

SANITARY CODE

OF THE

CATTARAUGUS COUNTY HEALTH DISTRICT

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CATTARAUGUS COUNTY HEALTH DISTRICT**

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PREFACE

Section 347, Subdivision 1; Section 348 Subdivisions 1, 2, 3; and Section 309, Subdivisions 1, 2, 3, 4, 5 of the Public Health Law of the State of New York provide as follows:

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

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

Section 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.

Section 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 the 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.

ARTICLE I

General Provisions

PART 1. TITLE.

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.

PART 2. DEFINITIONS.

- 2.1 Actively Immunized – 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 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 the Code, 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.
- 2.3 Adequate Light - Illuminated as to permit all tattooing to be clearly visible without obstruction by shadow or darkness.
- 2.4 Adequate Ventilation - Free and unrestricted circulation of fresh air and the expulsion of foul or stagnant air.
- 2.5 Applicant - An individual, municipal official, or officer of a corporation who is sponsoring the project and formally signs the Application for Plan Approval.
- 2.6 Approved Disposal Area - A specific area, site or location operated under a permit issued by the New York State Department of Environmental Conservation.
- 2.7 Board of Health - The Board of Health of the Cattaraugus County Health District.
- 2.8 Body Piercing – Shall mean to cut or pass through with a sharp instrument, or penetrate a part of the body by means of a piercing device, for the purpose of applying jewelry to various parts of the body.
- 2.9 Commissioner - The Commissioner of Health or Public Health Director of Cattaraugus County.

- 2.10 Construct - To construct, reconstruct or replace in whole or in major part.
- 2.11 Consultant - An individual or firm 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.
- 2.12 Contractor - Any person, firm, partnership, corporation, or other entity which constructs, reconstructs or replaces any portion of an onsite wastewater treatment system.
- 2.13 Development - Any proposal to construct new, enlarge, expand, or modify any structure, utilities, infrastructure, or equipment, at facilities or on property within Cattaraugus County, which the Health Department has jurisdiction for regulating under applicable State or County Laws, rules, and regulations.
- 2.14 Domestic Livestock – Shall mean sheep, horses, cattle, goats, swine, donkeys and mules.
- 2.15 Establishment - Any facility required to obtain a permit to operate by the Cattaraugus County Health Department under 10NYCRR Parts 6, 7, 14, 15 or 17.
- 2.16 Habitable Area - Any part of any building, structure or shelter in which persons may reside or which is intended for human occupancy.
- 2.17 Health Department - The Department of Health of the Cattaraugus County Health District.
- 2.18 Health District - The Cattaraugus County Health District established under Section 340 of the Public Health Law of the State of New York.
- 2.19 Immediate Family - Shall mean spouses, parents, stepparents, grandparents, children, stepchildren, grandchildren, and siblings.
- 2.20 Individual Water Supply - Any privately owned source of drinking water which serves less than five service connections (normally one single-family residence) and less than 25 persons.
- 2.21 Minor - Shall mean any person under the age of eighteen years.
- 2.22 Offensive Material - Any litter, garbage, refuse, rubbish, sewage, fecal matter, manure, offal, dead animals, meat wastes, blood, tankage, brine, urine or any putrescible organic matter, or noxious weeds, or the contents of privies, cesspools, septic tanks or chemical toilets, either in liquid or solid state, or other solid or liquid material whether waste or not, hazardous or flammable wastes, or waste tires which constitute a nuisance or is prejudicial to public health.
- 2.23 Onsite Wastewater Treatment System - Any excavations, piping, tanks or other appurtenances including, but not limited to, absorption beds, leach fields, sand filters, privies, septic/holding tanks and other systems utilized in the process of retaining, treating or disposing of sewage or wastewater.

- 2.24 Owner - Any individual, partnership, corporation or other legal entity who holds legal title to an establishment or property which is subject to Health Department regulation.
- 2.25 Permanent Makeup - Shall mean to mark or color the skin by pricking in coloring matter so as to form indelible marks. Whenever the word "tattoo" is used, it shall also apply to permanent makeup.
- 2.26 Permanent Makeup Cosmetologist - Shall mean any person who actually performs the work of applying permanent makeup. Whenever the words "tattoo artist" are used, it shall also apply to permanent makeup cosmetologist.
- 2.27 Permanent Makeup Establishment - Any room or space where permanent makeup is applied or any part thereof. Whenever the words "tattoo shop" are used, it shall also apply to permanent makeup establishment.
- 2.28 Permanent Makeup Operator – Any person who controls, operates, conducts or manages any establishment where permanent makeup is applied, whether actually applying the permanent makeup or not. Whenever the words "tattoo operator" are used, it shall also apply to permanent makeup operator.
- 2.29 Permanent Residence - Any building, structure or shelter (either privately owned/occupied or leased/occupied by other persons) used or intended to be lived in by persons, exclusive of those residences regulated by 10NYCRR Parts 7 & 15.
- 2.30 Permit - A written permission issued by the Commissioner allowing the construction and/or operation of a facility regulated by 10NYCRR, or the Sanitary Code of the Cattaraugus County Health District.
- 2.31 Person - 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 whatsoever.
- 2.32 Potable - Water that is suitable and safe for human consumption.
- 2.33 Public Sewage System- Shall mean serving a single or multiple structures or facilities, or a dwelling designed to house three or more families, generating a wastewater flow of one thousand gallons per day or more, whether ownership shall be private, corporate or municipal.
- 2.34 Public Health Code - The rules and regulations now and hereafter formulated, promulgated and adopted by the Board of Health of the Cattaraugus County Health District, and shall also be known as the Sanitary Code of the Cattaraugus County Health District.
- 2.35 Public Health Hazard – Shall mean any condition which poses an imminent threat to the health or safety of the public. Such hazards must be corrected immediately or as specifically ordered by the Commissioner.
- 2.36 Public Health Law - The Public Health Law of the State of New York.

- 2.37 Public Health Nuisance – Shall mean any condition or wrong which annoys, disturbs, or otherwise is offensive to others. Nuisances if left uncorrected, could adversely affect public health and safety, or result in the inconvenience or discomfort of a number of people.
- 2.38 Public Water Supply - Any community, noncommunity or nontransient noncommunity water system which provides piped water to the public for human consumption, if such system has at least five service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.
- 2.39 Realty Subdivision - 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 section eleven hundred sixteen of the Public Health Law 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.
- 2.40 Residential Lot or Residential Building Plot - 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.
- 2.41 Sewage - Any human waste from residences, buildings, industrial establishments, or other places. It shall include wash water, laundry wastes and any liquid wastes usual to a household; but shall not include any liquid comprised of, either in whole or in part, industrial wastes or other wastes.
- 2.42 Sewage System - Any pipe lines or conduits, pumping stations, and force mains, and all other constructions, devices, and appliances appurtenant thereto, used for conducting wastewater, industrial waste or other wastes at a point of ultimate treatment or disposal and any plant, septic tank, disposal field, lagoon, sand filter, privy or other non-water borne sewage disposal systems, or other works installed for the purpose of treating or disposing of sewage or wastewater.
- 2.43 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.
- 2.44 State Sanitary Code – Refers to Title 10 of the Official Compilation of Codes, Rules and Regulations (10NYCRR) of the State of New York.
- 2.45 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.

- 2.46 Tattoo Artist - Any person who actually performs the work of tattooing.
- 2.47 Tattoo Operator - Any person who controls, operates, conducts, or manages any tattoo shop, whether actually performing the work of tattooing or not. (Same as Permanent Makeup Operator 2.27)
- 2.48 Tattoo Shop - Any room or space where tattooing is practiced or where the business of tattooing is conducted or any part thereof. (Same as Permanent Makeup Establishment 2.26)
- 2.49 Tenant Housing- A dwelling equipped for human habitation which is owned by one party, but is occupied by one or more other parties in consideration of payment under a lease or other rental agreement.
- 2.50 Wastewater - Water-carried human or animal wastes from residences, buildings, industrial or commercial establishments or other places, together with such underground infiltration and surface water as may be present.

PART 3. RULES AND REGULATIONS.

- 3.1 The Commissioner of Health of Cattaraugus County is hereby authorized and empowered to make and promulgate administrative rules and regulations necessary to enforce the provisions of the New York State Sanitary Code and the Cattaraugus County Public Health 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 the Public Health Code of the Cattaraugus County Health District.

PART 5. LOCAL ORDINANCES.

- 5.1 The regulations of the Public Health Code shall, in matters to which it refers, supersede all local ordinances heretofore or hereafter enacted inconsistent therewith.
- 5.2 Nothing herein contained shall be construed to restrict or abrogate the authority of any municipality in the Health District to adopt and enforce additional ordinances or to enforce existing ordinances, provided such ordinances are consistent with any New York State Law relating to public health, or with the State Sanitary Code, or with the Cattaraugus County Public Health Code.
- 5.3 Where applicable, the Commissioner may require a Certificate of Occupancy issued by the municipality before a permit is issued by the Department of Health.

PART 6. RIGHT OF ENTRANCE AND INSPECTION.

- 6.1 No person shall interfere with, or obstruct, the entrance to any establishment or other premises by the Commissioner, or the Commissioner's authorized representative, in the discharge of the Commissioner'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 Commissioner, or the Commissioner's authorized representative, in the discharge of the Commissioner's official duties. When determined to be necessary, an appropriate warrant shall be obtained from a court of competent jurisdiction.

PART 7. INTERFERENCE WITH NOTICES.

- 7.1 No person shall interfere with, or obstruct, any health authority in the posting of any placard in accordance with the requirements of the Public Health Law, or 10NYCRR, on any place or premises, nor shall any person conceal, mutilate, or remove any such placard, except by direction of the Commissioner.
- 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 Commissioner of such fact.

PART 8. PERMITS.

- 8.1 All applications for permits or written approvals hereinafter required shall be made upon forms prescribed and furnished by the Health Department, and shall be signed by the applicant who shall be the person or authorized agent thereof responsible for conformance to the conditions of the permit.
- 8.2 Such application shall contain data and information, and be accompanied by such plan as may be required.
- 8.3 A permit issued to a particular person or for a designated place or purpose shall not be valid for use by any other person or for any place or purpose other than that designated therein.
- 8.4 Such permit or written approval may contain general or specific conditions, and every person who shall have procured a permit or written approval as herein required, shall conform to the conditions prescribed in such permit or written approval and to the provisions of the Public Health Code.
- 8.5 Every such permit shall expire on the date stated in the permit or until revoked, and may be renewed or extended by the Commissioner, or may be suspended for cause by the Commissioner, or revoked by the Commissioner after due notice and hearing.
- 8.6 All permits issued hereunder shall remain the property of the Health Department and shall, on demand, be surrendered to an authorized representative of the Health Department, whenever any such permit expires, is suspended, or revoked.

- 8.7 Permits shall be posted conspicuously on the 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, Health Department permit fees and laboratory fees.

PART 9. CODE VIOLATIONS.

- 9.1 Alleged violations of the Public Health Law, Public Health Code or State Sanitary Code may be handled through an administrative hearing, at the option of the Commissioner, or the Commissioner's designee.
- 9.2 The policies and procedures for the conduct of such administrative hearings shall be in accordance with those rules and regulations which the Board of Health shall approve by motion at a regularly scheduled meeting of the Board of Health.
- 9.3 The Board of Health may designate one or more administrative hearing officers to conduct such administrative hearings, at such compensation as the Board of Health may establish.
- 9.4 Appeals from a Board of Health order may be made to the Board of Health or to the Health Department within 15 days of the receipt of the notice of decision.

PART 10. FEES.

- 10.1 Fees may be imposed for services rendered by the Department under this Public Health Code 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.
- 10.2 The fee imposed as described in Section 10.1 must be paid.

PART 11. VIOLATIONS AND PENALTIES.

- 11.1 Pursuant to Section 309 of the Public Health Law, the Board of Health may prescribe and impose penalties for the violation of or failure to comply with any orders or regulations including this Sanitary Code or the State Sanitary Code, not exceeding \$1,000.00 for a single violation or failure, to be sued for and recovered in any court of competent jurisdiction.
- 11.2 Nothing contained herein shall prevent the Commissioner from authorizing the reinspection of an establishment or property, wherein a health violation exists and has not been abated in accordance with a Board of Health/Commissioner's Order, and reciting the owner for such continuing noncompliance.
- 11.3 Nothing herein contained shall be construed to exempt an offender from any other prosecutorial penalty provided by Law, including, but not limited to, Title 17 of the Environmental Conservation 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 Section 348 of the Public Health Law.
- 11.5 Pursuant to Section 348 of the Public Health Law, 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 by a fine of not more than \$250.00 or by imprisonment for not more than 15 days or by both such fine and imprisonment; and for a second and subsequent offense by a fine not exceeding \$500.00 or by imprisonment for not more than 15 days, or both.
- 11.6 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 NYS Public Health Law, State Sanitary Code, this Code, or earlier Orders of the Board of Health.
- 11.7 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 Health Department.

PART 12. UNCONSTITUTIONALITY CLAUSE.

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

PART 13. VARIANCES AND WAIVERS

- 13.1 Variance – The permit-issuing official 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 harmony with the general purposes and intent of this Code, and when there are practical difficulties or unnecessary hardship in complying with such provision.
- 13.2 Waiver – The permit-issuing official 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 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.

ARTICLE II

Environmental Health Services

PART 14. NUISANCES AND GENERAL SANITATION.

14.1 Declaration of Policy

- 14.1.1 It is hereby declared to be the policy of the Cattaraugus County Health District to abate all nuisances detrimental to life and the public health of citizens in Cattaraugus County. Each citizen complaint regarding an alleged nuisance shall be submitted in writing to the Commissioner and shall be endorsed and dated by the complainant. Such endorsed formal complaint shall be the basis upon which the Commissioner may authorize an investigation into the alleged nuisance.
- 14.1.2 Whenever any establishment, building, premises or place becomes or is maintained or operated in such a manner so as to constitute a nuisance, which in the opinion of the Commissioner may affect health or is the cause of such nuisances existing elsewhere, the Commissioner shall cause an investigation to be made. If, in the Commissioner's opinion, such nuisance requires abatement, then the Commissioner may order its abatement.
- 14.1.3 No owner of any property shall permit a condition which constitutes a public health nuisance to exist unabated.

14.2 Investigation

- 14.2.1 The Commissioner or duly authorized representative may enter upon or within any building, premises or place where nuisances or conditions dangerous to life and health, or which are the cause of nuisances existing elsewhere, are known or believed to exist, to inspect or examine same.
- 14.2.2 The owners, agents and occupants of any premises shall permit sanitary examinations and inspections to be made pursuant to the provisions of this Article and Title 1 of Article 13 of the Public Health Law.
- 14.2.3 The Commissioner shall furnish the owners, agents and occupants of the premises on which such conditions exist with a written statement of the results and conclusions of an examination or inspection conducted pursuant to this Article.

14.3 Abatement and Suppression

- 14.3.1 The Commissioner shall order the suppression and removal of all nuisances and conditions detrimental to life and health found to exist within the health district.
- 14.3.2 If the owner, agent or occupant of any premise, whereon such nuisance or condition exists, fails to comply with any such order, then the Commissioner or his designated representative may enter upon the premises to remove or suppress such nuisance, condition, or matter to which such order relates.

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

14.4 Enforcement

14.4.1 Any non-compliance or non-conformance with an order issued by the Board of Health and/ or Commissioner pursuant to this Article may be subject to the imposition of a civil penalty pursuant to Section 309 of the Public Health Law.

14.5 Insects/Rodents

14.5.1 All infestations of insects/rodents constituting a public health nuisance shall be prohibited. Every establishment shall be kept free of insects/rodents where practical and maintained to prevent breeding of insects/rodents. Disinfection, fumigation, extermination, installation of screens or other means of control shall be accomplished upon the order of the Commissioner.

14.6 Public Toilets

14.6.1 Every person, who shall provide a toilet for the use of employees, patrons or members of the public, shall maintain such toilet in a clean, well-lighted, 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 individual towels, or a hand dryer, shall be provided, and there shall be hot and cold, or tempered, running water available at all times. 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 / Refuse

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

14.7.2 Offensive material shall not be deposited, thrown, discharged, dumped or otherwise allowed to enter into streams, ponds or other bodies of water or onto the surface of the ground or into the ground or ground waters, except in such a manner which is consistent with all applicable federal, state and local regulations.

- 14.7.3 No person or municipality shall remove or transport, or permit the removal or transportation of any offensive material, except in such a manner which is consistent with all applicable federal, state and local regulations, and in such a manner as will prevent the creation of a nuisance or the loss or discharge of such material. All such material shall be so handled, covered or treated that it cannot escape; or be accessible to rodents, flies or other insects; or create a nuisance.
- 14.7.4 Any person or persons discharging, dumping, spilling or disposing of offensive materials shall be strictly liable, without regard to fault, for all clean-up and removal costs, whether direct or indirect. Clean-up costs shall include replacement of any materials used by Cattaraugus County or other governmental personnel in the course of responding to the incident. Violators may also be liable for civil or criminal penalties imposed pursuant to any applicable law, rule, or regulation.
- 14.7.5 If the person or persons responsible for the discharge, dumping, spilling or disposing of offensive materials shall not commence remediation within twenty-four (24) hours, or sooner as may be directed by the Commissioner of Health to protect the health and safety of the public, then the Health Department may take whatever action is deemed appropriate to remediate the incident. All costs incurred by the County in the course of the remediation shall be the responsibility of the offender and shall be in addition to any penalties levied by the Board of Health.
- 14.7.6 No person shall deposit, store, or dispose of any offensive material within 100 feet of any existing private water supply, nor within 200 feet of any existing public source of drinking water. All persons shall completely remove and properly dispose of such material, within five (5) days of being so directed by the Commissioner.

14.8 Waste Tires

- 14.8.1 No person or municipality shall permit, deposit, store or hold more than ten (10) waste or used tires, unless such tires are neatly piled and controlled so as to preclude the accumulation of rainwater, breeding of insects, harborage of rodents or creation of a fire hazard. This provision applies to all waste and used tires, including those from single families and businesses, except those facilities regulated by Title 6NYCRR Part 360-13. It shall be the responsibility of both the owner of the property whereon tire disposal has taken place and the party disposing of the tires to satisfactorily remove and dispose of used tires. Satisfactory disposal shall mean disposal as defined in 6NYCRR 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 or persons properly disposing of used tires to provide to the Health Department receipts verifying proper disposal.

14.9 Unsanitary or Unsafe Structures

- 14.9.1 Whenever any structure is found by the Commissioner to be detrimental to life or health, the Commissioner may declare such structure to be unsanitary or unsafe and may order the owner to put such structure in a sanitary or safe condition, or failing this, to raze such structure to the ground and remove the resulting accumulation of material.
- 14.9.2 In the event of failure on the part of the owner to conform to such order, the Board of Health, or its agents, may enter onto the premises to place such structure in a sanitary or safe condition or to raze such structure to the ground and remove the resulting accumulation of material.
- 14.9.3 The expense incurred by the Board of Health shall be made a charge against the owner of the property. Until this charge is paid, it shall be a lien upon the property and recoverable as such.

14.10 Condemnation

- 14.10.1 Whenever it shall be found by the Commissioner that a permanent residence or part thereof shall become so unsanitary as to be unfit for human habitation, or whenever occupancy of a permanent residence or part thereof shall be determined by the Commissioner to constitute a nuisance or condition detrimental to life or health, the Commissioner may issue an order requiring the owner thereof to abate such nuisance or condition by placing such permanent residence or part in a sanitary and habitable condition within a time specified in such order.
- 14.10.2 Upon the failure of such owner to comply with the order, the Commissioner may issue a further order, to be affixed conspicuously upon such permanent residence or part to discontinue its use at such time as shall be stated in such order, until such time as the permanent residence or part shall be placed in a sanitary and habitable condition and the nuisance abated.
- 14.10.3 Upon the failure of such permanent residence or part to be vacated within the time specified, the Board of Health may issue a warrant to the County Sheriff, directing that the permanent residence or part be vacated, and the County Sheriff shall forthwith execute such warrant pursuant to the law.

PART 15. WATER SUPPLIES.

15.1 Public Water Supplies

- 15.1.1 All public water supplies are governed by the definitions and regulations found in 10NYCRR Part 5 and Article 11 of the Public Health Law.
- 15.1.2 The Commissioner may declare a public water supply to be a public health hazard, if it is found to be in violation of any conditions stated in 10NYCRR Section 5-1.1 (ar).

- 15.1.3 The persons responsible for a public water supply which has been declared a public health hazard shall make the necessary improvements to eliminate such hazards within the length of time established by the Commissioner and shall notify the public that such hazards exist in the manner prescribed by 10NYCRR Section 5-1.1 (as). In situations where the public health is considered to be unduly endangered by any delay, the Commissioner may declare the public health hazard to be an emergency, and may order the responsible officials to take immediate action in abating the public health hazard.
- 15.1.4 If the persons responsible for a public water supply which has been declared an emergency fail to comply with the Commissioner's order forthwith, the Commissioner shall enforce compliance with such order in accordance with Article II of the Public Health Law.
- 15.1.5 The persons responsible for a public water supply must submit sample analysis within 60 days of date of sampling.

15.2 Individual Water Supplies

- 15.2.1 Any individual water supply, which, in the opinion of the Commissioner is found to be a health hazard, may be condemned by the Commissioner in accordance with the provisions of Article 11 of the Public Health Law.
- 15.2.2 Where, in the opinion of the Commissioner, a public water supply is available and accessible, the Commissioner may issue an order 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 supply.
- 15.2.3 The standards for individual water wells in New York State are those prescribed in Appendix 5-B, 10NYCRR. Any individual water supply which does not meet such standards requires a Specific Waiver from the Cattaraugus County Health Department.

15.3 Tenant Housing Water Supplies

- 15.3.1 Potable water from an approved source shall be available at all times. The domestic water supply system of the building shall be connected to such properly developed source, shall be free of microbiological contamination or shall be continuously disinfected and shall not be connected to any unsafe water supply.

PART 16. SEWAGE.

16.1 Applicability

- 16.1.1 This Part shall apply to owners and contractors of all onsite sewage disposal or wastewater treatment systems.
- 16.1.2 This Part requires the owner of any property whereon structures are located which are equipped for human occupation or habitation (either permanent or seasonal use), and sewage or wastewater is generated, to obtain permits from the Health Department for the construction and operation of any onsite sewage disposal or wastewater treatment system. In the absence of any onsite water supply, internal plumbing system, or sewage drain piping, the owner would need not apply for such permits. However, the construction and operation of a sanitary privy does require permits and such facilities must be constructed in accordance with established design standards.

16.2 General Provisions

- 16.2.1 Where, in the opinion of the Commissioner, public sanitary sewer is available and accessible, no person shall construct on any premises any privy vault, cesspool or separate system for the disposal of sewage, except a temporary privy for construction purposes.
- 16.2.2 Where in the opinion of the Commissioner, a public sanitary sewer is available and accessible, the Commissioner may issue an order to the owner of any property whereon any other method of sewage disposal is located, requiring such owner to abandon the use of such other method of sewage disposal and to connect with such sanitary sewer system.
- 16.2.3 No person shall discharge or cause the discharge of any harmful or deleterious substance to any sanitary sewer, sewage disposal or wastewater treatment system, which discharge would endanger the use of or the materials of construction of such sewer or system, or which would result in stoppage or in other failure of the sewage system or subsequent sewage treatment.
- 16.2.4 No person shall commit any act which may harm any structure, device, equipment or treatment process which is a part of a public sanitary sewage system or sewage treatment works.

16.3 Permit to Construct

- 16.3.1 All owners who intend to construct an onsite sewage disposal or wastewater treatment system must first make application for a permit to construct an onsite sewage disposal or wastewater treatment system to the Commissioner upon forms furnished by the Commissioner.
- 16.3.2 Prior to the issuance of a permit to construct an onsite sewage disposal or wastewater treatment system, a site investigation and soil percolation test must be

performed. Using the results of these tests, plans must be developed in accordance with official standards by Health Department personnel or by a design-professional licensed to perform such work under the New York State Education Law.

- 16.3.3 Plans for the onsite sewage disposal or wastewater treatment system shall be approved by the Cattaraugus County Department of Health prior to issuance of the permit to construct an onsite sewage disposal or wastewater treatment system.
- 16.3.4 No person or contractor shall begin to construct an onsite sewage disposal or wastewater treatment system until a permit to construct an onsite sewage disposal or wastewater treatment system has been issued. No work can be performed for which a permit has not been obtained.
- 16.3.5 The permit to construct an onsite sewage disposal or wastewater treatment system shall be posted conspicuously at the construction site.
- 16.3.6 The permit to construct an onsite sewage disposal or 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 Construction and maintenance of an onsite sewage disposal or wastewater treatment system shall be in conformance with the applicable standards of the New York State Department of Health, the New York State Department of Environmental Conservation, and the Cattaraugus County Department of Health. Under special circumstances, the Commissioner or designated representative may grant variances or exemption(s) from the aforementioned standards.
- 16.4.2 It shall be the contractor's responsibility to construct all onsite sewage disposal or wastewater treatment systems in accordance with the standards listed above, the approved plan and conditions of the permit.
- 16.4.3 It shall be the owner's/operator's responsibility to maintain the onsite sewage disposal or wastewater treatment system in accordance with the standards listed in Section 16.4.1, the approved plan, and conditions of the Permit to Operate.
- 16.4.4 The contractor, or in the contractor's absence, the owner must cause inspection by a representative of the Health Department of the completed onsite sewage disposal or wastewater treatment system before backfill, or at various stages of construction stated in the permit to construct an onsite sewage disposal or wastewater treatment system. The Health Department must be notified at least one working day in advance to arrange for an inspection of the construction of an onsite sewage disposal or wastewater treatment system or any part thereof.

16.5 Permit to Operate

- 16.5.1 If construction meets the County standards, the specifications as outlined in Appendix 75-A, 10NYCRR and the approved construction plan, or an exemption or variance is granted by the Commissioner, then a permit to operate the onsite sewage disposal or wastewater treatment system will be issued to the owner by the Commissioner.
- 16.5.2 No onsite sewage disposal or wastewater treatment system shall be utilized without a permit to operate.
- 16.5.3 The permit to operate shall be in force until revoked. The Commissioner may revoke such permit on the basis of sewage being discharged onto the ground surface or into waters of New York State thereby creating a public health hazard or nuisance.

16.6 Inadequately Treated or Untreated Sewage

- 16.6.1 The discharge of inadequately treated or untreated sewage onto the ground surface or into the waters of New York State is prohibited. The owner of any sewage disposal or wastewater treatment system with such a discharge shall immediately, upon notification by the Cattaraugus County Department of Health, undertake such remedial measures as the Commissioner may prescribe and accomplish such measures within a time set by the Commissioner, or its use shall be discontinued.

PART 17. REAL PROPERTY TRANSFERS.

17.1 General Provisions

- 17.1.1 No person shall transfer to any other person, nor accept from any other person, the transfer of the title to any property, unless and until the Commissioner shall have examined and issued certification for any water supply and sewage disposal or wastewater treatment system serving such property. The operation of this section shall not be applicable to the following:
 - (a) Transfers in a foreclosure action;
 - (b) Transfers in connection with a partition action under Article 9 of the Real Property Actions and Proceedings Law;
 - (c) Transfers by operation of law, such as intestate or testamentary succession;
 - (d) Transfer of owner-occupied single family residences between members of an immediate family. This exemption does not apply in cases where a real property transfer inspection is requested by a lending agency;
 - (e) Transfers of undeveloped properties with no facilities for water service, sewage disposal or wastewater disposal;

- (f) Transfers of establishments with a permit to operate issued by the Cattaraugus County Health Department which have undergone routine inspection within the previous six months;
- (g) No such certification of the water supply need be applied for, or made, if the water supply serving the properties is an approved public water supply as defined in Section 15.1.1 of this Code;
- (h) No such certification of the sewage disposal or wastewater treatment system need be applied for, or made, if the sewage or wastewater originating from the property discharges to a public sewer owned and operated by a municipal or other special public sewer service district;
- (i) No such certification of the sewage disposal or wastewater treatment system need be applied for, or made, if the wastewater or sewage discharges to an onsite sewage disposal or wastewater treatment system for which a permit to operate was issued by the Cattaraugus County Department of Health within the preceding 12 months.

17.1.2 Certification of the Commissioner is required for property transferred under land contract. The owner of record is the responsible party for any deficiencies of the water supply system, sewage disposal or the wastewater treatment system. The operation of this section shall not be applicable to the following:

- (a) No such certification of the on-site sewage disposal system or wastewater and/or water supply is required, if there is a record of them being inspected as part of the transfer of the property when the land contract is initiated.

17.1.3 The Commissioner may issue a conditional certification based on information available at the time of the health inspection. Certain conditions, such as building vacancy, deep snow, or tall grass, may necessitate a provisional inspection. A complete inspection shall be made when conditions allow or the system has been in use for a specified period of time. If the wastewater treatment system is found to be in violation, then the owner of record shall be responsible for correction of the violation as specified by the Commissioner.

17.2 Availability of Public Water

17.2.1 In areas where public water service is not available, the person offering any owner-occupied single family property for sale or transfer should provide a water supply which conforms to microbiological standards for potable water and should implement any recommendations prescribed by the Commissioner to bring the water system into compliance with the standards contained in Appendix 5-B, 10NYCRR.

17.2.2 All other properties shall provide a water supply conforming to the microbiological standards for potable water, and shall implement any recommendations prescribed by the Commissioner.

17.3 Availability of Public Sewer

17.3.1 In areas where public sewers are not available, the person offering the property for sale or transfer must first demonstrate to the Commissioner that the individual onsite sewage disposal or wastewater treatment system is not in violation of Section 16.6.1 of this Code and that no water supplies on this or adjoining properties will be endangered by the operation of such sewage disposal or wastewater treatment system. Any recommendations that may be prescribed by the Commissioner should be implemented to bring the system into compliance with the standards contained in Appendix 75-A, 10NYCRR and the specifications of the Cattaraugus County Department of Health.

PART 18. REALTY SUBDIVISIONS.

18.1 Realty Subdivisions are governed by the standards set forth in 10NYCRR Part 74; Article 11, Title 2 of the New York State Public Health Law; and Article 17, Title 15 of the New York State Environmental Conservation Law.

PART 19. SWIMMING POOLS AND BATHING BEACHES.

19.1 Swimming pools and bathing beaches are governed by the standards set forth in 10NYCRR Part 6.

PART 20. FOOD SERVICE ESTABLISHMENTS.

20.1 Food Service Establishments are governed by the standards set forth in 10NYCRR Part 14.

PART 21. MIGRANT LABOR CAMPS.

21.1 Migrant Labor Camps are governed by the standards set forth in 10NYCRR Part 15 and applicable Parts of this Public Health Code.

PART 22. TEMPORARY RESIDENCES.

22.1 Temporary Residences are governed by the standards set forth in 10NYCRR Part 7 and applicable Parts of this Public Health Code.

PART 23. MOBILE HOME PARKS.

- 23.1 Mobile Home Parks are governed by the standards set forth in 10NYCRR Part 17.
- 23.2 It shall be the responsibility of the park owner/operator to provide that all mobile home installations conform with Section RAE501 of the Residential Code of New York State (19NYCRR).
- 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 nuisance or is prejudicial to public health or safety.

PART 24. CHILDREN'S CAMPS.

- 24.1 Children's Camps are governed by the standards set forth in 10NYCRR Part 7-2.

PART 25. COMMUNICABLE DISEASES.

- 25.1 Communicable diseases are governed by the standards set forth in 10NYCRR Part 2 and Articles 21, 22, and 23 of the Public Health Law.
- 25.2 Rabies
 - 25.2.1 The control of rabies in Cattaraugus County shall be in accord with Article 21, Title IV, Sections 2140 through 2145 inclusive, of the State of New York Public Health Law and Subpart 2.14 of 10NYCRR.
 - 25.2.2 It shall be the duty of the attending physician to report immediately to the Commissioner, the full name, age and address of any person under such physician's care or observation who has been bitten by an animal having rabies or suspected of having rabies.
 - 25.2.3 The Commissioner may cause any dog, cat, domesticated ferret, or domestic livestock that has potentially exposed any person to rabies, to be confined in a veterinary establishment or animal-holding facility, in a manner approved by the Commissioner, for ten days. However, animals actively immunized against rabies may be confined on the premises of the owner for 10 days. Should such animal develop active signs of rabies within the 10-day period, it shall be destroyed under the direction of the Commissioner.
 - 25.2.4 The Commissioner may cause to be secured and confined or quarantined any dog, cat, domesticated ferret or domestic livestock within Cattaraugus County suspected of having rabies, or being exposed to rabies, for such a time and in such a manner as may be necessary to rule out the possibility of rabies infection.

- 25.2.5 “Confinement and observation” refers to the conditions under which apparently healthy dogs, cats, domesticated ferrets, and domestic livestock, which are not exhibiting symptoms of rabies, must be maintained if such an animal has potentially exposed a person to rabies, and the owner wishes to avoid euthanizing and testing the animal. The ten day confinement and observation period must take place, at owner’s expense, at an appropriate facility such as an animal shelter, veterinarian’s office, kennel or farm for an animal not actively immunized against rabies at the time of the bite.
- 25.2.6 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.
- 25.2.7 No certificate of vaccination shall be valid for longer than the vaccine is approved for.
- 25.2.8 In the event of human/animal exposure: (a) Rabies vaccination certificates, and (b) animal confinement verification form, must be submitted to the Commissioner no later than 10 days after the conclusion of the confinement.
- 25.2.9 No person shall own or harbor on their property any dog, cat or domesticated ferret four (4) months of age or older that does not have a current rabies vaccination.
- 25.2.10 Each person served with a Commissioner's order to vaccinate a dog, cat, or domesticated ferret shall comply with such order by the prescribed deadline.
- 25.2.11 In the event that the responsible person fails to comply with an order to vaccinate a dog, cat or domesticated ferret by the prescribed deadline, the Commissioner may order such animal to be vaccinated, with the cost to be borne by the responsible person.
- 25.2.12 It shall be classified as a Public Health Hazard and a separate violation of this Code, for any person to provide false or misleading information to any Health Department employee as representative of the Commissioner, concerning the whereabouts or disposition of any animal which is the subject of an official rabies investigation. Such false or misleading testimony shall also be reported to the appropriate authorities for initiation of any appropriate criminal proceedings.

PART 26. TATTOOING, TATTOO SHOPS, AND TATTOO ARTISTS.

26.1 Reserved

26.2 Shop Certificate of Sanitation

- 26.2.1 No person shall operate a tattoo shop unless such person has registered such shop with the Commissioner and has received a shop certificate of sanitation from the Commissioner on a form prescribed by the Department.
- 26.2.2 No shop certificate of sanitation shall be issued or renewed unless the shop has been inspected and found to be in compliance with applicable provisions of this Part.
- 26.2.3 The shop certificate of sanitation shall expire on December 31 of each year renewable annually in December for the period next commencing January one.
- 26.2.4 The operating permit must be prominently posted in the public area of the facility.
- 26.2.5 A fee shall be assessed on the operator of the establishment for the shop certificate of sanitation.

26.3 Facilities and Equipment

26.3.1 General Physical Environment

- 26.3.1.1 Tattoo shops must have adequate light and ventilation and all walls and ceilings shall be smooth and easily cleaned. Walls and ceilings are to be painted a light color.
- 26.3.1.2 The floor of the tattoo shop shall be of impervious material. The floor shall be swept and wet mopped daily. Floors, walls, or ceilings shall not be swept or cleaned while tattooing is in operation.
- 26.3.1.3 There shall be sufficient toilet, urinal, and handwashing facilities accessible to customers.
- 26.3.1.4 There shall be provisions for the proper and safe disposal of all types of waste products. Any material contaminated with blood must be stored in a puncture and leak proof container and disposed of in accordance with Federal, State and Local Laws and acceptable to the Commissioner.
- 26.3.1.5 The building and equipment shall be maintained in a state of good repair at all times. All parts of the establishment and its premises shall be kept clean, neat and free of litter and rubbish.
- 26.3.1.6 If water serving the facility is not from a public municipal source, then the onsite supply provided for handwashing and public consumption must be potable and tested at a frequency prescribed by the Department.
- 26.3.1.7 All waterborne wastes shall be disposed of in a manner satisfactory to the Cattaraugus County Health Department.

26.3.2 Work Room

- 26.3.2.1 Each tattoo shop shall have a work room separate and apart from a waiting room or any room or rooms used as such. The work room shall not be used as a corridor for access to other rooms. Patrons or customers shall be tattooed only in such work room.
- 26.3.2.2 The work room shall be equipped with hot and cold running water, and necessary sinks and basins.
- 26.3.2.3 The sinks and basins shall be for the exclusive use of the tattoo artists for washing their hands and preparing customers for tattooing. They shall be equipped with wrist-action controls, soap, a United States Environmental Protection Agency (EPA) - approved or hospital-grade germicidal solution, individual hand brushes, and fingernail files for each tattoo artist.
- 26.3.2.4 Cabinets for the storage of instruments, dyes, pigments, carbon, and stencils shall be provided for each operator and shall be maintained in a sanitary manner.
- 26.3.2.5 An adequate number of work tables shall be provided for each tattoo artist. The surface of all work tables shall be constructed of a material which is, smooth, light colored, non-absorbent, corrosive-resistant, and easily cleaned and sanitized.
- 26.3.2.6 Tattoo artists may not set up temporary facilities at fairs, festivals, or expositions, unless written approval is obtained from the Commissioner.

26.3.3 Autoclave

- 26.3.3.1 An autoclave is a steam sterilization apparatus designed to maintain a constant specified temperature and pressure for the purpose of inactivation of infective agents. Each tattoo shop must have an autoclave which is maintained in good operating condition at all times and which is equipped with functioning pressure and temperature gauges and a cycle timing device, or has an automated cycle control system which is operated in full accordance with the manufacturer's specifications and procedures. The tattoo shop operator shall be responsible for demonstrating the sterilization ability of the apparatus via a standard biological indicator test, four times per year. A Commissioner's representative shall be present during the test and will arrange for the transport of the biological indicators to an approved laboratory certified by the New York State Department of Health for analysis. In addition to the above quarterly testing, the operator shall confirm that the items in each load to be sterilized have been exposed

to the required combination of time, temperature and steam. In the event of any malfunction of the apparatus, the tattoo shop artist shall immediately suspend tattoo operations and notify the Commissioner. The operation of this section shall not be applicable to the following:

- (a) When prepackaged and presterilized single-use needles and tubes are being used exclusively.

26.4 Operation Standards

26.4.1 Records

- 26.4.1.1 For each patron, proper records of tattoos administered shall be maintained by the holder of a shop certificate of sanitation.
- 26.4.1.2 A record of each patron shall be prepared prior to any procedure being performed and shall include the patron's name, and signature, address, age, the date tattooed, the design of the tattoo, its location on the patron's body, and the name of the tattoo artist who performed the work.
- 26.4.1.3 The records shall be entered in ink in a bound book kept solely for this purpose. This book shall be available at any time for examination by the Commissioner and shall be preserved for at least two years from the date of the last entry therein.
- 26.4.1.4 The signature of the patron shall be in the bound book.
- 26.4.1.5 Before tattoo administration, there shall be a discussion conducted with the patron on the risks involved in the tattoo procedure, and its possible complications, which shall be acknowledged in the record. The patron shall also be advised to immediately seek medical care at first sign of infection (i.e. purulence, swelling, redness, pain, oozing, etc.) or continued bleeding.

26.4.2 Consent

- 26.4.2.1 It is unlawful to apply a tattoo to any person under 18 years of age.
- 26.4.2.2 It shall be the responsibility of the person applying the tattoo to ensure that the person receiving the tattoo is not a minor.

26.4.3 Tattooing Procedures

- 26.4.3.1 There shall be printed instructions, as approved by the Department, given to each patron on the care of the skin after tattooing as a precaution to prevent infection.

- 26.4.3.2 A copy of such instructions shall be posted in a conspicuous place in the work room, clearly visible to the person being tattooed.
- 26.4.3.3 A tattoo artist shall not perform any tattooing work while under the influence of drugs or alcohol, nor shall the tattoo artist tattoo any person who is under the influence of drugs or alcohol.
- 26.4.3.4 Each tattoo artist must wear a clean outer garment.
- 26.4.3.5 Tattoo artists who are experiencing symptoms such as diarrhea, vomiting, fever, rash, productive cough, or draining (or open) skin infections such as boils, impetigo, or scabies must refrain from tattooing activities.
- 26.4.3.6 No person with suppurating wounds or other signs of an active communicable disease shall engage in tattooing. Such diseases may include but are not limited to the acute illness phases of the common cold, influenza, tuberculosis, HIV, syphilis, chicken pox, mumps, hepatitis, infection on hands or arms, sore throat, or jaundice of the skin.
- 26.4.3.7 The Commissioner may require any tattoo artist found to have any disease in communicable form or suspected of having such a disease, as designated in 10NYCRR Part 2, Section 2.1, to provide a written statement from a duly licensed physician stating that the person is no longer communicable, before permission to resume operation as a tattoo artist is granted.
- 26.4.3.8 Before working on each patron, the fingernails of the tattoo artist shall be cleaned with an individual nail file and the hands thoroughly washed and scrubbed with hot running water, soap, and individual hand brush.
- 26.4.3.9 The tattoo artist's hands shall be dried only with the use of sanitary disposable towels or other mechanical means.
- 26.4.3.10 That portion of the patron's skin to be tattooed shall be prepared by washing with warm water and an approved germicidal soap.
- 26.4.3.11 When necessary to shave the area to be tattooed, only single use, sterilized and disposable safety razors shall be used.
- 26.4.3.12 Following the cleaning and/or shaving of the patron's skin, the tattoo artist shall again wash and scrub his/her hands as described in subsection 26.4.3.8 above.
- 26.4.3.13 The tattoo artist shall wear single service, disposable latex gloves when applying a tattoo. Once used for a patron, the gloves must be properly disposed of.

26.4.3.14 Before placing the design on the patron's skin, the tattoo artist shall treat the skin area with an EPA-approved or hospital-grade germicidal solution which shall be applied with sterile cotton or sterile gauze. Sterile petroleum jelly from a single use, collapsible metal or plastic tube, or a product acceptable to the Cattaraugus County Health Department shall be applied using a sanitary method.

26.4.4 Dyes or Pigments

26.4.4.1 In preparing nontoxic dyes or pigments to be used by a tattoo artist, only nontoxic or sterile material shall be used. Single-service or individual portions of dyes or pigments in clean, sterilized individual containers or single service containers must be used for each patron.

26.4.4.2 After tattooing, the remaining unused dye or pigment in the single-service or individual containers shall be properly discarded.

26.4.4.3 All dyes or pigments used in tattooing shall be from batches certified by the Federal Food and Drug Administration. (For informational purposes, see Chapter 51, Federal Food, Drug, and Cosmetic Act; 21 U.S.C. Section 301 et seq).

26.4.5 Sterilization of Needles

26.4.5.1 A set of individual, single-service sterilized needles shall be used by a tattoo artist for each new patron.

26.4.5.2 To guard against a potential temptation to re-use single service needles because of exhaustion of existing supplies, not less than 10 sets of sterilized needles and tubes or tips must be on hand for the entire day or night operation.

26.4.5.3 Sterilization shall be conducted by holding an autoclave at 15 pounds of pressure and a temperature of 250 degrees Fahrenheit (121 degrees Celsius), for a minimum of 30 minutes after the chamber of the autoclave has been evacuated of air and has reached the required temperature or as specified in the manufacturer's operating manual.

26.4.5.4 No rusty, defective, or faulty needles shall be used for tattooing. All needles and instruments after sterilization shall be handled and stored in a cabinet in such a manner as to prevent contamination.

26.4.5.5 The complete needle bar and tube of the tattoo machine shall be cleaned, properly packaged and sterilized in an autoclave before each use.

26.4.6 After Care of Tattoo

- 26.4.6.1 The completed tattoo shall be washed with a piece of sterile gauze or sterile cotton saturated with an EPA-approved or hospital grade germicidal solution from a single use container. The tattoo shall be allowed to air dry.
- 26.4.6.2 After drying, a sterile ointment acceptable to the Cattaraugus County Department of Health shall be applied from a collapsible metal or plastic tube. The entire area may be covered with a piece of sterile gauze, which may, in turn, be covered with a piece of tissue and fastened to the site with an approved type of adhesive.
- 26.4.6.3 The patron shall be advised to immediately seek medical care at first sign of infection (i.e. purulence, swelling, redness, pain, oozing, etc.) or continued bleeding.

26.5 Enforcement

26.5.1 Certificates and Inspections

- 26.5.1.1 Access - Commissioner or designated representative is to be permitted access for the purposes of inspection at all times while the tattoo establishment is in operation, whether open to the public or not. Refusal of admittance, after proper identification, is cause for action to obtain certification revocation and an order to close.
- 26.5.1.2 Certificates are non-transferable from one owner or operator to another, or from one establishment location to another, or from one tattoo artist to another. All applicable certificates must be displayed when engaging in the act of tattooing.
- 26.5.1.3 Inspection - Commissioner or designated representative is to make inspections of each tattoo establishment from time to time and not less than once during the term of each certificate. During each inspection, violations of this Part, are to be recorded on an inspection report form acceptable to the Commissioner. A copy of the inspection report is to be delivered to the person in charge at the completion of the inspection.
- 26.5.1.4 The person in charge is the individual present in a tattoo establishment who is the apparent supervisor of the establishment at the time. If no individual is the apparent supervisor, than any employee present is the person in charge.

26.5.2 Violations

- 26.5.2.1 Operation of a tattoo establishment without a valid certificate is a violation of this Part. The Commissioner or designated representative may order any tattoo establishment or operation, operating without a valid certificate, to close and cease all tattoo operations immediately and to remain closed until the establishment or operation has obtained and displays a valid certificate.
- 26.5.2.2 For serious, repeated or persistent violations of any of the requirements of this Part or for the interference with the Commissioner or designated representative in the performance of their duties, the certificate may be revoked after due notice and opportunity for a hearing.
- 26.5.2.3 The Commissioner may suspend a certificate and order the immediate cessation of tattooing when, in the Commissioner's opinion, continued operation is an immanent hazard to public health. 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 the public health.
- 26.5.2.4 A person applying a tattoo without a valid certificate issued by the Commissioner is in violation of this Part. The tattoo establishment operator who allows a person to apply a tattoo without a valid certificate will be subject to enforcement as described in subsection 25.5.2.1 above.
- 26.5.2.5 Suspension of Certificates - Certificates may be suspended temporarily by the Commissioner, after notice and opportunity to be heard, for failure of the certificate holder to comply with the requirements of this Part or with any lawful notice or order issued by the Commissioner or designated representative.
- 26.5.2.6 Closure - When action is taken to order closure and cessation of operations, the Commissioner or designated representative is to:
- (a) Conspicuously post a notice or placard at each entrance of the establishment stating the existence of such order and the authority for such order. This order is not to be concealed, mutilated or altered by any person or removed without permission of the Commissioner.
 - (b) Publish notice of the order with the reasons for the order in one or more newspapers in the County where the tattoo establishment is located.
- 26.5.2.7 Hearings - The hearings provided for in the Section are to be conducted by the Cattaraugus County Board of Health-appointed Hearing Officer.

PART 27. BODY PIERCING

27.1 Applicability

- 27.1.1 No person shall body pierce or offer to body pierce any minor, with the exception that a minor may have a body piercing procedure performed on him or her, if the minor has the prior written consent from a parent/legal guardian. Parent/legal guardians must present acceptable photo identification and proof that he or she is the parent/legal guardian of the minor at time of procedure. Acceptable photo identification shall include only identification issued by the Commissioner of Motor Vehicles, a passport, or military identification. Proof of parent/legal guardianship is a copy of a birth certificate or certified copy of either a custody order or guardianship order. Copies of such photo identification and proof of parent/legal guardianship must be kept on record pursuant to Section 27.1.2 of this Part. The parent/legal guardian must be present during the body piercing procedure. Such consent shall not apply however, to puncturing of the outer perimeter or lobe of the ear using a presterilized single-use stud and clasp ear piercing system.
- 27.1.2 For each minor, a completed form must be maintained by the facility performing the body piercing for a minimum of six (6) years after the minor turns 21. An approved form may be obtained from the Cattaraugus County Health Department. All original executed forms (no photocopies) shall be made available for examination, upon request by a Cattaraugus County Health Department representative or any law enforcement officer.
- 27.1.3 Before body piercing administration, there shall be a discussion conducted with the minor and parent/legal guardian detailing the risks involved with body piercing, and its possible complications, which shall be acknowledged in the record. Body piercing operators must also explain after-care instructions which would include advice to immediately seek medical care at first sign of infection (i.e. purulence, swelling, redness, pain, oozing, etc.) or continued bleeding.

PART 28. CONSTRUCTION APPROVAL , INSPECTION AND CERTIFICATION.

28.1 Applicability

- 28.1.1 No work shall commence on any project which requires design by a Professional Engineer or Registered Architect, until all reports, plans, and specifications have been submitted to the Health Department for review and have been formally approved. Work can only begin after issuance of a Notice of Plan Approval.
- 28.1.2 Any construction project or development which was designed by a duly licensed consulting firm or individual and requires formal engineering plan approval by the Health Department shall be certified in writing by such consultant in accordance with the conditions stated on the official Notice of Plan Approval.

- 28.1.3 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 strictly met. The records of such inspections and all required testing shall be the basis for providing written certification.
- 28.1.4 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 Health Department. In the case of public water facilities, disinfection and microbiological testing results must also be provided to the Health Department prior to placing any new infrastructure into service.

PART 29. LEAD POISONING CONTROL - ENVIRONMENTAL ASSESSMENT AND ABATEMENT.

- 29.1 The basis and standards for conducting environmental assessments and abatement Supervision activities at properties where conditions conducive to lead poisoning have been found to exist, are set forth in 10NYCRR Subpart 67-2.

PART 30. PUBLIC SEWAGE.

30.1 Applicability

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

30.2 Prohibitions

- 30.2.1 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, stormwater 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).
- 30.2.2 No person shall make or use any outlet or point source of discharge into the waters of the State, as defined by Article 17 of the New York State Environmental Conservation Law (ECL), or operate or construct a sewage system, without a valid State Pollutant Discharge Elimination System (SPDES) Permit, where required.
- 30.2.3 No person shall construct, modify, install or allow to be constructed, modified, or installed, a sewage system as defined in this Part without the written approval of the Department or the NYSDEC pursuant to Section 30.4 of this Part.

30.2.4 No person shall operate a sewage 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. No system shall be operated for which a SPDES permit has expired and not been renewed or extended.

30.3 Preparation, Submission and Approval of Plans

30.3.1 All new or modified sewage systems must be constructed and subsequently operated in accordance with engineering plans, reports and specifications formally approved by the Department or the NYSDEC.

30.3.2 No sewage system shall be constructed, modified or installed prior to or without plans approved by the Department or NYSDEC.

30.3.3 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.

30.3.4 Application for approval of plans and specifications shall be made on forms provided by the Department or the NYSDEC.

30.3.5 Sewage system design, construction, and operation shall conform to pertinent rules, regulations and standards accepted or prepared by the NYSDEC.

30.4 Construction Inspection and Certification

30.4.1 No new or modified sewage 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 Part 28 of this Code.

PART 31. PLACEMENT OF TOBACCO PRODUCTS, ROLLING PAPERS AND PIPES.

31.1 Placement of Tobacco Products, Rolling Papers and Pipes

31.1.1 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.

31.1.2 No vendor shall allow vending machines containing tobacco products to be placed in any location accessible to persons under the age of 18.

- 31.1.3 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.
- 31.1.4 This Part shall not apply to tobacco businesses, as defined in Article 13-E of the New York State Public Health Law.

31.2 Waiver

- 31.2.1 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 undue financial hardship, 2) establish that the physical layout would render compliance unreasonable, or that other factors exist which would render strict compliance unreasonable.
- 31.2.2 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.
- 31.2.3 Applications for renewal shall be reviewed in the same manner as provided for applications for waiver.

EFFECTIVE DATE.

Except as otherwise specified, every provision of these amendments to the Public Health Code shall take effect September 4, 2008. The provisions of the Public Health Code shall be enforced throughout the Cattaraugus County Health District.

Certification

I, BARBARA J. HASTINGS, RN, BSN, MSN, 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 3rd day of September, 2008, 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 3rd day of September, 2008.

BARBARA J. HASTINGS, RN, BSN, MSN
Secretary, Cattaraugus County
Board of Health

FILED IN THE CATTARAUGUS COUNTY CLERK'S OFFICE
ON September 4, 2008