

# DUTCHESS COUNTY SANITARY CODE

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## Disclaimer:

Laws, codes, or other regulations presented here are for quick reference only. While they are believed to be accurate, they are not certified copies of the regulations and therefore should not be relied upon for legal interpretation.

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# **Dutchess County Sanitary Code**

## **Article 1**

### **GENERAL PROVISIONS**

#### **Section 1.1 Short Title**

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

#### **Section 1.2 General Definitions**

(A) The term "Administrative Code" means the Dutchess County Administrative Code.

(B) The term "Board" means the Board of Health of the County Health District of the County of Dutchess.

(C) The term "Charter" means the Charter of the County of Dutchess.

(D) The term "Code" means the Sanitary Code of the County Health District of the County of Dutchess.

(E) The term "Commissioner" means the Commissioner of Health of the County Health District of the County of Dutchess or an appointed designee.

(F) The term "Communicable Disease" means infectious, contagious or communicable diseases, so designated by the Public Health Council.

(G) The term "County" means the County of Dutchess.

(H) The term "Department" means the Department of Health of the County Health District of the County of Dutchess.

(I) The term "Health District" means the geographical area of the County of Dutchess, comprising and constituting the County Health District of the County of Dutchess.

(J) The term "Permit" means a written license and authorization to carry on a specified activity or activities as regulated by this Code, the New York State Sanitary Code, the Public Health Law, or the New York State Department of Environmental Conservation Law, the rules, regulations and standards promulgated thereunder and includes any written approval issued by the Commissioner or his duly designated representative.

(K) The term "Permittee" means a person who holds a valid permit issued by the Commissioner, the Department, the New York State Department of Health, or the New York State Department of Environmental Conservation.

(L) The term "Person" means any individual, firm, public or private corporation, cooperative, condominium, association, partnership, institution, political subdivision, government agency, public body, joint stock association, trust, estate, or other group of individuals or combinations of the foregoing or any other legal entity whatsoever, except the State of New York, its departments, agencies, and public benefit corporations. The term "Person" shall include the plural as well as the singular.

(M) The term "Public Health Council" means the Public Health Council of the State of New York.

(N) The term "Public Place" means any place or premises wherein a member of the general public is, or may be, an invitee, regardless of whether or not such place is owned, maintained or operated by any private or government organization or agency.

(O) The term "Municipality" means a City, Town or Village located within the County of Dutchess.

(P) The term "Nuisance" means an annoyance; that which annoys and disturbs one in any use or occupation of property, or that endangers the life or health, gives offense to the senses, obstructs the reasonable and comfortable use of property, or is an unwarranted, wrongful or unlawful use by a person of his own property, either real or personal, or from his own improper, indecent, or unlawful personal conduct causing annoyance, disturbance, discomfort or interference to another.

(Q) The term "Public Nuisance" means any of the acts, situations, conduct or uses herein defined as a "Nuisance" and which affects an indefinite number of persons or a considerable number of residents of a particular locality or a considerable number of

persons coming within the extent of the range of operation, although the extent of the annoyance or damage inflicted upon individuals or property may be unequal.

(R) The term "State" means the State of New York.

(S) The term "State Sanitary Code" means the rules and regulations promulgated by the Public Health Council of the State of New York and designated as the State Sanitary Code.

## **Section 1.3 Applicability, legal effect**

(A) The provisions of the Code shall be in force throughout the Health District.

(B) The Code shall be supplemental to the Public Health Law, the New York State Environmental Conservation Law, the New York State Sanitary Code, and other State laws.

(C) The provisions of the Code shall have the force and effect of law.

## **Section 1.4 Legal presumptions, evidence, reports as evidence**

(A) As provided by the Public Health Law, certified copies of this code shall be received in evidence in all courts and proceedings in the State.

(B) As provided by the Public Health Law, every rule or regulation adopted by the Board shall state the date on which it takes effect and a copy thereof, signed by the Commissioner or his deputy, shall be filed as a public record with the Department, the State Department of Health, and the Dutchess County Clerk, and shall be published in such manner as the Board may determine.

(C) As provided by the Public Health Law, every rule, regulation, order and direction of the Commissioner shall set forth an effective date and a copy thereof, signed by the Commissioner or his deputy, shall be filed as a public record in the Department and the Office of the Dutchess County Clerk. Such rules, regulations, orders and direction shall be known as the Sanitary Code.

(D) As provided by the Public Health Law and in the Environmental Conservation Law,

the written reports of State and local health officers, inspectors, 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, actions, authority and orders, related to the enforcement of this Code, the Public Health Law, the Environmental Conservation Law, and the rules and regulations and standards promulgated thereunder, the State Sanitary Code or any health regulation shall be presumptive evidence of the facts so stated therein and shall be received as such in all courts and places.

(E) Any condition found to exist shall be presumed continuing in existence until remedied or otherwise changed.

## **Section 1.5 Construction**

(A) This Code is intended to be consistent with the applicable Federal and State law and shall be construed whenever necessary to achieve such consistency.

(B) This code shall be liberally construed for the protection of health and safety in the Health District.

## **Section 1.6 Separability of provisions**

In the event that any provision of this 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 Code shall not be affected thereby.

## **Section 1.7 Saving clause**

(A) Nothing contained in this Code shall affect or impair any act done, or right accruing, accrued or acquired, or any penalty, forfeiture or punishment incurred prior to the time when this Code shall take effect under or by virtue of the provision or provisions of law or the Sanitary Code, as in force immediately prior to the time this Code shall take effect; but the same may be asserted, enforced, prosecuted or inflicted as fully and to the same extent as if this Code shall not have taken effect.

(B) Reference in any law to an existing Article, Section, Subdivision, or other provision of the Dutchess County Sanitary Code, as in force immediately prior to the time this Code

shall take effect, shall be deemed and construed to refer to the corresponding Article, Section, Subdivision, or other provision of such Code, as renumbered, modified or amended by this Code.

(C) Reference in any general, special or local law, rule, regulation or public document to any provision or provisions of the Dutchess County Sanitary Code, as in force immediately prior to the time this Code shall take effect, shall be deemed to be and construed as a reference to the corresponding provision or provisions of such Code irrespective of whether such provision or provisions is or are contained in one or more than one Article, Section, Subdivision or other part thereof.

## **Section 1.8 Effective date**

Except as otherwise may be specified, the provisions of the Sanitary Code of the Health District heretofore adopted shall be deemed repealed as of the 1st day of December, 1997, at which time the provisions of this Code shall be effective.

## **Section 1.9 Certified copies**

The Commissioner or his deputy shall furnish copies of the Code and its amendments for a fee of One Dollar (\$1.00) per complete copy. Any particular pages may be obtained separately at a fee of twenty-five cents (\$.25) per page.

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# **Dutchess County Sanitary Code**

## **Article 2**

### **DUTCHESS COUNTY BOARD OF HEALTH AND DUTCHESS COUNTY DEPARTMENT OF HEALTH**

#### **Section 2.1 Board of Health officers and meetings**

(A) The Board shall be organized and constituted as required by the Public Health Law, the Charter of the County of Dutchess and the Dutchess County Administrative Code.

(B) The Board shall meet regularly one day of each month, except for the month of July.

(C) The President or other presiding officer of the Board may call special meetings thereof when, in their judgment, the protection, preservation or improvement of the public health of the Health District or any part thereof requires it, and as provided in the Public Health Law.

(D) A majority of the membership of the Board shall constitute a quorum at any regular or special meeting of the Board.

(E) The Board shall elect a President from among its members and the President shall serve as presiding officer of the Board.

(F) The Board shall elect a vice-president from among its members and the vice-president shall serve as presiding officer of the Board in the absence of the President.

(G) The Board shall elect a Secretary from among its members and the Secretary shall record the proceedings of all meetings of the Board and shall have power of certification of officially adopted Board proceedings and to carry on the correspondence of the Board.

(H) The Board may adopt a procedural outline for the proper conduct of its affairs, election of officers and appointment of committees, not inconsistent with the law.

#### **Section 2.2 Board of Health general powers**

(A) As provided by the Charter and Administrative Code, subject to the provisions of the Public Health Law, the Environmental Conservation Law, and the rules, regulations and standards promulgated thereunder, and the State Sanitary Code, the Board shall adopt, promulgate, amend or repeal rules and regulations affecting public health in the Health District.

(B) From time to time, the Board shall make and publish such rules and regulations not inconsistent with the Public Health Law, the Environmental Conservation Law, and the rules and regulations and standards promulgated thereunder, and the State Sanitary Code as it may deem necessary and proper for the execution and enforcement thereof.

(C) At the request of the Commissioner, the Board may consider any matter relating to the preservation and improvement of the public health and may advise the Commissioner thereon.

(D) From time to time, the Board may submit to the Commissioner any recommendations relating to the preservation, protection and improvement of the public health.

## **Section 2.3 Commissioner's general powers**

(A) As provided by the Public Health Law, the Commissioner shall:

(1) Make an annual sanitary survey and maintain sanitary supervision over the territory within the Health District.

(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.

(3) Promote the spread of information as to the cause, nature and prevention of prevalent diseases and the preservation and improvement of health.

(4) Take such steps as may be necessary to secure prompt and full reports by physicians of reportable diseases.

(5) Take such steps as may be necessary to secure prompt and complete registration of births and deaths.

(6) Attend conferences called by the State Commissioner of Health or his authorized

representative.

(7) Enforce within the Health District the provisions of the Public Health Law, the State Sanitary Code, the Dutchess County Sanitary Code and all rules, regulations and standards connected therewith.

(8) Have such other powers and duties as the Public Health Law provides for a Commissioner of Health in a County Health Department.

(B) The Commissioner may promulgate, adopt and administer policies, procedures, guidelines and standards necessary to enforce the provisions of this Code.

(C) Whenever the Commissioner is empowered to or charged with the responsibility to do or perform an act, he may designate any officer or employee in the Department to do or perform the act in his place and stead.

(D) The Commissioner may establish permit, review and other fees for services, subject to the approval of the Board of Health.

## **Section 2.4 Commissioner's quasi-judicial powers**

(A) As provided by the Public Health Law and the Charter, the Commissioner may:

(1) Issue subpoenas.

(2) Compel the attendance of witnesses.

(3) Administer oaths to witnesses and compel them to testify.

(4) Designate any person or persons as Hearing Officer or Officers to conduct a formal hearing or hearings for the purpose of taking testimony and reporting Findings of Fact, Conclusions and Recommendations concerning any investigation, inquiry, study or violations within the jurisdiction of the department.

(5) Issue warrants to any Peace Officer of any municipality in the Health District to apprehend and remove such person or persons as cannot otherwise be subjected to its orders or regulations.

(6) Issue warrants to the Sheriff of the County to bring to its aid the power of the County

whenever it shall be necessary to do so.

(7) Prescribe and impose penalties for the violation of or failure to comply with any provision of the health laws, this Code or of the provisions of the State Sanitary Code or Commissioner's Order, not exceeding One Thousand Dollars (\$1000.00) for a single violation or failure.

(8) Make such orders and regulations for the suppression of nuisances, and concerning all other matters which have been determined to be detrimental to the public health in special or individual cases, not of general application, and serve copies thereof upon the owner or occupant of any premises whereon such nuisances or other matters may exist, or upon which may exist the cause of other nuisances to other premises, or cause the same to be conspicuously posted thereon.

(9) In the name of the Department, maintain actions in any Court of competent jurisdiction to restrain by injunction violators of Commissioner's orders and the orders, rules and regulations of the Board or otherwise to enforce such orders and regulations.

(B) Subject to the provisions of Article I, Section 1.5, of this Code, the Commissioner shall be empowered to interpret the provisions of this Code.

## **Section 2.5 Commissioner's emergency powers**

The Commissioner may authorize necessary action to alleviate emergencies and/or public nuisances in the event that the owner, lessee or occupant of any premises fails to respond to a direction of the Commissioner, or said direction cannot, after due diligence, be served; whenever it is determined that an emergency exists and there is a reasonable danger to life or health.

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# Dutchess County Sanitary Code

## Article 3

### PERMITS

#### Section 3.1 Application

(A) Application for any permit or for the renewal of a permit shall be made on forms furnished by the Department and shall contain all information called for by said form.

(B) 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 this Code.

(C) 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 may require the following information:

(1) The name, age, residence and business address of the applicant; and, if the applicant is a partnership or other group, of each member of such partnership or group; and, if the applicant is a corporation, of each officer of the corporation.

(2) The ability of the applicant, or of its individual members or officers, to read and write English.

(3) In the case of an unincorporated association or group which is to be the permittee, by a duly authorized officer or representative of the association or group, who shall submit a certified copy of a resolution of the governing board or executive committee of such association or group authorizing the making of such application.

(4) In the case of a corporation which is to be the permittee, 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.

(5) In the case of a municipality which is to be the permittee, by the executive officer or representative duly authorized in writing.

(D) Every individual applicant 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 applicant, the partner signing the application shall be eighteen (18) years of age or over. By the act of furnishing information in an application, or furnishing required documents, the applicant thereby affirms that the information is true and correct to the best of his/her knowledge and belief.

(E) 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 State Sanitary Code and this Code and the conditions required by the permit, and to inspections pertaining thereto.

(F) Application for a permit or for renewal of a permit shall constitute a consent to inspection of the premises and collection of samples.

(G) Pending approval, disapproval or other consideration of an application for renewal of permit required by this Code, the existing permit shall be determined to be in full force and effect until such renewal application is acted upon, if such renewal was filed thirty (30) days prior to the expiration date of the permit; provided, however, that in no event shall this provision apply to a renewal application that was submitted to and filed with the Department after expiration date of the existing permit.

(H) The Commissioner may deny issuance of a permit pending approval of the local municipality in which the facility is located.

## **Section 3.2 Permits, posting and expiration**

(A) Every permit shall expire on the date stated in the permit, but may be extended by the Commissioner in writing for a specified limited time for cause or as otherwise provided elsewhere in this Code.

(B) An application for renewal of a permit shall be submitted not later than thirty (30) days prior to the expiration date of such permit, unless otherwise required by this Code or by law.

(C) A Permittee shall comply with the conditions contained in the permit and the

provisions of the Code under which such permit was issued.

(D) 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 and shall be available for inspection at all times by the Department.

(E) 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 pursuant to law, or when the prevailing fee remains unpaid ten (10) days after the issuance date.

## **Section 3.3 Permit and licenses by municipalities**

No provision of this Code shall be construed to restrict or abrogate the authority of any municipality in the County to issue permits or licenses pursuant to any ordinance of such municipality; provided, however, that the issuance of such municipal permit or license shall not be inconsistent with the requirements of the State Sanitary Code and this Code; and provided further, that whenever inspections as to health and/or sanitation is required, no municipality shall issue or renew a permit or license without first having obtained approval from the Commissioner with respect to compliance with the Code and the rules and regulations and requirements of the Department.

## **Section 3.4 Permits not transferable**

(A) 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 or for any other purpose, place or vehicle.

(B) Any attempted or purported transfer of a permit to a person not designated as the permittee therein, or for a purpose or place not authorized for such permit, shall constitute grounds for a suspension of such permit pending a hearing on notice for revocation for violation of subdivision (A) hereof.

(C) The Commissioner may approve, in writing, the continuation of an activity authorized by a permit by a partnership or group other than a partnership, or by a sole remaining individual or group thereof, if the partnership or group originally authorized by such permit has been reorganized, provided that such change of organization has been duly recorded with the Department within ten (10) days after such change of organization.

(D) In the event of the sale, transfer, lease or other disposition of real property or any part thereof, such sale, transfer, lease or disposition thereof, shall not in and of itself constitute a termination of any construction permit issued theretofore by the Department in force and in effect at the time of such sale, transfer, lease, or other disposition except as may otherwise be provided by this Code or by law.

## **Section 3.5 Suspension and revocation**

(A) The Commissioner may suspend or revoke a permit which was issued by the Department for violation or nonconformance with the conditions or requirements of the permit or provisions of the Code under which such permit was issued.

(B) The Commissioner may suspend or revoke a permit for cause after due Notice and Hearing.

(C) Nothing herein contained shall interfere with the authority of the Commissioner or his representative duly authorized in writing to summarily suspend a permit issued by the Department, pending a hearing on such matter which may reasonably be expected to result in a condition which is dangerous or harmful to public health or safety; provided, however, that the permittee shall be entitled to a hearing as soon after summary action as is practicable, but in no event no later than fifteen (15) days after such summary action.

## **Section 3.6 Refusal to issue Permit**

(A) The Commissioner may refuse to issue a permit or a renewal thereof when the application therefor is incomplete.

(B) The Commissioner may refuse to issue a permit or renewal thereof when the applicant fails to provide any information required by the Department in addition to the information furnished on the application.

(C) The Commissioner may refuse to issue a permit or renewal thereof if the application or investigation thereof indicates to the Department that the activity or premises to be covered by the permit applied for does fail to meet the requirements of the Code or other provision of law; or that the maintenance, conduct or operation of such activity or premises fails to meet the requirements or provisions of law or may result in a public health hazard.

(D) The Commissioner may refuse to issue a permit or renewal thereof or a certificate of approval for any activity, operation or premises that is determined to be a condition which may be dangerous or harmful to health and life, or that fails to meet the requirements of the Public Health Law, the Environmental Conservation Law, the State Sanitary Code, or the requirements of this Code.

(E) Approval of an application for a permit may be denied for any sufficient or competent reason, including but not limited to any of the following:

(1) The proposed construction, location, purpose, business or other act is in violation of the provisions of the Public Health Law, the Environmental Conservation Law within the jurisdiction of the Department, the State Sanitary Code, this Code or any local municipal law, ordinance or regulation.

(2) Inaccurate, incomplete, false or misleading information stated in the application, including any plans or other data submitted in support thereof or competency to perform not shown to the satisfaction of the Commissioner.

(3) Failure to correct existing violations of regulations pertaining to any particular place, vehicle or business after service of written notice thereof, whether or not related to the pending application; except, however, that the Department may issue a permit if existing violations have been substantially corrected in the judgment of the Commissioner.

## **Section 3.7 Effective date of denial, suspension, revocation, forfeiture**

(A) 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 for the service of a notice of hearing.

(B) A permit or written approval shall terminate and be considered forfeit and shall become null and void upon service of a written notice under any of the following circumstances:

(1) THAT the process of construction or the operation involved reveals conditions otherwise than as indicated in the approved plans and application.

(2) 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 Environmental Conservation Law, the State Sanitary Code, or this Code.

(3) 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.

## **Section 3.8 Permits and licenses, denial, appeal**

(A) 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 Commissioner by serving a notice of appeal in writing on the Department addressed to the Commissioner within ten (10) days following the service of notice of denial or refusal to issue the permit.

(B) The notice of appeal shall contain:

(1) The full name of the applicant, permittee, or party affected.

(2) The type of permit or certificate of approval for which the application was made or the nature of the action complained of.

(3) The place of business listed in the application to which the appeal relates.

(4) A statement that the applicant or permittee or other party affected appeals to the Commissioner to review the action of the Department.

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

(C) Within three (3) days following service of the notice of appeal, or simultaneous with such service, the applicant, permittee or party affected shall submit a memorandum addressed to the Commissioner containing his objection to the action of the Department.

(D) The Commissioner may affirm, reverse or modify the action of the Department after due consideration of all materials submitted.

## **Section 3.9 Operation without permit**

(A) The Commissioner or his duly authorized representative shall have the authority and power to order the cessation of operations of any business, establishment or facility required by this Code to have a permit for the maintenance and operation of such business, establishment or facility but which is operating without such permit.

(B) The Commissioner may request and obtain the assistance of enforcement and other appropriate officers and department of government as provided by the Public Health Law and other applicable statutes, codes, rules and regulations, to enforce orders herein provided for, and the provisions of this Section.

(C) The owner or operator of a business, establishment or facility closed or directed by Order of the Commissioner to cease operations pursuant to this Section shall be entitled to a hearing to be held within a reasonable time; provided, however, the owner or operator of such business, establishment or facility requests such hearing in writing within ten (10) days of the date of the order of the Commissioner.

(D) In furtherance of this provision, on service of an order to cease operations, the Department shall include notice to the owner or operator of the right to demand a hearing within ten (10) days.

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# **Dutchess County Sanitary Code**

## **Article 4**

### **INSPECTION INVESTIGATION ENFORCEMENT**

#### **Section 4.1 Inspections**

(A) As provided by law, the Commissioner or an authorized representative of the Department may inspect any premises, matter or thing within its jurisdiction, including but not limited to any premises where an activity regulated by the State Sanitary Code or this Code is conducted.

(B) As provided by law, the representatives of the Department may inspect any record required to be kept pursuant to the State Sanitary Code or this Code.

#### **Section 4.2 Interference with Health Department personnel**

(A) As provided by law, no person shall interfere with, obstruct or refuse to allow any 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 official duties or department business.

(B) As provided by law, no person shall interfere with, obstruct or refuse to allow the examination of any occupancy of any premises, place or thing by an authorized employee or representative of the Department in the discharge of official duties.

(C) As provided by law, no person shall molest or resist any representative of the Department in the discharge of official duties.

#### **Section 4.3 Taking samples**

As provided by law, the Commissioner or any authorized representative of the Department may take and remove any substance or thing or any necessary part or

portion thereof from any premises 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 the public health.

## **Section 4.4 Notices, posting, destroying**

(A) 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 such other designated foreign language as may be necessary.

(B) No person shall remove, mutilate, conceal, obstruct or tear down any notice or placard of the Department posted in or on any premises or public place except by written permission of an authorized representative of the Commissioner.

## **Section 4.5 Formal hearings**

(A) The Commissioner may cause to be held a formal hearing on any application, complaint, circumstances, or alleged violation of the laws and regulations within the jurisdiction of the Department.

(B) A formal hearing shall be on due and adequate notice to the person or persons concerned and shall be set down for a day certain.

(C) The Notice of Hearing shall set forth:

(1) The time and place of the hearing

(2) The purpose of the hearing

(3) The charges and violations complained of, with specific reference to provisions and section of the Public Health Law, the Environmental Conservation Law, State Sanitary Code, and this Code involved.

(4) The right to present evidence

(5) The right to examine and cross-examine witnesses

(6) The right to be represented by counsel

(D) On the return day of the hearing:

(1) The hearing officer shall note the appearance of the persons attending the hearing.

(2) Witnesses shall be sworn and testimony shall be recorded.

(3) The testimony shall be transcribed within a reasonable time after the conclusion of the hearing.

(E) The hearing officer shall thereafter prepare findings of fact, conclusions, and recommendations upon which the Commissioner shall make a formal order setting forth the determination, conditions, if any, to be complied with and civil penalties, if any.

(F) The Order of the Commissioner, following a formal hearing, shall be filed in the office of the Commissioner. A copy thereof shall be filed also with the County Clerk and served on all respondents.

(G) Nothing herein contained shall preclude the Commissioner from taking any action in addition to the formal hearing herein provided for, as may be prescribed by law, nor shall the Department be precluded from taking such other action by virtue of the order made pursuant to this Section.

## **Section 4.6 Service of Order and/or Notice of Hearing**

Unless otherwise expressly provided by law, or by any other provision of the State Sanitary Code or this Code, service of an order and/or notice of hearing shall be made as follows:

(A) Enclosing the order and/or notice in a post-paid envelope directed to the person or persons concerned at the address last known to the Department and depositing such envelope at a United States Post Office or in a mail box or mail chute maintained by the United States Post Office; or

(B) Leaving the order and/or notice with the person concerned; or, if the person is not an

individual, with a member of the partnership or other group concerned or with an officer of the corporation or person in charge of the office or premises; or

(C) Posting the order and/or notice at the entrance door of the premises involved.

## **Section 4.7 Hearing appearances**

(A) At any hearing conducted pursuant to this Code, any party to the proceedings may appear personally and with counsel and shall be given the opportunity to produce evidence and witnesses and to cross-examine witnesses.

(B) At any formal hearing conducted pursuant to this Code, if a party shall appear without counsel, the hearing officer shall advise such party of his right to counsel; and that, if he desires to proceed without counsel, he may call witnesses, cross-examine witnesses and produce evidence in his behalf.

(C) Appearances shall be noted on the official record of Hearings.

## **Section 4.8 Hearing adjournments**

(A) 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 day certain.

(B) If an 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.

(C) In considering an application for adjournment, the hearing officer shall consider whether the purpose of the hearing will be affected or defeated by the granting of such adjournment.

## **Section 4.9 Subpoenas**

The Commissioner or the designated hearing officer may issue subpoenas upon request of any party to the proceedings of any formal hearing set down by the Commissioner.

## **Section 4.10 Hearing Procedures**

(A) The hearing officer shall not be bound by the rules of evidence in the conduct of a hearing but the determination shall be founded upon sufficient factual evidence to sustain it.

(B) In accordance with Article I, Section 1.4(E), and Article II, Section 2.4(A)(B), proof may be adduced with respect to ongoing violations occurring up to and through the date of the hearing, when these violations are sufficiently similar to those charged to put respondent on notice of the nature of the violation.

(C) If a respondent has been served with a Commissioner's order in conjunction with a Notice of Hearing, proof may be adduced with respect to violations of that Order after the underlying violation has been proven.

(D) Upon the conclusion of a hearing, the Commissioner shall take such action upon such findings, determinations and recommendations as he deems proper and shall execute an order carrying such findings and determinations into effect.

(E) The action of the Commissioner may include the assessment of civil penalties as provided by law.

(F) An order of suspension or revocation of any permit or license may contain such provisions as to renewal or reinstatement as the Commissioner may direct.

(G) The Commissioner may direct a re-hearing or require the taking of additional evidence and may rescind or affirm a prior determination after such re-hearing.

(H) The minutes of a formal hearing shall be made available to all parties for examination at the office of the Department.

(I) Copies of minutes of a formal hearing may be purchased at the rate per page covering the cost thereof.

## **Section 4.11 Enforcement, seizure, embargo, condemnation, disposition**

(A) The Commissioner or his designated representative may, by written order, place an embargo order of any article, substance or thing which he determines or has reason to believe may be contaminated, unfit for human consumption or use, from an unapproved

source or fails to meet the requirements of the Public Health Law, the Environmental Conservation Law, the State Sanitary Code, or this Code.

(B) Such embargoed article, substance or thing may not be sold, used, donated, discarded, repackaged or otherwise disposed of until such embargo order is lifted by the Commissioner, his designated representative, or a court of competent jurisdiction.

(C) When it is determined that embargoed material consists in part of materials which are not in violation of the State Sanitary Code or this Code and which may be salvaged, or that embargoed materials or any part thereof can be brought into compliance with the law, the Department shall permit the owner or person in control, unless, determined by the Department, the protection of the public health otherwise requires, to separate salvageable portions or to bring such materials into compliance with the State Sanitary Code or this Code at the place of embargo or other place acceptable to the Department.

(D) All activities carried on pursuant to this Section shall be done in a manner consistent with the maintenance of public health, giving due regard to the property rights of the owner or person in control of the affected material.

(E) Any article, substance or thing embargoed pursuant to the provisions of this Section shall be identified by the placing and physical attachment thereon of an identification tag or label which shall state the alleged nature and description of the article, substance or thing, the reason for embargo, the date of embargo, and the signature of the representative of the Department effecting or causing such embargo.

## **Section 4.12 Notice of violation**

(A) Upon the finding of a violation or violations of the Public Health Law, the Environmental Conservation Law, the State Sanitary Code, the provisions of this Code, or the rules, regulations and orders promulgated and issued pursuant thereto, the Commissioner or a duly authorized representative of the Department may serve a notice of violation in writing setting forth thereon the nature of the violation or violations.

(B) A notice of violation served pursuant to the provisions of this Section shall provide that the violation or violations shall be abated or removed within a period of time set forth in such notice.

(C) In the event that the objectionable conditions are not removed pursuant to and in accordance with the notice of violation; and, if the nature of the violation requires

immediate control for the protection of life and health, the Commissioner or his duty authorized representative may cause to be conspicuously posted on the premises or equipment an appropriate notice or sign, which notice or sign shall not be removed except as authorized in writing by the Commissioner or his duly authorized representative.

(D) A notice of violation served pursuant to this Section may be served in person, by mail, by telegraph, or by posting such Notice conspicuously on the premises, or as otherwise required by the Public Health Law or the State Sanitary Code.

## **Section 4.13 Judicial penalties for violation**

The provisions of the State Sanitary Code or this Code shall have the force and effect of law and the non-compliance or non-conformance with any provisions thereof shall constitute a violation, punishable on conviction as provided by the Public Health Law.

## **Section 4.14 Administrative penalties for violation**

(A) Any person who violates, disobeys or disregards the terms of provisions of any lawful notice, order or regulation of this Code or the State Sanitary Code shall be subject to the imposition by the Commissioner of a civil penalty not to exceed one thousand dollars (\$1000.00) for each single violation or failure or omission to act; except where the Public Health Law provides a different maximum penalty for every such violation.

(B) The Commissioner may enter any court of competent jurisdiction seeking penalty or imprisonment, or both, as provided by the Public Health Law.

(C) The penalty provided for by Subdivision (A) of this Section may be sued for and recovered by the Commissioner in the proper court of jurisdiction.

(D) Nothing in this Section contained shall be construed to alter or repeal any existing provision of law declaring such violations or any of them to be misdemeanors or felonies or prescribing the penalty therefor.

(E) Each day or a part of a day on which a violation or failure continues shall constitute a separate violation.

## **Section 4.15 Enforcement other than by**

# prosecution

(A) In lieu of enforcement of this Code by way of prosecution, recovery of civil penalties, revocation of permits, seizure, embargo and condemnation or other means, the Department, by its duly authorized representative, may seek to obtain the voluntary compliance with this Code by way of notice, warning or educational means.

(B) This Section shall not be construed to require that such non-compulsory methods must be employed or attempted before proceeding by way of compulsory or other legally prescribed procedures.

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# **Dutchess County Sanitary Code**

## **Article 5**

### **PUBLIC WATER SUPPLIES**

#### **Section 5.1 Definitions**

Definitions contained in Part 5, Subpart 5-1, and any subsequent revision of the New York State Sanitary Code are adopted as part of the Dutchess County Sanitary Code.

#### **Section 5.2 Supplier requirements**

All provisions of Part 5, Subpart 5-1, of the New York State Sanitary Code are adopted as provisions of the Dutchess County Sanitary Code and all suppliers of water in Dutchess County shall comply with all provisions of Subpart 5-1 of the New York State Sanitary Code.

#### **Section 5.3 Laboratory testing facilities**

A supplier of potable water shall arrange for testing required by Part 5, Subpart 5-1, of the New York State Sanitary Code to be performed at any laboratory holding a valid New York State Health Department approval for each test parameter.

#### **Section 5.4 Initial testing**

(A) Prior to the approval, as required by Subpart 5-1, New York State Sanitary Code, of a public water supply, the owner shall demonstrate that the proposed source of water complies with the performance standards and maximum contaminant levels set forth in Subpart 5-1, New York State Sanitary Code. Analysis shall be performed by a laboratory holding a valid New York State Department of Health approval for such test parameter.

(B) The performance standards and maximum contaminant parameters shall be established by the Dutchess County Commissioner of Health.

## **Section 5.5 Application for Approval and Fees**

All applications for approval for the construction of a public water supply as required by Subpart 5-1, New York State Sanitary Code, shall be accompanied by a review fee set forth in accordance with a schedule of fees established by the Dutchess County Commissioner of Health or appointed designee, subject to the approval of the Board of Health.

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# **Dutchess County Sanitary Code**

## **Article 6**

### **PUBLIC SWIMMING POOLS AND BATHING BEACHES**

#### **Section 6.1 Definitions**

The definitions set forth in Subpart 6-1 and Subpart 6-2 and any subsequent revisions of the New York State Sanitary Code are adopted as part of this Article of the Dutchess County Sanitary Code.

#### **Section 6.2 Approval of Plans**

No municipality, person, group of persons, firm, corporation, association, organization or institution shall construct an artificial swimming pool, partly artificial swimming pool or bathing beach as defined in Subpart 6-1 and Subpart 6-2 or make changes in any such existing facility, if such changes may affect health or safety, until the plans and specifications thereof shall first have been submitted to and have received the approval of the Dutchess County Commissioner of Health or the appointed designee in accordance with Subpart 6-1 or 6-2 of the New York State Sanitary Code.

#### **Section 6.2 Permit Requirements**

(A) No municipality, person, group of persons, firm, corporation, association, organization or institution shall operate or maintain or permit the use of any swimming pool or bathing beach as defined in Subpart 6-1 and Subpart 6-2 without a permit from the Dutchess County Commissioner of Health or the appointed designee.

(B) Application for such permit shall be made to the Dutchess County Commissioner of Health or the appointed designee on a prescribed form at least thirty (30) days prior to the expiration of an existing permit or at least thirty (30) days prior to the opening of any new or seasonal swimming pool or bathing beach. The application shall be accompanied by payment of the prevailing fee.

(C) Each permit shall expire one (1) year from the date of issuance for a non-seasonal facility or on the last day of operation for a seasonal facility; upon change of owner or operator; upon revocation of the permit, or as otherwise stipulated on the permit.

## **Section 6.4 Construction and maintenance**

Every swimming pool and bathing beach shall be designed, constructed, equipped, maintained and operated in accordance with the provisions of Subpart 6-1 or Subpart 6-2 of the New York State Sanitary Code.

## **Section 6.5 Operation and Supervision of Facilities**

Operation and supervision of every swimming pool and bathing beach shall be in accordance with the provisions of Subpart 6-1 or Subpart 6-2 of the New York State Sanitary Code.

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# **Dutchess County Sanitary Code**

## **Article 7**

### **TEMPORARY RESIDENCES**

#### **Section 7.1 Definitions**

(A) The term, "Temporary Residence" shall be as defined in Subpart 7-1 of the New York State Sanitary Code.

(B) The term "Labor Camp" shall be as defined in Subpart 7-1 of the New York State Sanitary Code.

(C) Other definitions found in Subpart 7-1 and any subsequent revisions of the New York State Sanitary Code are adopted as part of this Article of the Dutchess County Sanitary Code.

#### **Section 7.2 Permit required**

(A) Any person who shall construct, enlarge, or improve any temporary residence or labor camp must obtain approval and any person who shall operate a temporary residence must obtain a permit from the Dutchess County Commissioner of Health or the appointed designee.

(B) Application shall be made at least thirty (30) days before the first day of intended operation on the form prescribed by the Dutchess County Commissioner of Health or the appointed designee, accompanied by payment of the prevailing fee.

(C) Each permit shall expire one (1) year from the date of issuance for a non-seasonal facility or on the last day of operation for a seasonal facility; upon a change of owner or operator; upon the revocation of the permit; or as otherwise stipulated on the permit.

(D) Application for renewal of permit shall be made at least thirty (30) days prior to expiration of the current permit or thirty (30) days prior to the opening of a seasonal facility on the form prescribed by the Dutchess County Commissioner of Health or the

appointed designee, and be accompanied by payment of the prevailing fee.

## **Section 7.3 Construction and operation**

(A) Any person who shall construct, enlarge, develop, improve, convert or use or operate a temporary residence or labor camp shall comply with all provisions of Subpart 7-1 of the New York State Sanitary Code.

(B) Each sleeping room shall be provided with an approved single station smoke detector powered from the building electrical service, except when sleeping rooms contain smoke detectors connected to a central alarm system which also alarm locally.

(C) All fire safety and related equipment, including venting devices, fire alarm and detection devices, fire extinguishers, sprinkler and standpipe systems, emergency lighting and emergency power sources, shall be inspected and certified annually by a recognized competent authority acceptable to the Dutchess County Commissioner of Health or appointed designee.

(D) The plan for employee training with respect to fire prevention and occurrence as required in Subpart 7-1 of the New York State Sanitary Code shall be reviewed as often as necessary and at least annually. A statement shall be forwarded to the Dutchess County Commissioner of Health or appointed designee affirming that the review has been performed.

(E) The water supply shall be operated in conformance with Article 5 of this Code and Subpart 5-1 of the New York State Sanitary Code.

(F) Bathing facilities shall be operated in accordance with Article 6 of this Code and Subpart 6-1 and Subpart 6-2 of the New York State Sanitary Code.

## **Section 7.4 Waiver of fire safety provisions**

(A) The Dutchess County Commissioner of Health or appointed designee may waive any of the provisions of this Article whenever all of the following conditions are present:

(1) The portion of the building to which fire safety provisions apply has been operated as a temporary residence prior to the effective date of the requirement which is being waived.

(2) Failure to comply with fire safety provisions of the sections being waived would not significantly decrease safety to the occupants in the particular building, and such compliance represents a significant structural change or major expense to the operator.

(3) Adequate alternative provisions have been made for the safety of the occupants in prevention and detection of fires and emergency exiting in the event of fire or other emergency.

(B) Whenever a waiver is granted, it shall terminate with the change of owner or operator or until revoked by the Dutchess County Commissioner of Health or appointed designee.

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# **Dutchess County Sanitary Code**

## **Article 8**

### **PUBLIC HEALTH NUISANCE**

#### **Section 8.1 Inspections and Investigations**

(A) The Dutchess County Commissioner of Health or his duly authorized representative shall investigate all complaints of any nuisance which may affect health or which may be a cause of danger or injury to life and health in the County of Dutchess.

(B) The Commissioner or his duly authorized representative may enter upon or within any place or premises where a nuisance or condition dangerous to life and health is alleged to exist or where a place or premises is alleged to be maintained or operated in a manner as to constitute a nuisance.

(C) The Commissioner or his duly authorized representative may enter upon or within any place or premises which may be the cause of the existence of a nuisance or condition dangerous to life or health to exist elsewhere.

(D) The owners, agents and occupants of any premises shall permit examinations, inspections and investigations to be made pursuant to the provisions of the Public Health Law, the New York State Sanitary Code and this Code and any rules and regulations promulgated pursuant to such laws and codes.

#### **Section 8.2 Notice to owners and others**

(A) The Commissioner or his duly authorized representative shall furnish the owners, agents and occupants of a place or premises upon which a nuisance or condition dangerous to life or health has been found to exist or which is the cause of a nuisance or condition dangerous to life or health to exist elsewhere with a written statement of the nature of the nuisance or condition.

(B) The Commissioner or his duly authorized representative shall initiate such procedures as may reasonably be expected to result in the immediate voluntary

abatement of any nuisance or condition dangerous to life or health found to exist upon or within any place or premises which is the cause of the existence of a nuisance or condition dangerous to life or health to exist elsewhere.

## **Section 8.3 Hearings and orders**

(A) Upon the filing in the Department of a report of the examination and inspection of any place or premises showing:

(1) That a nuisance or condition dangerous to life or health exists or is maintained at such place or premises; or

(2) That such place or premises contains a condition which causes a nuisance or condition dangerous to life or health to exist elsewhere, the Commissioner or his duly authorized representative may cause to be served upon the owners, agents or occupants of such place or premises a notice to appear at a stated time and place, to show cause why such condition should not be declared a nuisance or a condition dangerous to life or health and why an order for its abatement should not be issued and a penalty assessed.

(B) If, after such a hearing, the Commissioner should determine that the condition or conditions found to exist constitutes a nuisance or condition dangerous to life or health, a copy of the findings, determinations and order shall be served on the owners, agents or occupants and be posted conspicuously on the premises.

## **Section 8.4 Abatement**

(A) The Commissioner or his representative duly authorized in writing shall order the abatement, suppression or removal of all nuisances and conditions which may reasonably be expected to be detrimental or prejudicial to life or health within the Health District.

(B) Whenever the owners, agents or occupants of any premises, whereon any nuisance or condition deemed to be detrimental or prejudicial to the public health exists or deemed to be the cause of the existence of such nuisance or condition elsewhere, fails to comply with any order or regulation for the abatement, suppression or removal of such nuisance or condition, the Commissioner or his duly authorized representative may petition a court of competent jurisdiction for authorization to enter upon the premises to which such order or regulation relates and to abate, suppress or remove such nuisance or condition.

## **Section 8.5 Abatement expenses, lien and execution**

(A) The expense of suppression or removal of a nuisance or condition detrimental to life or health incurred by the Department shall be paid by the person who caused or maintained such nuisance or condition, which may be the owner, agent, or occupant of the premises.

(B) As provided by the Public Health Law, the Department or County may maintain an action in a court of competent jurisdiction to recover the expense of such abatement.

(C) As provided by the Public Health Law, a judgment obtained for expense of suppression or removal of a nuisance shall be a first lien upon such premises, having preference over all other liens and encumbrances whatever.

(D) As provided by the Public Health Law, such premises may be sold for a term of time for the payment and satisfaction of such lien and the expenses of the sale, in accordance with the provisions of the Public Health Law.

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# **Dutchess County Sanitary Code**

## **Article 9**

### **CHILDREN'S CAMPS**

#### **Section 9.1 Definitions**

(A) The term "Summer Day Camp" shall be as defined in Subpart 7-2 of the New York State Sanitary Code and the Public Health Law.

(B) The term "Children's Traveling Summer Day Camp" shall be as defined in Subpart 7-2 of the New York State Sanitary Code and the Public Health Law.

(C) The term "Children's Overnight Camp" shall be as defined in Subpart 7-2 of the New York State Sanitary Code and the Public Health Law.

(D) Other definitions found in Subpart 7-2 of the New York State Sanitary Code and the Public Health Law and any subsequent revisions are adopted as part of this Article of the Dutchess County Sanitary Code.

#### **Section 9.2 Permit required**

(A) Any person who shall construct, enlarge, improve or operate any Children's Summer Day Camp, Children's Traveling Summer Day Camp, or Children's Overnight Camp must obtain approval and/or a permit from the Dutchess County Commissioner of Health or the appointed designee.

(B) Application shall be made at least thirty (30) days before the first day of intended operation or prior to the expiration of the permit for a non-seasonal facility on the form prescribed by the Dutchess County Commissioner of Health or the appointed designee and shall be accompanied by the prevailing fee.

(C) A permit shall expire one (1) year from the date of issuance or at the close of a camp's normal operating season or upon a change of the operator or on a date stipulated by the Dutchess County Commissioner of Health or the appointed designee or upon

revocation. No permit shall expire during the camping period except by revocation.

(D) A separate permit shall not be required for a bathing beach, swimming pool or food service operated as part of a children's camp for which a permit is required under this Article of the Dutchess County Sanitary Code.

## **Section 9.3 Operation**

Any person who shall operate or cause to be operated a Children's Summer Day Camp, a Children's Traveling Summer Day Camp, or a Children's Overnight Camp shall comply with all provisions of Subpart 7-2 of the New York State Sanitary Code and the Public Health Law.

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# **Dutchess County Sanitary Code**

## **Article 10**

### **COMMUNICABLE DISEASES**

#### **Section 10.1 Definitions**

(A) The term "Communicable Disease" means those diseases listed in Part 2 of the New York State Sanitary Code.

(B) Other definitions contained in Part 2 of the New York State Sanitary Code shall be the definitions applicable to the Dutchess County Sanitary Code.

#### **Section 10.2 Reporting requirements**

Whenever Part 2 of the New York State Sanitary Code requires reporting or notification of a communicable disease by any physician, hospital or other person, such report or notification shall be filed with the Dutchess County Commissioner of Health or appointed designee.

#### **Section 10.3 Animal rabies control**

Cases of rabid or suspected rabid domestic animals, farm animals or wild animals require reporting and management as required by Part 2 of the New York State Sanitary Code.

#### **Section 10.4 Sexually transmitted diseases control**

Those diseases designated as sexually transmitted diseases by the New York State Commissioner of Health must be reported to the Dutchess County Commissioner of Health or appointed designee.

#### **Section 10.5 Pulmonary tuberculosis control**

Investigation and management of those persons suffering pulmonary tuberculosis or any person who appears to be suffering from pulmonary tuberculosis shall be in accordance with the provisions of Part 2 of the New York State Sanitary Code.

## **Section 10.6 Other requirements concerning Communicable Diseases**

Investigations, isolation, quarantine, restriction, reporting, notification and other requirements and provisions of Part 2 of the New York State Sanitary Code are hereby incorporated as provisions and requirements of the Dutchess County Sanitary Code.

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# **Dutchess County Sanitary Code**

## **Article 11**

### **REALTY SUBDIVISIONS**

#### **Section 11.1 Declaration of policy**

(A) The purpose of the provisions of this Article is to promote healthful and safe environmental conditions within and adjacent to all types of realty subdivisions and to assist local municipal agencies to achieve healthful communities.

(B) Public water supply and public sewage facilities should be provided whenever possible and be constructed and maintained in accordance with accepted local, State and national standards.

#### **Section 11.2 Definitions**

(A) The term "Commissioner" means the Dutchess County Commissioner of Health or appointed designee.

(B) The term "Developer" means a person, partnership, corporation or other legal entity undertaking or participating in the establishment or creation of a subdivision.

(C) The term "Dry Sewer" means a system of pipes constructed or proposed to be constructed and intended to collect and to carry or transport sewage to a treatment facility at such future time as a treatment facility and sewers connected thereto are constructed and available.

(D) The term "Individual Sewage Disposal System" means a single system of piping, tank and other facilities serving only a single lot and disposing of sewage and/or other liquid wastes into the soil of the lot.

(E) The term "Individual Water Supply" means a single system of piping, tank and other facilities, together with a source of water supplying a single lot.

(F) The term "Public Sewage Disposal System" means a system used for the collection and disposal of sewage and 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 corporation, municipality, person or private utility.

(G) The term "Public Water System" means a source of water and necessary appurtenances, together with a distribution system serving more than one lot, whether the system is owned by a corporation, municipality, person or private utility.

(H) The term "Realty Subdivision" means any tract of land which is hereafter divided into five (5) or more parcels along an existing or proposed street, highway, easement or right-of-way for sale or for rent as residential lots or residential building plots, regardless of whether the lots or plots to be sold or offered for sale or leased for any period of time are described by metes and bounds or by reference to a map or survey of the property or any other method of description and regardless of whether the lots or plots are contiguous. A tract of land shall constitute a subdivision upon the sale, rental or offer for sale or lease of the fifth residential lot or residential building plot therefrom within any consecutive three year period and at that time the provisions of Section 1116 of the Public Health Law shall apply to all such parcels thereof, including the first four parcels, regardless of whether said parcels have been sold, rented or offered for sale or lease singly or collectively. This definition is, and is intended to be, in conformity and compliance with Section 1115 of the Public Health Law as presently written and as may be amended hereafter.

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

(J) The term "Sewage" means the water-carried human and domestic wastes.

(K) The term "Tract" means any body of land, including contiguous parcels of land, under one ownership or under common control of any group of persons acting in concert as part of a common scheme or plan.

(L) The term "Usable Area" means the general area required and suitable for the normal and reasonable development of each habitable building site in a realty subdivision to permit the provision of water supply and sewage facilities to serve the area for the

proposed occupancy and shall include a protective area satisfactory to the Commissioner on all sides of an individual sewage system; provided, however, that a "usable area" shall not be deemed to include any other protective area between any individual sewage system and any water supply source, line of drainage, watercourse, or other hazardous condition, or any area occupied by a building structure, lake, stream, pond or swamp, areas of exposed rock, or underlying rock or ground water not acceptable to the Commissioner or marginal areas subject to flooding, or along streams or other bodies of water or any other condition not acceptable to the Commissioner.

## **Section 11.3 Subdivision plan**

No person, partnership, corporation, developer or other legal entity shall engage in the development of a realty subdivision or sell, offer for sale, contract for sale of land therein, or lease land for such purpose or erect any permanent building thereon, without first:

- (A) Having obtained the approval of the Commissioner for the proposed methods of providing water and sewage facilities, land drainage, and such other facilities as required by the provisions of this Article; and
- (B) Having filed the approved plan and any approved amendments thereto in the office of the Clerk of the County of Dutchess.

## **Section 11.4 Applicant to furnish and file plan**

- (A) An application for approval of plans for a realty subdivision or amendment of such plans shall be submitted to the Department of Health on forms provided.
- (B) Application for approval of plans for a realty subdivision or amendment thereof shall be accompanied by such maps, plans, reports, specifications and data as the Department of Health may require.
- (C) Plans for a realty subdivision or amendment thereof submitted for approval pursuant to the provisions of this Article shall:
  - (1) Show the location of all existing easements, storm drainage systems and control structures, public water supply mains or public sewage collection mains, or both in such instances where such facilities exist or are to be provided; and

(2) Show the location of all individual water supply systems, or individual sewage disposal systems, or both in such instances where such facilities exist or are to be provided.

(D) The Department of Health may require a report and plans which may impact or affect the arrangements for sewage disposal and water supply covering the following environmental factors:

(1) The methods for grading to prevent changes in soil percolation capacity and to provide for adequate collection and drainage of surface water;

(2) The methods to prevent contravention of surface and ground water quality standards;

(3) The effect on the subdivision of environmental pollutants or hazards either on the property or from surrounding areas, resulting from such facilities, activities or conditions as industrial or commercial structures or operations, highways, solid waste disposal sites, swamps, quarries, sink holes, limestone deposits, gravel pits, airports, watercourses, agricultural uses, flood plains and unstable soil conditions;

(4) The potential effect of the subdivision on environmental factors in surrounding areas; and

(5) The potential for flooding of all or part of a proposed realty subdivision by a storm of one hundred (100) year frequency;

(E) Plans for a realty subdivision or amendment thereof, submitted to the Health Department for approval pursuant to the provisions of this Article shall show, on the face thereof, the written consent of the owner of record of the property approving the filing of such plans in the office of the Clerk of the County of Dutchess.

(F) The Department of Health may require test wells to be constructed on the site of a proposed realty subdivision, prior to approval, in order to assist in the determination of adequacy of the ground water supply for domestic use.

(G) Plans and specifications for the construction of any proposed public water supply or public sewage system to serve a proposed realty subdivision shall be submitted to and shall receive approval of the Dutchess County Health Department and/or the New York State Department of Health or the New York State Department of Environmental Conservation, prior to the approval of the plans for the proposed realty subdivision to be

served.

(H) Plans and specifications for the arrangements for water supply and sewage disposal shall be in accordance with the applicable standards, guidelines, policies and procedures, including but not limited to Appendix 75-A and Part 75, 10NYCRR, of the Administrative Rules and Regulations of the State of New York, and "Individual Wastewater Systems Design and Construction Standards" of the Department.

## **Section 11.5 Filing and Review Fee**

(A) At the time of originally submitting a plan for approval as required by this Article, a filing fee of \$12.50 per lot for water and \$12.50 per lot for sewer shall be paid to the Dutchess County Department of Health. The filing fee shall be applicable to any amendments thereof.

(B) A review fee established in accordance with the policies and procedures of the Dutchess County Department of Health shall be assessed for each lot and payable at the time of original submission.

## **Section 11.6 Approval of plans**

(A) Dutchess County Department of Health approval of a proposed realty subdivision plan or amendment thereto shall be indicated by a stamp or written endorsement on the face of the original tracing of such subdivision plan and shall contain the general conditions of such approval.

(B) Dutchess County Department of Health approval of a proposed realty subdivision plan or amendment thereto shall be obtained prior to the filing of any map or plan showing such subdivision of land in the office of the Clerk of the County of Dutchess, or in any other required office.

(C) As a condition of approval by the Dutchess County Department of Health of a proposed realty subdivision plan or amendment thereto, the Department may require the installation, within a specified period, in accordance with the plans presented or approved revisions thereof, of the whole or any part of the water, sewage or land drainage facilities for said realty subdivision.

(D) The Dutchess County Department of Health may require that the land in a proposed realty subdivision be so improved as to provide for adequate land drainage and usable

areas for water supply and sewage disposal purposes before approval of the plan.

## **Section 11.7 Duration of approval**

Dutchess County Department of Health approval of a proposed realty subdivision plan or amendment thereto shall be valid for a period of five (5) years from the date of approval. Following the expiration of said approval, the developer or owner of the lot(s) may resubmit to the Commissioner for consideration for reapproval and/or extension of approval. Resubmission or revised submission of plans, maps and/or associated documents shall be subject to compliance with the standards and requirements of the Department of Health in effect at the time of the resubmission.

## **Section 11.8 Disapproval of plans**

(A) The Commissioner may deny approval of any plan or amendment thereof for a proposed realty subdivision if it appears that a condition or hazard detrimental to health may be created thereby; or, if it appears that excessive demands may be imposed upon any public water supply, sewage disposal, or drainage facility; or, if the environment will be adversely affected by said approval.

(B) Any plan or amendment thereof for a proposed realty subdivision that is denied approval by the Commissioner shall be returned to the person who submitted the plan within thirty (30) days with a summary in writing stating the reasons for denial of approval.

## **Section 11.9 Filing of approved plans**

(A) No subdivision or portion thereof shall be sold, offered for sale, leased or rented by a corporation, company or person; and no permanent building shall be erected thereon until an approved plan has been filed in the office of the Clerk of the County of Dutchess within one (1) year following the date of the approved plan or amendment thereof. Any plan or amendment not filed with the office of the Clerk of the County of Dutchess within (1) year following the date of the approval of the plan or amendment thereof shall be considered void and invalid.

(B) A copy of each approved plan and amendment thereof, certified by the Clerk of the County of Dutchess as having been filed indicating the date of such filing, shall be filed by the owner of the property in the office of the Dutchess County Department of Health

within thirty (30) days of the filing in the office of the Clerk of the County of Dutchess.

## **Section 11.10 Approved plans, compliance**

(A) A realty subdivision shall be constructed in accordance with the plans duly approved by the Commissioner and filed in the office of the Clerk of the County of Dutchess and in accordance with the conditions imposed thereon by the Department.

(B) The installation of all water supply and sewage disposal facilities shall be in accordance with State and local laws, ordinances, rules and regulations and shall be installed in accordance with plans or revisions thereof approved by the Commissioner, and/or New York State Department of Health, and/or the New York State Department of Environmental Conservation.

## **Section 11.11 Public systems required**

If a proposed realty subdivision is to be located in an area deemed inappropriate for the installation of individual water supply systems or individual sewage systems, or both, the Commissioner may require installation of a public water or sewage system, or both.

## **Section 11.12 Individual water and individual sewage**

(A) Where it is proposed to provide individual water supply and/or individual sewage systems, each lot shall contain the required usable area for such facilities based upon the particular conditions as determined by appropriate soil investigations and design report acceptable to the Commissioner.

(B) A plan may be required which shall indicate the required usable area for individual water supply and/or individual sewage disposal for each lot and such other information as the Commissioner may require.

(C) An individual water supply system shall consist of a drilled well which should have the capacity to provide an average yield of not less than five (5) gallons per minute of potable water or which shall otherwise meet the requirements of the Department and of Part 75, 10NYCRR, of the Administrative Rules and Regulations of the State of New York.

(D) The use of individually dug wells, point wells, cisterns or springs shall not be approved by the Commissioner.

(E) As applied to individual sewage systems, the usable area for individual sewage disposal shall contain suitable absorptive natural soils above ground water, rock and impervious materials.

(F) The area intended for individual sewage systems shall be well drained by natural or approved artificial means.

(G) The minimum usable area for individual water supply and individual sewage systems specified in this Section is intended to apply to single-family occupancies.

(H) The Commissioner may require such usable area for individual water supply and individual sewage systems as deemed necessary or adequate or for any other type of land usage indicated on the proposed realty subdivision plan or permitted under existing zoning laws, if any.

(I) An individual sewage system shall consist of a minimum of a septic tank followed by a subsurface leaching system designed with a capacity adequate for the wastewater calculated to be produced by all buildings and land usages.

(J) The use of cesspools or holding tanks shall not be approved.

(K) Whenever a duly approved public water supply or public sewage system is available and accessible for any site or property within a realty subdivision, any prior general approval for construction of individual water supply or individual sewage system may be deemed null and void and further construction shall be served by individual connections to the public system or systems so provided.

(L) Whenever a duly approved public water supply and/or a public sewage system is available and accessible for any site or property within a realty subdivision, no new individual water supply or individual sewage system shall be constructed and such site or property may be required to be connected to said public system or systems.

## **Section 11.13 Public water and individual sewage systems**

(A) Where water is to be provided by provision of or the extension of a public water supply system and sewage disposal is to be provided by an individual sewage system on each lot, the usable area for sewage facilities on each lot shall be based upon the particular conditions on each lot as determined by appropriate soil investigations and design report acceptable to the Commissioner.

(B) A plan may be required which shall indicate the required usable area for individual sewage disposal system for each lot and such other information as the Commissioner may require.

## **Section 11.14 Public water and public sewage systems**

(A) Where water and sewage services are to be provided by public water mains and public sanitary sewers, the required approval may be indicated by stamp or endorsement on the face of the original tracing of the proposed realty subdivision plan indicating that such approval is issued subject to the provision of such systems to serve every habitable building constructed therein.

(B) Such systems shall thereafter be installed to serve every habitable structure in such proposed realty subdivision.

(C) Where it is proposed to provide water supply or sewage facilities by connection to an existing public water supply or sewage system, the applicant shall supply the Commissioner with a certification, in writing, by the owner of the utility that such system or systems are adequate and will be furnished and maintained to serve the proposed realty subdivision.

## **Section 11.15 Public water supply standards**

Public water supply systems shall be capable of delivering water meeting the provisions of Subpart 5-1 of the New York State Sanitary Code and the requirements of Article 5 of this Code.

## **Section 11.16 Water and sewage, joint systems**

(A) No lot shall be provided with a supply of water other than by an individual water

supply system or an individual connection to a public water supply system, nor shall plans for any other system or arrangement be approved.

(B) No lot shall be provided with a method of sewage disposal other than an individual sewage system or an individual connection to a public sewage system, nor shall any other system or arrangement for sewage disposal be approved.

## **Section 11.17 Water and sewage, existing and proposed improvement districts**

(A) Within the corporate limits of any city or village, or within any town water district or town sewer district or area, no plan for development of a proposed realty subdivision shall be approved except where the plan provides for the extension or extensions of such water or sanitary sewer systems to serve every lot in such realty subdivision; provided, however, that individual sewage and individual water systems may be approved when the Commissioner finds the extension of the public sanitary sewer or public water supply system is not necessary and each such site contains the required usable area and is adequate for individual systems.

(B) Within the corporate limits of any city or village or within any town sewer district or area wherein public sewage is contemplated within five (5) years or less as determined by a resolution of the municipal governing board, interim individual sewage systems may be permitted by the Department; provided:

(1) That dry sewers designed, duly approved and properly installed in accordance with the municipal sewage plan may be required.

(2) That capped or plugged plumbing is installed to serve each lot and individual sewer connections may be required to be installed to each dry sewer; and,

(3) That the soil is otherwise suitable for an individual sewage system.

(C) Whenever public water or sewage systems are proposed in a realty subdivision, the Commissioner may require the establishment or extension of a municipal service area or, as necessary, a transportation corporation to ensure the continued operation and maintenance of these facilities.

## **Section 11.18 Sale before construction**

Whenever lots are sold or offered for sale without the actual provision or construction of water supply or sewage or land drainage systems having been installed, the seller shall furnish to each purchaser of such site at the time of the sale a legible reproduction of the realty subdivision plan bearing approval and indicating the arrangements for water supply and sewage disposal approved by the Commissioner.

## **Section 11.19 Violations**

(A) No person or developer shall engage in the development of a realty subdivision otherwise than in accordance with the conditions or terms of the approval as given by the Commissioner or State of New York or approved amendments thereto.

(B)

(1) In addition to and independent of any other penalty, whenever the Commissioner shall have knowledge of the development of a realty subdivision otherwise than in accordance with an approval or approved amendments thereto, the Commissioner shall issue a written Notice of Violation and such Notice shall be served personally or by certified or registered mail to the last known address of the person filing such map and to the owner or owners of record of lands within such realty subdivision, if known, and to the developer, if known, otherwise by posting conspicuously on the property and a duplicate of such Notice shall be filed in any public office having jurisdiction with respect to the realty subdivision.

(2) After delivery of such Notice as herein provided, the further development, sale, offer for sale, or contract for sale or rent of lots therein, and the extension or construction of water or sewage systems to serve any lots therein shall be prohibited; provided, however, that upon submission of evidence satisfactory to the Commissioner that the further development of the realty subdivision and the extension or construction of water or sewage systems to serve any lot therein will be continued in accordance with approved plans or approved amendments thereto; provided further, however, that the Commissioner may authorize in writing the resumption of the development, extension or construction involved, on such conditions, including the correction of the violation, as the Commissioner shall prescribe.

(3) The violation shall not be vacated until such time as the Commissioner shall be satisfied that the development, extension or construction involved is proceeding in

accordance with the approved plans or amendments thereto.

(4) The sale, offer for sale, or contract for sale or lease of lots of the realty subdivision shall not be permitted until the violation has been vacated in writing.

## **Section 11.20 Applicability of local laws**

(A) Nothing contained in this Article shall be construed to abrogate the authority of any municipality or other duly constituted agency having by law authority to regulate or control realty subdivisions or any public facilities therein provided or proposed.

(B) Nothing contained herein shall be construed to impair or abrogate the powers and functions of any State or County agency having jurisdiction as now or hereafter provided by law.

## **Section 11.21 Variances and exceptions**

(A) The Commissioner may, upon 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 Code.

(B) The Commissioner may impose more stringent requirements in a specific case when necessary to insure an adequate and satisfactory water supply and sewage system for a proposed realty subdivision.

(C) The owner of a single residential lot which is part of an unapproved realty subdivision may apply to the Commissioner for approval of a plan and a certification of approval by compliance with the provisions of this Code applicable to subdivision of five (5) or more lots.

(D) When required and directed by a local municipality, the owner of a proposed development of less than five (5) lots may apply to the Commissioner for approval of plans and a certificate of approval by compliance with the provisions of this Code applicable to subdivision of five (5) or more lots.

(E) When required and directed by a local municipality, the owner of a proposed development of five (5) lots or more, each lot being in excess of five (5) acres, may apply to the Commissioner for approval of plans and a certificate of approval by compliance

with the provisions of this Code.

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# **Dutchess County Sanitary Code**

## **Article 12**

### **TEMPORARY FOOD SERVICE ESTABLISHMENTS**

#### **Section 12.1 Definitions**

(A) The term "Temporary Food Service Establishment" shall be as defined in Subpart 14-2 of the New York State Sanitary Code.

(B) Other definitions found in Subpart 14-2 and any subsequent revisions of the New York State Sanitary Code are hereby adopted as part of this Article of the Dutchess County Sanitary Code.

#### **Section 12.2 Permit required**

(A) Every person who operates a temporary food service establishment in Dutchess County shall possess a valid permit issued by the Dutchess County Commissioner of Health or appointed designee.

(B) Application for the appropriate permit shall be made at least seven (7) days before the date of proposed start of operation on forms prescribed by the Dutchess County Commissioner of Health or appointed designee and shall be accompanied by any information as deemed necessary by the Dutchess County Commissioner of Health or appointed designee.

(C) Each permit issued will expire as stated thereon, but in no event shall be valid beyond fourteen (14) consecutive days of operation.

(D) An application for a permit shall be accompanied by payment of the prevailing fee.

#### **Section 12.3 Standards and requirements**

Any person operating a temporary food service establishment shall comply with all provisions of Subpart 14-2 of the New York State Sanitary Code.

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# **REPEALED**

This article has been repealed.

## **RETAIL FROZEN DESSERT OPERATIONS**

### **Section 13.1 Definitions**

(A) The term "Retail Frozen Dessert Operations" shall be as defined in Subpart 14-3 of the New York State Sanitary Code.

(B) Other definitions found in Subpart 14-3 of the New York State Sanitary Code and any subsequent revisions are adopted as part of this Article of the Dutchess County Sanitary Code.

### **Section 13.2 Permit required**

(A) Every person who operates a retail frozen dessert operation in Dutchess County shall possess a valid permit issued by the Dutchess County Commissioner of Health or appointed designee.

(B) Application for the appropriate permit shall be made at least twenty-one (21) days before the date of proposed start of operation on a form prescribed by the Dutchess County Commissioner of Health or appointed designee.

(C) Each permit issued will expire one (1) year from the date of issuance or on a date determined by the Dutchess County Commissioner of Health or appointed designee.

(D) Application for renewal of permit shall be made at least thirty (30) days prior to expiration of the current permit on forms prescribed by the Dutchess County Commissioner of Health or appointed designee. All applications for new or renewal permits shall be accompanied by payment of the prevailing fee.

### **Section 13.3 Standards and requirements**

Any person operating a retail frozen dessert operation shall comply with all provisions of

Part 14-3 of the New York State Sanitary Code.

This article has been repealed.

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# **Dutchess County Sanitary Code**

## **Article 14**

### **FOOD SERVICE ESTABLISHMENTS**

#### **Section 14.1 Definitions**

(A) The term "Food Service Establishment" shall be as defined in Subpart 14-1 of the New York State Sanitary Code.

(B) Other definitions found in Subpart 14-1 of the New York State Sanitary Code and any subsequent revisions are adopted as part of this Article of the Dutchess County Sanitary Code.

#### **Section 14.2 Permit required**

(A) Every person who operates a food service establishment in Dutchess County must possess a valid permit issued by the Dutchess County Commissioner of Health or appointed designee.

(B) Application for the appropriate permit shall be made at least twenty-one (21) days before the date of proposed start of operation on a form prescribed by the Dutchess County Commissioner of Health or appointed designee.

(C) Each permit issued will expire one (1) year from the date of issuance, except as otherwise stipulated on the permit.

(D) Application for renewal of permit shall be made at least thirty (30) days prior to expiration of the current permit on forms prescribed by the Dutchess County Commissioner of Health or appointed designee.

(E) All applications for new or renewal permits shall be accompanied by payment of the prevailing fee.

#### **Section 14.3 Standards and Requirements**

Any person operating a food service establishment shall comply with all provisions of Subpart 14-1 of the New York State Sanitary Code and amendments thereto.

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# **Dutchess County Sanitary Code**

## **Article 15**

### **MIGRANT FARM WORKER HOUSING**

#### **Section 15.1 Definitions**

The definitions contained in Part 15 of the New York State Sanitary Code and any subsequent revisions are hereby adopted as part of this Article of the Dutchess County Sanitary Code.

#### **Section 15.2 Permit required**

(A) Any individual, group of individuals, partnership, firm, corporation or association which operates migrant farm worker housing in Dutchess County must possess a valid permit issued by the Dutchess County Commissioner of Health or appointed designee to operate such migrant farm worker housing pursuant to this Article.

(B) Application for a permit must be made at least thirty (30) days before the first day of intended operation on a form prescribed by the Dutchess County Commissioner of Health or appointed designee and shall be accompanied by the prevailing fee.

(C) Permits will be issued annually and will expire on December 31 of the year of issuance or at an earlier designated date as stated thereon, except that a permit shall expire immediately upon change of operator or change of the name of ownership of the migrant farm worker housing.

(D) A permit may be revoked by the Dutchess County Commissioner of Health or appointed designee upon violation by the holder of any provision of the Public Health Law, the Dutchess County Sanitary Code, or the New York State Sanitary Code; upon abandonment of operations or upon request of the Permittee. An application shall be filed for a new permit, following the revocation of a permit, at least 72 hours before the first day of the resumption of operation of the migrant farm worker housing.

(E) A permit shall not be transferable or assignable.

(F) A permit issued for a migrant farm worker housing operation shall be posted or kept on file and made available by the permittee on request.

## **Section 15.3 Standards required**

All facilities, operations and activities shall be in compliance with Part 15 of the New York State Sanitary Code.

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# **Dutchess County Sanitary Code**

## **Article 16**

### **WATER WELL CONSTRUCTION**

#### **Section 16.1 Statement**

The improper construction, operation, maintenance or abandonment of water wells and the improper installation of water well pumps and pumping equipment represent a potential hazard to public health and safety. To assure the people who depend upon private or individual water well supplies as their only source of drinking water that the ground waters available to them will be reasonably safe for drinking, culinary or food processing purposes, regulations for water well construction have been promulgated in Part 5, Subpart 5-2, of the New York State Sanitary Code.

#### **Section 16.2 Scope**

Minimum requirements are hereby prescribed governing the location, construction and abandonment of water wells used for drinking, culinary and food processing purposes other than municipal or public sources, together with procedures relating thereto, in implementation of this Article. No person shall construct or abandon or cause to be constructed or abandoned any water well, nor shall any person install or cause to be installed any pump or pumping equipment contrary to this Article. Distribution of water beyond the point of discharge from the storage or pressure tank or beyond the point of discharge from the pump if no tank is employed and to wells used or intended to be used as a source of water supply for public water supply systems, or to any pump, well or other equipment used temporarily for de-watering purposes shall comply with all other applicable State and local regulations.

#### **Section 16.3 Definitions**

The definitions contained in Subpart 5-2 of the New York State Sanitary Code are adopted as provisions of this Article of the Dutchess County Sanitary Code.

## **Section 16.4 Permit requirements**

(A) Every person who constructs or abandons a water well must obtain a permit from the Dutchess County Commissioner of Health or appointed designee.

(B) Application shall be made at least fifteen (15) days prior to such activity on a prescribed form. All applications for such permit shall be accompanied by payment of the prevailing fee.

## **Section 16.5 Regulations applicable**

(A) The provisions of Subpart 5-2 of the New York State Sanitary Code shall apply to all construction, operation, maintenance or location of water wells and the installation of water well pumps and pumping equipment.

(B) The information required in Section 5-2.9(c) of Subpart 5-2 of the New York State Sanitary Code shall be submitted on a well log form prescribed by the Dutchess County Commissioner of Health or appointed designee.

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# **Dutchess County Sanitary Code**

## **Article 17**

### **MASS GATHERINGS**

#### **Section 17.1 Definitions**

(A) The term "Mass Gathering" shall be as defined in Part 7 of the New York State Sanitary Code.

(B) Other definitions found in Part 7 of the New York State Sanitary Code are adopted as part of this Article of the Dutchess County Sanitary Code.

#### **Section 17.2 Permit required**

(A) No person shall hold or promote, by advertising or otherwise, a mass gathering unless a permit has been issued for the gathering by the Dutchess County Commissioner of Health or the appointed designee.

(B) Application for a permit to promote or hold a mass gathering shall be made to the Dutchess County Commissioner of Health or the appointed designee on a form and in a manner prescribed by the Commissioner of Health or the appointed designee by the person(s) who will promote or hold the mass gathering and shall be accompanied by the fee established by the Board of Health.

(C) Application for a permit to promote or hold a mass gathering 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 mass gathering.

(D) Water and sewage facilities shall be constructed and operational not later than forty-eight (48) hours before the first day of the mass gathering.

(E) The application shall be accompanied by such plans, reports and specifications as the Dutchess County Commissioner of Health or appointed designee and New York State Commissioner of Health shall deem necessary and shall include but not be limited

to the following:

- (1) Adequate and satisfactory water supply and sewage facilities.
- (2) Adequate drainage.
- (3) Adequate toilet and sanitary facilities.
- (4) Adequate refuse storage and disposal facilities.
- (5) Adequate sleeping areas and facilities.
- (6) Wholesome food and sanitary food service.
- (7) Adequate medical facilities.
- (8) Insect and noxious weed control.
- (9) Adequate fire protection
- (10) Such other matters as may be appropriate for security of life and health.

(F) A separate permit shall be required for each mass gathering.

(G) A permit may be revoked by the Dutchess County Commissioner of Health or the appointed designee if it is found that the mass gathering for which the permit is issued is maintained, operated or occupied in violation of this Article.

(H) A permit issued for the operation of a mass gathering shall be posted conspicuously and kept on file and made available by the operator upon request.

## **Section 17.3 Operation**

(A) Any person(s) who shall hold, conduct, operate or promote a mass gathering shall comply with all provisions of Part 7 of the New York State Sanitary Code and conditions of the permit.

(B) 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 New York State Sanitary

Code and Article 17 of the Dutchess County Sanitary Code.

## **Section 17.4 Insurance requirements**

The applicant shall provide evidence of public liability and property damage insurance by furnishing the Dutchess County Commissioner of Health or appointed designee with a copy of the policy actually issued, including all endorsements pertaining thereto, and shall co-insure the Dutchess County Commissioner of Health or appointed designee and the County of Dutchess. 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 Dutchess County Commissioner of Health or the appointed designee with ten (10) days written notice as evidence by certified or registered mail, return receipt requested, such receipt to be signed only by the Dutchess County Commissioner of Health or the appointed designee with his own signature or by a person specifically and separately designated by the Commissioner or the appointed designee for this exact circumstance.

## **Section 17.5 Hold-harmless protection**

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

## **Section 17.6 Designation for legal process**

If the applicant does not reside in Dutchess County, or if the applicant is a corporation, or if an officer of the corporation does not reside in Dutchess County, the applicant shall designate in writing a natural person who does reside in Dutchess County, which person 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 or the New York State Sanitary Code.

## **Section 17.7 Proof of financial resources**

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

## **Section 17.8 Variance**

The Dutchess County Commissioner of Health or appointed designee 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.

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# **Dutchess County Sanitary Code**

## **Article 18**

### **PUBLIC FUNCTIONS WITH ATTENDANCE OF OVER 5000 PEOPLE**

#### **Section 18.1 Definitions**

(A) The term "Adequate" shall be the determination of the Commissioner based upon generally referenced and accepted standards and guidelines.

(B) The term "Public Function" means any scheduled or advertised event open to the public and likely to attract 5000 or more people at any one time, except that the term shall not apply to any single day of a planned multi-day series of events at which 5000 or more people are not likely to attend.

(C) The term "Emergency Health Care Facility" means a sheltered area or building either naturally or artificially so lighted as will promote the health and safety of patients provided medical care and containing cot(s) and/or litter(s) and emergency medical equipment and supplies as required by Section 18.2 of this Article.

(D) The term "Emergency Medical Technician" means an individual who has been certified as such by the Department pursuant to Sections 800.6 or 800.8 of the New York State Sanitary Code.

(E) The term "Permit-issuing Official" means the Commissioner or the Commissioner's designee.

(F) The term "Person" means an individual, group of individuals, partnership, firm, corporation, association, political subdivision, government agency, municipality, industry, estate or any other legal entity.

(G) The term "Ambulance" means a motor vehicle especially designed, equipped and staffed pursuant to sections 800.21, 800.22, 800.23 and 800.24 of the New York State Sanitary Code to provide emergency medical services during transit.

# Section 18.2 Equipment requirements for an emergency health

## care facility

Any emergency health care facility at a public function must contain at minimum the following equipment:

### (A) Patient transfer equipment:

(1) A device equipped with two two-inch-wide web straps to secure a patient which will enable emergency medical service personnel to move the patient from the incident site to the emergency health care facility.

(2) In an auditorium, stadium or similar physical setting with seats in step tiers, a stair chair-type stretcher.

### (B) Airway, ventilation, oxygen and suction equipment

(1) Manually operated, self-refilling bag-valve-mask ventilation device with a high concentration oxygen enrichment or portable manually triggered oxygen-powered resuscitation device, either of which shall include adult and pediatric and infant sizes.

(2) Oropharyngeal airways, in adult, pediatric and infant sizes.

(3) Two commercially prepared bite sticks.

(4) A portable oxygen system with one medical "D" size cylinder including a regulator consisting of a yoke, pressure gauge, flow meter and a spare cylinder.

(5) Four disposable oxygen masks and four nasal cannulae.

(6) A portable suction device capable of providing an adjustable flow of over 30 liters/minute at the end of the delivery tube and a vacuum of over 300mm mercury when the tube is clamped, including wide bore tubing, a plastic, rigid pharyngeal suction tip and various size flexible suction catheters.

(7) One pocket face mask with oxygen inlet.

(8) Miscellaneous items for oral use which shall be kept clean and be individually wrapped.

(C) Immobilization equipment:

(1) One full-size backboard (72 inches long) with a minimum of two-inch by nine-foot web straps for securing the patient to the device.

(2) One padded board splint, 54 inches by 3 inches by 3/8 inches thick with a minimum of one-half inch foam padding on one side covered with a nonporous material.

(3) Two padded boards, 36 inches by 3 inches by 3/8 inches thick (cardboard, other malleable or inflatable splints are acceptable substitutes) with a minimum of one-half inch foam padding on one side covered with a nonporous material.

(4) Two padded boards, 15 inches by 3 inches by 3/8 inches thick (padded wire, cardboard or inflatable splints are acceptable substitutes) with a minimum of one-half inch foam padding on one side covered with a nonporous material.

(5) A head immobilization device (commercially manufactured device), blanket collar, two five-pound sandbags or other device providing equivalent immobilization of the head.

(6) One large, one medium and one small extrication collar.

(D) Wound dressings:

(1) Twenty-four sterile gauze pads, four inches by four inches.

(2) three rolls adhesive tape in assorted sizes.

(3) Six rolls conforming gauze bandages in assorted sizes, but including three-inch.

(4) Two universal dressings approximately 10 inches by 30 inches.

(5) Ten large sterile dressings, five inches by eight inches minimum.

- (6) One pair bandage shears.
- (7) Six triangular bandages.
- (8) Two liquid glucose or equivalent.
- (9) Sterile normal saline in plastic containers (1,000 cc minimum).
- (10) Two occlusive dressings.
- (11) Two sterile burn sheets.

(E) Miscellaneous equipment

- (1) Spare pillow, four sheets, two pillow cases, one blanket, in addition to linen and pillow on cot(s) or litter(s).
- (2) Six cloth hand towels.
- (3) One box facial tissues.
- (4) Two emesis containers.
- (5) Portable blood pressure cuff and stethoscope.
- (6) One male urinal and one bedpan.
- (7) Potable water, minimum five gallons.
- (8) Sterile O.B. kit.
- (9) Carrying case with compartments for essential emergency care equipment (jump kit).
- (10) One flashlight in operable condition.
- (11) One battery lantern in operable condition.
- (12) Communication equipment - two-way radio or telephone between the

emergency health care facility and an outside medical facility(s).

(F) Other miscellaneous equipment

(1) An ambulance used to meet the requirements of an emergency health care facility must be certified and equipped pursuant to sections 800.21, 800.22, 800.23 and 800.24 of the New York State Sanitary Code and must remain onsite at all times during the event except when transporting patients;

(2) An emergency health care facility shall place a placard or sign of such size and design at such location as will assure notice to the public of the emergency health care facility's identity as such; and

(3) An emergency health care facility shall be maintained at such temperature as will not endanger its ability to care for or will not further compromise the condition of either hypothermic or hyperthermic patients requiring emergency care.

## **Section 18.3 Permit required to hold or promote a public function**

(A) No person shall hold or promote, by advertising or otherwise, a public function unless a permit has been issued for said function by the permit-issuing official.

(B) Application for a permit to promote or hold a public function shall be made to the permit-issuing official, on a form and in a manner prescribed by the Commissioner, by the owner/lessor of the land or facility, and the person who will promote or hold the public function. Application for a permit to promote or hold a public function shall be made at least fifteen days before the first day of advertising and at least 30 days before the first day of the event. The application shall be accompanied by an emergency medical services operational plan complying with the requirements of this Code and any supplemental plans, reports and specifications as the permit-issuing official shall require because of concerns raised by specific circumstances pertaining to the event. In addition, the applicant shall attach to its application a copy of the crowd control plan filed or required to be filed by it with the New York State Emergency Management Office pursuant to Chapter 288 of the Laws of 1988.

(C) A permit shall be valid for the time period specified thereon.

(D) A permit may be revoked by the permit-issuing official or the Commissioner for failure to comply with the terms of the permit.

(E) A permit issued for the operation of a public function shall be posted in the emergency health care unit or function office and be made available upon request.

(F) Notwithstanding anything to the contrary contained in the foregoing subdivisions of this Section, a permit shall not be required under this Article for an event which also constitutes a mass gathering subject to the permit requirements of Part 7 of the New York State Sanitary Code, provided however that all of the other requirements of this Article shall be applicable thereto.

(G) The application for a permit shall be accompanied by the prevailing fee.

## **Section 18.4 Emergency health care requirements**

(A)

(1) For 5000 to 15000 attendees, there shall be one emergency health care facility on site, staffed by a minimum of two emergency medical technicians, one ambulance staffed by at least one emergency medical technician and the services of a physician available to the site within 15 minutes. Documentation shall be provided showing that local, municipal and public safety officials, including police, fire and local emergency medical service personnel, have been advised of the event in writing.

(2) for 15,001 to 30,000 attendees, there shall be two emergency health care facilities onsite, each staffed by two emergency medical technicians, one ambulance onsite, staffed by at least one emergency medical technician, and the services of a physician available to the site within 15 minutes. Documentation shall be provided showing that local, municipal and public safety officials, including police, fire and local emergency medical service personnel, have been advised of the event in writing.

(3) For 30,001 to 50,000 attendees, there shall be two emergency health care facilities onsite, each staffed by two emergency medical technicians, two ambulances onsite, each staffed by at least one emergency medical technician, and a physician onsite. Documentation shall be provided showing that local, municipal and public safety officials, including police, fire and local emergency

medical service personnel, have been advised of the event in writing.

(4) For over 50,000 attendees, there shall be two emergency health care facilities onsite, each staffed by two emergency medical technicians, three ambulances onsite, each staffed by at least one emergency medical technician, a physician onsite and a written statement shall be available describing the impact the event will have on public safety and emergency medical services in the area, which must include comments by local police, fire, emergency medical services personnel and other public safety officials who have jurisdiction to provide services.

(B) Any modification of staffing or the method of providing emergency health care facilities or the onsite ambulance requirement of (A)(1) of this Section is subject to approval of the permit-issuing official.

(C) Additional emergency medical services, ambulance service, equipment, supplies and personnel, as the permit-issuing official may require because of special circumstances, including but not limited to the location and nature of the event, accessibility to existing emergency medical services systems, access and weather conditions.

(D) A chronological log and individual record for each patient receiving emergency medical care shall be maintained on a form prescribed by the permit-issuing official. A copy of each report and the log are to be maintained on file by the function sponsor for seven years and available to the Department upon request.

(E) Advanced life support (ALS) services may be substituted for the physician on call or site if the ALS is at the 3 or 4 level as described in section 800.45(d) of the New York State Sanitary Code and with the approval of the permit-issuing official.

(F) The permit holder shall file any report, following the event, as may be required by the permit-issuing official.

## **Section 18.5 Miscellaneous requirements**

(A) Bleachers or similar structures at a public function must be safe. If the public function is also a place of public assembly or other place or activity subject to regulation by the New York State Department of Labor, then the permit-issuing official may seek information from that agency to aid evaluation of the safety of such structures.

(B) An adequate number of sanitary toilets and handwashing stations shall be provided,

conveniently located and maintained.

(C) An adequate number of refuse storage containers shall be provided, conveniently located and maintained. Reuse shall be disposed of in an acceptable manner.

(D) Any and all water provided at the site shall meet the requirements of Part 5 of the New York State Sanitary Code. Any water supplies which do not meet the standards shall be physically disconnected.

## **Section 18.6 Unexpected attendance**

In the event that actual attendance at a public function shall exceed the estimate used for determining the required medical equipment, supplies and personnel by more than twenty percent, it shall be the responsibility of the Permittee to immediately provide the additional equipment, supplies and personnel required herein.

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# Dutchess County Sanitary Code

## Article 19

### SEWERAGE & SEWAGE DISPOSAL WATER POLLUTION CONTROL

#### Section 19.1 Definitions

(A) The term "Applicable Water Quality Standards and Effluent Standards and Limitations" means all State and Federal water quality standards and limitations to which a discharge is subject under the Federal Water Pollution Control Act, or under State law including but not limited to water quality standards, effluent limitations, standards of performance and pretreatment standards.

(B) The term "Chemical Toilet" means a facility or structure providing for the temporary storage of human waste and excreta in a water-tight container which contains chemicals for the treatment of such excreta.

(C) The term "Commissioner" means the Dutchess County Commissioner of Health or appointed designee.

(D) The term "Communal Sewerage System" means a system utilized for the collection and disposal of sewage, including the various devices for the treatment of such wastes, owned and operated by a person other than a municipality or sewerage works corporation and not an individual or public sewerage system, and which may serve three (3) families or more, greater than ten (10) people or having a flow of one thousand (1000) gallons or greater per day.

(E) The term "County" means the County of Dutchess.

(F) The term "Individual Sewerage System" means a system of piping, tanks or other facilities serving any premises or having a flow of less than one thousand (1000) gallons per day.

(G) The term "Industrial Wastes" means any liquid, gaseous, solid or waste substance or

a combination thereof resulting from any process of industry, manufacturing, trade or business or from the development or recovery of any natural resources which may cause or might reasonably be expected to cause a nuisance, danger or hazard or pollution of the waters of Dutchess County and which is determined by the Commissioner to be dangerous or prejudicial to public health and safety.

(H) The term "Offensive Material" means any sewage, fecal matter, offal, garbage, dead animals, meat wastes, blood, tankage, brine, urine or any putrescible organic matter or the contents of privies, cesspools, septic tanks or chemical toilets, either in liquid or solid state, or any other substance or liquid, which is determined by the Commissioner to be dangerous or prejudicial to public health and safety.

(I) The term "Other Wastes" means shavings, bark, sand, lime, salt, ashes, petroleum products, tar, dyestuffs, acids, chemicals, and all other discarded matter not sewage, industrial wastes, or offensive material which is determined by the Commissioner to be dangerous or prejudicial to public health and safety.

(J) The term "Permittee" means the holder of a SPDES or Dutchess County Health Department permit.

(K) The term "Person" means 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 other legal entity whatsoever and includes the plural as well as the singular.

(L) The term "Point Source" means any discernible, confined or discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft, from which pollutants are or may be discharged.

(M) The term "Pollution Hazard" means a condition resulting from the entry of wastes into any of the waters of Dutchess County whereby:

(1) The quality of such waters may be adversely affected in their use for bathing, drinking, culinary and other water supply uses; or

(2) A situation determined by the Commissioner of Health to be prejudicial to the health and safety of the public.

(N) The term "Privy" means a facility or structure provided for the use of persons and the storage of human wastes and excreta.

(O) The term "Public Sewerage System" means the whole or any part of a system or facilities or means for the collection, treatment or modification or ultimate disposal of water-borne sewage or domestic wastes or trade wastes or industrial waste or offensive material regardless of location with respect to any building or structure or premises thereby served; and shall include but shall not be limited to facilities for the treatment or modification or required control of harmful or deleterious substances.

(P) The term "Sanitary Sewer" means a system of piping or other facilities used for the collection and transportation of wastes to a communal sewerage system, individual sewerage system or public sewerage system under the control of the person owning or responsible for the communal sewerage system, individual sewerage system or public sewerage system or jurisdiction of the Department of Health.

(Q) The term "Sewage" means water-carried human or animal wastes, human excreta, including laundry wastes from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present and shall include any admixture with industrial wastes or other wastes.

(R) The term "Sewerage System" means any individual, public or communal sewerage system.

(S) The term "State" means the State of New York.

(T) The term "SPDES" means State Pollutant Discharge Elimination System and all pertinent applications, forms, permits and reporting forms.

(U) The term "Waters" or "Waters of the State" shall be construed to include lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, and all the ground waters which are either wholly or in part within the County of Dutchess or which touch any part of the land within the County of Dutchess.

## **Section 19.2 Sewage system connections**

(A)

(1) Sewage from any building or premises shall be discharged directly into a sewerage system.

(2) Sewage from any building which is part of a group or complex of buildings consisting of at least two (2) buildings on a single lot or plot, the buildings and land being under one ownership, may discharge into a sanitary sewer under the same ownership on such lot or plot; provided, however, that such sanitary sewer shall discharge directly into a sewerage system.

(B)

(1) When a public or communal sewerage system becomes available and accessible, as shall be determined by the Commissioner, any building or premises not connected to such public sewerage system may be required to be connected to such public sewerage system and the use of any other sewerage system or facility shall be discontinued and every tank or pit in such system shall be opened, emptied of any sewage and be completely filled with inert material so as to prevent accidents.

(2) Where a public or communal sewerage system is available and accessible, the Commissioner may order the owner of any property not connected to such public or communal sewerage system to connect to the public or communal sewerage system and to abandon any other existing but failing means of disposal of sewage, industrial wastes and offensive material.

## **Section 19.3 Public and communal system, construction and approval, permits**

(A)

(1) No person shall make, install, construct, modify or place in operation or allow to be made, installed, constructed, modified or placed in operation, a public or communal sewerage system or any part thereof without first having obtained a State Pollutant Discharge Elimination System permit from the appropriate government agency and a written approval of plans and specifications from the appropriate governmental agency and/or the Commissioner.

(2) No person shall make, install, construct, modify or place in operation or allow to be made, installed, constructed, modified or placed in operation, a sanitary sewer

under the jurisdiction of the Department without first having obtained written approval of plans from the Commissioner.

(B) All components of a sanitary sewer and public and communal sewerage systems under the jurisdiction of the Department shall be maintained in an acceptable manner and operating condition in accordance with the design, construction and approval and any amendments and modifications thereof.

(C) All sanitary sewers and public and communal sewerage systems under the jurisdiction of the Department shall be operated and maintained in accordance with required State Pollutant Discharge Elimination System permits and any other approvals.

## **Section 19.4 Public and communal systems, certificate of construction compliance**

(A) No sanitary sewer, public sewerage system or communal sewerage system approved by the department shall be placed in operation until a certificate of construction compliance and/or permit has been issued by the Commissioner.

(B) A certificate of construction compliance and/or permit may be issued upon receipt of a certification in writing by a licensed Professional Engineer, or other professional person licensed for such purposes, stating that the system has been installed under their direction and responsibility and in accordance with the terms and conditions of the permit to construct, certificate of approval, or approved plans or any approved amendments thereto.

## **Section 19.5 Individual sewerage system, permit to construct or permit to discharge**

(A) No person shall make, install, construct, modify or place in operation or allow to be made, installed, constructed, modified or placed in operation any individual sewerage system or to construct such system to serve any existing building or structure until a permit has been issued and/or approval granted by the Commissioner.

(B) No person shall make, install, construct, modify or place in operation or allow to be made, installed, constructed, modified or placed into operation, any individual sewerage system for which a SPDES permit is required until such permit has been duly issued.

(C) Application for a permit and/or approval to construct an individual sewerage system shall be made on forms prescribed by the department and pursuant to the rules and regulations adopted by the Commissioner.

(D) Applicants for the aforesaid permits and/or approval may be required to submit satisfactory evidence that there is not a public sewerage system or communal sewerage system available and accessible to the building site to be served.

(E) Applications for permits and/or approvals required by this Section may be required to be accompanied by engineering reports, plans and specifications and other information as the department may require.

(F) The Commissioner may require that a representative of the Health Department be present during the performance of tests conducted to determine the characteristics of the soil on the building site and the depth to ground water and rock.

(G) Plans and specifications for an individual sewerage system may be required to be prepared by a licensed Professional Engineer or other professional person licensed for such purpose. Individual sewerage systems shall be designed, constructed and maintained in accordance with the Standards of the New York State Health Department and all additional requirements of the Dutchess County Department of Health.

(H) A written permit and/or approval issued by the Commissioner to construct an individual sewerage system shall terminate and thereafter be null and void unless construction is undertaken within five (5) years of the date of issuance.

(I) The Commissioner shall require and be furnished with proof that any individual sewerage system and sanitary sewer to be constructed for the disposal of sewage from two (2) or more buildings will be properly operated and maintained.

(J) The provisions of this Section as determined by the Commissioner may be applicable to any existing building or structure for which any alteration, modification or change of use or method, purpose or intensity of operation is contemplated or effective.

(K) All individual sewerage systems which have been issued a SPDES permit shall comply with the provisions of said permit.

## **Section 19.6 Sewerage system, construction and**

# inspections

(A) No sewerage system shall be constructed otherwise than in accordance with the plans and specifications or amendments thereto filed with and approved by the Commissioner.

(B)

(1) The Commissioner shall be notified prior to construction date and after completion of construction.

(2) The Commissioner may inspect any sewerage system at any time during or after construction, and the Commissioner may prohibit the operation or use of the system until he is satisfied that it is adequate for the purpose for which intended and that it is constructed in accordance with the approved plans or approved amendments thereto.

(C)

(1) A permit or approval to construct or an approval of plans for a sewerage system shall be subject to modification or change as may be directed in writing by the Commissioner due to conditions found prior to or during construction.

(2) The Commissioner may require all or part of the construction to cease until approval of the required modification or change has been obtained.

(D)

(1) Whenever inspection indicates the construction of a sewerage system to be otherwise than in accordance with this Article, or the conditions of any permit or approval of plans issued pursuant thereto or the Standards applicable to said construction, all work shall cease upon written notice served upon any person connected with or working in or about the said system or any part thereof, or by registered or certified mail to the last recorded address of the person named in such permit to construct or the approval of plans for such system.

(2) After service of a written notice to cease construction of a sewerage system as herein provided, no further work shall be done other than to remedy such violation and to proceed with work in compliance with the aforementioned requirements,

provided that the Commissioner determines that the work may properly proceed.

(3) In the event that the remedial construction of a sewerage system does not result in the removal of the violation or violations and further construction does not proceed in accordance with the terms and conditions of the original permit or approval to construct or approval of plans for the system or approved amendments thereto, the permit or approval to construct or approval of plans for the system shall terminate and be deemed null and void, and no further work shall be undertaken until a new permit or approval to construct or approval of plans for such system shall have been obtained.

## **Section 19.7 Sewerage system, operation**

(A) No person shall operate or maintain any sewerage system so as to expose or discharge the sewage contents or other deleterious liquid or matter therefrom to any waters of the State, to the atmosphere, or on the surface of the ground or into any storm sewer or drain or so as to cause a pollution hazard, unless an approval and/or permit for such discharge shall have been issued therefor in accordance with the provisions of this Article or other provisions of law.

(B) Wastes, including storm water, other than sewage or other wastewater for which a sewerage system was designed, shall not be discharged into such sewerage system.

(C) When a sewerage system is no longer to be used, it shall be abandoned and every tank or pit in such system shall be opened, emptied of any sewage, and placed in a condition so that it will not cause a nuisance or health hazard, and so as to prevent accidents.

## **Section 19.8 Sewerage system, failure in operation**

(A) In the event of the failure of operation of any sewerage system, the owner, operator, lessee or other person in control of the building or structure served thereby shall forthwith cause an investigation to be made with respect to such failure and shall place the system in a proper and sanitary operating condition acceptable to the Commissioner within such period of time as may be determined by the Commissioner to be reasonable to perform such work.

(B) In the event the owner, lessee or other person in control of a building served by a sewerage system is not subject to or available for legal process, the occupant of the

premises, because of continued usage, shall be responsible for the maintenance of the sewerage system in a satisfactory and sanitary condition during such occupancy.

(C) Nothing herein contained shall be construed to exempt an offender from any other prosecution or penalty provided by law.

## **Section 19.9 Sewerage system, approval not a guarantee**

The issuance of any approval, permit or certificate of construction compliance issued pursuant to the provisions of this Article with respect to a sewerage system shall not in any way be construed to restrict the actions or powers of the Commissioner in the enforcement of any law or regulations.

## **Section 19.10 Harmful or deleterious substances**

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

## **Section 19.11 Exposure of sewage, offensive material, industrial waste**

No person shall construct or maintain any sewerage system, privy, cesspool, pipe or drain so as to expose or discharge the sewage contents, offensive material or other deleterious liquid or matter therefrom into the waters of the State or to the atmosphere or on the surface of the ground or into any storm sewer or drain, nor so as to endanger any source of supply of water, nor so as to discharge into any water course or body of water, unless approval and/or permit for such discharge shall have been issued therefor in accordance with the provisions of this Article or other provisions of law.

## **Section 19.12 Records of operation**

(A) Complete daily records shall be maintained for any facility requiring a permit to operate from the Department of the operation of any sewerage system with a surface or surface water discharge.

(B) A copy of such records shall be forwarded to the Commissioner at the end of each month of operation but not later than the tenth (10th) day of the following month.

## **Section 19.13 Water pollution control, general prohibitions**

(A) It shall be unlawful for any person, directly or indirectly, to discharge or allow to be discharged into the waters in Dutchess County any offensive material, industrial wastes or other wastes that shall cause or contribute to a condition which causes, or may reasonably be expected to cause a pollution hazard.

(B) Garbage, ashes, oils, sludge or refuse of any kind shall not be thrown, dumped or permitted to run into the waters in Dutchess County from any vessel or building that shall cause or contribute to a condition which causes or may reasonably be expected to cause a pollution hazard.

## **Section 19.14 Privies and chemical toilets**

(A) No new or modified privy shall be constructed and used unless written approval shall have been obtained from the Commissioner or his duly authorized representative.

(B) No person shall hereafter construct, provide and use any chemical toilet unless it is constructed and maintained so that all human excreta is received in a water-tight vault or receptacle wherein the contents are continuously subjected to an effective disinfectant and odor depressant.

(C) The Commissioner or his duly authorized representative may require the use of any existing privy to be discontinued, the contents removed and the pit filled with inert material whenever the use of such privy is no longer necessary or whenever such privy is located, constructed or maintained otherwise than in conformity with the provisions of law, the State Sanitary Code, or this Article; or creates a nuisance.

(D) All privies, chemical toilets and other similar facilities shall be properly enclosed and screened, ventilated, lighted, kept in repair and shall be maintained at all times in a clean and sanitary condition and have an adequate supply of toilet paper.

(E) No privy, chemical toilet or other similar facility shall be constructed under or within any building or structure intended or used for human occupancy.

## **Section 19.15 Vessels, moored or underway**

No person operating or maintaining a ship, boat or other waterborne vessel operating or sailing on the waters located within the jurisdiction of Dutchess County shall cause or permit the discharge of offensive material into the waters in Dutchess County.

## **Section 19.16 Orders to abate water pollution**

When the entry of sewage, industrial waste, or other wastes or other substances are not permitted to be discharged into the waters of Dutchess County or to the surface of the ground, the Commissioner shall serve an order upon the person who controls the source of and/or conduit of such waste, or is otherwise responsible for such waste, directing:

(A) That the discharge of such waste into the waters or to the surface of the ground be discontinued; or

(B) That the waste be treated before being so discharged; or

(C) That other measures be taken so that the pollution hazard is abated.

## **Section 19.17 Construction of Article**

(A) Nothing contained in this Article shall be construed to mean that the Department has approved the functional ability or adequacy of the system or systems approved pursuant to the provisions of this Article.

(B) The Commissioner may, on written application and after review, grant a waiver or variance from a specific provision of this Article. A variance or waiver may be subject to appropriate conditions. A variance may include a time schedule for compliance where such variance is in harmony with the general purpose and intent of this Article.

# **Section 19.18 Modification of Commissioner's Order**

(A) An Order issued by the Commissioner pursuant to this Article shall take effect within the period specified in the Order.

(B) The Commissioner may postpone from time to time the effective date of an Order served pursuant to this Article, if such postponement will not result in an immediate danger to the public health; provided, however, that no postponement shall be granted unless the Commissioner has determined that the construction, change in treatment or other control measures which may be required to insure compliance with the Order cannot be completed within the time prescribed by the original effective date because of physical or engineering difficulties, the shortage of necessary materials or other reasons acceptable to the department.

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# Dutchess County Sanitary Code

## Article 20

### LEAD POISONING CONTROL ENVIRONMENTAL ASSESSMENT AND ABATEMENT

#### Section 20.1 Definitions

(A) The term "Dwelling" means all buildings or structures or portions thereof that are on or appurtenant to a property which is occupied in whole or in part as the home, residence or sleeping place of one or more human beings, including child care facilities for children under six years of age, kindergartens and nursery schools.

(B) The term "Condition Conducive to Lead Poisoning" means: (i) the presence of lead paint or other similar surface coating on any accessible mouthable surface or any other surface in a condition accessible for ingestion or inhalation, where peeling, cracking, blistering, flaking, chipping or powdering of such paint or similar surface coating material occurs or is likely to occur; and/or (ii) the presence of other environmental conditions which may result in significant lead exposure.

(C) The term "Accessible Mouthable Surfaces" are those surfaces located within five feet of the floor or ground that form a protruding corner or similar edge or protrude one-half inch or more from a flat wall surface or are located so that a child may place his or her mouth on a protruding surface.

(D) The term "Child Care Facilities" means any facility licensed by the State Department of Social Services and/or Dutchess County Department of Health to offer or provide day care services or child care and any public or private schools attended by children six years of age or younger.

(E) The term "Lead Paint" means paint, plaster or other surface coating material containing more than one-half of one percent of metallic lead based on the total weight of the contained solids or dried film of the paint or plaster or other similar surface coating material.

(F) Other definitions set forth in Subpart 67-2, Chapter 11, New York State Department of Health Administrative Rules and Regulations and as amended are hereby adopted and become part of the Dutchess County Sanitary Code.

## **Section 20.2 Use of lead paint**

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

## **Section 20.3 Environmental Investigation**

Environmental investigation shall be in accordance with Subpart 67-2, Chapter 11, New York State Department of Health Administrative Rules and Regulations, Lead Poisoning Control, Environmental Assessment and Abatement, and as amended.

## **Section 20.4 Sampling for lead**

Sampling for lead shall be in accordance with Subpart 67-2, Chapter 11, New York State Department of Health Administrative Rules and Regulations, Lead Poisoning Control, Environmental Assessment and Abatement, and as amended.

## **Section 20.5 Environmental testing and reporting**

Environmental testing and reporting shall be in accordance with Subpart 67-2, Chapter 11, New York State Department of Health Administrative Rules and Regulations, Lead Poisoning Control, Environmental Assessment and Abatement, and as amended.

## **Section 20.6 Notice and demand**

Notice and demand shall be in accordance with Subpart 67-2, Chapter 11, New York State Department of Health Administrative Rules and Regulations, Lead Poisoning Control, Environmental Assessment and Abatement, and as amended.

## **Section 20.7 Environmental intervention and abatement**

Environmental intervention and abatement shall be in accordance with Subpart 67-2, Chapter 11, New York State Department of Health Administrative Rules and Regulations, Lead Poisoning Control, Environmental Assessment and Abatement, and as amended.

## **Section 20.8 Enforcement**

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.

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# Dutchess County Sanitary Code

## Article 21

### HOUSING HYGIENE AND OCCUPANCY

#### Section 21.1 Definitions

(A) The term "Accessory Unit" means a detached structure located on or partially on any premises which is not used or intended to be used for living or sleeping by human occupants.

(B) The term "Adequate" shall mean sufficient to accomplish the purpose for which something is intended and to such a degree that no unreasonable risk to health or safety is presented. An item installed, maintained, designed and assembled, an activity conducted, or act performed, in accordance with generally accepted standards, principles or practices applicable to a particular trade, business, occupation or profession, is adequate within the meaning of this Article.

(C) The term "Approved" means approved by the Commissioner.

(D) The term "Central Heating System" means a single system supplying heat to one or more dwelling unit or units or more than one rooming unit or units.

(E) The term "Commissioner" means the Dutchess County Commissioner of Health.

(F) The term "Condition Conducive to Lead Poisoning" means the presence of lead paint or other similar surface coating on any mouthable or any other surface in a condition accessible for ingestion or inhalation, where peeling, cracking, blistering, flaking, chipping or powdering of such paint or similar surface coating material occurs or is likely to occur; and/or the presence of other environmental conditions which may result in significant lead exposure.

(G) The term "Dwelling" means any building or structure which is wholly or partly used or intended to be used for living or sleeping by human occupants, except those regulated under Article 7 or Article 15 of this Code.

(H) The term "Dwelling Unit" means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating, except those regulated under Article 7 or Article 15 of this Code.

(I) The term "Egress" means a place or means of going safely to the outside of a dwelling or building.

(J) The term "Extermination" means the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the local or State authority having such administrative authority.

(K) The term "Family" means one adult person plus one or more persons who are legally related to said person and residing in the same dwelling unit with said person.

(L) The term "Garbage" means the animal and vegetable waste resulting from the handling, preparation, cooking, serving and non-consumption of food.

(M) The term "Guest" means any person who shares a dwelling unit in a non-permanent status for not more than thirty (30) days.

(N) The term "Habitable Room" means a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, furnace rooms, pantries, kitchenettes and utility rooms of less than fifty (50) square feet, foyers or communicating corridors, stairways, closets and storage spaces and workshops, hobby and recreational areas in unsealed or un-insulated parts of structures below ground level or in attics.

(O) The term "Heated Water" means water heated to a temperature of not less than one hundred twenty degrees (120°) Fahrenheit.

(P) The term "Heat Producing Equipment" shall include but not be limited to furnaces, boilers, hot water heaters and stoves used for heating purposes.

(Q) The term "Household" means a family or one or more related persons, or both, who share the same dwelling and use some or all of its cooking and eating facilities, including servants and not more than two (2) board- ers.

(R) The term "Infestation" means the presence within or around a dwelling of any insects, rodents or other pests.

(S) The term "Multiple Dwelling" means any dwelling containing more than two dwelling units.

(T) The term "Occupant" means any person living, sleeping, cooking or eating in or actually having possession of a dwelling unit or a rooming unit; except that in dwelling units, a guest will not be considered an occupant.

(U) The term "Operator" means any person who has charge, care or control of a building or part thereof in which there are dwelling units or rooming units.

(V) The term "Owner" means any person who, alone or jointly or severally with others, shall have legal title to any dwelling or dwelling unit with or without accompanying actual possession thereof; or shall have charge, care or control of any dwelling or dwelling unit as owner, lessee, mortgagee or vendee in possession, assignee of rents, or as a receiver, or an executor, administrator, trustee, or guardian of the estate of the owner and for the purposes and requirements of the provisions of this Article shall include any agent of any dwelling or dwelling unit.

(W) The term "Permissible Occupancy" means the maximum number of persons permitted as family or household to reside in a dwelling unit or rooming unit based on the square feet per person in habitable rooms.

(X) The term "Person" means and includes any individual, firm, public or private corporation, municipality, political subdivision, association, trust, estate, agency, board, department or bureau of a municipality, partnership or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

(Y) The term "Plumbing" means and includes all of the gas pipes, gas burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, catch basins, drains, vents, and any other similar supplied fixtures together with all connections to water, sewage or gas lines and similar equipment supplied by the owner.

(Z) The term "Premises" means a platted lot or part thereof or unplatted lot or parcel of land or plot of land, whether or not it has erected thereon a dwelling or non-dwelling structure and includes any building, accessory structure or other structure thereon.

(AA) The term "Privacy" means the ability of a person or persons to carry out an activity without interruption or interference, either by sight or sound, by persons outside of the household.

(BB) The term "Refuse" means all waste material, including but not limited to offensive material, garbage, rubbish, incinerator residue, street sweepings, dead animals and offal.

(CC) The term "Refuse Container" means a water-tight container constructed of metal or of durable material impervious to water, rodents, insects and other pests that is capable of being serviced without creating unsanitary or unsafe conditions.

(DD) The term "Rooming House" means any dwelling or Bed and Breakfast with three or more rooming units or part of any dwelling containing three or more rooming units.

(EE) The term "Rooming Unit" means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping but not for cooking or eating purposes.

(FF) The term "Rubbish" means solid or liquid waste material, including but not limited to paper and paper products, rags, furniture, cans, crockery, plastic cartons, plastics, chemicals, paint, greases, sludges, oils and other petroleum products, wood, demolition materials and tires.

(GG) The term "Safety" means the condition of being reasonably free from danger and hazards which may cause accidents or disease.

(HH) The term "Supplied" means paid for, furnished, provided for or under the control of the owner or operator.

(II) Whenever the words "dwelling", "dwelling unit", "rooming house", "rooming unit", "premises", "structure" are used in this Article, they shall be construed as though they were followed by the words, "or any part thereof".

(JJ) Words used in the singular include the plural and the plural, the singular; the masculine gender includes the feminine, and the feminine, the masculine.

## **Section 21.2 Declaration of policy**

(A) There exists, or may in the future exist, within the County, dwellings, dwelling units,

rooming houses or parts thereof which, by reason of their structure, equipment, sanitation, maintenance, use or occupancy, affect or are likely to affect adversely the public health, safety and general welfare of persons residing in the County.

(B) To correct and prevent the existence of adverse conditions here and above referred to and to achieve and maintain such levels of residential environmental quality as will protect and promote public health, safety and general welfare, the establishment and enforcement of minimum housing standards is required.

(C) It is hereby declared that the intent of the provisions of this Article is to protect, preserve and promote the physical and mental health and social well-being of the people, to minimize the incidence of communicable diseases, to regulate privately and publicly owned dwellings for the purpose of maintaining adequate sanitation and public health and to protect the safety of the people and to promote the general welfare by regulations which shall be applicable to all dwellings now in existence or hereafter constructed and to insure that the quality of housing is adequate for the protection of public health and safety and general welfare of persons in the County.

(D) To achieve the purposes herein set forth, minimum standards for basic equipment and facilities for healthy living, setting forth the responsibilities of owners, agents, operators and occupants of dwellings and provisions for administration and enforcement thereto are established by the provisions of this Article and other applicable provisions of this Code and the New York State Sanitary Code.

## **Section 21.3 Applicability, construction**

(A) The provisions of this Article shall apply to all dwellings, dwelling units, habitable rooms and rooming units, as more fully provided for in this Code.

(B) It is intended that the application of the provisions of this Article be consistent with the provisions of applicable State and local laws, codes, rules and regulations; provided, however, that, where the provisions of this Article are more restrictive, they shall govern; and where the provisions of such applicable State or local laws, codes, rules and regulations are more restrictive, they shall govern.

## **Section 21.4 Fitness for human habitation, abatement, Commissioner's Orders**

(A) Whenever any building or part thereof shall become unsanitary or any dwelling shall become so unsanitary as to be unfit for human habitation, or whenever occupancy of a building or dwelling shall cause an unsanitary condition on or adjacent to the premises thereof, the Commissioner may issue an Order requiring the owner, agent and occupants of the premises to abate said nuisance or condition and to place said building or dwelling in a sanitary or habitable condition within the time specified in said Order.

(B) Whenever the Commissioner finds that any dwelling constitutes a hazard to the health and safety of the occupant or to the public because it is dilapidated, unsanitary, vermin-infested, lacking the facilities required by this Article, or constitutes a nuisance or condition detrimental to life or health, he shall designate such dwelling unfit for human habitation, order the dwelling vacated and shall cause to be posted on the main entrance of any dwelling so vacated a placard with the following statement or equivalent language: "USE OF THIS BUILDING FOR HUMAN HABITATION IS PROHIBITED AND UNLAWFUL." If the owner fails to comply with an Order issued by the Commissioner to bring the dwelling into compliance with the requirements of this Article within a reasonable time, the Commissioner may order such dwelling to be removed or demolished as provided for by applicable State law and laws and regulations of the Town, Village, City or County having jurisdiction. The provisions of this Section are applicable also to unoccupied dwelling units and the owners thereof shall be required to comply.

(C) Upon the failure of the owner, operator, agent or occupant of any premise to comply with the Order of the Commissioner issued pursuant to this Section, the Commissioner after a hearing may issue a further Order, to be affixed conspicuously upon such building or dwelling and to be served upon the owner, operator, agent and occupant, requiring all persons to vacate such building or dwelling and to discontinue its use at such time as shall be stated in said Order and until such time as the nuisance or condition shall be abated; and, upon the failure of such building or dwelling to be vacated within the time specified in the said Order, the Commissioner may issue a warrant to the Sheriff of the County or any local enforcement official, pursuant to this Code, directing that such building or dwelling shall be vacated and the Sheriff shall forthwith execute such warrant pursuant to law.

(D) If the owner, operator, agent or occupant of any premises whereon or wherein a nuisance or condition detrimental to life or health exists fails to abate such nuisance or condition detrimental to life or health, after the service of the Order or Orders herein provided for, within a reasonable time or within the period provided for in the Order, the Commissioner or his duly authorized representative may enter upon the premises to which such Order or Orders relate and suppress or remove such nuisance or condition, upon compliance with appropriate statute.

## **Section 21.5 Inspections**

(A) The Commissioner or his duly authorized representative, may, without fee or hindrance, make inspections to determine the condition of dwellings, dwelling units, rooming houses, rooming units, and the premises on which they are located in order to fulfill the purposes of this Article.

(B) For the purpose of making inspections herein provided for, the inspector is hereby authorized to enter, examine and survey all dwellings, dwelling units, rooming houses and rooming units and the premises on which they are located; provided, however, that, except in the circumstances of emergency or where authorized by other law or for the convenience of the occupant or owner, such inspection shall be made between the hours of 8:00 a.m. and 5:00 p.m. unless the owner, operator, agent or occupant otherwise permits.

(C) The owner, operator, agent and occupant shall give the inspector free access to the premises on which they are located for the purpose of such inspection.

## **Section 21.6 Responsibilities of owner, operator, agent and occupants**

(A) No owner, operator, agent or other person shall occupy or let to another person any vacant dwelling or dwelling unit unless it and the premises are clean, sanitary, fit for human occupancy and comply with the requirements of this Article and all applicable laws.

(B) Every owner, operator and agent of a rooming house or dwelling containing two (2) or more dwelling units shall maintain in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

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

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

(E) Every occupant of a dwelling or dwelling unit shall store or dispose of all his garbage

or any other organic waste which might provide food for insects or rodents in a clean, sanitary and safe manner; and, if a container is used for storage pending collection, it shall be rodent- proof, insect-proof and watertight.

(F) Every owner, operator and agent of a dwelling containing three (3) or more dwelling units shall supply facilities or containers for the sanitary and safe storage and/or disposal, or both, of rubbish and garbage; and, in single or two-family dwellings, it shall be the responsibility of the occupant to furnish such facilities or containers unless the rental agreement states otherwise. In a dwelling containing three (3) or more dwelling units or rooming units, the owner, operator or agent shall be responsible for the removal and collection of rubbish and garbage unless the rental agreement states otherwise.

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

(H) Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested; provided, however, that. whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent-proof or reasonably insect-proof condition, extermination shall be the responsibility of the owner; and whenever infestation exists in two (2) or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two (2) or more dwelling units, extermination thereof shall be the responsibility of the owner.

(I) Every occupant of a dwelling unit shall keep all plumbing fixtures in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

(J) Every occupant or person having possession, custody or control of any domestic animal or pet in any dwelling or dwelling unit or any part thereof shall keep the premises and such animal or pet in a clean and sanitary manner and under control.

(K) No person shall feed in the open any domestic or wild fowl, birds or animals other

than in a suitable container and in such manner so as to prevent scattering of food upon the ground or ground level which can or will provide food for rodents, insects, vermin or other pests.

(L) Every occupant of a dwelling or dwelling unit shall store and dispose of accumulated rubbish, boxes, lumber, scrap metal or any other materials in such a manner as to prevent rodent harborage in or about any dwelling or dwelling unit. Materials shall be stacked neatly in piles elevated at a level high enough to permit effective cleaning.

(M) Every owner of a dwelling containing three (3) or more dwelling units shall supply facilities or make provisions for the storage and disposal of accumulated rubbish, boxes, lumber, scrap metal or any other materials in such a manner as to prevent rodent harborage in or about the shared or public areas of a dwelling or its premises. Materials shall be stacked neatly in piles elevated at a level high enough to permit effective cleaning.

(N) Every occupant of a single or two-family dwelling shall make provisions for the storage and disposal of accumulated rubbish, boxes, lumber or other materials and flammable materials so that they are not a fire safety hazard.

(O) Every owner of a dwelling containing three (3) or more dwelling units shall make provisions for the storage and disposal of accumulated rubbish, boxes, lumber or other materials and flammable materials so that they are not a fire safety hazard.

(P) Buildings, structures and open areas of premises shall be maintained free of insect, vermin and rodent harborage and infestation.

## **Section 21.7 Equipment and facilities, minimum standards**

(A) No person shall occupy as owner or occupant or lease or let to another person any dwelling or dwelling unit for the purposes of living, sleeping, cooking or eating therein which does not have a kitchen or room or portion of a room in which food may be prepared and cooked, water closet, lavatory, sink, bathtub or shower facilities, and which rooms, equipment and facilities do not meet the requirements of this Section.

(B) Every kitchen or room or portion of a room in which food may be prepared or cooked shall be equipped with:

(1) Kitchen sink in good working condition and properly connected to a water supply system which is approved by the Department and which provides at all times an adequate amount of heated and unheated running water under adequate pressure and which is connected to a sewer system approved by the Department; and

(2) Cabinets or shelves or both for the storage of eating, drinking and cooking equipment and utensils and food that does not require refrigeration for safe keeping; a counter or table for food preparation; said cabinets or shelves or both and counter or table shall be sufficient for the permissible occupancy of the dwelling unit and shall be of sound construction furnished with surfaces that are easily cleanable and that will not impart any toxic or deleterious effect to food; and

(3) An adequate stove or similar device for cooking food and an adequate refrigerator for the safe storage of food at temperatures at or below forty- five degrees Fahrenheit but more than thirty-two degrees Fahrenheit, which are properly installed with all necessary connections for safe, sanitary and efficient operation; provided that such equipment need not be installed when a dwelling unit is not occupied or when the occupant is expected to provide same on occupancy and sufficient space for the safe and efficient installation and operation of said equipment is provided.

(C) Within every dwelling unit there shall be a non-habitable room which affords privacy to a person within said room and which is equipped with a flush water closet in good working condition. Said flush water closet shall be connected to a water system that at all times provides an adequate amount of running water under adequate pressure to cause the water closet to be operated properly and shall be connected to a sewer system which is approved by the Department.

(D)

(1) Within every dwelling unit there shall be a room which affords privacy to a person within said room which is equipped with a lavatory sink, which lavatory sink may be in the same room as the flush water closet or in another room; provided that, if located in a room other than the one containing the flush water closet, the water closet shall be located in close proximity to the door leading directly into the room in which said lavatory sink is located.

(2) The lavatory sink shall be in good working condition and properly connected to a water supply which is approved by the Department and which provides at all

times an adequate amount of heated and unheated running water under adequate pressure and which is connected to a sewer system approved by the Department.

(E) Within every dwelling unit there shall be a room which affords privacy to a person within said room and which is equipped with a bathtub or shower in good working condition. The bathtub or shower may be in the same room as the flush water closet or in another room and shall be properly connected to a water supply system which is approved by the Department and which provides at all times an adequate amount of heated and unheated running water under adequate pressure and which is connected to a sewer system approved by the Department.

## **Section 21.8 Light and ventilation**

(A) No person shall occupy as owner, occupant or lease or let to another person for occupancy any dwelling or dwelling unit for the purposes of living therein, unless it complies with the minimum standards as required by the provisions of this Section pertaining to light and ventilation.

(B)

(1) Every habitable room shall have at least (1) window or skylight facing directly outdoors.

(2) The minimum total window or skylight area, measured between stops, for every habitable room shall be at least ten percent (10%) of the floor area of such room.

(3) Whenever outside walls or other portions of structures face a window of any such room and such light obstruction structures are located less than three (3) feet from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area.

(C)

(1) Every habitable room shall have at least one (1) window or skylight which can be easily opened or such other device as will adequately ventilate the room.

(2) The total of openable window area in every habitable room shall be equal to at least forty-five percent (45%) of the minimum window area size or minimum skylight

type window size as required and approved by the Department.

(D) Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms contained in this Section, except that no window or skylight shall be required in adequately ventilated bathrooms and water closet compartments equipped with a ventilation system which is approved by the Department.

(E) Where there is electric service available, every dwelling unit and all public and common areas shall be supplied with electric service, outlets, switches and fixtures.

(1) Such outlets, switches and fixtures shall be properly installed, maintained in good and safe working condition, and connected to the source of electric power in a manner prescribed by law. Extension cords shall not be maintained and used in a hazardous manner and shall be used in a capacity as rated.

(2) The capacity of such service and the number of outlets and fixtures shall be as follows:

(a) Every habitable room shall have an electric service and outlets or fixtures or both capable of providing at least three (3) watts per square foot of floor area.

(b) Every habitable room shall have at least one (1) floor or wall-type electric convenience outlet for sixty (60) square feet or fraction thereof of floor area and in no case less than two (2) such outlets.

(c) Every water closet compartment, bathroom, laundry room, furnace room and public hall shall contain at least one (1) supplied ceiling or wall-type electric light fixture.

(d) Convenient switches for turning on one (1) light in each room or passageway shall be located so as to permit the area ahead to be lighted.

(e) The size of electrical wire shall be adequate and connected to outlets, switches and fixtures as required by the appropriate electrical code, standards and guidelines.

(f) All service, fuse and circuit breaker panels shall be installed and maintained as required by the appropriate electrical code, standards and guidelines.

(g) The electric service, wiring and fixtures shall be in good repair and safe condition. Where conditions indicate a need for inspection, the electrical service and wiring shall be inspected by a qualified electrical inspector and a copy of the inspection report and/or certificate of approval shall be submitted to the Commissioner. The Commissioner may have the option to accept an inspection and report by a person deemed qualified to do so.

## **Section 21.9 Public hall and stairway lighting**

(A) Every public hall and stairway in every multiple dwelling shall be adequately lighted at all times so as to provide at least ten (10) foot-candles of light at the tread or floor level.

(B) Every public hall and stairway in structures containing not more than two (2) dwelling units shall be supplied with conveniently located light switches controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting.

## **Section 21.10 Egress, sprinkler system**

(A) Every dwelling unit in a one or two-family dwelling shall have at least one (1) approved means of egress and a second approved means of egress for each floor above the second where there is living above the second floor; and every multiple dwelling shall have two (2) or more approved means of egress remotely located from each other leading from each floor leading to safe and open space at ground level, as required by law.

(B) A sprinkler system satisfactory to the Department may be substituted in lieu of one (1) means of egress, provided that no existing State or local statute or applicable fire safety standards are contravened.

## **Section 21.11 Exposed sewage**

(A) The presence of sewage upon the surface of the ground at any dwelling, dwelling unit, rooming house or other occupied house or premise is prohibited.

(B) It shall be unlawful for improperly treated sewage to be discharged into the surface waters, drainage ditches, or catch basins, or onto the surface of the ground.

## Section 21.12 Heating

(A) No person shall occupy as owner or occupant, or lease or let to another person for occupancy, any dwelling or dwelling unit for the purpose of living therein which does not comply with the provisions of this Section setting forth the minimum requirements for heating.

(B)

(1) Every dwelling shall have heating facilities which are properly installed and maintained in safe and good working condition and capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments in every dwelling unit and rooming unit located therein to a temperature of at least sixty-eight degrees (68°) Fahrenheit at a distance of eighteen (18) inches above floor level and three (3) feet from an outside wall.

(2) The owner is responsible for furnishing the heat commencing September 15 and ending May 31, unless the rental agreement states otherwise in writing.

(3) Where the owner furnishes the heat, the temperature shall be maintained at not less than sixty-eight degrees (68°) Fahrenheit at a distance of eighteen (18) inches above floor level and three (3) feet from an outside wall.

(C)

(1) Unvented flame space heaters and space heaters without back-draft diverter and automatic controls are prohibited; provided, however, that portable electric heaters, approved under the appropriate local or State electrical or Fire Prevention Code, are acceptable where they meet the provisions of this Code.

(2) Where there is no local or State Code, portable electric heaters meeting the standards of the National Electrical Code, as approved by the Underwriters Laboratories Inc. and the Department, are acceptable.

(3) Gas-fueled space or water heaters and accessories or controls shall be properly installed and be of a type approved by the American Gas Association and the Department.

(D) The Commissioner may require from the owner, agent or operator of any dwelling or

dwelling unit a report in writing concerning the adequacies of the installation, operation and maintenance of the heating facilities therein and which may include calculations and reports concerning heat losses from each dwelling and dwelling unit certified by a qualified heating engineer or other person deemed qualified to do so. Based upon said report, the Commissioner may order repairs, modifications and installations, as necessary.

(E) The owner, agent or operator of any rooming house shall, every three (3) years, have the heating facilities inspected by a person certified or qualified to do so for safety, adequacy and proper operation and keep on file for review the written report of said inspection.

## **Section 21.13 Safety, fire safety and sanitary maintenance of parts of dwellings and dwelling units**

(A) No person shall occupy as owner or occupant, or lease or let to another person for occupancy, any dwelling or dwelling unit for the purpose of living therein which does not comply with the provisions of this Section relative to the maintenance of safe and sanitary conditions of any part of a dwelling or dwelling unit.

(B)

(1) Every foundation, roof and exterior wall, door, skylight and window shall be reasonably weather-tight, water-tight and damp free and shall be kept in sound condition and good repair.

(2) Floors, interior walls, doors and ceilings shall be sound and in good repair. Hazardous lead-based and other toxic paints and materials shall not be used on any interior surface readily accessible to children.

(3) Walls shall be capable of affording privacy for the occupants.

(4) Every premises shall be well-graded, drained and maintained in a clean, sanitary and safe manner.

(C) Every window, exterior door and basement hatchway or similar devices shall be kept rodent-proof and reasonably water-tight and weather-tight and shall be kept in sound

working condition and in good repair.

(D) During that portion of the year when there is a need for protection against mosquitoes, flies and other flying insects, every door opening directly from a dwelling unit to outside space shall have supplied properly fitting screens having at least sixteen (16) mesh and a self-closing device; and every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens, provided that such screens shall not be required during such period in rooms deemed by the Department to be located high enough in the upper stories of buildings as to be free from such insects and in rooms located in areas deemed by the Department to have so few insects as to render screens unnecessary.

(E) Every window located at or near ground level used or intended to be used for ventilation and every other opening located at or near ground level which might provide entry for rodents shall be supplied with adequate gauge screen or such other devices as will effectively prevent their entrance.

(F)

(1) Every foundation, roof, floor, exterior and interior wall, ceiling, inside and outside stair, porch and every appurtenance to any of these shall be safe to use and capable of supporting the loads that normal use may cause to be placed thereon and shall be kept in sound condition and good repair.

(2) Every inside and outside stair or step shall have uniform risers and treads and be provided with non-skid materials. Stairways shall have handrails structurally sound, of reasonable height and, where needed, balusters adequately spaced.

(G) Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition.

(H) Every water closet compartment, bathroom and kitchen floor surface and baseboard shall be constructed and maintained so as to be reasonably impervious to water so as to permit such floor to be easily kept in a clean and sanitary condition.

(I) Every plumbing fixture, pipe, chimney, flue and smoke pipe, and every other facility, piece of equipment or utility which is present in a dwelling or dwelling unit or which is required under this Article shall be constructed and installed in conformance with the applicable local, State or National Codes and shall be maintained in a satisfactory working condition.

(J) All construction and materials, ways and means of egress and installation and use of equipment shall conform to applicable laws, guidelines and standards dealing with fire protection.

(K) Existing paint conditions conducive to lead poisoning shall be eliminated in accordance with procedures contained in Article 13, Title X, of the New York State Public Health Law and Subpart 67-2, New York State Department of Health Administrative Rules and Regulations.

(L) Incinerator rooms and spaces for the temporary storage of refuse, garbage, and rubbish shall be enclosed by a non-combustible construction having a fire resistance rating of not less than two (2) hours with a single opening protected by a self-closing one and one-half (1½) hour protective door. The area shall be provided with a heat and/or smoke detector connected to a fire alarm system which can be readily heard throughout the premises.

(M) Storage, service rooms, spaces, business and work areas where flammable materials are stored or used shall be enclosed with a fire resistance rating of at least two (2) hours and access shall be from the exterior of the building or from the interior through a vestibule having at least a two (2) hour fire resistance rating. Heat and/or smoke detection devices connected to a fire alarm system which can be readily heard throughout the premises shall be provided.

(N) Fuel gas piping systems shall be installed and operated in accordance with applicable local and State Codes and acceptable standards and guidelines.

(O) Liquefied petroleum gas systems shall be installed and operated in accordance with applicable local and State Codes, standards and guidelines.

(P) Fuel oil, flammable and combustible liquids shall be received, stored and conveyed in accordance with local and State Codes, standards and guidelines.

## **Section 21.14 Density, space, use, location**

(A) No person shall occupy as owner or occupant, or lease or let to another person to be occupied, any dwelling or dwelling unit for the purpose of living therein which does not comply with the provisions of this Code.

(B) Every dwelling unit shall contain at least one hundred fifty (150) square feet of floor

space for the first occupant thereof, and at least one hundred (100) additional square feet of floor space for every additional occupant thereof, the floor space to be calculated on the basis of total habitable room area.

(C) A dwelling unit shall not be occupied by more than one (1) family plus two (2) occupants unrelated to the family, except for guests or domestic employees, unless a permit for a rooming house has been issued in accordance with this Article.

(D) The ceiling height of any habitable room shall be at least seven and one-half (7½) feet except that in any habitable room under a sloping ceiling at least one-half (½) of the floor area shall have a ceiling height of at least seven and one-half (7½) feet and the floor area of that part of such room where the ceiling height is less than five (5) feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy.

(E) No space located partially or totally below grade shall be used as a habitable room of a dwelling unit, unless:

(1) The floor and those portions of the wall below grade are of water-proof and damp-proof construction.

(2) The minimum window area is equal to at least that required in this Article and is located entirely above the grade of the ground adjoining such window area; or, if windows are located wholly or partly below grade, there be constructed a properly drained window well the ground area of which is equal to or greater than the area of the masonry opening for the window, the bottom of which is below the top of the impervious masonry construction under this window, with the minimum horizontal distance at a right angle from any point of the window wall being equal to or greater than the vertical depth of the window well, as measured from the bottom of the masonry opening for the window;

(3) The total openable window area in each room is equal to at least the minimum as required by this Article, except where there are supplied some other devices affording adequate ventilation and humidity control which are approved by the Department; and

(4) There are no pipes, ducts or other obstructions less than six (6) feet, eight (8) inches above the floor level which interfere with the normal use of the room or area.

(F) In every dwelling unit of two (2) or more rooms, every room occupied for sleeping

purposes shall contain at least seventy (70) square feet of floor space for the first occupant, and at least fifty (50) square feet of floor space for each additional occupant thereof.

(G) No dwelling or dwelling unit containing two (2) or more sleeping rooms shall have such room arrangements that access to a bathroom or water closet compartment, intended for use by occupants of more than one sleeping room, can be had by going through another sleeping room or a bathroom or water closet compartment.

(H) Every dwelling unit shall have at least four (4) square feet of closet space for the personal effects of each permissible occupant; if it is lacking in whole or in part, an amount of space equal in square footage to the deficiency shall be subtracted from the area of habitable room space used in determining permissible occupancy.

(I) Existing wastewater pipes shall be maintained so as to prevent any leakage therefrom; provided, however, that no wastewater pipes shall be located in any area where food is being served or prepared.

## **Section 21.15 Rooming houses, general provisions**

(A) No person shall operate a rooming house, or shall occupy or lease or let to another person for occupancy, any rooming unit in any rooming house except in compliance with the provisions of this Article.

(B) No owner or other person shall occupy or lease or let to another person any vacant rooming unit unless it is clean, sanitary and fit for human occupancy and complies with all applicable requirements.

## **Section 21.16 Rooming houses, permit requirements**

(A) No person shall operate a rooming house unless he holds a valid rooming house permit or approval issued by the Department for the specific dwelling or rooming unit.

(B) No rooming house permit shall be transferable.

(C) Application for a rooming house permit shall be made at least thirty (30) days prior to commencement of operation or expiration of the permit on forms provided by the

Department and shall be accompanied by the prevailing fee.

(D)

(1) Every person holding a permit to operate a rooming house shall give notice in writing to the Department within twenty-four (24) hours after having sold, transferred, given away or otherwise disposed of ownership of, interest in or control of such rooming house.

(2) Such notice shall include the name and address of the person succeeding to the ownership or control of such rooming house.

(E) Every rooming house permit shall expire on a date designated by the Commissioner, unless suspended or revoked.

## **Section 21.17 Rooming houses, permit, modification, suspension or revocation**

(A) A permit to operate a rooming house may be denied, modified, suspended or revoked by the Commissioner for any of the following causes:

(1) Failure to comply with one or more of the provisions of this Article.

(2) Refusal to permit inspection.

(3) Mistake in issuance of the permit.

(4) False statements on the application for the permit.

(5) Failure to pay the appropriate permit application or inspection fee.

(6) For other good reason.

(7) Failure to obtain approval of the local municipality or other agency charged with enforcement of the State Uniform Fire Prevention and Building Code.

## **Section 21.18 Rooming houses, toilet and bathing**

# facilities

(A) At least one flush water closet, lavatory basin and bathtub or shower, properly connected to a water and sewer system approved by the Department and in good working condition, shall be supplied for each six (6) persons or fraction thereof residing within a rooming house, including members of the operator's family whenever they share the use of the facilities. Where rooms are leased or let only to males, flush urinals may be substituted for not more than one-half ( $\frac{1}{2}$ ) the required number of water closets greater than one.

(B) All facilities required by this Section shall be so located within the dwelling as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities.

(C) Every lavatory basin and bathtub or shower in a rooming house shall be supplied with heated and unheated water at all times under adequate pressure.

(D) No facilities referred to in this Section shall be located in a basement, except by written approval of the Commissioner.

(E) The toilet and bathing facilities shall be kept in adequate sanitary condition.

## **Section 21.19 Rooming houses, cooking and dining**

(A) No cooking shall be performed or permitted in any rooming unit.

(B) No communal cooking or dining facilities shall be performed or permitted in a rooming house except as may be approved by the Commissioner in writing.

## **Section 21.20 Rooming houses, miscellaneous requirements and services**

(A) Rooming house unit doors shall have operating locks to insure privacy and such locks shall be in working condition.

(B)

(1) The operator of every rooming house shall change supplied bed linen and towels therein at least once each week and prior to the letting of any room to any occupant unless a rental agreement states otherwise.

(2) The operator shall be responsible for the maintenance of all supplied bedding and towels in a clean and sanitary manner.

(C) Every room in a rooming house occupied for sleeping purposes by one (1) person shall contain at least eighty (80) square feet of floor space; and every room occupied for sleeping purposes by more than one (1) person shall contain at least sixty (60) square feet of floor space for each occupant thereof.

## **Section 21.21 Rooming houses, fire safety**

### **(A) Exits**

(1) Every sleeping room shall have access to two (2) separate means of egress.

(2)

(a) In one and two-story buildings, the primary means of egress shall be located so as to provide a safe path of travel to the outside of the building at ground level.

(b) The secondary means of escape may be a stairway providing a means of unobstructed travel to the outside of the building at ground level; or an outside window in each habitable space, easily openable from the inside without the use of tools and providing a clear opening of not less than eighteen (18) inches in height and four (4) square feet of area and the sill shall not be more than three (3) feet, six (6) inches above the finished floor.

(c) The window sill on the outside of the building shall be no more than fourteen (14) feet above the ground surface and there shall be a clear unobstructed open space at ground level extending at least ten (10) feet from the exterior wall.

(3) In buildings exceeding two stories in height, every sleeping room above or below the ground level of exit discharge shall have access to two (2) separate means of egress, one of which shall be either an enclosed interior stairway, an

interior stairway or a horizontal exit.

(4) All required exits shall be maintained free and clear at all times and shall discharge to an exterior, open, non-confined space at least twenty-five (25) feet wide. Such exits shall not lead through rooms which are capable of being locked, such as bedrooms, bathrooms, etc., or through kitchens, garages, storage rooms or rooms containing heat-producing equipment.

(5) Fire escapes are allowed as an approved secondary means of escape in an existing building.

(6) All stairways that are used as a primary or secondary means of egress shall meet the following provisions:

(a) Interior stairways

(i) In buildings exceeding two (2) stories in height, all interior stairways shall be enclosed within smoke-tight walls having a three-quarter ( $\frac{3}{4}$ ) hour minimum fire rating with self-closing doors at the lower and upper ends of each flight of stairs and provided with handrails. However, one (1) ornamental or lobby stairway not extending beyond one (1) floor level may be unenclosed, provided the upper floor level corridors are separated from the ornamental stairway by self-closing doors and handrails are provided.

(ii) Where it is impractical to provide doors at the stairway opening, the Commissioner may allow hallway doors on both sides of such opening. The hallway door must enclose as few rooms as practicable and be kept closed. Hallway doors within the stairway enclosure must be self-closing and have a minimum fire rating of three-quarters ( $\frac{3}{4}$ ) of an hour. All stairway enclosure openings, including transoms and louvers, must be sealed with materials having a fire resistance rating of at least three-quarters ( $\frac{3}{4}$ ) of one hour.

(b) Exterior stairways

All landings and platforms must be level. Stairways, including landings and platforms, shall be protected on their open sides and provided with handrails. Stairways, platforms and landings shall be protected during winter operations with suitable construction to minimize the accumulation of ice and snow

or by removal procedures which the Commissioner approves as designed to keep them clear of ice and snow. Exterior wall openings less than ten (10) feet from an exterior stairway shall be protected by wire glass windows or fire doors. Exterior staircases shall meet the provisions of the State Uniform Fire Prevention and Building Code.

(c) The open storage of combustibles or equipment in stairwells is prohibited.

(d) Existing fire escapes must meet the following requirements to be used as a secondary means of escape:

(i) The fire escape stairs shall provide a continuous unobstructed safe path of travel to the ground.

(ii) Fire escape stairs shall be so arranged that they will be exposed to the smallest number of windows and door openings.

(iii) Any opening within ten (10) feet of the fire escape shall be completely protected by fire doors or wire glass windows.

(iv) The fire escape shall be structurally sound, provided with handrails and maintained free of rust, ice and snow.

(v) Access to fire escapes shall be by means of doors with minimum dimensions of twenty-four (24) inches in width, by six (6) feet, six (6) inches in height, or double-hung windows, with minimum dimensions of thirty (30) inches by thirty-six (36) inches clear opening.

(vi) Window and doorway access shall be unobstructed at all times and readily openable.

(vii) Screens or storm sash on doors or windows shall be readily openable with the direction of exit travel and shall not hinder exit.

(viii) Fire escape access windows shall be no higher than three (3) feet from the finished floor level.

(ix) The distance from the window sill to the fire escape platform or balcony shall not exceed eighteen (18) inches nor be less than seven (7) inches.

(x) Where fire escape access is by means of a door, the door sill shall be at floor level and the drop from the sill to the fire escape platform and balcony shall not exceed eight (8) inches.

(xi) Fire escape details

(aa) Stairs shall not exceed sixty (60) degrees in slope as measured from the horizontal.

(bb) A minimum tread width shall be six (6) inches and the riser shall not exceed nine (9) inches.

(cc) The minimum clear stair width between handrails shall be twenty-one (21) inches.

(dd) Handrails shall be a minimum of two (2) feet, seven (7) inches above the stairway tread, measured from the center of the tread to the top of the handrail.

(ee) Platforms or balconies shall have guardrails at least two (2) feet, nine (9) inches in height but not exceeding four (4) feet.

(ff) The maximum width of openings and guardrails shall be at least six (6) inches.

(gg) Headroom above stairs shall be at least six (6) feet, six (6) inches, as measured vertically from the tread nosing.

(hh) Swinging stairs, a minimum of twenty-one (21) inches in width from the lowest balcony to the ground are permitted.

(ii) Vertical drop ladders or ladders attached to the building exterior are prohibited.

(B) Exit signs

Adequate exit signs shall be provided at each approved exit.

(C) Exit doors

(1) Exit doors shall be kept closed and shall swing in the direction of exit travel into a fully opened position without obstructing traffic.

(2) A door forming part of a means of egress, where door hardware is used, shall be non-locking against egress and operable with a single motion.

(3) The use of hooks, bolts, turnbolts, slidebolts or similar devices is strictly prohibited.

#### (D) Fire escapes and exterior stairways

(1) Fire escapes and exterior stairways shall provide a continuous safe path of travel to the ground.

(2) Where the fire escape or exterior stairway leads to a roof which must be crossed, the direction of travel shall be indicated and walkways with hand-rails provided across the roof.

#### (E) Enclosure of heat-producing equipment

Rooms containing heat-producing equipment shall be enclosed as provided below:

(1)

(a) Rooms with high-capacity heat-producing equipment, where the combined capacity of all units is one million (1,000,000) British Thermal Units (BTU's) or more or capable of operating at more than fifteen (15) pounds pressure per square inch or two hundred fifty (250°) degrees Fahrenheit for hot water, shall be located in a separate building or be enclosed by non-combustible construction having a fire resistance rating of not less than two (2) hours.

(b) Openings to the building's interior shall be protected by construction having a minimum fire rating of one and one-half (1½) hours.

(2)

(a) Rooms with moderate capacity heat-producing equipment, where the combined capability of all units is two hundred fifty thousand (250,000) British Thermal Units (BTU's) per hour to one million (1,000,000) BTU's per hour

and operating at less than fifteen (15) pounds of pressure per square inch of steam or less than thirty (30) pounds per square inch or two hundred fifty (250°) degrees Fahrenheit for hot water, shall be located in a separate room enclosed by construction having a fire resistance rating of at least one (1) hour.

(b) Openings to the building's interior shall be protected by construction having a minimum fire rating of three-quarters ( $\frac{3}{4}$ ) of one hour.

(3)

(a) Rooms with a low capacity heat-producing equipment, where the combined capacity of all units is less than two hundred fifty thousand (250,000) British Thermal Units (BTU's) and operating at less than fifteen (15) pounds of pressure per square inch for steam or less than thirty (30) pounds per square inch or two hundred fifty (250°) degrees Fahrenheit for hot water, shall not be required to be enclosed.

(b) Where enclosure is provided, it shall have a minimum fire rating of three-quarters ( $\frac{3}{4}$ ) of one hour.

(4) Where the combined rated gross capacity of all heat-producing equipment in a single room exceeds two hundred fifty thousand (250,000) British Thermal Units (BTU's) per hour, the air supply shall be provided by means of a fixed opening to the building's exterior.

#### (F) Storage of hazardous materials

(1) No flammable or volatile liquids or other hazardous materials may be stored in or adjacent to rooms used for living purposes in a rooming house, except for those products needed for current household use.

(2) Containers for gasoline, kerosene and other flammable materials shall be labeled and stored in a separate locked and unoccupied building.

(3) Oil-based paints and thinners shall be stored in an adequate paint locker or in a separate unoccupied building.

#### (G) Vertical and Horizontal confinement

Vertical and horizontal openings in buildings, such as unsealed pipes and conduit chases, must be sealed with materials having a fire rating equivalent to the surrounding construction to prevent the spread of fire or smoke.

#### (H) Electrical safety

(1) The electrical service wiring and fixtures shall be in good repair and safe condition.

(2) Where conditions indicate a need for inspection, the electrical service and wiring shall be inspected by the New York Board of Fire Underwriters or a qualified electrical inspector and a copy of the certificate of approval shall be submitted to the Commissioner.

#### (i) Fire Extinguishers

(1) A minimum type 2A rated fire extinguisher must be located on every floor with sleeping rooms and in common areas.

(2) A minimum of type 5 BC fire extinguisher must be available in any common kitchen facility.

(3) All fire extinguishers shall be installed and maintained in accordance with the recommendations of the equipment manufacturer and generally accepted principles of fire safety engineering as embodied within the State Uniform Fire Prevention and Building Code.

#### (J) Smoke detection

(1) Approved smoke detection devices, powered by the building's electrical system, shall be installed on each floor, corridor, stairway and basement areas. When activated, the detectors shall initiate an alarm that is audible in all habitable areas.

(2) Where heat-producing equipment has been enclosed, a heat detector shall be installed, which, when activated, will be audible throughout all habitable areas.

#### (K) Sprinkler and standpipe systems

(1) A sprinkler system may be substituted for one means of escape, provided that no State or local statute is contravened.

(2) Where sprinkler systems are provided, the operator of a rooming house shall provide an annual certification as to the proper operation of the sprinkler system.

(3) Where sprinkler systems are provided, they shall be equipped with automatic means for sounding an alarm audible throughout the building when there is a flow of water through any sprinkler head.

(4) All valves controlling the water supply shall be secured in the open position.

(5) Sprinkler heads shall not be painted or coated, except for factory-supplied coatings.

(6) All storage must be maintained at least eighteen (18) inches below sprinkler heads.

(7) A siamese fitting for Fire Department operations is required for systems with thirty-six (36) sprinkler heads or more.

(8) Where standpipe systems are provided, fire hoses with nozzles attached must be kept in good repair and free of mildew or dry rot. They must be hung according to manufacturer's instructions.

(9) Standpipe connections must be of the same thread and hose diameter specifications used by the Fire Department within whose district the building is located.

(10) The standpipe system must be supplied by a reliable and adequate source of water and the hose cabinet shall be readily identifiable as such and have a conspicuous exterior color.

(L) In addition to the fire safety regulations contained within Section 21.21, rooming houses with ten (10) or more occupants must meet the following requirements:

(1) Emergency lighting

All buildings with over thirty (30) sleeping rooms shall have adequate emergency lighting in all buildings and stairways.

(2) Fire Alarm Systems

Buildings exceeding two (2) stories in height or having more than thirty (30) sleeping rooms must have a fire alarm system which meets the requirements of this Section.

(a) General Requirements

(i) The system shall be designed, installed and maintained in such a manner as to provide adequate warning to all the occupants in the event of a fire.

(ii) The component parts of the system shall be designed, made and assembled for fire alarm purposes.

(iii) The system shall be under constant electrical monitoring so that failure of the main power supply or the presence of an open or grounded circuit which prevents the normal operation of the system will be instantly and audibly indicated. Where such electrical monitoring is impractical for certain types of sounding devices such as vibrating bells, such sounding devices shall be connected alternately on separate circuits with a balanced distribution throughout the building.

(b) Manual fire alarm boxes

Fire alarm systems shall:

(i) have manually operated fire alarm signaling devices, be mounted in durable boxes and be designed to transmit an alarm signal to the sound- ing devices on the premises.

(ii) be located in a public hall or passageway in the natural path of escape from fire and shall be accessible on every story without the necessity of first passing through a fire door.

(iii) be located within two hundred (200) horizontal feet of any room or any point on a story not divided into rooms.

(iv) be in a ready position at all times to operate when activated.

(v) be readily identifiable as such and have a conspicuous exterior

color;

(vi) be designated and used only for fire protection purposes.

(c) Sounding devices

Fire alarm systems shall:

(i) be provided with devices designed to sound a clear, audible alarm signal that is distinct from all signals made by any other sounding devices used in the vicinity. All fire alarm sounding devices within a building shall be of the same type; and

(ii) have sounding devices so located that the alarm is audible in all parts of the building.

(d) Electrical requirements

Fire alarm systems shall:

(i) be supplied with electrical energy from both a main power source and from an auxiliary source such as a battery supply or generator. If a generator is used as an auxiliary source, automatic transfer shall occur within fifteen (15) seconds.

(ii) have circuits for the transmission of alarms used only for fire protection or other emergency purposes and be arranged and installed to prevent interference with the operation of the sounding devices; and

(iii) have all electrical wiring protected by metallic raceway or armor, except that such raceway or armor shall not be required for wiring installed at least seven (7) feet above the floor, provided the input to the circuit is limited to one hundred (100) volt amperes, including a maximum current of five (5) amperes and a maximum voltage of fifty (50) volts; raceways and boxes containing fire alarm conductors shall not contain conductors used for any purpose other than fire protection.

(e) Operation

(i) All fire alarm boxes and sounding devices shall be tested at least

monthly during periods of occupancy, with the date and time of such test recorded by the tester.

(ii) The trouble-signal of the fire alarm system shall be tested daily.

(iii) Reports of testing must be maintained on premises and available for inspection upon request.

(iv) Any mechanical, electrical or other failure of the fire alarm system shall be corrected immediately.

(f) Fire and smoke detection, additional requirements

(i) Smoke detection devices shall be installed on corridors and stairways in the following types of building construction, described as follows:

(aa) Type 1 construction (fire-resistive) and subtype 2a construction (non-combustible with all structural elements having a fire resistance rating) exceeding three (3) stories in height and having seventy-five (75) or more sleeping rooms.

(bb) Subtype 2b construction (non-combustible with some structural elements having a fire resistance rating), Type 3 construction (heavy timber), and Type 4 construction (ordinary exterior walls having a fire resistance rating not less than two (2) hours) exceeding three (3) stories in height and having fifty (50) or more sleeping rooms.

(cc) Type 5 construction (wood frame) exceeding two (2) stories.

(ii) The fire resistance of each structural element for each type and subtype shall be that set forth in the State Fire Prevention and Building Code.

(iii) The Commissioner shall also require the installation of smoke detection devices when the operator or owner cannot provide documentation that interior finishes in exitways (floors, walls and ceilings) do not exceed a Class B (75) flame spread rating.

(iv) Heat detecting devices must be installed in all rooms and areas containing equipment using or producing a hazardous fuel, gas or vapor when the gross capacity is two hundred fifty thousand (250,000) British Thermal Units per hour or more. In buildings exceeding two (2) stories in height or having more than thirty (30) sleeping rooms, heat-detecting devices shall be installed in kitchens, storage rooms and other hazardous areas.

(v) The system shall be designed, installed and maintained in such manner as to detect fire and smoke in the initial stage and to automatically activate an alarm.

(vi) The component parts of the system shall be designed, made and assembled for fire and smoke detecting purposes and shall be located so that they are protected from damage and will operate without delay.

(vii) In spaces which are likely to contain dust, smoke or products of combustion that may cause false alarms, heat detectors are permitted in lieu of smoke detectors.

(viii) Where detection devices are required, the devices, when activated, shall initiate an alarm throughout the building. All fire and/or smoke detection devices must be part of a fire alarm system.

## (g) Exits

### (i) Number of exits

All buildings must have at least two (2) exits from each floor, meeting the requirements of this Section, that are not adjacent to each other and are readily accessible, except that:

(aa) Any room may have only one (1) exit if it has a capacity of less than fifty (50) persons, with an outside door at street or ground level not more than fifty (50) feet from any point in the room.

(bb) A one(1)-story building may have one (1) exit, provided each habitable space has unobstructed window meeting the requirements of Subdivision A(2a) of this Section.

(cc) A two(2)-story building may have one (1) exit from each floor, provided there is, in each habitable space, access to an unobstructed window meeting the requirements of Subdivision A(2a) of this Section and having a sill not more than fourteen (14) feet above a level and unobstructed ground surface extending at least ten (10) feet from the exterior all; and the exit from the second story is either:

(1-1) An enclosed interior stairway leading directly to the exterior and having no more than one (1) opening to a corridor on each story with self-closing doors at each level.

(2-2) An exterior stairway conforming to Subdivision A(6b) of this Section.

(3-3) An interior stairway with no openings to other parts of the building.

(ii) Exit capacity

Exit width and capacity shall be sufficient for the building size and shall be determined by the following criteria:

(aa) Where sleeping quarters are provided, the number of people per story shall be determined at the rate of one (1) person per one hundred twenty-five (125) square feet for floors above grade level and at the rate of one (1) person per two hundred (200) square feet for floors below grade.

(bb) Where dining rooms, meeting rooms and recreation rooms are provided, the number of people per floor area shall be determined at the rate of one (1) person per ten (10), six (6) and forty (40) square feet respectively. However, if actual sleeping capacity is less than the figure determined at the assigned rate, the actual sleeping capacity shall prevail.

(cc) The total width of exit doors per floor shall be determined at twenty-two (22) inches (one unit of exit width) for each eighty (80) persons or fraction thereof. All exit doors must be a minimum of

twenty-eight (28) inches in width.

(dd) The total width of stairways shall be determined at twenty-two (22) inches (one unit of exit width) for each fifty (50) persons or fraction thereof. All exit stairways must be a minimum of thirty-six (36) inches in width.

(ee) In completely sprinklered buildings, the number of people per twenty-two (22) inches (one unit of exit width) shall be increased fifty (50%) percent for exit doors and one hundred (100%) percent for exit stairways.

(iii) Travel distance to exits

The travel distance from the door of any room to the nearest exit shall not exceed one hundred (100) feet, except that such distances may be increased to one hundred fifty (150) feet if exit access is equipped with automatic sprinkler protection installed and maintained in accordance with Subdivision K of this Section. Non-sprinklered portions of the building must be separated from the sprinklered sections by construction having a fire resistance rating of:

(aa) Not less than one (1) hour for buildings up to four (4) stories; and

(bb) Not less than two (2) hours for buildings exceeding four (4) stories.

(iv) Dead-end corridors

Dead-end corridors in excess of forty (40) feet are prohibited. There must be two (2) different directions of exit travel after the first forty (40) feet of travel.

(v) Exit signs

Every exit access door from corridors on floors with sleeping rooms shall have illuminated exit signs of contrasting colors. Where exits are not readily visible in a hallway or corridor, illuminated directional signs shall be provided to indicate the exit direction.

(aa) Every exit sign shall be worded "EXIT" in plainly legible letters not less than six (6) inches high and three-quarter ( $\frac{3}{4}$ ) inch wide. Existing signs with plainly legible letters not less than four and one half ( $4\frac{1}{2}$ ) inches high may remain in use.

(bb) Any door, passage or stairway that is not an exit or a way of exit access, but which may be mistaken for an exit, shall be identified by a sign reading "NOT AN EXIT" or identified by a descriptive word or words. The lettering size shall also meet the same requirements applicable to exit signs.

(cc) Every sign shall be illuminated by a reliable light source giving a value of not less than five (5) foot candles on the illuminated surface at all times when the building is occupied. When emergency lighting is provided, exit signs shall be supplied with current from this system. Where such a system is not provided, current shall be supplied from a separate circuit used for no other purpose.

(dd) Exit signs are not permitted on means of egress which do not meet the requirements of this Article.

## **Section 21.22 Discontinuance of services, equipment or utilities**

No owner, operator, agent or occupant shall cause any service, facility, equipment or utility which is required under this Article to be removed from or shut off from or discontinued for any occupied premises leased, let or occupied except for such temporary interruption as may be necessary while actual repairs or alterations are in progress, or during temporary emergencies when discontinuance of service is approved by the Commissioner.

## **Section 21.23 Variances and Waivers**

On written application and after review, the Commissioner may grant a variance or waiver from any provision of this Article in a specific case, subject to appropriate conditions, where such variance or waiver is in harmony with the general purpose and intent of the

provisions of this Article and where there are practical difficulties or unnecessary hardship in carrying out a specific requirement.

## **Section 21.24 Interpretation and application**

(A) The Commissioner reserves the right of interpretation and application of this Article.

(B) When determining what is adequate and applicable for fire safety and building construction and maintenance, the Commissioner may apply and use, as a guide and technical standard, the State Uniform Fire Prevention and Building Code, the National Fire Protection Association Standards and Guidelines and subsequent amendments thereto, and other generally accepted guidelines and standards in order to determine the adequacy of fire safety equipment and devices.

(C) All fire safety equipment must be approved and listed by Underwriters Laboratories (UL) or other nationally recognized testing laboratories.

(D) The Commissioner may request the appropriate local municipal agency of jurisdiction to conduct an inspection to determine adequate fire safety.

(E) The Commissioner may require the owner, operator or agent of a rooming house to comply with the fire [protection] safety requirements of the appropriate local municipality including new construction.

(F) Existing construction shall comply with [Section 21.21](#), inclusive, of this Article.

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# **Dutchess County Sanitary Code**

## **Article 22**

### **CHILD DAY CARE FACILITIES AND NURSERY SCHOOLS**

#### **Section 22.1 Definitions**

(A) The term "Child Day Care Facility" means an establishment or facility for the day care of children, whether known as day care center, day nursery, child play school, child development center, early childhood center or other descriptive title, name or similar terminology, whether or not operated for compensation or profit, which operates three (3) hours or more per day.

(B) The term "Day Care of Children" means care provided for three (3) or more children away from their homes for less than twenty-four (24) hours per day in a Child Day Care Facility.

(C) The term "Nursery School" means any facility or establishment, whether public, private or parochial, and whether or not operated for compensation or profit, which is engaged in or holds itself out as being engaged in teaching and educational activities for three or more children below the age of compulsory education conducted at a specified place, facility or establishment on a regular basis for three (3) or more hours per day.

#### **Section 22.2 Permit required**

(A) Every person who operates a child day care facility or nursery school in Dutchess County must possess a valid permit issued by the Dutchess County Commissioner of Health or appointed designee.

(B) Application for a permit must be made at least thirty (30) days before the date of proposed start of operation or renewal on a form prescribed by the Dutchess County Commissioner of Health or appointed designee and accompanied by the prevailing fee.

(C) The applicant for a permit must furnish the Department such information as may be

required therein, including but not limited to the following information:

(1) Sketch or diagram of the facility and its premises showing the inside and outside areas, dimension and intended use.

(2) Sketch or diagram of playground area and dimensions, location and description of water supply and sewage disposal facility, roads, pathways, waterways or other bodies of water, if any, whether they be on or adjacent to the property, and any other hazardous or potentially hazardous topography or terrain.

(3) Evidence of a fire safety inspection by local or State fire officials, if so required by local or State regulation.

(4) Evidence of an electrical inspection by an appropriate, recognized agency or person, if so required.

(D) A permit issued pursuant to this Section shall expire one (1) year from the date of issuance, or as otherwise stated thereon, or upon change of the operator or upon revocation of the permit.

(E) A permit is not transferable or assignable.

(F) A permit may be revoked by the Dutchess County Commissioner of Health or appointed designee upon finding that the child day care facility or nursery school for which the permit is issued is maintained, operated or occupied in violation of law or this Article. A permit may also be revoked upon request of the permittee or upon abandonment of operation.

(G) A permit issued for the operation of a child day care facility or nursery school shall be posted in a conspicuous place on the premises.

(H) No substantial physical repair, change or alteration shall be made to a child day care facility or nursery school without prior written approval of the Dutchess County Department of Health.

## **Section 22.3 Sanitary and safety requirements**

(A) The total permitted capacity of a child day care facility or nursery school shall not exceed the capacity indicated on the permit.

(B) Food service facilities shall meet the requirements of Article 14 of this Code and Subpart 14-1 of the New York State Sanitary Code where deemed applicable.

(C) Swimming pool and bathing beach facilities shall meet the requirements of Article 6 of this Code and Subpart 6-1 and Subpart 6-2 of the New York State Sanitary Code. All swimming pools shall be properly fenced to prevent access without proper supervision.

(D) An adequate and potable water supply meeting the requirements of Article 5 of this Code and Part 5 of the New York State Sanitary Code shall be made available.

(E) Sewerage disposal facilities accepted and/or approved by the Dutchess County Department of Health shall be made available. It shall be unlawful to allow sewage to discharge upon the surface of the ground or into surface waters, drainage ditches or catch basins for which no permit has been issued to do so.

(F) All buildings, premises, equipment and furnishings used for a child day care facility or nursery school shall be safe and suitable for the care and comfort of the children and shall be provided and maintained in a good state of repair and sanitation.

(G) All rooms occupied by children shall have windows equal to ten (10) percent of floor area. The total of operable window area shall be equal to at least forty-five (45) percent of the window area. No rooms shall be below ground level unless approved by the Dutchess County Department of Health.

(H) Heating, ventilating and lighting facilities shall be adequate for protection of the health of the children. A temperature of at least sixty-eight degrees (68°) Fahrenheit shall be maintained in all rooms at all times occupied by the children.

(I) Rooms shall be effectively screened against insects.

(J) A firm and sanitary crib, sleeping pad, cot or bed of adequate size shall be provided for each child under five (5) years of age who spends more than four (4) hours per day at the child day care facility and any other child requiring a rest period. No sleeping unit shall be occupied by more than one (1) child at any one time. Individual sanitary bed covering shall be available for each child and shall be used when necessary.

(K) There shall be space provided for isolation of the child who becomes ill to provide him with quiet and rest and reduce the risk of infection or contagion to others.

(L) Toxic paints or finishes shall not be used on walls, window sills, beds, toys or any other equipment, materials or furnishings which may be used by children or within their reach. Peeling or damaged paint or plaster shall be repaired promptly to protect children from possible hazards. There shall be compliance with Article 20 of this Code pertaining to lead poisoning.

(M) The areas used for day care of children shall have floors and walls which can be fully cleaned and maintained and which are non-hazardous to the children's health, safety and clothes.

(N) Convenient, adequate and sanitary toilet facilities shall be provided for the children in a separate, properly ventilated room. One (1) sanitary toilet and one (1) sanitary wash basin for every group of fifteen (15) children or part thereof shall be deemed adequate.

(O) Children shall be accommodated in well-proportioned rooms having a minimum of thirty-five (35) square feet for each child, exclusive of halls, bathrooms, kitchens and offices.

(P) Space shall be provided and so arranged that each child's outer garments may be hung separately.

(Q) A constant supply of heated water, not to exceed one hundred twenty degrees (120°) Fahrenheit, shall be available.

(R) All rooms, outdoor play space, equipment, supplies and furnishings shall be kept clean and sanitary at all times. The child day care facility or nursery school and its premises shall be kept free from dampness, odors, vermin and the accumulation of trash.

(S) The floors and walls shall be kept clean and in good condition. All concrete floors used by the children shall be covered with an appropriate material approved by the Dutchess County Department of Health.

(T) Garbage receptacle of proper construction and size shall be covered and cleansed after emptying. Garbage or rubbish shall not be stored in rooms ordinarily occupied by children, in outdoor play areas or in areas of access thereto.

(U) Individual drinking cups, disposable paper cups or bubbler fountains, of the angle jet-pump type, shall be provided.

(V) Toilets and wash basins with soap and disposable towels shall be readily accessible

to playrooms and outdoor play areas. Toilets and toilet seats shall be properly cleansed and sanitized as needed and after each day of use.

(W) Every vehicle used by the child day care facility or nursery school for transporting registered children shall bear a valid required inspection sticker and registration of the New York State Department of Motor Vehicles or, where required, the inspection sticker of the New York State Department of Transportation. Drivers shall be properly licensed and at least 18 years of age. Proof of insurance on all vehicles must be maintained.

## **Section 22.4 Communicable diseases and health care**

(A) No child shall be accepted at a child day care facility or nursery school unless:

(1) Such child has received a complete medical examination by a physician within six (6) months prior to initial admission and a written statement has been furnished giving assurance that there is no medical reason which would prohibit attendance;

(2) the child has received adequate prophylaxis against rubeola (measles), rubella, mumps, diphtheria, tetanus, pertussis, poliomyelitis, haemophilus influenzae type b, and hepatitis B when there are no medical contraindications documented by a physician's certificate.

(B) Every child day care facility or nursery school shall maintain, on the premises, at all times, a record of all immunizations of children registered in the child day care facility or nursery school and such records shall be available to any official representative of the department for inspection.

(C) Persons suffering from, or suspected of suffering from any communicable disease or having acute symptoms of respiratory, gastrointestinal or skin infection shall not be in attendance at any child day care facility or nursery school unless so authorized and under the direction of a physician.

(D) Children shall not be administered any medication (whether by prescription or otherwise), medically required diet, nor any special medical procedures carried out except upon written order of a physician. Medication shall be carefully labeled with the child's name and stored in an area not accessible to children. Medication requiring refrigeration shall be stored in a designated receptacle separate from food items. A written record of prescription medicine administration is to be maintained and the

medication is to be returned to the parents, guardian and/or person having custody of the child when no longer needed.

(E) At least one on-site staff person shall possess a current American Red Cross Standard First Aid certificate or equivalent and a current Community C.P.R. certificate or equivalent.

## **Section 22.5 Recreational areas, supervision**

(A) When the child day care facility or nursery school is in operation, there shall be a person designated as the director to supervise and direct activities. The director shall be at least twenty-one (21) years old and demonstrate appropriate child-related training and teaching or supervisory experience. There shall be a competent staff member available at all times to substitute for the director when the director is away from the premises.

(B) During the hours the child day care facility or nursery school is in operation, an adequate number of qualified staff shall be on duty to insure the health and safety of the children in their care. A qualified substitute shall be provided for an absent staff member.

(C) Children shall not be left without competent supervision at any time. Supervision shall be by a qualified person who shall be at least eighteen (18) years of age. No person who has been convicted of a crime against children shall be in the employ of a child day care facility or nursery school.

(D) No child shall be released from the child day care facility or nursery school to any person other than his parent, guardian, lawful custodian or person previously designated thereby in writing.

(E) All playgrounds and recreational areas at a child day care facility or nursery school shall be maintained free of any condition which may be a danger to the life, safety or health of any child. Playgrounds and recreational areas shall be fenced or have other means for keeping children within the area. Fences confining the children close to the house or building shall have at least one (1) gate that may be used as an emergency exit.

(F) Staff child ratios shall be as follows:

<b>AGE OF CHILD</b>	<b>MIN. REQUIRED STAFF PER # OF CHILDREN</b>	<b>MAXIMUM GROUP SIZE</b>
8 weeks to 1½ years	1:4	8
1½ years to 3 years	1:4	12
	1:5	10
3 years	1:6	18
	1:7	14
4 years	1:7	21
	1:8	16
5 years	1:8	24
	1:9	18
6 years to 10 years	1:10	20
10 years to 14 years	1:15	30

## **Section 22.6 Fire safety and safety requirements**

(A) Suitable precautions shall be taken to eliminate all conditions which may constitute or create a fire or safety hazard.

(B) Portable electrical heaters or other portable heating devices shall not be used in rooms accessible to children, regardless of the type of fuel used.

(C) The Dutchess County Department of Health may require or accept a fire inspection by another agency having jurisdiction or being qualified to do so.

(D) To determine adequate fire safety, the Dutchess County Department of Health may use acceptable fire safety codes and standards, including but not limited to the National Fire Prevention Association Life Safety Code and Life Safety Code Handbook, and the State Uniform Fire Prevention and Building Code and any subsequent revisions of or additions to those Codes.

(E) There shall be an adequate number of acceptable fire extinguishers. The

extinguishers shall be maintained in good working condition and tested and tagged annually.

(F) There shall be an adequate number of properly placed heat and/or smoke sensing devices. They shall be maintained and operable at all times. They shall be tested on a monthly basis and a log maintained showing date of test and result.

(G) Children shall be cared for only on such floors as are provided with readily accessible, alternate means of egress, which are remote from each other.

(H) All corridors and approaches to means of egress and exits shall be kept unobstructed at all times.

(I) Exit stairways shall be equipped with low railings for the use of children.

(J) Porches, walkways and play areas which are elevated shall have barriers to prevent accidents.

(K) Stairs, walkways, ramps and porches shall be maintained free from accumulations of water, ice and snow.

(L) A written plan shall be developed and posted for the emergency evacuation of children from the premises and a subsequent roll call. All staff shall be given instructions as to their specific responsibilities in the event of fire. Primary emphasis shall be placed on the evacuation of children. Monthly fire drills shall be conducted.

(M) A commercially available 24-unit first aid kit or equivalent shall be kept adequately stocked for emergency treatment in child day care facilities or nursery schools. First-aid supplies shall be kept in a clean container out of the reach of children.

(N) All flammable liquids, cleaning supplies, detergents, matches, lighters, and any other such items which may be harmful to children shall be kept in a place inaccessible to children. Flammable liquids shall be stored in approved containers acceptable to the Dutchess County Department of Health. Heat-producing equipment rooms shall not be utilized for the storage of combustible materials.

(O) Protective receptacle covers for electrical outlets shall be installed in all areas in the child day care facility or nursery school which are occupied by children.

(P) Any pet or animal on the premises, indoors or outdoors, shall be in good health,

properly cared for and known to be a friendly, suitable pet for children. Animals shall comply with the Environmental Conservation Law, Agriculture and Markets Law, Public Health Law and New York State Sanitary Code.

(Q) The child day care facility or nursery school shall be provided with a minimum of one (1) single-line, listed telephone for general use and emergencies, and there shall be conspicuously posted nearby appropriate telephone numbers and instructions for obtaining fire, police and medical assistance.

(R) Heaters, furnaces or other heat-producing equipment shall be properly serviced at least annually to ensure proper and safe operation and shall be an approved type, properly installed and contained in other rooms or separated from areas accessible to the children.

## **Section 22.7 Special provisions for infants under three (3) years of age**

The following special provisions and care shall be provided in a child day care facility where infants between eight (8) weeks of age and three (3) years of age are accepted; provided, however, that no infant under eight (8) weeks of age shall be accepted or admitted to any child day care facility:

(A) Quarters or areas separated from that of older children shall be provided for such infant groups in the child day care facility.

(B) Play areas, apart from sleeping quarters, shall be provided where the infants may comfortably and safely sit, crawl, toddle, walk and play. A minimum of thirty-five (35) square feet per infant shall be provided for such purpose.

(C) Infant group supervisors must be at least eighteen (18) years of age, with a supervisor to infant group ratio of 1:4.

(D) Appropriate and separate sleeping accommodations shall be provided, as follows:

(1) Cribs or padded playpens must be provided for each infant and shall be situated at least two (2) feet apart.

(2) Pillows shall not be used.

(3) A clean sheet and a blanket, when necessary, shall be provided for exclusive use of each infant.

(E) Facilities shall be provided for the proper cleaning of toys, equipment and supplies used with each group of infants and for the proper refrigeration of food and baby formula. Infant formula shall be prepared and provided by the parent, guardian or person having custody. All bottles and containers of formula shall be clearly marked with the child's first name and last name.

(F) Infants' diapers must be changed as often as necessary in the area provided for the infant group, and a covered container for soiled diapers and employee handwash sink must be immediately available. The handwash sink shall be provided with soap, running hot and cold water and disposable hand towels.

(G) Toileting equipment, such as potty chairs, appropriate to the toilet training level of the infants in the group, shall be provided. All such equipment shall be completely washable. All such equipment shall be washed and sanitized after each use.

## **Section 22.8 Other laws**

Every child day care facility or nursery school shall comply with the provisions of the Social Services Law, Public Health Law, State and County Sanitary Codes, and Mental Hygiene Law applicable to child day care facilities and such laws shall supersede the provisions of this Article in such instances where this Article is less stringent or in conflict with the statutes pertaining thereto; provided, however, that in no event shall this be construed to exempt a child day care facility or nursery school from the requirements of obtaining a permit from the Dutchess County Health Department and from meeting the sanitary requirements of this Article pertaining thereto.

## **Section 22.9 Injuries and illnesses records**

Every child day care facility or nursery school shall maintain on the premises at all times a record of any injury, accident, or illness of any child or staff members. Such records shall be kept for at least two (2) years from the date of the occurrence of accident, injury or onset of illness.

## **Section 22.10 Lead screening status of children**

# who enroll in nursery school or child day care

(A) Prior to or within three months of initial enrollment, each child day care facility and nursery school shall obtain a copy of a certificate of lead screening for any child at least one year of age but under six years of age and retain such documentation until one year after the child is no longer enrolled.

(B) When no documentation of lead screening exists, the child shall not be excluded from attending the nursery school or child day care facility. However, the owner or person in charge of the nursery school or child day care facility shall provide the parent or guardian of the child with information on lead poisoning and lead poisoning prevention and refer the parent or guardian to the child's primary health care provider; or, if the child's primary care provider is unavailable or if the child has no primary health care provider, to another primary care provider or to the local health unit to obtain a blood lead test.

## Section 22.11 Variances and waivers

The Dutchess County Commissioner of Health or appointed designee may, on written application, and after review, grant a waiver or variance from a specific provision of this Article. A variance or waiver shall be subject to appropriate conditions. A variance shall include a time schedule for compliance where such variance is in harmony with the general purpose and intent of this article.

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# Dutchess County Sanitary Code

## Article 23

### MOBILE HOME PARKS

#### Section 23.1 Definitions

(A) "Adequate" shall mean sufficient to accomplish the purpose intended and to such a degree that no unreasonable risk is presented to health or safety. Within the meaning of this Article, an item installed, maintained, designed and assembled, an activity conducted, or act performed, in accordance with recognized generally accepted standards, principles or practices applicable to a particular trade, business, occupation or profession shall be considered adequate.

(B) "Anchoring system" shall mean a combination of ties, anchoring equipment and ground anchors that will, when properly designed and installed, resist overturning and lateral movements of the mobile home from wind forces.

(C) "Drinking water" shall mean water provided or used for human consumption, food preparation, or for lavatory, culinary, bathing or laundry purposes.

(D) "Feeder assembly" shall mean the overhead or under chassis electrical feeder conductors, including the grounding conductor, together with the necessary fittings and equipment, or a power supply cord listed for mobile home use, designed for the purpose of delivering electric supply from the source to the distribution panel within the home.

(E) "Generally accepted standards" shall mean those referenced in the "State Uniform Fire Prevention and Building Code (9NYCRR) or their successor(s), or any other standards filed with the Secretary of State.

(F) "Home" shall mean a mobile or manufactured home in a mobile home park.

(G) "Manufactured home" shall mean a structure, transportable in one or more sections with or without a permanent foundation, and includes the plumbing, heating, air conditioning and electrical systems contained therein.

(H) "Mobile home" shall mean a structure which is eight feet or more in width and 32 feet or more in length, transportable in one or more sections, built on a permanent chassis, and designed to be used as a dwelling with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein.

(I) "Mobile home accessory building or structure" shall mean a building or structure which is an addition to or supplements the facilities provided a mobile home. It is not a self-contained, separate and habitable building or structure.

(J) "Mobile home park" (hereafter also known as "park") shall mean a property consisting of a tract of land maintained by an operator for mobile homes and/or manufactured homes and buildings and other structures that may be pertinent to their use, any part of which may be occupied by persons for residential purposes other than recreation, traveling or vacationing, and who are provided services or facilities necessary for their use of the property.

(K) "Mobile home site" (hereafter also known as "site") shall mean a designated parcel of land in a mobile home park provided by the operator and designed for accommodating one mobile or manufactured home, its accessory buildings or structures, and accessory equipment for exclusive use of the occupants.

(L) "Mobile home stand" shall mean that area of a site which has been reserved for the placement of the home.

(M) "Operator" shall mean the owner, lessee or any other person designated as responsible for the maintenance and operation of the park and such services and facilities as are provided and/or necessary for the use of such property.

(N) "Permit-issuing official" shall mean the Dutchess County Commissioner of Health or appointed designee.

(O) "Person" shall mean an individual, group of individuals, partnership, firm, corporation, association, political subdivision, government agency, municipality, industry, estate or any legal entity whatever.

(P) "Refuse" shall mean all putrescible and non-putrescible solid waste including but not limited to garbage, rubbish, ashes, incinerator residue, street cleanup, dead animals, offal and solid commercial wastes.

(Q) "Service equipment" shall mean the electrical equipment containing the disconnecting means, overcurrent protection devices and receptacles or other means for connecting a mobile home feeder assembly.

(R) "Sewage" shall mean excreta and the waste from a flush toilet, bath, sink, lavatory, dishwashing or laundry machine or the water-carried waste from any other fixture or equipment or machine.

## **Section 23.2 Application**

(A) The requirements of this Article shall apply to a mobile home park maintained for the placement of five or more mobile and/or manufactured homes, except:

(1) a mobile home park at which the owner/operator receives no remuneration for any occupancy thereof; or

(2) any mobile home park operation determined by the permit-issuing official as not being within the intent or regulation of this Article.

(B) The requirements of this Article shall not apply to migrant farm worker housing as defined in Part 15 of the New York State Sanitary Code or to a temporary residence as defined in Subpart 7-1 of the New York State Sanitary Code.

## **Section 23.3 Notice of construction, enlargement, development, improvement or conversion required; prior approval**

No person shall construct or enlarge for occupancy or use a mobile home park or any portion or facility thereof, or develop and improve a property for occupancy and use as a mobile home park, or convert a property for use or occupancy as a mobile home park, without giving notice in writing of his intent to do so to the permit-issuing official, at least 30 days before the proposed date of beginning such construction, enlargement, development, improvement or conversion. The notice shall give the name of the city, village or town in which the property is located, the construction, enlargement, development, improvement or conversion and the name and mail address of the person giving the notice and his telephone number, if any. The notice shall be supplemented by such further information, plans or specifications as may be required by the permit-issuing

official. Such plans or specifications must be approved by the permit-issuing official prior to the commencement of any such construction, enlargement, improvement or conversion.

## **Section 23.4 Permit to operate a mobile home park required; application, issuance, revocation, posting**

(A) No person shall operate any mobile home park or cause or allow the same to be occupied without a permit to do so from the permit-issuing official.

(B) Application for a permit shall be made at least thirty (30) days before the first day of intended operation on a form prescribed by the permit-issuing official and be accompanied by the prevailing fee.

(C) Each permit shall expire one (1) year from the date of issuance, upon a change of owner or operator, upon the revocation of the permit, or as otherwise stipulated on the permit.

(D) A permit shall not be transferable or assignable.

(E) A permit may be revoked by the permit-issuing official if he finds that the mobile home park for which the permit was issued is maintained, operated or occupied in violation of this Article. A permit shall also be revoked upon request of the permittee or upon abandonment of operation.

(F) A permit issued for the operation of a mobile home park shall be posted in a conspicuous place on the premises or be readily available upon request.

(G) Application for the renewal of a permit shall be made at least thirty (30) days prior to expiration of the current permit on a form prescribed by the permit-issuing official and be accompanied by the prevailing fee.

(H) Temporary permit. The permit-issuing official may issue a temporary permit to operate a park that does not or will not comply with the requirements of this Article subject to the following conditions:

(1) The applicant for a permit to operate shall file a statement of intention to comply with the requirements of this Article within 90 days;

(2) There will be no adverse effect on the health and safety of the park occupants or any other person during this period;

(3) The temporary permit shall prescribe the terms, requirements or conditions upon which the park may be temporarily operated; and

(4) A temporary permit shall expire on the date designated by the permit-issuing official, but not later than 90 days after the date of issuance.

(I) A separate permit and fee may be required for a children's camp, bathing beach, temporary residence or a food service establishment operated as part of a mobile home park.

(J) The permit-issuing official may establish procedures for the exchange of information with other State or local government agencies having responsibility for making health or safety inspections of buildings, including mobile home parks as defined in this Article, and may utilize the information provided by any such agency in making a determination regarding the issuance of a permit required by this Article.

## **Section 23.5 Fire safety**

### **(A) Construction**

(1) Park-owned buildings shall be constructed in accordance with the applicable State Uniform Fire Prevention and Building Code (9NYCRR), or their successor(s), including the list of generally accepted standards.

(2) Any mobile home built after January 15, 1974, that does not meet the State Code for Construction and Installation of Mobile Homes (9NYCRR), shall not be installed in a mobile home park.

(3) Any mobile home built after June 15, 1976, that does not meet the U.S. Department of Housing and Urban Development Mobile Home Construction and Safety Standard (CFR, Title 24, Part 3280), shall not be installed in a mobile home park.

### **(B) Spacing**

Homes and accessory buildings or structures installed after the effective date of this

Article shall be situated such that a minimum separation distance of 10 feet exists to any home, building or structure on any other site or parcel of land.

## **Section 23.6 Utilities**

The operator shall be responsible for the installation and maintenance of park utilities, in accordance with applicable State and local regulations or generally accepted standards. The operator shall also be responsible for the proper connection of park utilities to each home.

### **(A) Water Supply**

(1) Drinking water shall be adequate in quantity, of a quality which the permit-issuing official approves as complying with the applicable requirements of Part 5 of the New York State Sanitary Code and shall be readily available to occupants of the property. Nonpotable water shall not be accessible to park occupants.

(2) A minimum water pressure of 20 pounds per square inch shall be provided at the riser pipe of each site at all times.

(3) A water service connection consisting of a service box with a shut-off valve installed below the frost line and a three-quarter inch riser pipe shall be supplied on each site. Surface drainage shall be diverted from the connection. The park operator shall be responsible for maintaining the shut-off and riser pipe, except where the responsibility for the riser pipe has been transferred to the mobile home occupant by formal written agreement. Such formal written agreement shall be available for review by the permit-issuing official.

(4) The riser pipe shall be provided with a watertight seal when not connected to a home.

(5) The distribution and pumping system shall be maintained in an acceptable manner.

### **(B) Sewage facilities**

Facilities shall be provided and maintained for the satisfactory treatment and/or disposal of sewage.

(1) All sewage facilities shall be designed, constructed and maintained in accordance with the appropriate standards of the Departments of Health or Environmental Conservation.

(2) No construction of new or modified facilities shall commence until approval from the agency having jurisdiction in writing has been received by the operator. All construction shall be in accordance with approved plans.

(3) Each site shall be provided with a minimum four-inch sewer pipe below the ground surface and a four-inch rise pipe.

(4) The connecting pipe (minimum of three-inch diameter) from the mobile home to the riser pipe shall be noncollapsible and semirigid. All connections shall be watertight.

(5) The riser pipe shall be provided with a watertight seal when not connected to a mobile home.

(6) Inadequately treated sewage on the surface of the ground shall be prohibited.

(7) The operator shall be responsible for maintaining the sewage system to include the riser pipe. The connecting pipe shall also be the responsibility of the operator unless the responsibility has been transferred to the mobile home occupant by formal written agreement. Such formal written agreement shall be available for review by the permit-issuing official.

(C) Utilities other than water and sewage.

Distribution systems for electricity, including the mobile home service equipment and feeder assembly, gas and fuel oil shall be in accordance with applicable State and local regulations or generally accepted standards. The operator shall be responsible for maintaining these systems, including the connection to each home, unless such responsibility has been transferred to the mobile home occupant by formal written agreement. Such formal agreement shall be available for review by the permit-issuing official.

## **Section 23.7 Site size**

After the effective date of this Article, any site established at a new or existing park shall

be a minimum of 5000 square feet. Additional area shall be provided where needed to meet the requirements of Section 23.5(B) and 23.6(B)(1) of this Article.

## **Section 23.8 Mobile home stands**

The mobile home stand shall be improved to provide adequate support for the placement and anchoring of the mobile home in accordance with generally accepted standards. The stand shall not heave, shift or settle unevenly under the weight of the mobile home due to frost action, inadequate drainage, vibration, wind or other forces acting on the structure. The stand shall inhibit the ponding of water under and around the home.

## **Section 23.9 Anchoring**

Anchoring systems may be required by the permit-issuing official. Anchoring systems shall be installed when required by any other local or State law, rule or regulation. When anchoring is required, the operator shall be responsible for the proper installation of anchoring systems.

## **Section 23.10 Supervision**

It shall be the responsibility of the operator of the mobile home park to see that all facilities are kept in good working order and in good repair. This includes water supply facilities, sewage treatment and disposal facilities, grounds, roadways and any other facility, appliances or equipment pertinent to the normal operation of the mobile home park.

## **Section 23.11 Miscellaneous**

### **(A) Refuse storage and Disposal**

Adequate and sanitary facilities shall be provided and maintained for the storage and disposal of refuse. Sanitary methods shall be used for the temporary storage, collection, handling and disposal of refuse. Any on-premise refuse processing, treatment and disposal facilities shall meet the requirements of the State Commissioner of Environmental Conservation.

- (1) The operator shall provide for refuse pickup or central refuse storage.

(2) If reuse pickup is not provided, the occupant shall be responsible for transporting refuse to the central refuse storage.

(3) The occupant shall be responsible for the proper maintenance and storage of refuse on each site.

#### (B) Insect and rodent control

Grounds, buildings and structures shall be maintained in such a manner as to control noxious insect and rodent infestations. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the agency having jurisdiction.

#### (C) Weed control

The growth of ragweed, poison ivy, poison oak, poison sumac and other noxious weeds shall be controlled. Control measures and materials shall conform with requirements of the agency having jurisdiction. The elimination of such weeds where the growth is limited to a single site shall be the responsibility of the occupants.

#### (D) Toxic materials

Agricultural pesticides and toxic chemicals shall not be stored in an area accessible to park residents. If any pesticides or toxic chemicals are stored or made available, they shall be used as directed on the package and in accordance with any applicable requirements established by the Department of Environmental Conservation and stored so as not to cause air, surface water or ground water pollution.

#### (E) Other duties

(1) The operator shall provide a suitable and responsible individual to be in charge of the property and who shall be readily available while the property is occupied.

(2) The operator shall comply with the provisions of this Article and with all conditions stated in the permit and shall allow the permit-issuing official or his representative to enter the premises at any reasonable time to ascertain compliance with this Article.

(3) The operator shall be responsible for traffic control measures that will preclude

hazards to vehicular and pedestrian traffic and to insure ready access to any and all sites by emergency vehicles at all times.

(4) The operator shall be responsible for reporting the following to the permit-issuing official: interruption in the treatment of supply of drinking water; all fires resulting in a report or call to a fire department or police; the existence of inadequately treated sewage on the surface of the ground.

## **Section 23.12 Variance; compliance schedule**

(A) The permit-issuing official 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 which shall include a time schedule for compliance, where such variance is in harmony with the general purpose and intent of this Article, and where there are practical difficulties or unnecessary hardship in carrying out the strict letter of the provision.

(1) A time schedule for compliance shall not exceed a total of three years.

(2) A variance shall not be issued for more than one calendar year.

(3) If the time schedule for compliance exceeds one calendar year, the permit-issuing official may re-issue the variance on an annual basis, for not more than three years, if he determines the park is operating in compliance with all other requirements of this Article and the operator is complying with the established time schedule.

## **Section 23.13 Waiver**

(A) The permit-issuing official may, upon written application and after review, grant a waiver from the specific provision of this Article in a specific case subject to the following conditions:

(1) The park, or portion thereof, was operated as a park prior to, and continuously since, the effective date of the requirement being waived.

(2) Failure to comply with the specific provisions will not have any adverse effect on the health and safety of the park occupants or any other person.

(3) The waiver shall prescribe the terms, requirements or conditions for operation of the park under which the waiver is being issued.

(4) A waiver shall not be transferable or assignable.

(B) A waiver shall remain in effect until revoked by the permit-issuing official. Failure of the operator to comply with the terms, requirements or conditions for operating specified in the waiver shall constitute sufficient basis for revocation of the waiver.

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# Dutchess County Sanitary Code

## Article 24

### OFFENSIVE MATERIAL

#### Section 24.1 Definitions

(A) The term "Container" means any device in which material is stored, transported, treated, disposed of, or otherwise handled.

(B) The term "Garbage" means 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.

(C) The term "Hazardous Material" means 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.

(D) The term "Hazardous Waste" means a waste or combination of wastes which, because of its quantity, concentration, or physical, chemical, radiological, or infectious characteristics and/or effects may constitute a nuisance or public health hazard.

(E) The term "Offensive Material" means any refuse, sewage, fecal matter, offal, garbage, dead animals, meat wastes, blood, tankage, brine, urine or any putrescible matter, septage, sludge or sewage sludge or any other substance deemed a nuisance or prejudicial to public health or to the environment.

(F) The term "Person" means 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.

(G) The term "Public Health Hazard" means a condition, potential condition or sequence of events deemed by the Commissioner or appointed designee which may impact or

threaten the health of the public.

(H) The term "Refuse" means all waste material including, but not limited to, offensive material, garbage, rubbish, incinerator residue, street sweepings, dead animals and offal.

(I) The term "Rubbish" means solid or liquid waste material including, but not 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.

(J) The term "Septage" means the contents of a privie, septic tank, cesspool, chemical toilet, either liquid or solid state, or other individual sewage treatment facility which receives domestic sewage wastes.

(K) The term "Sewage Sludge" means the accumulated semisolid suspension of solids deposited from wastewaters from municipal or private sewage treatment plants.

(L) The term "Sludge" means any solid, semisolid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility. Sludge does not include the treated effluent from a wastewater treatment plant.

(M) The term "Stabilized Sludge" means 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.

(N) The term "Vehicle" means any motor vehicle, water vessel, railroad car, airplane, or other means of transporting solid waste, including hazardous waste.

## **Section 24.2 Prohibitions; Nuisances**

(A) No person shall permit, deposit, store or hold any offensive material on any place or premises unless such material is so treated, screened, covered, placed or located so as not to create a nuisance or condition which may be dangerous to life or health.

(B) No refuse shall be disposed of, other than by the use of a solid waste management facility constructed, operated and maintained in accordance with conditions delineated in

a permit issued by the New York State Department of Environmental Conservation.

## **Section 24.3 Collection; Transportation; Disposal**

(A) No person shall transport for disposition and/or disposal any offensive material, refuse and/or rubbish into Dutchess County without first having submitted an application to the Dutchess County Department of Health and obtained a permit from the Commissioner or appointed designee for such purpose.

(B)

(1) No person shall remove or transport or permit the removal or transportation within Dutchess County of any refuse, garbage, or offensive material except in such a manner or in or by such conveyance as will not cause the creation of a nuisance or public health hazard.

(2) All such material shall be so handled, covered or treated so that it cannot escape or be accessible to rodents, flies or other insects or create a nuisance or public health hazard.

(3) All vehicles and implements used in connection therewith shall be kept in an inoffensive and sanitary condition and, when not in use, shall be so stored or kept as not to create a nuisance or public health hazard.

## **Section 24.4 Storage**

(A) Offensive material and refuse shall be stored in containers in such manner so as to be confined completely therein.

(B) All containers for the storage of offensive materials and refuse shall be animal, rodent and insect-proof and shall be kept in an inoffensive and sanitary condition.

(C) Offensive material and refuse shall not be allowed to accumulate in any yard, basement, empty lot, alley or other place so as to create a nuisance or public health

hazard.

## **Section 24.5 Hazardous Materials and Hazardous Wastes**

(A) Any operation for the disposal of hazardous wastes and/or storage of hazardous materials in such a manner as to create a nuisance or public health hazard is prohibited.

(B) No person shall permit, deposit, store or hold any hazardous material or hazardous waste on any place or premises unless such material and/or wastes are so handled, treated, placed or located so as not to create a nuisance or public health hazard.

(C) No person shall operate or maintain a facility for the treatment/storage and/or disposal of hazardous materials or hazardous wastes in a manner so as to create a nuisance or public health hazard.

## **Section 24.6 Variances**

On written application and after review, the Commissioner or appointed designee may grant a variance from any provision of this Article in a specific case, subject to appropriate conditions and where such variance is determined to be in harmony with the general purpose and intent of the provisions of this Article.

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# **Dutchess County Sanitary Code**

## **Article 25**

### **TOBACCO PRODUCTS**

#### **Section 25.1 Statement & Scope**

WHEREAS, the prevention of adolescent tobacco product use is detailed in Article 13-F of the Public Health Law of the State of New York, known as the Adolescent Tobacco-Use Prevention Act (ATUPA), which expressly prohibits the sale of tobacco products to minors; and

WHEREAS, the Commissioner of Health of Dutchess County has the duty to enforce the provisions of ATUPA and the Dutchess County Board of Health encourages the Commissioner to utilize his/her time to reduce the prevalence of tobacco use and addiction as well as tobacco smoke exposure in Dutchess County; and

WHEREAS, the Dutchess County Board of Health promulgates the Sanitary Code which the Commissioner also has the duty to enforce; and

WHEREAS, the Dutchess County Board of Health desires the Commissioner to effectively and efficiently enforce ATUPA by limiting and preventing access to tobacco products by persons under eighteen years of age, and prohibit the sale of tobacco products to said persons; and

WHEREAS, the number of adolescent tobacco users nationwide has recently been demonstrated statistically to be increasing in the United States as detailed in the Morbidity and Mortality Weekly Report (November 18, 1994, Vol. 43, No. SS-3) of the Centers for Disease Control and Prevention (CDC) of the U. S. Department of Health and Human Services; and

WHEREAS, based on the United States Surgeon General's 1994 Report, that most persons under the age of 18 who use tobacco products are addicted to nicotine and are thus compelled, to a degree, to attempt to purchase more tobacco products, participating in an illegal act; and

WHEREAS, a local permit requirement is necessary to more systematically monitor compliance with ATUPA to ensure that dealers of tobacco products are thoroughly educated about their responsibilities under ATUPA and to ensure that an educational sign regarding the health risks of using tobacco products, produced by the Dutchess County Department of Health, is properly placed; and

WHEREAS, in-store monitoring measures are necessary to maximize store owner accountability and to minimize distribution of tobacco products to minors with or without charge; and

WHEREAS, the Dutchess County Board of Health finds and believes, after careful study and deliberation, that Dutchess County has a substantial and important interest in reducing the incidence of illegal acts relating to the sale of tobacco products to persons under the age of 18; and

WHEREAS, the New York State Legislature has found that "there is a substantial body of scientific research showing that breathing secondhand smoke is a significant health hazard for non-smokers," and the Dutchess County Board of Health seeks to protect the health of all of the residents of Dutchess County, including those under 18 years of age; and

WHEREAS, a recent survey done by the Dutchess County Health Department revealed that over 55% of local high school students have used tobacco products, of which 57% first tried tobacco products before the age of 14 and over 92% first tried tobacco products before the age of 16; therefore,

The Dutchess County Board of Health does hereby amend and enact the Dutchess County Sanitary Code as follows, herein.

## **Section 25.2 Definitions**

A) The term "Permit Issuing Official" shall mean the Dutchess County Commissioner of Health or the appointed designee.

B) Other definitions found in the New York State Tax Law Section 470 and New York State Public Health Law, Article 13-E and Article 13-F Section 1399-aa are hereby incorporated as definitions applicable to this Article of the Dutchess County Sanitary Code.

C) The term "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.

D) ATUPA shall mean the New York State Adolescent Tobacco-Use Prevention Act.

E) The term "tobacco products" means one or more cigarettes or cigars, chewing tobacco, powdered tobacco or any other tobacco products.

F) The term "private club" means an organization with no more than an insignificant portion of its membership comprised of people under the age of eighteen years that regularly receives dues and/or payments from its members for the use of space, facilities and services.

## **Section 25.3 Permit Required**

A) Every dealer of tobacco products in Dutchess County shall possess a valid Permit issued by the permit-issuing official for each location and/or event at which tobacco sales or distribution occur. Private clubs are exempted from this Section and all other provisions of this Article.

B) Not less than 21 days before starting operation as a dealer of tobacco products, an application for a permit is to be submitted to the permit-issuing official. This application is to be completed in full on forms acceptable to the permit-issuing official. The application shall be accompanied by the prevailing fee.

C) Each Permit issued will expire two (2) years from the date of issuance, except as otherwise stipulated on the Permit. The Permit shall be phased in over a 12 month period with a staggered system in order to facilitate efficient renewals.

D) An application, completed in full, for renewal of a permit shall be made at least thirty (30) days prior to expiration of the current permit on forms acceptable to the permit-issuing official. An application for a renewal permit shall be accompanied by payment of the prevailing fee.

E) The Department may withhold, suspend, or revoke a Permit if it finds that:

- 1) the information submitted in the application is incorrect or incomplete; or

- 2) the fee for application and/or the Permit has not been paid as required; or
- 3) the applying Dealer of tobacco products is not in compliance with all provisions of the New York State Tax Law Article 20 and the New York State Public Health Law Article 13-F.
- 4) the applying Dealer has not signed and returned the "Statement of Understanding and Responsibility of the New York State ATUPA Law" with the permit application.

F) Any Dealer who is found not to be in compliance with all of the provisions of this Article and the New York State Public Health Law, in addition to any penalties under New York State Law, will also have their Dutchess County Permit suspended for a period of 48 hours after an administrative hearing has determined non-compliance. Tobacco products may not be sold or offered for sale while a permit is in suspension. Additionally, a sign shall be placed at the entrance of the business by the Department stating, "This business sold a tobacco product to someone under 18 years of age and may not sell tobacco products again until \_\_\_\_\_." (specified date and time)

## **Section 25.4 Standards and Requirements**

- A) Any Dealer of tobacco products shall comply with all provisions of the New York State Tax Law Article 20 and New York State Public Health Law Article 13-F.
- B) A valid Permit must be posted in a manner conspicuous to the public by the Dealer of tobacco products at each location where tobacco sales or distribution occur.
- C) Selling, or the offering for sale, tobacco products without a valid and appropriately displayed permit constitutes a violation of this Article.

## **Section 25.5 Sign Required**

In addition to the requirements of the ATUPA regulations, every dealer of tobacco products in Dutchess County shall conspicuously place a sign produced and supplied by the Dutchess County Health Department stating "Tobacco Use Harms You and Loved Ones Now. It may Kill You Later", or other sign approved by the Commissioner of Health.

## **Section 25.6 School Reporting**

A) Each school district, each school year, shall file with the Dutchess County Department of Health a written policy and procedure which will effect compliance with Article 13E, Public Health Law, and this Article. The policy and procedure shall be filed no later than the last day of September and shall include but not be limited to the following:

1. Name, business address and phone number of the school district Superintendent.
2. Name, business address and phone number of the school district designated enforcement officer for each school.
3. Procedure and method for providing training and educational material each school year to the school employees and students dealing with the requirements of Article 13E, Public Health Law, State of New York, and Article 25, Section [25.1](#), 25.6, 25.7, Dutchess County Sanitary Code.
4. School district administrative process for enforcement of Article 13E and Article 25 to include but not be limited to the following:
  - a. Written documentation for each incident (violation) on a form provided by and/or approved by the Dutchess County Commissioner of Health or the appointed designee. Said form to be kept on file by the school until the offender is no longer enrolled in the school district
  - b. Procedures for and method of discipline and notification to the parent and/or legal guardian.
  - c. Procedure for referral to the Dutchess County Department of Health for enforcement after the third incident (violation) has occurred during the school year.

B) Every middle and high school shall file with the Dutchess County Department of Health a report, two times each school year, on the violations of Article 13E, Section 1399-o, Public Health Law, and this Article, which occurred on school grounds. The report periods shall be September 1 to January 31, and February 1 to August 31, and shall include but not be limited to the following:

1. Number of persons who committed a violation.

2. Number of separate violations for each person reported in Item 1.
3. Sex and age of each violator.
4. Location of each violation.
5. Type of violation (smoking or possession)
6. Type of tobacco product

## **Section 25.7 Possession and Use**

No one under 18 years of age shall be permitted to possess or use tobacco products on school grounds.

## **Section 25.8 Severability**

If any clause, sentence, paragraph, subdivision, section, or part of this regulation or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not effect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this regulation, or its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order of judgment shall be rendered.

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# DUTCHESS COUNTY SANITARY CODE

## ARTICLE 26

### TOBACCO PRODUCTS

#### Smoking in Public Places

##### Section 26.1 Legislative Intent

The Board of Health finds and determines that the health of the public is seriously threatened by exposure to environmental tobacco smoke (ETS), also known as secondhand smoke. The Board of Health also determines that reliable studies have shown that breathing secondhand smoke is an increased health hazard for several population groups, including children, fetuses, elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. In short, secondhand smoke is a known cause of premature death and disease, including lung cancer and heart disease, in otherwise healthy nonsmokers.

The effects of exposure to ETS include lung cancer, respiratory infection, decreased exercise tolerance, decreased respiratory function, bronchoconstriction and bronchospasm. Further, exposure to ETS significantly worsens the condition of up to 1,000,000 asthmatic children nationwide and contributes to new cases of asthma in once-healthy children.

Exposure to tobacco smoke precipitates and/or aggravates allergic attacks in persons with respiratory allergies, and accelerates such allergic symptoms as eye irritation, nasal symptoms, headaches, cough, wheezing, sore throat and hoarseness. The preponderance of the evidence and the trends reflected in that evidence all indicate that exposure to secondhand smoke is a significant health hazard which does adversely affect the public health. The presence of ETS in public places may also prevent access by individuals with respiratory or cardiovascular disabilities in a discriminatory manner.

The Board of Health finds that Americans, including all citizens of Dutchess County, are likely to be involuntarily exposed to ETS by virtue of its widespread presence in public places and in the workplace, and that exposure to ETS presents a substantial and

serious health risk to nonsmokers. The Board of Health hereby strengthens the New York State "Clean Indoor Air" Act, Public Health Law, Article 13-E. Reducing exposure to secondhand tobacco smoke for people of all ages, particularly young people, in indoor public places in Dutchess County will improve the health of our community.

## **Section 26.2 Definitions**

- A. "Bar" and "Tavern" means any establishment open to the public, devoted to the sale and service of alcoholic beverages for on-premises consumption, where the service of food is merely incidental to the operation of the business, and for which the sale of food for on-premises consumption does not exceed 40% of annual gross sales.
- B. "Bar Area" means an area of a restaurant or other facility within a maximum of 15 feet of the physical bar where patrons purchase and consume alcoholic beverages.
- C. "Business" means any sole proprietorship, partnership, joint venture, corporation, or other business entity whether for profit or not-for-profit, including retail establishments where goods or services are sold as well as professional corporations, social agencies and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered.
- D. "Dining Area" means any area in a restaurant where people dine except the bar area of a restaurant with a bar.
- E. "Employee" means any person who is employed by any employer for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a non-profit entity.
- F. "Employer" means any person, partnership, corporation, including a municipal corporation, or non-profit entity who employs the services of one or more individual persons.
- G. "Place of Employment" means any area under the control of a public or private employer which employees normally frequent during the course of employment, including but not limited to work areas, employee lounges and restrooms, conference and classrooms, vehicles, employee cafeterias, and hallways.
- H. "Private social function" shall mean any weddings, parties, testimonial dinners, or other similar gatherings in which the seating arrangements are under the control of the organizer or sponsor of the event and not the person who owns, manages, operates, or otherwise controls the use of the place in which the function is held.
- I. "Public Place" means any indoor area to which the public is invited or in which the public is permitted, including but not limited to banks, educational facilities, health facilities, laundromats, public transportation vehicles and facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, theaters, and waiting rooms and places of worship.

Areas in a private residence which constitute common areas of a multiple dwelling are "public places" within the meaning of this regulation.

- J. "Restaurant" means any coffee shop, cafeteria, sandwich shop, and any other eating establishment which gives or offers for sale food to the public, guests, or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities.
- K. "Service Line" means any indoor line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.
- L. "Smoking" means to inhale or exhale the smoke of burning tobacco or tobacco substitute and also to carry burning tobacco or tobacco substitute in the form of a cigarette, cigar, or any other smoke producing device including pipes.
- M. "Sports Arena" means any sports pavilion, including concourses, gymnasium, health spa, boxing arena, swimming pool, roller or ice skating rink, and other similar places. This term also applies to places where the general public assembles either to engage in physical exercise, participate in athletic or recreational activity, to witness sports, cultural, recreational or similar activities.
- N. A Tobacco Business shall be defined as set forth in Article 13-E of the Public Health Law of the State of New York.

### **Section 26.3 Application of Article to Government Owned and/or Operated Facilities**

All enclosed facilities owned or leased by the county and any political subdivision of the county shall be subject to the provisions of this Article.

### **Section 26.4 Regulation of Environmental Tobacco Smoke in Public Places**

- A. Smoking shall be prohibited in all indoor public places within the county, unless otherwise provided by this regulation, including but not limited to the following places:
  - 1. Elevators.
  - 2. Buses, taxicabs, and other means of public transit, and ticket, boarding, and waiting areas of public depots.
  - 3. Public restrooms.
  - 4. Service lines.
  - 5. Retail stores.
  - 6. All areas available to and customarily used by the general public in all

businesses and non-profit entities patronized by the public, including but not limited to professional and other offices, banks, laundromats and hotel and motel lobbies.

7. Aquariums, galleries, libraries, and museums.
8. Any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital, or other similar performance.
9. Every room, chamber, place of meeting or public assembly, including school buildings, under the control of any board, council, commission, committee, including joint committees, or agencies of the county or any political subdivision of the county.
10. Hospitals, clinics, physical therapy facilities, doctors' offices, dentists' offices and any other health facility.
11. Lobbies, hallways, and other common areas in apartment buildings, condominiums, retirement facilities, nursing homes, and other multiple unit residential and commercial facilities.
12. Polling places.
13. Places of worship.
14. Dining areas of private clubs when open to the public.
15. Private and public schools.
16. Convention centers.
17. Restaurants without Bars.

B. Smoking may be permitted, with certain limitations, as provided in various sections of this regulation including, but not limited to, the following areas and locations:

1. Restaurants with Bars: Dining areas shall be smokefree. Smoking may be allowed within bar areas provided the bar area is not the sole patron waiting area, is separated from the dining area by a floor to ceiling partition and is ventilated such that secondhand tobacco smoke from the bar area does not enter other areas in the facility, including the dining area.
2. Sports Arenas: Indoor facilities shall be smokefree. Smoking may be allowed within bar areas provided the bar area is not the sole patron waiting area, is separated from all other areas by a floor to ceiling partition and is ventilated such that secondhand tobacco smoke from the bar area does not enter other areas in the facility.
3. Bingo Halls: Bingo halls shall be smokefree. Smoking may be allowed within bar areas provided the bar area is not the sole patron waiting area, is separated from all other areas by a floor to ceiling partition and is ventilated such that secondhand tobacco smoke from the bar area does not enter other areas in the facility.

4. Bowling Centers: Bowling centers shall be smokefree. Smoking may be allowed within bar areas provided the bar area is not the sole patron waiting area, is separated from all other areas by a floor to ceiling partition and is ventilated such that secondhand tobacco smoke from the bar area does not enter other areas in the facility.

#### **Section 26.5 Protection of Minors**

- A. Whenever smoking is permitted under the terms of this Article, minors (patrons and/or employees) under eighteen (18) years of age shall not be permitted in these areas. Entrances to these areas shall be prominently posted with a sign which reads: "Due to recognized health risks to children from secondhand smoke and current Health Department regulations, we cannot allow minors under the age of 18 into this room. The Dutchess County Health Department shall provide such signs.

#### **Section 26.6 Regulation of Environmental Tobacco Smoke in Hotels and Motels**

Hotels and motels shall be required to designate a group of contiguous bedrooms, at least 50% of all bedrooms, as smokefree. Such rooms shall never be rented out to smoking customers. Lobbies, hallways, meeting rooms and other common areas shall be smokefree.

#### **Section 26.7 Regulation of Environmental Tobacco Smoke in Places of Employment**

- A. It shall be the responsibility of employers to provide a smokefree workplace for all employees, but employers are not required to incur any expense to make structural or other physical modifications.
- B. Within 90 days of the effective date of this Article, each employer having any enclosed place of employment located within the county shall adopt, implement, make known, and maintain a written smoking policy which shall contain the following requirements: Smoking shall be prohibited in all enclosed facilities within a place of employment without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.
- C. The smoking policy shall be communicated to all employees at least three (3) weeks prior to its adoption.

## **Section 26.8 Where Environmental Tobacco Smoke is Not Regulated**

Notwithstanding any other provision of this regulation to the contrary, the following shall not be subject to the smoking restrictions contained in this regulation:

- A. Private residences.
- B. Private vehicles.
- C. Tobacco businesses.
- D. Private social functions.
- E. Outdoor areas, except as provided otherwise by Article 13-E of the New York State Public Health Law.
- F. Bars and taverns.

## **Section 26.9 Posting of Signs**

- A. "No Smoking" signs of the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it), shall be clearly, sufficiently, and conspicuously posted at each entrance to every building or other facility where smoking is prohibited. The Dutchess County Health Department shall provide such signs.
- A. "Smoking Permitted in Designated Areas Only" signs shall be clearly, sufficiently, and conspicuously posted at each entrance to every building or other facility where smoking is permitted. The Dutchess County Health Department shall provide such signs.
- B. "Designated Smoking Area" signs shall be clearly, sufficiently and conspicuously posted in each area where smoking is permitted under the terms of this Article. The Dutchess County Health Department shall provide such signs.

## **Section 26.10 Notice and Enforcement**

- A. The owner, manager or operator of any establishment regulated by this Article shall be responsible for configuring and constructing said establishment within the confines of this Article, including the provision of any necessary ventilation. The owner, manager or operator shall also be required to inform persons violating the Article of the appropriate provisions hereof.
- B. Any citizen may register a complaint under this Article to the County Health Department.
- C. The Dutchess County Health Department shall be charged with enforcement of this

Article. The Public Health Commissioner is authorized to issue all notices, orders and other processes that may be necessary in the enforcement of this Article.

- D. Upon written notice of a violation of any provision of this Article, the Public Health Commissioner shall cause a hearing to be held in accordance with this Sanitary Code.

### **Section 26.11 Violations and Penalties**

- A. It shall be a violation for any person who owns, manages, operates, or otherwise controls the use of any premises subject to regulation under this Article to fail to comply with any of its provisions.
- B. It shall be a violation for any person to smoke in any area where smoking is prohibited by the provisions of this Article.
- C. Any person who violates any provision of this Article shall be guilty of a violation punishable by a penalty not exceeding \$1,000 per infraction.

### **Section 26.12 Non-retaliation**

No person or employer shall discharge, refuse to hire, or in any manner retaliate against any employee or applicant for employment because such employee or applicant exercises any right to a smokefree environment afforded by this Article.

### **Section 26.13 Interpretation**

This Article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

### **Section 26.14 Severability**

If any provision, clause, sentence, or paragraph of this Article or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Article which can be given effect without the invalid provision or application, and to this end the remaining provisions of this Article are declared to be valid.

### **Section 26.15 Cause of Action**

Nothing in this Article shall be construed to create a cause of action by one person

against another person for violation of any provision of this Article.

REPEALED

# Dutchess County Sanitary Code

## Article 27

### Tanning Facilities

#### 27.1 Declaration of Policy

It is hereby declared to be the policy of the Dutchess County Health Department to register and regulate the maintenance and use of tanning facilities.

#### 27.2 Definitions

The following is a list of terms and definitions that will be used in this Article

- (A) The term “Operator” means any person who leases, operates, controls, manages or supervises a tanning facility.
- (B) The term “Owner” means any person who has legal or equitable title to a tanning facility.
- (C) The term “Tanning Facility” means any place where a tanning device is used for a fee, membership dues or any other compensation.
- (D) The term “Tanning Device” means sunlamp products and ultraviolet lamps intended to induce skin tanning through the irradiation of any part of the living human body, and includes any accompanying equipment, such as protective eyewear.

- (E) The term “Minor” means an individual less than 18 years of age.

### **27.3 Permit Required**

- (A) It shall be unlawful for any person to operate a tanning facility without a valid permit issued by the Department.
- (B) Application for such permit shall be made at least thirty (30) days prior to the first day of intended operation on a form prescribed by the Dutchess County Commissioner of Health or appointed designee and shall be accompanied by the prevailing fee.
- (C) The permit issued by the Commissioner shall be effective for two years from the date of issuance. The permit is valid only for the location stated on the permit and is not transferable.
- (D) The Commissioner may suspend or revoke the permit as provided herein upon the violation of the provisions of this Article by the permittee after a hearing has been held pursuant to the provisions of the Dutchess County Sanitary Code.

### **27.4 Fee**

A fee shall be charged for each permit issued. This fee shall be paid by cash, check, or money order made payable to the Dutchess County Department of Health. Payment shall accompany the application for a permit.

### **27.5 Exemptions**

- (A) Nothing in this subpart shall be interpreted as limiting the intentional exposure of patients to ultraviolet radiation commensurate with a licensed practitioner’s treatment of medical

conditions nor;

(B) Individuals using tanning equipment in a private dwelling where no form of compensation is involved.

## **27.6 Sanitary Measures**

(A) Every portion of the tanning facility, including equipment and apparatus shall be kept clean and in good repair.

(B) The tanning table(s) and protective eyewear shall be sanitized after each use in accordance with the manufacturer's directions or in manner acceptable to this Department

(C) If towels and linens are provided, they shall be cleaned after each use.

## **27.7 Facility**

The owner or operator of a tanning facility:

(A) Must, whenever open for business, have an attendant on duty who is able to inform and assist the public in the proper use of the tanning facility;

(B) Must replace defective or burned out tanning lamps or bulbs with a type intended for use in that device, and shall be of the same spectral ultraviolet distribution the manufacturer intended.

(C) Must provide protective eyewear that meets USFDA criteria to each user at no additional charge.

(D) Must only use tanning equipment manufactured in accordance with the specifications set forth in 21 Code of Federal Regulations (CFR) Part 1040.20, "Sunlamp products and ultraviolet lamps intended for use in sunlamp products". The standard of compliance shall be the standards in effect at the time of manufacture as shown on the equipment identification label required by 21 CFR Part 1010, Section 1010.3

## 27.8 Tanning Devices:

- (A) Shall have physical barriers or other means, acceptable to the Commissioner, that limit exposure distance to tanning devices.
- (B) Shall have a timing device that does not automatically reset when emission from the tanning device product has been terminated.
- (C) Shall have a timer with multiple timer settings adequate for the manufacturer's recommended exposure intervals to produce the expected results.
- (D) Shall maintain current manufacturer specifications and recommended maximum exposure time for each and every tanning device in use in the tanning facility.
- (E) Shall be maintained in accordance with manufacturer's specifications.

## 27.9 Labels

Each tanning device shall have a label(s), which contains the following:

- (A) Each sunlamp product shall have a label(s), posted in accordance with the specifications set forth in 21 Code of Federal Regulations (CFR) Part 1040.20, "Sunlamp products and ultraviolet lamps intended for use in sunlamp products". This label shall contain a warning statement with the words "DANGER – ultraviolet radiation. Follow instructions. Avoid overexposure. As with natural sunlight overexposure can cause eye and skin injury and allergic reactions. Repeated exposure may cause premature aging of the skin and skin cancer. WEAR PROTECTIVE EYEWEAR; FAILURE TO MAY RESULT IN SEVERE BURNS OR LONG-TERM INJURY TO THE EYES. Medications and cosmetics may increase your sensitivity to the ultraviolet radiation. Consult a

physician before using sunlamp if you are using medications or have a history of skin problems or believe yourself especially sensitive to sunlight. If you do not tan in the sun, you are unlikely to tan from the use of this product”.

(B) Instructions to be provided to the user: Each operator of a sunlamp product shall provide or cause to be provided to users at no cost a copy of the label in Section 27.9 (A) and adequate instructions for use of the tanning device so as to avoid or minimize potential injury to the user, including manufacturer’s technical and safety information as applicable.

## **27.10 Warnings**

No owner or operator shall allow a patron to use the facility unless that patron has been provided the Dutchess County Department of Health Tanning Information Sheet, copy of label and instructions for use. The owner or operator must maintain for at least 24 months a record signed by the patron that they have received the information sheet.

## **27.11 Records and Reports**

For the purpose of this Article a tanning injury is:

(A) An injury resulting from the use of a tanning device, for which professional medical advice or attention is either sought or needed; or

(B) An injury resulting from the use of a tanning device, which is reported to the tanning facility owner or operator by a patron.

A tanning facility must:

- 1) Provide a written report, on a form acceptable to the Commissioner, of any tanning injury. Reports shall be forwarded to the

Department within five (5) working days of the owner or operator becoming aware of its occurrence.

Each report shall include: the name and address of the affected individual(s); the name and location of the tanning facility involved, date of injury, the specific machine identification information, serial number, etc; the nature of injury; any other information considered relevant to the situation.

2) Maintain records of patron's use, signed consent forms for minors and records that patrons have received tanning information shall be kept on file for a period of two years.

## **27.12 Minors**

Before a minor uses any tanning equipment or facility, the minor shall provide the tanning facility owner or operator a consent form acceptable to the Commissioner, signed by the parent or guardian of the minor. The parent or guardian shall have been provided with the basic information required in Section 27.9 (A)(B) and 27.10 of this Article prior to allowing the minor to use the tanning equipment.