

## ARTICLE I

### SHORT TITLE, GENERAL DEFINITIONS, GENERAL PROVISIONS

#### 1.1 Short Title

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

#### 1.2 General Definitions

1.2.1 Whenever used in this Sanitary Code, unless otherwise expressly stated or unless the context or subject matter requires a different meaning, the following terms shall have the respective meanings hereafter set forth or indicated:

1.2.1.1 “**Board**” shall mean *the Board of Health of Clinton County.*

1.2.1.2 “**County**” shall mean *the County of Clinton.*

1.2.1.3 “**Department**” shall mean *the Department of Health of the Clinton County Health District.*

1.2.1.4 “**Director**” shall mean *the Director of Public Health of the Clinton County Health Department or his/her duly authorized representative.*

1.2.1.5 “**Health District**” shall mean *the Clinton County Health District (the area of Clinton County) established pursuant to the provisions of Section 340 of the Public Health Law.*

1.2.1.6 “**Permit**” shall mean *a written license and/or an authorization to carry on a specified activity or activities as regulated by the Clinton County Sanitary Code, the New York State Sanitary Code, or the New York State Public Health Law, and includes any written approval issued by the Director.*

1.2.1.7 “**Permit Application Fee**” shall mean *the monetary fees to cover a portion of the cost of issuing the permit.*

1.2.1.8 “**Permittee**” shall mean *a person who holds a valid permit issued by the Director.*

1.2.1.9 “**Person**” shall mean *an individual, group of individuals, partnership, firm, corporation, association, county, city, town, or village or improvement district, and include the plural as well as the singular.*

1.2.1.10 “**Public Place**” shall mean *any place or premises, wherein the general public is or may be invited, regardless of whether or not such place is owned, maintained or operated by a private organization or agency, but shall not be construed as conferring jurisdiction over a state or federal agency.*

1.2.1.11 “**Sanitary Code**” shall mean and comprise *the rules and regulations now or hereafter formulated, promulgated and adopted by the Board of Health of the Clinton County Health District pursuant to Section 347 of the Public Health Law.*

1.2.1.12 “**State Sanitary Code**” shall mean *the rules and regulations promulgated by the Public Health Council of the State of New York and designated as the State Sanitary Code.*

#### 1.3 Applicability; Legal Effect

1.3.1 The provisions of the Sanitary Code shall be in force throughout Clinton County.

1.3.2 The provisions of the Sanitary Code shall have the force and effect of law.

**1.3.3** It shall be the duty of the Board and the Director to enforce every provision of the Sanitary Code.

**1.3.4** Nothing herein contained shall be construed to restrict the power of any city, town or village to adopt and enforce additional or existing ordinances relating to health and sanitation, provided that such ordinances are not inconsistent with the provisions of the New York State Public Health Law or the State Sanitary Code.

#### **1.4 Legal Presumptions; Evidence, Reports as Evidence**

**1.4.1** As provided by the Public Health Law, certified copies of the Sanitary Code shall be received in evidence in all courts and proceedings in the state.

**1.4.2** As provided by the Public Health Law, every rule, regulation, order and direction adopted by the Board shall state the date on which it takes effect and a copy thereof signed by the Director shall be filed as a public record in the Department, in the State Department of Health and in the office of the Clinton County Clerk and shall be published in such manner as the Board may from time to time determine. No such rule, regulation, or order of direction shall be effective prior to filing as a public record in the New York State Department of Health.

**1.4.3** As provided by the Public Health Law, the written reports of state and local health officers, inspectors, code enforcement officers, law enforcement officers, environmental conservation officers, investigators, nurses and other representatives of state and local health officers on questions of fact pertaining to, concerning or arising under and in connection with complaints, alleged violations, investigations, proceedings, action, authority and orders related to the enforcement of the Sanitary Code, the Public Health Law, the State Sanitary Code or any local health regulation shall be presumptive evidence of the facts so stated therein, and shall be received as such in all courts and places.

#### **1.5 Construction**

**1.5.1** This Sanitary Code is intended to be consistent with applicable federal and state law and shall be construed, whenever necessary, to achieve such consistency.

**1.5.2** This Sanitary Code shall be liberally construed for the protection of health and safety in the Health District.

#### **1.6 Separability of Provision**

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

## ARTICLE 2

### ADMINISTRATION AND ENFORCEMENT

#### **2.1 The Board of Health; Officers, Meetings**

**2.1.1** The Board of Health shall consist of eight voting members who shall be appointed by the Clinton County Legislature and the Director who shall be a non-voting member appointed by the Board.

**2.1.2** The Board shall ordinarily meet at least eight times per year.

**2.1.3** The President, other presiding officer of the Board, or the Director, may call special meetings thereof when in his/her judgment, the protection, preservation or improvement of the public health of the Health District or any part thereof requires it.

**2.1.4** A majority of the membership of the Board shall constitute a quorum at any regular or special meeting of the Board and not less than the majority of the total number of the Board may perform and exercise the power of the Board.

**2.1.5** The Board shall elect a President from among its members who shall serve as presiding officer of the Board.

**2.1.6** The Board shall elect a Vice-President from among its members who shall serve as presiding officer of the Board in the absence of the President.

**2.1.7** The Director shall serve as Secretary to the Board.

#### **2.2 The Board and Director; Quasi-Judicial Powers**

**2.2.1** As provided by the Public Health Law, the Board or the Director may:

**2.2.1.1** Issue subpoenas which shall be regulated by the civil practice laws and rules;

**2.2.1.2** Compel the attendance of witnesses;

**2.2.1.3** Administer oaths to witnesses and compel them to testify;

**2.2.1.4** Designate, by resolution, one of its members to sign and issue subpoenas;

**2.2.1.5** Appoint one or more Hearing Officers as shall be necessary to carry out its functions and duties. The Hearing Officer shall have the same powers possessed by the Board to hold hearings and shall make findings of fact and recommendations to the Board;

**2.2.1.6** Issue warrants to any peace officer of any municipality in the County to apprehend and remove such person or persons subject to its orders or regulations;

**2.2.1.7** Issue warrants to the County Sheriff to bring to its aid the power of the County when it shall be necessary to do so;

**2.2.1.8** Prescribe and impose penalties for the violation of, or failure to comply with any provision of the Sanitary Code, of the provisions of the State Sanitary Code as provided for in Section 2.15, to be sued for, and recovered by it in any court of competent jurisdiction;

**2.2.1.9** Make such orders and regulations as may be deemed necessary for the suppression of nuisances or other matters in its judgment is detrimental to public health; and to publish or post same in any such manner deemed appropriate; and,

**2.2.1.10** Maintain actions in any court of competent jurisdiction to restrain by injunction violators of their orders, rules and regulation of the Board, or otherwise to enforce such orders and regulations.

### **2.3 Director; General Powers**

**2.3.1** As provided by the Public Health Law, the Director shall:

**2.3.1.1** Make an annual sanitary survey and maintain sanitary supervision over the territory within the Health District;

**2.3.1.2** Make a sanitary inspection, periodically, of all places of public assemblage, and report thereon to those responsible for the maintenance of such places of public assemblage;

**2.3.1.3** Promote the spread of information as to the cause, nature and prevention of prevalent diseases, and the preservation and improvement of health;

**2.3.1.4** Take such steps as may be necessary to secure prompt and complete reports by physicians of reportable diseases;

**2.3.1.5** Take such steps as may be necessary to secure prompt and complete registration of births and deaths;

**2.3.1.6** Attend conferences called by the State Commissioner of Health or his/her authorized representatives; and,

**2.3.1.7** Enforce within the Health District the provisions of the Public Health Law, State Sanitary Code, and Sanitary Code.

**2.3.1.8** Appoint an officer or employee of the Department to exercise any of the above referenced powers or actions.

### **2.4 Inspections; General**

**2.4.1** During their regular business hours, the Director may inspect any premises, matter, or thing, subject to the provisions of this Sanitary Code.

**2.4.2** The authorized representatives of the Department may, during their business hours, inspect any record required to be kept pursuant to the Public Health Law, State Sanitary Code, or the Sanitary Code.

### **2.5 Inspections; Interference**

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

**2.5.2** No person shall harass, molest, resist or refuse to cooperate with any representative of the Department in the discharge of his/her official duties.

### **2.6 Inspection; Taking Samples**

**2.6.1** The Director may take and remove any substance or thing or any necessary part or portion thereof from any premise or place as a sample for investigation or evidence when in the opinion of such representative such substance or thing may be dangerous or detrimental to public health.

## **2.7 Notices: Postings**

**2.7.1** Notices shall be in the English Language, provided, however, if the Department is of the opinion that the person or persons to whom a required warning, notice or instructional sign is addressed may not understand the English Language, the Department may require that such warning, notice or sign shall appear legibly both in English and other designated languages.

## **2.8 Service of Notice**

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

## **2.9 Hearings**

**2.9.1** The Board or the Director may cause to be held a formal hearing on any application, complaint, circumstance, or alleged violation of the Public Health Law, Sanitary Code and any other rule, regulation or code under jurisdiction of the Department.

**2.9.2** Unless otherwise provided in the Public Health Law or Sanitary Code, such hearings shall be on at least fifteen (15) days notice to the person or persons concerned.

**2.9.3** The Notice of Hearing shall set forth:

**2.9.3.1** The time and place of the hearing;

**2.9.3.2** The purpose of the hearing;

**2.9.3.3** Charges and violations complained of, if any, with specific reference to the provisions and section of the Public Health Law, State Sanitary Code, and the Sanitary Code involved;

**2.9.3.4** The right to present evidence;

**2.9.3.5** The right to examine and cross-examine witnesses; and

**2.9.3.6** The right to be represented by counsel.

**2.9.4** On the return day of the hearing, the Hearing Officer shall note the appearances of the persons attending the hearing. All witnesses shall be sworn and testimony shall be recorded.

**2.9.5** The Hearing Officer shall thereafter recommend proposed findings of fact and conclusions, thereafter, the Board or the Director shall make a formal order, setting forth the determination, conditions, if any, to be complied with, and penalties, if any.

**2.9.6** The order provided for in 2.9.5 of this Article shall be maintained in the Department and a copy thereof shall be served on all respondents.

**2.9.7** Nothing herein contained shall preclude the Department from taking any other action, as may be prescribed by law.

## **2.10 Hearings; Appearances**

**2.10.1** At any hearing conducted pursuant to this code, any party to the proceedings may appear personally with or without counsel and shall be given the opportunity to present evidence and to examine and to cross-examine witnesses. All appearances shall be noted on the official record of hearings.

**2.10.2** At any hearing conducted pursuant to this code, if a party shall appear without counsel, the Hearing Officer shall advise such party of his/her right to counsel; and that if he/she desires to proceed without counsel, that he/she may call witnesses, cross-examine witnesses, and produce evidence in his/her behalf.

## **2.11 Investigations; Hearings; Adjournments**

**2.11.1** The Hearing Officer may grant adjournments upon request of any party to the proceedings, provided that an adjournment shall not be for an indefinite period of time, but shall be set down for a certain day.

**2.11.2** If any adjournment is requested in advance of the hearing date such request shall be submitted to the Hearing Officer, in writing, and shall specify the reason for such request.

**2.11.3** In considering an application for adjournment of a hearing, the Hearing Officer shall consider whether the purpose of the hearing will be affected or defeated by the granting of such adjournment.

## **2.12 Investigations; Hearings; Subpoenas**

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

## **2.13 Investigations; Hearings; Procedures**

**2.13.1** The Hearing Officer shall not be bound by the formal rules of evidence in the conduct of a hearing, but the determination shall be founded upon sufficient legal evidence to sustain it.

**2.13.2** Upon the conclusion of a hearing, the Board or the Director shall take such action as it deems proper, and shall execute an order setting forth its findings and determinations.

**2.13.3** The action of the Board or the Director may include the assessment of civil penalties as provided by law or this code.

**2.13.4** An order of suspension or revocation of any permit or license may contain such provisions as to renewal or reinstatement as the Board or the Director shall direct.

**2.13.5** The Board alone may direct a rehearing or require the taking of additional evidence, and may rescind or affirm a prior determination after such rehearing.

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

## **2.14 Post-Hearing Procedures**

**2.14.1** The Director shall serve upon the respondent(s) copies of findings of fact, conclusions and orders made as a result of a formal hearing.

**2.14.2** Service of findings of fact, conclusions and order(s) shall be made in the manner prescribed for the service of Notice of Hearings.

## **2.15 County Code Enforcement; Violations; Criminal Penalties**

**2.15.1** As provided by Section 348 of the Public Health Law, the provisions of this code shall have the force and effect of law and any non-conformance or non-compliance with any provision thereof shall constitute a violation punishable on conviction by a fine not exceeding two hundred fifty dollars (\$250.00), and/or by a term of imprisonment not exceeding fifteen (15) days for a first offense and for a second or subsequent offense a fine not exceeding five hundred dollars (\$500.00) and/or a term of imprisonment for not exceeding fifteen (15) days.

## **2.16 State Sanitary Code, Violation, Penalties**

**2.16.1** As provided by Section 229 of the Public Health Law, the provisions of the State Sanitary Code shall have the force and effect of law and the non-compliance or non-conformance with any provision thereof shall constitute a violation punishable on conviction for a first offense by a fine not exceeding two hundred fifty dollars (\$250.00), and/or by a term of imprisonment not exceeding fifteen (15) days, and for a second or subsequent offense by a fine not exceeding five hundred dollars (\$500.00) or by a term of imprisonment not exceeding fifteen (15) days.

## **2.17 Willful Violation of Health Laws**

**2.17.1** As provided by Section 12-b of the Public Health Law, a person who willfully violates or refuses or omits to comply with any lawful order or regulation prescribed by the Board or Director, is guilty of a misdemeanor; except, however, that where such order or regulation applies to a tenant with respect to his/her own dwelling unit or to an owner occupied one (1) or two (2) family dwelling unit, such person is guilty of an offense for the first violation punishable by a fine not to exceed fifty dollars (\$50.00) and for a second or subsequent violation is guilty of a misdemeanor punishable by a fine not to exceed one hundred dollars (\$100.00) or by imprisonment not to exceed six (6) months or by both such fine and imprisonment.

**2.17.2** A person who willfully violates any provision of this chapter, or any regulation lawfully made or established by any public officer or board under authority of this chapter, the punishment for violating which is not otherwise prescribed by this chapter or any other law is punishable by imprisonment not exceeding one year or by a fine not exceeding two thousand (\$2,000.00) dollars or by both.

## **2.18 Separate Violation**

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

**2.19 Violation of Public Health Laws or Regulations; Penalties and Injunctions**

**2.19.1** As provided by Section 12 of the Public Health Law, any person who violates, disobeys or disregards any term or provision of the Public Health Law, Sanitary Code, any order of the Board or of any lawful notice, order or regulation pursuant thereto for which a civil penalty is not otherwise expressly prescribed by law, shall be liable to the County for a civil penalty not to exceed one thousand dollars (\$1000.00) for every such violation.

**2.19.2** The penalty provided for in subdivision one (1) of this section may be recovered by an action brought by the Board or Director in any court of competent jurisdiction.

**2.19.3** Nothing in this section contained shall be construed to alter or repeal any existing provisions of the law declaring such violations or any of them to be misdemeanors or felonies or prescribing the penalty therefore.

**2.20 Enforcement; Violations, other than by Prosecution**

**2.20.1** The Department may seek to obtain the voluntary compliance with this code by way of notice, warning or educational means.

**2.20.2** This Section shall not be construed to require that such non-compulsory methods must be employed or attempted before proceedings by way of compulsory or other legally prescribed procedures.

**2.21 Permits and Licenses; Operation with Permit**

**2.21.1** The Director shall have the authority and power to order the cessation of operations or construction of any business, establishment, or facility required by the code to obtain a permit.

**2.21.2** The Director may employ the assistance of law enforcement officers and other officials as provided by the provisions of the Public Health Law and other applicable statutes and rules and regulations to enforce the order herein provided for.

**2.21.3** The owner or operator of any business, establishment, or facility closed or directed to cease operation or construction pursuant to this section shall be entitled to a hearing to be held within a reasonable time if the owner or operator of the facility requests a hearing, in writing, within ten (10) days of the order of the Director.

## ARTICLE 3

### PERMITS AND LICENSES

#### **3.1 Permits and Licenses; Applications**

**3.1.1** Application for a permit or the renewal of a permit shall be made on forms furnished by the Department and shall contain all information called for by said forms and include the required application fees.

**3.1.2** Application for a permit or for the renewal of a permit shall be accompanied by such other information, evidence or documentation as the Department may require or as may be provided by the code.

**3.1.3** In addition to the information specifically required to be submitted to the Department, or if no specific information is required for certain permits, the Department shall require the following information:

**3.1.3.1** The name, residence and business address of the applicant; and, if the applicant is a partnership or group, the name of each partner or member and, if the applicant is a corporation, the name of each officer and director(s) of the corporation;

**3.1.3.2** Information concerning the applicant, its individual members or officers, relating to education, training or experience, moral character, physical health, and history of prior criminal conviction, including violations and offenses, other than motor vehicle offenses, and record of insolvency or bankruptcy;

**3.1.3.3** Proof of compliance with the New York State Workers' Compensation Laws;

**3.1.3.4** The ability of the applicant, or of its individual members or officers, to read and write English or provide an interpreter;

**3.1.3.5** For the initial permit application, a written official document or a statement issued by the appropriate municipal authority having jurisdiction and concern with the zoning laws, ordinances, or regulations of the municipality in the operation, facility, premises, or use for the permit is sought stating that the operation, facility, activity, premises or use, if permitted, will not violate any existing zoning law, ordinance or regulation of such municipality;

**3.1.3.6** Application for a permit or for the renewal of a permit shall be accompanied by such other information, evidence or documentation as the Department may require, or as may be otherwise provided by the code.

**3.1.4** Application for a permit or for the renewal of a permit shall be made by and signed by:

**3.1.4.1** In the case of an individual who is to be the permittee, by the individual or his/her representative duly authorized in writing; or,

**3.1.4.2** In the case of a partnership, by a general partner or a representative of the partnership duly authorized in writing; or,

**3.1.4.3** In the case of an unincorporated association or group, by an officer or representative duly authorized in writing of the association or group authorizing the making of such application; or,

**3.1.4.4** In the case of a corporation, by a duly authorized officer or representative of the corporation, who shall submit a certified copy of a resolution of the board of directors of the corporation, authorizing the making of such application and designating the duly authorized officer or representative to act on behalf of the corporation;

**3.1.4.5** In the case of a municipality, other than the county, by the executive officer or representative duly authorized in writing.

**3.1.5** Every individual application for a permit or for renewal of a permit shall be eighteen (18) years of age or over; and, in the case of a partnership application, the partner signing the application shall be eighteen (18) years of age or over.

**3.1.6** Application for a permit or for renewal of a permit shall constitute an agreement that the permittee assumes responsibility for the operation, conduct and maintenance of the activity authorized by the permit, in accordance with the provisions of the Sanitary Code and the conditions required by the permit, and to inspections pertaining thereto.

**3.1.7** Application for a permit or for renewal of a permit shall constitute consent to fully inspect and investigate the premises including but not limited to: the collection and analysis of samples, testing, photographing and/or videotaping, and interviewing.

### **3.2 Permit Applications; Fees**

**3.2.1** The fees as adopted by the Board for various permits must be paid at the time of application for the permit.

### **3.3 Permits and Licenses; Posting; Expiration**

**3.3.1** Every permit shall expire on the date stated on the permit and may only be extended by the Department, in writing, for a specified limited time not to exceed sixty (60) days.

**3.3.2** Every permittee shall apply for a renewal of a permit no later than thirty (30) days prior to the expiration date of such permit unless otherwise required by this code, the State Sanitary Code, or the Public Health Law.

**3.3.3** It is the responsibility of the permittee to contact the Department for necessary forms for the renewal of permit.

**3.3.4** A permittee shall comply with the conditions contained in the permit and the provisions and requirements of this code, the Department, the State Sanitary Code, and the Public Health Law under which such permit was issued.

**3.3.5** Every permit shall be kept on the premises designated or covered by the permit and shall be posted in a conspicuous place on such premises in such manner as to be clearly visible to the public. It shall be available for inspection at all times by the Department.

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

### **3.4 Permits and Licenses; Not Transferable**

**3.4.1** A permit issued to a particular permittee or for a designated purpose, place or vehicle, shall not be valid for use by any other person, purpose, place or vehicle.

**3.4.2** Any attempted or purported transfer of a permit to a person not designated as the permittee therein, or for a purpose or place or vehicle not authorized by such permit, shall be cause to revoke such permit.

**3.4.3** In the event of a reorganization of a permitted entity, the Department may approve, in writing, the continuation of an activity authorized by a permit provided that such change of organization has been duly recorded with the Department within ten (10) days after such change of organization and the Department receives acceptable proof that the reorganized entity is the legal successor to the permitted entity.

### **3.5 Permits and Licenses; Suspension and Revocation**

**3.5.1** The Board may suspend or revoke a permit for violation or non-conformance with the conditions or requirements of the permit or provisions of the code under which such permit was issued.

**3.5.2** The Board may suspend or revoke a permit for cause after due notice and hearing.

### **3.6 Permits and Licenses; Refusal to Issue**

**3.6.1** Except as may be otherwise provided in the Public Health Law or the State Sanitary Code:

**3.6.1.1** The Department may refuse to issue a permit or a renewal thereof when the application is incomplete or not accompanied by the required fee, if any;

**3.6.1.2** The Department may refuse to issue a permit or renewal thereof when the applicant fails to provide information required by the Department;

**3.6.1.3** The Department may refuse to issue a permit or renewal thereof if the application or investigation thereof indicates to the Department that the activity, operation or premises to be covered by the permit applied for does not meet the requirements of the code or other provisions of law; or that the maintenance, conduct or operation of such activity, operation or premises does not meet the requirements or provisions of the law or may result in a public health hazard or in a condition which may be dangerous or harmful to health and life;

**3.6.1.4** Except upon the express written authorization of the Board, no permit shall be issued to a person who previously had a permit revoked, within the preceding six (6) months, nor to a person who was an officer, director, owner or operator of an entity whose permit was revoked within the preceding six (6) months;

**3.6.1.5** Approval of an application for a permit shall be denied for any sufficient or competent reason, including but not limited to any of the following:

**3.6.1.5.1** The proposed construction, location, purpose, business or other act is in violation of the provisions of the Public Health Law, the State Sanitary Code, this code or any local municipal law, ordinance or regulation;

**3.6.1.5.2** Inaccurate, incomplete, false or misleading information stated in the application, including any plans or other data submitted in support thereof;

**3.6.1.5.3** Failure of the applicant to demonstrate competency to perform to the satisfaction of the Department;

**3.6.1.5.4** Conviction in a court of competent jurisdiction of a violation of the Public Health Law, the State Sanitary Code, this code, or any local municipal law, ordinance or regulation within the preceding six (6) months; provided, however, that the Board may waive the application of this provision upon evidence satisfactory to the Board that the convictions are not likely to be repeated, or for other good and substantial reason or reasons;

**3.6.1.5.5** Failure to correct any existing violations or deficiencies pertaining to any particular place, vehicle or business after service of written notice thereof, whether or not related to the pending application.

### **3.7 Permits and Licenses; Denial; Suspension, Revocation; Forfeiture; Effective Date**

**3.7.1** Except as may otherwise be ordered by the Board or by the Director, the denial of a permit or certificate of approval or the suspension or revocation of a permit or certificate of approval, shall become final upon notice thereof to the applicant or permittee concerned.

**3.7.2** Service of a notice of denial or refusal to issue a permit or certificate of renewal shall be made in the manner provided in the code (section 2.8) for the service of a notice of hearing.

**3.7.3** A permit or written approval shall terminate upon service of a written notice from the Department and hearing and be considered forfeit and shall become null and void under any of the following circumstances:

**3.7.3.1** That the process of construction or the operation involved reveals conditions otherwise than as indicated in the approved plans and application; or,

**3.7.3.2** That the construction or operation involved is in violation of any ordinance or regulation of any duly constituted government authority or any political subdivision thereof; or,

**3.7.3.3** That the construction or operation involved is otherwise than in accordance with standards, rules, and regulations pertaining to such construction or the conditions of a permit or written approval issued pursuant to the provisions of the Public Health Law, the State Sanitary Code, or this Code; or,

**3.7.3.4** That no action has been taken under such permit or written approval within the period specified in the permit or if no period is specified, within a period of one (1) year following the date of issuance thereof, or within a period beyond which the purpose, need or usefulness of the permit or written approval no longer exists, whichever is shorter.

### **3.8 Permits and Licenses; Denial Appeal**

**3.8.1** Unless otherwise provided in the Public Health Law or State Sanitary Code, whenever the Department refuses to issue a permit or a renewal thereof or a certificate of approval and no hearing has been had in the matter, the applicant may appeal such action to the Director or Board by serving a notice of appeal in writing on the Department addressed to the Director or to the Board within ten (10) days following the service of notice of denial or refusal to issue the permit.

**3.8.2** The Notice of Appeal shall set forth in detail the basis for the appeal and shall contain:

**3.8.2.1** The full name of the applicant, permittee or party affected;

**3.8.2.2** The type of permit or certificate of approval for which the application was made or the nature of the action complained of;

**3.8.2.3** The place of business listed in the application to which the appeal relates;

**3.8.2.4** The statement that the applicant or permittee or other party affected appeals to the Board to review the action of the Department; and,

**3.8.2.5** The signature of the applicant, permittee or party affected, or if the permittee or party affected is not the individual signature and title of a party or other individual of the partnership or group, or of an officer of a corporate applicant permittee or party affected.

**3.8.3** Unless otherwise provided in the Public Health Law, within ten (10) days following service of the notice of appeal, the applicant, permittee or party affected shall submit a memorandum addressed to the Director or to the Board containing his/her objection to the action of the Department.

**3.8.4** The Board may, without hearing, reverse, modify or affirm the action of the Department or may require a hearing upon notice as provided in Article 2 of this code.

### **3.9 Operation Without a Permit**

**3.9.1** The Board or Director may issue a written notice to be served upon the person or permittee involved, or upon any person connected with or working in or about a construction operation to cease the construction or operation, whereupon the construction or operation shall immediately cease, under the following circumstances:

**3.9.1.1** The process of construction or the operation involved reveals conditions otherwise than as indicated in the approved plans and application, and permits as issued; or

**3.9.1.2** The construction or operation involved is in violation of any ordinance or regulation of any duly constituted government authority or any political subdivision; or,

**3.9.1.3** The construction or operation involved is otherwise than in accordance with standards, rules and regulations pertaining to such construction or the condition of a permit or written approval issued pursuant to the provisions of the Public Health Law, the Environmental Conservation Law within the jurisdiction of the Department, the State Sanitary Code or this Code.

### **3.10 Service of Notice**

**3.10.1** Service of the written notice shall be made in the manner prescribed in Article 2, Section 2.8 for the service of notice of hearings.

## ARTICLE 4

### GENERAL SANITATION

#### 4.1 Definitions

4.1.1 “**Container**” shall mean any device in which material is stored, transported, treated, disposed of, or otherwise handled.

4.1.2 “**Garbage**” shall mean putrescible solid waste, including animal and vegetable waste resulting from the handling, storage, sale, preparation, cooking or serving of foods. Garbage originates primarily in home kitchens, stores, markets, restaurants and other places where food is stored, prepared or served.

4.1.3 “**Hazardous Material**” shall mean a material or combination of materials which, because of its quantity, concentration, use, physical, chemical, infectious, or radiological characteristics and/or effects, constitute a nuisance or public health hazard.

4.1.4 “**Hazardous Waste**” shall mean a waste or combination of wastes which, because of its quantity, concentration, or physical, chemical, infectious, or radiological characteristics and/or effects, may constitute a nuisance or public health hazard.

4.1.5 “**Offensive Material**” shall mean any, garbage, refuse, rubbish, hazardous material, hazardous waste, septage, sewage sludge, sludge, stabilized sludge or any substance or liquid dangerous or detrimental to health.

4.1.6 “**Person**” shall mean any individual, firm, public or private corporation, association, partnership, institution, political subdivision, government agency, public body, joint stock association, trust, estate, or other group of individuals or combination of the foregoing, or any legal entity whatsoever, and includes the plural as well as the singular.

4.1.7 “**Public Health Hazard**” shall mean a condition, potential condition, event or sequence of events, deemed by the Director, which may impact or threaten the health of the public.

4.1.8 “**Refuse**” shall mean all waste material including, but not limited to; incinerator residue, street sweepings, blood, fecal matter, manure, dead animals and offal.

4.1.9 “**Rubbish**” shall mean solid or liquid waste material including, but limited to, paper and paper products, rags, furniture, cans, crockery, plastic cartons, plastics, chemicals, paint, greases, sludges, oils and some petroleum products, wood, demolition materials, and tires.

4.1.10 “**Septage**” shall mean the contents of a privy, septic tank, cesspool, chemical toilet, either liquid or solid state or other individual sewage treatment facility which receives domestic sewage wastes.

4.1.11 “**Sewage Sludge**” shall mean the accumulated semisolid suspension of solids deposited from waste waters from municipal or private sewage treatment plants.

**4.1.12 “Sludge”** shall mean *any solid, semisolid or liquid waste generated from a municipal, commercial or industrial waste water treatment plant, water supply treatment plant or air pollution control facility. Sludge does not include the treated effluent from a wastewater treatment plant.*

**4.1.13 “Stabilized Sludge”** shall mean *sludge that has been treated by a process to reduce putrescibility, significantly reduce pathogenic organisms, and except for lime stabilization, reduce the volatile solids content. Acceptable stabilization processes are defined in 40 CFR Part 257, U.S. Environmental Protection Agency, Code of Federal Regulations.*

**4.1.14 “Vehicle”** shall mean *any motor vehicle, water vessel, railroad car, airplane, or other means of transporting offensive material, including hazardous waste.*

## **4.2 Removal and Transportation**

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

## **4.3 Storage and Disposal**

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

## **4.4 Permit Required for Collection and Disposal**

**4.4.1** No person shall engage in the business of removing, collecting, transporting or disposing of offensive material, garbage, hazardous material, hazardous waster, refuse, rubbish, septage, sewage sludge, sludge or stabilized sludge within Clinton County regardless of the point of origin without permit therefore issued by the Department, the Clinton County Highway

Department, or by the New York State Department of Environmental Conservation, New York State Department of Transportation and/or any other required governmental subdivision or agency.

#### **4.5 Public Toilets**

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

#### **4.6 Water Supplies**

**4.6.1** No person shall have contracted, undertaken or who is bound by the terms of a lease or any agreement to supply water for any habitable building owned thereby shall shut off or cause to be shut off such water supply so as to result in an unsanitary condition. Whenever a public water supply is available, no other supply shall be furnished for drinking and domestic purposes unless such other supply shall be potable.

**4.6.2** The Director may order the treatment, abandonment, sealing, or posting, at his/her discretion, of any water supply not of a safe, sanitary quality.

#### **4.7 Ice**

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

## ARTICLE 5

### LEAD POISONING CONTROL

#### 5.1 Definitions

5.1.1 “**Lead Paint**” shall be defined as set forth in Subpart 67-2 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York.

5.1.2 Other definitions set forth in Subpart 67-2 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York and as amended are hereby adopted and become part of this code.

#### 5.2 Use of Lead Paint

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

#### 5.3 Environmental Investigation

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

#### 5.4 Sampling for Lead

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

#### 5.5 Environmental Testing and Reporting

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

#### 5.6 Notice and Demand

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

#### 5.7 Environmental Intervention and Abatement

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

#### 5.8 Enforcement

5.8.1 When an owner of a dwelling fails to comply with a written statement and demand for discontinuance of a condition conducive to lead poisoning, the procedures for enforcement, including formal hearings, receivership and cooperation and assistance from those public officers, departments and

agencies of the State and its political subdivisions, as provided in Sections 1373, 1374 and 1375 of the Public Health Law shall be followed.

## ARTICLE 6

### NUISANCES

#### **6.1 Nuisances; Director's Duty to Investigate**

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

#### **6.2 Nuisances; Investigation; Reports**

**6.2.1** The Director may enter to inspect or examine upon or within any place or premises where nuisances or conditions dangerous to life and health are occurring or are reasonably believed to be occurring, or which are reasonably believed to be the cause of nuisances existing elsewhere.

**6.2.2** The owners, agents and/or occupants of any premises shall permit sanitary examinations and inspections to be made pursuant to the provisions of this Article, Part 8 of the State Sanitary Code, and Title 1 of Article 13 of the Public Health Law.

**6.2.3** The Director shall furnish the owners, agents and/or occupants of the premises with a written statement of the results and conclusions of any examination or inspection conducted pursuant to this article.

#### **6.3 Nuisances; Abatement and Suppression**

**6.3.1** The Board and/or Director may order the suppression and removal of all nuisances and conditions detrimental to life and health found to exist within the Health District.

**6.3.2** The Board and/or Director may, in the event of non-compliance with any such order, enter upon the premises to remove or suppress such nuisance, condition, or matter to which said order relates.

**6.3.3** The expenses of such removal and abatement shall be paid and may be collected in the manner prescribed in Public Health Law 1306, 1307, and 1308.

## ARTICLE 7

### DWELLINGS

#### 7.1 Definitions

7.1.1 “**Dwelling**” means *any building, house structure, vehicle or portion thereof, which is occupied, in whole or part, or intended to be used as a home, residence, living or sleeping place of one or more human beings, either permanently or temporarily, and not regulated under any other article of this Sanitary Code.*

7.1.2 “**Dwelling Unit**” means *any room or group of rooms, within a dwelling, which are used or intended to be used by one or more persons for living and sleeping with or without facilities for cooking and eating.*

7.1.3 “**New York State Code**” means *the New York State Uniform Fire Prevention and Building Code.*

7.1.4 “**Building Inspector and Local Codes Enforcement Officers**” means *the Municipal Officials who enforce the New York State Code in their municipality.*

#### 7.2 Plumbing

7.2.1 Each and every plumbing fixture, pipe, drain, sewer and sewer connection in every habitable public or private building which is in whole or part leased by the owner or his agent or which is permitted to be used by patrons or the general public, shall be properly plumbed in accordance with the New York State Code, of sanitary design and construction and shall be repaired and maintained in a sanitary condition. The owner, operator or occupant of a building or dwelling or his/her agent in charge thereof wherein two (2) or more tenants shall have common use of a toilet shall be responsible for the satisfactory and sanitary maintenance of such toilet.

7.2.2 Every owner, agent, or tenant, who is responsible for the plumbing or sanitary facilities of a building or dwelling shall, maintain each and every plumbing fixture, pipe, drain, sewer and sewer connection of such building or dwelling in a sanitary condition and shall remove blockages, repair leaks, and replace broken, worn or faulty fixtures or pipes which shall be the cause of an unsanitary condition.

#### 7.3 Occupancy Without Sewerage Facilities

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

#### 7.4 Rental of Dwelling Without Water Supply

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

#### 7.5 Water Supply – Cutting Off

7.5.1 No owner or lessee of a dwelling, dwelling unit, apartment or business establishment shall cut or

turn off the water supply or cause such water supply to be shut off except in case of necessity arising from a serious leak, public health hazard or bursting of pipes. In such cases, repairs shall be made and the water service restored promptly.

## **7.6 Connection to Public Sewer**

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

## **7.7 Garbage and Rubbish Disposal**

**7.7.1** Every dwelling and every dwelling unit shall be provided with a suitable receptacle(s) as may be necessary to contain all garbage and rubbish and all such receptacles shall be maintained in good repair. Receptacles for garbage shall be watertight and provided with tight fitting covers.

**7.7.2** Every dwelling including the lot on which such dwelling is located shall be kept free from any excessive accumulation of offensive material.

**7.7.3** Garbage must be disposed of in accordance with local ordinances and in any case in such fashion as not to serve as a breeding or harboring place for vermin, or to create a nuisance.

## **7.8 Flies, Insects, Rodents and Vermin**

**7.8.1** All means necessary or required shall be taken to eliminate vermin from any habitable building and to prevent the breeding or harboring of such vermin on the premises. Any poison or chemical used for the elimination of vermin must be used in accordance with the U.S. Department of Environmental Protection Agency (EPA) or the New York State Department of Environmental Conservation (DEC) laws and any other statute or regulation governing the use of such poison or chemical.

## **7.9 Unsanitary Building**

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

**7.10 Local Laws or Ordinances**

**7.10.1** In enforcing this Article, the Director will be guided by the Building Codes in effect in the city, town or village in which such buildings are located, and such other state laws or regulations, as may apply, provided that such other codes or regulations do not permit lower or less exacting requirements than this Sanitary Code.

**7.10.2** The Director may request the assistance of a municipality's Building Inspector or Local Codes Enforcement Officer(s) to inspect properties in accordance with the New York State Code, or to perform joint inspections of a property or properties with representatives of the Department.

## ARTICLE 8

### WATER SUPPLIES

#### 8.1 Definitions

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

#### 8.2 Requirements for Public Water Systems

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

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

**8.3.1** The applicable portions of Part 5 of the State Sanitary Code shall apply to all public water systems.

**8.3.2** No supplier of water shall make, install or construct, or allow to be made, installed or constructed, a public water system or any addition or deletion to or modification of a public water system until the plans and specifications have been submitted to and approved by this Department or the New York State Department of Health.

**8.3.3** All plans and specifications for public water systems to be approved must be in accordance with the applicable portions of Part 5 of the State Sanitary Code.

**8.3.4** A supplier of water must receive the final approval of the Department or the New York State Department of Health before placing into service any public water system constructed under the requirements of this Article.

#### 8.4 Reporting Emergencies

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

## ARTICLE 9

### SEWAGE TREATMENT SYSTEMS

#### 9.1 Applicability

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

#### 9.2 Definitions

9.2.1 “**Dwelling**” means *any building or structure which is wholly or partly used or intended to be used for living or sleeping by human occupants.*

9.2.2 “**Sewage**” means *water-carried human waste and liquid or water carried waste from water closets, lavatories, sinks, bathtubs, laundry tubs or devices, floor drains or other sanitary fixtures without the admixture of industrial or other wastes.*

9.2.3 “**Sewage Treatment System**” means *a complete system of piping, tanks or other facilities for the collection and treatment of sewage and not connected to a community sewage treatment system.*

9.2.4 “**Community Sewage Treatment System**” means *a system utilized for the treatment and collection of sewage, or other waste of a liquid nature, including the various devices for the treatment of such wastes serving more than one dwelling.*

9.2.5 “**Privy**” means *any facility or structure provided for the storage or disposal of human excreta without water carriage.*

#### 9.3 General Provisions

9.3.1 All sanitary facilities or any other facility from which sewage flows shall be connected to a Community Sewage Treatment System, if available and accessible.

9.3.2 If there is no Community Sewage Treatment System available and accessible, only a Sewage Treatment System approved by the Department, may be used.

9.3.3 Whenever a Community Sewage Treatment System becomes available and accessible, the Department may direct the owner of any property using an Individual Sewage Treatment System to abandon the use of such individual system within ninety (90) days and to connect to such Community Sewage Treatment System.

9.3.4 An abandoned septic tank, seepage pit, or other device or equipment for the treatment of sewage shall be cleaned and filled to the ground surface in a manner acceptable to the Department.

9.3.5 No person shall construct or maintain a Sewage Treatment System, pipe or drain in the County so as to expose or discharge the sewage contents therefrom to the atmosphere or onto the surface of the ground, by subsurface disposal by groundwater injection or into any storm sewer, drain or roadside ditch, nor so as to discharge into any watercourse or body of water contained within or touching any part

of the land within the County, unless approval for such discharge shall have been issued in accordance with the provisions of the New York State Environmental Conservation Law and the Department is satisfied that such discharges will not adversely affect public health or create a condition which is detrimental to public health.

#### **9.4 Design, Construction, Installation, Maintenance and Operation**

**9.4.1** The design, construction, installation, location, maintenance and operation of Individual Sewage Treatment Systems shall be in accordance with standards of the State Commissioner of Health as set forth in 10 NYCRR Appendix 75-A entitled Wastewater Treatment Standards - Individual Household Systems and the more recent Individual Wastewater Treatment Systems Design Handbook, 1996 Edition, or, where applicable, the New York State Department of Environmental Conservation manual, Design Standards for Wastewater Treatment Works Intermediate Sized Sewage Treatment Facilities, 1988 Edition.

#### **9.5 Construction**

**9.5.1** No Individual Sewage Treatment System or part thereof shall be constructed, installed, altered, or extended until the property owner or his/her duly designated representative shall have first applied for and received a Construction Permit or a renewal thereof.

**9.5.2** Application for a Construction Permit shall be made in writing on forms provided by the Department and shall be accompanied by such data, including but not limited to drawings, maps, soil analysis, test borings, percolation tests, ground-water flood elevations, and detailed plans of the proposed Individual Sewage Treatment System, as the Department may require or direct. Plans prepared by a New York State Licensed Professional Engineer or licensed design professional may be required depending on the site conditions or sewage system complexity.

**9.5.3** Each application for a permit and each application for a renewal of such permit shall be accompanied by the required fee.

**9.5.4** The Department may refuse issuance of a Construction Permit or renewal thereof to construct, install, alter or extend an Individual Sewage Treatment System, or, revoke or suspend same, if upon investigation and/or review of submitted information it determines the site lacks sufficient usable area, suitable soil, satisfactory ground-water conditions for proper construction, installation, alteration or extension of the proposed system, or sufficient area to provide adequate separation of such system from water supplies on the same site or adjoining properties, or if the proposed system does not otherwise comply with design, construction, installation, location or operation standards as required by the New York State Codes, Rules and Regulations, 10 NYCRR Appendix 75-A.

#### **9.6 Renewal of Permit**

**9.6.1** Any permit issued pursuant to Section 9.5 of this Article shall be valid for twenty-four (24) months after its issuance and may be renewed for up to an additional twenty-four (24) months. A permit may not be renewed unless written application therefore is made not less than thirty (30) days prior to the expiration of a valid existing permit.

## **9.7 Transfer of Permit**

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

## **9.8 Inspection Required**

**9.8.1** During any stage of, or after completion of construction, installation, alteration or inspection of the Individual Sewage Treatment System, no portion of the system shall be covered with soil or placed in operation until it is first inspected and approved by an authorized representative of the Department.

**9.8.2** The Sewage Treatment System may not be back-filled without authorization of the Department, and the Department may require it to be uncovered if back-filled without such authorization.

**9.8.3** The property owner or his/her designated representative shall not use or permit the use of the system until a Certificate of Approval has been issued by the Department.

## **9.9 Installation of Sewage Treatment Systems**

**9.9.1** No person shall construct, install or alter any Individual Sewage Treatment System or parts thereof unless he/she verifies that the property owner holds a valid Construction Permit issued by the Department.

**9.9.2** Application for a Construction Permit shall be in a written form and shall contain such information as required by the Department, as prescribed in Section 9.5 of this Article.

## **9.10 Sewage Treatment System Cleaner**

**9.10.1** No person shall engage in the business of cleaning out, draining, or flushing septic tanks or other types of Individual Sewage Treatment System within the County without a permit issued by the Department, or the New York State Department of Environmental Conservation.

**9.10.2** Collection, transportation and final disposal of material removed, drained or flushed from Sewage Treatment Systems shall be performed in a safe and sanitary manner and in accordance with the New York State Environmental Conservation Law, Section 27-0301 and Part 364 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

## **9.11 Temporary Toilet Facilities on Construction**

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

**9.12 Exposure of Sewage**

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

**9.13 Privies**

**9.13.1** No privy, other than a self-contained, portable privy, shall be constructed or used without first obtaining a Construction Permit as prescribed in Section 9.5 of this Article.

**9.13.2** Privies shall be constructed according to standards set forth in The New York State Codes, Rules and Regulations, 10 NYCRR Appendix 75-A.

## ARTICLE 10

### REALTY SUBDIVISIONS

#### 10.1 Definitions

**10.1.1** “Subdivision” shall have the meaning ascribed to it in Title II, Article 11, Section 1115 of the Public Health Law.

**10.1.2** “Developer” means a person, partnership, corporation, a group of persons or other legal entity undertaking or participating in the establishment of a subdivision.

**10.1.3** “Individual Water Supply System” means a single system of piping, tanks, or other facilities together with a source of water intended to supply only a single lot.

**10.1.4** “Individual Sewage Treatment System” means a single system of piping, tanks or other facilities serving only a single lot and disposing of sewage or other liquid wastes into the soil of the lot.

**10.1.5** “Community Water System” means a source of water and necessary appurtenances together with a distribution system serving more than one lot, whether owned by a municipal corporation or private utility.

**10.1.6** “Community Sewage Treatment System” means a system utilized for the collection and treatment of sewage, or other wastes of a liquid nature, including the various devices for the treatment of such wastes serving more than one lot, whether owned by a municipal corporation or private utility.

**10.1.7** “Residential Lot” or “Residential Building Plot” means any parcel of land of five (5) acres or less, any point on the boundary line of which is less than one-half (1/2) mile from any point on the boundary line of another such lot in the same tract, unless any such lot may not be used for residential purposes. Without limiting the generality of the foregoing, the term ‘residential’ shall include temporary, seasonal and permanent, residential use.

**10.1.8** “Tract” means any body of land, including contiguous parcels of land, under one ownership or under common control of any group or person(s) acting in concert as part of a common scheme or plan.

#### 10.2 General Provisions

**10.2.1** No Subdivision or portion thereof shall be sold, offered for sale, leased or rented by any developer, and no permanent building shall be erected thereon until a plan or map of such Subdivision shall be filed with and approved by the Department and such plan or map thereafter filed in the Office of the Clerk of Clinton County in accordance with Title II, Article 11, Section 1117 of the New York State Public Health Law.

**10.2.2** Such plan or map shall show methods meeting the standards for obtaining and furnishing adequate and satisfactory water supply and sewage facilities to said Subdivision.

**10.2.3** The remedy for a purchaser of one parcel of an unapproved Realty Subdivision shall be as described in Title II, Article 11, Section 1115-a of the New York State Public Health Law.

**10.2.4** Once the jurisdiction of the Department has attached to any tract, any further proposed subdivision by any person of the tract shall be subject to the jurisdiction of the Department.

### **10.3 Plan Submissions**

**10.3.1** All plans submitted for approval shall be in conformance with the relevant provisions of Title II, Article 11 of the New York State Public Health Law, Title 15 of the New York State Environmental Conservation Law and State Sanitary Code, Title 10, Part 74.

**10.3.2** Plans shall contain the signature, seal, and address of a professional engineer, licensed land surveyor with 7208 (n) exemption, or an architect licensed and registered pursuant to the Education Law of the State of New York.

**10.3.3** At the time of submitting a plan for approval as required by this Article, a permit application fee as established by the Board, shall be paid to the Department.

**10.3.4** Plans other than those for Community Water and Sewage Systems shall not propose to furnish water to more than one lot and/or to treatment of sewage from more than one lot.

**10.3.5** Where a developer proposes to obtain and furnish water supply and/or sewage facilities for a Subdivision by connection to an existing Community Water and/or Sewage System, the developer shall supply the Director with certification, in writing, by the owner of the utility that such facilities will be furnished and kept available in good operating condition for the Subdivision.

**10.3.6** The proposals for Realty Subdivision development shall conform to all applicable comprehensive studies, including air, water, sewage and solid wastes.

### **10.4 Sewage Facilities**

**10.4.1** A Community Sewage Treatment system is required when:

**10.4.1.1** A Subdivision is located in an existing sewer district or service area;

**10.4.1.2** A Subdivision is reasonably accessible to an existing sewer district or service area. This requirement shall apply in the absence of proof satisfactory to the Department that the developer cannot effect arrangements for the installation and/or connection of the sewage system to the existing sewer district or service area facilities;

**10.4.1.3** The soil percolation rate is slower than sixty (60) minutes per inch;

**10.4.1.4** The Subdivision consists of fifty (50) lots or more;

**10.4.1.5** The Subdivision consists of two-hundred (200) or more residents in the aggregate;

**10.4.1.6** A minimum separation of two (2) feet cannot be maintained between the lowest part of the leaching system and the highest elevation of the top of the zone of water saturation, rock, hardpan or other impermeable material at all times of year; or,

**10.4.1.7** An approved comprehensive study exists.

**10.4.2** Only sub-surface leaching systems utilizing a septic tank may be employed on an individual basis in lieu of the provision of a Community Sewage Treatment System. Septic tanks shall be designed and installed so that they are readily accessible for inspection and cleaning. Where Individual Water Supply and Sewage Treatment Systems are to be installed on a single lot, the minimum lot area shall be 20,000 square feet.

**10.4.3** Sewage Treatment System designs will be reviewed for compliance with the standards prescribed in Article 9 of this Code.

## **10.5** **Water Facilities**

**10.5.1** A Community Water System is required when:

**10.5.1.1** The Subdivision is located in an existing water district service area;

**10.5.1.2** The Subdivision is reasonably accessible to an existing water district or service area. This requirement shall apply in the absence of proof satisfactory to the Department that the developer cannot effect arrangements for the installation and/or connection of the water system to the existing water district or service area facilities;

**10.5.1.3** Individual wells cannot provide an average yield of five (5) gallons per minute;

**10.5.1.4** The Subdivision consists of fifty (50) lots or more;

**10.5.1.5** The Subdivision consists of two-hundred (200) or more residents in the aggregate;

**10.5.1.6** Groundwater is non-potable; or

**10.5.1.7** An approved comprehensive study exists.

**10.5.2** A Community Water System shall:

**10.5.2.1** Be capable of delivering water at an average rate of one hundred (100) gallons per capita per day when service connections are un-metered, or seventy-five (75) gallons per capita per day when service connections are metered;

**10.5.2.2** Be designed to deliver water in accordance with the requirements of Part 5-1 of the State Sanitary Code;

**10.5.2.3** Provide for continuity of water service by providing at least two (2) separate sources each capable of supplying the system such that the total capacity equals or exceeds the maximum daily demand with the largest producing well out-of-service.

**10.5.3** Individual Well requirements:

**10.5.3.1** Individual wells must maintain an average yield of five (5) gallons per minute of potable water. Yield tests and water quality sampling shall be conducted in accordance with New York State Department of Health requirements. The relevant provisions of 10 NYCRR Appendix 5-A entitled, Recommended Standards for Water Works will be the basis upon which all plans, specifications and reports for community water systems will be reviewed for approval by the Department, and 10 NYCRR Appendix 5B will be the basis upon which individual water supply systems will be reviewed for approval.

## **10.6** **Variances**

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

**10.6.2** Notwithstanding the foregoing, the Director may impose more stringent requirements in a specific case when necessary to assure an adequate and satisfactory water supply and sewerage facility for the subdivision.

## ARTICLE 11

### FOOD SERVICE ESTABLISHMENTS

#### 11.1 Definitions

**11.1.1** “**Food Service Establishment**” shall be *as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 14-1.*

**11.1.2** “**Temporary Food Service Establishment**” shall be *as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 14-2.*

**11.1.3** “**Mobile Food Service**” shall be *as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 14-4.*

**11.1.4** “**Vending Machine**” shall be *as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 14-5.*

**11.1.5** Other definitions found in Part 14 of the State Sanitary Code and any subsequent revisions are adopted and hereby incorporated by reference as part of this Article of the Sanitary Code.

#### 11.2 Permit required

**11.2.1** Any person who shall construct, enlarge, improve or operate any Food Service Establishment must apply for a permit from the Department at least thirty (30) days prior to beginning work.

#### 11.3 Provisions

**11.3.1** Any person who shall operate or cause to be operated a Food Service Establishment shall comply with all provisions of Part 14 of the State Sanitary Code.

**11.3.2** It shall be unlawful for any person to operate a Food Service Establishment in the County unless such person possesses a valid permit issued by the Director, pursuant to this Article, to operate such Food Service Establishment.

**11.3.3** Only persons who comply with the requirements of Part 14 of the State Sanitary Code shall be entitled to receive and retain such permit.

**11.3.4** This permit will be issued annually, and will expire one year from the date of issuance, except as otherwise stipulated on the permit.

**11.3.5** Applications shall be made at least thirty (30) days before the first day of intended operation on a form prescribed by the Department.

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

#### 11.4 Plans for New Construction or Renovation

**11.4.1** Prior to the construction of a new Food Service Establishment or modification of an existing one,

plans must be submitted to the Department for review and approval at least thirty (30) days in advance of the expiration date.

**11.4.2** Facility layout, design, equipment, and operation format must comply with applicable portions of Part 14.

**11.4.3** Plans prepared by a licensed engineer or architect may be required by the Department depending upon the size and complexity of the facility.

## ARTICLE 12

### TEMPORARY RESIDENCES

#### 12.1 Definitions

**12.1.1** “**Temporary Residence**” shall be as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 7-1.

**12.1.2** Other definitions found in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 7-1 and any subsequent revisions are adopted and incorporated herein by reference.

#### 12.2 Provisions

**12.2.1** Part 7 of the State Sanitary Code establishes the regulations for Temporary Residences in the County, as enacted and now or subsequently amended.

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

#### 12.3 Permit required

**12.3.1** Any person who shall construct, enlarge, improve or operate any Temporary Residence must obtain approval and/or a permit from the Department.

**12.3.2** All Temporary Residences operating in the County must receive a permit to operate. Permits will be issued annually and will expire twelve (12) months from the date of issuance unless otherwise stated on the permit.

**12.3.3** Applications for new permits or the renewal of existing permits must be made thirty (30) days prior to the expiration of the current permit on the forms prescribed by the Department.

#### 12.4 Plans for New Construction or Renovation

**12.4.1** Prior to construction of a new facility or renovation of an existing facility, acceptable plans must be submitted to the Department for review and approval.

**12.4.2** Plans prepared by a licensed engineer or architect may be required by the Department depending upon the size and complexity of the facility.

## ARTICLE 13

### MOBILE HOME PARKS

#### 13.1 Definitions

**13.1.1** “**Mobile Home Park**” shall be *as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Part 17.*

**13.1.2** Other definitions found in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Part 17 and any subsequent revisions are adopted and herein incorporated by reference.

#### 13.2 Provisions

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

#### 13.3 Permit required

**13.3.1** Any person who shall construct, enlarge, improve or operate any Mobile Home Park must obtain approval and/or a permit from the Director.

**13.3.2** All persons who operate a Mobile Home Park with five (5) or more sites in the County shall obtain a permit to operate issued by the Director.

**13.3.3** Only persons who comply with Part 17 shall receive a permit.

**13.3.4** Permits will be issued annually and will expire twelve (12) months from the date of issuance unless otherwise stated on the permit.

**13.3.5** Applications for permits for new facilities or renewal of permits for existing facilities must be made thirty (30) days prior to the opening date or expiration of the existing permit, on the forms prescribed by the Department.

#### 13.4 Plans for New Construction or Renovation

**13.4.1** Prior to construction of a new Mobile Home Park or renovation of an existing Mobile Home Park, facility plans must be submitted to the Department for review and approval.

**13.4.2** The park layout, sewage treatment system(s) and water supply system(s) must comply with Part 17 of the State Sanitary Code and Articles 8, 9 and 13 of the Sanitary Code.

**13.4.3** Plans prepared by a licensed engineer, architect or surveyor may be required depending upon the size and complexity of the facility.

## ARTICLE 14

### BATHING FACILITIES

#### 14.1 Definitions

**14.1.1** “**Swimming Pool**” shall be as defined in Title 10, New York State Codes, Rules and Regulations, Chapter I, Subpart 6-1

**14.1.2** “**Spa Pool**” shall be *as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 6-1.*

**14.1.3** “**Bathing Beach**” shall be *as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 6-2.*

**14.1.4** “**Recreational Aquatic Spray Ground**” shall be *as defined in Title 10, New York State Codes, Rules and Regulations, Chapter 1, Subpart 6-3.*

**14.1.5** Other definitions found in Subpart 6-1, Subpart 6-2 and Subpart 6-3 of the State Sanitary Code and any subsequent revisions are adopted and hereby incorporated by reference as part of this Article of the Sanitary Code.

#### 14.2 Provisions

**14.2.1** Any person who shall operate or cause to be operated a Swimming Pool or Spa Pool shall comply with all provisions of Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 6-1. Any person who shall operate or cause to be operated a Bathing Beach shall comply with all provisions of Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 6-2. Any person who shall operate or cause to be operated a Recreational Aquatic Spray Ground shall comply with all provisions of Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 6-3.

**14.2.2** Swimming Pools, Spa Pools, Bathing Beaches and Recreational Aquatic Spray Grounds shall be constructed, operated and maintained in accordance with the provisions of Part 6 of the State Sanitary Code.

**14.2.3** The requirements of this Article shall apply to all Swimming Pools, Spa Pools, Recreational Aquatic Spray Grounds or Bathing Beach except:

**14.2.3.1** A Swimming Pool, or other bathing facility, owned and/or maintained by an individual for the use of his family and friends;

**14.2.3.2** Spa Pools used under medical supervision or associated with hospitals; and,

**14.2.3.3** Float tank or relaxation tank used for solitary body immersion in skin temperature salt water.

#### 14.3 Permits

**14.3.1** Any person who shall construct, enlarge, improve or operate any Swimming Pool, Spa Pool, Bathing Beach or Recreational Aquatic Spray Ground must obtain approval and/or a permit from the Department.

**14.3.2** It shall be unlawful to operate a Swimming Pool, Spa Pool, Bathing Beach or Recreational Aquatic Spray Ground in the County without a permit issued by the Department.

**14.3.2** To receive and retain a permit, the Swimming Pool, Spa Pool, Bathing Beach or Recreational Aquatic Spray Ground must be in compliance with Part 6 of the New York State Sanitary Code.

**14.3.3** Permits for Swimming Pools, Spa Pools, Bathing Beaches or Recreational Aquatic Spray Grounds will be issued annually and will expire twelve (12) months from the date of issuance unless otherwise stated on the permit.

**14.3.4** Application for permits for new facilities or renewal of permits for existing facilities must be made thirty (30) days prior to the opening of the new facility or expiration of the current permit on forms prescribed by the Department.

## ARTICLE 15

### MIGRANT FARMWORKER HOUSING

#### 15.1 Definitions

**15.1.1** “**Migrant Farmworker Housing**” shall be *as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Part 15.*

**15.1.2** Other definitions found in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Part 15 and any subsequent revisions are adopted as part of this Article of the Sanitary Code.

#### 15.2 Permit required

**15.2.1** Any person who shall construct, enlarge, improve or operate any Migrant Farmworker Housing must obtain approval and/or a permit from the Director and Board or the appointed designee.

#### 15.3 Provisions

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

## ARTICLE 16

### COMMUNICABLE DISEASE

#### 16.1 Rabies

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

#### 16.2 Psittacosis

**16.2.1** Whenever a case of Psittacosis exists among birds within the jurisdiction of the Department, or there is danger of the transmission of Psittacosis from that jurisdiction, the Board may establish adequate bird quarantine procedures.

**16.2.2** Quarantined birds shall not be transported from a quarantined area unless permission therefore shall be granted by the Director. Birds are to be transported under conditions which may be prescribed by the Director.

**16.2.3** Persons selling birds for pets, other than domestic poultry for agricultural use or food, shall keep a record for at least two (2) years of each transaction relating to such birds. This record shall include the names and addresses of sellers and purchasers of these birds, and the date of each transaction. Such record shall be available for inspection by authorized representatives of the Department.

#### 16.3 Foodborne Illness

**16.3.1** No Food Service Establishment employee is to work in a Food Service Establishment:

**16.3.1.1** While infected with a disease in a communicable form capable of transmission by food or water;

**16.3.1.2** Who is otherwise a carrier of organisms that cause such disease; or

**16.3.1.3** While afflicted with a boil or infected wound.

**16.3.2** Any food service operator, except those regulated by Title 10; New York State Codes, Rules and Regulations; Chapter V, having actual or constructive knowledge of the occurrence of illness allegedly due to the consumption of food or beverages served at the establishment, shall report the same within 24 hours to the Department.

## ARTICLE 17

### AGRICULTURAL FAIRGROUNDS

#### 17.1 Definitions

**17.1.1** “**Agricultural Fairground**” shall be *as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 7-5.*

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

#### 17.2 Permit Required

**17.2.1** Any person who shall construct, enlarge, improve or operate any Agricultural Fairground must obtain approval and/or a permit from the Director and Board or the appointed designee.

#### 17.3 Provisions

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

## ARTICLE 18

### CHILDREN'S CAMPS

#### 18.1 Definitions

**18.1.1** “**Summer Day Camp**” shall be *as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 7-2.*

**18.1.2** “**Traveling Summer Day Camp**” shall be *as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 7-2.*

**18.1.3** “**Children’s Overnight Camp**” shall be *as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 7-2.*

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

#### 18.2 Permit required

**18.2.1** Any person who shall construct, enlarge, improve, operate or allow others to operate any Children’s Camp must obtain approval and/or a permit from the Director and Board or the appointed designee.

**18.2.2** Application for a permit to operate a Children's Camp shall be made by the operator to the Department at least ninety (90) days before the proposed first day of operation. The completed Children's Camp application must be accompanied by a written comprehensive Children's Camp Safety Plan as defined in subdivision 7-2.5(n) of the State Sanitary Code Subpart 7-2.

#### 18.3 Provisions

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

**ARTICLE 19**  
**CAMPGROUNDS**

**19.1 Definitions**

**19.1.1** “**Campground**” shall be *as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 7-3.*

**19.1.2** “**Parking Lot Campgrounds**” shall be defined as *a parking lot that meets Title 1; New York State Codes Rules and Regulations; Chapter1, Subpart 7-3 as defined by the Application section and Section 19.3.*

**19.1.3** Other definitions found in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Subpart 7-3 and any subsequent revisions are adopted as part of this Article of the Sanitary Code.

**19.2 Permit Required**

**19.2.1** Any person who shall construct, enlarge, improve or operate any Campground must obtain approval and/or a permit from the Director and Board or the appointed designee.

**19.3 Parking Lot Campgrounds**

**19.3.1** Any parking lot campground must meet the requirements of a campground as outlined in Title 1; New York State Codes, Rules and Regulations; Chapter 1, Subpart 7-3. This definition does not cover I-87 rest areas, other labeled ‘rest areas’ on other roads, and state or federal facilities which specifically allow overnight parking.

**19.3.2** Any parking lot owner who allows whether by expressed or implied consent five (5) or more recreational vehicle operators to set up or park their recreational vehicles in the parking lot between hours of 11 PM and 6 AM will be considered a parking lot campground.

**19.3.3** Any parking lot owner who does not wish to be considered an owner of a parking lot campground must post “No Camping Allowed” signs throughout their parking lot. If recreational vehicle operators continue to set up or park, the parking lot owner or designee must notify the Clinton County Sheriff, New York State Police, or other local law enforcement agencies to enforce removal of the recreational vehicles from their parking lot.

**19.3.4** Any parking lot owner who wishes to operate a parking lot campground must obtain approval and a permit from the Director. The minimum requirements are an engineering plan and written plan covering the acceptable routine sewage and garbage collection, and a source of water meeting the requirements of Article 8 of the Sanitary Code for each recreational vehicle; the spacing of recreational vehicles and/or the banning of open flame grills and open fires to reduce the risk of fire, and any other requirements deemed appropriate by the Director.

**19.3.5** Any parking lot owner who wishes to operate a temporary parking lot campground for a special event lasting more than 24 hours must notify the Director thirty (30) days prior to the special event. The only person who can receive a permit for a temporary parking lot campground is the owner of the parking lot. The parking lot owner must submit the required engineering and written plans for the approval, a letter from the municipality approving the request, a letter from the applicable law

enforcement agency approving traffic control at the event, a letter from the Clinton County Emergency Services Director approving emergency services for the event and/or a permit from the Director.

#### **19.4 Provisions**

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

## ARTICLE 20

### MASS GATHERINGS

#### 20.1 Definitions

**20.1.1** “**Mass Gathering**” shall be as defined in Title 10; New York State Codes, Rules and Regulations; Chapter 1, Part 7.

**20.1.2** Other definitions found in Part Title 10; New York State Codes, Rules and Regulations; Chapter 1, Part 7 are adopted as part of this Article of the Sanitary Code.

#### 20.2 Permit Required

**20.2.1** No person shall hold or promote, by advertising or otherwise, a Mass Gathering unless a permit has been issued for the gathering by the Director and Board.

**20.2.2** Application for a permit to promote or hold a Mass Gathering shall be made to the Department on a form and in a manner prescribed by the New York State Commissioner of Health by the person(s) who will promote or hold the Mass Gathering and shall be accompanied by the fee established by the Board.

**20.2.3** Application for a permit to promote or hold a Mass Gathering shall be made at least ninety (90) days before the first day of advertising and at least ninety (90) days before the first day of the Mass Gathering.

**20.2.4** The permit fee established by the Board will cover or partially cover the County’s cost for providing services to this event. These services include, but are not limited to, the Department’s cost of plan review and staffing the event, Clinton County Sheriff Department, Clinton County Emergency Services, and Clinton County Highway Department.

#### 20.3 Provisions

**20.3.1** Any person(s) who shall hold, conduct, operate or promote a Mass Gathering shall comply with all provisions of Title 10; New York State Codes, Rules and Regulations; Chapter 1, Part 7 and conditions of the permit.

**20.3.2** Any person(s) who shall hold, conduct, operate or promote a Mass Gathering shall, as a minimum, also comply with the provisions of Part 18 of the State Sanitary Code and Article 21 of the Sanitary Code.

#### 20.4 Insurance Requirements

**20.4.1** The applicant shall provide evidence of public liability and property damage insurance by furnishing the Department with a copy of the policy actually issued, including all endorsements pertaining thereto, and shall co-insure the Department and the County. The policy shall be written by a New York State licensed insurance carrier with a minimum reserve of Two Hundred Fifty Million Dollars (\$250,000,000.00). Such policy shall cover both personal injury and property damage and be written on an “occurrence” basis in an amount of at least Two Million Dollars (\$2,000,000.00) for each

occurrence and an aggregate amount of at least Ten Million Dollars (\$10,000,000.00) and shall bear an endorsement preventing cancellation by the named insured or by the insurance carrier without first furnishing the Department with ten (10) days written notice as evidenced by certified or registered mail, return receipt requested, such receipt to be signed only by the Director and Board.

## **20.5 Hold-harmless Protection**

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

## **20.6 Designation for Legal Process**

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

## **20.7 Proof of Financial Resources**

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

## **20.8 Mandatory Contingency Fund**

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

## **20.9 Variance**

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

## ARTICLE 21

### PUBLIC FUNCTIONS WITH ATTENDANCE OF OVER 5000 PEOPLE

#### 21.1 Definitions

21.1.1 “**Public Function**” shall be *as defined in Part 18 of the State Sanitary Code*.

21.1.2 Other definitions found in Part 18 of the Sanitary Code are adopted as part of this Article of the Sanitary Code.

#### 21.2 Permit Required

21.2.1 No person shall hold or promote, by advertising or otherwise, a Public Function unless a permit has been issued for the gathering by the Director and Board.

21.2.2 Application for a permit to promote or hold a Public Function shall be made to the Department on a form and in a manner prescribed by the New York State Department of Health by the person(s) who will promote or hold the Public Function and shall be accompanied by the fee established by the Board.

21.2.3 Application for a permit to promote or hold a Public Function shall be made at least sixty (60) days before the first day of advertising and at least sixty (60) days before the first day of the Public Function.

#### 21.3 Provisions

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

## ARTICLE 22

### SMOKING RESTRICTIONS

#### 22.1 Definitions

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

#### 22.2 Standards and Requirements

**22.2.1** The owner, operator or manager of any place defined or covered by Article 13-E shall comply with all provisions of the New York State Public Health Law Article 13-E. Additionally, all owners, operators and/or managers of facilities and buildings who allow tobacco smoking outside their facility or building must insure that no tobacco smoke enters the facility or the building through windows, doors, entrances, vents and ventilation systems. The owners, operators and/or managers must require anyone who is smoking to move to an area where the tobacco smoke cannot enter the facility or building. Failure to prevent the entrance of tobacco smoke to a facility or building will be considered a violation of this section.

**22.2.2** All not-for-profit entities, meeting the New York State Public Health Law Article 13-E’s definition as a membership organization, who wish to allow on-premises indoor smoking and meeting the requirements of Article 1399-q(4), must register with the Department as a “Clean Indoor Air Act-Exempt Membership Organization”. These membership organizations must complete a form required by the Department in order to become registered as a “Clean Indoor Air Act Exempt Facility” at least thirty (30) days prior to allowing indoor smoking. Not-for-profit membership organizations that fail to register with the Department as a “Clean Indoor Air Act-Exempt Membership Organization” will be deemed in violation of this section of the Sanitary Code for allowing indoor smoking.

**22.2.3** All facilities wishing to allow smoking in their outside dining area must comply with the applicable sections of the New York State Public Health Law Article 13-E. These facilities must register with the Department as a facility allowing smoking in their outdoor dining area. These facilities must complete a form required by the Department in order to become registered as a facility allowing smoking in their outdoor dining area at least thirty (30) days prior to allowing smoking in said area. Facilities that fail to register with the Department as a facility allowing outdoor smoking will be deemed in violation of this section of the Sanitary Code for allowing smoking in their outside dining area.

**22.2.4** All facilities and/or sponsors of functions inviting the public for the primary purpose of promoting and sampling tobacco products, and the service of food and drink, is incidental to such purpose, must comply with the applicable sections of the New York State Public Health Law Article 13-E. Both the facility and sponsor must register with the Department as a facility and/or sponsor of a “Public Tobacco Sampling and Promotional Event”. The facility and sponsor both must complete a form required by the Department in order to register the “Public Tobacco Sampling and Promotional Event” at least two weeks prior to such function.

**22.2.5** All facilities that have registered outdoor smoking areas or is a registered “Clean Indoor Air Act-Exempt Membership Organization” are prohibited from advertising that the facility has an outdoor smoking area, or the facility is a registered “Clean Indoor Air Act-Exempt Membership Organization”.

A facility and/or sponsor of a “Public Tobacco Sampling and Promotional Event” is exempt from this section.

**22.2.6** Places of employment and Food Service Establishments may not allow or mandate their employees and contractual workers to work in an indoor and/or outdoor smoking area whether or not the employees and contractual workers agree to work in a smoking environment. This includes employees and contractual workers passing through an indoor and/or outdoor smoking area for any facility except for registered “Clean Indoor Air Act-Exempt Membership Organization” or an establishment that received a Clean Indoor Air Act Waiver.

## ARTICLE 23

### REGULATION OF TOBACCO PRODUCTS AND HERBAL CIGARETTES; DISTRIBUTION TO MINORS

#### 23.1 Definitions

**23.1.1** All definitions found in New York State Public Health Law, Article 13-F Regulation of Tobacco Products and Herbal Cigarettes; Distribution to Minors known as the *Adolescent Tobacco Use Prevention Act (ATUPA)* are hereby incorporated as definitions applicable to this Article of the Sanitary Code.

**23.1.2** "**Dealer of Tobacco Products**" means *the owner or operator of any establishment or facility where tobacco product sales and/or distribution occur, including vending machines.*

**23.1.3** "**ATUPA**" shall mean *the New York State Adolescent Tobacco-Use Prevention Act.*

**23.1.4** "**Tobacco Products**" means *one or more cigarettes or cigars, bidis, chewing tobacco, powdered tobacco or any other tobacco products as defined in found in New York State Public Health Law, Article 13-F Regulation of Tobacco Products and Herbal Cigarettes; Distribution to Minors.*

#### 23.2 Standards and Requirements

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

## **ARTICLE 24**

### **UNCONSTITUTIONALITY CLAUSE**

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

## **ARTICLE 25**

### **EFFECTIVE DATE**

**25.1** Every regulation of the Sanitary Code, unless otherwise specifically stated shall take effect May 19, 2008.