, 10 NYCRR Appendix 75-A.

#### **J. Operation**

1. No person shall construct, operate or maintain any Sewage System so as to expose or discharge the sewage contents or other deleterious liquid or matter therefrom to any Waters of the State, to the atmosphere, or on the surface of the ground or into any storm sewer or drain or so as to cause a pollution hazard, unless an approval and/or permit for such discharge shall have been issued therefor in accordance with the provisions of this Article or other provisions of law.
2. It is the responsibility of the home/building owner to operate and maintain the Individual Sewage Treatment System in full conformance with the standards listed in the Certificate of Approval provided by the Department, the approved Design Plans and Specifications, and the standards listed under Article 9.G.1.
3. Wastes, including storm-water, other than sewage or other wastewater for which a Sewage System was designed, shall not be discharged into such Sewage System.
4. When a Sewage System is no longer to be used, it shall be abandoned and every tank or pit in such system shall be opened, emptied of sewage, and be abandoned and completely filled with inert material so as to prevent accidents.

## **K. Sewage Treatment System Cleaner**

1. No person shall engage in the business of cleaning out, draining, or flushing septic tanks or other types of Individual Sewage Treatment Systems within the County without a permit issued by the Department, or the New York State Department of Environmental Conservation.
2. Collection, transportation and final disposal of material removed, drained or flushed from Sewage Treatment Systems shall be performed in a safe and sanitary manner and in accordance with the New York State Environmental Conservation Law, Section 27-0301 and Part 364 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

## **L. Temporary Toilet Facilities on Construction**

1. Any builder, contractor, or other person, firm, or corporation employing persons on the construction or repair of any building or structure shall provide or cause to be provided a temporary privy or privies or other satisfactory toilet facilities at a convenient place upon the premises or readily accessible thereto and the same shall be properly enclosed and contents thereof shall be completely covered with clean inert material or otherwise effectively treated.

## **M. Exposure of Sewage**

1. No person shall construct or maintain any privy, cesspool, sewage treatment system, pipe or drain so as to expose or discharge the sewage contents or other deleterious liquid or matter therefrom to the atmosphere or on the surface of the ground or into any storm sewer or drain or so as to endanger any water course or body of water unless a permit for such discharge shall have been issued therefore by the New York State Department of Environmental Conservation and such discharge shall be made in accordance with the requirements thereof.

## **N. Harmful or Deleterious Substances**

1. No person shall discharge or cause the discharge of, any harmful or deleterious substance to any Sanitary Sewer or Sewage System so as to endanger the use of or the materials of construction of such sewer or system or so as to result in the stoppage or other failure of the Sewage System or subsequent sewage treatment, unless a permit and/or approval for such system or subsequent sewage treatment or a permit and/or approval for such discharge has been secured from the official agency having jurisdiction for such Sewage System or Sewage Treatment Works and such discharge conforms to the terms of such permit.

## **O. Sewage System, Approval Not a Guarantee**

1. The issuance of the Construction Permit or the Certificate of Approval issued pursuant to the provisions of this Article, with respect to a Sewage System, shall not be construed as a guarantee by the Director or any representative, employee or agent of the Department that the system has been properly constructed or that it will function satisfactorily.

**P. Construction of Article**

1. Nothing contained in this Article shall be construed to mean that the Department has approved the functional ability or adequacy of the system or systems approved pursuant to the provisions of this Article.
2. The Director may, on written application and after review, grant a waiver or variance from a specific provision of this Article. A variance or waiver may be subject to appropriate conditions. A variance may include a time schedule for compliance where such variance is in harmony with the general purpose and intent of this Article.

**Q. Modifications of Director's Order**

1. An order issued by the Director pursuant to this Article shall take effect with the period specified in the order.
2. The Director may postpone the effective date of an Order served pursuant to this Article, if such postponement will not result in an immediate danger to the public health; provided, however that no postponement shall be granted unless the Director has determined that the construction, change in treatment or other control measures which may be required to ensure compliance with the Order cannot be completed with the time prescribed by the original effective date because of physical or engineering difficulties, the shortage of necessary materials or equipment or other reasons acceptable to the Department.

## ARTICLE 10: REALTY SUBDIVISIONS

### A. Definitions

1. **“Realty Subdivision”** means any tract of land which is hereafter divided into five (5) or more parcels along an existing or proposed street, highway, easement or right-of-way for sale or for rent as residential lots or residential building plots, regardless of whether the lots or plots to be sold or offered for sale or leased for any period of time are described by metes and bounds or by reference to a map or survey of the property or any other method of description and regardless of whether the lots or plots are contiguous. A tract of land shall constitute a subdivision upon the sale, rental or offer for sale or lease of the fifth (5<sup>th</sup>) residential lot or residential building plot therefrom within any consecutive three (3) year period and at that time the provisions of Section 1116 of the State Public Health Law shall apply to all such parcels which require approval of plans by the Department thereof, including the first four (4) parcels, regardless of whether said parcels have been sold, rented or offered for sale or lease singly or collectively. This definition is, and is intended to be, in conformity and compliance with Title II, Article 11, Section 1115 of the State Public Health Law as presently written and as may be amended hereafter.
2. **“Developer”** means a person, partnership, corporation, a group of persons or other legal entity undertaking or participating in the establishment of a subdivision.
3. **“Individual Water Supply System”** means a single system of piping, tanks, or other facilities together with a source of water intended to supply only a single lot.
4. **“Individual Sewage Treatment System”** means a single system of piping, tanks or other facilities serving only a single lot and disposing of sewage or other liquid wastes into the soil of the lot.
5. **“New Public Water System”** means a community, noncommunity or nontransient noncommunity water system which provides water to the public for human consumption through pipes or other constructed conveyances, if such system has at least 5 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.
6. **“Public Sewage System,”** means the whole or any part of a system or facilities or means for the collection, treatment or modification or ultimate disposal of waterborne sewage, domestic wastes, trade wastes, industrial wastes, or offensive material, regardless of location, with respect to any building or structure or premises thereby served; and shall include but shall not be limited to facilities for treatment, modification, or required control of harmful or deleterious substances.
7. **“Reserve Area”** or **“Replacement Area”** is the area on the site that is kept available for 100% replacement for the future Individual Sewage Treatment System should the primary Individual Sewage Treatment System fail.

8. **“Residential Lot”** or **“Residential Building Plot”** means any parcel of land of five (5) acres or less, any point on the boundary line of which is less than one-half (1/2) mile from any point on the boundary line of another such lot in the same tract, unless any such lot may not be used for residential purposes. Without limiting the generality of the foregoing, the term **‘residential’** shall include temporary, seasonal and permanent, residential use.
9. **“Tract”** means any body of land, including contiguous parcels of land, under one ownership or under common control of any group or person(s) acting in concert as part of a common scheme or plan.
10. **“Usable Area”** means the general area required and suitable for normal and reasonable development of each habitable building site in a realty subdivision to permit the provision of water supply and sewage facilities to serve the area for the proposed occupancy and shall include a protective area satisfactory to the Director on all sides of an Individual Sewage System; provided, however, that a “usable area” shall not be deemed to include any other protective area between any Individual Sewage Treatment Systems and any water supply source, line of drainage, water-course, or other hazardous condition, or any area occupied by a building structure, lake, stream, pond, or swamp, areas of exposed rock, or underlying rock or ground-water not acceptable to the Director or marginal areas subject to flooding, or along streams or other bodies of water or any other condition not acceptable to the Director. In any case the usable area for an Individual Sewage Treatment System shall not be less than the area required to accommodate the system and **one-hundred percent (100%) Reserve/Replacement area**. The size of the area for both the primary and reserve/replacement is to be based on the site soil characteristics as determined by field investigation.

## **B. General Provisions**

1. No Subdivision or portion thereof shall be sold, offered for sale, leased or rented by any developer, and no permanent building shall be erected thereon until a plan or map of such Subdivision shall be filed with and approved by the Department and such plan or map thereafter filed in the Office of the Clerk of Clinton County in accordance with Title II, Article 11, Section 1117 of the New York State Public Health Law.
2. Such plan or map shall show methods meeting the standards for obtaining and furnishing adequate and satisfactory water supply and sewage facilities to said Subdivision.
3. The remedy for a purchaser of one parcel of an unapproved Realty Subdivision shall be as described in Title II, Article 11, Section 1115-a of the New York State Public Health Law.
4. Whenever lots are sold or offered for sale without the actual provision or construction of water supply or sewage disposal or land drainage systems having been installed, it shall be the responsibility of the seller to furnish each purchaser of such site at the time of the sale, a legible reproduction of the Realty Subdivision plan bearing approval and indicating the arrangements for water supply and sewage disposal approved by the Department.
5. All water supply and sewage disposal and land drainage systems shall be installed in accordance with the plans approved by the Department prior to the start of construction of any building on the property.

### C. Plan Submissions

1. All plans submitted for approval shall be in conformance with the relevant provisions of Title II, Article 11 of the New York State Public Health Law, Title 15 of the New York State Environmental Conservation Law and State Sanitary Code, Title 10, Part 74.
2. Plans shall contain the signature, seal, and address of a professional engineer, licensed land surveyor with 7208 (n) exemption, or an architect licensed and registered pursuant to the Education Law of the State of New York.
3. At the time of submitting a plan of a Realty Subdivision for approval, as required by the State Public Health Law and the provisions of this Article, the appropriate applications and review fee, established by the Board, shall be paid to the County.
4. Plans other than those for connection to an existing Public Water System and Public Sewage Systems or construction of new Public Water System and new Public Sewage System, for the proposed Realty Subdivision, shall not propose to furnish water to more than one lot and/or to treatment of sewage from more than one lot.
5. Where a developer proposes to obtain and furnish water supply and/or sewage facilities for a Subdivision by connection to an existing Public Water System and/or existing Public Sewage System, the developer shall supply the Director with certification, in writing, by the owner of the utility that such facilities will be furnished and kept available in good operating condition for the Subdivision.
6. The proposals for Realty Subdivision development shall conform to all applicable comprehensive studies, including air, water, sewage and solid wastes.
7. An application for approval of plans for a Realty Subdivision or amendment of such plans shall be submitted to the Department on forms provided. A review fee established in accordance with the policies and procedures of the Department shall be assessed for each lot and is payable at the time of original submission. The application shall be valid for a maximum of five (5) years after receipt by the Department.
8. Application for approval of plans for a Realty Subdivision or amendment thereof shall be accompanied by such maps, plans, reports, specifications and data as the Department may require.
9. Plans for a Realty Subdivision or amendment thereof submitted for approval pursuant to the provisions of the Article shall:
  - i. Show the location of all existing easements, storm drainage systems and control structures, public water supply mains or public sewage collection mains, or both in such instances where such facilities exist or are to be provided; and
  - ii. Show the location of all Individual Water Supply Systems, or Individual Sewage Treatment Systems, or both in such instances where such facilities exist or are to be provided.
10. The Department may require a report and plans which may impact or affect the arrangements for sewage disposal and water supply covering the following environmental factors:



- i. The methods for grading to prevent changes in soil percolation capacity and to provide for adequate collection and drainage of surface water;
  - ii. The methods to prevent contravention of surface and ground water quality standards, including areas of a watershed for a municipal water supply;
  - iii. The effect on the Subdivision of environmental pollutants or hazards either on the property or from surrounding areas, resulting from such facilities, activities or conditions as industrial or commercial structures or operations, highways, solid waste disposal sites, swamps, quarries, water-courses, agricultural uses, flood plans and unstable soil conditions;
  - iv. The potential effect of the Subdivision on environmental factors in surrounding areas; and
  - v. The potential for flooding of all or part of a proposed Realty Subdivision by a storm of 100 year frequency.
11. Plans for a Realty Subdivision or amendment thereof, submitted to the Department for approval pursuant to the provisions of this Article shall show, on the face thereof, the written consent of the owner of record of the property approving the filing of such plans in the office of the Clinton County Clerk.
12. The Department shall require test water supply wells (1 test well for every 10 proposed realty subdivision lots) to be constructed on the site of a proposed Realty Subdivision, prior to approval, in order to assist in the determination of adequacy of the ground water supply for domestic use.
13. Plans and specifications for the connection to an existing Public Water and Public Sewage Systems or construction of new Public Water and Public Sewage Systems to serve the proposed Realty Subdivision shall be submitted to and shall receive approval of the Department and/or the NYSDOH, and/or the NYSDEC prior to the approval of the plans for the proposed Realty Subdivision to be served.
14. Plans and specifications for the arrangements for Individual Water Supply and Individual Sewage Treatment Systems shall be in accordance with all local, state and federal standards, guidelines, policies and procedures, including but not limited to Appendix 75-A and Part 75, 10NYCRR, of the Administrative Rules and Regulations of the State of New York, and “Individual Wastewater Systems Design and Construction Standards” of the Department.
15. Realty Subdivisions located with an active or historic agricultural site require soil and water testing and a remediation plan for any contaminants related to past agricultural activities. Remediation plans shall be prepared by a New York State Licensed Professional Engineer. All plans are subject to approval by the Director.

#### **D. Approval of Subdivision Plan**

1. Plans submitted to the Department pursuant to this Section shall be of such form and size as to meet the requirements for filing by the Clinton County Clerk, and shall in all respects be legible, with notes and specifications arranged in logical order.

2. Plans submitted to the Department pursuant to this Section shall show methods applicable to the terrain, soils, lot area and geographical and municipal location for the provisions of adequate water supply and adequate disposition of sewage and land drainage. A general plan applicable to the proposed specific building intentions shall be shown. Field contours shall be shown, using two (2) feet maximum interval field contours prepared by a licensed land surveyor in the locations of the house or facility, sewage system and water supply well. Contours elsewhere shall be a maximum of five (5) feet and the origin referenced. The Developer shall state on the face of the map that he/she had examined the various lots shown and that, in his/her opinion, a reasonable building site exists on each lot shown. The Developer may indicate that need for special fill or drainage on any individual plot. The Director may require such contours, elevations, house locations, and description of facilities, location maps and descriptions of public or private facilities existing or proposed as he/she deems necessary. While the facilities for the land drainage must be shown on the drawings submitted to the Department, the Department does not approve land drainage facilities.
3. The installation of any water supply and any sewage treatment/disposal facilities, public or private, shall be in accordance with the plans approved by the Department, the NYSDOH, the NYSDEC or approved revision or revisions thereof.
4. The approval of any Realty Subdivision plan under and pursuant to the provisions of the Public Health Law and this Article shall become effective only upon the filing of the approved plan in the office of the Clinton County Clerk within ninety (90) days of plan approval.
5. The approval by the Department of the proposed methods of providing water, sewage facilities and land drainage, shall be indicated by a stamp or endorsement on the face of the original tracing of the subdivision. While the facilities for land drainage must be shown on the drawings submitted to the Department, the Department does not provide approval of such facilities.
6. The original tracing of the subdivision plan shall show on the face thereof the written consent of the owner of record approving the filing of the plans.
7. If, in the judgement of the Director, the proposed method of providing potable water supply or sewage disposal would be or become inadequate, or endanger the public health by reason of unfavorable topography, drainage, soil, density of population, or any other sanitary or physical feature, the Director may refuse such approval. The determination of the Director in refusing such approval shall be final. If a plan is disapproved by the Department, such plan shall be returned to the person who submitted the plan, with a summary of the reasons for disapproval.
8. The Department shall not review or approve any such Realty Subdivision map submitted for approval until the required application (and all required documents) and the required fee have been received.
9. If any plans submitted to the Department cannot be approved, after review by the Department, all fees shall be retained by the County.

10. As a condition of approval, the Department may require the installation within a specified period, in accordance with the plans presented or approved revisions thereof, of the whole or any part of the water, sewage or land drainage facilities for said Realty Subdivision and/or the Department may require that the land shall have been suitably improved and shall have adequate land drainage and usable areas for such installation before approval of the plans.
11. Plans and specifications for the connection to an existing Public Water System and/or existing Public Sewage Treatment System or construction of any proposed new Public Water System or new Public Sewage System, for the proposed Realty Subdivision, shall be submitted to and shall receive approval of the Department the NYSDOH and/or the NYSDEC prior to the approval of the plans for the Realty Subdivision to be served.
12. Approved Plans - Compliance: A Realty Subdivision shall be constructed in accordance with the plans duly approved by the Director and filed in the office of the Clinton County Clerk and in accordance with the conditions imposed thereon by the Department. The installation of all water supply and sewage systems shall be in accordance with State and local laws, ordinances, rules and regulations and shall be installed in accordance with plans or revisions thereof approved by the Director and/or NYSDOH, and/or the NYSDEC.

**E. Sewage Facilities (Connection to Existing or New)**

1. If a proposed Realty Subdivision is to be located in an area deemed inappropriate for the installation of Individual Sewage Treatment Systems, the Director may require installation of a new Public Sewage System, to specifically serve the Proposed Realty Subdivision.
2. Connection to an existing Public Sewage System or construction of any proposed new Public Sewage System, to specifically serve the proposed Realty Subdivision, is required when:
  - i. A Subdivision is located in an existing sewer district or service area;
  - ii. A Subdivision is reasonably accessible to an existing sewer district or service area. This requirement shall apply in the absence of proof satisfactory to the Department that the developer cannot effect arrangements for the installation and/or connection of the sewage system to the existing sewer district or service area facilities;
  - iii. The soil percolation rate is slower than sixty (60) minutes per inch;
  - iv. The Subdivision consists of fifty (50) lots or more;
  - v. The Subdivision consists of two-hundred (200) or more residents in the aggregate;
  - vi. A minimum separation of two (2) feet cannot be maintained between the lowest part of the leaching system and the highest elevation of the top of the zone of water saturation, rock, hardpan or other impermeable material at all times of year; or,
  - vii. An approved comprehensive study exists.

**F. Water Facilities (Connection to Existing or New)**

1. If a proposed Realty Subdivision is to be located in an area deemed inappropriate for the installation of Individual Water Supply Systems, the Director may require installation of a new Public Water System, to specifically serve the Proposed Realty Subdivision.
2. Connection to an existing Public Water System or construction of any proposed new Public Water System, to specifically serve the proposed Realty Subdivision is required when:
  - i. The Subdivision is located in an existing water district service area;

- ii. The Subdivision is reasonably accessible to an existing water district or service area. This requirement shall apply in the absence of proof satisfactory to the Department that the developer cannot effect arrangements for the installation and/or connection of the water system to the existing water district or service area facilities;
  - iii. Individual wells cannot provide an average yield of five (5) gallons per minute;
  - iv. The Subdivision consists of fifty (50) lots or more;
  - v. The Subdivision consists of two-hundred (200) or more residents in the aggregate;
  - vi. Groundwater is non-potable; or
  - vii. An approved comprehensive study exists.
3. An existing Public Water System or construction of any new Public Water System, to serve the proposed Realty Subdivision, shall:
- i. Be designed to deliver water in accordance with the requirements of Part 5-1 of the State Sanitary Code;
  - ii. Be capable of delivering water at an average rate of one hundred (100) gallons per capita per day when service connections are un-metered, or seventy-five (75) gallons per capita per day when service connections are metered;
  - iii. Provide for continuity of water service by providing at least two (2) separate water sources each capable of supplying the system such that the total capacity equals or exceeds the maximum daily demand with the largest producing well out-of-service.
  - iv. For a Public Water System serving primarily or only the proposed Realty Subdivision, a NYSDOH Certified Water Operator will be required to provide and maintain proper water system operation, maintenance and monitoring.

**G. Individual Water and Individual Sewage Treatment Systems**

- 1. Whenever a duly approved Public Water Supply or Public Sewage System is available and accessible for any site or property with a Realty Subdivision, any prior general approval for construction of Individual Water Supply or Individual Sewage Treatment System may be deemed null and void and further construction shall be served by individual connections to the public system or systems so provided.
- 2. Where it is proposed to provide Individual Water Supply and/or Individual Sewage Treatment systems, each lot shall contain the required usable area for such facilities based upon the particular conditions as determined by appropriate soil investigations and design report to the Director. In any case, the usable area for an Individual Sewage Treatment System shall not be less than the area required to accommodate the primary Individual Sewage Treatment System and a 100% Reserve/Replacement Area. The size of the area for both the primary and Reserve/Replacement Area is to be based on the site soil characteristics determined by field investigation.
- 3. A plan shall be required which shall indicate the required usable area for Individual Water Supply and/or Individual Sewage Disposal for each lot and such other information as the Department may require.
- 4. The minimum usable area for Individual Water Supply and Individual Sewage Treatment Systems specified in this Section/Article is intended to apply to single-family occupancies.

5. The Department may require such usable area for Individual Water Supply and Individual Sewage Treatment Systems as deemed necessary or adequate or for any other type of land usage indicated on the proposed Realty Subdivision plan or permitted under existing zoning laws, if any.
6. Individual wells must maintain an average yield of five (5) gallons per minute of potable water. Yield tests and water quality sampling shall be conducted in accordance with New York State Department of Health requirements. 10 NYCRR Appendix 5B will be the basis upon which individual water supply systems will be reviewed for approval. The use of individually dug wells, well points, cisterns or springs shall not be allowed by the Department.
7. Sewage Treatment System designs will be reviewed for compliance with the standards prescribed in Article 9 of this Sanitary Code.
8. An Individual Sewage Treatment system shall consist of a minimum septic tank followed by a subsurface leaching system, designed with a capacity adequate for the wastewater calculated to be produced each individual residence for each Realty Subdivision lot. Where Individual Water Supply and Sewage Treatment Systems are to be installed on a single lot, the minimum lot area shall be 40,000 square feet. The use of cesspools or holding tanks shall not be allowed.
9. As applied to Individual Sewage Treatment Systems, the usable area for such system shall contain suitable absorptive natural soils above ground water, rock and impervious materials. The area intended for Individual Sewage Treatment Systems shall be well drained by natural or approved artificial means.

#### **H. Public Water and Individual Sewage Treatment Systems**

1. Where water is to be provided by provision of or the extension of a Public Water Supply System and sewage disposal is to be provided by an Individual Sewage Treatment system on each lot, the usable area for the sewage treatment system on each lot shall be based upon the particular conditions on each lot as determined by appropriate soil investigations and design report acceptable to the Department. In any case, the usable area for an Individual Sewage Treatment System shall not be less than the area required to accommodate the primary Individual Sewage Treatment System and a 100% Reserve/Replacement Area. The size of the area for both the primary and Reserve/Replacement area is to be based on the site soil characteristics determined by field investigation.
2. A plan shall be required which shall indicate the required usable area for Individual Sewage Treatment System for each lot and such other information as the Department may require.
3. Whenever a duly approved Public Water System or Public Sewage System is available and accessible for any site or property within a Realty Subdivision, any prior general approval for construction of Individual Water Supply or Individual Sewage Treatment System may be deemed null and void and further construction shall be served by individual connections to the public system so provided.
4. The relevant provisions of 10 NYCRR Appendix 5-A entitled, Recommended Standards for Water Works will be the basis upon which all plans, specifications and reports for community water systems will be reviewed for approval by the Department

## **I. Public Water and Public Sewage Systems**

1. Where water and sewage services are to be provided by public water mains and public sanitary sewers, the required approval may be indicated by stamp or endorsement on the face of the original tracing of the proposed Realty Subdivision plan indicating that such approval is issued subject to the provision of such systems to serve every habitable building constructed therein. Such systems shall thereafter be installed to serve every habitable structure in such proposed Realty Subdivision.
2. Where it is proposed to provide water supply or sewage facilities by connection to an existing Public Water Supply or Public Sewage System, the applicant shall supply the Department with a certification, in writing, by the owner of the utility that such system or systems are adequate and will be furnished and maintained to serve the proposed Realty Subdivision.
3. The relevant provisions of 10 NYCRR Appendix 5-A entitled, *Recommended Standards for Water Works* will be the basis upon which all plans, specifications and reports for community water systems will be reviewed for approval by the Department

## **J. Water and Sewage – Joint Systems**

1. No lot shall be provided with a supply of water other than by an Individual Water Supply System or an individual connection to a Public Water Supply System, nor shall plans for any other system or arrangement be approved.
2. No lot shall be provided with a method of sewage disposal other than an Individual Sewage Treatment System or an individual connection to a Public Sewage System, nor shall any other system or arrangement for sewage disposal be approved.

## **K. Water and Sewage – Existing and Proposed Improvement Districts**

1. Within the corporate limits of any city or village, or within any municipal water district or municipal sewer district or area, no plan for development of a proposed Realty Subdivision shall be approved except where the plan provides for the extension or extensions of such water or sanitary sewer systems to serve every lot in such Realty Subdivision; however, Individual Sewage Treatment Systems and Individual Water Systems may be approved when the Department finds the extension of the public sanitary sewer or public water supply system is not necessary and each such site contains the required usable area and is adequate for individual systems so long as such approval is not contrary to any local, state or federal rule, law or regulation.
2. Within the corporate limits of any city or village, or within any municipal sewer district or area wherein public sewage is contemplated within five (5) years or less as determined by a resolution of the municipal governing board, interim Individual Sewage Treatment Systems may be permitted by the Department, provided:
  - i. That dry sewer is designed, duly approved, and properly installed in accordance with the municipal sewage plan;
  - ii. That capped or plugged plumbing is installed to serve each lot and individual sewer connections may be required to be installed to each dry sewer; and
  - iii. That the soil is otherwise suitable for an Individual Sewage Treatment System.

3. Whenever public water or public sewage systems are proposed in a Realty Subdivision, the Department shall require the establishment or extension of a municipal service area or, as necessary, a transportation corporation to ensure the continued operation and maintenance of these facilities.

#### **L. Violations**

1. No person or Developer shall engage in the development of Realty Subdivision without approval from the Director or as provided herein or as otherwise required by any local, state, or federal rule, law or regulation.
2. In addition to and independent of any other penalty, whenever the Director shall have knowledge of the development of a Realty Subdivision not in accordance with Article 10.L.1 above, the Director shall issue a written Notice of Violation and such notice shall be served personally or by certified or registered mail to the last known address of the person filing such map and to the owner or owners of record of lands within such Realty Subdivision, if known, and to the Developer, if known, otherwise by posting conspicuously on the property and a duplicate of such notice shall be filed in any public office having jurisdiction with respect to the Realty Subdivision.
  - i. After delivery of such Notice as herein provided, the further development, sale, offer for sale, or contract for sale or rent of lots therein, and the extension or construction of water or sewage systems to serve any lots therein shall be prohibited; provided, however, that upon submission of evidence satisfactory to the Director that the further development of the Realty Subdivision and the extension or construction of water or sewage systems to serve any lot therein will be continued in accordance with approved plans or approved amendments thereto; provided further, however, that the Director may authorize in writing the resumption of the development, extension or construction involved, on such conditions, including the correction of the violation as the Director shall prescribe.
  - ii. The violation shall not be vacated until such time as the Director is satisfied that the development, extension, or construction involved is proceeding with approved plans or amendments thereto.
  - iii. The sale, offer for sale, or contract for sale or lease of lots of the Realty Subdivision shall not be permitted until the violation has been vacated in writing.

#### **M. Applicability of Local Laws**

1. Nothing contained in this Article shall be construed to abrogate the authority of any municipality or other duly constituted agency having by law authority to regulate or control Realty Subdivisions or any public facilities therein provided or proposed.
2. Nothing contained herein shall be construed to impair or abrogate the powers and functions of any State or County agency having jurisdiction as now or hereafter provided by law.

#### **N. Variances and Exemptions**

1. The Director may, on written application, grant a variance from a specific provision of this Article in a particular case, subject to appropriate conditions, where such variance is in harmony with the general purpose and intent of this Article.

2. Notwithstanding the foregoing, the Director may impose more stringent requirements in a specific case when necessary to assure an adequate and satisfactory water supply and sewage treatment/disposal system facility for the proposed Realty Subdivision.
3. The owner of a single residential lot which is part of an unapproved Realty Subdivision may seek the remedy provided for in Section 1115-a of State Public Health Law.
4. When required and directed by a local municipality, the owner of a proposed development of less than five (5) lots may apply to the Director for approval of plans and a certificate of approval by compliance with the provisions of this Article applicable to a subdivision of five (5) or more lots.
5. When required and directed by a local municipality, the owner of a proposed development of five (5) lots or more, each lot being in excess of five (5) acres, may apply to the Director for approval of plans and a certificate of approval by compliance with the provisions of this Article.



## ARTICLE 11: FOOD SERVICE ESTABLISHMENTS

### A. Definitions

1. “**Food Service Establishment**” shall be as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 14-1.
2. “**Temporary Food Service Establishment**” shall be as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 14-2.
3. “**Mobile Food Service**” shall be as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 14-4.
4. “**Vending Machine**” shall be as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 14-5.
5. Other definitions found in Part 14 of the State Sanitary Code and any subsequent revisions are adopted and hereby incorporated by reference as part of this Article of the Sanitary Code.

### B. Permit required

1. Any person who shall construct, enlarge, improve or operate any Food Service Establishment must apply for a Permit by submitting a Permit Application to the Department at least thirty (30) days prior to beginning work.
2. The Department shall not review or approve any such Facility Permit Application and Facility Plans submitted for approval until the required Permit Application and all other required documents, and the required fee have been received.
3. If any Permit Application (and all required documents) and/or Facility Plans submitted to the Department cannot be approved, after review by the Department, all fees shall be retained by the County.

### C. Provisions

1. Any person who shall operate or cause to be operated a Food Service Establishment shall comply with all provisions of Part 14 of the State Sanitary Code.
2. It shall be unlawful for any person to operate a Food Service Establishment in the County unless such person possesses a valid permit issued by the Director, pursuant to this Article, to operate such Food Service Establishment.
3. Only persons who comply with the requirements of Part 14 of the State Sanitary Code shall be entitled to receive and retain such permit.
4. This permit will be issued annually, and will expire one year from the date of issuance, except as otherwise stipulated on the permit (i.e., at the end of each calendar year).
5. Applications shall be made at least thirty (30) days before the first day of intended operation on a form prescribed by the Department.

6. Application for renewal of permits shall be made at least thirty (30) days prior to expiration of the current permit on a form prescribed by the Department.

#### **D. Plans for New Construction or Renovation**

1. No person shall construct a Food Service Establishment or make any substantial addition, modification or renovation to an existing Food Service Establishment until plans and specifications receive approval from the Department. The Department shall provide guidance, on request, whether an addition, modification or renovation is “substantial”.
2. Prior to construction of a new Food Service Establishment or renovation/modification of an existing Food Service Establishment, acceptable plans and specifications must be submitted to the Department, no later than 30 days prior to the commencement of planned new facility construction or existing facility renovation/modification.
3. Plans prepared by a New York State Licensed Professional Engineer or Registered Architect may be required by the Department depending upon the size and complexity of the facility.
4. Facility layout, design, equipment, and operation format must comply with applicable sections of Part 14 of the State Sanitary Code.

#### **E. Certified Food Protection Manager**

1. The Department reserves the authority to require the person in charge of the food service establishment to be a Certified Food Protection Manager, unless otherwise required by the New York State Sanitary Code, based on the history of recent unsatisfactory facility inspections, facility menu complexity, and/or the person in charge’s experience.
2. If and when required by the Department, the Permittee shall comply with this requirement within 90 days, by submitting a certificate of training to this Department. The Certified Food Protection Manager will be required to complete a certification program that is evaluated and listed by the Conference of Food Protection-recognized accrediting agency as conforming to the Conference of Food Protection Standards for Accreditation of Food Protection Manager Certification Programs.

## ARTICLE 12: TEMPORARY RESIDENCES

### A. Definitions

1. **“Temporary Residence”** shall be as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 7-1.
2. Other definitions found in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 7-1 and any subsequent revisions are adopted and incorporated herein by reference.

### B. Provisions

1. Part 7 of the State Sanitary Code establishes the regulations for Temporary Residences in the County, as enacted now or subsequently amended.
2. Any person who shall operate or cause to be operated a Temporary Residence shall comply with all provisions of Subpart 7-1 of the State Sanitary Code.

### C. Permit required

1. Any person who shall construct, enlarge, improve or operate any Temporary Residence must obtain Department approval and/or a Permit from the Department.
2. The Department shall not review or approve any such Permit Application and Facility Plans submitted for approval until the required Permit Application (and all required documents) and the required fee have been received.
3. If any Permit Application (and all required documents) and/or Facility Plans submitted to the Department cannot be approved, after review by the Department, all fees shall be retained by the County.
4. All Temporary Residences operating in the County must receive a Permit to Operate. Permits will be issued annually and will expire twelve (12) months from the date of issuance unless otherwise stated on the permit (i.e., at the end of each calendar year).
5. Applications for new permits or the renewal of existing permits must be made thirty (30) days prior to the expiration of the current permit on the forms prescribed by the Department.

### D. Plans for New Construction or Renovation

1. No person shall construct a Temporary Residence Facility or make any addition, modification or renovation to an existing Temporary Residence Facility until plans and specifications receive approval from the Department.
2. Prior to construction of a new facility or renovation/modification of an existing facility, acceptable plans and specifications must be submitted to the Department, no later than 30 days prior to the commencement of planned new facility construction or existing facility renovation/modification.
3. Plans prepared by a New York State Licensed Professional Engineer or Registered Architect may be required by the Department depending upon the size and complexity of the facility.

## ARTICLE 13: MOBILE HOME PARKS

### A. Definitions

1. “**Mobile Home Park**” shall be as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Part 17.
2. Other definitions found in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Part 17 and any subsequent revisions are adopted and herein incorporated by reference.

### B. Provisions

1. Any person who shall operate or cause to be operated a Mobile Home Park shall comply with all provisions of Title 10; New York State Codes, Rules and Regulations; Chapter 1, Part 17.

### C. Permit required

1. Any person who shall construct, enlarge, improve or operate any Mobile Home Park must obtain approval and/or a Permit from the Director.
2. The Department shall not review or approve any such Permit Application and Facility Plans submitted for approval until the required Permit Application (documents) and the required fee has been received.
3. If any Permit Application (documents) and/or Facility Plans submitted to the Department cannot be approved, after review by the Department, all fees shall be retained by the County.
4. All persons who operate a Mobile Home Park with five (5) or more sites in the County shall obtain a Permit to Operate issued by the Director.
5. Only persons who comply with Part 17 shall receive a Permit.
6. Permits will be issued annually and will expire twelve (12) months from the date of issuance unless otherwise stated on the permit.
7. Applications for permits for new facilities or renewal of permits for existing facilities must be made in strict compliance with compliance with Section 17.4, Paragraph (b) of Part 17– Mobile Home Parks (Code).
8. Applications for permits for new facilities or renewal of permits for existing facilities must be made thirty (30) days prior to the opening date or expiration of the existing permit, on the forms prescribed by the Department.

### D. Plans for New Construction or Renovation

1. Prior to construction of a new Mobile Home Park or renovation of an existing Mobile Home Park, facility plans must be submitted to the Department for review and approval, no later than 30 days prior to the commencement of planned new construction or existing facility renovation/modification.
2. The park layout, sewage treatment system(s), water supply system(s), and any other feature and/or component relating to public health must comply with Part 17 of the State Sanitary Code and Articles 8, 9 and 13 of the County Sanitary Code.

3. Plans prepared by a New York State Licensed Professional Engineer or Registered Architect shall be required depending upon the size and complexity of the facility.

## ARTICLE 14: BATHING FACILITIES

### A. Definitions

1. “**Swimming Pool**” shall be as defined in Title 10, New York State Codes, Rules and Regulations, Chapter I, Subpart 6-1
2. “**Spa Pool**” shall be as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 6-1.
3. “**Bathing Beach**” shall be as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 6-2.
4. “**Recreational Aquatic Spray Ground**” shall be as defined in Title 10, New York State Codes, Rules and Regulations, Chapter 1, Subpart 6-3.
5. Other definitions found in Subpart 6-1, Subpart 6-2 and Subpart 6-3 of the State Sanitary Code and any subsequent revisions are adopted and hereby incorporated by reference as part of this Article of the Sanitary Code.

### B. Provisions

1. Any person who shall operate or cause to be operated a Swimming Pool or Spa Pool shall comply with all provisions of Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 6-1. Any person who shall operate or cause to be operated a Bathing Beach shall comply with all provisions of Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 6-2. Any person who shall operate or cause to be operated a Recreational Aquatic Spray Ground shall comply with all provisions of Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 6-3.
2. Swimming Pools, Spa Pools, Bathing Beaches and Recreational Aquatic Spray Grounds shall be constructed, operated and maintained in accordance with the provisions of Part 6 of the State Sanitary Code.

### C. Permits

1. Any person who shall construct, enlarge, improve or operate any Swimming Pool, Spa Pool, Bathing Beach or Recreational Aquatic Spray Ground must obtain approval and/or a Permit from the Department.
2. The Department shall not review or approve any such Permit Application and Facility Plans submitted for approval until the required Permit Application (and all required documents) and the required fee has been received.

3. If any Permit Application (and all required documents) and/or Facility Plans submitted to the Department cannot be approved, after review by the Department, all fees shall be retained by the County.
4. It shall be unlawful to operate a Swimming Pool, Spa Pool, Bathing Beach or Recreational Aquatic Spray Ground in the County without a permit issued by the Department.
5. To receive and retain a permit, the Swimming Pool, Spa Pool, Bathing Beach or Recreational Aquatic Spray Ground must be in compliance with Part 6 of the New York State Sanitary Code.
6. Permits for Swimming Pools, Spa Pools, Bathing Beaches or Recreational Aquatic Spray Grounds will be issued annually and will expire twelve (12) months from the date of issuance unless otherwise stated on the permit.
7. Application for permits for new facilities or renewal of permits for existing facilities must be made thirty (30) days prior to the opening of the new facility or expiration of the current permit on forms prescribed by the Department.

#### **D. Plans for New Construction or Renovation**

1. No person shall construct a Bathing Facility (swimming pool, bathing beach, spa pool, etc.) or make any addition, modification or renovation to an existing Bathing Facility until plans and specifications receive approval from the Department.
2. Prior to construction of a new facility or renovation/modification of an existing facility, acceptable plans and specifications must be submitted to the Department, no later than 30 days prior to the commencement of planned new facility construction or existing facility renovation/modification.
3. Plans prepared by a New York State Licensed Professional Engineer or Registered Architect shall be required by the Department.

## ARTICLE 15: MIGRANT FARMWORKER HOUSING

### A. Definitions

1. **“Migrant Farmworker Housing”** shall be as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Part 15.
2. Other definitions found in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Part 15 and any subsequent revisions are adopted as part of this Article of the Sanitary Code.

### B. Permit required

1. Any person who shall construct, enlarge, improve or operate any Migrant Farmworker Housing must obtain approval and/or a Permit from the Director and Board or the appointed designee.
2. The Department shall not review or approve any such Permit Application and Facility Plans submitted for approval until the required Permit Application (and all required documents) and the required fee has been received.
3. If any Permit Application (and all required documents) and/or Facility Plans submitted to the Department cannot be approved, after review by the Department, all fees shall be retained by the County.

### C. Provisions

1. Any person who shall operate or cause to be operated or allow occupancy of a Migrant Farmworker Housing Facility shall comply with all provisions of Part 15 of the State Sanitary Code.

### D. Plans for New Construction or Renovation

1. No person shall construct a Migrant Farmworker Housing Facility or make any addition, modification or renovation to an existing Migrant Farmworker Housing Facility until plans and specifications receive approval from the Department.
2. Prior to construction of a new facility or renovation/modification of an existing facility, acceptable plans and specifications must be submitted to the Department, no later than 30 days prior to the commencement of planned new facility construction or existing facility renovation/modification.
3. Plans prepared by a New York State Licensed Professional Engineer or Registered Architect shall be required by the Department depending upon the size and complexity of the facility.



## ARTICLE 16: COMMUNICABLE DISEASE

### A. Purpose

1. To assure the safety and well-being of the residents of Clinton County through the reduction and/or prevention of the spread of communicable diseases through education and mandatory reporting of suspected or confirmed cases.

### B. Definitions

1. **“Communicable Disease”** shall mean an illness caused by an infectious agent or its toxins that occurs through the direct or indirect transmission of the infectious agent or its products from an infected individual or via an animal, vector or the inanimate environment to a susceptible animal or human host.

### C. Rabies

1. All persons shall comply with Article 21, Title 4 of the Public Health Law relating to Rabies and Part 2 of the State Sanitary Code relating to Rabies.

### D. Reporting of Cases

1. The reporting of cases and the reduction and/or prevention of the spread of communicable disease shall be in accordance with the definitions and regulations found in Title 10, Chapter I, Part 2 of the New York Codes, Rules and Regulations and the New York Public Health Law Articles 21, 22 and 23 (as listed in the most recent version of the NYSDOH Communicable Disease Reporting requirements).

### E. Duty to Report (Physicians and Institutions)

1. Every physician shall immediately give notice (report) to the Department of every case of communicable disease in Clinton County required by the Department to be reported.
2. If there is no physician in attendance on any case of communicable disease, it shall be the duty of the superintendent or other officer of an institution, householder, hotel or lodging housekeeper, or other person where such case occurs in Clinton County, to give notice (report) to the Department of such case of communicable disease required by the Department to be reported.

### F. Tuberculosis (Duty of Physicians and Health Officers)

1. It shall be the duty of a physician attending a patient having tuberculosis to take all proper precautions and to give proper instructions to provide for the safety of all individuals occupying the same house or apartment, and if no physician be attending such patient this duty shall devolve upon the Department.
2. All duties imposed upon physicians by any sections of this article shall be performed by Department in all cases of tuberculosis not attended by a physician, or when the physician fails to perform the duties herein specified.

## **G. Foodborne Illness**

1. No Food Service Establishment employee is to work in a Food Service Establishment:
  - i. While infected with a disease in a communicable form capable of transmission by food or water;
  - ii. Who is otherwise a carrier of organisms that cause such disease, or;
  - iii. While afflicted with a boil or infected wound.
  
2. Any food service operator, except those regulated by Title 10; New York State Codes, Rules and Regulations; Chapter V, having actual or constructive knowledge of the occurrence of illness allegedly due to the consumption of food or beverages served at the establishment, shall report the same within 24 hours to the Department.

## ARTICLE 17: AGRICULTURAL FAIRGROUNDS

### A. Definitions

1. “**Agricultural Fairground**” shall be as defined in Title 10; New York State Codes, *Rules and Regulations*; Chapter 1, Subpart 7-5.
2. Other definitions found in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 7-5 and any subsequent revisions are adopted as part of this Article of the Sanitary Code.

### B. Permit Required

1. Any person who shall construct, enlarge, improve or operate any Agricultural Fairground must obtain approval and/or a permit from the Director and Board or the appointed designee.
2. The Department shall not review or approve any such Permit Application and Facility Plans submitted for approval until the required Permit Application (and all required documents) and the required fee have been received.
3. If any Permit Application (and all required documents) and/or Facility Plans submitted to the Department cannot be approved, after review by the Department, all fees shall be retained by the County.

### C. Provisions

1. Any person who shall operate or cause to be operated an Agricultural Fairground shall comply with all provisions of Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 7-5.

### D. Plans for New Construction or Renovation

1. No person shall construct an Agricultural Fairground Facility (or any component thereof) or make any addition, modification or renovation to an existing Agricultural Fairground Facility (component) until plans and specifications receive approval from the Department.
2. Prior to construction of a new facility or renovation/modification of an existing facility, acceptable plans and specifications must be submitted to the Department, no later than 30 days prior to the commencement of planned new facility construction or existing facility renovation/modification.
3. Plans prepared by a New York State Licensed Professional Engineer or Registered Architect shall be required by the Department depending upon the size and complexity of the facility.

## ARTICLE 18: CHILDREN'S CAMPS

### A. Definitions

1. “**Summer Day Camp**” shall be as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 7-2.
2. “**Traveling Summer Day Camp**” shall be as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 7-2.
3. “**Children’s Overnight Camp**” shall be as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 7-2.
4. Other definitions found in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 7-2 and any subsequent revisions are adopted as part of this Article of the Sanitary Code.

### B. Permit required

1. Any person who shall construct, enlarge, improve, operate or allow others to operate any Children’s Camp must obtain approval and/or a permit from the Director and Board or the appointed designee.
2. Application for a permit to operate a Children's Camp shall be made by the operator to the Department at least ninety (90) days before the proposed first day of operation. The completed Children's Camp application must be accompanied by a written comprehensive Children's Camp Safety Plan as defined in subdivision 7-2.5(n) of the State Sanitary Code Subpart 7-2.
3. The Department shall not review or approve any such Permit Application and Facility Plans submitted for approval until the required Permit Application (and all required documents) and the required fee has been received.
4. If any Permit Application (documents) and/or Facility Plans submitted to the Department cannot be approved, after review by the Department, all fees shall be retained by the County.

### C. Provisions

1. Any person who shall operate or cause or allow to be operated a Children’s Camp shall comply with all provisions of Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 7-2.

### D. Plans for New Construction or Renovation

1. No person shall construct a Children’s Camp Facility or make any addition, modification or renovation to an existing Children’s Camp Facility until plans and specifications receive approval from the Department.
2. Prior to construction of a new facility or renovation/modification of an existing facility, acceptable plans and specifications must be submitted to the Department, no later than 30 days prior to the commencement of planned new facility construction or existing facility renovation/modification.

3. Plans prepared by a New York State Licensed Professional Engineer or Registered Architect shall be required by the Department depending upon the size and complexity of the facility.

#### **E. Violations**

1. The maximum penalty for Children's Camp violations as stated in PHL Section 1395 (1) (b) of \$250.00 per day, except for public health hazards as authorized in PHL Section 1395 (7), which allows the \$2,000.00 per violation penalty.

## ARTICLE 19: CAMPGROUNDS

### A. Definitions

1. **“Campground”** shall be as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 7-3.
2. **“Parking Lot Campgrounds”** shall be defined as a parking lot that meets Title 1; New York State Codes Rules and Regulations; Chapter1, Subpart 7-3 as defined by the Application section and Article 19.A.3.
3. Other definitions found in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 7-3 and any subsequent revisions are adopted as part of this Article of the Sanitary Code.

### B. Permit Required

1. Any person who shall construct, enlarge, improve or operate any Campground must obtain approval and/or a permit from the Director and Board or the appointed designee.
2. The Department shall not review or approve any such Permit Application and Facility Plans submitted for approval until the required Permit Application (and all required documents) and the required fee has been received.
3. If any Permit Application (and all required documents) and/or Facility Plans submitted to the Department cannot be approved, after review by the Department, all fees shall be retained by the County.

### C. Parking Lot Campgrounds

1. Any parking lot campground must meet the requirements of a campground as outlined in Title 1; New York State Codes, Rules and Regulations; Chapter 1, Subpart 7-3. This definition does not cover I-87 rest areas, other labeled ‘rest areas’ on other roads, and state or federal facilities which specifically allow overnight parking.
2. Any parking lot owner who allows, whether by expressed or implied consent, five (5) or more recreational vehicle operators to set up or park their recreational vehicles in the parking lot between hours of 11 PM and 6 AM will be considered a parking lot campground.
3. Any parking lot owner who does not wish to be considered an owner of a parking lot campground must post “No Camping Allowed” signs throughout their parking lot. If recreational vehicle operators continue to set up or park, the parking lot owner or designee must notify the Clinton County Sheriff, New York State Police, or other local law enforcement agencies to enforce removal of the recreational vehicles from their parking lot.
4. Any parking lot owner who wishes to operate a parking lot campground must obtain approval and a permit from the Director. The minimum requirements are an engineering plan and written plan covering the acceptable routine sewage and garbage collection, and a source of water meeting the requirements of Article 8 of the Sanitary Code for each recreational vehicle; the spacing of recreational vehicles and/or the banning of open flame grills and open fires to reduce the risk of fire, and any other requirements deemed appropriate by the Director.

5. Any parking lot owner who wishes to operate a temporary parking lot campground for a special event lasting more than 24 hours must notify the Director thirty (30) days prior to the special event. The only person who can receive a permit for a temporary parking lot campground is the owner of the parking lot. The parking lot owner must submit the required engineering and written plans for the approval, a letter from the municipality approving the request, a letter from the applicable law enforcement agency approving traffic control at the event, a letter from the Clinton County Emergency Services Director approving emergency services for the event and/or a permit from the Director.

#### **D. Provisions**

1. Any person who shall operate or cause to be operated a Campground shall comply with all provisions of Subpart 7-3 of the State Sanitary Code.

#### **E. Plans for New Construction or Renovation**

1. No person shall construct a Campground Facility or make any addition, modification or renovation to an existing Campground Facility until plans and specifications receive approval from the Department.
2. Prior to construction of a new facility or renovation/modification of an existing facility, acceptable plans and specifications must be submitted to the Department, no later than 30 days prior to the commencement of planned new facility construction or existing facility renovation/modification.
3. Plans prepared by a New York State Licensed Professional Engineer or Registered Architect shall be required by the Department depending upon the size and complexity of the facility.

## ARTICLE 20: MASS GATHERINGS

### A. Definitions

1. **“Mass Gathering”** shall be as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Part 7.
2. As listed in the State Sanitary Code, Part 7, Subpart 7-4 (Mass Gatherings) of the State Sanitary Code, the term **“Mass Gathering”** shall mean one (a gathering) which is likely to attract five thousand (5,000) people or more and continue for twenty four (24) hours or more but shall not include a temporary residence under permit. Other definitions found in Part Title 10; New York State Codes, Rules and Regulations; Chapter 1, Part 7 are adopted as part of this Article of the Sanitary Code.
3. It is hereby declared to be the health policy of the Department to assure that the owners and operators of Mass Gathering(s) operate their premises in such a manner as to avoid imminent public health hazards.

### B. Permit Required

1. No person shall hold or promote, by advertising or otherwise, a Mass Gathering unless a permit has been issued for the gathering by the Director and Board.
2. Application for a permit to promote or hold a Mass Gathering shall be made to the Department on a form and in a manner prescribed by the New York State Commissioner of Health by the person(s) who will promote or hold the Mass Gathering and shall be accompanied by the fee established by the Board.
3. Application for a permit to promote or hold a Mass Gathering shall be made at least ninety (90) days before the first day of advertising and at least ninety (90) days before the first day of the Mass Gathering.
4. The permit fee established by the Board will cover or partially cover the County’s cost for providing services to this event. These services include, but are not limited to, the Department’s cost of plan review and staffing the event, Clinton County Sheriff Department, Clinton County Emergency Services, and Clinton County Highway Department.

### C. Provisions

1. Any person(s) who shall hold, conduct, operate or promote a Mass Gathering shall comply with all provisions of Title 10; New York State Codes, Rules and Regulations; Chapter 1, Part 7 and conditions of the permit.
2. Any person(s) who shall hold, conduct, operate or promote a Mass Gathering shall, as a minimum, also comply with the provisions of Part 18 of the State Sanitary Code and Article 21 of the Sanitary Code.



#### **D. Insurance Requirements**

1. The applicant shall provide evidence of public liability and property damage insurance by furnishing the Department with a copy of the policy actually issued, including all endorsements pertaining thereto, and shall co-insure the Department and the County. The policy shall be written by a New York State licensed insurance carrier with a minimum reserve of Two Hundred Fifty Million Dollars (\$250,000,000.00). Such policy shall cover both personal injury and property damage and be written on an “occurrence” basis in an amount of at least Two Million Dollars (\$2,000,000.00) for each occurrence and an aggregate amount of at least Ten Million Dollars (\$10,000,000.00) and shall bear an endorsement preventing cancellation by the named insured or by the insurance carrier without first furnishing the Department with ten (10) days written notice as evidenced by certified or registered mail, return receipt requested, such receipt to be signed only by the Director and Board.

#### **E. Hold-harmless Protection**

1. The applicant shall furnish the Clinton County Attorney with an acceptable hold-harmless agreement to the County, its towns, cities and villages and the public at large, for any loss or damage above and beyond insurance coverage.

#### **F. Designation for Legal Process**

1. If the applicant does not reside in the County, or if the applicant is a corporation, or if an officer of the corporation does not reside in the County, the applicant shall designate in writing, a person who does reside in the County, who shall agree by verified statement to accept notices, summons or other legal process issued with respect to the promotion, the application, the conduct of the event or the use in any manner involving the applicant and arising out of the promotion, application, construction or conduct or operation of any event deemed to be covered by this Article and/or the State Sanitary Code.

#### **G. Proof of Financial Resources**

1. The applicant shall submit proof of financial resources sufficient to execute the plans as submitted and approved.

#### **H. Mandatory Contingency Fund**

1. The Director shall determine the amount of monies to be deposited into a contingency fund and require the applicant to deposit that amount of monies into a contingency fund to insure the sanitary conditions of the event. This contingency fund will be placed in an interest-bearing account at a local bank in the County, and the Comptroller of the Department will be allowed to write checks covering services to maintain sanitary conditions during the event without the applicant’s or his/her representative’s co-signature. The Comptroller will provide the applicant and the Board copies of the event’s bills and expenditures. Any monies left over in the contingency fund can be used for removal of garbage at the Mass Gathering site after the event. All monies left over, including interest, will be reimbursed to the applicant by the Comptroller. At a time pre-determined when all sanitary matters related to the event have been financially settled.

## **I. Variance**

1. To the extent not otherwise required by the New York State Public Health Law or the State Sanitary Code, the Director may, on written application and after review, grant a variance from a specific provision of this Article in a specific case subject to appropriate conditions where such variance is in harmony with the general purpose and intent of this Article where adequate provisions have been made for the safety of the occupants and where there are practical difficulties or unnecessary hardship in carrying out the strict letter of the provision.

## ARTICLE 21: PUBLIC FUNCTIONS WITH ATTENDANCE OF OVER 5000 PEOPLE

### A. Definitions

1. “**Public Function**” shall be as defined in Part 18 of the State Sanitary Code.
2. Other definitions found in Part 18 of the Sanitary Code are adopted as part of this Article of the Sanitary Code.
3. It is hereby declared to be the health policy of the Department to assure that the owners and operators of **Public Function(s)** operate their premises in such a manner as to avoid imminent public health hazards.

### B. Permit Required

1. No person shall hold or promote, by advertising or otherwise, a Public Function unless a permit has been issued for the gathering by the Director and Board.
2. Application for a permit to promote or hold a Public Function shall be made to the Department on a form and in a manner prescribed by the New York State Department of Health by the person(s) who will promote or hold the Public Function and shall be accompanied by the fee established by the Board.
3. Application for a permit to promote or hold a Public Function shall be made at least sixty (60) days before the first day of advertising and at least sixty (60) days before the first day of the Public Function.

### C. Provisions

1. Any person(s) who shall hold, conduct, operate or promote a Public Function shall comply with all provisions of Part 18 of the State Sanitary Code and conditions of the permit.

## ARTICLE 22: SMOKING AND VAPING RESTRICTIONS

### A. Definitions

1. All definitions found in New York State Public Health Law, Article 13-E “Regulation of Smoking and Vaping in Certain Public Areas” known as the *Clean Indoor Air Act* are hereby incorporated as definitions applicable to this Article of the Sanitary Code.

### B. Standards and Requirements

1. The owner, operator or manager of any place defined or covered by Article 13-E shall comply with all provisions of the New York State Public Health Law Article 13-E. Additionally, all owners, operators and/or managers of facilities and buildings who allow tobacco smoking and/or vaping outside their facility or building must insure that no tobacco smoke enters the facility or the building through windows, doors, entrances, vents and ventilation systems. The owners, operators and/or managers must require anyone who is smoking and/or vaping to move to an area where the tobacco smoke cannot enter the facility or building. Failure to prevent the entrance of tobacco smoke to a facility or building will be considered a violation of this section.
2. All not-for-profit entities, meeting the New York State Public Health Law Article 13-E’s definition as a membership organization, who wish to allow on-premises indoor smoking and/or vaping and meeting the requirements of Article 1399-q(4), must register with the Department as a “Clean Indoor Air Act-Exempt Membership Organization”. These membership organizations must complete a form required by the Department in order to become registered as a “Clean Indoor Air Act Exempt Facility” at least thirty (30) days prior to allowing indoor smoking and/or vaping. Not-for-profit membership organizations that fail to register with the Department as a “Clean Indoor Air Act-Exempt Membership Organization” will be deemed in violation of this section of the Sanitary Code for allowing indoor smoking and/or vaping.
3. All facilities wishing to allow smoking and/or vaping in their outside dining area must comply with the applicable sections of the New York State Public Health Law Article 13-E. These facilities must register with the Department as a facility allowing smoking and/or vaping in their outdoor dining area. These facilities must complete a form required by the Department in order to become registered as a facility allowing smoking and/or vaping in their outdoor dining area at least thirty (30) days prior to allowing smoking and/or vaping in said area. Facilities that fail to register with the Department as a facility allowing outdoor smoking and/or vaping will be deemed in violation of this section of the Sanitary Code for allowing smoking and/or vaping in their outside dining area.

4. All facilities and/or sponsors of functions inviting the public for the primary purpose of promoting and sampling tobacco products, and the service of food and drink, is incidental to such purpose, must comply with the applicable sections of the New York State Public Health Law Article 13-E. Both the facility and sponsor must register with the Department as a facility and/or sponsor of a “Public Tobacco Sampling and Promotional Event”. The facility and sponsor both must complete a form required by the Department in order to register the “Public Tobacco Sampling and Promotional Event” at least two weeks prior to such function.
5. Any facility that has registered outdoor smoking and/or vaping areas or is a registered “Clean Indoor Air Act-Exempt Membership Organization” is prohibited from advertising that the facility has an outdoor smoking and/or vaping area, or the facility is a registered “Clean Indoor Air Act-Exempt Membership Organization”. A facility and/or sponsor of a “Public Tobacco Sampling and Promotional Event” is exempt from this section.
6. Places of employment and Food Service Establishments may not allow or mandate their employees and contractual workers to work in an indoor and/or outdoor smoking and/or vaping area whether or not the employees and contractual workers agree to work in a smoking and/or vaping environment. This includes employees and/or contractual workers passing through an indoor and/or outdoor smoking and/or vaping area for any facility except for registered “Clean Indoor Air Act-Exempt Membership Organization” or an establishment that received a Clean Indoor Air Act Waiver.

**ARTICLE 23: REGULATION OF TOBACCO PRODUCTS AND HERBAL CIGARETTES;  
DISTRIBUTION TO MINORS**

**A. Definitions**

1. All definitions found in New York State Public Health Law, Article 13-F Regulation of Tobacco Products and Herbal Cigarettes; Distribution to Minors known as the *Adolescent Tobacco Use Prevention Act (ATUPA)* are hereby incorporated as definitions applicable to this Article of the Sanitary Code.
2. “**Dealer of Tobacco Products**” means the owner or operator of any establishment or facility where tobacco product sales and/or distribution occur, including vending machines.
3. “**ATUPA**” shall mean *the New York State Adolescent Tobacco-Use Prevention Act*.
4. “**Tobacco Products**” means one or more cigarettes or cigars, bidis, chewing tobacco, powdered tobacco, e-cigarettes, or any other tobacco products as defined in found in New York State Public Health Law, Article 13-F Regulation of Tobacco Products and Herbal Cigarettes; Distribution to Minors.

**B. Standards and Requirements**

1. Any Dealer of tobacco products shall comply with all provisions of the New York State Public Health Law Article 13-F.

## ARTICLE 24: TANNING FACILITIES

### A. Definitions

1. **“Tanning Facility”** shall be as defined in Title 10; New York State Codes, Rules and Regulations, Chapter 1, Subpart 72-1.
2. Other definitions found in Title 10; New York State Codes, Rules and Regulations, Chapter 1, Subpart 72-1 and any subsequent revisions are adopted and incorporated herein by reference.

### B. Provisions

1. Part 72, Subpart 72-1 of the Sanitary Code establishes the regulations for Tanning Facilities in the County, as enacted and now or subsequently amended.
2. Any person who shall operate or cause to be operated a Tanning Facility shall comply with all provisions of Subpart 72-1 of the State Sanitary Code.

### C. Permit Required

1. Any person who shall construct, enlarge, improve or operate any Tanning Facility must obtain approval and/or a permit from the Department.
2. All Tanning Facilities operating in the County must receive a Permit to Operate. Permits will be issued every two years and will expire twenty-four (24) months from the date of issuance unless otherwise stated on the Permit (i.e., at the end of each 2-year cycle).
3. Applications for new Permits or the renewal of existing permits must be made thirty (30) days prior to the expiration of the current Permit on the forms prescribed by the Department.
4. The Department shall not review or approve any such Permit Application and Facility Plans submitted for approval until the required Permit Application (and all required documents) and the required fee has been received.
5. If any Permit Application (and all required documents) and/or Facility Plans submitted to the Department cannot be approved, after review by the Department, all fees shall be retained by the County.

### D. Plans for New Construction or Renovation

1. No person shall construct a Tanning Facility or make any addition, modification or renovation to an existing Tanning Facility until plans and specifications receive approval from the Department.
2. Prior to construction of a new facility or renovation/modification of an existing facility, acceptable plans and specifications must be submitted to the Department, no later than 30 days prior to the commencement of planned new facility construction or existing facility renovation/modification.
3. Plans prepared by a New York State Licensed Professional Engineer or Registered Architect shall be required by the Department depending upon the size and complexity of the facility.

## ARTICLE 25: COOLING TOWERS

### A. Definition

1. “**Cooling Towers**” shall be as defined in Title 10; New York State Codes, Rules and Regulations; Part 4: Protection against Legionella; Subpart 4-1 Cooling Towers.
2. Other definitions found in Title 10; New York State Codes, Rules and Regulations; *Part 4: Protection against Legionella; Subpart 4-1 Cooling Towers* and any subsequent revisions are adopted and incorporated herein by reference.

### B. Provisions

1. Part 4, Subpart 4-1 of the State Sanitary Code establishes the regulations for Cooling Towers in the County, as enacted and now or subsequently amended.
2. Any person who shall operate or cause to be operated a Cooling Tower shall comply with all provisions of Subpart 4-1 of the State Sanitary Code.

### C. Enforcement

1. The Department may require any owner to conduct *Legionella* culture sampling and analysis, following a determination, based upon epidemiologic data or laboratory testing, that one or more cases of legionellosis are or may be associated with a cooling tower.
2. An officer or employee of the Department or the NYSDOH may enter onto any property to inspect a cooling tower for compliance with the requirements of this Subpart, in accordance with applicable law, and may take water samples as part of such inspections.
3. Where an owner does not register, have a maintenance program and plan, obtain certification, disinfect, perform or obtain culture sampling and analysis, or inspect a cooling tower within the time and manner set forth in Subpart 4-1, the Department or the NYSDOH may determine that such condition constitutes a nuisance and may take such action as authorized by law. The Department or the NYSDOH may also take any other action authorized by law.
4. A violation of any provision of Subpart 4-1 and this Article is subject to all civil and criminal penalties as provided for by law. Each day that an owner remains in violation of any provision of this Article and Subpart 4-1 shall constitute a separate and distinct violation of each such provision.

### D. Variance and Waivers

1. In order to allow time for compliance with Subpart 4-1, an owner may submit a written application to the Department for a variance from any provision of Subpart 4-1, for a period not exceeding 90 days, accompanied by an explanation of why such variance will not present a danger to public health. With the approval, the Department may approve such application for a variance in writing, subject to any conditions that the Department or the NYSDOH may deem appropriate to protect public health. The Department or the NYSDOH may revoke such variance upon a determination that the variance may present a danger to public health.



2. The Department may issue a written general or specific waiver with respect to any provision of Subpart 4-1, subject to any conditions the Department may deem appropriate, where the Department is satisfied that such waiver will not present a danger to public health. The Department may revoke such waiver upon a determination that the waiver may present a danger to public health.

**E. Severability**

1. If any provisions of this Article or the application thereof to any person or entity or circumstance is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this Article or the application thereof to other persons, entities, and circumstances.

**ARTICLE 26: UNCONSTITUTIONALITY CLAUSE AND PROVISIONS FOR REVISIONS OR AMENDMENT**

**A. Unconstitutionality Clause**

1. In the event any section, paragraph, sentence, clause or phrase of this Sanitary Code shall be declared unconstitutional or invalid for any reason, the remainder of said code shall not be affected thereby.

**B. Provisions for Revision or Amendment**

1. This Sanitary Code may be amended or revised by the Board of Health at any regular meeting of the Board provided that a legal notice of intent is published in the County's official newspaper at least ten (10) days prior to such regular meeting of the Board. Such notice shall contain the nature of the proposed change(s) and advise that copies of such change(s) are available upon request in the office of the Department.

**ARTICLE 27: EFFECTIVE DATE**

- A. Every regulation of the Sanitary Code, unless otherwise specifically stated shall take effect March 18, 2024.

**Revised March 2024 and approved by the Clinton County Board of Health members:**

George Miller, RN, President • Victor Ludewig, MD, Vice President • Wendell Hughes, Legislative Liaison  
Jeffrey Sisson, Secretary • Robert Smith • Edward Garrow • Lynn Howard, BSN  
Gilbert Demangles, MD • Rebecca King, VMD • Victor Ludewig, MD