

SANITARY CODE
OF THE
CATTARAUGUS COUNTY HEALTH DISTRICT

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REGULATORY AUTHORITY

1. The authority of the Cattaraugus County Board of Health to adopt and enforce this Code and otherwise protect and promote the health of the residents of Cattaraugus County is found in several provisions of the statutes of New York State, primarily the Public Health Law. Below are listed excerpts from Public Health Law §347(1), §348(1)-(3), §309(1)-(5).

§347. County or part-County Boards of Health; powers and duties; rules and regulations:

1. Upon the establishment of a board of health for a county or part-county health district as provided in this article it shall exercise all the powers and perform all duties of local boards of health as provided in this chapter, and such board of health may formulate, promulgate, adopt and publish rules, regulations, orders and directions for the security of life and health in the health district which shall not be inconsistent with the provisions of this chapter and the sanitary code*. Such rules, regulations, orders and directions shall be known as the sanitary code of such district.

- a. Every rule, regulation, order and direction adopted by a board of health or a county officer or body exercising the rule-making functions of a board of health shall state the date on which it takes effect and a copy thereof signed by the county health commissioner or his deputy or such county officer or the elective or appointive chief executive officer of such county body exercising the rule-making functions of a board of health shall be filed as a public record in the department**, in the county or part-county department of health and in the office of the county clerk and shall be published in such manner as the board of health or such county officer or body exercising the rule-making functions of a board of health may from time to time determine. No such rule, regulation, order or direction shall be effective prior to filing as a public record in the department.

- b. The county health commissioner or deputy shall furnish certified copies of the sanitary code of the health district and its amendments for a fee of one dollar.

- c. Nothing herein contained shall be construed to restrict the power of any county, city, town or village to adopt and enforce additional ordinances or enforce existing ordinances relating to health and sanitation provided that such ordinances are not inconsistent with the provisions of this chapter or the sanitary code.

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

- a. The provisions of this sanitary code of a county or part-county health district shall have the force and effect of law.

- b. Any non-compliance or non-conformance with any provision of such sanitary code or of a rule or regulation, duly made thereunder shall constitute a violation punishable on conviction for a first offense by a fine of not more than two hundred fifty dollars (\$250.00) or by imprisonment for not more than fifteen (15) days or by both such fine and imprisonment; and for a second or subsequent offense by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment not exceeding fifteen (15) days, or both.

- c. Certified copies of the sanitary code of a county or part-county health district shall be received in evidence in all courts and proceeding in the state.

§309. Local boards of health; quasi-judicial powers; enforcement

1. Every local board of health may:
 - a. Issue subpoenas which shall be regulated by the civil practice and law and rules.
 - b. Compel the attendance of witnesses.
 - c. Administer oaths to witnesses and compel them to testify.
 - d. By resolution, designate one of its members to sign and issue such subpoenas.
 - e. Issue warrants to any peace officer, acting pursuant to his special duties, or police officer of the municipality to apprehend and remove such person or persons as cannot otherwise be subjected to its orders or regulations, and to the sheriff of the county to bring to its aid the power of the county whenever it shall be necessary to do so.
 - f. Prescribe and impose penalties for the violation of or failure to comply with any of its orders or regulations, or any of the regulations of the state sanitary code, not exceeding one thousand dollars for a single violation or failure, to be sued for and recovered by it in any court of competent jurisdiction.
 - g. Appoint one or more hearing officers as shall be necessary to carry out its functions and duties. The hearing officer shall have the same powers possessed by the board to hold and conduct hearings. The hearing officer shall function under the supervision of the local board and shall make findings of fact and recommendations of the board.
2. No subpoena shall be served outside the jurisdiction of the board of health issuing it, and no witness shall be interrogated or compelled to testify upon matters not related to public health.
3. Every warrant issued by a local board of health shall be forthwith executed by the officer to whom directed, who shall have the same powers and be subject to the same duties in the execution thereof, as if it had been duly issued out of a court of record of the state.
4. Nothing in this Section contained shall be construed to alter or repeal any existing provision of law declaring such violations or any of them misdemeanors or felonies or prescribing a penalty therefor.
5. The penalty imposed by this Section may be released or compromised by the commissioner.

* = Sanitary Code means the New York State Sanitary Code.

** = Department means the New York State Department of Health.

CHAPTER I - GENERAL PROVISIONS

PART 1 - TITLE AND CITATION

- 1.1 The rules and regulations herein contained together with any duly enacted amendments or additions thereto shall be known as the Sanitary Code of the Cattaraugus County Health District
- 1.2 Citation of Sanitary Code of the Cattaraugus County Health District
 - 1.2.1 Citation of the Sanitary Code of the Cattaraugus County Health District shall follow the rules in the table below;

Unit Cited	Example
Title	SCCCHD
Chapter	SCCCHD ch I
Part	SCCCHD pt 1
Section	SCCCHD 1.1
Subsection	SCCCHD 1.1.1
Division	SCCCHD 1.1.1.1
Paragraph	SCCCHD 1.1.1.1.1
Appendix	SCCCHD Ap. A
Appendix - levels	Use citation rules beginning with "Section" above, i.e. SCCCHD Ap. A.1.1.1.1

PART 2 - DEFINITIONS

- 2.1 **Actively Immunized** – Shall mean an injection of a rabies vaccine which meets the standards prescribed by the United States Department of Agriculture for interstate sale and administered according to the manufacturer’s instructions under the direction of a duly licensed veterinarian.
- 2.2 **Adequate** – Shall mean a sufficient to accomplish the purpose intended, and to such a degree that no unreasonable risk is presented to health or safety.
- 2.3 **Applicant** - Shall mean the person requesting formal department approval for a planned project or action.
- 2.4 **Autoclave** - Shall mean a sterilization apparatus designed for the purpose of inactivation of infective agents.
- 2.5 **Board of Health** - Shall mean the Board of Health of the Cattaraugus County Health District.
- 2.6 **Body Art** - Shall mean the practice of physical body adornment by permitted establishments, practitioners, using techniques, including but not limited to tattooing, cosmetic tattooing, branding, scarification, body piercing, including but not limited to piercing the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system. This definition shall not include procedures that constitute the practice of medicine as defined

- by the New York State Education Department, such as tongue-splitting or implants, which are prohibited.
- 2.7 Body Art Establishment - Shall mean a location, place, or business that has been granted a permit by the Commissioner where the practices of body art are performed, whether or not for profit.
- 2.8 Body Art Practitioner - Shall mean a specifically identified individual who has been granted a certificate by the Commissioner to perform body art in an establishment that has been granted a body art establishment permit by the Commissioner.
- 2.9 Body Art Client – Shall mean any person who requests a body art procedure at a body art establishment.
- 2.10 Body Art Work Station – Shall mean a clearly defined area within a body establishment where body art is performed.
- 2.11 Branding – Shall mean a form of body art that involves applying extreme heat to the skin in order to create a burned image or pattern.
- 2.12 Body Piercing – Shall mean puncturing or penetrating the skin with pre-sterilized needles and the insertion of pre-sterilized jewelry or other adornment into the opening. Such term shall not include tongue-splitting. Additionally, this definition excludes piercing of the ear with a pre-sterilized single-use stud-and-clasp system manufactured exclusively for ear piercing.
- 2.13 Commercial Pet Waste - Shall mean animal wastes or washwater generated at veterinary clinics or pet boarding, grooming or breeding facilities. This does not include agricultural or livestock facilities regulated by other state or federal agencies.
- 2.14 Commercial Water System - Shall mean any water system not classified as a public water system, where the owner of such system serves piped water intended for use by persons other than themselves or immediate family.
- 2.15 Commissioner - Shall mean the Commissioner or Public Health Director of Cattaraugus County.
- 2.16 Confinement - Shall mean the conditions under which apparently healthy dogs, cats, domesticated ferrets, and domestic livestock, which are not exhibiting symptoms of rabies but have potentially exposed a person to rabies, must be housed and observed.
- 2.17 Construct - Shall mean to construct, reconstruct or replace in whole or in part.
- 2.18 Consultant - Shall mean a person who is hired by the applicant to perform professional design services within a given specialized field for which they are qualified, and who possess a current license to practice that profession as issued by the New York State Education Department.

- 2.19 Contractor - Shall mean any person which constructs, reconstructs or replaces any portion of an onsite wastewater treatment system, public wastewater treatment system, public water system, commercial water system or, individual water system.
- 2.20 Department (Health Department) - Shall mean the Department of Health of the Cattaraugus County Health District, its employees or other representatives authorized by the Commissioner. Such employees and other authorized representatives shall be deemed to represent the Commissioner when acting in accordance with their official duties, responsibilities and powers.
- 2.21 Domestic Livestock – Shall mean sheep, horses, cattle, goats, swine, donkeys and mules.
- 2.22 Effective period – Shall mean a period of time established by the Health Department for which a rabies vaccination is deemed to be effective in the preventing the development of rabies in a particular species.
- 2.23 Enhanced Treatment Units (ETUs) - Shall mean pre-manufactured structures that provide enhanced treatment of wastewater prior to discharge to a subsurface soil absorption area.
- 2.24 Establishment - Shall mean any facility required to obtain a permit to operate by the Health Department.
- 2.25 Fecal matter - Shall mean any solid human waste.
- 2.26 Health Department (Department) - Shall mean the Department of Health of the Cattaraugus County Health District, its employees or other representatives authorized by the Commissioner. Such employees and other authorized representatives shall be deemed to represent the Commissioner when acting in accordance with their official duties, responsibilities and powers.
- 2.27 Health District - Shall mean the Cattaraugus County Health District established under Section 340 of the Public Health Law of the State of New York.
- 2.28 Immediate Family - Shall mean spouses, parents, stepparents, grandparents, children, stepchildren, grandchildren, and siblings.
- 2.29 Individual Water System - Shall mean any water system not classified as either a commercial water system or public water system.
- 2.30 Minor - Shall mean any person under the age of eighteen years.
- 2.31 Offensive Material - Shall mean any solid, liquid, or gaseous substance which is putrescible, noxious, or otherwise constitutes a nuisance or hazard to public health.
- 2.32 Onsite Wastewater Treatment System - Shall mean any excavations, piping, tanks, equipment or other appurtenances, designed to treat flows of wastewater, commercial pet waste, or fecal matter less than one thousand gallons per day. System components may include but are not limited to absorption beds, leach fields, sand filters,

- septic/holding tanks, and pumping stations utilized in the process of conveying, retaining, treating or disposing of such waste. These systems are regulated by 10 NYCRR 75.
- 2.33 Owner – Shall mean any person holds legal title to an establishment or property which is subject to Health Department regulation.
- 2.34 Permit - Shall mean written permission issued by the Commissioner allowing the construction and/or operation of a facility regulated, or this Sanitary Code.
- 2.35 Person - Shall mean any individual, public or private corporation, political subdivision, government agency, municipality, industry, co-partnership, association, firm, trust, estate, utility district, or any other legal entity.
- 2.36 Potable – For water systems where it is determined that 10 NYCRR 5-1 does not apply; potable shall mean water that is suitable and safe for human consumption.
- 2.37 Public Health Hazard – Shall mean any condition which poses an imminent threat to the health or safety of the public.
- 2.38 Public Health Law - Shall mean the Public Health Law (PHL) of the Consolidated Laws of the State of New York.
- 2.39 Public Health Nuisance – Shall mean any condition which endangers the health or safety of the public.
- 2.40 Public Wastewater Treatment System- Shall mean any excavations, piping, tanks, equipment or other appurtenances, designed to treat flows of wastewater, industrial waste, commercial pet waste, or fecal matter greater than one thousand gallons per day. System components may include but are not limited to absorption beds, leach fields, sand filters, septic/holding tanks, digesters, and pumping stations utilized in the process of conveying, retaining, treating or disposing of such waste. These systems are regulated by 6 NYCRR Part 750.
- 2.41 Public Water System - Shall mean any community, noncommunity or nontransient noncommunity water system as defined by 10 NYCRR 5-1.1 and any facility regulated by the NYS Department of Agriculture and Markets which is determined to be a public water supply.
- 2.42 Quarantine - Shall mean the conditions, approved by the department, under which an animal shall be restricted.
- 2.43 Realty Subdivision - Shall mean any tract of land which is divided into five 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 by any other method of description and regardless of whether the lots or plots are contiguous. A tract of land shall constitute a subdivision upon 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 this time the provisions of Public Health Law §1116 shall apply to all parcels thereof, including the first four parcels, regardless of whether such parcels have been sold, rented or offered for sale or lease singly or collectively.
- 2.44 Residential Lot or Residential Building Plot - Shall mean 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 plot 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.
- 2.45 Sanitary – Shall mean lacking any condition in which any significant amount of filth, trash, or human waste is present in such a manner that a reasonable person would believe that the condition might constitute a health hazard.
- 2.46 Service Animal – Shall mean any dog, or other animal, that is trained to do work or perform tasks for people with disabilities. Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties. Service animals are working animals, not pets. The work or task a dog, or other animal, has been trained to provide must be directly related to the person’s disability.
- 2.47 Shop Certificate of Sanitation - The issuance of a document by the health officer having jurisdiction over a tattoo shop certifying that such shop, after inspection, was found to be in compliance with the applicable provisions of this Code.
- 2.48 State Sanitary Code – Shall mean Title 10 of the Official Compilation of Codes, Rules and Regulations (10 NYCRR) of the State of New York.
- 2.49 Supplier of Water - Shall mean any person who owns or operates a public or commercial water system.
- 2.50 Tattoo - To mark or color the skin by pricking in coloring matter so as to form indelible marks or figures or by the production of scars
- 2.51 Tattoo Artist - Any person who actually performs the work of tattooing.
- 2.52 Tattoo Operator - Any person who controls, operates, conducts, or manages any tattoo shop, whether actually performing the work of tattooing or not.
- 2.53 Tattoo Shop - Any room or space where tattooing is practiced or where the business of tattooing is conducted or any part thereof.
- 2.54 Tract - Shall mean any land area, 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.

- 2.55 Variance – Shall mean a grant of additional time, determined by the permit-issuing official, to perform the measures necessary to achieve full compliance with this Sanitary Code.
- 2.56 Vermin - Shall mean small common harmful or objectionable animals (as lice or fleas) that are difficult to control
- 2.57 Wastewater - Shall mean water containing human wastes. wash water (i.e. from washers, bathtubs, showers and sinks, commonly referred to as 'gray water') and laundry wastes from residences, buildings, industrial, commercial or, any other facilities, together with such underground infiltration and surface water as may be present.

PART 3 - HEALTH DEPARTMENT POLICIES AND PROCEDURES

- 3.1 The Commissioner is hereby authorized and empowered to establish Health Department policies and procedures as necessary to enforce the provisions of the Public Health Law, State Sanitary Code, and this Sanitary Code.

PART 4 - STATE SANITARY CODE

- 4.1 The provisions of the State Sanitary Code and any additional regulations which may be added to it from time to time are hereby incorporated as part of this Sanitary Code.

PART 5 - LOCAL ORDINANCES AND LAWS

- 5.1 This Sanitary Code shall supersede all local ordinances and laws in matters to which it refers.
- 5.2 Nothing in this Sanitary Code shall be construed to limit the authority of any municipality in the Health District to adopt additional ordinances or laws that are consistent with Public Health Law, the State Sanitary Code, and this Sanitary Code.

PART 6 - RIGHT OF ENTRANCE AND INSPECTION

- 6.1 No person shall interfere with or obstruct the Department's entrance to any establishment or other premises where such entrance is necessary in the exercise of the Department's official duties. Nor shall any person interfere with, or obstruct, the inspection or examination of any occupancy of any such establishment or other premises by the Department in the exercise of the Department's official duties.

PART 7 - INTERFERENCE WITH NOTICES

- 7.1 No person shall interfere with any Department representative in the posting of any placard, in accordance with the requirements of the Public Health Law, the State Sanitary Code, or this Sanitary Code, on any place or premises, nor shall any person conceal, mutilate, or remove any such placard, except by direction of the Department.
- 7.2 In the event of any such placard being concealed, mutilated or torn down, it shall be the duty of the occupant, owner or the person in charge of the premises, whereon such placard was posted, immediately to notify the Department of such fact.

PART 8 - PERMITS

- 8.1 Permit applications shall be made on forms provided by the Department.
- 8.2 Permit applications must contain all required information, data and plans and be signed by the applicant.
- 8.3 A permit shall only be valid for the person and place or purpose for which it was issued.
- 8.4 Such permit may contain general or specific conditions, and every person who shall have procured a permit as herein required, shall conform to the conditions prescribed in such permit and to the provisions of this Sanitary Code.
- 8.5 Every such permit shall expire on the date stated in the permit. A permit may be renewed or extended by the Commissioner, may be suspended or revoked for cause by the Commissioner after due notice and hearing. Such hearing shall take place within 15 days of such suspension or revocation.
- 8.6 All permits issued hereunder shall remain the property of the Department and shall, on demand, be surrendered to an authorized representative of the Department, whenever any such permit expires, is suspended, or revoked.
- 8.7 Permits shall be posted conspicuously within or on the establishment, premises or vehicles, for which they are issued.
- 8.8 Issuance of a permit is hereby conditioned on the payment of any and all outstanding Board of Health fines, Department permit fees and laboratory fees.

PART 9 - FEES

- 9.1 Fees may be imposed for services rendered by the Department in accordance with such schedule or schedules as may be adopted by the Board of Health, Cattaraugus County Legislature, the State of New York, or the United States.

PART 10 - ENFORCEMENT

- 10.1 Enforcement of the Public Health Law, State Sanitary Code, or this Sanitary Code shall be conducted in accordance with the administrative hearing process adopted by the Board of Health, or an order by the Commissioner issued in accordance with Public Health Law.
- 10.2 Administrative hearings shall be conducted by a hearing officer appointed by the Board of Health.
- 10.3 The Board of Health shall consider the findings and recommendations of the hearing officer when determining the penalties, terms and conditions of any compliance order.

PART 11 - VIOLATIONS AND PENALTIES

- 11.1 Pursuant to Public Health Law §309, the Board of Health may prescribe and impose penalties for the violation of, or failure to comply with this Sanitary Code, the State Sanitary Code, the Public Health Law or any order issued by the Commissioner or Board of Health.
- 11.2 The Department may authorize re-inspection of any establishment or premises where a violation of the Public Health Law, State Sanitary Code, or this Sanitary Code exists. The violation may be recited if not abated in accordance with a Commissioner's or Board of Health order.
- 11.3 Nothing herein contained shall be construed to exempt an offender from any other penalty provided by local, state, or federal law.
- 11.4 Certified copies of the Sanitary Code of the Cattaraugus County Health District shall be received in evidence in all courts and proceedings in the State, as provided in Public Health Law §348.
- 11.5 Any noncompliance or nonconformance with any provision of this Sanitary Code or of a rule or regulation duly made thereunder shall constitute a violation punishable pursuant to Public Health Law §348.
- 11.6 No person shall provide false or misleading information to the Commissioner or Department in connection with the discharge of their official duties.
- 11.7 Nothing contained herein shall prevent the Board of Health from revoking, or suspending for a specified period of time, any permit previously issued by the Commissioner, for multiple violations of provisions of the Public Health Law, State Sanitary Code, this Sanitary Code, or earlier orders of the Board of Health.
- 11.8 It shall be a separate violation of this Code for any owner/person to not fully comply with all conditions of a stipulation offer which they signed in settlement of a Notice of Violation issued by the Department.

PART 12 - SEPARABILITY CLAUSE

- 12.1 In the event that any Section, paragraph, sentence, clause, or phrase of this Sanitary Code shall be declared unconstitutional or invalid for any reason, the remainder of this Sanitary Code shall not be affected.

PART 13 - VARIANCES AND WAIVERS

- 13.1 Variance – The Commissioner may, on written application and after review, grant a variance from a specific provision of this Sanitary Code, subject to appropriate conditions which shall include a time schedule for compliance when such variance is in compliance with the general purposes and intent of this Sanitary Code, and when there are practical difficulties or unnecessary hardship in complying with such provision.

- 13.2 Waiver – The Commissioner may, on written application and after review, grant a waiver from a specific provision of this Sanitary Code, and include the waiver as a condition of the permit to operate, when it reasonably appears the public health will not be endangered by granting of such waiver and adequate alternative provisions have been made to protect the health and safety of the public. Such waiver shall remain in effect for a period of time concurrent with the operating permit, unless sooner revoked for cause.

CHAPTER II - ENVIRONMENTAL HEALTH SERVICES

PART 14 - PUBLIC HEALTH HAZARDS, NUISANCES, AND GENERAL SANITATION

14.1 Declaration of Policy

14.1.1 It is hereby declared to be the policy of the Cattaraugus County Board of Health to accept all complaints associated with alleged Public Health Hazards and Nuisances

14.2 Complaints and Investigation

14.2.1 The Department may require that any citizen complaint regarding an alleged hazard or nuisance be submitted in writing, signed, and dated by the complainant.

14.2.2 Where in the opinion of the Department, such alleged hazard or nuisance may affect public health or safety, the Department shall cause an investigation to be made.

14.2.3 In accordance with Public Health Law §1303 and SCCCHD 6.1, the Department may enter upon or within any place or premises for the purpose of inspection, investigation, or examination of an alleged public health hazard or nuisance.

14.3 Abatement and Suppression

14.3.1 The Department may direct any person to suppress, abate or remove a public health hazard or nuisance.

14.3.2 If the owner, agent or occupant of any premises, where such nuisance or condition exists, fails to comply with any such directive, the Department may enter upon the premises to remove, abate or suppress such nuisance, condition, or matter to which such directive relates.

14.3.3 The expenses of such removal, suppression and abatement shall be paid for, and subsequently recovered in, the manners prescribed in Public Health Law §1306 and §1307, respectively.

14.4 Enforcement

14.4.1 Non-compliance with an order issued by the Board of Health or Commissioner pursuant to this Section may be subject to the imposition of a civil penalty pursuant to Public Health Law §309.

14.5 Vermin

14.5.1 All establishments and other premises shall be maintained in such a manner as to control vermin infestation. Where the Department determines that an infestation of vermin exists and such infestation is a public health hazard or nuisance,

extermination methods and other measures to control such vermin shall conform to requirements set out by the Department.

14.6 Public Toilets

14.6.1 Every person who provides a toilet for the use of employees, patrons, or members of the public, shall maintain such facilities in a clean, well lit, ventilated, and sanitary condition at all times. The floor of such facility shall be impervious to moisture and properly drained. An adequate supply of soap and sanitary hand towels, or a hand dryer, shall be provided, and there shall be hot and cold, or tempered, running water available at all times.

14.6.2 The owner of a building or dwelling, or the owner's agent in charge thereof, wherein two or more tenants have common use of the toilet, shall be responsible for the maintenance of such facility so that it is kept in repair and in a clean and sanitary condition at all times.

14.7 Offensive Material

14.7.1 No person shall permit, deposit, store, or hold any offensive material on or in any premises unless such material is so treated, screened, covered, handled or placed so as not to create a public health nuisance or hazard. All containers for storage of such material shall completely confine the material and shall be kept in a sanitary condition at all times.

14.7.2 No person shall permit offensive material to enter into any body of water, onto the surface of the ground, or into the ground or groundwater, except in such a manner which is consistent with all applicable federal, state and local regulations.

14.7.3 Offensive material shall be transported consistent with all applicable federal, state and local regulation and in a manner that will prevent the creation of a public health hazard or nuisance.

14.7.4 Any person discharging, dumping, spilling or disposing of offensive materials shall be strictly liable, for all cleanup and removal costs, whether direct or indirect. Violators may also be liable for civil or criminal penalties imposed pursuant to any applicable law, rule, or regulation.

14.7.5 Any person on whose property offensive material is located may be held responsible for all cleanup and removal costs, without regard to fault.

14.7.6 If the person responsible for cleanup and removal of offensive materials does not commence remediation within the timeframe prescribed by the Department then the Department may take whatever action is deemed appropriate to protect public health and safety. All costs incurred by the County in the course of taking such action shall be the responsibility of the violator or landowner.

14.8 Tires

- 14.8.1 No person shall deposit or permit storage of more than 10 tires on any premises unless controlled to prevent creation or contribution to a public health hazard or nuisance. Facilities regulated by 6 NYCRR subpart 360-13 are exempted from this regulation.
- 14.8.2 If in the opinion of the Department storage of tires constitutes a public health nuisance or hazard, the Department may direct any person to properly dispose of such tires. Proper disposal shall mean disposal as defined in 6 NYCRR part 360 and may include such methods as recycling, shredding or splitting, disposal at a permitted landfill or use as fuel at a permitted facility. It shall be the responsibility of the person disposing of tires to provide to the Department receipts verifying proper disposal.

14.9 Unsanitary or Unsafe Structures

- 14.9.1 When the Department determines that any structure constitutes a public health nuisance or hazard, the Department may direct the owner to correct or remediate any condition contributing to the public health hazard or nuisance. The Commissioner may also order the removal or demolition of such structure.
- 14.9.2 Upon the failure of such owner to comply with the Department directive of the Commissioner's order, the Board of Health may issue an order, to be affixed conspicuously upon such structure or part thereof, to discontinue its occupancy until such time as the public health nuisance or hazard has been abated.
- 14.9.3 Upon failure to vacate such structure or part thereof within the time specified, the Board of Health may issue a warrant to the County Sheriff directing that such structure be vacated.

PART 15 - WATER SYSTEMS

15.1 Public Water Systems – Applicability

- 15.1.1 All public water systems are governed by the definitions and regulations found in 10 NYCRR part 5 and Public Health Law, article 11, with the following additions;
 - 15.1.1.1 that the provisions of 10 NYCRR 5-1.23 through 5-1.27, 5-1.30, 5-1.32, 5-1.71, 5-1.72(c), 5-1.72(d), 5-1.73 through 5-1.78 shall apply to all community public water systems as defined by 10 NYCRR 5-1.1 serving 5 - 14 service connections,
 - 15.1.1.2 that all community public water systems, as defined by 10 NYCRR 5-1.1 serving 5 - 14 service connections, shall comply with the minimum monitoring requirements for nitrate, nitrite and coliform established for noncommunity public water systems as outlined in 10 NYCRR 5-1.52, tables 11, 11A, 8C,

15.1.1.3 that all public water systems required to meet the provisions of 5-1.72(c) shall submit 'monthly operation reports' on forms provided by the Department.

15.1.2 As of the effective date of this Sanitary Code any public water system not currently in possession of a disinfection waiver in accordance 10 NYCRR 5-1.30(e) shall be required to provide disinfection treatment. No new disinfection waivers, as outlined in 10 NYCRR 5-1.30(e) or provided for in SCCCHD pt 13 will be issued.

15.2 Public Water Systems – General Provisions

15.2.1 The Department may declare a public water system to be a public health hazard, if it is found to be in violation of any conditions stated in 10 NYCRR 5-1.1 (aw)

15.2.2 The supplier of water for a public water system which has been declared a public health hazard shall make all necessary improvements and perform any necessary maintenance or operational tasks to eliminate such hazards within the length of time established by the Department. The supplier of water shall also notify the public that such hazards exist in the manner prescribed by 10 NYCRR 5-1.78

15.2.3 If the supplier of water for a public water system which has been declared a public health hazard fails to comply with a Department directive forthwith, the Commissioner shall enforce compliance with such directive in accordance with Public Health Law, article 3.

15.2.4 The supplier of water for a public water system shall submit sample results used to determine compliance with the provisions of 10 NYCRR subpart 5-1, to the Department within 60 days of the date of sampling or notify the Department of the reason why such results cannot be submitted.

15.2.5 Where required by 10 NYCRR subpart 5-4, the owner of a public water system shall designate an operator in responsible charge as defined in 10 NYCRR 5-4.1(q). The supplier of water shall demonstrate to the Department that the operator in responsible charge makes all decisions regarding the daily operation and maintenance of the water system that directly impact drinking water quality or quantity.

15.3 Public Water Systems – Approval of Plans and Completed Works

15.3.1 Approval of plans and completed works for public water systems shall be governed by 10 NYCRR 5-1.22.

15.3.2 In addition to Recommended Standards for Water Works, approval may consider any local, state, national or international codes, standards, practices, procedures, policies or recommendations that the Department deems appropriate.

15.3.3 In no way shall conformance with any local, state, national or international codes, standards, practices, procedures, policies, or recommendations preclude

application of the Department's professional knowledge and judgment in granting or denying plan or completed works approval of a public water system.

15.4 Public Water Systems - Maintenance, Operation and Management

15.4.1 Maintenance, operation and management of any public water system shall be in conformance with applicable policies, procedures, regulations of the New York State Department of Health and the Department. The Commissioner may grant variances, waiver or exemption(s) from the aforementioned standards where such waiver or exemption is given in accordance with 10 NYCRR part 5, SCCCHD pt 13, and guidance established by the New York State Department of Health.

15.4.2 The provisions of 10 NYCRR Appendices 5-B and 5-D shall apply to all existing, new, and replacement, water wells serving a public water system.

15.4.2.1 Where the siting provisions of 10 NYCRR Appendix 5-B.2 (a)-(c) and 10 NYCRR Appendix 5-D.2(a) cannot be met for existing, as well as new or replacement wells, the Department may require additional measures as provided in 10 NYCRR Appendix 5-D.2(b).

15.4.2.2 Where offensive material is present within separation distances defined in 10 NYCRR Appendix 5-D, table 1 or where such material, as determined by the Department, constitutes a nuisance or condition detrimental to life or health because of its proximity to a public water system, the Department may direct any person to properly dispose of or remove such offensive material to a location where such nuisance or condition is eliminated.

15.4.3 Failure of a public water system to comply with applicable practices, procedures, policies and recommendations outlined and described in the documents listed below shall be considered as *prima facie* evidence of a lack of 'due diligence' in the protection, maintenance, operation, supervision and management of a public water system and its respective source in accordance with 10 NYCRR 5-1.71 (a) and/or NYCRR 5-1.71 (b):

- Recommended Standards for Water Works
- American Water Works Association Standards
- American Water Works Association Manuals
- National Sanitation Foundation International Standards
- American National Standards Institute Standards
- American Society for Testing and Materials International Standards
- Building Code of New York State

- Residential Code of New York State
- Fire Code of New York State
- Plumbing Code of New York State
- Mechanical Code of New York State
- Fuel Gas Code of New York State
- Energy Conservation Construction Code of New York State
- Property Maintenance Code of New York State
- Standard Methods for the Examination of Water and Wastewater
- Occupational Safety and Health Administration Regulations and Standards
- American Petroleum Institute Standards.

15.5 Commercial Water Systems

15.5.1 The provisions of 10 NYCRR Appendix 5-B shall apply to all existing, new, and replacement water wells serving a commercial water system.

15.5.1.1 Where the siting provisions of 10 NYCRR Appendix 5-B.2 (a)-(c) cannot be met for existing, as well as new or replacement wells, the Department may require additional measures as a condition to issuing a waiver provided in 10 NYCRR part 75 and SCCCHD 13.1.

15.5.1.2 Where offensive material is present within separation distances defined in 10 NYCRR Appendix 5-B, table 1 or where such material, as determined by the Department, constitutes a nuisance or condition detrimental to life or health because of its proximity to a commercial water system, the Department may direct any person to properly dispose of or remove such offensive material to a location where such nuisance or condition is eliminated.

15.5.2 Where an existing or new commercial water system utilizes a surface water source, treatment approved by the Department shall be installed.

15.5.3 Where the Department has reason to believe that a commercial water system poses a risk to human health, the Department may direct the supplier to perform any combination of the following actions at the supplier's expense:

- 15.5.3.1 conduct laboratory analyses deemed necessary by the Department. All such analyses shall be performed by a state certified laboratory,
- 15.5.3.2 remediate / remove source(s) of contamination as deemed necessary by the Department,
- 15.5.3.3 provide water of sufficient quantity and quality to meet the needs of those served,
- 15.5.3.4 install treatment necessary to reduce or eliminate any risk to human health,
- 15.5.3.5 develop a new source of water capable of meeting the quantity and quality demands of those persons served.

15.5.4 A facility that receives a Permission-to-Operate as defined in 10 NYCRR subpart 14-1 and is served by a commercial water system shall be required to perform bacteriological testing at a frequency prescribed by the Department.

15.5.5 Where in the opinion of the Department, a public water system is available and accessible, the Department may issue a directive to the owner of any property whereon any other method of water supply is located, requiring such owner to abandon the use of such other method of water supply and to connect with such public water system

15.6 Individual Water Systems

15.6.1 The provisions of 10 NYCRR Appendix 5-B shall apply to all existing, new, and replacement water wells serving an individual water system as defined in SCCCHD 2.29.

15.6.1.1 Where any provisions of 10 NYCRR Appendix 5-B cannot be met for existing, as well as new or replacement, wells, the Department may require additional measures as a condition to issuing a waiver provided in 10 NYCRR part 75 and SCCCHD 13.1.

15.6.1.2 Where offensive material is present within separation distances defined in 10 NYCRR Appendix 5-B, table 1 or where such material as determined by the Department constitutes a nuisance or condition detrimental to life or health because of its proximity to an individual water system, the Department may direct any person to properly dispose of or remove such offensive material to a location where such nuisance or condition is eliminated.

15.6.2 Where the Department has reason to believe that an individual water system poses a risk to human health, the Department may direct the owner of such a system to perform any combination of the following actions at the owner's expense:

- 15.6.2.1 conduct laboratory analyses deemed necessary by the Department. All such analyses shall be performed by a state certified laboratory,
 - 15.6.2.2 remediate / remove source(s) of contamination as deemed necessary by the Department,
 - 15.6.2.3 provide water of sufficient quantity and quality to meet the needs of those served,
 - 15.6.2.4 install treatment necessary to reduce or eliminate any risk to human health,
 - 15.6.2.5 develop a new source of water capable of meeting the quantity and quality demands of those persons served.
- 15.6.3 Where in the opinion of the Department, a public water system is available and accessible, the Department may direct the owner of any property whereon any other method of water supply is located, requiring such owner to abandon the use of such other method of water supply and to connect with such public water system.

PART 16 - ONSITE WASTEWATER TREATMENT

16.1 Applicability

- 16.1.1 This Part shall apply to owners and contractors of all onsite wastewater treatment systems.
- 16.1.2 This Part requires the owner of any property where wastewater or fecal matter is generated, to obtain permits from the Department for the construction and operation of any onsite wastewater treatment system.

16.2 General Provisions

- 16.2.1 Where in the opinion of the Department, a public wastewater treatment system is available and accessible, no person shall construct on any premises an onsite wastewater treatment system, except a temporary privy for construction purposes.
- 16.2.2 Where in the opinion of the Department, a public wastewater treatment systems is available and accessible, the Department may direct the owner requiring abandonment of existing onsite wastewater treatment system(s) and connection to the public wastewater treatment system.
- 16.2.3 No person shall commit any act which may harm any structure, device, equipment or treatment process which is a part of a public wastewater treatment system or onsite wastewater treatment system.
- 16.2.4 No person shall discharge to an onsite wastewater treatment system any substance that could potentially contaminate groundwater.

16.3 Permit to Construct

- 16.3.1 Any property owner that intends to repair, modify, or construct an onsite wastewater treatment system must first make application to the Department for a Permit-to-Construct upon forms furnished by the Department.
- 16.3.2 No person or contractor shall begin to construct an onsite wastewater treatment system until a permit to construct an onsite wastewater treatment system has been issued. No work can be performed for which a permit has not been obtained.
- 16.3.3 The permit to construct an onsite wastewater treatment system shall be posted conspicuously at the construction site.
- 16.3.4 The permit to construct an onsite wastewater treatment system shall be valid for one year or as otherwise stated and shall be non-transferable.

16.4 Construction and Maintenance

- 16.4.1 The construction and maintenance of all onsite wastewater treatment systems shall be in accordance with applicable standards outlined in 10 NYCRR appendix 75-A or NYS DEC design handbook, unless otherwise specified on the permit to construct.
- 16.4.2 Where any provisions of 10 NYCRR appendix 75-A or the NYSDEC design handbook cannot be met, the Department may issue a specific waiver in accordance with 10 NYCRR 75.6 or waiver provision of DEC, respectively.
- 16.4.3 Construction of a new onsite wastewater disposal system is prohibited where lot size is smaller than those listed below. The Department may grant a variance to the lot size requirements listed in SCCCHD 16.4.3.1 and 16.4.3.2 for replacement systems. Such variance may include any conditions the Department deems appropriate to minimize the risk to human health or safety.
 - 16.4.3.1 40,000 square feet for those lots not served by a public water system,
 - 16.4.3.2 15,000 square feet for those lots served by a public water system.
- 16.4.4 It shall be the contractor's responsibility to construct an onsite wastewater treatment system in full conformance with the Permit-to-Construct or approved plans and specifications.
- 16.4.5 It shall be the owner's responsibility to maintain the onsite wastewater treatment system in accordance with the standards listed in SCCCHD 16.4.1 and conditions of the Permit-to-Operate or the approved plans and specifications.

16.4.6 The contractor or owner must cause inspection of the onsite wastewater treatment system at completion, prior to backfill, and as may be deemed necessary by the Department.

16.5 Permit to Operate

16.5.1 If construction meets all standards referenced in SCCCHD 16.4.1 and the Permit-to-Construct or approved plans and specifications, then a Permit-to-Operate the onsite wastewater treatment system will be issued.

16.5.2 No onsite wastewater treatment system shall be utilized without a Permit-to-Operate.

16.5.3 A permit to operate shall be transferable to future property owners and will remain in effect until system failure or the permit is otherwise revoked by the Department for the reason of the system creating a public health hazard or nuisance

16.6 Inadequately Treated or Untreated Wastewater or Fecal Matter

16.6.1 The discharge of inadequately treated wastewater or fecal matter onto the ground surface or into the waters of New York State is prohibited. The owner of any onsite wastewater treatment system with such a discharge shall immediately, upon notification by the Department undertake such remedial measures as the Department may prescribe and accomplish such measures within a time set by the Department. Failure to complete such measures within the time prescribed shall result in the Department directing the owner to discontinue use of the onsite wastewater treatment system.

16.7 Designation and Powers of Responsible Management Entities

16.7.1 Pursuant to 10 NYCRR Appendix 75-A, the Board of Health may designate the Department as a responsible management entity (RME) for the management of onsite wastewater treatment systems utilizing enhanced treatment units (ETUs).

16.7.1.1 A RME shall have the power to set rules and regulations for the operation and maintenance of onsite wastewater treatment systems utilizing enhanced treatment units (ETUs), in accordance with each manufacturer's recommendations.

16.7.1.2 A RME shall have the power to set fees for inspection of, or provision of technical assistance to owners of, onsite wastewater treatment systems utilizing enhanced treatment units (ETUs).

16.1.1.1 The representative of a RME shall have the authority to enter onto any property where an ETU under their management is located, for the purpose of inspection, evaluation, servicing, or repair.

PART 17 - REAL PROPERTY TRANSFERS

17.1 Applicability

17.1.1 No person shall transfer or receive title to any property until an inspection(s) of any individual or commercial water systems and/or onsite wastewater treatment systems have been conducted by the Department, with the following exceptions:

17.1.1.1 Transfers of developed properties utilizing both public water and public sewer service

17.1.1.2 Transfers of undeveloped properties with no facilities for water service or wastewater disposal;

17.1.1.3 Transfers in a foreclosure action;

17.1.1.4 Transfers in connection with a partition action under Real Property Actions and Proceedings Law, article 9;

17.1.1.5 Transfers by operation of law, such as intestate or testamentary succession;

17.1.1.6 Transfer of real property between members of an immediate family;

17.1.1.7 Transfers of properties which have undergone an inspection as outlined in the remainder of this Part, within the previous six months. Such exemption shall not apply to those properties where;

- a transfer of property was completed in the previous six months
- there is reason for the Department to believe that existing water or onsite wastewater disposal system(s) pose a risk to human health and safety.

17.1.1.8 Transfers for which a Permit-to-Operate an onsite wastewater treatment system was issued by the Department within the preceding 12 months.

17.2 General Provisions

17.2.1 Inspection of the onsite wastewater treatment system and individual or commercial water system may include, but is not limited to, the following:

17.2.1.1 collection and analysis of water samples for any contaminant the Department suspects may be a risk to human health or safety;

17.2.1.2 visual inspection or testing of water system components including, but not limited to:

- well casing,
- pump,
- electrical equipment,
- transmission piping,
- treatment equipment,
- storage tanks,
- distribution piping.

17.2.1.3 visual survey of water source area for possible sources of contamination,

17.2.1.4 performance of dye tests,

17.2.1.5 performance of soil investigations and tests,

17.2.1.6 visual inspection or testing of wastewater system components including, but not limited to:

- internal plumbing and venting,
- building sewer,
- septic tank(s) and baffles,
- dosing chamber(s) or pump equipment,
- sand filter(s) or absorption facilities,
- additional treatment equipment,
- outfall or discharge areas.

17.2.2 Certain conditions, such as building vacancy, deep snow, or tall grass, may necessitate that only a provisional inspection is conducted. Under such circumstances, a complete inspection shall be made when conditions allow and/or the system has been in use for a specified period of time.

17.2.3 If the onsite wastewater treatment system or individual or commercial water system is found to not comply with all applicable county and state regulations, or if in the opinion of the Department the system poses a risk to human health or safety, then the owner of record shall be responsible for making any corrections specified by the Department

PART 18 - REALTY SUBDIVISIONS

- 18.1 Realty Subdivisions are regulated by 10 NYCRR part 74; Public Health Law, article 11; and Environmental Conservation Law, article 17

PART 19 - SWIMMING POOLS, BATHING BEACHES AND RECREATIONAL AQUATIC SPRAY GROUNDS

- 19.1 Swimming pools and bathing beaches are-regulated by 10 NYCRR part 6.
- 19.1.1 In accordance with 10 NYCRR 6-1.21(c), all facilities operating a swimming pool shall complete daily operation records, on forms provided by the Department. Such records shall be submitted to the Department by the 10th day of the following month.
- 19.1.2 In accordance with 10 NYCRR 6-2.18 (b), all facilities operating a bathing beach shall complete daily operation records, on forms provided by the Department. Such records shall be submitted to the Department by the 10th day of the following month.
- 19.1.3 In accordance with 10 NYCRR 6-3.20 (c), all facilities operating a recreational aquatic spray ground facility shall complete daily operation records, on forms provided by the Department. Such records shall be submitted to the Department by the 10th day of the following month.

PART 20 - FOOD SERVICE ESTABLISHMENTS

- 20.1 Food Service Establishments are regulated by 10 NYCRR part 14.

PART 21 - MIGRANT LABOR CAMPS

- 21.1 Migrant Labor Camps are regulated by 10 NYCRR part 15 and applicable parts of this Sanitary Code.

PART 22 - TEMPORARY RESIDENCES, MASS GATHERINGS, CHILDREN'S CAMPS, CAMPGROUNDS AND AGRICULTURAL FAIRGROUNDS

- 22.1 Temporary Residences, Mass Gatherings, Children's Camps, Campgrounds and Agricultural Fairgrounds are regulated by 10 NYCRR part 7 and applicable parts of this Sanitary Code.

PART 23 - MOBILE HOME PARKS

- 23.1 Mobile Home Parks are regulated by 10 NYCRR part 17.
- 23.2 It shall be the responsibility of the park owner/operator to ensure that all mobile home installations comply the Residential Code of New York State §E501-
- 23.3 It shall be the responsibility of the park owner/operator to remove any accumulation of offensive material which has been determined to be a public health nuisance or hazard.

PART 24 - RABIES CONTROL

- 24.1 The control of rabies is conducted in accordance with 10 NYCRR 2.14, Public Health Law, article 21 and the general provisions described in this Part.
- 24.2 General Provisions
- 24.2.1 The Department may cause any dog, cat, ferret, or domestic livestock that has potentially exposed any person to rabies, to be placed in confinement for 10 days. Such confinement may be at a veterinary establishment, animal-holding facility, or at a private residence. Confinement shall be in a manner approved by the Department. Should such animal develop active signs of rabies within the 10-day period, it shall be surrendered for testing at the direction of the Department. Confinement shall be at the expense of the owner or person harboring the animal.
- 24.2.2 The Department may cause any dog, cat, ferret, or domestic livestock suspected of having rabies or being exposed to rabies, to be placed in quarantine for 6 months. Such quarantine may be at a veterinary establishment, animal-holding facility, or at a private residence. Quarantine shall be in a manner approved by the Department. Should such animal develop active signs of rabies or die within the 6 months, it shall be surrendered for testing at the direction of the Department. Quarantine shall be at the expense of the owner or person harboring the animal.
- 24.2.3 All dogs, cats, and domesticated ferrets in Cattaraugus County four (4) months of age or older shall be actively immunized for the prevention of rabies.
- 24.2.4 A certificate of vaccination shall only be valid for the effective period of the vaccination for the species that is being vaccinated.
- 24.2.5 When directed, the rabies vaccination certificate and animal confinement verification form must be submitted to the Department, no later than 10 days after the conclusion of a confinement period.
- 24.2.6 No person shall own or care for on their property any dog, cat or ferret four (4) months of age or older that does not have a current rabies vaccination.
- 24.2.7 Department may direct any dog, cat or ferret to be seized and vaccinated, with the cost to be borne by the owner or person harboring such animal.
- 24.2.8 It shall be classified as a public health hazard and a separate violation of this Sanitary Code for any person to provide false or misleading information to the Department concerning the whereabouts or disposition of any animal which is the subject of an official rabies investigation. Such false or misleading information shall also be reported to the appropriate authorities for initiation of any appropriate criminal proceedings.

PART 25 - CONSTRUCTION APPROVAL, INSPECTION AND CERTIFICATION

25.1 General Provisions

- 25.1.1 No work shall commence on any project regulated by the Department, which requires design by a Professional Engineer or Registered Architect, until all reports, plans, and specifications have been submitted to the Department for review and a Notice of Plan Approval has been issued by the Department.
- 25.1.2 Any proposed construction project which was designed by a duly licensed consultant and requires formal engineering plan approval by the Department shall be certified in writing by such consultant in accordance with the conditions stated on the official Notice of Plan Approval.
- 25.1.3 All construction must be supervised and routinely inspected by the licensed consultant or their qualified representative to insure that all proper construction specifications and methods are met. The records of such inspections and all required testing shall be the basis for providing written certification.
- 25.1.4 No applicant or consultant shall place into service, or allow to be placed into service, any completed or partially constructed works, until such time as the written engineering certification has been filed with and accepted as valid by the Department. In the case of public water systems, disinfection and microbiological testing results must also be provided to the Department prior to placing any new infrastructure into service.

PART 26 - LEAD POISONING CONTROL, ENVIRONMENTAL ASSESSMENT AND ABATEMENT

- 26.1 Environmental assessments and abatement activities at properties where conditions conducive to lead poisoning have been found to exist shall be conducted in accordance with 10 NYCRR subpart 67-2

PART 27 - PUBLIC WASTEWATER SYSTEM

27.1 Applicability

- 27.1.1 This Part shall apply to the construction or use of a new or modified public wastewater treatment system for the conveyance, treatment, or disposal of wastewater without the admixture of industrial waste.

27.2 Prohibitions

- 27.2.1 No person shall discharge or allow or cause to be discharged onto the surface of the ground or into any street, road, alley, open excavation, storm water sewer, land drain ditch, adjoining property, water course, body of water or ground water, any untreated or inadequately treated wastewater or other putrescible or offensive wastes, except under such circumstances as prescribed by and with the written approval of the Department or the New York State Department of Environmental Conservation (NYSDEC).

- 27.2.2 No person shall make or use any outlet or point source of discharge into the waters of the State, as defined by Environmental Conservation Law article 17 or operate or construct a public wastewater treatment system, without a valid State Pollutant Discharge Elimination System (SPDES) Permit, where required.
- 27.2.3 No person shall construct, modify, install or allow to be constructed, modified or installed, a public wastewater treatment system without the written approval of the Department or the NYSDEC pursuant to SCCCHD 27.4.
- 27.2.4 No person shall operate a public wastewater treatment system for which a SPDES permit has been issued, or discharge wastewater from such a system, without complying with the effluent limitations and monitoring requirements set forth in that SPDES permit.
- 27.2.5 No system shall be operated for which a SPDES permit has expired and not been renewed or extended.
- 27.3 Preparation, Submission and Approval of Plans
 - 27.3.1 Application for approval of plans and specifications shall be made on forms provided by the Department or the NYSDEC.
 - 27.3.2 Engineering reports, plans and specifications shall be prepared by a person or firm licensed to practice professional engineering in the State of New York under the education Law of the State of New York whenever engineering services are required by such law for such purposes.
 - 27.3.3 Public wastewater treatment system design, construction, and operation shall conform to pertinent rules, regulations and standards accepted or prepared by the NYSDEC.
 - 27.3.4 All new or modified public wastewater treatment systems must be constructed and subsequently operated in accordance with engineering plans, reports and specifications formally approved by the Department or the NYSDEC.
- 27.4 Construction Inspection and Certification
 - 27.4.1 No new or modified public wastewater treatment system shall be placed into service or used until written construction certification has been provided to the Department or the NYSDEC by the licensed professional engineer supervising construction as required by SCCCHD pt 25.

PART 28 - PLACEMENT OF TOBACCO PRODUCTS, ROLLING PAPERS AND PIPES

28.1 General Provisions

- 28.1.1 No retailer or vendor shall display or store products containing tobacco, rolling papers or pipes in a manner which allows direct access to the product by the customer prior to purchase.
- 28.1.2 No vendor shall allow vending machines containing tobacco products to be placed in any location accessible to persons under the age of 18.
- 28.1.3 Upon annual written request, each vending company shall provide an updated listing of locations where the vending company has placed tobacco vending machines within Cattaraugus County.
- 28.1.4 This Part shall not apply to tobacco businesses, as defined in Public Health Law, article 13-E.

28.2 Waiver

- 28.2.1 The Cattaraugus County Public Health Director, or designee, the person specifically designated to grant waivers pursuant to this Part, may grant a waiver from the application of a specific provision of this Part, provided that prior to the granting of such a waiver, the applicant for a waiver shall: 1) establish that compliance would create undo financial hardship, 2) establish that the physical layout would render compliance unreasonable, or that other factors exist which would render strict compliance unreasonable.
- 28.2.2 Waivers granted pursuant to this Part shall be valid for a period of not more than twenty-four (24) months and may be renewed upon application.
- 28.2.3 Applications for renewal shall be reviewed in the same manner as provided for applications for waiver.

PART 29 - BODY ART

29.1 Applicability

- 29.1.1 This part shall apply to the practice of body art and the operation of body art establishments, regardless of whether at a fixed location or a temporary event, with the following exceptions;
 - 29.1.1.1 Individuals who pierce only the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system.
 - 29.1.1.2 Physicians licensed in accordance with New York State Education Law who perform body art procedures as part of patient treatment,

29.2 General Provisions

29.2.1 Age Restrictions

- 29.2.1.1 In accordance with Penal Law§260.21(2), it is unlawful to apply a tattoo to any person under 18 years of age.

29.2.1.2 It shall be unlawful to brand or scarify any person less than 18 years of age.

29.2.1.3 Body piercing, other than piercing the genitalia, may be performed on a minor, provided that the person is accompanied by a properly identified parent, legal custodial parent or legal guardian who has signed a form consenting to such procedure.

29.2.1.4 Appropriate identification of identity and age are limited to the following;

- Current driver's license
- U.S. passport,
- Other government issued photo identification
- Original birth certificate

29.2.1.5 It shall be a violation of this Sanitary Code to provide false or misleading information or identification with regard to the age of a body art client or individual parental / custodial rights over a minor.

29.3 Body Art Practice

29.3.1 Certificate to Practice Body Art

29.3.1.1 It shall be unlawful for any person to practice body art or perform any body art procedure in Cattaraugus County unless such person possesses a valid Certificate to Practice Body Art issued by the Commissioner, pursuant to this Part.

29.3.1.2 It shall be unlawful for any person who possesses a Certificate to Practice Body Art to practice body art except within the confines of a permitted Body Art Establishment. This Certificate to Practice Body Art must be conspicuously posted within the Body Art Establishment.

29.3.1.3 Application for a Certificate to Practice Body Art shall be made on form(s) provided by the Department at least 30 days before the first day of intended operation.

29.3.1.4 Applicants for a Certificate to Practice Body Art shall provide acceptable documentation to the Department of the following;

- age greater than 18,
- completion of a blood borne pathogens training program within the previous year before date of application, acceptable to the Department and compliant with 29 *CFR* 1910.1030,

Training program documentation shall be up-to-date.

29.3.1.5 Any application for a Certificate to Practice Body Art may be denied by the Department for serious, repeated, or persistent violations by the applicant of any of the requirements of this Part, for interference with the Department in the performance of its duties or if in the opinion of the Department the granting of such Certificate would constitute a threat to human health or safety.

29.3.1.6 A Certificate to Practice Body Art shall be valid for one year from the date of issuance, unless suspended or revoked by the permit issuing official.

29.3.1.7 A Certificate to Practice Body Art may be revoked, after due notice and hearing, by the Department for serious, repeated, or persistent violations by the Body Art Practitioner of any of the requirements of this Part, for interference with the Department in the performance of its duties or if in the opinion of the Department allowing the Body Art Practitioner to continue to practice would constitute a threat to human health or safety.

29.3.1.8 The Department may suspend a Certificate to Practice Body Art, and direct the immediate cessation of body art practice, when in the Department's opinion continued operation is imminent hazard to human health and safety. Any person so directed is to comply immediately and within 15 days shall be provided with an opportunity to be heard and to present proof that continued operation does not constitute a danger to human health or safety.

29.3.2 Standards of Practice

Body art practitioners and guest body art practitioners are required to comply with the following minimum health standard.

29.3.2.1 A body art practitioner known to have an active communicable disease, who displays signs of such disease, or with suppurating wounds shall not engage in the practice of body art, nor shall such a body art practitioner work in any area of a body art establishment in any capacity in which there is a likelihood that that the person could contaminate body art equipment, supplies or working surfaces with body substances or pathogenic organisms. Examples of such communicable diseases may include but are not limited to the acute illness phases of the common cold, influenza, tuberculosis, HIV, syphilis, chicken pox, mumps and hepatitis. Symptoms of such diseases may include but are not limited to sore throat, jaundice of the skin, diarrhea, vomiting, fever, rash, productive cough,

The Department may require any body art practitioner found to have any communicable disease or suspected of having such a disease to obtain a certificate signed by a duly licensed physician stating that the person has recovered from and is no longer infectious or is free from a communicable disease before permission to resume operation as a practitioner is granted.

Examples of such disease are listed in 10 NYCRR 2.1. Said certificate shall be available for inspection by the Department.

- 29.3.2.2 A body art practitioner shall perform all body art procedures in accordance with Universal Precautions.
- 29.3.2.3 A body art practitioner shall not be under the influence of alcohol, drugs or any intoxicant, while practicing body art.
- 29.3.2.4 A body art practitioner shall refuse service to any person who may be under the influence of alcohol, drugs or any intoxicant, or any person with skin lesions or any communicable disease.
- 29.3.2.5 A body art practitioner shall refrain from eating, drinking or using tobacco products while practicing body art.
- 29.3.2.6 No food, drink tobacco product or other items not directly related to the practice of body art shall be present in the work area.
- 29.3.2.7 Body art practitioners who use ear piercing systems must conform to the manufacturer's directions for use and to applicable U.S. Food and Drug Administration requirements. No practitioner shall use an ear piercing system on any part of the body art client's body other than the ear.
- 29.3.2.8 Before conducting a body art procedure, the body art practitioner shall require that the body art client read, understand and sign a risk disclosure statement. The risk disclosure statement will be provided by the Department. A copy of this risk disclosure statement shall be provided to the body art client.
- 29.3.2.9 Before conducting a body art procedure, the body art practitioner shall clean and sanitize the chair, countertops, and any other surfaces that may come in contact with the body art client or body art equipment with a sanitizing agent acceptable to the Department.
- 29.3.2.10 A body art practitioner shall maintain the highest degree of personal cleanliness, conform to best standard hygienic practices and wear clean clothes; specifically a clean outer garment when performing body art procedures. Before performing body art procedures and whenever there is a potential for cross-contamination, the practitioner must thoroughly wash his/her hands in hot running potable water with liquid soap and individual hand brush, then rinse hands and dry with disposable paper towels or by mechanical means acceptable to the Department.
- 29.3.2.11 In performing body art procedures, a body art practitioner shall wear single use, medical grade gloves. Gloves shall be changed if they become pierced, torn or otherwise contaminated by contact with any unclean surfaces or objects or by contact with a third person. The gloves

shall be discarded, at a minimum, after the completion of each procedure on an individual body art client, and hands shall be washed in accordance with section 29.3.2.10 before the next set of gloves is put on. Under no circumstances shall a single pair of gloves be used on more than one person. The use of single-use gloves does not preclude or substitute for hand-washing procedures as part of a good personal hygiene program.

29.3.2.12 Any item or instrument used for body art that is contaminated during the procedure shall be discarded and replaced immediately with a new disposable item or sterilized instrument or item before the procedure resumes.

29.3.2.13 Preparation and care of a body art client's skin area must comply with the following:

- Any skin or mucosa surface to receive a body art procedure shall be free of rash or any visible infection.
- Before a body art procedure is performed, the immediate skin area and the areas of skin surrounding where the body art procedure is to be performed shall be washed with soap and water or an approved surgical skin preparation. If shaving is necessary, only single-use disposable razors shall be used. Following shaving, the skin and surrounding area shall be washed with soap and water. The washing pad shall be discarded after a single use.

29.3.2.14 In the event of bleeding, all products used to stop the bleeding or to absorb blood shall be single-use, and discarded immediately after use in appropriate covered containers and disposed of in a manner acceptable to the Department and in accordance with all applicable regulations.

29.3.2.15 Before placing the design on the body art client's skin or prior to beginning any body art procedure, the body art practitioner shall treat the skin area with an EPA approved or hospital grade germicidal solution, which shall be applied with sterile cotton or sterile gauze. After application of the germicidal solution, any product applied to the skin must be sterile and acceptable to the Department. The method by which it is applied must be sanitary and acceptable to the Department.

29.3.2.16 Subsequent to the performance of a body art procedure, the body art practitioner shall complete and sign a procedure summary. The procedure summary form will be provided by the Department. A copy of this procedure summary shall be provided to the body art client.

29.3.2.17 Subsequent to performing a body art procedure, the body art practitioner shall clean and sanitize the chair, countertops, and any other surfaces that may have come in contact with the body art client or body art equipment with a sanitizing agent acceptable to the Department.

29.3.3 Sanitation and Sterilization Measures, Procedures and Requirements

- 29.3.3.1 Single-use items shall not be used on more than one body art client for any reason. After use, all single-use sharps shall be immediately disposed of in sharp approved containers in a manner acceptable to the Department and in accordance with all applicable regulations.
- 29.3.3.2 All products applied to the skin, including but not limited to body art stencils, applicators, gauze and razors, shall be single-use and disposable.
- 29.3.3.3 Hollow bore needles or needles with a cannula shall not be reused.
- 29.3.3.4 All inks, dyes, pigments, solid core needles and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions. Only non-toxic dyes and pigments shall be used for tattooing.
- 29.3.3.5 Water used for the mixing or dilution of inks, dyes or pigments shall be from a Department approved potable source.
- 29.3.3.6 Immediately before a tattoo is applied, the quantity of the dye to be used shall be transferred from the dye bottle and placed into single-use cups or caps. Upon completion of the tattoo, these single-use cups or caps and their contents shall be discarded.
- 29.3.3.7 All non-disposable instruments used for body art shall be cleaned thoroughly after each use by scrubbing with an appropriate soap or disinfectant solution and hot water, to remove blood and tissue residue, and shall be placed in an ultrasonic unit operated in accordance with manufacturer's instructions.
- 29.3.3.8 After being cleaned, all non-disposable instruments used for body art shall be packed individually in commercially produced sterilizer packs and subsequently sterilized in an autoclave acceptable to the Department.
- 29.3.3.9 All instruments used for body art procedures shall remain stored in sterile packages until just prior to the performance of a body art procedure. After sterilization, the instruments used in body art procedures shall be stored, inside the unopened sterilizer packs, in a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments.
- 29.3.3.10 Following sterilization, instruments shall be handled and stored in such a manner as to prevent contamination. Sterile instruments may not be used if the package has been breached or after the expiration date without first repackaging and resterilizing.
- 29.3.3.11 When assembling instruments used for body art procedures, the practitioner shall wear disposable medical gloves and use medically

recognized standards to ensure that the instruments and gloves are not contaminated.

29.4 Body Art Establishments

29.4.1 Permit to Operate a Body Art Establishment

29.4.1.1 It shall be unlawful for any person to operate a body art establishment in Cattaraugus County unless such person possesses a valid Permit to Operate a Body Art Establishment issued by the Commissioner, pursuant to SCCCHD pt 29. This Permit to Operate a Body Art Establishment must be conspicuously posted within the Body Art Establishment.

29.4.1.2 A Permit to Operate a Body Art Establishment shall be valid from the date of issuance and shall automatically expire no longer than one (1) year from the date of issuance unless revoked sooner by the Commissioner.

29.4.1.3 Application for a Permit to Operate a Body Art Establishment shall be made, at least thirty (30) days before the first day of intended operation, on a form available from the Department. An applicant shall submit all information required by the form and accompanying instructions.

29.4.1.4 A Permit to Operate a Body Art Establishment shall not be transferable from one place or person to another.

29.4.1.5 Any application for a Permit to Operate a Body Art Establishment may be denied by the Department for serious, repeated, or persistent violations by the applicant of any of the requirements of this Part, for interference with the Department in the performance of its duties or if in the opinion of the Department the granting of such Permit would constitute a threat to human health or safety.

29.4.1.6 A Permit to Operate a Body Art Establishment may be revoked, after due notice and hearing, by the Commissioner for serious, repeated, or persistent violations by the person operating the body art establishment of any of the requirements of this Part, for interference with the Department in the performance of its duties or if in the opinion of the Department allowing the body art establishment to continue to operate would constitute a threat to human health or safety.

29.4.1.7 The Commissioner may suspend a Permit to Operate a Body Art Establishment, and order the immediate closure of the body art establishment when in the Commissioner's opinion its continued operation would constitute an imminent hazard to human health and safety. Any person so ordered is to comply immediately and within 15 days is to be provided with an opportunity to be heard and to present proof that

continued operation does not constitute a danger to human health or safety.

29.4.2 Design Standards

- 29.4.2.1 The Department may require any holder of, or applicant seeking a Permit-to-Operate a Body Art Establishment, to submit plans for review in a manner acceptable to the Department.
- 29.4.2.2 Walls, floors, and ceilings shall be smooth, free of open holes or cracks, light-colored, washable and in good repair. Walls, floors and ceilings shall be maintained in a clean condition.
- 29.4.2.3 The floor of the body art establishment shall be of impervious material.
- 29.4.2.4 Floors in the waiting area or other areas used exclusively for administrative tasks may be carpeted.
- 29.4.2.5 The body art establishment shall have adequate light and adequate ventilation at the level where the body art procedure is being performed, and where instruments and sharps are assembled.
- 29.4.2.6 The body art establishment shall be separate from any other room used for human habitation, any food establishment or room where food is prepared, any hair salon, any retail sales or any other such activity that may cause potential contamination of work surfaces.
- 29.4.2.7 All body art establishments shall be supplied with potable water acceptable to and tested at a frequency determined by the Department.
- 29.4.2.8 There shall be a minimum of one toilet facility available to body art clients containing a toilet and a sink with hot and cold running water. The toilet facility shall be provided with toilet paper, liquid hand soap and a sanitary, single service method of hand drying.
- 29.4.2.9 At least one janitorial area with a dedicated sink and adequate space for cleaning and sanitary supplies shall be provided in each body art establishment for use in cleaning the establishment.
- 29.4.2.10 An adequate amount of clean and sanitary storage space shall be provided for the storage of all instruments and supplies used in the practice of body art.
- 29.4.2.11 The body art establishment shall have a separate area for the cleaning, and if necessary sterilization, of equipment used in the practice of body art. The placement and design of such area shall be acceptable to the Department. Such area shall contain the following;
- a sink dedicated to the cleaning of equipment,

- an autoclave, if required for sanitary operation,
- an ultrasonic cleaning unit, if required for sanitary operation.

29.4.2.12 Screens shall be installed on all exterior windows and any exterior door that does not have a self-closing mechanism.

29.4.2.13 The body art establishment shall have a customer waiting area, exclusive and separate from any body art work station, instrument storage area, cleaning area or any other area in the body art establishment used for body art activity.

29.4.2.14 A body art work station shall conform to the following;

- it shall not be used as a corridor,
- it shall have a minimum of 45 square feet of floor space for each practitioner,
- it shall have a means of screening for those body art clients requesting privacy,
- it shall be separated from adjacent body art work stations by no less than a partition,
- it shall have an adequate amount of work surface
- it shall contain only surfaces constructed of metal or other materials which are smooth, non-absorbent, corrosive-resistant and easily sanitized,
- it shall contain at least one covered, foot operated waste receptacle,
- it shall contain at least one sharps container,
- it shall have a readily accessible sink with hot and cold running potable water under pressure. Such a sink must be equipped with wrist and/or foot-operated controls, supplied with liquid soap and provided with a single service sanitary method of hand drying.

29.4.3 Operations Standards

29.4.3.1 The building and equipment shall be maintained in a state of good repair at all times. The body art establishment premises shall be kept clean, neat and free of litter and rubbish.

29.4.3.2 No animals of any kind shall be allowed in a body art establishment, except service animals used by persons with disabilities

(e.g., seeing-eye dogs). Fish aquariums shall be allowed in waiting rooms and nonprocedural areas.

29.4.3.3 The body art establishment operator shall provide for the disposal of all types of waste products in compliance with 10 NYCRR 70, this Sanitary Code and all applicable federal, state and local regulations. Solid waste shall be stored in covered, leak-proof, rodent-resistant containers and shall be removed from the premises at least weekly.

29.4.3.4 A Body Art Establishment shall provide an autoclave, of a type and design acceptable to the Department, where such establishment uses equipment or supplies that are not solely designed for single use.

- The autoclave shall be used, cleaned and maintained according to manufacturer's instructions. A copy of such instructions shall be available for inspection by the Department.
- The operation of the autoclave will be monitored by spore destruction testing acceptable to the Department. Such monitoring shall be conducted at a frequency determined by the Department.
- In the event of any malfunction of the apparatus, the operator of the body art establishment shall immediately suspend all operations utilizing equipment or supplies sterilized by the autoclave. The operator shall also immediately notify the Department.
- If the body art establishment uses only sterile single-use, disposable instruments and products, and uses sterile supplies, an autoclave may not be required

29.4.3.5 There shall be no more than one body art client per work station at any time while a body art procedure is being conducted.

29.4.3.6 Only the body art practitioner and body art client shall be allowed in the body art work station.

29.4.3.7 The owner of a body art establishment shall not allow body art practitioners to practice body art in contradiction to SCCCHD 29.3

29.4.4 Recordkeeping

29.4.4.1 The body art establishment shall maintain the following records in a secure place for a minimum of ten years:

- a copy of the signed risk disclosure statement, as provided by the Department, for each procedure performed;

- a copy of acceptable photo identification for each procedure performed;
- a completed copy of the procedure summary, as provided by the Department;
- if the body art client is a minor, a copy the legal guardian consent form, as provided by the Department;
- if the body art client is a minor, a copy of acceptable photo identification.

Such records shall be maintained in such a manner as to provide readily available access to the Department upon request.

29.4.4.2 The body art establishment shall maintain a copy of the following at all times:


- a Material Safety Data Sheet, when available, for all chemicals onsite, including any inks and dyes;
- a copy of the U.S. OSHA standards contained in 29 CFR 1910.1030, entitled “Regulation (Standards) Blood borne Pathogens”;
- a copy of these regulations.

EFFECTIVE DATE

Except as otherwise specified, every provision of these amendments to the Sanitary Code shall take effect August 6th, 2015. The provisions of the Sanitary Code shall be enforced throughout the Cattaraugus County Health District.

CERTIFICATION

I, Kevin D. Watkins, MD, MPH, Secretary of the Cattaraugus County Board of Health, do hereby certify that I have compared the foregoing with the Sanitary Code adopted and established by the County Board of Health at a meeting held on the 5th day of August, 2015, and that the same is a true and complete copy thereof, published by authority and order and under the direction of the Cattaraugus County Board of Health. IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of August, 2015.


Kevin D. Watkins, MD, MPH
Secretary, Cattaraugus County
Board of Health

FILED IN THE CATTARAUGUS COUNTY CLERK'S OFFICE
ON August 6, 2015