

SANITARY CODE
of the
NIAGARA COUNTY HEALTH DISTRICT

EFFECTIVE: January 1, 1993
UPDATED FOR FILING: Feb 1, 2010

NIAGARA COUNTY DEPARTMENT of HEALTH
5467 Upper Mountain Road, Suite 100
Lockport, NY 14094-1894

Daniel J. Stapleton, MBA
Public Health Director

James J. Devald, P.E.
Director of Environmental Health

NIAGARA COUNTY BOARD OF HEALTH MEMBERS 2009:

Thomas Hughes, MD, President
John Reardon, Vice President
Vivien Carrion, MD
Ann Marie Correa, RN, OCN
Jerome Ulatowski, MD
John Gotowko, RPH, MS, MBA, FASCP
Dennis Barberio
Donald S. Lewis, DVM
Elizabeth Micoli, DDS
Danny W. Sklarski, Legislator

NIAGARA COUNTY DEPARTMENT OF HEALTH ATTORNEY:

J. Michael Fitzgerald, First Assistant County Attorney
Gary Lisowski, Assistant County Attorney

PREFACE

Section 347, subdivision 1, a, b, c and Section 348, subdivisions 1, 2, 3 of the Public Health Law of the State of New York, provides as follows:

Section 347. County or part-county boards of health; powers and duties; rules and regulations.

1. Upon the establishment of a board of health for a county or part-county health district as provided in this article, it shall exercise all the powers and perform all duties of local boards of health as provided in this chapter, and such board of health may formulate, promulgate, adopt and publish rules, regulations, orders and directions for the security of life and health in the health district which shall not be inconsistent with the provisions of this chapter and the sanitary code. Such rules, orders and directions shall be known as the sanitary code of such district.
 - (a) Every rule, regulation, order and direction adopted by a board of health or a county officer or body exercising the rule-making functions of a board of health shall state the date on which it takes effect and a copy thereof signed by the county health commissioner or his deputy or such county officer or the elective or appointing chief executive officer of such county body exercising the rule-making functions of a board of health shall be filed as a public record in the department, in the county or part-county department of health and in the office of the county clerk and shall be published in such manner as the board of health or such county officer or body exercising the rule-making functions of a board of health may from time to time determine. No such rule, regulation, order or direction shall be effective prior to filing as a public record in the department.
 - (b) The county health commissioner or his deputy shall furnish certified copies of the sanitary code of the health district and its amendments for a fee of one dollar.
 - (c) Nothing herein contained shall be constructed to restrict the power of any county, state, city, town or village to adopt and enforce additional ordinances or enforce existing ordinances relating to health and sanitation provided that such ordinances are not inconsistent with the provisions of this chapter or the sanitary code.

Section 348. County or part-county health districts; sanitary codes; violations and penalties.

1. The provisions of the sanitary code of a county or part-county health district shall have the force and effect of law.
2. Any non-compliance or non-conformance with any provision of such sanitary code or of a rule or regulation, duly made hereunder shall constitute a violation punishable on conviction for a first offense by a fine of not more than two hundred fifty dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment; and for a second or subsequent offense by a fine not exceeding five hundred dollars or by imprisonment not exceeding fifteen days, or both.
3. Certified copies of the sanitary code of a county or part-county health district shall be received in evidence in all courts and proceeding in the state.

CERTIFICATION

I, Daniel J. Stapleton, Public Health Director for the Niagara County Department of Health do hereby certify that I have compared the copy of the Niagara County Sanitary Code dated this 1st day of January, 2009, and find that it is a true and exact copy of regulation passed by the Board of Health, and approved by the New York State Commissioner Health in accordance with requirements of Article 3 of the Public Health Law and as recorded in the minutes of the Niagara County Board of Health.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of January, 2009.

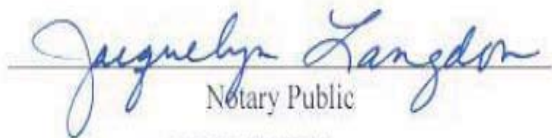


Daniel J. Stapleton, MBA
Public Health Director
Niagara County Department of Health

STATE OF NEW YORK
COUNTY OF NIAGARA
OWN OF LOCKPORT, NEW YORK

Sworn to before me this

1st day
of **January, 2009**



Notary Public

JACQUELYN LANGDON
Notary Public, State of New York
No. 5010080
Qualified in Niagara County
Commission Expires 3/22/2011

Table of Contents

PREFACE 3

 Section 347. County or part-county boards of health; powers and duties; rules and regulations. 3

 Section 348. County or part-county health districts; sanitary codes; violations and penalties. 3

CERTIFICATION 4

Chapter I: Definitions & General Provisions 1

 SECTION 1. Title 1

 SECTION 2. Definitions 1

 When used herein, unless otherwise expressly stated; 1

 SECTION 3. Sanitary Code - Where in Force 1

 SECTION 4. Enforcement by Local Health Officers 1

 SECTION 5. Sanitary Code. Enforcement. Civil and Criminal Penalties. Hearings; Procedures 1

 SECTION 6. Interference with Notices 3

 SECTION 7. Special Provisions 3

 SECTION 8. Inspection Generally 3

 SECTION 9. Permits Generally 3

 SECTION 10. Issuance of Licenses/Permits 4

 SECTION 11. Fees 4

 SECTION 12. Effective Date 4

 SECTION 13. Separability Clause 4

Chapter II: RABIES 5

Chapter III: Wastewater Treatment & Disposal 6

 Section 1. Definitions 6

 SECTION 2. Applicability 6

 SECTION 3. Treatment Standards 6

 SECTION 4. Disposal Requirements 7

 SECTION 5. Installation Approval 7

 SECTION 6. Installation Requirements 8

 SECTION 7. Abandoned Sewage Disposal Equipment 8

 SECTION 8. Lot Dimensions and Area 8

 SECTION 9. Individual lots in an Approved Subdivision 8

 SECTION 10. Engineering/Standard Practices, Guarantees 9

 SECTION 11. Inspections 9

 SECTION 12. Sewage Disposal System Investigation, Property Transfers 9

 SECTION 13. Percolation Testing 9

 SECTION 14. Waivers 9

Chapter IV: Drinking Water Supplies 10

 SECTION 1. General 10

 SECTION 2. Bottled Water 10

Chapter V: Swimming Pools and Bathing Beaches 11

 SECTION 1. General 11

Chapter VI: Temporary Residences, Mass Gatherings, 12

Children’s Camps, and Mobile Home Parks 12

 SECTION 1. General 12

Chapter VII: Community Sanitation 13

 SECTION 1. Nuisances; Complaint Submittal 13

 SECTION 2. Nuisances; Investigation 13

 SECTION 3. Nuisances; Public Health Director's Recommendation 13

SECTION 4. Nuisances; Posting.....	13
SECTION 5. Noxious Weeds & Growths; Declaration of Nuisance	13
SECTION 6. Noxious Weeds & Growth: Notice to Abate: Enforcement.....	13
SECTION 7. Public Toilets.....	14
SECTION 8. Temporary Toilet Facilities on Construction.....	14
SECTION 9. Exposure of Sewage	14
Chapter VIII: Hygiene and Occupancy Code.....	15
SECTION 1. Introduction.....	15
SECTION 2. Purposes.....	15
SECTION 3. Title.....	15
SECTION 4. Application and Scope	15
Section 5. Dwelling unfit for human habitation.....	15
SECTION 6. Inspection and enforcement	16
SECTION 7. Definitions.....	16
SECTION 8. Occupancy and letting.....	19
SECTION 9. Owner to maintain in clean and sanitary condition.....	19
SECTION 10. Occupant to maintain in clean and sanitary condition.....	19
SECTION 11. Occupant to dispose of rubbish	19
SECTION 12. Occupant to dispose of garbage.....	19
SECTION 13. Containers to be provided for rubbish and garbage.....	19
SECTION 14. Screens, double doors, storm doors and windows.....	19
SECTION 15. Responsibility for extermination	20
SECTION 16. Rodent Control.....	20
SECTION 17. Occupant's responsibility as to supplied fixtures and facilities	20
SECTION 18. Basic equipment and facilities required for dwelling or dwelling unit occupied or let for living, sleeping, cooking or eating.....	20
SECTION 19. Light and ventilation required for dwelling or dwelling unit occupied or let for living purposes.....	21
SECTION 20. Thermal requirements for occupying or letting, for living purposes	22
Section 21. Maintenance and installation requirements for dwelling or dwelling unit occupied or let for living purposes	23
SECTION 22. Discontinue of services, facilities, equipment or utilities.....	24
SECTION 23. Specifications of requirements	24
SECTION 24. General	25
SECTION 25. Permit.....	25
SECTION 26. Requirements for water closet, lavatory, and bathtub or shower	26
SECTION 27. Cooking and dining	26
SECTION 28. Locks for doors	26
SECTION 29. Bed linen and towels	26
SECTION 30. Floor space for sleeping rooms	26
SECTION 31. Egress.....	26
SECTION 32. Applicability to hotels and motels.....	26
Chapter IX: Offensive Material.....	27
SECTION 1. Definitions	27
SECTION 2. Handling	27
SECTION 3. Disposal.....	27
SECTION 4. Removal and Transportation	27
SECTION 5. Waste Tires.....	27
SECTION 6. Liability	28
Chapter X: Food Service Establishments.....	29
SECTION 1. General	29

SECTION 2. Retail Frozen Desserts.....	29
SECTION 3. Reporting of Food Poisoning.....	34
Chapter XI: Migrant Labor Camps	35
SECTION 1. General	35
Chapter XII: Open Fires.....	36
SECTION 1. Definitions.....	36
SECTION 2. Prohibitions (FILED - NYSDOH: July 19, 2001).....	36
SECTION 3. Permissible Burnings (FILED - NYSDOH: July 19, 2001)	36
Chapter XIII: Solid Waste Disposal.....	38
SECTION 1. Definitions.....	38
SECTION 2. Permits.....	38
SECTION 3. New and Expanded Sites.....	38
SECTION 4. Storage of Solid Waste	38
SECTION 5. Removal and Transportation of Solid Waste.....	38
SECTION 6. Posting of Signs.....	38
Chapter XIV: Fees and Revenue.....	39
SECTION 1. General	39
SECTION 2. Environmental Health Fee Schedule	39
SECTION 1. Definitions.....	41
SECTION 2. Pollution of the Atmosphere.....	41
SECTION 3. Control of New Sources	41
Chapter XVI: Smoking	42
SECTION 1. General	42
SECTION 2. Declaration of Findings and Intent	42
SECTION 3. Smoking Restrictions-Indoors.....	42
SECTION 4. Smoking Restrictions-Outdoors	43
SECTION 5. Posting of Signs.....	43
SECTION 6. Smoking Restrictions Inapplicable.....	43
SECTION 7. General Provisions	43
SECTION 8. Waiver.....	44
Chapter XVII: Ionizing Radiation.....	45
CHAPTER XVIII: REGULATIONS OF TATTOOING AND BODY PIERCING ARTISTS, OPERATORS AND ESTABLISHMENTS.....	46
Purpose.....	46
SECTION 1. Definitions.....	46
SECTION 2. Artist Certification.....	47
SECTION 3. Tattoo/Body Piercing Establishment Permit.....	47
SECTION 4. General Physical Environment.....	48
SECTION 5. Records.....	49
SECTION 6. Consent.....	49
SECTION 7. Procedures to be Followed in Tattooing.....	49
SECTION 8. Dyes or Pigments.....	50
SECTION 9. Sterilization.....	51
SECTION 10. After-Care of the Tattoo	51
SECTION 11. Body Piercing Procedures.....	52
SECTION 12. Sterilization of Piercing Needles and Jewelry	52
SECTION 13. Temporary Tattoo/Body Piercing Establishments.....	53
SECTION 14. Waiver.....	55
SECTION 15. Variance.....	55
SECTION 16. Severability.....	55

SECTION 17. Certificates and Inspections 55
SECTION 18. Enforcement 55
SECTION 19. Penalty for Violation 56
SECTION 20. Effective Date 56

Chapter I: Definitions & General Provisions

SECTION 1. Title

The rules and regulations herein contained together with any duly enacted amendments in addition thereto shall be known as the Sanitary Code of the Niagara County Health District.

SECTION 2. Definitions

When used herein, unless otherwise expressly stated;

- (a) "Health District" shall mean the Niagara County Health District established pursuant to the provisions of Section 340 of the New York State Public Health Law.
- (b) "Department or Health Department" shall mean the Health Department of the Niagara County Health District.
- (c) "Board of Health" shall mean the Board of Health of the Niagara County Health District.
- (d) "Public Health Director" shall mean the Public Health Director of the Niagara County Department of Health or duly authorized representative.
- (e) "Sanitary Code" shall mean and comprise the rules and regulations now or hereafter formulated, promulgated and adopted by the Board of Health of the Niagara County Health District pursuant to Section 347 of the New York State Public Health Law.
- (f) "State Sanitary Code" shall mean the codes, rules and regulations established by the Public Health Council of the State of New York being the same as Title 10, Official Compilation of Codes, Rules, and Regulations of the State of New York. (NYCRR)
- (g) "Person" shall mean any individual, public and private corporation, political subdivision, agency, board, municipality, partnership, association, firm, trust, or estate that is recognized by law as the subject of rights and duties.

SECTION 3. Sanitary Code - Where in Force

The provisions of the New York State Sanitary Code shall be in force throughout the Niagara County Health District.

SECTION 4. Enforcement by Local Health Officers

It shall be the duty of the Public Health Director and of each local Health Officer in the Niagara County Health District, existing pursuant to law, to enforce any and every regulation of the Sanitary Code.

SECTION 5. Sanitary Code. Enforcement. Civil and Criminal Penalties. Hearings; Procedures

- (a) Pursuant to the provisions of the Public Health Law, and intended to supplement the provisions of Article I Title II of the Public Health Law, the Board of Health may:
 - i. issue subpoenas which shall be regulated by Civil Practice Law and Rules;
 - ii. compel the attendance of witnesses;
 - iii. administer oaths to witnesses and compel them to testify;
 - iv. issue warrants to any peace officer in the County or a municipality in the County to apprehend and remove any person or persons as cannot otherwise be subjected to Department orders and regulations, and to the Sheriff of Niagara County to deliver said person pursuant to the warrant; and

- v. prescribe and impose penalties for the violation of or failure to comply with any of its orders of regulations, or any of the regulations of the State Sanitary Code after administrative procedure and/or conducting a hearing thereon. Such penalties shall not exceed five hundred dollars for a single violation or failure, to be sued for and recovered by the said Board of Health in any court of competent jurisdiction. Each day on which it is proven that such violation or failure continues shall constitute a separate offense. Nothing herein contained shall be construed to exempt an offender from any other prosecution or penalty provided by law.
- (a) No subpoena shall be served outside the jurisdiction of the Niagara County Health District, and no witness shall be interrogated or compelled to testify upon matters not related to the public health.
 - (b) Every warrant issued by the Board of Health shall be forthwith executed by the officer to whom directed, who shall have the same powers and be subject to the same duties in the execution thereof, as if it had been duly executed out of a court of record of the State.
 - (c) Nothing contained in this Section shall be construed to alter or repeal any existing provision of law declaring such violations or any of them misdemeanors or felonies or prescribing a penalty therefore.
 - (d) Pursuant to the provisions of Section 348 of the Public Health Law:
 - i. provisions of the Sanitary Code of the Niagara County Health District shall have the force and effect of law; and
 - ii. any non-conformance or non-compliance with any provision of such sanitary code or of any rule or regulation, duly made hereunder, shall constitute a violation punishable on conviction for a first offense by a fine of not more than two hundred fifty dollars or by imprisonment not exceeding fifteen days or both such fine and imprisonment; and for a second or subsequent offense by a fine not exceeding five hundred dollars or by imprisonment not exceeding fifteen days or both.
 - iii. certified copies of the Sanitary Code of the Niagara County Health District shall be received in evidence in all courts and proceedings in New York State.
 - (e) Complaints; Notice of Hearings; Formal Hearings
 - i. in case of failure to correct or remedy any violation of the Sanitary Code or of any rule or regulation adopted hereunder, the Board of Health may cause to have issued and served upon the person complained against a written notice, together with a copy of the complaint made by him, which shall specify the provisions of the Code, Rules or Regulations of which such person is said to be in violation, and a statement of the manner in which that person is said to violate it and shall require the person so complained against to answer the charges of such complaint at an administrative hearing (Formal Hearing) before the Board of Health designee at a time not less than 15 days after the date of notice; however where provisions for enforcement proceedings required by the Public Health Law or State Sanitary Code provide for a hearing on less than 15 days notice for specific violations, the shorter notice period for hearing shall control.
 - ii. Notice of Hearing shall be served at least 15 days prior to the date of the Formal Hearing; service of Notice of Hearing or Order shall be made by personal service or by registered or certified mail.
 - iii. a 15 day notice of hearing shall not be required whenever, because of immediate danger to the public health (public health hazard), it appears prejudicial to the interests of the people of the county to delay action for 15 days; in said case the Board of Health may serve the respondent with an order or written notice requesting certain action or cessation of certain activities immediately, or within a specified period of less than 15 days; said order or written notice shall provide an opportunity to be heard within 15 days after the date the order or written notice is served.

- (f) Conduct of Hearings
- i. the respondent to such complaint may file a written answer thereto and may appear at such hearing in person or by representative with or without counsel and may submit testimony, or may do both.
 - ii. the Board of Health may issue subpoenas and administer oaths in connection with any hearing or investigation under and pursuant to this chapter, and it shall be the duty of the Board of Health for such purposes to issue subpoenas at the request of and upon behalf of the respondent requiring the attendance of witnesses and the production for examination of any book or paper relating to the matter at any hearing or investigation.
 - iii. the Board of Health shall not be bound by formal rules of evidence in the conduct of hearing proceedings, but the determination shall be founded upon sufficient legal evidence to sustain it.
 - iv. the testimony at the hearing shall be under oath and recorded by magnetic tape or stenographic transcript from which a typed transcript shall be prepared.
- (g) Determination and Order: After due consideration of the written and oral statements, the testimony and arguments that shall be submitted under the provisions of subsection (g) above, or default in appearance of the respondent on the return day which shall be specified on the notice given in subsection (f) above, the Board of Health may issue and enter such determination and final order as shall be deemed appropriate under the circumstances, and the Board of Health shall notify the respondent thereof in writing by certified mail or personal service.
- i. Review: Any final determination and order or other final action by the Board of Health and the validity or reasonableness of any code, rule or regulation of the Board of Health shall be subject to review as provided in Article 78 of the Civil Practice Law and Rules.

SECTION 6. Interference with Notices

No person shall remove, mutilate, or conceal any notice or placard of the Niagara County Department of Health posted in or on any premises or public place except by permission of the Public Health Director.

SECTION 7. Special Provisions

The regulations of this code shall be supplemental to the regulations, rules, and orders of the New York State Sanitary Code, the New York State Public Health Law, and other New York State Laws relating to public health and shall, as to matters to which it refers, and in the territory prescribed heretofore by law, supersede all local ordinances heretofore or hereafter enacted inconsistent therewith.

SECTION 8. Inspection Generally

- (a) All premises covered by the regulations of this Sanitary Code located in the Niagara County Health District shall be subject to inspection by the Public Health Director and if any violation of the Sanitary Code exists on the premises, any permit granted by the Public Health Director may be suspended or revoked forthwith.
- (b) No person shall refuse to allow the Public Health Director and/or department designee to inspect fully any and all premises and no person shall molest, resist, or interfere with the Public Health Director and/or that designee in the discharge of official duties.

SECTION 9. Permits Generally

- (a) *Applications.* All applications for permits or written approval herein required shall be made upon forms prescribed and furnished by the Department of Health or the Public Health Director, and shall be signed by the applicant who shall be the person, or authorized agent thereof, responsible for compliance with the conditions of the permit or approval applied for. Such application shall contain such data and information and be accompanied by such plans as may be required.

- (b) *Permits; Nontransferable.* 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 purpose, place, or vehicle than that designated therein.
- (c) *Permits; Conditions.* 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 Sanitary Code. Each such permit or written approval shall expire on the date stated in the permit or written approval or until revoked, and may be renewed or extended by the Public Health Director or may be suspended or revoked for cause by the Public Health Director after due notice and hearing, or temporarily suspended or revoked pending a hearing.
- (d) *Permits; Property of Department of Health.* All permits issued hereunder shall remain the property of the Department of Health and shall, on demand, be surrendered to an authorized representative of the Department of Health, whenever, any such permit expires, is suspended, or revoked. Permits shall be made available upon request by the Public Health Director.
- (e) *Permits; Permit Suspension/Revocation.* Nothing contained herein shall prevent the Board of Health from suspending or revoking any permits previously issued by the Department for cause of repeat violations of the provisions of the New York State Sanitary Code, the Niagara County Sanitary Code, Orders of the Niagara County Board of Health, or the laws of New York State.

SECTION 10. Issuance of Licenses/Permits

Nothing herein contained shall be construed to restrict or abrogate the authority of any City, Town or Village in the Health District to adopt and enforce additional ordinances or to enforce existing ordinances relating to the regulation, control, and/or issuance of any license or permit and/or renewal and/or revocation thereof, and to charge or collect a fee therefore.

SECTION 11. Fees

All fees required by the Department of Health for permits, licenses, approvals, or filings shall be made payable to the Niagara County Department of Health in U.S. funds.

SECTION 12. Effective Date

Except as may otherwise be specified herein every rule, regulation, and provision of this Sanitary Code shall take effect on January 1, 1993.

SECTION 13. Separability Clause

In the event that any section, paragraph, sentence, clause or phase of this Sanitary Code shall be declared unconstitutional or invalid for any reason, the remainder of said Sanitary Code shall not be affected thereby and shall remain in full force and effect.

Chapter II: RABIES

- (a) The control of rabies in Niagara County shall be in accord with Article 21, Title IV, Sections 2140 to 2145 inclusive, of the New York State Public Health Law.
- (b) The Niagara County Board of Health officially adopts Part 2, Section 2.14, of Chapter 1 of Title 10 (Health) of the New York State Sanitary Code, as may be amended from time to time, as being applicable within the Niagara County Health District.
- (c) All dogs licensed in the County of Niagara in accordance with the Agriculture and Markets Law, Section 109 (3), shall be vaccinated for the prevention of rabies by a method approved by the Public Health Director if the State Commissioner of Health has certified the County for rabies under Public Health Law, Section 2145 (1)(a).
 - i. a valid Rabies Vaccination Certificate signed and dated by a licensed veterinarian shall be presented to the local licensing authority upon application for a dog license.
 - ii. the Rabies Vaccination Certificate shall remain in the possession of the dog owner and be presented each time the dog is licensed and/or vaccinated.
 - iii. all dog owners shall comply with the provisions of Section 109(3) of the Agriculture and Markets Law.
- (d) No Rabies Vaccination Certificate shall be valid for more than three years.

Chapter III: Wastewater Treatment & Disposal

Section 1. Definitions

- (a) "Dwelling" shall mean any building structure which is wholly or partly used or intended to be used for living or sleeping or working by human occupants.
- (b) "Offensive Material" shall mean any sewage, refuse, fecal matter, manure, offal, dead animals, tankage or any putrescible organic matter, including the contents of privies, cesspools, septic tanks or holding tanks, or any other substance injurious to health or well being.
- (c) "Public Health Nuisance" shall mean any condition which exists, which affects, may affect, or has the potential to affect the health and/or well being of the public.
- (d) "Sewage" shall mean human excreta or liquid or waterborne wastes, including laundry wastewater, sink wastewater, bathing wastewater, dishwater wastewater and the like from a residence, business, industry or any other establishment from which such wastes may discharge.
- (e) "Wastewater" shall mean any water discharged from a dwelling through a plumbing fixture to include, but not limited to sewage and any water or waste from a device which is produced in the dwelling or property.
- (f) "Specific waiver" shall mean a waiver granted in an individual situation because of a hardship or other circumstance, which makes it impractical to comply with a standard for residential sewage disposal systems.
- (g) "Adequate" shall mean sufficient to accomplish the purpose intended and to such a degree that no unreasonable risk is presented to health or safety. Within the meaning of this part, an item installed, maintained, designed and assembled, an activity conducted, or act performed, in accordance with recognized generally accepted standards, principals or practices applicable to a particular trade, business, occupation or profession shall be considered adequate.
- (h) "Generally accepted standards" shall mean those referenced in the NYS Building & Construction Codes and Fire Prevention Code (9NYCRR), or their successor(s), or any other standards filed with the Secretary of State, or recognized principles or practices applicable to a particular trade, business, occupation, or profession.

SECTION 2. Applicability

This chapter shall apply to the construction and use of a new or modified on-site wastewater treatment and disposal system serving residential and commercial properties and receiving sewage without the admixture of industrial wastes or other wastes as defined in the Environmental Conservation Law, Section 17-0701, in quantities of less than 1,000 gallons per day.

SECTION 3. Treatment Standards

- (a) Appendix 75-A of Part 75 of the Administrative Rules and Regulations contained in Chapter 11 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York, as may be amended from time to time, shall serve as the official standard for wastewater treatment for individual households in Niagara County where public sewers are not available for usage.
- (b) The New York State Department of Conservation publication entitled Design Standards for Wastewater Treatment Works-Intermediate Sized Sewerage Facilities, as may be amended from time to time, shall serve as the official standard for wastewater treatment for institutional, commercial, and multi-home development in Niagara County where public sewers are not available for usage.

SECTION 4. Disposal Requirements

- (a) No person shall discharge, or allow or cause to be discharged untreated or partially treated sewage or other putrescible or offensive material onto the surface of the ground or into any street, road, alley, open excavation, stormwater sewer, surface water drainage ditch, adjoining property, water course, or body of water or ground water except under such circumstances as prescribed by and with the written approval of the Public Health Director.
- (b) No person shall discharge, or allow to be discharged treated, partially treated, or untreated sewage or other offensive material in an abandoned water supply well, spring, or cistern or into a natural or artificial well, sink hole, crevice or opening extending into limestone, sandstone, other rock or shell formation.
- (c) Each dwelling provided with plumbing fixture or provided with receptacle to create a wastewater flow, where no approved public sewerage system is available, shall be provided with a sewage disposal system of approved design.
- (d) Each sewage disposal system shall serve a single piece of property and shall be properly maintained by the owner. Any failure to provide a properly maintained system may result in a declaration of a public health nuisance by the Public Health Director.
- (e) No sewage disposal system shall be installed, maintained or operated on property reasonably accessible to a public sewerage system.
- (f) Whenever an approved public sewerage system is reasonably accessible to a piece of property, any sewage disposal system located thereon shall be properly abandoned and the property directly connected to the public sewerage system in accordance with local regulations governing sewer connection.
- (g) Where a public sanitary sewer is available and accessible, the Public Health Director may issue an Order upon the owner of any property where on any other method of sewage disposal was located requiring said owner to properly abandon the use of such other method of sewage disposal within a period of not more than ninety days, and to connect to the public sanitary sewer in accordance with local regulations governing such connection.

SECTION 5. Installation Approval

- (a) The property owner or designated agent shall make application for approval from the Public Health Director for construction, installation, alteration, or extension of a sewage disposal system prior to the initiation of any work on said system.
- (b) The application shall be made in writing on forms prescribed by the Public Health Director, shall contain all pertinent information relative to the project, shall be prepared by a licensed New York State Professional Engineer or Exempted Land Surveyor (Section 7.208(n) of the New York State Education Law), and shall contain any other information as required by the Public Health Director.
- (c) Each application to the Public Health Director shall be accompanied by a fee as provided in the fee schedule contained in Chapter XIV, which is non-returnable and not related to the disposition of the application. Subsequent review of the same application shall be subject to an additional fee per the fee schedule.
- (d) No person shall construct, install, connect, alter, or extend any sewage disposal system within the Niagara County Health District without having filed for and received written approval from the Public Health Director.
- (e) A separate approval on forms prescribed by the Public Health Director shall be obtained for the sewage disposal system work on each dwelling.

- (f) If the sewage disposal system has not been completely constructed, installed, altered, or extended within one year from the date of approval, the approval shall automatically expire and the owner or designated agent shall make written application to the Public Health Director for approval in accordance with this Section.
- (g) The Public Health Director shall deny approval if the information on the application is incomplete, inaccurate, false, or indicates that the provisions of this chapter cannot be met.
- (h) A person who constructs or provides, or undertakes to construct or provide a sewage disposal system without first having obtained approval of such system from the Niagara County Department of Health as required, or does not construct or install or maintain and operate such system or facility in accordance with the conditions of the approval or amendments thereto is in violation of the Sanitary Code. A person who constructs or provides or undertakes to construct or provide a sewage disposal after being denied approval therefore is in violation of the Sanitary Code.

SECTION 6. Installation Requirements

- (a) Construction of an approved sewage disposal system is to be under supervision of a licensed New York State Professional Engineer or Exempted Land Surveyor and each system is to be installed in strict accordance with the approval issued by the Niagara County Department of Health for the project. Written construction certification is to be provided to the Niagara County Department of Health within ten days of completion of construction by the supervising professional.
- (b) A subsurface sewage disposal system shall not be installed in areas where the soil and groundwater conditions are unable to adequately support a subsurface sewage disposal system for its normal life expectancy of ten to twenty years. Percolation tests accompanied by soil evaluations shall be performed by a licensed New York State Professional Engineer or Exempted Land Surveyor. The Public Health Director may require as many percolation tests and soil evaluations as may be necessary to determine acceptability of a site for the subsurface disposal of sewage.
- (c) If it has been determined by the Public Health Director that subsurface sewage disposal for existing construction is impractical due to site conditions, the effluent from a subsurface sand filter, household aeration unit, or approved type sewage treatment system may be permitted to discharge into an area watercourse only if the outlet is satisfactory to the Public Health Director and the local municipality.

SECTION 7. Abandoned Sewage Disposal Equipment

- (a) An abandoned septic tank or other device or equipment utilized for the treatment or disposal of sewage shall be cleaned by a licensed New York State waste scavenger and either removed from the ground or filled to the ground surface in a manner and with a material, in accordance with generally accepted standards.

SECTION 8. Lot Dimensions and Area

- (a) There shall be available sufficient area to provide for the complete replacement of a subsurface sewage disposal system on any property intended for development and serviced by subsurface sewage disposal system.

SECTION 9. Individual lots in an Approved Subdivision

- (a) No person shall install individual sewage disposal systems in a new realty subdivision, unless adequate written documentation is provided to the Public Health Director documenting that installation of a community sewerage system with required treatment or installation of a proper connection to the municipal (public) sewerage system available in the area is not feasible based upon generally accepted standards.
- (b) Individual sewage disposal systems in approved realty subdivisions shall follow the provisions of this article and the approval requirements contained on the plans approved by the department and on file in the office of the Niagara County Clerk.

SECTION 10. Engineering/Standard Practices, Guarantees

- (a) The design, construction, installation, location, maintenance, and operation of sewage disposal systems including all components and types of systems shall follow engineering and standard practices in accordance with generally accepted standards.
- (b) Certification pursuant to the provisions of this regulation shall not be construed as guarantee by the Public Health Director or by department agents that the sewage disposal system will function satisfactorily, nor shall it in any way restrict the action of the Public Health Director or department agents in enforcement of any law or regulation.

SECTION 11. Inspections

- (a) The owner or designated agent shall request an inspection of the sewage disposal system at least forty-eight hours in advance of expected time of completion from the engineer, if an approved engineering design, or from the department, if an approved department design.
- (b) The sewage disposal system shall not be covered or placed into operation until such time as the system has been inspected by the appropriate party and an approval issued by the Public Health Director.
- (c) The Public Health Director may make inspections during the course of construction of the sewage disposal system to ensure compliance with this regulation.

SECTION 12. Sewage Disposal System Investigation, Property Transfers

- (a) Whenever the ownership of a piece of residential or commercial property which is served by a subsurface sewage disposal system changes it shall be required that the sewage disposal system serving that property be investigated by a licensed New York State Professional Engineer, Exempted Land Surveyor, or the Department in accordance with Department Guidelines and a written report on said investigation prepared and issued to the Department within five days of completion of the investigation.
- (b) Whenever the sewage disposal system investigation reveals that sewage is being discharged onto the surface of the ground or into the surface waters of New York State the Department shall be immediately advised of the situation.
- (c) Certification pursuant to the provisions of this section shall not be construed as a guarantee by the Public Health Director or by his agents that the sewage disposal system will continue to function satisfactorily, nor shall it in any way restrict the action of the Public Health Director or his agent in enforcement of any law or regulation.

SECTION 13. Percolation Testing

Any licensed New York State Professional Engineer or Exempted Land Surveyor who conducts a percolation test on any property in Niagara County is required to report the results of the test to the Department on the form prescribed by the Department regardless of whether the results are satisfactory or unsatisfactory. Satisfactory results are required to be accompanied by complete design packages. Unsatisfactory results are to be submitted for record purposes.

SECTION 14. Waivers

- (a) The Niagara County Board of Health may upon written application grant a specific waiver from a provision of this Chapter, where such waiver is consistent with the general purpose and intent of this Chapter. The applicant receiving such waiver must be advised in writing if the design or conditions approved does not meet State or County standards and the potential consequences of such deviations.

Chapter IV: Drinking Water Supplies

SECTION 1. General

The Niagara County Board of Health officially adopts Part 5 of Chapter 1 of Title 10 (Health) of the New York State Sanitary Code, as may be amended from time to time, as being applicable within the Niagara County Health District.

SECTION 2. Bottled Water

- (a) Bottled Water Vending Machines shall be defined as any device, which is connected to an approved public water supply system which may or not provide treatment and which dispenses water into containers by means of the purchaser.
- (b) Bottled Water Vending Machines shall comply with Part 5, Subpart 5-6 of Chapter 1 of Title 10 (Health) of the New York State Sanitary Code.

Chapter V: Swimming Pools and Bathing Beaches

SECTION 1. General

The Niagara County Board of Health officially adopts Part 6 of Chapter 1 of Title 10 (Health) of the New York State Sanitary Code, as may be amended from time to time, as being applicable within the Niagara County Health District.

Chapter VI: Temporary Residences, Mass Gatherings, Children's Camps, and Mobile Home Parks

SECTION 1. General

The Niagara County Board of Health officially adopts Part 7 and Part 17 of Chapter 1 of Title 10 (Health) of the New York State Sanitary Code, as may be amended from time to time, as applying within the Niagara County Health District.

Chapter VII: Community Sanitation

SECTION 1. Nuisances; Complaint Submittal

A person submitting a complaint to the Board of Health of an alleged nuisance may, in the discretion of the Public Health Director be required to submit such complaint in writing.

SECTION 2. Nuisances; Investigation

Whenever it is alleged that an establishment, building, vehicle, dwelling, property, premises, or place is maintained in whole or in part, in such a manner as to constitute a nuisance endangering the public health, or condition exists thereon or therein which may be dangerous to life or health or is the cause of a public health nuisance existing elsewhere, the Public Health Director shall cause an investigation to be made.

SECTION 3. Nuisances; Public Health Director's Recommendation

If in the opinion of the Public Health Director such nuisance or condition requires abatement, it shall recommend that the Niagara County Health District so order the owner or agent thereof or occupant to remove or suppress such nuisance or condition unless voluntary correction is made within a time period specified by the Public Health Director or an official department representative.

SECTION 4. Nuisances; Posting

Unless voluntarily abated within the specified time, the Public Health Director is empowered to post said premises or property as "unfit for human occupancy or use" upon a form approved by the Board of Health and to advise the owner or occupants or users thereof of this action and the reasons thereof by certified mail. Unauthorized removal of this sign shall be prosecuted under Section 348, paragraph 2 of the Public Health Law. The owner/occupant shall be prohibited from returning to the premises until corrective action is completed and said posting is rescinded by order of the Public Health Director.

SECTION 5. Noxious Weeds & Growths; Declaration of Nuisance

Whenever in the Niagara County Health District there shall be growing on any property therein any ragweed or any species of weed, plant or growth which is noxious or detrimental to the public health, or the seed, pollen or other emanation therefrom when carried through the air or otherwise dispersed, is noxious or detrimental to the public health, the Board of Health may take and file on its records what it shall require as sufficient proof to authorize a declaration that the existence of any such growth is a nuisance or danger to the public health, and thereupon enter the same upon its records as a nuisance and order the same to be removed, destroyed or otherwise abated on any property whenever found.

The Board of Health may also take and file among its records what it shall regard as sufficient proof to authorize a declaration that at any season or period of the year there exists a particular and imminent danger to the public health by reason of the approaching period of pollination of any such growth and may enter such determination upon this record.

SECTION 6. Noxious Weeds & Growth: Notice to Abate: Enforcement

In addition to the mode of service of any notice or order of the Board of Health authorized by the Public Health Law, or during the period or season when a particular or imminent danger to public health arising out of the pollination of weeds, plants or growths is determined to exist, the Board of Health may order the destruction of such weeds, plants or growths and the disposition thereof by posting a copy of such order conspicuously on the property where such noxious weeds, plants, or growths are found, requiring the destruction or other disposition thereof as shall be directed by such order. The posting of such order shall be sufficient notice of such order to the owner, lessee, occupant of or principal person or persons interested in such property, of the nuisance created by such weeds, plants or growths.

If any such order is not complied with, or so far complied with as the Board of Health shall regard as reasonable, within five days after service, or within a shorter time, when, in case of particular or imminent danger to the public health, the Board of Health may designate, the Board of Health or other agency of the municipality or County may enter upon any such property and remove and destroy any weeds, plants, growths, noxious and detrimental to the public health.

The provisions of Section 1306 and 1307 of the Public Health Law shall apply respecting the expense of such removal, destruction or abatement.

The provisions of this section shall not operate to deprive the local legislative body of any municipality within the Niagara County Health District of the power to enact local laws in relation to any matter in respect to which such power would otherwise exist, nor shall it limit such power. If this power otherwise exists, any provision of this section may be superseded, supplemented or amended by local law in the same manner and to the same extent as such provisions could be superseded, supplemented or amended had this section not been enacted.

SECTION 7. Public Toilets

Every person who shall provide a toilet whether permanent or portable for the use of employees, patrons, members, or available to the public, shall maintain such toilet at all times in a clean, well lighted, ventilated, and sanitary condition. The floor of any such toilet, under and adjacent to any fixture shall be impervious to moisture, and shall be kept clean and dry and in good repair. No towel, hair brush, or comb shall be provided for common use in any such toilet or in a washroom restroom, or locker room adjacent thereto. The term "common use" shall mean use by more than one person without effective disinfection. The owner of a building or dwelling, or his agent in charge thereof, wherein two or more tenants shall have common use of a toilet shall be responsible for the satisfactory sanitary maintenance of such toilet.

SECTION 8. Temporary Toilet Facilities on Construction

Any builder, contractor, or other person employing workers on the construction or repair of any highway, building, or structure, shall provide or cause to be provided a temporary portable toilet or toilets or other satisfactory toilet facilities at a convenient place upon the premises, or readily accessible thereto and the same shall be properly enclosed and maintained in a sanitary condition.

SECTION 9. Exposure of Sewage

No person either as owner, lessee, or tenant of any property, dwelling, building, vehicle, or place, shall construct or maintain and/or operate any privy, cesspool, sewage disposal system, tank, vehicle, pipe or drain so as to expose or discharge the sewage contents or other offensive material a matter therefrom to the atmosphere, or on the surface of the ground, so as to endanger any source of water supply or drinking water, or so as to discharge into a watercourse or body of water unless a permit for such discharge shall have been issued therefore by the County Public Health Director, the State Commissioner of Health, or the State Commissioner of Environmental Conservation, and such discharge shall be made in accordance with the requirements thereof.

No facilities for the private disposal of sewage shall be constructed under or within any building or structure and no building or structure shall be erected on an area within which private sewage disposal facilities are in use.

No person shall permit the disposal of any substance into any plumbing lines, sewer, privy, or separate sewage disposal system other than that which said facility is designed or intended to receive.

Chapter VIII: Hygiene and Occupancy Code

SECTION 1. Introduction

There exists and may in the future exist, within Niagara County premises, dwellings, dwelling units, rooming units, or parts thereof, which by reason of their structure, equipment, sanitation, maintenance, use, or occupancy affect or are likely to affect adversely the public health (including the physical, mental and social well-being of persons and families), safety, and general welfare. To correct and prevent the existence of such adverse conditions, and to achieve and maintain such levels of residential environmental quality as will protect and promote public health, safety, and general welfare, the establishment and minimum housing standards are required.

SECTION 2. Purposes

It is hereby declared that the purpose of this chapter is to protect, preserve, and promote the physical and mental health and social well-being of the people, to minimize the incidence of communicable diseases, to regulate privately and publicly owned dwellings for the purpose of maintaining adequate sanitation and public health, and to protect the safety of the people and to promote the general welfare by regulations which shall be applicable to all dwellings now in existence or hereafter constructed. It is hereby further declared that the purpose of this chapter is to insure that the quality of housing is adequate for protection of public health, safety and general welfare. The basic equipment and facilities for healthful living, such as adequate water, waste disposal, bathroom facilities, light, ventilation, heating and cooling, for safety from fire and accidents, for the use and location and amount of space for human occupancy, and for an adequate level of maintenance; setting forth the responsibilities of owners, operators and occupants of dwellings; and establishing the necessary provisions for administration and enforcement.

SECTION 3. Title

This chapter shall be known and may be cited as the Niagara County Health, Hygiene and Occupancy Code.

SECTION 4. Application and Scope

- (a) *Application.* The requirements of this Chapter shall apply to all dwellings, dwelling units, habitable rooms and rooming houses within the jurisdiction of such district or such city, except those regulated under Parts 7 and 15 of the State Sanitary Code.
- (b) *Construction.* It is intended that the application of the provisions of this chapter be consistent with the provisions of applicable State and local laws, codes, rules and regulations; provided, however, that where the provisions of this chapter are more restrictive, they shall govern, and where the provisions of such applicable State or local laws, codes, rules and regulations are more restrictive, they shall govern.
- (c) *Variance.* The public health director may, on written application and after review, grant a variance from a specific provision of this chapter in a specific case subject to appropriate conditions where such variance is in harmony with the general purpose and intent of this chapter, and where there are practical difficulties or unnecessary hardship in carrying out the strict letter of its provision.
- (d) *Separability.* If any provisions of this chapter are held invalid, such invalidity shall not affect other provisions which shall be given effect without the invalid provisions.

Section 5. Dwelling unfit for human habitation

Whenever the County Board of Health or the public health director finds that any dwelling constitutes a serious hazard to the health or safety of the occupant or to the public because it is dilapidated, unsanitary, vermin-infested or lacking in the facilities required by this chapter, he shall designate such dwelling unfit for human habitation, order the dwelling vacated, and shall cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "Use of this building for human habitation is prohibited and unlawful." If the owner fails to comply with an order issued by such county or board of health or public health director to bring the dwelling into compliance with the requirements of this chapter within a reasonable time, such county board of health or public health director may order such dwelling to be removed or demolished as provided for by applicable State law and laws and

regulations of the town, village, city or county having jurisdiction. The provisions of this section are applicable also to unoccupied dwelling units and the owners thereof shall be chargeable with compliance.

SECTION 6. Inspection and enforcement

(a) *Inspection.*

- (1) The County public health director and any person authorized by him to do so may, without hindrance, make inspections to determine the condition of dwellings, dwelling units, rooming houses, rooming units and the premises on which they are located, in order to fulfill the purposes of the chapter.
- (2) For the purpose of making such inspections, the inspector is hereby authorized to enter, examine and survey all dwellings, dwelling units, rooming houses and rooming units and the premises on which they are located. Except for emergencies, or where authorized by other law, or for the convenience of the occupant or owner, such inspections shall be made between the hours of 8 a.m. and 5 p.m.
- (3) The owner, the operator and the occupant shall give the inspector free access to the dwelling, dwelling unit, rooming house or rooming unit, and the premises on which they are located, for the purpose of such an inspection.
- (4) Evidence of a violation of this chapter discovered during such inspection shall not be used against the violator in either a criminal or civil proceeding except under the following conditions:
 - i. written notice of said violation shall be left with or mailed to the person responsible for correction of such violation or in the alternative such notice shall be posted in a conspicuous place upon the dwelling, dwelling unit, rooming house or rooming unit or the premises where the violation is discovered;
 - ii. said written notice states a specific and reasonable time within which such violation shall be eliminated; and
 - iii. at the end of such time the violation has not been eliminated.

(b) *Criminal Penalties.* Criminal penalties for violations of this chapter shall be those provided for in Section 229 of the Public Health Law.

(c) *Civil Penalties.* Civil penalties for violations of this chapter shall be those provided for 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 Civil Practice Law and Rules.

SECTION 7. Definitions.

- (a) *Accessory Structure* shall mean a detached structure or an attached structure located on or partially on any premises, which is not used or not intended to be used for living or sleeping by human occupants.
- (b) *Approved* shall mean approved by the public health director.
- (c) *Central heating system* shall mean a single system supplying heat to one or more dwelling unit(s) or more than one rooming unit(s).
- (d) *Conditions conducive to lead poisoning* shall mean the presence of a paint or other similar surface-coating material in a condition accessible for ingestion or where peeling or chipping of the paint or other similar surface-coating material occurs or is likely to occur and which paint or other similar surface-coating material contains more than one-half of one percent of metallic lead based on the total weight of the contained solids or dried paint film on interior walls, ceilings, doors, baseboards or window sills and frames or porches of any dwelling.

- (e) *Dwelling* shall mean any building or structure which is wholly or partly used or intended to be used for living or sleeping by human occupants.
- (f) *Dwelling unit* shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating.
- (g) *Egress* shall mean a place or means of going safely to the outside of a dwelling or building.
- (h) *Extermination* shall mean the control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods approved by the local or State authority having such administrative authority.
- (i) *Family* shall mean one adult person plus one or more persons who are legally related to said person and residing in the same dwelling unit with said person.
- (j) *Garbage* shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, serving, and nonconsumption of food.
- (k) *Guest* shall mean any person who shares a dwelling unit in a nonpermanent status for not more than 30 days.
- (l) *Habitable room* shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, furnace rooms, pantries, kitchenettes and utility rooms of less than 50 square feet foyers or communicating corridors, stairways, closets and storage spaces; and workshops, hobby and recreation areas in unsealed or uninsulated parts of structure below ground level or in attics.
- (m) *Heated water* shall mean water heated to a temperature of not less than 120 degrees Fahrenheit.
- (n) *Household* shall mean a family and/or one or more unrelated persons, who share the same dwelling and use some or all of its cooking and eating facilities. It shall include servants and not more than two boarders.
- (o) *Infestations* shall mean the presence within or around a dwelling of any insects, rodents or other pests.
- (p) *Kitchen* shall mean any room used primarily for cooking or preparation of food and containing any or all of the following equipment: sink and/or other device for dishwashing, stove or other device for cooking, refrigerator or other device for cool storage of food. Where a room is used for cooking and preparation of food, but not primarily so used, kitchen shall mean that portion of such room which contains the above equipment and an area within three feet of such equipment.
- (q) *Meaning of certain words.* Whenever the words "Dwelling", "dwelling unit", "rooming house", "rooming unit", "premises", "structure" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof". Words used in the singular include the plural, and the plural the singular, the masculine gender includes the feminine and the feminine the masculine.
- (r) *Multiple dwelling* shall mean any dwelling containing more than two dwelling units or more than four roomers.
- (s) *Occupant* shall mean any person, over one year of age, living, sleeping, cooking, or eating in, or actually having possession of, a dwelling unit or a rooming unit; except that in dwelling units a guest will not be considered an occupant.

- (t) *Operator* shall mean any person who has charge, care or control of a building, or part thereof, in which there are dwelling units or rooming units.
- (u) *Owner* shall mean any person who, alone or jointly or severally with other:
 - (1) shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof, or
 - (2) shall have charge, care, or control of any dwelling or dwelling unit, as owner, lessee, mortgagee or vendee in possession, assignee of rents, or as a receiver; or an executor, administrator, trustee, or guardian of the estate of the owner. Any agent for any of the above shall be bound to comply with the provisions of this chapter to the same extent as if he were the owner.
- (v) *Permissible occupancy* shall mean the maximum number of persons permitted as family or household to reside in a dwelling unit or rooming unit based on the square feet per person in habitable rooms.
- (w) *Person* shall mean and include any individual, firm, public or private corporation, municipality, political subdivision, association, trust, estate, agency, board, department or bureau of a municipality, partnership, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.
- (x) *Plumbing* shall mean and include all of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents, and any other similar supplied fixtures, together with all connections to water, sewer, or gas lines.
- (y) *Public health director* shall mean the public health director for Niagara County Department of Health.
- (z) *Privacy* shall mean the ability of a person or persons to carry out an activity without interruption or interference, either by sight or sound, by persons outside of the household.
- (aa) *Premises* shall mean a platted lot or part thereof or unplatted lot or parcel or land or plot of land, whether or not it has erected thereon a dwelling or non-dwelling structure and it includes any building, accessory structure or other structure thereon.
- (bb) *Rat harborage* shall mean any place where rats can live, nest or seek shelter.
- (cc) *Rat proofing* shall mean a form of construction, which will prevent the ingress or egress of rats to or from a given space or building, or gaining access to food, water, or harborage. It consists of the closing and keeping closed of every opening in foundations, basements, cellars, exterior and interior walls, ground or first floors, roofs, sidewalk gratings, sidewalk openings and other places that may be reached and entered by rat climbing, burrowing or other methods, by the use of materials impervious to rat gnawing or by other methods approved by the public health director.
- (dd) *Refuse* shall mean all putrescible and nonputrescible solids (except body wastes) including garbage, rubbish, ashes and dead animals.
- (ee) *Refuse container* shall mean a watertight container that is constructed of metal, or other durable material impervious to rodents, that is capable of being serviced without creating insanitary conditions, or such other containers approved by the public health director. Openings into the container such as covers and doors shall be tight fitting.
- (ff) *Rooming unit* shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

(gg) *Rooming house* shall mean any dwelling or that part of any dwelling containing one or more rooming units, in which space is occupied by three or more roomers who are not members of a single family.

(hh) *Rubbish* shall mean nonputrescible solid wastes (excluding ashes) consisting of either or both:

(1) combustible wastes such as paper, cardboard, rags, furniture, plastic containers, yard clippings, tree branches, leaves and wood, and

(2) noncombustible wastes such as tin cans, glass, crockery and discarded appliances.

(ii) *Safety* shall mean the condition of being reasonably free from danger and hazards which may cause accidents or disease.

(jj) *Supplied* shall mean paid for, furnished, provided by, or under the control of the owner or operator

RESPONSIBILITIES OF OWNERS AND OCCUPANTS

SECTION 8. Occupancy and letting

No owner or other person shall occupy or let to another person any vacant dwelling or dwelling unit unless it and the premises are clean, sanitary, fit for human occupancy, and complies with the requirements of this chapter and all applicable laws.

SECTION 9. Owner to maintain in clean and sanitary condition

Every owner of a dwelling containing two or more dwelling units shall maintain in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

SECTION 10. Occupant to maintain in clean and sanitary condition

Every occupant of a dwelling or dwelling unit shall maintain in a clean and sanitary condition that part or those parts of the dwelling, dwelling unit and premises thereof that he occupies and controls.

SECTION 11. Occupant to dispose of rubbish

Every occupant of a dwelling or dwelling unit shall store or dispose of all his rubbish in a clean, sanitary and safe manner.

SECTION 12. Occupant to dispose of garbage

Every occupant of a dwelling or dwelling unit shall dispose of or store all his garbage or any other organic waste which might provide food for insects or rodents, in a clean, sanitary and safe manner. Rodent-proof, insect-proof, watertight refuse containers shall be used for storage pending collection.

SECTION 13. Containers to be provided for rubbish and garbage

Every owner of a dwelling containing three or more dwelling units shall supply facilities or refuse containers for the sanitary and safe storage and/or disposal of rubbish and garbage. In single or two family dwellings it shall be the responsibility of the occupant to furnish such facilities or refuse containers.

SECTION 14. Screens, double doors, storm doors and windows

The owner of a dwelling unit shall be responsible for providing and hanging all screens and double or storm doors and windows whenever the same are required under the provisions of this chapter, except where a written agreement between the owner and occupant provides otherwise. In the absence of a written agreement between the owner and occupant providing otherwise, maintenance or replacement of screens, storm doors and windows, once installed in any one season become the responsibility of the occupant.

SECTION 15. Responsibility for extermination

Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Notwithstanding the foregoing provisions of this section, wherever infestation is caused by failure of the owner to maintain a dwelling in a rat-proof or reasonable insect-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.

SECTION 16. Rodent Control.

- (a) Every occupant of a dwelling or dwelling unit shall store and dispose of accumulated rubbish, boxes, lumber, scrap metal, or any other materials in such a manner as to prevent rodent harborage in or about any dwelling or dwelling unit. Materials shall be stacked neatly in piles elevated at a level high enough to permit effective cleaning.
- (b) Every owner of a dwelling containing two or more dwelling units shall supply facilities or make provisions for the storage and disposal of accumulated rubbish, boxes, lumber, scrap metal or any other materials in such a manner as to prevent rodent harborage in or about the shared or public areas of a dwelling or its premises. Materials shall be stacked neatly in piles elevated at a level high enough to permit effective cleaning.
- (c) Every owner or occupant of a dwelling or dwelling unit shall not store, place, or allow to accumulate any materials that may service as food or harborage for rodents in a site accessible to rodents.
- (d) No person shall feed in the open any domestic or wild fowl, birds or animals other than in a suitable container and in such a manner so as to prevent scattering of food upon the ground or ground level which can or will provide food for rodents, insects, vermin or other pests.

SECTION 17. Occupant's responsibility as to supplied fixtures and facilities

- (a) Every occupant of a dwelling unit shall keep all supplied fixtures and facilities therein in a clean, sanitary and operable condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.
- (b) *Occupant's responsibility as to domestic animals and pets.* Every occupant shall keep his domestic animals and pets in a clean and sanitary manner and under control.

MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES

SECTION 18. Basic equipment and facilities required for dwelling or dwelling unit occupied or let for living, sleeping, cooking or eating

No person shall occupy as owner, occupant or let to another for occupancy any dwelling or dwelling unit, for the purposes of living, sleeping, cooking or eating therein, which does not comply with the following requirements:

- (a) *Kitchen requirements.* Every dwelling unit shall have a room or portion of a room in which food may be prepared and/or cooked and which room shall have adequate floor area available for occupant use and be equipped with the following:
 - (1) A kitchen sink in good working condition and properly connected to a water supply system which is approved by the public health director and which provides at all times an adequate amount of heated and unheated running water under pressure, and which is connected to a sewer system approved by the public health director.
 - (2) Cabinets and/or shelves for the storage of eating, drinking, and cooking equipment and utensils and of food that does not under ordinary maximum summer conditions require refrigeration for safe keeping; a

counter or table for food preparation; provided, further, that said cabinets and/or shelves and counter or table shall be sufficient for the permissible occupancy of the dwelling unit and shall be of sound construction furnished with surfaces that are easily cleanable and that will not impart any toxic or deleterious effect to food.

- (3) A stove, or similar device, for cooking food and a refrigerator for the safe storage of food at temperatures less than 45 degrees Fahrenheit, but more than 32 degrees Fahrenheit, which are properly installed with all necessary connections for safe, sanitary and efficient operation; provided that such stove and refrigerator need not be installed when a dwelling unit is not occupied, when the occupant is expected to provide same on occupancy, and sufficient space for the safe and efficient installation and operation of said stove and refrigerator is provided.
- (b) *Water closet requirements.* Within every dwelling unit there shall be a non-habitable room which affords privacy to a person within said room and which is equipped with a flush water closet in good working condition. Said flush water closet shall be connected to a water system that at all times provides an adequate amount of running water under pressure to cause the water closet to be operated properly and shall be connected to a sewer system which is approved by the public health director.
- (c) *Lavatory sink requirements.* Within every dwelling unit there shall be a room which affords privacy to a person within said room which is equipped with a lavatory sink. Said lavatory sink may be in the same room as the flush water closet or in another room; provided that, if located in a room other than the one containing the flush water closet, the water closet shall be located in close proximity to the door leading directly into the room in which said lavatory sink is located. The lavatory sink shall be in good working condition and properly connected to a water supply system which is approved by the public health director and which provides at all times an adequate amount of heated and unheated running water under pressure, and which is connected to a sewer system approved by the public health director.
- (d) *Bathtub or shower requirements.* Within every dwelling unit there shall be a room which affords privacy to a person within said room and which is equipped with a bathtub or shower in good working condition. Said bathtub or shower may be in the same room as the flush water closet or in another room and shall be properly connected to a water supply system which is approved by the public health director and which provides at all times an adequate amount of heated and unheated running water under pressure, and which is connected to a sewer system approved by the public health director.
- (e) *Means of egress.* Every dwelling unit in a one- or two-family dwelling shall have at least one approved means of egress and a second approved means of egress for each floor above the second where there is living above the second floor. Every multiple dwelling shall have remotely located from each other two or more approved means of egress from each floor leading to safe and open space at ground level, as required by law. A sprinkler system satisfactory to the public health director, may be substituted in lieu of one means of egress provided that no existing State or local statute is contravened.

MINIMUM STANDARDS FOR LIGHT AND VENTILATION

SECTION 19. Light and ventilation required for dwelling or dwelling unit occupied or let for living purposes

No person shall occupy as owner, occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

- (a) *Windows or skylights.* Every habitable room shall have at least one window or skylight facing directly outdoors. The minimum total window or skylight area, measured between stops, for every habitable room shall be at least 10 percent of the floor area of such room. Whenever outside walls or other portions of structures face a window of any such room and such light-obstruction structures are located less than three feet from the window and extend to a level above that of the ceiling of the room, such window shall not be

deemed to face directly to the outdoors and shall not be included as contributing to the requirement minimum total window area.

- (b) *Ventilation.* Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total of openable window area in every habitable room shall be equal to at least 45 percent of the minimum window area size or minimum skylight type window size, as required in subdivision (a) above, except where there is supplied some other device affording adequate ventilation and approved by the public health director.
- (c) *Bathroom and water closet.* Every bathroom and water closet compartment shall comply with the light and ventilation requirement for habitable rooms contained in subdivisions (a) and (b) above, except that no window or skylight shall be required in adequately ventilated bathrooms and water closet compartments equipped with a ventilation system which is approved by the public health director.
- (d) *Electric service.* Where there is electric service available from power lines which are not more than 300 feet away from a dwelling, every dwelling unit and all public and common areas shall be supplied with electric service, outlets and fixtures. Such outlets and fixtures shall be properly installed, shall be maintained in good and safe working condition, and shall be connected to the source of electric power in a manner prescribed by State Building Code. The capacity of such service and the number of outlets and fixtures shall be as follows:
 - (1) Every habitable room shall have an electric service and outlets and/or fixtures capable of providing at least three watts per square foot of floor area.
 - (2) Every habitable room shall have at least one floor or wall type electric convenience outlet for 60 square feet or fraction thereof of floor area, and in no case less than two such outlets.
 - (3) Every water closet compartment, bathroom, laundry room, furnace room, and public hall shall contain at least one supplied ceiling or wall type electric light fixture.
 - (4) Convenient switches for turning on one light in each room or passageway shall be located so as to permit the area ahead to be lighted.
- (e) *Lighting for public halls and stairways.* Every public hall and stairway in every multiple dwelling shall be adequately lighted by natural or electric light at all times so as to provide at least 10 foot-candles of light at the tread or floor level. Every public hall and stairway in structures containing not more than two dwelling units shall be supplied with conveniently located light switches controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting.

MINIMUM THERMAL STANDARDS (HEATING AND COOLING)

SECTION 20. Thermal requirements for occupying or letting, for living purposes

No person shall occupy as owner, occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

- (a) *Heating facilities.* Every dwelling shall have heating facilities which are properly installed, and are maintained in safe and good working condition, and are capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments in every dwelling unit as noted in (b) below.
- (b) *Minimum temperature.* The owner is responsible for furnishing the heat unless the rental agreement provides otherwise. Where the owner furnishes the heat, the temperature shall be maintained at not less than 68 degrees Fahrenheit at a distance of 18 inches above floor level and three feet from an outside wall.
- (c) *Space and water heaters.* Unvented flame space heaters and space heaters without back-draft diverter and

automatic controls are prohibited; portable electric heaters, approved under the appropriate local or State electrical and/or fire prevention code are acceptable (where they meet the provisions of subdivision [a] of this section). Where there is no such local or State code, portable electric heaters meeting the standards of the National Electrical Code, as approved by the Underwriter Laboratories, Inc. and the public health director are acceptable. Gas-fueled space or water heaters and accessories or controls shall be properly installed and be of a type approved by the American Gas Association and the public health director.

GENERAL REQUIREMENTS RELATING TO THE SAFE AND SANITARY MAINTENANCE OF PARTS OF DWELLINGS AND DWELLING UNITS

Section 21. Maintenance and installation requirements for dwelling or dwelling unit occupied or let for living purposes

No person shall occupy as owner, occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

- (a) *General.* Every foundation, roof and exterior wall, door, skylight and window shall be reasonable weather-tight, watertight, and damp-free and shall be kept in sound condition and good repair. Floors, interior walls, doors and ceilings shall be sound and in good repair. All exterior wood surfaces other than decay resistant woods, shall be protected from the elements and decay by paint or other protective covering or treatment. Lead based and other paints and materials determined to be a public health hazard shall not be used on any interior surface or any surface readily accessible to children. Walls shall be capable of affording privacy for the occupants. Every premise shall be well-graded, drained and maintained in a clean, sanitary and safe condition.
- (b) *Windows, doors and hatchways.* Every window, exterior door and basement hatchway or similar devices, shall be kept rodent-proof and reasonable watertight and weather-tight, and shall be kept in sound working condition and good repair.
- (c) *Screening.* During that portion of the year when there is a need for protection against mosquitoes, flies and other flying insects, every door opening directly from a dwelling unit to outside space shall have supplied properly fitting screens having at least 16 mesh and a self-closing device; and every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens: provided that such screens shall not be required during such period in rooms deemed by the public health director to be located high enough in the upper stories of buildings as to be free from such insects, and in rooms located in areas which are deemed by the public health director to have so few insects as to render screens unnecessary.
- (d) *Prevent entrance of rodents.* Every window located at or near ground level used or intended to be used for ventilation, and every other opening located at or near ground level which might provide an entry for rodents, shall be supplied with adequate gauge screen or such other devices as will effectively prevent their entrance.
- (e) *Safety.* Every foundation, roof, floor, exterior and interior wall, ceiling, inside and outside stair, porch, and every appurtenance to any of these shall be safe to use and capable of supporting the loads that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair. Every inside and outside stair or step shall have uniform risers and treads and be provided with non-skid materials. Stairways shall have handrails structurally sound, of reasonable height, and where needed, balusters adequately spaced.
- (f) *Plumbing fixtures and water and waste pipes.* Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition.
- (g) *Floors for water closet compartments, bathrooms and kitchens.* Every water closet compartment, bathroom and kitchen floor surface and baseboard shall be constructed and maintained so as to be reasonable impervious to water so as to permit such floor to be easily kept in a clean and sanitary condition.

- (h) *Construction, installation and maintenance.* Every plumbing fixture pipe, chimney, flue and smoke pipe, and every other facility, piece of equipment, or utility which is present in a dwelling or dwelling unit, or which is required under this chapter, shall be constructed and installed in conformance with the applicable local, State and national codes and shall be maintained in satisfactory working condition.
- (i) *Fire protection.* All construction and materials and ways and means of egress, and installation and use of equipment shall conform to applicable laws dealing with fire protection.
- (j) *Lead poisoning.* Existing paint conditions conducive to lead poisoning shall be eliminated in accordance with procedures contained in Article 13, Title X of the Public Health Law.

SECTION 22. Discontinue of services, facilities, equipment or utilities

No owner, operator, or occupant shall cause or be responsible for causing any service, facility, equipment or utility which is required under this chapter to be removed from or shut off from or discontinued for any occupied dwelling or dwelling unit let or occupied by him; except for such temporary interruption as may be necessary while actual repairs or alterations are in process, or during temporary emergencies when discontinuance of service is either not reasonable avoidable or is approved by the public health director.

MAXIMUM DENSITY, MINIMUM SPACE, USE AND LOCATION REQUIREMENTS

SECTION 23. Specifications of requirements

No person shall occupy or let to be occupied any dwelling or dwelling unit, for the purpose of living therein, unless there is compliance with the following requirements:

- (a) *Maximum density.* Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof, the floor space to be calculated on the basis of total habitable room area.
- (b) *Occupancy limited to one family plus two occupants.* A dwelling unit shall not be occupied by more than one family, plus two occupants unrelated to the family, except for guests or domestic employees, unless a permit for a rooming house has been granted by the public health director or designated permit officer.
- (c) *Ceiling height.* The ceiling height of any habitable room shall be at least 7 1/2 feet; except that in any habitable room under a sloping ceiling at least one half of the floor area shall have a ceiling height of at least 7 1/2 feet, and the floor area of that part of such a room where the ceiling height is less than five feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy.
- (d) *Habitable room below grade.* No space located partially or totally below grade shall be used as a habitable room of a dwelling unit unless:
 - (1) The floor and those portions of the walls below grade are of water-proof and damp-proof construction.
 - (2) The minimum window area is equal to at least that required in Section 19 (a) and is located entirely above the grade of the ground adjoining such window area, or, if windows are located wholly or partly below grade, there be constructed a properly drained window well the ground area of which is equal to or greater than the area of the masonry opening for the window, the bottom of which is below the top of the impervious masonry construction under this window, with the minimum horizontal distance at a right angle from any point of the window wall being equal to or greater than the vertical depth of the window well, as measured from the bottom of the masonry opening for the window.
 - (3) The total openable window area in each room is equal to at least the minimum as required under Section 19(b) of this chapter, except where there are supplied some other devices affording adequate ventilation and humidity control which are approved by the public health director.

- (4) There are no pipes, ducts or other obstructions less than 6 feet, 8 inches from the floor level which interfere with the normal use of the room or area.
- (e) *Floor space for sleeping rooms.* In every dwelling unit of two or more rooms, every room occupied for sleeping purposes shall contain at least 70 square feet of floor space for the first occupant, and at least 50 square feet of floor space for each additional occupant thereof.
- (f) *Access to bathrooms, water closet compartments and sleeping rooms.* No dwelling or dwelling unit containing two or more sleeping rooms shall have such room arrangements that access to a bathroom or water closet compartment intended for use by occupants of more than one sleeping room can be had only by going through another sleeping room; nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room or a bathroom or water closet compartment.
- (g) *Closet space.* Every dwelling unit shall have at least four square feet of closet space for the personal effects of each permissible occupant; if it is lacking, in whole or in part, an amount of space equal in square footage to the deficiency shall be subtracted from the area of habitable room space used in determining permissible occupancy.
- (h) *Storage of drugs and poisons.* Each dwelling shall have a suitable facility for the safe storage of drugs, household poisons and other hazardous materials.

ROOMING HOUSES

SECTION 24. General

No person shall operate a rooming house, or shall occupy or let to another for occupancy any rooming unit in any rooming house, except in compliance with the provisions of this chapter. No owner or other person shall occupy or let to another person any vacant rooming unit unless it is clean, sanitary, and fit for human occupancy, and complies with all applicable legal requirements.

SECTION 25. Permit

(a) *Permit required.* No person shall operate a rooming house unless he holds a valid rooming house permit issued by the public health director in the name of the operator and for the specific dwelling or dwelling unit. The applicant must be a fit and proper person to operate a rooming house and the rooming house which he intends to operate must be in compliance with the provisions of this chapter. This permit shall be displayed in a conspicuous place within the rooming house at all times. No such permit shall be transferable. Every person holding such a permit shall give notice in writing to the public health director with 24 hours after having sold, transferred, given away, or otherwise disposed of ownership of, interest in, or control of any rooming house. Such notice shall include the name and address of the person succeeding to the ownership or control of such rooming house. Every rooming house permit shall expire at the end of one year following its date of issuance, unless sooner suspended or revoked as hereinafter provided.

- (b) *Modification, suspension or revocation of a permit.* A permit to operate a rooming house may be modified, suspended or revoked by the public health director or his designee. Such action may be taken because of:
 - i. failure to comply with one or more of the provisions of this chapter;
 - ii. refusal to permit inspection;
 - iii. mistake in issuance of the permit;
 - iv. false statements on the application for the permit;
 - v. the permittee's conviction of a crime;
 - vi. any act or conduct of the permittee which indicates his unfitness to operate a rooming house;
 - vii. or for other good reason.
- (c) *Hearing.* Before a permit may be modified, suspended or revoked, the permittee shall have the opportunity to be heard, except that a permit may be temporarily suspended pending a hearing.

SECTION 26. Requirements for water closet, lavatory, and bathtub or shower

At least one flush water closet, lavatory basin and bathtub or shower, properly connected to a water and sewer system approved by the public health director and in good working condition, shall be supplied for each six persons or fraction thereof residing within a rooming house, including members of the operator's family wherever they share the use of the said facilities, except that in a rooming house where rooms are let only to males, flush urinals may be substituted for not more than one half of the required number of water closets greater than one.

- (a) *Accessibility.* All such facilities shall be so located within the dwelling as to reasonable accessible from a common hall or passageway to all persons sharing such facilities.
- (b) *Hot and cold water.* Every lavatory basin and bathtub or shower shall be supplied with heated and unheated water at all times.
- (c) *Facilities in basements.* No such facilities shall be located in a basement, except by written approval of the public health director.

SECTION 27. Cooking and dining

- (a) *No cooking.* Cooking in a rooming unit shall be prohibited.
- (b) *No commercial cooking and dining.* Communal cooking and dining facilities in a rooming house shall be prohibited, except as approved by the public health director in writing.

SECTION 28. Locks for doors

Rooming unit doors shall have operating locks to ensure privacy.

SECTION 29. Bed linen and towels

The operator of every rooming house shall change supplied bed linen and towels therein at least once each week, and prior to the letting of any room to any occupant. The operator shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner.

SECTION 30. Floor space for sleeping rooms

Every room for sleeping purposes by one person shall contain at least 80 square feet of floor space, and every room occupied for sleeping purposes by more than one person shall contain at least 60 square feet of floor space for each occupant thereof.

SECTION 31. Egress

Every rooming unit shall have two or more safe, unobstructed means of egress leading to safe and open space at ground level, as required by law. A sprinkler system satisfactory to the public health director may be substituted in lieu of one means of egress.

SECTION 32. Applicability to hotels and motels

Every provision of this chapter which applies to rooming houses shall also apply to hotels and motels, except to the extent that any such provision may be found in conflict with other laws of this State.

Chapter IX: Offensive Material

SECTION 1. Definitions

- (a) "Offensive Material" shall mean any litter, garbage, refuse, rubbish, sewage, fecal matter, manure, offal, dead animals, meat waste, blood, tankage, brine, urine, or any putrescible organic matter, or the contents of privies, cesspools, septic tanks, or chemical toilets, either in liquid, solid, or gaseous state, or other liquid, solid, or gaseous material, whether waste material or not, hazardous, or flammable wastes, petroleum products, or waste tires which are hereby deemed to be a nuisance or to be prejudicial to health by the Public Health Director.
- (b) "Approved Disposal Area" shall mean a specific area, site, or location approved in writing by the Public Health Director and permitted by the New York State Department of Environmental Conservation, provided that disposal at said area is in accordance with any specifications, law, statute, rule, or regulation, as to the manner of disposal.
- (c) "Person" shall be defined as set forth in Chapter 1, Section 2. of this Sanitary Code.

SECTION 2. Handling

No person or municipality shall permit, deposit, store, or hold any offensive material on any premises or in any place or in any building or structure unless such material is so analyzed, treated, covered, handled or placed as not to create a nuisance or be detrimental to health. All containers for storage of such material shall completely confine the material and shall be kept in an inoffensive and sanitary condition at all times.

SECTION 3. Disposal

Offensive material shall not be deposited, thrown, discharged, dumped, or otherwise allowed to enter into any stream, pond, or other body of water or onto the surface of the ground or into the ground or groundwaters or into the atmosphere except as permitted by the Public Health Director or as provided by law. Any offensive material that enters the environment except as allowed by permit or law, or has the potential to adversely affect public health must immediately be reported to the Niagara County Department of Health.

SECTION 4. Removal and Transportation

No person or municipality shall remove or transport, or permit the removal or transportation of any offensive material except in such a manner and in or by such conveyances will prevent the creation of a nuisance or the loss or discharge of such material. All such material shall be so handled, covered, or treated that it cannot escape, or be accessible to rodents, flies, or other insects, or create a nuisance. Transportation, depending on the type of waste, may require a Part 364 waste transporter permit from the New York State Department of Environmental Conservation.

SECTION 5. Waste Tires

No person or municipality shall permit, deposit, store, or hold more than ten waste or used tires unless such tires are neatly piled and controlled in a manner so as to preclude the accumulation of rainwater, breeding of insects, harborage of rodents, or creating of a fire hazard. This provision applies to all waste and used tires, including those from single families and businesses, except those facilities regulated by Subpart 360-13 of 6 New York Code of Rules and Regulations.

It shall be the responsibility of both the owner of the property wherein tire disposal has taken place and the party disposing of the tires to satisfactorily remove and dispose of waste or used tires. Satisfactory disposal may include such methods as recycling, shredding or splitting, or use as a fuel at a permitted facility.

It shall be the responsibility of the person or persons properly disposing of waste or used tires to provide to the Niagara County Department of Health receipt verifying proper disposal.

SECTION 6. Liability

- (a) Any person or persons discharging, dumping, spilling, or disposing of offensive material shall be strictly liable, without regard to fault, for all cleanup and removal costs, whether direct or indirect. Cleanup costs shall include replacement of any materials used by Niagara County or other governmental personnel in the course of responding to the incident along with associated personnel costs. Violators may also be liable for civil or criminal penalties imposed pursuant to Chapter I of the Niagara County Sanitary Code.

- (b) If the person or persons responsible for the discharges, dumping, spilling, or disposing of offensive material shall not commence remediation within twenty-four hours, or sooner as may be directed by the Public Health Director to protect the health and safety of the public, the Niagara County Department of Health may take whatever action is deemed appropriate to remediate the incident. All cost incurred by Niagara County in the course of the remediation shall be the responsibility of the discharger and shall be in addition to any penalties levied by the Public Health Director.

Chapter X: Food Service Establishments

SECTION 1. General

The Niagara County Board of Health officially adopts Part 14, of Chapter 1 of Title 10 (Health) of the New York State Sanitary Code, as amended from time to time, as being applicable within the Niagara County Health District with the exception that Retail Frozen Desserts will be regulated by Chapter X, Section 2, of the Niagara County Sanitary Code.

SECTION 2. Retail Frozen Desserts

- (a) *Definition of frozen desserts* - "Frozen desserts" are ice cream, frozen custard, French ice cream, French custard ice cream, artificially sweetened ice cream, ice milk, artificially sweetened ice milk, fruit sherbert, non-fruit sherbert, water ices, non-fruit water ices, confection frozen without stirring, dairy confection frozen without stirring, manufactured dessert mix, frozen confection, melloream frozen dessert, parevine, frozen yogurt, freezer made shakes, freezer made milk shakes, dietary frozen dessert, whipped cream confection and bisque tortoni, as all such products are commonly known, together with any mix used in making such frozen desserts, and any products which are similar in appearance, odor or taste to such products, or are prepared or frozen as frozen desserts are customarily prepared and frozen, whether made with dairy products or non-dairy products.

Any operation producing chips or flakes of ice made from water with or without additives, served to the consumer with or without flavoring added by the operator or consumer, is included as a retail frozen dessert within this definition. This operation is commonly known as a slush operation

- (b) *"Frozen dessert ingredients"* - Ingredients used to manufacture frozen desserts are to be wholesome, safe for human consumption, and from sources that comply with laws relating to food and food labeling. Fluid milk and milk products used, are to be pasteurized and from sources that comply with applicable laws. Milk, milk products and frozen dessert mix are to be obtained in original unopened containers marked with the identifying number of the plant where the product was processed and packaged.

Frozen desserts and frozen dessert mix are to contain less than 20 coliform per gram and less than 100,000 plate count of bacteria per gram. In slush operations, the product is not to exceed a yeast or mold count of 50 per gram.

Retail frozen desserts are to be manufactured from ingredients and are to be identified in conformance with the applicable requirements of Part 39 of the rules and regulations of the State Department of Agriculture and Markets (1 NYCRR Part 39).

- (c) *Ingredient and product protection* - Frozen desserts and ingredients are to be protected from contamination at all times, including storage, processing, preparation, display and service to patrons. All equipment, utensils, food-contact surface, containers, tableware, freezers and storage units are to be cleaned and sanitized, and maintained to prevent contamination.
- (d) *Definition of contamination* - "Contamination" means exposing frozen dessert ingredients, finished products of food to filth, toxic substances, excessive manual contact, rodent or insect contact or infestation, or any condition that may permit introduction of pathogenic microorganisms or foreign matter. Potentially hazardous foods held at temperatures between 45 degrees Fahrenheit (7.2 degrees Celsius) and 140 degrees Fahrenheit (60 degrees Celsius) for a period of time beyond that required for preparation are considered contaminated.
- (e) *Definition of potentially hazardous food* - "Potentially hazardous food" means any food that consists in whole or in part of milk or milk products, eggs, meat poultry, fish, shellfish, edible crustacean or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.

(f) *Definition of sanitization* - "Sanitization" is effective bactericidal treatment by heat or chemical means, acceptable to the Public Health Director, which destroys pathogens on surfaces treated. The following are acceptable:

- i. immersion for at least one-half minute in clean hot water at a temperature of at least 170 degrees Fahrenheit (77 degrees Celsius);
- ii. immersion for at least one minute in a clean solution containing at least 50 parts per million of available chlorine as a hypochlorite or 200 parts per million as an organic chlorine compound at a temperature of at least 75 degrees Fahrenheit (24 degrees Celsius);
- iii. immersion for at least one minute in a clean solution containing at least 12.5 parts per million of available iodine and having a pH not higher than 5.0 and at a temperature of at least 75 degrees Fahrenheit (24 degrees Celsius); or
- iv. rinsing, spraying, or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution in the case of equipment too large to sanitize by immersion.

When chemicals are used for sanitization, a test kit or other device that accurately measures the parts per million concentration of the solution is to be provided and used. When hot water is used for sanitizing an integral heating device to maintain the water temperature at a minimum of 170 degrees Fahrenheit (77 degrees Celsius) and numerically scaled, indicating thermometer, accurate to plus or minus 3 degrees Fahrenheit (2 degrees Celsius) for frequent check of water temperature, are to be provided and used.

Mechanical cleaning and sanitizing may be done by any type of machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils. These machines and devices are to be properly installed, maintained in good repair, and operated to produce clean, sanitized equipment and utensils.

- (g) *Personnel* - All persons who handle frozen desserts during manufacture, processing, packaging or service are to be free from infectious disease which can be transmitted by foods, and are not to have a boil, infected cut or sore, or a respiratory disease. They are to wear clean clothing and gloves, not smoke, eat or use tobacco while handling frozen desserts or in an area of frozen dessert preparation, and are to use hair restraints to minimize hair contact with hands, food and food-contact surfaces. All persons handling frozen desserts are to wash their hands with soap and warm water before starting work, after using the toilet, smoking, eating, drinking or when soiled. Fingernails are to be kept clean and trimmed.
- (h) *Equipment and utensils* - All equipment and utensils used in frozen dessert operations are to be constructed and maintained so food-contact surfaces are durable, nontoxic and easily cleanable. All equipment is to be adequate to perform the functions intended in the processing, handling, serving, protecting, displaying, cooling, heating, cooking of food and frozen desserts, and for cleaning or sanitizing tableware, equipment and utensils. Equipment is to be constructed, located, installed and maintained to prevent contamination of food and to facilitate all cleaning operations. Equipment, tableware and utensils are to be handled and stored in a manner which protects them from contamination.
- (i) *Single-service articles* - Single-service articles are to be furnished to consumers at all retail frozen dessert establishments, which do not have effective facilities for cleaning and sanitizing tableware.
- (j) *Water supply* - Adequate, safe, hot and cold water, under pressure, meeting the requirements of Chapter IV of this Code (10NYCRR Part 5) is to be furnished at all retail frozen dessert operations and depots.
- (k) *Sewage disposal* - All sewage, including liquid wastes, is to be disposed of in a public sewer, approved facility, or a holding tank which is emptied by an approved method.

- (l) *Plumbing* - Plumbing is to be sized, installed and maintained to carry adequate quantities of potable hot and cold water to all parts of the frozen dessert operation where needed for satisfactory operation. Sewage and liquid wastes are to be carried to the sewer or sewage disposal facility in a manner which protects the premises, personnel and contents within the establishment and surroundings from contamination of the potable water supply, food, equipment, utensils, the premises, contents, employees and patrons.
- (m) *Toilet facilities* - Each frozen dessert operation and depot is to have adequate, conveniently located toilet facilities, maintained clean and in good working condition for use by employees. Handwashing facilities with hot and cold potable running water, soap and single-service towels, or approved hand-drying devices, are to be provided in or immediately adjacent to each toilet room.

Handwashing facilities - Each frozen dessert operation is to have facilities for handwashing immediately accessible to personnel working in preparation areas. These facilities are to include running hot and cold water, an easily cleanable sink, soap and single-service towels or approved hand dryer.

- (n) *Garbage and solid waste* - Garbage and solid waste are to be handled in a sanitary manner that will not create a public health hazard or nuisance at all frozen dessert operations and depots. While on the premises, garbage and solid waste are to be stored in acceptable receptacles, covered to prevent insect and rodent access and to be disposed of in an acceptable sanitary manner.
- (o) *Insect and rodent control* - Effective measure are to be taken to prevent entrance and maintain the interior free of insects and rodents in frozen dessert operations and depots. Methods used for extermination are not to contaminate any food, equipment or utensils in the establishment.
- (p) *Floors; walls and ceilings; doors and windows* - Floors in areas where frozen desserts are prepared, handled, stored and served are to be constructed and maintained to be smooth, nonabsorbent, and easily cleanable. Where necessary, floors are to be sloped to properly trapped floor drains. Floors are to be cleaned as frequently as needed by methods that will not contaminate food, equipment or utensils.

Walls and ceilings are to be constructed and maintained clean and in good repair. Walls are to be washable in food preparation areas, toilet rooms, refrigeration units and equipment and utensils washing areas.

Doors and windows are to be tight closing in good repair, and screened if open.

- (q) *Premises* - The building and property where a frozen dessert operation or depot is located is to be maintained in a sanitary condition, free from litter, garbage and debris. Adequate ventilation and lighting are to be provided. Working surfaces in food preparation and handling areas are to have a minimum illumination of 30 foot-candles. Air supply systems are to be constructed and maintained to prevent contamination of food and food-contact surfaces of equipment and utensils.
- (r) *Cleaning and sanitizing* - All spaces in the structure where a frozen dessert operation is located are to be maintained in a clean condition. All equipment, utensils and tableware used to process, transport, store, display or serve frozen desserts are to be kept clean and be sanitized as needed to prevent contamination. The preferred manual methods of cleaning and sanitizing equipment, utensils and tableware is to use a three-compartment sink; to wash in the first compartment with hot water and a detergent; rinse in clean hot water in the second compartment; and sanitize in the third compartment, using an accepted procedure. Other methods acceptable to the Public Health Director may be used. The procedure must clean and sanitize the article so as to produce an average plate count at not more than 100 colonies on the surface of utensils examined, with no coliform bacteria.
- (s) *Sponges prohibited* - The use of natural sponges, metal sponges, metal scouring pads, plastic fabricated to resemble natural sponges or fabric woven from metal, on food-contact surfaces is prohibited.

(t) *Mobile unit.* A frozen dessert mobile unit is a self-contained frozen dessert operation, located in a vehicle, self- or otherwise propelled, equipped to produce and sell frozen desserts. Mobile units are to comply with all applicable provisions of this Subpart, and are to:

- i. have adequate space and equipment to produce, store, display and serve frozen desserts and protect them from contamination;
- ii. have a potable water supply of at least 40 gallons' capacity. The tank is to be completely drainable;
- iii. be equipped to clean and sanitize the largest piece of equipment requiring cleaning;
- iv. have hand washing facilities;
- v. have a waste water holding tank, of larger capacity than the water supply tank, which is to be serviced and cleaned after each day's operation;
- vi. have an interior which is constructed and maintained in a sanitary manner and adequately lighted;
- vii. have the driver's area separated by tight closing doors from the processing area, unless the unit is air-conditioned;
- viii. have refuse containers, with covers, constructed and maintained to be sanitary for operator and patron use;
- ix. use frozen dessert mix in single-service batch-sized containers.

(u) *Depots* - All mobile units, other than those operated exclusively at fairs, carnivals and other affairs of short duration, must operate from a depot. Mobile units are to return to their respective depot at least once a day for cleaning. A depot is the premises which is used as the base of operations for one or more mobile frozen dessert units, where the vehicle, equipment, utensils and facilities are cleaned and sanitized and where supplies are stored and records maintained. The depot is to meet the requirements of this Subpart and is to be constructed, equipped and maintained so that:

- i. the interior of the building is clean, free from rodents and insects, odors, pooled water, garbage, debris and unnecessary materials and equipment;
- ii. there is adequate space in the building to permit access for cleaning of the largest mobile unit, separate from storage areas for food, ingredients, equipment, tableware and utensils;
- iii. acceptable cleaning and sanitizing facilities are provided, including storage for cleaned equipment and utensils which protects them from contamination;
- iv. lighting is adequate with not less than 30 foot-candles at working surfaces in food handling and equipment cleaning areas;
- v. adequate toilet and adjacent handwashing facilities are readily available to all employees of mobile units and the depot, together with lockers for clothing and personal possessions;
- vi. storage facilities are constructed and maintained to prevent contamination of all materials and supplies including mixes, flavors, syrups, edibles, single-service items;

- vii an adequate supply of hot and cold potable water under pressure is available whenever needed;
 - viii all plumbing is constructed and installed in an acceptable manner, with backflow preventors as required to protect the water supply, food, equipment and utensils from contamination;
 - ix all waste, sewage and waste water is disposed of, to an approved system, without contamination of the premises; and
 - x the entire premises is operated and maintained in a sanitary condition, does not create a nuisance, and is not a potential source of contamination.
- (v) *Protection of frozen desserts* - Frozen desserts sold at retail are to be free from spoilage or contamination, and safe for human consumption. Frozen desserts are to be protected from contamination at all times, including while being stored, prepared, displayed, served or transported.

Frozen desserts are to be packaged in commercially acceptable containers and packaging material that will preserve the quality of the product and protect it from possible contamination in regular channels of trade. The packaging, cutting, molding, dispensing and other handling or preparation of frozen desserts and their ingredients are to be done in a sanitary manner. Frozen desserts sold at retail are to be packaged or wrapped unless sold for immediate consumption.

(w) *General*. All frozen dessert operations including mobile units and depots are to:

- i store and use bactericides, cleaning compounds, toxic materials and personal medications so that possible contamination of food and food-contact surfaces is prevented;
 - ii restrict items to those necessary for operation and maintenance;
 - iii keep unnecessary persons out of food preparation and equipment and utensil washing areas;
 - iv keep all animals, except for seeing-eye dogs accompanying blind persons, out of frozen dessert operations; and
 - v keep laundry facilities and living quarters separated from frozen dessert operations by complete partitions and solid, self-closing doors.
- (x) *Enforcement; permit required application and fee; suspension and revocation; closure* - It is unlawful to conduct any retail frozen dessert operation without a valid permit. The following provisions apply to all retail frozen dessert operations;

Failure to obtain a permit is cause for immediate closure. Only an individual, partnership, corporation, association or similar legal entity complying with requirements of this Subpart, after making application on forms provided by the permit-issuing official, is entitled to receive and retain such a permit.

The application for permit, to be accompanied by a fee of \$25, is to be completed on a form provided by the permit-issuing official. The fees for such permits may not be prorated. The application is to be submitted not less than 21 days before the date of proposed start of operations. In the event the permit-issuing official fails to issue a permit, or does not refuse to issue a permit for cause, operation may be commenced on the 22nd day after the date of application, and continue without constituting a violation of this Subpart, pending the issuance of a permit by the permit-issuing official or his authorized representative, or until the permit-issuing official or his authorized representative issues an order to cease operations for cause, after notice of hearing served pursuant to section 12-a of the Public Health Law.

The permit-issuing official or his authorized representative may suspend a permit and order the frozen dessert operation closed and all operations discontinued immediately when, in his judgment, continued operation is a danger to public health, and it appears prejudicial to the public interest to delay action. The permit-issuing official is to provide any person ordered closed an opportunity for a hearing within 15 days after such an action.

The permit-issuing official or his authorized representative is to be permitted access for purposes of inspection at all times while the frozen dessert operation is in operation, whether open to the public or not. Refusal of admittance is cause for permit revocation and order to close, after notice of hearing served pursuant to section 12-a of the Public Health Law.

The permit-issuing official or his authorized representative may, by written order, place an embargo on any food which he determines or has reason to believe is contaminated, unwholesome, or from an unapproved source. Such food may not be used, sold, donated, discarded, repackaged or otherwise disposed of, until such embargo order is lifted by the permit-issuing official, his authorized representative, or court of competent jurisdiction.

When a frozen dessert operation is part of a food service establishment, it is permissible to suspend the frozen dessert permit, but allow food service operation to continue operations. A permit to operate a retail frozen dessert operation does not allow operations of a food service establishment. A separate permit is required to operate a food service establishment in accordance with Section 1. of the Chapter.

Permits are to be for no more than one year and are to expire on the last day of the month. Permits are not transferable.

- (y) *Waiver* - the permit-issuing official may waive, in writing, any of the requirements of this Section, except those of Section 2(x), when it reasonably appears that the public health will not be endangered by such waiver.

SECTION 3. Reporting of Food Poisoning

- (a) Every physician, visiting nurse, public health nurse or any other person having knowledge of the occurrence of illness believed to have been due to the consumption of spoiled or poisonous food, shall report the same immediately, by telephone, telegram or in person to the Public Health Director of the Niagara County Department of Health.
- (b) Provided that if the cases occur in a state institution, said cases shall also be reported directly to the State Department of Health.

Chapter XI: Migrant Labor Camps

SECTION 1. General

The Niagara County Board of Health officially adopts Part 15 of Chapter I of Title 10 (Health) of the New York State Sanitary Code, as may be amended from time to time, as being applicable within the Niagara County Health District.

Chapter XII: Open Fires

SECTION 1. Definitions

- (a) "Garbage" shall mean the animal and vegetable wastes resulting from the handling, preparation, cooking and serving of food.
- (b) "Open Fire" shall mean any outdoor fire or outdoor smoke producing process where air contaminants are emitted directly into the outdoor air.
- (c) "Solid Waste" shall have the meaning ascribed to it in Chapter XIII of the Niagara County Health District Sanitary Code.
- (d) "Rubbish" shall mean solid or liquid waste material including but not limited to paper and paper products; rags; trees, leaves, needles, or branches therefrom; vines; lawn and garden debris; furniture; cans; crockery; plastics; cartons; chemicals; paint; greases; sludges; oils and other petroleum products; wood; saw dust; demolition materials; tires; automobiles and other vehicles and parts, for junk, salvage, or disposal. Rubbish shall not include garbage.
- (e) "Rubbish Generated by Residential Activities" shall mean waste material from normal household activities such as paper, paper products, trees, leaves, tree needles, branches, vines, lawn and garden debris, and wood.

SECTION 2. Prohibitions *(FILED - NYSDOH: July 19, 2001)*

Shall be amended as follows:

Except as otherwise permitted by this chapter and/or the New York State Department of Environmental Conservation, no person shall burn, cause, suffer, allow or permit the burning in an open fire:

- (a) of garbage;
- (b) of rubbish or solid waste, whether at a solid waste disposal area or otherwise;
- (c) for on-site disposal, of rubbish generated by industrial commercial, or agricultural activities;
- (d) for on-site disposal, of rubbish generated by residential activities in any city, town, or village;
- (e) for on-site disposal, of rubbish generated by activities at any facility governed by the Niagara County Sanitary Code;
- (f) of rubbish generated by land clearing or demolition for the erection of any structure; or the construction or modification of any highway; railroad, power, utility, or communication line or conveyance; or for the development or modification of a recreational area, park, or public or private area;
- (g) of refuse in any area during the period for which forecasts, alert 1, alert 2, or emergency stages of an air pollution episode have been declared.

SECTION 3. Permissible Burnings *(FILED - NYSDOH: July 19, 2001)*

When not prohibited by other local laws, ordinances or regulations, or other officials having jurisdiction, the following types of open burning are permissible:

- (a) Fires in outdoor grills and outdoor fireplaces for the purpose of preparing food.

- (b) Campfires and fires used solely for recreational purposes and when a public health nuisance is not created. The burning of leaves, tree branches, lawn and garden debris, garbage, solid waste, rubbish, and rubbish generated by residential activities shall not be considered recreational burning. Local fire marshals and fire chiefs shall be consulted for information on local laws and/or other restrictions. Campfires shall be self-contained and limited to four (4) logs of dry wood, not to exceed 18 inches in length and 6 inches in diameter.
- (c) Burning of tree trimmings, insect-infested or diseased vegetation, material cultivated from created wetlands, animal or vegetable wastes or land clearing materials consisting of trees, tree trimmings, leaves or brush from on-premise agriculture operations when burning is controlled and a public health nuisance is not created. Local fire marshals and fire chiefs shall be consulted for information on local law and/or other restrictions.
- (d) Open burning of highly explosive or dangerous materials in remote areas for which there is no other practical method of disposal, when a public health nuisance is not created and when conducted by police and fire officials for the purpose of the protection of public safety.
- (e) Burning of solid or liquid fuels or structures when conducted under the direct control and supervision of qualified instructors and when done for the instruction and training of firefighters.
- (f) Properly operated industrial flares for combustible gases.
- (g) Open burning under unusual circumstances and when no alternate procedure is considered practical after written approval by the Public Health Director.

Chapter XIII: Solid Waste Disposal

SECTION 1. Definitions

- (a) "Solid Waste" shall mean all putrescible and non-putrescible material including garbage, rubbish, ashes, incinerator residue, street cleanings, dead animals, offal, construction and demolition debris, waste tires, and solid commercial and industrial waste.
- (b) "Solid Waste Disposal Area" shall mean land used for the depositing of solid waste except that it shall not include the land used as part of a farm on which only animal manure or vegetative wastes resulting from the operation of such farm is deposited for agricultural purposes providing a nuisance condition is not created. This definition includes, but is not limited to, those areas commonly referred to as landfills and dumps.

SECTION 2. Permits

It shall be unlawful for any person who does not possess a valid permit from the New York State Department of Environmental Conservation (NYSDEC) and the approval of the Niagara County Department of Health to operate a solid waste disposal area in the Niagara County Health District.

SECTION 3. New and Expanded Sites

A new or expanded solid waste treatment, storage, or disposal area shall not be established in the Niagara County Health District until the site, method of operation, and all details have been approved in writing by the Niagara County Department of Health and the NYSDEC.

SECTION 4. Storage of Solid Waste

All solid waste shall be stored in a rigid, puncture proof container and/or shall be so handled, covered, and treated so as not to escape; be accessible to rodents, flies, other insects, or animals; or create a nuisance. If required by the NYSDEC, an appropriate permit must be obtained.

SECTION 5. Removal and Transportation of Solid Waste

- (a) Every vehicle being used for the removal and transportation of solid waste shall be permitted by the NYSDEC for same, if required, and shall be equipped with a means of covering the solid waste to be hauled and of keeping such solid waste securely within the hauling body at all times during transportation.
- (b) All joints in the hauling body of the vehicle used for the transportation of solid waste shall be effectively closed and smooth so that no drippage or leakage of draining water or liquid or any debris can occur.
- (c) Every vehicle used for the transportation of solid waste shall be kept clean and in good repair.

SECTION 6. Posting of Signs

The Public Health Director may post or order the posting of, "No dumping" signs where in his or her opinion such signs are needed for the protection of public health. Failure to obey such signs posted by the Director is a violation of the Niagara County Health District Sanitary Code.

Chapter XIV: Fees and Revenue

SECTION 1. General

The Niagara County Department of Health, hereinafter referred to as the Department, shall charge and collect fees for services, inspections, and activities as hereinafter enumerated, consistent with the cost of providing such services, inspections and activities.

SECTION 2. Environmental Health Fee Schedule

The following schedule of fees and revenue, consistent with the cost of providing the services listed below is hereby imposed for the consideration of issuing licenses, permits, or the rendition of service as follows:

<u>Food Protection:</u>			
Food inspection and permit:	Temporary (less than 15 consecutive days).....	\$	50 .00
	Multiple Temporary (180 consecutive days).....	\$	200 .00
	Mobile Food Vendor (annual)	\$	210 .00
	Low Risk (annual)	\$	145 .00
	Medium Risk (annual)	\$	220 .00
	High Risk (annual)	\$	315 .00
	Food service plan review.....	\$	160 .00
Frozen dessert:	inspection & permit	\$	25 .00
	resample & analysis (per visit-prior unsatisfactory).....	\$	45 .00
Vending machine inspection & permit (per machine)		\$	15 .00
<u>Camps and Recreation:</u>			
Children's camp inspection & permit		\$	105 .00
Motel/hotel inspection & permit:	1 – 25 rooms	\$	180 .00
<i>(SELECT NUMBER OF ROOMS</i>	26 – 50 rooms	\$	225 .00
<i>& PAY AMOUNT SHOWN)</i>	51+ rooms.....	\$	285 .00
	Swimming Pool (<u>additional cost</u>)	\$	160 .00
Motel/hotel plan review/approval		\$	265 .00
Campsite inspection & permit:	1 - 50 sites.....	\$	180 .00
<i>(SELECT NUMBER OF SITES</i>	51 - 100 sites.....	\$	225 .00
<i>& PAY AMOUNT SHOWN)</i>	101+ sites.....	\$	275 .00
	Swimming Pool (<u>additional cost</u>)	\$	125 .00
Plan review: temporary residence (per site) / campsite (per lot).....		\$	40 .00
Bathing beach:	annual inspection, sampling, analysis & permit.....	\$	150 .00
	weekly sampling & analysis.....	\$	40 .00
Swimming pool:	inspection & permit (per filtration system)	\$	180 .00
	Plan review.....	\$	265 .00
<u>Housing Hygiene:</u>			
Migrant labor camp inspection and permit:	5 - 20 migrants	\$	145 .00
	21+ migrants	\$	190 .00
Rooming house / bed & breakfast inspection and permit.....		\$	180 .00

SECTION 1. Definitions

When used in this Chapter the terms "air contaminant", "air pollution", "air contamination", "air contamination source"; and "air cleaning installation" shall have the meanings ascribed to in Article 19, Title 1, Section 19-0107 of the New York State Environmental Conservation Law. "Generally accepted standards" shall have the meaning as prescribed in Chapter III of this Code."

SECTION 2. Pollution of the Atmosphere

- (a) No person shall operate or maintain any building, equipment, vessel, stationary or locomotive engine, device, container, pipeline, vehicle, process, property place or premises so as to cause, suffer or allow air contamination, air pollution, or air contamination to escape or be discharged into the atmosphere in or from any such building, vessel, place or property in quantities sufficient to endanger the public health.
- (b) The discharge or escape into the open air of such quantities of air contaminants, air pollution, or air contamination in such place or manner as to cause injury, detriment, nuisance or annoyance to a number of persons or so as to endanger the comfort and repose, health or safety of person; or in such a manner as to cause or to have a natural tendency to cause injury or damage to business or property, may be considered by the Director as presumptive evidence that such discharge pollutes the atmosphere in violation of this section. Upon the determination that such violation exists, the Director may issue an order requiring the treatment or abatement of such discharge.

SECTION 3. Control of New Sources

- (a) No person shall undertake to construct a new installation which will or might reasonably be expected to contribute to air pollution or make modifications to an existing installation which will or might reasonably be expected to increase the amount or change the effects or the characteristics of the air contaminants discharged, or install an air cleaning device without first having received the approval of the New York State Department of Environmental Conservation for such installation, modification, or air cleaning device and further having so advised the Public Health Director.
- (b) Whenever considered necessary by the Public Health Director, such tests as are required to evaluate the performance of an installation shall be conducted in accordance with generally accepted standards, methods, and procedures with the results of such tests certified and submitted to the Public Health Director. The costs of such tests shall be borne by the owner of the installation. A representative of the Public Health Director shall be permitted to witness all tests to be conducted at a time mutually agreeable to all parties. The Public Health Director or his or her authorized representative shall have the right to conduct separate or additional tests on behalf of the Department.
- (c) No person shall install, maintain or operate any air cleaning equipment installation in an unsatisfactory manner that contravenes these provisions and existing laws, rules, or regulations.
- (d) Any person operating air cleaning equipment for the purpose of removing air contaminants shall provide for the proper removal and disposal of the collected air contaminants in conformity with other provisions of the code and existing laws, rules and regulations at such intervals as may be necessary to maintain the equipment at the permit specified operating efficiency. Such collection and disposal shall be performed in a manner so as not to reintroduce contaminants in the air or the environment.
- (e) Persons responsible for a new, modified, or existing source of air pollution, upon reasonable request of the Public Health Director, shall provide in writing, pertinent data concerning emissions.

Chapter XVI: Smoking

SECTION 1. General

The Niagara County Board of Health officially adapts the amended New York State Clean Indoor Air Act (Public Health Law, Article 13 – E). Areas in which smoking is prohibited by the Article 13 – E of the Public Health Law shall supersede the provisions of this Chapter if inconsistent therewith.

SECTION 2. Declaration of Findings and Intent.

The Niagara County Board of Health and the Niagara County Department of Health hereby find as follows:

- (a) Reliable studies have shown that breathing second-hand smoke is a significant health hazard for several population groups, including children, fetuses, elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease.
- (b) These health hazards include lung cancer, respiratory infection, decreased exercise tolerance, decreased respiratory function, broncho-constriction, and broncho-spasm.
- (c) Exposure to tobacco smoke precipitates and/or aggravates allergic attacks in persons with respiratory allergies, and accelerates such allergic symptoms as eye irritation, nasal symptoms, cough, wheezing, sore throat and hoarseness.
- (d) The preponderance of the evidence and the trends reflected in that evidence indicate that exposure to second-hand smoke is a significant health hazard which does adversely affect the public health. Such exposure has caused and continues to cause needless pain, suffering and death.
- (e) It is also understood that regulations addressing such hazards will cause certain economic dislocations and governmental intrusions which must be justified by the nature and extent of the public health hazard. A balance must be struck between safeguarding citizens from involuntary exposure to second-hand smoke on the one hand, and minimizing governmental intrusion into the affairs of its citizens on the other.
- (f) It is also recognized that certain voluntary efforts have been carried out independent of government intervention seeking to address the problem of second-hand smoke, and it is in the public interest to enact regulations that harmonize with such efforts so long as they do not compromise the public health.
- (g) The hazard of second-hand smoke is of variable degree depending upon such factors as length of exposure and the age and physical condition of those exposed. In some cases, there is a voluntary assumption of the hazard and in other cases, an involuntary or coerced exposure. This wide range of conditions necessitates a tailoring of the regulations to match various circumstances. Therefore, the County Health Department declares the intent and purpose of this Article is to preserve and improve the public health by limiting the exposure of the public to tobacco smoke.

SECTION 3. Smoking Restrictions-Indoors

Smoking shall not be permitted and no person shall smoke or carry a lighted cigar, cigarette, pipe or any other form of smoking object or device in the following indoor areas:

- (a) Places of employment;
- (b) Bars;
- (c) Restaurants;
- (d) Enclosed indoor swimming areas;
- (e) Public transportation including all ticketing, boarding and waiting areas; buses, vans, taxicabs and limousines;
- (f) All places of employment where services are offered to children;

- (g) Any facility that provides child care services as defined in section four hundred ten –p and/or child day care center as defined in section three hundred ninety of the social services law;
- (h) All schools, including school grounds;
- (i) All public and private colleges, universities and other educational and vocational institutions;
- (j) General hospitals;
- (k) Residential health – care facilities, except separately designated smoking rooms for adult patients;
- (l) Commercial establishments used for the purpose of carrying on or exercising any trade, profession, vocation or charitable activity;
- (m) All indoor arenas;
- (n) Zoos; and
- (o) Bingo facilities

SECTION 4. Smoking Restrictions-Outdoors

No person shall smoke or carry a lighted cigar, cigarette, pipe or any other form of smoking object or device within 50 feet of a County of Niagara owned or leased building and within a reasonable distance of the entrance(s) to any building.

SECTION 5. Posting of Signs

"Smoking" or "Non-smoking" signs or the international "No Smoking" symbol (consisting of pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be prominently and conspicuously posted in every place where smoking is regulated by this Chapter by the owner, operator, manager, or other person having control of such place. Such signs shall be protected from tampering, damage, removal or concealment.

SECTION 6. Smoking Restrictions Inapplicable

Smoking restrictions in this Article will not apply to:

- (a) Private homes and private residences; private automobiles;
- (b) Hotel or motel rooms rented to one or more guests;
- (c) Retail tobacco businesses (primary activity is the retail sale of tobacco products and accessories, and the sale of other products is merely incidental);
- (d) Membership associations where all duties related to the operation of the association are performed by volunteers who are not compensated in any manner; any membership association that meets the criteria described in Section 1399-q (4) for “membership associations” is not subject to any of the provisions in the CIAA. Such organizations could allow smoking in facilities that serve food and alcoholic beverages, operate bingo games or operate other fund raising activities. These activities could be attended by members, member guests and the general public.
- (e) Cigar bars in existence prior to January 1, 2003 (where 10% or more of total annual gross income is from the sale of tobacco products); and
- (f) Up to 25% of seating in outdoor areas of restaurants with no roof or ceiling enclosure may be designated smoking areas. However, nothing in this article shall be construed to deny the owner, operator or manager of a place covered by this article the right to designate the entire place, or any part thereof, as a nonsmoking area.

SECTION 7. General Provisions

- (a) Any questions concerning the construction of this Article shall be resolved in a manner which will provide greater protection to non-smokers.
- (b) Smoking may not be permitted where prohibited by any law, rule or regulation of any state agency or any municipality.
- (c) The owner, manager, operator or other person having control of any area subject to the provisions of this article, shall be responsible for informing individuals smoking in an area in which smoking is not permitted that they are in violation of this article and the Clean Indoor Air Act of the State of New York.

SECTION 8. Waiver

The Niagara County Board of Health or their designee, the person specifically designated to grant waivers pursuant to this Chapter, may grant a waiver from the application of a specific provision of this Chapter, provided that prior to the granting of such waiver, the applicant for a waiver shall establish that:

- (a) Compliance with a specific provision Public Health Law, Article 13 – E would cause undue financial hardship; or other factors exist which would render compliance unreasonable;
- (b) The waiver applicant has developed, and will implement, a plan that describes conditions or restrictions necessary to eliminate the adverse affects of the waiver upon persons subject to involuntary exposure to second – hand smoke, and will ensure that the waiver is consistent with the general purpose and intent of this Chapter

Waivers granted pursuant to this subdivision shall be valid for a period of not more than twenty-four months and may be renewed upon application. Applications for renewal shall be reviewed in the same manner as provided for applications for waiver.

Chapter XVII: Ionizing Radiation

The Niagara County Board of Health officially adopts Part 16 of Chapter 1 of Title 10 (Health) of the New York State Sanitary Code, as may be amended from time to time, as applying within the Niagara County Health District.

CHAPTER XVIII: REGULATIONS OF TATTOOING AND BODY PIERCING ARTISTS, OPERATORS AND ESTABLISHMENTS

Purpose

The act of tattooing is an invasive procedure which punctures the skin and injects a dye into the tissue just below the skin. Body piercing is similarly an invasive procedure. The skin is the body's primary barrier to infectious agents and any procedure which compromises the integrity of this barrier increases the possibility of infection. In this age, with some diseases causing serious health problems, it is imperative to regulate the artist, and the facility and equipment used in these procedures. Therefore, the purpose of this Code is to assure that the conditions in the facility provide a safe and sanitary environment, and that the person applying a tattoo or performing a body piercing has a basic knowledge and practice of aseptic techniques. Tattooing and body piercing outside the provisions of the regulations in this code are strictly prohibited.

SECTION 1. Definitions

For the purpose of this Code, the following words and phrases when used herein shall be construed as follows:

- (a) Tattoo — The word “tattoo” shall mean to mark or color a person’s skin by pricking in coloring matter so as to form indelible marks or figures or by the production of scars.
- (b) Body Piercing - The words “body piercing” shall mean cutting or passing through skin and/or flesh with a sharp instrument, or penetrating a part of the body, except for the ear, for the purpose of applying jewelry to various parts of the body by means of a piercing device.
- (c) Tattoo/Body Piercing Establishment — The words “tattoo/body piercing establishment” shall mean any room or space where tattooing and/or body piercing is practiced or where the business of tattooing and/or body piercing is conducted or any part thereof.
- (d) Tattoo/Body Piercing Operator — The words “tattoo/body piercing operator” shall mean any person who controls, owns, operates, conducts or manages any tattoo/body piercing establishment, whether actually performing the work of tattooing and/or body piercing or not.
- (e) Tattoo/Body Piercing Artist — The words “tattoo/body piercing artist” shall mean any person who actually performs the work of tattooing and/or body piercing.
- (f) Piercing Device - The words “piercing device” shall mean any device used for the piercing of the skin for the purpose of applying jewelry.
- (g) Permanent Makeup — The words “permanent makeup” shall mean marking or coloring the skin by pricking in coloring matter so as to form indelible marks. For the purpose of this Code, whenever the word “tattoo” is used, it shall also apply to permanent makeup.
- (h) Permanent Makeup Establishment — The words “permanent makeup establishment” shall mean any room or space where permanent makeup is applied or any part thereof. For the purpose of this Code, whenever the words “tattoo/body piercing establishment” are used, they shall also apply to permanent makeup establishments.
- (i) Permanent Makeup Operator — The words “permanent makeup operator” shall mean any person who controls, operates, owns, conducts, or manages any establishment where permanent makeup is applied, whether actually applying the permanent makeup or not. For the purpose of this Code, whenever the words “tattoo/body piercing operator” are used, they shall also apply to permanent makeup operator.

- (j) Permanent Makeup Tattooist — The words “permanent makeup tattooist” shall mean any person who actually performs the work of applying permanent makeup. For the purpose of this Code, whenever the words “tattoo/body piercing artist” are used, they shall also apply to permanent makeup tattooist.
- (k) Health Officer — The words “Health Officer” shall mean the Public Health Director of the Niagara County Department of Health or his/her duly authorized representative(s).
- (l) Minor — The word “minor” shall mean any person under the age of eighteen (18) years.
- (m) Patron - The word “patron” shall mean any person who requests a tattoo and/or body piercing at a tattoo/body piercing establishment.
- (n) Equipment - The word “equipment” shall mean any and all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks, and all other apparatus and appurtenances used in connection with the operation of a tattoo establishment.
- (o) Work Area - The words “work area” shall mean any area or room used for the purpose of performing tattooing and/or body piercing.
- (p) Handwashing Facilities – The words “handwashing facilities” shall mean a lavatory equipped with hot and cold running water under pressure, used solely for washing hands, arms or other portions of the body.

SECTION 2. Artist Certification

- (a) No person except a duly licensed physician shall engage in the practice of tattooing and/or body piercing or act as a tattoo/body piercing artist unless he/she has a certificate issued by the Health Officer.
- (b) No tattoo/body piercing operator shall allow a tattoo/body piercing artist to perform tattooing/body piercing in his/her tattoo/body piercing establishment unless the tattoo/body piercing artist is the holder of a valid certificate issued under this Code.
- (c) Any person desiring to engage in tattooing/body piercing or act as a tattoo/body piercing artist shall submit an application for certification to the Health Officer in the form prescribed by the Health Officer which will include a statement that the applicant has received a copy of this Code and has a working knowledge of its content.
- (d) The certificate holder, prior to the issuance of said certificate, shall be required to show evidence of knowledge of the provisions of this Code including an adequate knowledge of bacteriology and aseptic technique to assure that infection and contagious disease shall not be spread by tattooing and/or body piercing practices. A written test and/or interview shall be administered by the Niagara County Department of Health to determine satisfactory knowledge and technique for each artist seeking certification.
- (e) The certification shall be renewed every two years and shall be valid countywide.
- (f) A fee of \$100.00 shall be assessed on the recipient of a certification.

SECTION 3. Tattoo/Body Piercing Establishment Permit

- (a) No person shall operate a tattoo/body piercing establishment unless he/she has registered such tattoo/body piercing establishment with the Health Officer and has received a permit from the Health Officer.
- (b) No permit shall be issued or renewed unless the tattoo/body piercing establishment has been inspected and found to be in compliance with the provisions of this Code.

- (c) The permit must be prominently posted in the public area of the facility.
- (d) The permit shall be renewed every two years.
- (e) A permit fee of \$200.00 shall be assessed on the tattoo/body piercing operator.

SECTION 4. General Physical Environment

- (a) The tattoo/body piercing establishment shall conform to applicable local, State and national codes.
- (b) There shall be sufficient toilet and handwashing facilities accessible to patrons in the tattoo/body piercing establishment.
- (c) The tattoo/body piercing establishment and equipment shall be maintained in a state of good repair at all times. All parts of the tattoo/body piercing establishment and its premises shall be kept clean, neat and free of rubbish.
- (d) The floor of the work area in the tattoo/body piercing establishment shall be of impervious material and kept in a reasonably sanitary condition. The walls of the work area shall be light colored. Floors, walls, or ceilings shall not be swept or cleaned while tattooing/body piercing is in operation.
- (e) There shall be provisions made by the tattoo/body piercing operator for the proper and safe disposal of all types of hazardous biological waste products. Any material contaminated with blood must be handled, stored, and disposed of in accordance with Federal, State and Local Laws and acceptable to the Health Officer.
- (f) Tattoo/body piercing establishments shall have work areas that are separate and apart from the rest of the establishment. These areas shall not be used as corridors for access to other areas. Patrons shall be tattooed/pierced in said work areas only. For a residence to receive a permit to operate as a tattoo/body piercing establishment, work areas must be dedicated for that use only. No other activities may take place in the work areas. Work areas must comply with all other requirements of this Code.
- (g) Each work area shall have handwashing facilities equipped with hot (at least 120 degrees Fahrenheit) and cold running water. At least fifty (50) foot-candles of light must be available.
- (h) Each handwashing facility is to be provided with hand cleaning soap, detergent or other surfactant cleaning compound used for personal cleaning. Bar soap is prohibited. Individual single service towels or warm air blowers are to be provided. Common towels are prohibited. Conveniently located waste receptacles are to be provided.
- (i) Handwashing facilities, hand washing devices and related equipment are to be kept clean and in good repair. Employees must wash hands thoroughly after using the toilet, sneezing, coughing, eating, drinking or otherwise soiling their hands before returning to work. Handwashing signs are to be posted at all employee hand washing facilities.
- (j) Adequate cabinets for the storage of instruments, dyes, pigments, carbon and stencils shall be provided for each tattoo operator and shall be maintained in a sanitary manner. Poisons, including germicidal solutions, used in the tattoo/body piercing establishment shall be stored in covered containers with labels identifying the contents.
- (k) An adequate number of worktables shall be provided for each tattoo/body piercing artist. The surface of all work tables shall be constructed of a material that is smooth, light colored, non-absorbent, corrosive-resistant, and easily cleaned and disinfected.

- (l) Food and drink are prohibited in work areas.
- (m) Animals are prohibited throughout the tattoo/body piercing establishment.

SECTION 5. Records

- (a) Proper records shall be maintained by the tattoo/body piercing operator for each patron.
- (b) A record of each patron shall be prepared prior to any procedure being performed and shall include the time and date on which the tattoo/body piercing occurred, the name, signature, address and age of the patron, a brief description of the work done, its location on the patron's body, and the name of the tattoo/body piercing artist who did the work. Records of each piercing of a minor shall also be kept in accordance with Niagara County Local Law #1-2001, referenced at the conclusion of this Chapter.
- (c) The records shall be entered in ink or indelible pencil in a book kept solely for this purpose. This book shall be available at a reasonable time for examination by the Health Officer. Records for each patron shall be preserved for at least three (3) years from the date of the procedure. The signature of the patron shall be in the book.

SECTION 6. Consent

- (a) It is unlawful to apply a tattoo to a minor.
- (b) It shall be the responsibility of the person applying the tattoo to insure the person receiving the tattoo is not a minor.
- (c) Consent of a parent or guardian is required for any body piercing of a minor as per Niagara County Local Law #1-2001, referenced at the conclusion of this Chapter.

SECTION 7. Procedures to be Followed in Tattooing

- (a) There shall be printed instructions approved by the Health Officer given to each patron on the possible complications and risks involved in the tattoo requested. It must also include the care of the skin after tattooing as a precaution to prevent infection. These instructions must also be verbally explained to each patron. Each patron shall sign a release form stating that he/she understands the risks and possible complications involved with tattoo procedures.
- (b) A copy of these instructions shall also be posted in a conspicuous place in the tattoo/body piercing establishment and clearly visible to the person being tattooed.
- (c) It shall be unlawful for any tattoo/body piercing artist to perform any tattooing on an individual who appears to be under the influence of drugs or alcohol. No tattoo/body piercing artist may perform tattoo while under the influence of drugs or alcohol.
- (d) Each tattoo/body piercing artist must wear a clean outer garment.
- (e) Each working surface shall be cleaned and disinfected after each use.
- (f) No person with any disease in a communicable form or suspected of having such a disease shall engage in tattooing. Such diseases may include, but shall not be limited to, influenza, tuberculosis, scabies, impetigo, syphilis, chicken pox, mumps, hepatitis, infection on hands or arms, sore throat or jaundice of the skin.

- (g) The Health Officer may require a certificate signed by a duly licensed physician stating that the person is free from communicable diseases before permission to resume tattooing is granted.
- (h) A tattoo/body piercing artist shall clean his/her fingernails and shall thoroughly wash and scrub his/her hands with warm running water and soap, detergent or other surfactant cleaning compound before working on each patron. Bar soap is prohibited.
- (i) A tattoo/body piercing artist shall not allow his/her hands to dry without the use of individual single service towels or warm air blowers.
- (j) That area of the patron that is to be tattooed shall be prepared by washing with warm water and soap, detergent or other surfactant cleaning compound. Bar soap is prohibited.
- (k) A new disposal razor shall be used prior to the application of the tattoo when it is necessary to shave the area to be tattooed. Once it is used on a patron, the razor must be disposed of. If longer hair must be removed first, any scissors or clippers must be sterilized prior to being used.
- (l) The tattoo/body piercing artist shall again wash and scrub his or her hands, as described in item (g) above, following the cleaning and/or shaving of the patron's skin.
- (m) The tattoo/body piercing artist shall wear single service, disposable gloves when applying a tattoo. The gloves must be properly disposed of once used on a patron. Hand washing shall occur each time gloves are removed, as described in item (g) above.
- (n) The tattoo/body piercing artist shall treat the skin area with a germicidal solution listed in the United States Pharmacopeia or National Formulary, which shall be applied with sterile cotton or sterile gauze, before placing the design on the patron's skin. If petroleum jelly (petrolatum) is used, it must be listed in the United States Pharmacopeia or National Formulary. The application may be spread by the use of sterile gauze or sterile single use applicators. Fingers, gloved or ungloved may not be used to remove product for application.
- (o) The stencil used by a tattoo/body piercing artist for transferring the design to the skin shall be disposable and single use only. Any writing instrument touching the skin must be new and single use only.
- (p) Styptic pencils or alum solids shall not be used to check the flow of blood, should such flow of blood occur.
- (q) Any infection resulting from the tattoo/body piercing procedure which becomes known to the tattoo/body piercing operator or the establishment shall be immediately reported to the Niagara County Department of Health.
- (r) All used needles shall be placed immediately in a "Sharps" container for storage until final disposal from the premises. No needles may be given to patrons.

SECTION 8. Dyes or Pigments

- (a) Dyes or pigments shall be obtained only from a reputable tattoo supplier. Only nontoxic and sterile material shall be used in preparing dyes or pigments to be used by a tattoo/body piercing artist. Single-service or individual portions of dyes or pigments shall be stored in clean, sterilized individual containers or single-service containers before use on each person.

- (b) The remaining unused dye or pigment in the single-service or individual containers must be discarded after tattooing is completed.
- (c) Patrons shall be provided printed warning of the potential physical reactions from the use of certain dyes in a form acceptable to the Niagara County Department of Health.

SECTION 9. Sterilization

- (a) A set of individual single-service, clean and sterile needles shall be used by the tattoo/body piercing artist for each new patron. Clean and sterile tubes shall also be used for each new patron.
- (b) Any reusable instruments or parts thereof shall be thoroughly cleaned ultrasonically prior to sterilization.
- (c) All instruments to be sterilized shall be placed in appropriate wrappers or bags prior to their being placed in an autoclave or dry heat sterilizer. Sterilization may be accomplished by holding in an approved autoclave for twenty (20) minutes at fifteen (15) pounds pressure at a temperature of 250 degrees F or 121 degrees C. An indicator shall be used to show that the proper temperature has been reached in an autoclave. Sterilization may be accomplished by dry heat at 300 degrees Fahrenheit for two and one half (2½) hours, or at 320 degrees Fahrenheit for two (2) hours, or 340 degrees Fahrenheit for one (1) hour. If dry heat sterilization is employed, sterilization temperatures must be checked each time the unit is operated by using a temperature indicator label capable of measuring temperatures of 300, 320 or 340 degrees Fahrenheit, depending on the time allotted for proper sterilization. Any other method of sterilization must be approved by the Niagara County Department of Health. Sterilization equipment shall be spore tested monthly by an independent testing facility, to check for biologic growth. If the tattoo/body piercing establishment is notified by the independent testing facility that a test result is positive for biologic growth, the tattoo/body piercing establishment shall immediately cease all operations, and notify the Niagara County Department of Health. Operations for the tattoo/body piercing establishment shall not resume until test results that are negative for biologic growth have been provided to the Niagara County Department of Health by the testing facility. Records shall be kept in a log book for a minimum of three (3) years. All items in the units must go through a second sterilization cycle, if at any time during the sterilization process the registered heat tapes or temperature indicator labels fail to indicate proper sterilization temperatures were achieved. All grips and needle bars shall be left in approved wrappers or sterilizer bags during the sterilization process. They shall remain in these wrappers or bags until they are used. These wrapped articles shall be stored in a closed cabinet and maintained in a sanitary manner at all times.
- (d) No damaged, defective or broken needles shall be used for tattooing.
- (e) All “peel pack” sterilizer bags must be dated within thirty (30) days of the event and show positive indication of sterilization. Any “peel packs” not dated or dated more than thirty (30) days prior to the event must be re-packaged and sterilized by an approved, on-site sterilizer. All “peel packs” which have been opened or have had the sterility compromised in any way must be re-packaged and re-sterilized in an approved, on-site sterilizer. Single use, pre-packaged sterilized equipment obtained from reputable suppliers is allowed. “Peel packs” must show proof of positive sterilization via an indicator.

SECTION 10. After-Care of the Tattoo

- (a) The completed tattoo shall be washed with a piece of sterile gauze or sterile cotton saturated with an approved germicidal solution. It shall be allowed to air dry.
- (b) An anti-bacterial or alternate suitable ointment shall be applied from a collapsible metal or plastic tube after drying. The entire area may be covered with a piece of sterile gauze, which may, in turn, may be covered with a piece of tissue and fastened to the site with an appropriate type of adhesive.

SECTION 11. Body Piercing Procedures

- (a) There shall be printed instructions, as approved by the Niagara County Department of Health, given to each patron on the increased risk of an invasive infection resulting from the piercing of mucus membrane tissue, specifically the piercing of tissue. Such printed instructions shall also include information for the patron on the care of the body opening caused by piercing as a precaution to prevent infection and to advise the patient to consult a private physician immediately, should an infection become evident, who, in turn, may immediately notify the Niagara County Department of Health, or advise the patient to do so. Information should also be provided with reference to the security or snugness of certain jewelry to prevent accidental ingestion or lodging in body cavities. These instructions shall be verbally explained to each patron. Each patron shall sign a release form stating that he/she understands the risks involved with body piercing procedures.
- (b) A copy of such printed instructions shall be posted in a conspicuous place in the work area and clearly visible to the person being pierced.
- (c) A tattoo/body piercing artist may not pierce any person who is under the apparent influence of drugs or alcohol. No tattoo/body piercing artist may perform a piercing while under the influence of drugs or alcohol.
- (d) Only single use, sterilized and disposable safety razors shall be used when it is necessary to shave the area to be pierced.
- (e) Ear piercing guns and ear-piercing needles are to be used only for piercing earlobes. This piercing device may not be used to pierce any other part of the body.
- (f) A single use, sterilized disposable surgical piercing needle of the same gauge as the jewelry, or one gauge larger, shall be required for all body piercing.
- (g) Skin shall be marked with a non-toxic marker prior to cleansing with antiseptic. The area being pierced must be free of sores and lesions.
- (h) Jewelry shall be pushed through the skin following the needle in the same direction as the piercing when the jewelry is being applied.
- (i) Gauze, bandages, alcohol, peroxide, or ointment should not be applied to a completed piercing.

SECTION 12. Sterilization of Piercing Needles and Jewelry

- (a) An individually bagged sterilized single use needle and bagged sterilized jewelry shall be used for each piercing.
- (b) All instruments to be sterilized shall be placed in appropriate wrappers or bags prior to their being placed in an autoclave or dry heat sterilizer. Sterilization may be accomplished by holding in an approved autoclave for twenty (20) minutes at fifteen (15) pounds pressure at a temperature of 250 degrees F or 121 degrees C. An indicator shall be used to show that the proper temperature has been reached in an autoclave. Sterilization may be accomplished by dry heat at 300 degrees Fahrenheit for two and one half (2½) hours, or at 320 degrees Fahrenheit for two (2) hours, or 340 degrees Fahrenheit for one (1) hour. If dry heat sterilization is employed, sterilization temperatures must be checked each time the unit is operated by using a temperature indicator label capable of measuring temperatures of 300, 320 or 340 degrees Fahrenheit, depending on the time allotted for proper sterilization. Any other method of sterilization must be approved by the Niagara County Department of Health. Sterilization equipment shall be spore tested monthly by an independent testing facility, to check for biologic growth. If the tattoo/body piercing establishment is notified by the independent testing facility that a test result is positive for biologic growth, the tattoo/body

piercing establishment shall immediately cease all operations, and notify the Niagara County Department of Health. Operations for the tattoo/body piercing establishment shall not resume until test results that are negative for biologic growth have been provided to the Niagara County Department of Health by the testing facility. Records shall be kept in a log book for a minimum of three (3) years. All items in the units must go through a second sterilization cycle, if at any time during the sterilization process the registered heat tapes or temperature indicator labels fail to indicate proper sterilization temperatures were achieved. This piercing equipment shall be left in approved wrappers or sterilizer bags during the sterilization process. They shall remain in these wrappers or bags until they are used. These wrapped articles shall be stored in a closed cabinet and maintained in a sanitary manner at all times

- (c) All instruments and jewelry shall be placed in chemically treated sealed bags that indicate sterilization has occurred by color change.
- (d) Unused, sterilized instruments and jewelry shall remain in sealed, sterilized bags until needed and shall be stored in such a manner as to prevent contamination.
- (e) Corroded, broken, defective or damaged instruments and jewelry shall not be used for body piercing.
- (f) Used needles shall be placed immediately into an acceptable “Sharps” container for storage until final disposal from the premises after completion of the piercing.
- (g) All “peel pack” sterilizer bags must be dated within thirty (30) days of the event and show positive indication of sterilization. Any “peel packs” not dated or dated more than thirty (30) days prior to the event must be re-packaged and sterilized by an approved, on-site sterilizer. All “peel packs” which have been opened or have had the sterility compromised in any way must be re-packaged and re-sterilized in an approved, on-site sterilizer. Single use, pre-packaged sterilized equipment obtained from reputable suppliers is allowed. “Peel packs” must show proof of positive sterilization via an indicator.

SECTION 13. Temporary Tattoo/Body Piercing Establishments

A. Permitting

- (a) “Temporary Tattoo/Body Piercing Establishments” shall mean those operating at fairs, festivals or expositions on a temporary basis.
- (b) An application for a temporary permit for Tattooing/Body Piercing must be submitted to the Niagara County Department of Health at least two (2) weeks prior to the event. A fee of \$100.00 shall be assessed on the tattoo operator.
- (c) The exact date(s) and location of the event must be specified on the application for the temporary permit.
- (d) Temporary Tattoo/Body Piercing Establishments shall comply with all the requirements set forth in this Code.
- (e) Any artist must have a valid Niagara County certificate to perform tattooing or body piercing as per Section 2 of this Chapter. A temporary, fourteen (14) day certification may be obtained prior to the event from the Niagara County Department of Health by making application in advance, as per Paragraphs (a), (b), (c), and (d) of Section 2 of this Chapter. The temporary fourteen (14) day certification shall cost \$25.00.
- (f) Each tattoo/body piercing establishment represented in a booth shall have on site a copy of its most recent spore test as per requirements listed below.

B. Sterilization

- (a) A negative growth spore destruction test must be submitted and documented by an independent laboratory within the last thirty (30) days for each shop represented in each booth.
- (b) Instruments must be re-sterilized in an approved sterilizer and a copy of that sterilizer's spore destruction test must be kept in the tattoo operator's booth, if no documentation exists.
- (c) All "peel pack" sterilizer bags must be dated within thirty (30) days of the event and show positive indication of sterilization.
- (d) Any "peel packs" not dated or dated more than thirty (30) days prior to the event must be re-packaged and sterilized by an approved, on-site sterilizer.
- (e) All "peel packs" which have been opened or have had the sterility compromised in any way must be re-packaged and re-sterilized in an approved, on-site sterilizer.
- (f) Single use, pre-packaged sterilized equipment obtained from reputable suppliers is allowed. "Peel packs" must show proof of positive sterilization via an indicator.

C. Space Requirements

- (a) No more than two (2) tattoo/body piercing operators may work at any time in one 10' x10' booth.
- (b) A minimum of forty-five (45) square feet of floor space is required per operator.
- (c) Ancillary sales, displays or other activities may not encroach upon the floor space required for each operator.

D. Operations

- (a) There must be at least one "Sharps" container in each booth.
- (b) Latex or other medically approved gloves must be available in each booth.
- (c) Tattoo/body piercing operators must be aware of the location of approved hand wash and service sinks and use them as required.
- (d) Approved germicidal wipes must be available for each tattoo/body piercing operator.
- (e) There must be a trash container available in each booth, which must be kept covered when not in use.
- (f) At least fifty (50) foot-candles of light must be available at procedure sites. Spotlights are acceptable.
- (g) Tattoo/body piercing operators must properly clean and disinfect procedure areas and procedure surfaces. Materials to clean and disinfect must be on-site and available for inspection.
- (h) Written and verbal instructions of proper "after-care" must be supplied at the end of each tattoo and/or body piercing for each client.
- (i) Written records of each tattooing/body piercing procedure shall be maintained on site, and shall conform to Section 5 of this Code.

- (j) No animals are allowed in booths.
- (k) No food or beverages are allowed in the procedure area while tattooing/body piercing is taking place.
- (l) The temporary permit must be prominently displayed.

SECTION 14. Waiver.

In order to accept alternate arrangements that do not meet a provision of this Code, a tattoo/body piercing operator shall submit a written request to the Health Officer for a waiver from a specific provision of this Code. Such request shall not be granted unless the tattoo/body piercing operator or artist can demonstrate that safety will not be endangered and/or compromised by granting such a waiver.

SECTION 15. Variance

A tattoo/body piercing operator shall submit a written request to the Health Officer for a variance in order to allow time to comply with a provision of this Code. Such temporary variance request shall not be granted unless the tattoo/body piercing operator demonstrates health and safety will not be endangered and/or compromised by granting such a variance.

SECTION 16. Severability

If any provision of this Code or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Code which can be given effect without the invalid provision or application and to this end the provisions of this Code are declared to be severable.

SECTION 17. Certificates and Inspections

- (a) Access — The Health Officer is to be permitted access for purposes of inspection at all times while the tattoo/body piercing establishment is in operation whether open to the public or not. Refusal of admittance, after proper identification, is cause for action to obtain certification revocation, an order to close, and a fine.
- (b) Permits are non-transferable from one tattoo/body piercing operator to another, or from one tattoo/body piercing establishment location to another, or from one tattoo/body piercing artist to another. The tattoo/body piercing artist must be able to produce a valid certificate when engaging in the act of tattooing.
- (c) The person in charge is the individual present in a tattoo/body piercing establishment who is the apparent supervisor of the tattoo/body piercing establishment at the time. Any employee present may be deemed the person in charge if no individual is the apparent supervisor.

SECTION 18. Enforcement

- (a) Operation of a tattoo/body piercing establishment without a valid certificate is a violation of this Code. The Health Officer may order any tattoo/body piercing establishment or operation in his jurisdiction operating without a valid permit to close and cease all tattoo/body piercing operations immediately and to remain closed until the tattoo/body piercing establishment or operation has obtained and displays a valid permit.
- (b) For serious, repeated or persistent violations of any of the requirements of this Code or for interference with the Health Officer in the performance of his/her duties, the permit may be revoked after notice and an opportunity for a hearing has been provided by the Health Officer.
- (c) The Health Officer may suspend a permit and order the immediate cessation of tattoo/body piercing operations within his/her jurisdiction when, in his/her opinion, continued operation is an imminent hazard

to public health. Any person so ordered is to comply immediately and within fifteen (15) days is to be provided an opportunity to be heard and to present proof that continued operation of the tattoo/body piercing establishment does not constitute a danger to the public health.

- (d) Any person applying a tattoo/body piercing without a valid permit issued by the Health Officer is in violation of this Code. The tattoo/body piercing operator who allows a person to apply a tattoo/body piercing without a valid certificate will be subject to enforcement as described in subsection (a) of this section.
- (e) Suspension of Certificates — Certificates may be suspended temporarily by the Health Officer, after notice and an opportunity to be heard, for failure of the certificate holder to comply with the requirements of this Code or with any lawful notice or order issued by the Health Officer.
- (f) Closure — When action is taken to order closure and cessation of any tattoo establishment and its operations, the Health Officer shall:
 - (1) Conspicuously post a notice or placard at each entrance of the tattoo/body piercing establishment stating the existence of such order and the authority for such order. This order is not to be concealed, mutilated or altered by any person or removed without permission of the Health Officer.
 - (2) Publish notice of the order with the reasons why the order was issued in one or more newspapers in the County or City in which the tattoo/body piercing establishment is located.
- (g) Hearings — The hearings provided for in this section are to be conducted by the Health Officer.

SECTION 19. Penalty for Violation

Every person, firm, organization or corporation convicted of violating any of the provisions of this Code, or any of the orders, rules and regulations made and promulgated in pursuance hereof, shall be punished by a fine of up to \$250.00 per violation and be subject to other punishment provided for in this Code and/or any Federal, State or Local Law.

SECTION 20. Effective Date

The effective date of this Chapter shall be the 19th day of September, 2008.

Reference is made to the Niagara County Local Law #1-2001, Prohibiting The Body Piercing of Minors Without The Written Informed Consent of One Parent or Legal Guardian adopted by the Niagara County Legislature on March 20, 2001. Reference is also made to the Niagara County Board of Health Body Piercing Rules and Regulations addressing this law which are available from the Niagara County Department of Health.