

NASSAU COUNTY

PUBLIC HEALTH ORDINANCE

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NASSAU COUNTY

DEPARTMENT OF HEALTH

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COMMISSIONER

MINEOLA, NEW YORK

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NASSAU COUNTY PUBLIC HEALTH ORDINANCE

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## Preamble

The Nassau County Board of Health is charged under the Nassau County Charter with protecting the health and welfare of the County of Nassau by promulgating rules and regulations which become codified as part of the Nassau County Public Health Ordinance. In order to effectively enforce these local rules and regulations, a system for the adjudication of violations of the Ordinance is necessary. The Board of Health recognizes that the duty to administer the Public Health Ordinance and protect the public health also carries with it an obligation to provide individuals with a system for review which affords due process.

The Nassau County Board of Health recognizes “due process” as a fundamental safeguard of the adjudicatory process and as an absolute right conferred by the Fourteenth Amendment of the United States Constitution. The constitutional concept of “due process” has long been considered to confer some independent right to procedural protections; a right bestowing to individuals charged with violations of the Public Health Ordinance notice of the violations to be charged and an opportunity to be heard.

By definition, due process customarily includes several basic features: (1) timely and specific notice of the issues to be resolved; (2) the right of affected parties to appear personally or through representatives for purposes of hearing and presenting evidence; (3) an opportunity for cross-examination; (4) public proceedings; (5) an impartial decision maker; (6) a decision based exclusively on the evidence and argument submitted at the hearing or otherwise made part of the “record” of the proceeding, and (7) written findings of fact and conclusions of law. These features of the adjudicatory process may be applied in parallel with emergency powers to provide the necessary protection of the public health which assuring full compliance with due process rights.

To improve the Public Health Ordinance, the Board of Health hereby sets forth this amendment to Article I of the Nassau County Public Health Ordinance. By this amendment to Article I, the Board endeavors to strengthen the adjudicatory process for the enforcement of the Nassau County Public Health Ordinance, clarify emergency powers and safeguard the rights of individuals who may be required to avail themselves of the adjudicatory process.

**NASSAU COUNTY PUBLIC HEALTH ORDINANCE**

**ARTICLE I**

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Section 1. General Provisions.

- 1.1 Title. The provisions of law contained herein shall be known as the Public Health Ordinance of the Nassau County Department of Health.
- 1.2 Applicability. This Article shall apply to all provisions of the Public Health Ordinance of the Nassau County Department of Health unless there is a specific provision, statute or regulation to the contrary.
- 1.3 Definitions. When used herein, unless otherwise expressly stated:
  1. *Administrative Law Judge* means the administrative hearing officer authorized by the Board or Commissioner to conduct administrative hearings on the behalf of the Board or Commissioner pursuant to the Nassau County Public Health Ordinance, Public Health Law of the State of New York, Sanitary Code of the State of New York, Environmental Conservation Law of the State of New York, Local Laws and Administrative Rules, Regulations and Standards promulgated pursuant thereto.
  2. *Amendment of charges* means the adding, altering, withdrawing or deleting of alleged violations set forth in the notice of hearing or Order for Action.
  3. *Applicable laws* means either the Public Health Law of the State of New York, Sanitary Code of the State of New York, Environmental Conservation Law of the State of New York; Civil Practice Law and Rules, Local Laws and Administrative Rules, Regulations and Standards promulgated pursuant thereto, or all of them.
  4. *Arraignment* means the initial appearance of a respondent in accordance with a notice of hearing, including an appearance ticket, or an Order for Action.
  5. *Board* means the Board of Health of the County of Nassau.
  6. *Board Order* means any Order entered or issued by the Board.
  7. *Commissioner* means the Commissioner of Health of the Nassau County Department of Health and shall include any duly authorized representative.
  8. *County* means the County of Nassau.

9. *CPLR* means the Civil Practice Law and Rules of the State of New York.
10. *Department* means the Nassau County Department of Health.
11. *Department of Environmental Conservation* means the New York State Department of Environmental Conservation as contained in the Consolidated Laws of the State of New York.
12. *Formal hearing* means that portion of the hearing process following a respondent's having denied violations charged in the notice of hearing or order for action.
13. *Health Department* means the Nassau County Department of Health established under the County Government Law of Nassau County.
14. *Health Hazard* means the causing, engaging in or maintaining a condition or activity that endangers the public health.
15. *Hearing* means a due process administrative hearing noticed or ordered by the Board or Commissioner.
16. *Informal hearing* means that portion of the hearing process following respondents' having admitted to the violations charged in the notice of hearing or order for action.
17. *Municipality* means the County, city, town or village and any department or agency thereof located within the County.
18. *Notice of hearing* means a directive from the Board for a respondent to appear at an administrative hearing.
19. *Nuisance* means any annoying, offensive or vexatious use of property or course of conduct that is adverse to the public health.
20. *Order For Action* means any order entered or issued by the Board or Commissioner.
21. *Ordinance* means the Public Health Ordinance of the Nassau County Department of Health and shall also comprise the rules and regulations, now or hereafter formulated, promulgated and adopted or amended by the Board pursuant to the County Government Law of Nassau County and Public Health Law of the State of New York.
22. *Permit* means a written license and authorization to carry on a specified activity or activities as regulated by this Ordinance, Public Health Law, Sanitary Code, Environmental Conservation Law, Local Law and any

rules or regulations promulgated thereunder.

23. *Permittee* means a person holding a valid permit issued by the Permit issuing official of the Nassau County Department of Health, New York State Department of Health or the New York State Department of Environmental Conservation.
24. *Permit issuing official* means the Commissioner or designor/designee of the Commissioner.
25. *Person* means an individual, firm, estate, partnership, company, corporation, trustee, association, or any other private entity.
26. *Potential health hazard* means any condition as may be expected to be responsible for illness, physical injury or death.
27. *Public Health Council* means the Public Health Council of the State of New York.
28. *Public Health Law* means the Public Health Law of the State of New York as contained in the Consolidated Laws of the State of New York.
29. *Report* means the Administrative Law Judge's summary of the hearing record, including findings of fact, conclusions of law and recommendations.
30. *Respondent* means any person charged with a violation by the Board or Commissioner.
31. *Sanitary Code* means the New York State Sanitary Code as established by the Public Health Council of the State of New York.
32. *State* means the State of New York.
33. *State Health Department* means the Health Department of the State of New York.
34. *Statement of charges* means that portion of the notice of hearing or order for action as advises a respondent of the violations with which they are charged.
35. *Summary action* means an action taken by the Commissioner that, in the opinion of the Commissioner, a person is causing, engaging in or maintaining a condition or activity which constitutes danger to the health of the people, and therefore, in the interests of the people, such condition or activity can be delayed for fifteen days until an opportunity for a



hearing can be provided to the person causing, engaging in or maintaining such condition or activity.

36. *Violation* means the failure to comply with the Public Health Ordinance, New York State Sanitary Code, Public Health Law, New York State Environmental Conservation Law, Local Law or any rule or regulation promulgated thereto.

#### 1.4 Legal Effect.

1. The provisions of the Ordinance shall be in force throughout the County of Nassau.
2. The provisions of this Ordinance shall have the force and effect of law.
3. Nothing herein contained in this Ordinance shall be construed to restrict the power of any 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 this Ordinance.
4. Whenever the sense of this Ordinance may require:
  - a. any singular word or term used herein shall also be read as in the plural, and,
  - b. any masculine word or term used herein shall also be read as in the feminine.

#### 1.5 Construction.

1. This Ordinance is intended to be consistent with applicable federal and state law and shall be construed, whenever necessary, to achieve such consistency.
2. This Ordinance shall be liberally construed for the protection of health and safety in the County.

#### 1.6 Separability of Provisions.

1. In the event that any provision of this Ordinance is declared unconstitutional or invalid, the constitutionality or validity of every provision of this Ordinance shall not be affected thereby.
2. In the event that the applicability of any provision of this Ordinance to any person or circumstance is held to be invalid, the applicability of such provision to other persons and circumstances shall not be affected

thereby.

1.7 Saving Clause.

1. Nothing contained in this Ordinance shall affect or impair any act done or right accruing, accrued or acquired, or any penalty, forfeiture or punishment incurred prior to the time when this Ordinance shall take effect, under or by virtue of the provision or provisions of law or the Sanitary Code, as in force immediately prior to the time this Ordinance shall take effect, but the same may be asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if this Ordinance shall not have taken effect.
2. When enacted pursuant to law, an act of the Board which adds or purports to add a new article, section, subsection or other provision to this Ordinance, as amended by this Ordinance, shall be given full effect according to its context as if the same had been added expressly and in terms of such Ordinance, and shall be deemed and construed to have been inserted in this Ordinance, in the appropriate respective position in regard to and as modifying the effect of the corresponding provision or provisions of this Ordinance, as herein adopted and promulgated.
3. Reference to any article, section, subdivision or other provision of the Ordinance, as in force immediately prior to the time that this Ordinance shall take effect, shall be deemed and construed as to refer to the corresponding article, section, subdivision or other provision of such law, as renumbered, modified or amended by this Ordinance.
4. Reference in any general, special or local law, rule, regulation or public document to any provision or provisions of the Ordinance, as in force immediately prior to the time this Ordinance shall take effect, shall be deemed to be and construed as a reference to the corresponding provision or provisions of such Ordinance, irrespective of whether such provision or provisions are contained in one or more than one article, section, subdivision or part thereof.

- 1.8 Ordinance; certified copies. The Commissioner shall furnish certified copies of this Ordinance and its amendments for a fee as the Board may, from time to time, establish.

Section 2. Administration and Enforcement.

- 2.1 Inspections; in general. The Commissioner may inspect any premises, matter or thing within the County, including but not limited to any premises where an activity regulated by this Ordinance or any applicable law is carried on and may

inspect any record required to be kept pursuant to applicable law or regulation within the County.

2.2 Inspections; interference.

1. No person shall interfere with, obstruct or refuse to allow any employee or authorized representative of the Department to enter upon and inspect any premises, place or thing within the County in the discharge of official duties or Department business.
2. No person shall interfere with, obstruct or refuse to allow the examination of any premises, place or thing by a representative of the Department in the discharge of official duties or Department business.
3. No person shall molest or otherwise resist a representative of the Department in the discharge of official duties or Department business.
4. A person determined, after hearing, to have violated any provisions of this section, may, at the option of the Board or Commissioner, whomsoever initiated such charge or charges, have imposed upon him/her a civil penalty as hereinafter provided and/or refer the matter for prosecution as a misdemeanor.

2.3 Inspections; authority to sample, seize, embargo, condemn, dispose and right to hearing.

1. The Commissioner may take and remove any substance or thing or any necessary part or portion thereof from any premises or place as a sample for investigation or evidence when such substance or thing may be dangerous or detrimental to the public health, or is required for sampling, testing or analysis for the protection of public health and the environment, or in compliance with applicable law.
  - a. When in the opinion of the Commissioner, an article, substance or item is deemed unfit for human consumption, does not meet the requirements of this Ordinance or any other applicable law, or otherwise constitutes a health hazard or potential health hazard, the Commissioner may seize and embargo or condemn such item.
  - b. The Commissioner may destroy, render harmless, or otherwise dispose of any seized, embargoed, or condemned item or may direct the owner or person in control thereof to do so.
  - c. When the Commissioner determines that embargoed items consist in part of items which are not in violation of this Ordinance or any other applicable law, and may be salvaged, or that embargoed items or any part thereof can be brought into compliance with the applicable law, the Commissioner shall permit the owner, or

person in control of such item, unless in the opinion of the Commissioner the protection of the public health required otherwise, to separate the salvageable portions, or bring such items into compliance with the Ordinance or other applicable law at the place of embargo or other place acceptable to the Commissioner.

- d. When seized, embargoes or condemned material is disposed of by the Commissioner otherwise than by destruction, it shall be returned to the owner or person in control after it has been rendered harmless.
2. All activities carried on pursuant to this section shall be done in a manner consistent with the maintenance of the public health, giving due regard to the property rights of the owner or person in control of the affected item.
3. Any item embargoed pursuant to the provisions of this section shall be identified by the placing and physical attachment thereon of an identification tag or label which shall state the alleged nature and description of the item, the reason for the embargo, the date of the embargo and the signature of the Commissioner effecting or causing such embargo.
4. No item embargoes pursuant to the provisions of this section shall be used, destroyed or otherwise disposed of while under such embargo except by and under the direction of the Commissioner.
5. Except where the protection of the public health required immediate action, the Commissioner shall not seize, embargo, condemn, destroy, render harmless or otherwise dispose of any material pursuant to subdivision one this section, until the owner or person in control is notified by an effective means of communication and is given the opportunity to request and obtain a hearing before an Administrative Law Judge.

#### 2.4 Enforcement; violations; notice; referral for administrative hearing.

1. Upon the finding of a non-compliance, violation or violations of the Ordinance or any other applicable law within the jurisdiction of the Department, the Commissioner may:
  - a. issue a notice of non-compliance setting forth the nature of the non-compliance or violation; or
  - b. issue a notice of violation in writing, setting forth the nature of the non-compliance; or
  - c. refer the matter to the Board for administrative hearing; or
  - d. issue an Order for Action.

2. A notice pursuant to sub-sections “a” and “b” of the preceding section may be served in person, by mail or by posting such notice conspicuously on the premises and the notice shall set forth:
  - a. the date or dates of violation;
  - b. the section of the Ordinance or applicable law violated;
  - c. the specified date the violation shall be abated or corrected.
3. In the event that an objectionable condition or conditions are not removed or abated pursuant to and in accordance with a notice of non-compliance or violation notice, and if the nature of the condition or conditions require immediate control for the protection of life or health, the Commissioner may cause public notice to be given by conspicuously posting on the premises, item or equipment an appropriate notice, placard or sign which shall not be removed except as authorized in writing by the Commissioner.

#### 2.5 Notices; posting; destroying.

1. Notices shall be in the English language, provided, however, if the Department is of the opinion that a person or persons to whom a required warning, notice or instructional sign is addressed may not understand the English language, it may require that such warning, notice or sign shall appear legibly in both English and such other designated foreign language as may be necessary.
2. No person shall remove, mutilate, conceal, obstruct or tear down any Department notice, placard or sign posted in or on any premises or public place except by written authorization of the Board or Commissioner.
3. The unauthorized removal of any Department notice, placard or sign posted pursuant to paragraph two of this section shall constitute a civil violation and/or misdemeanor and be punishable in accordance with this Article, the Sanitary Code and/or the Public Health Law.

#### 2.6 Investigations; hearings.

1. The Board may cause to be held a hearing on any application, complaint, circumstances, investigation, or alleged violation of this Ordinance or any applicable law.
2. The Commissioner may cause to be held a hearing on any matter pursuant to emergency powers for alleged violation of this Ordinance or any applicable law.

## 2.7 Notice of hearing and statement of charges.

1. The Board may cause to be issued a Notice of Hearing together with a Statement of Charges, or a Department Appearance Ticket, advising a respondent of the nature of all charges, the section of the Ordinance or applicable law or laws alleged to have been violated, and the date or dates of the alleged violation or violations, said hearing to be held no less than fifteen days after service of notice, except as provided otherwise herein.
2. The notice of hearing and statement of charges shall be served upon a respondent by:
  - a. delivering the notice to the named respondent, or to a partner if the respondent is a partnership, or a member of the respondent group concerned, or to an officer of the respondent corporation, or to counsel of record; or:
  - b. delivering the notice to a person of suitable age and discretion who is in charge of respondent's office or premises and also by mailing the notice to the last known residence, place of business, dwelling place, or usual place of abode of the named respondent; or
  - c. affixing the notice to the door of the premises concerned and by mailing the notice to the last known residence, place of business, dwelling place, or usual place of abode of the named respondent where previous efforts to affect service have proved unsuccessful; or
  - d. enclosing the notice in a postpaid envelope addressed to the named respondent at its place of business, dwelling place, usual place of abode or last known address, and depositing such enveloped at a United States Post Office or official depository under the exclusive care and custody of the United States Postal Service, for delivery by either first class or certified mail, return receipt requested; or
  - e. any combination of the provisions contained in this section.
3. The notice of hearing shall set forth:
  - a. the name of the party or parties named as respondent or respondents;
  - b. the date, time and place of the hearing;
  - c. the right to be represented by counsel;
  - d. the right to examine and cross-examine witnesses;
  - e. that respondent shall have the option to plead an admission to the truth of the charges, in which event he shall have relinquished the right to a formal hearing or to plead a denial to the charges, and in which event he shall be entitled to a formal hearing;
  - f. that respondent's failure to appear shall constitute a default whereby the hearing may proceed in respondents' absence and a

determination made based upon sufficient evidence submitted by the Department;

- g. that respondent in failing to appear will have relinquished the right to offer evidence or a statement in mitigation of penalty;
- h. that an adjournment may be granted only upon application to the Administrative Law Judge;
- i. that if a person other than owner, officer or attorney of respondent should appear on respondents' behalf, a written authorization shall be required;
- j. the date issued; and
- k. the signature of a member of the Board or its authorized representative therefor.

2.8 Service of papers. All correspondence and papers connected with a hearing, other than the notice of hearing and statement of charges, if any, may be served by ordinary mail. Except where otherwise provided, service by mail shall be deemed complete five days after mailing.

2.9 Discovery. There shall be discovery only at the discretion and approval of the Administrative Law Judge.

2.10 Hearing; appearances. A respondent may appear in person, or appearance can be made by an officer of a corporation, partner, an attorney or by a person appearing in a representative capacity. Any person appearing in a representative capacity who is not an attorney shall be required to show written authority to act in such capacity.

2.11 Hearing; adjournments.

1. A request for an adjournment of the hearing should be made to the Administrative Law Judge and to the other parties prior to the hearing, to be granted only for good reason or cause and when an alleged health hazard is not continuing or where the purpose of the hearing will not be affected or defeated by the granting of the adjournment.
2. When granted, an adjournment shall be to a specified date, time and place.

2.12 Hearing; in general.

1. Hearing shall be public except where the Administrative Law Judge shall in his discretion determine otherwise.
2. Hearings shall consist of informal and/or formal proceedings.

2.13 Hearing; informal proceedings.

1. Informal proceedings shall consist of:
  - a. an arraignment stage which shall occur upon a respondent's initial appearance at which time the Administrative Law Judge shall:
    - (1) advise the respondent of his/her rights;
    - (2) request respondent to respond and either admit or deny the charges; and
    - (3) set the matter down for and schedule a formal hearing should the respondent deny any of the charges.
  - b. a compliance stage which shall occur upon a respondent's admitting to the truth of the allegations at which time the Administrative Law Judge may adjourn the proceedings to a date certain with direction to the respondent that (s)he shall, by such date, be in compliance with the Ordinance or any other applicable law.
2. Upon a respondent's compliance with the Ordinance or other applicable law, the Administrative Law Judge shall:
  - a. admit and consider any mitigating evidence offered by the respondent, and
  - b. terminate proceedings by a written stipulation of discontinuance signed by the respondent, a Department representative and the Administrative Law Judge.

2.14 Hearing; formal proceedings.

1. Formal proceedings shall:
  - a. occur upon a respondent's denial of any charge alleging violation of the Ordinance at which time the Administrative Law Judge shall set the date, time and place for the hearing; and
  - b. a verbatim record of the proceedings shall be made either by certified stenographer or by use of an electronic recording device, including by video recording thereof and shall be made available upon the request of any respondent, the cost and expenses of which shall be borne by the requesting party.

2.15 Hearing; inquest in absence of respondent. Upon the default in the appearance of any respondent, and upon proof of due service and notice to such respondent, the Department may make application for and the Administrative Law Judge may grant an inquest hearing, and the evidence submitted by the Department and issues on which the defaulting party has the burden of proof may be



resolved against that party.

2.16 Hearing; duty and authority of the Administrative Law Judge.

1. The Administrative Law Judge shall:
  - a. conduct the hearing in a fair and impartial manner;
  - b. maintain a record of the proceedings; and
  - c. note the appearance of the persons attending the hearing at all stages of the proceedings.
  
2. The Administrative Law Judge shall have the authority to:
  - a. recommend a ruling upon all requests, including motions to dismiss;
  - b. add a party respondent to the proceedings upon due and adequate notice to both the party respondent to be added and the respondent named in the proceedings;
  - c. administer oaths and affirmations;
  - d. upon request of the department or any respondent, issue subpoenas to compel the attendance of witnesses and the production of books, records, papers and other documents which shall be regulated by the CPLR;
  - e. summon and examine witnesses, including the authority to direct a part, without the necessity of a subpoena, to appear and to testify;
  - f. admit and exclude evidence;
  - g. limit the number of times any witness may testify, repetitious examination or cross-examination, and the amount of corroborative or cumulative testimony;
  - h. hear argument on the facts or law;
  - i. order the parties to appear for a prehearing conference to consider matters which may simplify the issues or expedite the proceeding;
  - j. order opening statements to be made;
  - k. order oral or written closing statements to be made;
  - l. during any stage of the proceedings direct a respondent to comply with the Ordinance or other applicable law or to cease a course of conduct or activity where there are reasonable grounds to believe continued violation constitutes a health hazard; and
  - m. do all acts and take all measures necessary, but not otherwise prohibited by this section, for the maintenance of order and the efficient conduct of the hearing.
  
3. The Administrative Law Judge may recommend:

- a. the suspension or revocation of any permit or declaration of any habitable dwelling as inhabitable if it is determined that a health hazard or potential health hazard exists; or
  - b. the suspension or revocation of any permit where it is established that the permittee is in default in payment of a civil penalty or a portion thereof assessed by the Board; or
  - c. the conduct of additional inspections of a premises during the pendency of a hearing; or
  - d. repeat offender status be designated to a permittee by reason of repeat health hazard violations within the three years prior to current charges; or
  - e. the posting of a performance bond to guarantee the faithful performance of a respondent or respondents; or
  - f. make any other recommendations that are deemed just and proper by the Administrative Law Judge.
4. The Administrative Law Judge shall not terminate any proceedings until all alleged health hazards and potential health hazards are abated.
  5. The Administrative Law Judge shall not have the power to remove testimony from the transcript by deletion, expungement, redaction or otherwise.

2.17 The hearing; burden of proof and evidence.

1. The actions, proceedings, authority, and orders of the Board and Commissioner, in enforcing the provisions of the Ordinance and applicable laws, shall be regarded as in their nature judicial, and shall be treated as prima facie just and legal.
2. The strict rule of evidence need not be observed;
3. Each party shall have the right to present evidence and to cross-examine witnesses;
4. Judicial notice may be taken of all facts in judicial proceedings and of other facts within the specialized knowledge of the Department;
5. All evidence, including records, documents and memoranda in the possession of the Department of which it desires to avail itself, shall be offered and made a part of the record. All such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by the parties in advance of being received in evidence.

6. The written reports of state and local health officers, the Department and the Commissioner on question of fact pertaining to, concerning or arising under and in connection with complaints, alleged violations, investigations, proceedings, actions, authority and orders, related to enforcement of the Ordinance and applicable laws shall be presumptive evidence of the facts so stated therein, and shall be received as such in evidence and the persons having made such reports shall be exempt from personal liability for the statements therein made, if they have acted in good faith and without malice.
  7. The Department has the burden of proof of going forward in all enforcement cases. The respondent has the burden of proof of going forward in all other cases.
  8. The determination of the Administrative Law Judge shall be founded upon the preponderance of the evidence.
  9. The Administrative Law Judge may not compel the disclosure of the identity of any person or persons who provided information in an investigation wherein confidentiality of identification was given by the Department.
- 2.18 The hearing; amendment of pleadings. Any party may amend or supplement a pleading at any time prior to the submission of the Administrative Law Judge's report to the Board or Commissioner, by leave of the Administrative Law Judge, if there is no substantial prejudice to any other party.

2.19 The Board of Health

A. Quasi-judicial powers. The Board may:

1. conduct formal and informal hearings;
2. issue subpoenas to compel the attendance of witnesses and production of books and records;
3. administer oaths to witnesses and compel them to testify;
4. issue warrants to any peace officer of any municipality or to the sheriff of the County to:
  - a. apprehend and/or remove such person or persons as cannot otherwise be subjected to its lawful orders or regulations;
  - b. apprehend such person or persons disregarding an Order of the Board or Commissioner where, after investigation, a health hazard or potential health hazard exists;

- c. obtain an inspection of premises suspected of containing a violation of the Ordinance or any applicable law where access to the department has been refused, denied or is otherwise unobtainable.
5. prescribe and impose civil penalties for the violation of, or failure to comply with any of its orders or provisions of this Ordinance, or of any applicable law not exceeding the civil penalties provided by law for each cited violation;
6. issue such orders for the abatement of nuisances and concerning all other matters in its judgment are detrimental to the public health, and serve such orders thereof upon the owner, agent of the owner or occupant of premises where such nuisances or conditions detrimental to the public health exist, or cause such orders to be conspicuously posted thereon; and
7. by resolution, designate any person or persons as Administrative Law Judge for the purpose of holding and conducting hearings for and on behalf of the Board, and to report to the Board findings of fact, conclusions of law and recommendations concerning any investigation, complaint, violation, inquiry, or charge within the jurisdiction of the department, and having the powers of the Board in this Article.

B. Administrative Law Judge's report to the Board.

1. Within sixty days after the conclusion of an informal hearing conducted in accordance with section 2.16 of the Ordinance, commenced by notice of hearing and statement of charges, the Administrative Law Judge shall prepare and transmit to the Board a report which shall consist of findings of fact, conclusion of law and recommendation.
2. In the event that a formal hearing is conducted in accordance with section 2.17 of the Ordinance, commenced by notice of hearing and statement of charges, the Administrative Law Judge shall prepare and transmit to the Board a report, within sixty days from having received copies of all exhibits, deposition transcripts, briefs or any other materials required for submittal, which shall consist of findings of fact, conclusions of law and recommendation.
3. The recommendation(s) set forth in the report to the Board shall suggest:
  - a. an appropriate penalty should the board adopt the findings of fact and conclusion of law; and
  - b. the incorporation in the decision and order of any stipulation of discontinuance entered into between the parties to the proceedings.

C. Board's Decision and Order.

1. Upon receipt of the Administrative Law Judge's report, the Board shall issue a decision based on the report as it deems appropriate under the circumstances and shall execute an Order implementing such decision.
2. The Order may include, but shall not be limited to:
  - a. approval of the stipulation of discontinuance;
  - b. a directive to correct any existing or continuing violation of the Ordinance or applicable law and the measures required to correct such violation;
  - c. a directive to cease and desist an operation, activity or action determined to be in violation of the Ordinance or applicable law;
  - d. a directive to institute a procedure, method, strategy or technique required to comply with the Ordinance;
  - e. an assessment of civil penalty or penalties;
  - f. a specified condition to suspend any assessed civil penalty;
  - g. a posting of a bond or escrow account approved by the Board to insure a respondent's compliance with the Order;
  - h. the inclusion of a penalty contained in a stipulation of discontinuance conditioned upon a respondent's failure to meet any milestones or provisos for completion of corrective measures.
3. The Board may:
  - a. direct a rehearing or require the Administrative Law Judge to receive additional evidence;
  - b. rescind, affirm or modify, in whole or in part, the report of the Administrative Law Judge; or
  - c. rescind, affirm or modify, in whole or in part, a prior Order.
4. After executing its Order, the Board shall cause to be served upon respondent a copy of its Order together with the report upon which the Order is founded and such service shall be made in the manner prescribed for the service of the notice of hearing.

2.20 The Commissioner of Health

A. General powers.

1. The Commissioner shall enforce within the County the provisions of this Ordinance and all applicable laws.
2. Whenever empowered to or charged with the responsibility to do or perform an act, the Commissioner may designate any officer or employee

of the Department to do or perform the act in the Commissioner's place and stead.

3. The Commissioner may designate any person or persons as Administrative Law Judge for the purpose of holding and conducting hearings for and on behalf of the Commissioner, and to report to the Commissioner any findings of fact, conclusions of law and recommendations concerning any investigation, complaint, violation, inquiry, or charge within the jurisdiction of the Department and having the powers of the Commissioner in this Article and elsewhere in this Ordinance where hearings are required.

B. Commissioner's emergency powers; summary action. Whenever the Commissioner, after investigation, is of the opinion that any person is causing, engaging in or maintaining a condition or activity which in his/her opinion constitutes a danger to the health of the people, and that it therefore appears to be prejudicial to the interests of the people to delay action for fifteen days until an opportunity for a hearing can be provided in accordance with the provisions of this Article, the Commissioner shall order the person, including any County agency or municipality having jurisdiction, by written notice to discontinue such dangerous condition or activity or take certain action immediately or within a specified period of less than fifteen days. As promptly as possible thereafter, within not to exceed fifteen days, the Commissioner shall provide the person an opportunity to be heard and to present any proof that such condition or activity does not constitute a danger to the health of the people.

C. Administrative Law Judge's report to the Commissioner.

1. Within two hours after the conclusion of a hearing commenced by a Commissioner's Order for Action, the Administrative Law Judge shall transmit by memorandum a brief report and recommendation to the Commissioner concerning an action set forth in the summary action order.
2. In addition, within thirty days after the conclusion of any hearing commenced by a Commissioner's Order for Action, the Administrative Law Judge shall prepare and transmit to the Commissioner a report which shall consist of findings of fact, conclusion of law and recommendation.
3. The recommendation(s) set forth in the report to the Commissioner shall suggest:
  - a. an appropriate penalty should the Commissioner adopt the findings of fact and conclusion of law; and

- b. the incorporation in the decision and order of any stipulation of discontinuance entered into between the parties to the proceedings.

D. Commissioner's Decision and Order.

1. Upon receipt of the Administrative Law Judge's report presented to him/her, the Commissioner shall issue a decision based on the report as deemed appropriate under the circumstances and shall execute an Order implementing such decision.
2. The Order may include, but shall not be limited to:
  - a. approval of the stipulation of discontinuance;
  - b. a directive to correct any existing or continuing violation of the Ordinance or applicable law and the measures required to correct such violation;
  - c. a directive to cease and desist an operation, activity or action determined to be in violation of the Ordinance or applicable law;
  - d. a directive to institute a procedure, method, strategy or technique required to comply with the Ordinance and applicable law;
  - e. a directive where so provided by applicable law;
  - f. a specified condition to suspend any Order;
  - g. the inclusion of a provision contained in a stipulation of discontinuance conditioned upon a respondent's failure to meet any milestones or provisos for completion of corrective measures.
3. The Commissioner may:
  - a. direct a rehearing or require the Administrative Law Judge to receive additional evidence;
  - b. rescind, affirm or modify, in whole or in part, the report of the Administrative Law Judge; or
  - c. rescind, affirm or modify, in whole or in part, a prior Order.
4. After executing an Order, the Commissioner shall cause to be served upon respondent a copy of the Order together with the report upon which the Order is founded and shall be made in the manner prescribed for the service of the notice of hearing. The Board shall be made aware of any summary action order issued by the Commissioner.

2.21 Enforcement; violations, civil and criminal penalties.

1. The Board may impose fines and penalties on any person who violates, disobeys or disregards an Order of the Board, an Order of the Commissioner, the Public Health Ordinance, the State Sanitary Code, the Public Health Law or any other applicable law, said fines and penalties to

be imposed in accordance with applicable law.

2. The fines and penalties as prescribed herein shall be calculated on a daily basis for each day a violation or condition which constitutes a health hazard or potential health hazard is permitted to exist.
3. An action or cause of action for the recovery of a penalty under this section may be settled or compromised by the Board after proceedings are brought to recover such penalties prior to the entry of judgment thereafter.
4. The failure to comply with an Order of the Board or Commissioner for violations herein, or the failure to timely pay for any fine or penalty imposed by the Board, shall be grounds to commence legal action to enforce an Order or recover a penalty in any court of competent jurisdiction.
5. Nothing in this section shall be construed to alter or repeal any existing provision of law declaring such violation to be violations, offenses, misdemeanors or felonies, or prescribing the penalty therefor.
6. A person who wilfully violates or refuses or omits to comply with any lawful Order of the Board or Commissioner is guilty of a misdemeanor and subject to penalty as prescribed by law.

2.22 Enforcement; violations; other than by prosecution.

1. Notwithstanding enforcement of the Ordinance or applicable laws by way of administrative or criminal prosecution, recovery of civil penalties, revocation or suspension of permits, seizure, embargo, condemnation, or other means, the Commissioner may seek to obtain voluntary compliance with the Ordinance or applicable law, by way of notice, permit, warning or educational means.
2. Nothing in this section shall be construed to require that such non-compulsory methods must be employed or attempted before proceeding by way of compulsory or other legally prescribed procedures or measures.

2.23 Failure to comply with a Board or Commissioner's Order.

1. Failure to follow the directives of a Board or Commissioner's Order, or the failure to pay any assessed civil penalty within thirty days of service of an Order of the Board shall constitute grounds for suspension, revocation or non-renewal of any permit granted a respondent by the Commissioner.



- a. In the event a permit is suspended, revoked or not renewed for failure to comply with an Order of the Board or Commissioner, respondent shall be entitled to a hearing upon seventy-two (72) hours notice, in writing, addressed to the Commissioner.
  - (1) The only issue to be heard upon such hearing is whether or not full compliance with the Order of the Board or Commissioner was obtained.
- 2.
  - a. The Board and/or the Commissioner may maintain an action in any court of competent jurisdiction to enforce their respective Orders, including for any assessed civil or criminal penalties.
  - b. A person's failure to exhaust all administrative remedies, including timely resort to a CPLR Article 78 proceeding, shall be a bar to any defense on the merits or otherwise, excepting failure to obtain jurisdiction over the person.

2.24 Judicial review; settlement and/or waiver alternatives.

- 1. Judicial review may be taken of a Board or Commissioner's Order pursuant to CPLR Article 78 after exhaustion of administrative remedies as provided in this Article.
- 2. Notwithstanding enforcement of an Order by way of prosecution, recovery of civil penalty, or other means, voluntary compliance may be sought by way of notice, warning or other means.
- 3. Nothing in this section shall be construed to require that such noncompulsory methods must be employed or attempted before proceeding by way of compulsory or other legally prescribed procedures.

2.25 Civil suit for expense to the County. Expenses and costs incurred by the County in the enforcement of the Ordinance, applicable law, Order of the Board or Commissioner may be sued for and recovered by the County in any court of competent jurisdiction.

**NASSAU COUNTY PUBLIC HEALTH ORDINANCE**

**ARTICLE II**

**GENERAL SANITATION**

**Section 1. Permits.**

All applications for permits or written approvals herein required shall be made upon forms prescribed and furnished by the department of health and shall be signed by the applicant who shall be the person, firm or corporation or authorized agent thereof, responsible for conformance to the conditions of the permit or approval applied for. Such applications shall contain such data and information and be accompanied by such plans as may be required. A permit issued to a particular person, firm, or corporation or for a designated place, purpose or vehicle shall not be valid for use by any other person, firm or corporation or for any other place, purpose or vehicle than that designated therein. Such permits or written approvals may contain general and specific conditions and every person, firm or corporation which shall have obtained a permit or written approval as herein required shall conform to the conditions prescribed in said permit or written approval and to the provisions of the public health ordinance. Every such permit shall expire as stated on the permit and may be suspended for cause by the commissioner, or may be revoked by the commissioner after due notice and hearing.

HISTORICAL NOTE: Adopted Nov. 22, 1938, eff. Dec. 1, 1938; amd. Sept. 9, 1941, eff. Oct. 1, 1941; re-enacted without change June 17, 1943, eff. July 1, 1943.

**Section 2. Offensive Material.**

- (a) **Definition.** The term “offensive material” as used in this section shall mean any sewage, fecal matter, manure, offal, garbage, dead animals, meat wastes, blood, tankage, brine, urine or any putrescible organic matter, or the content of privies, cesspools, septic tanks or chemical toilets, either in liquid or solid state, or any other substance or liquid dangerous or prejudicial to health.
  
- (b) **Disposal.** No person, firm, corporation, municipality, or sanitary district shall permit, deposit, store or hold any offensive material on any premises or place or in any building or structure unless such material is so treated, screened, covered, or placed as not to create a nuisance detrimental to health. No person, firm, or corporation, or agent thereof, shall permit the existence on any property, place or premises of any privy, the use of which is abandoned or no longer necessary for the occupancy of the property or which is improperly maintained so as to expose the contents thereof. Where a public sanitary sewer is available and accessible, the commissioner may issue an order, effective within not less than thirty (30) days, upon the owner of any property whereon a privy is located requiring said owner to abandon the use of and to remove said privy.

HISTORICAL NOTE: Adopted Nov. 22, 1938, eff. Dec. 1, 1938; amd. March 13, 1984, eff. April 1, 1984.

- (c) Removal and Transportation. No person, firm, corporation, municipality or sanitary district, shall remove or transport, or permit the removal or transportation of any offensive material except in such manner and in or by such conveyance as will prevent the creation of a nuisance or the loss or discharge of such material in any public place. All such material shall be so handled, covered or treated that it cannot escape, or be accessible to rodents, flies or other insects, or create a nuisance.
- All vehicles and implements used in connection therewith shall be kept in an inoffensive and sanitary condition and when not in use shall be so stored or kept as not to create a nuisance.

HISTORICAL NOTE: Adopted Nov. 22, 1938, eff. Dec. 1, 1938; amd. Sept. 9, 1941, eff. Oct. 1, 1941; re-enacted without change June 17, 1943, eff. July 1, 1943. Sec. 2, Art. II, subd. (d) repealed Nov. 28, 1957.

### Section 3. Pollution of Atmosphere.

No owner, or agent thereof, lessee, tenant, or occupant of any building, vessel or place shall cause, suffer or allow smoke, cinders, gas, vapors, fumes, dust, offensive or noxious odors, substances or liquids to escape or be discharged into the atmosphere in or from any such building, vessel or place in quantities sufficient to endanger the public health.

HISTORICAL NOTE: Adopted Nov. 22, 1938, eff. Dec. 1, 1938; amd. Sept. 9, 1941 eff. Oct. 1, 1941; re-enacted without change June 19, 1943, eff. July 1, 1943.

### Section 4. Exposure of Sewage.

No person, firm or corporation, either as owner, lessee, or tenant, or agent thereof, of any property, dwelling, building or place shall construct or maintain any privy, cesspool, sewage disposal system, pipe or drain so as to expose or discharge the sewage contents or other deleterious liquid or matter therefrom to the atmosphere, or on to the surface of the ground, or into any storm sewer or drain, nor so as to endanger any source of supply of drinking water, nor so as to discharge into any water course or body of water unless a permit for such discharge shall have been issued therefor by the state commissioner of health and such discharge shall be made in accordance with the requirements thereof. No facilities for the private disposal of sewage shall be constructed under or within any building or structure and no building or structure shall be erected on an area within which private sewage disposal facilities are in use unless special permission has been obtained therefor from the department of health.

HISTORICAL NOTE: Adopted Nov. 22, 1938, eff. Dec. 1, 1938; amd. Sept. 9, 1941, eff. Oct. 1, 1941; re-enacted without change June 17, 1943, eff. July 1, 1943.

Section 5. Sanitary Sewer Connections.

- (a) When used in this Section, unless otherwise indicated, the following words shall have the following meanings:
- (1) “Sewage” shall mean water-carried human and industrial wastes, including laundry wastes but excluding storm water, from residences, buildings, industrial establishments, or other premises.
  - (2) “Person” shall mean any individual, public or private corporation, political subdivision, government agency, municipality, industry, co-partnership, association, firm, trust, estate, or any other legal entity whatsoever.
  - (3) “Private Sewer System” shall mean any sewer system privately owned and used by one or more properties.
  - (4) “Public Sewer System” shall mean a sewer system wherein all owners of abutting properties have equal rights and which is controlled by a governmental agency.
  - (5) “Public Notice” shall mean notice by the Nassau County Department of Health or by operators of Public Sewer Systems by publication, in the official newspaper(s) of the County of the availability for use of a Public Sewer System.
  - (6) “Individual Notice” shall mean notice by the Department of Health of the County of Nassau by mail that an owner of premises is already in violation of this Ordinance and shall be prosecuted hereunder if not connected to the Public Sewer System within one year from the date of the Individual Notice.
- (b) No person shall construct, or permit the construction of, a Private Sewer System on any premises after Public Notice that a Public Sewer System has been installed and is ready for use by such premises.
- (c) Within ninety (90) days of the Public Notice as to the availability of a Public Sewer System, the holder of a State Pollution Discharge Elimination System (SPDES) industrial permit for premises in the area to be served by the Public Sewer System, or a person who should by law or other regulation be a holder of such a permit, or a person whose premises are already connected to a Public Sewer System but who does not presently meet the quality criteria for discharge into a Public Sewer System shall submit a pre-treatment plan to the controlling jurisdiction which will insure compliance with its sewer use ordinance.
- (d) Within one year of the Public Notice as to the availability of a Public Sewer System, the owner of premises in the area to be served by the Public Sewer System

shall at the owner's expense connect to the Public Sewer System. Upon such connection, the use of any Private Sewer System shall be immediately discontinued in such manner as to comply with all applicable rules and regulations of the agency or agencies having jurisdiction thereof.

- (e) Following the completion of the mandatory one-year period to connect to an available Public Sewer System, Individual Notice shall be sent to the owners of all affected premises who have not complied.
- (f) The Commissioner and his authorized representatives shall have the right to inspect the records of the owners and operators of Public Sewer Systems relating to the connection or non-connection of premises to such systems. Such owners and operators shall furnish such records and information to the Commissioner as he shall from time to time require.
- (g) Notwithstanding any other subsection of this Ordinance, the Commissioner shall, upon good cause shown, grant extensions of time to comply with the mandatory provisions of this section upon application by an owner of premises affected.

HISTORICAL NOTE: Old Sec. 5 repealed Jan. 21, 1976, eff. June 1, 1976; new Sec. 5 added Jan. 21, 1976, eff. June 1, 1976. That Sec. 5 repealed June 6, 1983, eff. July 1, 1983; new Sec. 5 added June 6, 1983, eff. July 1, 1983. New Sec. 5(a) (5) & (6) and (d) and (e) added March 13, 1984, eff. April 1, 1984.

#### Section 6. Temporary Toilet Facilities on Construction.

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

HISTORICAL NOTE: Adopted Nov. 22, 1938, eff. Dec. 1, 1938; amd. Sept. 9, 1941 eff. Oct. 1, 1941; re-enacted without change June 17, 1943, eff. July 1, 1943.

#### Section 7. Cleanliness of Public Toilets.

Every person, firm, association or corporation, or agent thereof, which shall provide a toilet for the use of employees, patrons or members or available to the public, shall at all times maintain every such toilet in a clean, well-lighted, ventilated and sanitary condition, and provide toilet paper in suitable containers therein. The floor of any such toilet under and adjacent to a urinal fixture shall be impervious to moisture and properly drained. No towel, hairbrush or comb, shall be provided for common use in any such toilet or in a washroom, rest room or locker room adjacent thereto. The term "common

use” shall mean use by more than one person without effective disinfection. The owner of a building or dwelling, or his agent in charge thereof, wherein two or more tenants shall have common use of a toilet or privy, shall be responsible for the maintenance of such toilet or privy in repair and in a clean and sanitary condition.

HISTORICAL NOTE: Adopted Nov. 22, 1938, eff. Dec. 1, 1938; amd. Sept. 9, 1941, eff. Oct. 1, 1941; re-enacted without change June 17, 1943, eff. July 1, 1943.

#### Section 8. Maintenance of Sanitary Facilities.

Every owner, agent, lessee or tenant, who shall be responsible for the plumbing or sanitary facilities of a building or dwelling shall, each to the extent of his responsibility, maintain each and every plumbing fixture, pipe, drain, sewer and sewer connection of such building or dwelling in a sanitary condition and shall remove stoppages, repair leaks, and replace broken, worn or faulty fixtures or pipes which shall be the cause of an unsanitary condition. No person, firm or corporation, as owner or as agent in responsible charge, or any building, dwelling or vehicle shall permit the occupancy thereof as a place of habitation, and no person shall so occupy and such building, dwelling or vehicle unless adequate and sanitary facilities for the disposal of sewage shall have been provided therefor.

HISTORICAL NOTE: Adopted Nov. 22, 1938, eff. Dec. 1, 1938; amd Sept. 9, 1941, eff. Oct. 1, 1941; re-enacted without change June 17, 1943, eff. July 1, 1943.

#### Section 9. Unsanitary Buildings.

Whenever any building, or a part thereof shall become unsanitary, or any dwelling shall become so unsanitary as to be unfit for human habitation or whenever occupancy of a building or dwelling shall cause an unsanitary condition on or adjacent to the premises thereof and such condition shall be determined by the commissioner, after due notice to the owner and hearing thereon, to constitute a nuisance or condition detrimental to life and health, the commissioner may issue an order requiring the owner thereof to abate said nuisance or condition by placing said building or dwelling in a sanitary or habitable condition within a time specified in said order. Upon the failure of such owner to comply with said order, the commissioner may issue a further order, to be affixed conspicuously upon such building or dwelling and served upon the occupant or lessee thereof and upon the owner thereof or his agent, requiring all persons to vacate such building or dwelling and to discontinue its use at such time as shall be stated in said order and until such time as the building or dwelling shall be placed in a sanitary or habitable condition and the nuisance abated. Upon the failure of such building or dwelling to be vacated within the time specified, the board of health may issue a warrant to the sheriff directing that such building or dwelling shall be vacated, and the sheriff shall forthwith execute such warrant pursuant to law.

HISTORICAL NOTE: Adopted Nov. 22, 1938, eff. Dec. 1, 1938; amd. Sept. 9, 1941, eff. Oct. 1, 1941; re-enacted without change June 17, 1943, eff.

July 1, 1943.

Section 10. Private Water Supplies.

HISTORICAL NOTE: Adopted Nov. 22, 1938, eff. Dec. 1, 1938; amd. Sept. 9, 1941, eff. Oct. 1, 1941; re-enacted without change June 17, 1943, eff. July 1, 1943. Repealed in its entirety May 20, 1987 effective August 1, 1987.

Section 11. Carnival, Circus, Fair, Exhibition, Special Event Prohibited Except Under Permit.

The setting up and operation of any transient or non transient carnival, circus, fair, exhibition or special event for purposes of public gatherings for a period greater than 24 hours, or if attendance is expected to or does exceed 500 persons, is prohibited unless a special event permit therefore shall first have been obtained from the Commissioner of Health and unless such carnival, circus, fair, exhibition or special event shall, in the provision and maintenance of sanitary facilities and in the preparation, handling and sale of food and drink, conform fully to the provisions of the Nassau County Public Health Ordinance, the New York State Sanitary Code and/or any other applicable law, policy or provision. Application for special event permit(s) shall be filed at least thirty (30) days prior to the scheduled event. Application for permit(s) for temporary food service establishments shall be filed at least three (3) business days prior to the scheduled event.

Section 12.

Adopted Nov. 22, 1938, eff. Dec. 1, 1938; amd. Sept. 9, 1941, eff. Oct. 1, 1941; re-enacted without change June 17, 1943, eff. July 1, 1943. Section 12, Article II deleted: Filed Oct. 29, 1974, eff. Oct. 29, 1974.

Section 13. Sanitary Drinking Fountains.

Wherever a drinking fountain is provided for the use of employees or the public, such fountain shall be of a sanitary type constructed with a side angle projecting orifice shielded so as to prevent contamination by hands, lips or sputum of the drinker and with such orifice located at least one-half (1/2) inch above the level of overflow.

HISTORICAL NOTE: Adopted Nov. 22, 1938, eff. Dec. 1, 1938, amd. Sept. 9, 1941, eff. Oct. 1, 1941; re-enacted without change June 17, 1943, eff. July 1, 1943.

**NASSAU COUNTY PUBLIC HEALTH ORDINANCE**

**ARTICLE III**

**FOODS AND FOOD-SELLING PLACES**

Section 1. Food and Drink.

- (a) General Provisions. Any person, firm, or corporation owning or operating, or in responsible charge of a store, place or vehicle or any part thereof at or from which food or drink intended for human consumption is sold, manufactured, cooked, processed, prepared, kept or offered for sale or served for consumption on the premises, shall operate and maintain such store, place or vehicle at all times in a clean and sanitary condition, free from flies, vermin and rodents, and so as to conform to the requirements of the public health ordinance and of any permits issued under the provisions of the public health ordinance. Any food or drink kept or displayed in any such store or place in the manner that food or drink intended for sale for human consumption is ordinarily kept or displayed shall be deemed to be offered for sale for human consumption. The provisions of the public health ordinance shall apply to any such store or place located outside the health district as a condition of the sale or offering for sale in the health district of food or drink manufactured, cooked, processed or prepared in any such store or place.
- (b) Structure. Every such store or place shall be so constructed and maintained as to provide adequate enclosure and protection of the food and food handling operations contained therein. The floors of every such store or place shall be so constructed as to be easily cleaned, shall be smooth, and shall be kept clean and in repair. The walls and ceilings of every such store or place shall be kept clean and in repair and all such surfaces which are exposed to soiling by food handling operations shall be smooth and washable.
- (c) Lighting and Ventilation. In every such store or place, lighting shall be provided adequate to facilitate effective and thorough cleansing, and ventilation shall be provided adequate to prevent the accumulation of odors.
- (d) Washing Facilities. In every such store or place adequate washing facilities, in addition to those used for cleansing processes, shall be provided for the use of employees and maintained in a usable condition. Such washing facilities shall include soap and individual towels and shall be adjacent to the toilets.
- (e) Toilets. In every such store or place, adequate and separate toilets shall be provided for the sexes employed and every such toilet shall be properly enclosed, provided with self-closing doors, ventilated, lighted, kept in repair, equipped with toilet paper in suitable holders and with sanitary waste receptacles, and shall be maintained at all times in a clean and sanitary condition.



- (f) Personnel; Training. Everyone person engaged in the handling of food or drink shall maintain personal cleanliness, shall wear clean outer garments, and shall wash the hands thoroughly after using the toilet, *coughing, sneezing, smoking, eating, drinking, or otherwise soiling their hands, before and after shifts, and after every shift break.* Clothing shall not be hung or placed in proximity to exposed food or drink, or in any toilet room unless suitable lockers are provided and such clothing kept therein.

*Every owner, operator, manager or person in charge of a high-risk food service establishment shall, no later than July 1, 2003, attend and satisfactorily complete the Food Managers Training Course conducted by the Department of Health. Designation of an establishment as "high risk" shall be made by the Department of Health pursuant to the New York State Sanitary Code guidelines. A certificate will be issued upon satisfactory completion of the training course or equivalent as determined by the Department. Recertification shall be required every three (3) years. If a food service establishment is open for business more than twelve (12) hours in a day, then a second employee from the food establishment must attend and satisfactorily complete the Food Managers Training Course no later than July 1, 2004. The training certificate must be prominently displayed for public viewing. A training certificate can be revoked by the Department of Health at any time after a due process hearing or as otherwise proscribed in this Article.*

- (g) Protection of Food. No food or drink intended for human consumption shall be kept, sold, offered for sale, manufactured, cooked, processed, prepared, displayed, or transported unless it shall be protected at all times from dust, dirt, flies, vermin or other contamination. Such food or drink shall be subjected to or maintained at such temperatures while being kept, displayed, transported or offered for sale, as shall prevent undue or abnormal deterioration, decomposition, or spoilage. No food shall be displayed or exposed for retail sale within eighteen (18) inches of the floor unless adequately protected by wrappings, coverings, containers, or cases. No water supply shall be used in any such store or place unless it shall be free from contamination and shall be from a source properly protected against contamination.
- (h) Sanitary Equipment. The equipment, utensils and facilities in which such food or drink shall be kept, manufactured, cooked, processed, prepared, displayed, or transported shall be of sanitary construction and capable of being disassembled for cleaning, and shall be kept in repair and maintained in a clean and sanitary condition. Such equipment, utensils and facilities shall be provided and used as shall be necessary for the sanitary protection, preparation, processing or dispensing of a particular food or drink.
- (i) Waste Containers and Removal. In every such store, place or vehicle adequate and suitable containers shall be provided and used to receive garbage and refuse, such containers for wet or decomposable garbage and refuse shall be impervious,

watertight and provided with covers and such garbage and refuse shall be removed from the premises with such frequency as to prevent an offensive condition thereon. Wherever such containers are stored outside any such food-selling place, suitable and adequate enclosures shall be provided therefor.

- (j) Cleansing Processes. All dishes, utensils and containers used in preparing, storing, dispensing, or serving such food or drink shall be free from chips, cracks or open seams, and shall, after each use, be cleaned so as to remove all organic and mineral residue.

In every such store or place having a water supply under pressure, facilities shall be provided to maintain an adequate supply of running hot water and such supply shall be maintained at all times during which such store or place is in operation and suitable and adequate facilities shall be provided and used for the washing and rinsing as separate operations of dishes, utensils and containers which facilities shall include not less than two sinks or washing compartments properly equipped and adjacently located unless single service containers, dishes and utensils only shall be used.

In every such store or place such hot water supply shall be delivered to each sink or compartment where such dishes, utensils, and containers are washed and rinsed at a temperature of not less than 140 degrees Fahrenheit, and a sufficient supply of a suitable alkaline detergent or other effective cleansing agent shall be used in every such washing operation.

Such dishes, utensils and containers shall, after each use and cleansing, be so disinfected as to be free from bacilli of the coliform group and to have a total bacterial count of not more than 100 per utensil as determined by test in a laboratory approved for the purpose by the commissioner.

In any such store, place or vehicle where water under pressure is not available, only single service containers, dishes, and utensils shall be used.

All such cleaned or single service dishes, utensils and containers shall be protected at all times from dust, dirt, flies, vermin, and other contamination.

- (k) Sale of Unwholesome Food Prohibited. No food or drink which is unwholesome, filthy, decomposed, putrid, or dangerous to the public health, or which has been so treated as to conceal inferiority, or which in its manufacture, cooking, processing or preparation has not conformed to the requirements of the public health ordinance, shall be kept, sold, or offered for sale for human consumption.

Section 2.      Permits.

- (a) General Provisions. All applications for permits herein required shall be made upon forms prescribed and furnished by the department of health and shall be signed by the applicant. A permit issued to a particular person, firm or corporation or for a designated place or purpose shall not be valid for use by any other person, firm or corporation or for any other place or purpose than that designated therein. Such permits may contain general and specific conditions relating to the handling of food or drink which may be sold or offered for sale under such permits. Every person, firm or corporation, which shall have obtained a permit as herein required shall conform to the conditions prescribed in said permit and to the provisions of the public health ordinance. Every such permit shall, unless otherwise stated on the permit, be issued for one year. Every such permit may be suspended for cause by the commissioner or revoked by the commissioner after due notice and hearing.
- (b) Abattoirs. No person, firm, or corporation shall construct, maintain or operate an abattoir, including one for the killing and dressing of poultry, without first having obtained a permit therefor from the commissioner. No person, firm or corporation shall slaughter or dress any animal in the health district to be sold or offered for sale for human consumption except in an abattoir for which a permit has been issued. The sale, offering for sale or delivery of the meat or meat products of beeves, calves, swine, sheep or goats is prohibited if slaughtered or dressed outside the health district unless in an abattoir for which a permit has been issued by the commissioner or by an official agency whose requirements and supervision of such abattoir are satisfactory to the commissioner.

No person, firm or corporation shall construct, maintain or operate a place for the killing, dressing or processing of horses or other animals not intended for human consumption or shall engage in the business of selling or transporting the meat of horses or other animals not intended for human consumption without first having obtained a permit therefor from the commissioner. Every holder of such a permit shall maintain, on forms provided by the department of health, adequate and accurate records of the purchase, processing, and sale or disposal of such carcasses and meat, and such records shall be transmitted to the department of health monthly. No horse meat shall be sold, offered for sale, delivered or kept for human consumption without a special permit therefor from the commissioner.

- (c) Frozen Desserts Manufacturing Plants. The sale, offering for sale, or delivery of frozen desserts is prohibited unless the person, firm, or corporation manufacturing such frozen desserts shall have first obtained a permit therefor from the commissioner and unless the plant for such manufacture, together with the equipment, sanitary facilities, manufacturing processes and the ingredients used

therein, shall conform to the provisions of the public health ordinance. This subsection shall become effective on May 1, 1942.

HISTORICAL NOTE: Adopted Nov. 22, 1938, eff. Dec. 1, 1938; amd. Sept. 9, 1941, eff. Oct. 1, 1941; re-enacted without change June 1943, eff. July 1, 1943.

Section 3. Condemnation and Embargo.

Any food or drink sold, offered for sale, kept or transported for human consumption shall be condemned and destroyed for food purposes by or under the direction of a duly authorized representative of the department of health, if, in the judgment of such representative, such food or drink is found to be filthy, putrid, decomposed, unwholesome, unfit for human consumption, or dangerous to the public health. Any such food or drink shall be stopped from sale and placed under an embargo by any such representative of the department of health for such reasonable period of time as may be required to make investigations or examinations, if such may be necessary to determine that such food or drink is filthy, putrid, decomposed, unwholesome, unfit for human consumption or dangerous to the public health.

HISTORICAL NOTE: Adopted Nov. 22, 1938, eff. Dec. 1, 1938; amd. Sept. 9, 1941, eff. Oct. 1, 1941; re-enacted without change June 17, 1943, eff. July 1, 1943.

Section 4. Uninspected Meat Prohibited.

No meat or meat products of beeves, calves, swine, sheep or goats shall be sold, kept, transported, or offered for sale in the health district unless such meat or meat products shall have been slaughtered, dressed, or prepared in an abattoir conforming to the provisions of the public health ordinance and unless such meat or meat products shall bear in a clear, and legible manner the “inspected and passed” stamp of the United States Department of Agriculture or that of the department of health, or other agent or agency approved by the commissioner.

HISTORICAL NOTE: Adopted Nov. 22, 1938, eff. Dec. 1, 1938; amd. Sept. 9, 1941, eff. Oct. 1, 1941; re-enacted without change June 17, 1943, eff. July 1, 1943.

Section 5. Oysters and Clams from Approved Sources.

No person, firm, or corporation shall keep, transport, sell, offer for sale or deliver any oysters, clams or mussels unless such oysters, clams, or mussels shall have been harvested from sources approved by the New York State Conservation Department or the United States Public Health Service and unless the containers in which such oysters, clams or mussels are shipped, delivered or stored shall have thereon or attached thereto a label, stamp, or tag which shall show clearly and legibly the source, shipper’s name, address, state number, and such other information as may be required by the Conservation and Public Health Laws and the regulations enacted thereunder. Such oysters, clams, or mussels shall not be so stored or removed from such labelled, stamped

or tagged containers prior to retail sale as to obscure the identity of individual shipments or lots.

HISTORICAL NOTE: Adopted Nov. 22, 1938, eff. Dec. 1, 1938; amd. Sept. 9, 1941, eff. Oct. 1, 1941; re-enacted without change June 17, 1943, eff. July 1, 1943.

**NASSAU COUNTY PUBLIC HEALTH ORDINANCE**

**ARTICLE III-A**

**FOOD ESTABLISHMENTS**

**Section 1.**      **Permits; issuance.**

It shall be unlawful for any person, who does not possess a permit from the commissioner, to operate a food establishment in the health district.

Only a person who complies with the requirements of this ordinance and of Part 14 of the State Sanitary Code, shall be entitled to receive and retain such permit.

HISTORICAL NOTE: Adopted Nov. 29, 1972; eff. Dec. 19, 1972.

**Section 2.**      **Permits; expiration; renewals.**

- (a) Permits will be issued for a period of time not to exceed two years. The permit-issuing official will determine the term of the permit based on the record of compliance of the establishment and the potential risk to public health presented by operation of the establishment. After due notice and an opportunity for a hearing, the permit-issuing official may at any time change the term of any permit.

HISTORICAL NOTE: Adopted May 10, 1983; eff. July 1, 1983

- (b) Each permittee shall apply for a renewal of a permit not later than 30 days prior to the expiration date of such permit.

HISTORICAL NOTE: Adopted Nov. 29, 1972; eff. Dec. 19, 1972.

**Section 3.**      **Permits; posting.**

Each permit shall be posted in a conspicuous place on the premises in such manner as to be clearly visible to the public; and shall be available for inspection at all times by the department.

HISTORICAL NOTE: Adopted Nov. 29, 1972; eff. Dec. 19, 1972.

**Section 4.**      **Permits; not transferable.**

A permit issued to a particular permittee or for a designated purpose, place, or vehicle shall not be valid for use by any other person or for any other purpose, place, or vehicle, and any attempted or purported transfer automatically revokes such permit.

HISTORICAL NOTE: Adopted No. 29, 1972; eff. Dec. 19, 1972.

Section 5. Permits; applications.

- (a) All applications for a permit or for the renewal of a permit shall be made on forms furnished by the department, and shall contain all the information requested in the forms.
- (b) The application shall contain:
  - (1) The full name, age, residence, and business address of the applicant, and, if the applicant is a partnership or other group, of each partner or officer thereof, and, if the applicant is a corporation, of each officer of the corporation.
  - (2) The location and type of food establishment.
  - (3) Such other information as the department deems necessary or desirable.
  - (4) The inclusive dates of the proposed operation, where the application is for a temporary food establishment.
  - (5) The signature of the applicant or applicants.
- (c) The application for a permit or for renewal of a permit and the issuance of the permit shall constitute an agreement that the permittee assumes responsibility for the operation and maintenance of the activity and the premises in accordance with the provisions of this ordinance and of Part 14 of the State Sanitary Code.  
HISTORICAL NOTE: Adopted Nov. 29, 1972, eff. Dec. 19, 1972.

Section 6. Permits; suspension; revocation; hearing.

- (a) The commissioner may, after due notice and a hearing, suspend or revoke a permit for violation of, or non-conformance with, provisions of this ordinance or of Part 14 of the State Sanitary Code.
- (b) Notice of any hearing under this Article shall be served at least 15 days prior to the date of hearing. However, whenever the commissioner believes that there is or will be danger to the public health to delay action for such period, he may issue an order requiring specified action or the cessation of activities immediately or within a shorter period than 15 days, and he shall provide an opportunity to be heard within 15 days after the date of the service of the order.
- (c) The notice of hearing or order shall be deemed to have been duly given when:

- (1) Served personally, upon the permittee, if an individual, or sent by registered or certified mail to the permittee, addressed to his residence or to the address of the licensed premises.
  - (2) Served personally upon an officer of the corporate permittee, or sent by registered or certified mail to the residence of an officer of the corporate permittee or to the address of the licensed premises.
  - (3) Served personally upon one of the partners, or sent by registered or certified mail to one of the partners, addressed to his residence or to the address of the licensed premises.
- (d) The commissioner and any person designated by him as hearing officer to hear and report shall not be bound by the laws of evidence in the conduct of hearings, but the determination of the commissioner shall be founded upon sufficient legal evidence to sustain it.
  - (e) The commissioner and the hearing officer may issue subpoenas and administer oaths in connection with any hearing.
  - (f) At the hearing all parties may produce evidence and witnesses on their behalf, and cross-examine witnesses, and shall have the right of their own counsel.
  - (g) Following a hearing, the commissioner shall make an appropriate determination or determinations, and shall issue an order in accordance therewith.
- HISTORICAL NOTE: Adopted Nov. 29, 1972, eff. Dec. 19, 1972.

Section 7. Permits; access to establishment; availability of inspection records.

Any authorized representative of the Department, after proper identification, shall be permitted to enter any food establishment at all reasonable times for the purpose of making inspections to determine compliance with this Ordinance and with part 14 of the State Sanitary Code, and to examine the records of the establishment to obtain pertinent information pertaining to supplies purchased, received, or used, and persons employed. The most recent record of inspection issued by a Department of Health representative shall be retained on the premises and shall be made available for viewing by any person upon request. A notice indicating the availability of the inspection report shall be prominently displayed to the public.

Section 8. Permits; refusal to issue.

The Department may refuse to issue a permit or a renewal thereof when:

- (a) The application, including any plans or other data submitted in support thereof, is inaccurate, incomplete, false, or misleading.



- (b) The required fee is not paid.
  - (c) The applicant fails to provide any information, in addition to the information furnished in the application, which is required by the department and pertinent to the issuance of a permit or its renewal.
  - (d) The application or investigation thereof indicates that the activity or the premises to be covered by the permit does not meet the requirements of this ordinance or of Part 14 of the State Sanitary Code.
  - (e) The proposed construction, location, purpose, business or other act is in violation of the provisions of the Public Health Law, Part 14 of the State Sanitary Code, this ordinance or any local municipal law, ordinance, or regulation.
  - (f) The applicant has failed to correct existing violations pertaining to any particular place, vehicle, or business after service of written notice thereof.
- HISTORICAL NOTE: Adopted Nov. 29, 1972, eff. Dec. 19, 1972.

Section 9. Permits; appeal.

- (a) Within ten days of the refusal by the department to issue a permit or renewal of a permit, the applicant may appeal the determination in writing to the commissioner by requesting either a conference or a hearing in the matter.
- (b) If the request is for a conference, the commissioner shall have the right to designate a representative to confer with the applicant and to make a report and recommendation to the commissioner for his action.
- (c) If the request is for a hearing, the Commissioner may designate a representative to conduct the hearing and to make a report and recommendations to the commissioner for his action.
- (d) The applicant's request shall set forth the applicable facts and the bases for the objections to the department's action.

HISTORICAL NOTE: Adopted Nov. 29, 1972, eff. Dec. 19, 1972.

Section 10. Permits; fees.

The Commissioner shall establish adequate and reasonable fees for the issuance of the permits under this ordinance. Such fees shall be subject to approval by the board.

HISTORICAL NOTE: Adopted Nov. 29, 1972, eff. Dec. 19, 1972.

Section 11.    Permits; municipalities.

- (a) No provision of the public health ordinance shall be construed to restrict or abrogate the authority of any municipality in the health district to issue permits or licenses in accordance with any ordinance of such municipality.
- (b) The issuance of such municipal permit or license shall not be inconsistent with the requirements of the public health ordinance.
- (c) Whenever inspection as to health and sanitation is required, no municipality shall issue or renew a permit or license without prior written approval of the department with respect to compliance with the public health ordinance and Part 14 of the State Sanitary Code.

HISTORICAL NOTE: Adopted Nov. 29, 1972, eff. Dec. 19, 1972.

**NASSAU COUNTY PUBLIC HEALTH ORDINANCE**

**ARTICLE IV**

**PRIVATE WATER SYSTEMS**

**Section 1.**      **Declaration of Policy.**

It is declared to be the policy of the Nassau County Board of Health to require, insofar as possible, that all drinking water used by the public be provided by a public water system on the basis that such systems provided greater public health protection than that provided by a private water system.

**Section 2.**      **Statement of Purpose.**

It is the intent and purpose of this Article to prohibit the installation of private water system wells in those areas served by a public water system. Such purpose is not changed in situations wherein a public water system cannot make water immediately available because of constraints beyond the control of the public water supplier.

**Section 3.**      **Definitions.**

When used in this Section, unless otherwise noted, the following words shall have the following meanings:

- (a) The term “private water system” as used in this Article shall mean any system which is used to provide drinking water other than that obtained from a public water system.
- (b) The term “public water system” as used in this Article shall mean either a community or non-community system which provides piped water to the public for human consumption, if such system has a least five service connections or regularly serves an average of at least 25 individuals daily at least sixty (60) days of the year. Such term includes:
  - (1) collection, treatment, storage and distribution facilities under control of the supplier of water of such system and used in connection with such system; and
  - (2) collection or pretreatment storage facilities not under such control which are used in connection with such system.

- (c) The term “area served by a public water system” as used in this Article shall mean that area contained within duly established and recognized boundaries which the public water system is authorized to serve.
- (d) The term “drinking water” as used in this Article shall mean water used for drinking, culinary purposes, and other uses to include toilets, water closets, urinals, bathtubs, shower baths, wash basins, laundry tubs, kitchen sinks, and similar plumbing fixtures.

HISTORICAL NOTE: Sec. Adopted May 20, 1987, eff. August 1, 1987; Amended September 8, 1987, eff. October 1, 1987.

Section 4. Approval of Plans for Land Development.

- (a) Realty Subdivisions – Plans for realty subdivisions which are located within areas served by public water systems will only be approved by the Department if such plans call for connection to the public water system.
- (b) Other Land Developments – No municipality within Nassau County shall approve plans for new land development requiring drinking water service or otherwise sanction or authorize such development in areas served by a public water system unless such plans call for connection to the public water system.

Section 5. Powers of the Commissioner.

- (a) The Commissioner may make or cause to be made any investigation or study which, in his opinion, is required for enforcing the provisions of this Article.
- (b) The Commissioner may waive the application of the provisions of this Article in specific cases, for both realty subdivisions and other land developments, where such waivers are consistent with the purpose and intent of this Article and as restrictive or more restrictive than the New York State Uniform Fire Prevention and Building Code.
- (c) The Commissioner may suspend the use of any properties developed in contradiction of this Article until such time as public water supply service is available and accessible.

Section 6. Water Quality.

No person, firm, corporation, or agent thereof, shall provide or maintain a private water system to be used for drinking water by any person, other than the owner thereof, unless such water supply shall be potable, protected against pollution, and in compliance with the water quality maximum contaminant levels of Part 5, New York State Sanitary Code, 10 NYCRR, Chapter I as amended as well as all New York State Department of Health Guidelines for Organic Chemicals in Drinking Water. Furthermore, any such person,

firm, corporation, or agent thereof, who shall provide or maintain a private water system for drinking water by any person other than the owner thereof, shall submit to the Commissioner a report of water quality examination of such private water system made by a laboratory approved by the New York State Department of Health for the examination of drinking water on an annual basis or as often as the Commissioner may deem necessary to demonstrate compliance with the aforementioned water quality requirements.

HISTORICAL NOTE: Sec. Adopted May 20, 1987, eff. August 1, 1987;  
Amended September 8, 1987, eff. October 1, 1987.

#### Section 7. Contaminated Water Systems.

Any person, firm or corporation, or agent thereof, who shall provide or maintain a water supply which is not in compliance with Section 6 of this Article, in any dwelling, building, structure, or portion thereof, shall not allow the use of the water supply for drinking water and shall conspicuously mark said water supply at each outlet by posting and maintaining thereat a NOT FOR DRINKING sign or notice.

HISTORICAL NOTE: Sec. Adopted May 20, 1987, eff. August 1, 1987;  
Amended September 8, 1987, eff. October 1, 1987.

#### Section 8. Cross-Connection Control.

No person, firm or corporation, or agent thereof, shall make or maintain a connection between any private water system or contaminated water system and a public water system, and no person, firm, corporation, or agent thereof, shall make or maintain any direct physical connection between a public water system or a private water system and a sewer pipe or any device which may contain sewage or other deleterious material. No person, firm or corporation, or agent thereof, which shall have contracted, undertaken, or which is bound by the terms of a lease to supply water for any building or dwelling it owns and which is occupied as a home or place of residence of one or more persons shall shut off or cause to be shut off such water supply so as to result in an unsanitary condition and such supply be maintained in a potable condition. Whenever a public water supply is available to serve such building or dwelling, no other supply shall be furnished for drinking water.

HISTORICAL NOTE: Sec. Adopted May 20, 1987, eff. August 1, 1987;  
Amended September 8, 1987, eff. October 1, 1987.

Section 9.      Effective Date.

The provisions of this Section shall become effective on August 1, 1987 and shall apply to all plans for new development which have not been officially approved as of August 1, 1987.

HISTORICAL NOTE: Adopted November 22, 1938, effective December 1, 1938.  
Repealed in its entirety March 13, 1984, effective  
April 1, 1984. New Article IV adopted May 20, 1987  
effective August 1, 1987; amended September 8, 1987,  
effective October 1, 1987.

**NASSAU COUNTY PUBLIC HEALTH ORDINANCE**

**ARTICLE V**

**TOURIST CAMPS**

Section 1. Additional Definitions.

Unless otherwise expressly stated, wherever used in this Article the following terms shall be taken to mean and include:

- (a) Person. Every individual, corporation, firm or joint stock association.
- (b) Streets. Public highways, whether called streets, avenues, places, courts, lanes, paths, or alleys.
- (c) Building: Includes a camp cottage, booth, tent house, tent or vehicle designed or equipped for sleeping or eating or both.
- (d) Tourist Camp. Any lot, piece or parcel of ground on which are located or which is offered to the public for the location of two or more tents, tent houses, camp cottages, house cars or trailers designed or equipped to be used or used for living, sleeping or eating.
- (e) Unit. Any section or plot of ground in a tourist camp upon which is to be located any tent, tent house, camp cottage, house car or trailer designed or equipped to be used or used for living, sleeping or eating.
- (f) Camp Cottage. Any building of whatever material constructed, designed or equipped to be used, or used for living, sleeping or eating only by transient or seasonal occupants.
- (g) Trailer or House Car. Any vehicle designed or equipped to be used, or used for sleeping and designed to move from place to place on wheels and to be propelled by its own power or drawn or propelled by another vehicle.
- (h) Building Department. The department, officer or authority of any village, town or city in the County of Nassau, or any officer or agent thereof charged or entrusted with the regulation, control or supervision of all matters relating to the design and construction of buildings and structures of any kind or nature and their appurtenances, or with the enforcement of the zoning ordinance of such municipality.
- (i) Department of Police. The department of police of the County of Nassau or of the village or city or police district having jurisdiction in the premises.

HISTORICAL NOTE: Adopted Nov. 22, 1938, eff. Dec. 1, 1938; amd. Sept. 9, 1941, eff. Oct. 1, 1941; re-enacted without change June 17, 1943, eff. July 1, 1943.

Section 2. Permit Required.

No tourist camp shall be established and no tent, tent house or camp cottage shall be raised or erected therein or thereon and no house car or trailer shall be erected or parked therein or thereon and no tent, tent house, tent cottage, house car or trailer shall be used or occupied in any tourist camp by any person or persons as a place for living, sleeping or eating in the County of Nassau until a permit for the establishment and operation of such tourist camp has been issued by the commissioner. After the issuance of such a permit such tourist camp shall not be operated otherwise than in accordance with the terms of such permit therefor and with the regulations of the department of health.

HISTORICAL NOTE: Adopted Nov. 22, 1938, eff. Dec. 1, 1938; amd. Sept. 9, 1941, eff. Oct. 1, 1941; re-enacted without change June 17, 1943, eff. July 1, 1943.

Section 3. Application for Permit.

A permit for the establishment and operation of a tourist camp in the County of Nassau shall be issued by the commissioner only upon written application therefor in duplicate signed by the person who proposes to operate the said tourist camp and, if such person is not the owner of the property upon which it is proposed to operate such tourist camp, such application shall also be signed by the owner of the property. The truth of the statements of fact in such application shall be sworn to by the signer or signers thereof.

Such application shall contain or have annexed thereto as a part thereof such information as the commissioner shall require or deem necessary.

HISTORICAL NOTE: Adopted Nov. 22, 1938, eff. Dec. 1, 1938; amd. Sept. 9, 1941, eff. Oct. 1, 1941; re-enacted without change June 17, 1943, eff. July, 1, 1943.

Section 4. Restrictions on Issuance of Permit.

Upon the filing of the application required by Section 3 of this Article the commissioner shall cause an inspection of the site of such proposed tourist camp to be made and a report thereof to be filed with such application. The commissioner may require such corrections and changes as may be necessary to make such applications and plans conform to the requirements of this ordinance and the state sanitary code.

The provisions of the state sanitary code regulating the location of such camps, the water supply therefor, the disposal of garbage therein, the collection and disposal of sewage therein and the ventilation of buildings therein shall be complied with in the plans relative to such matters required by Section 3 of this Article.



There shall be at least one thousand square feet in area to each unit. Buildings shall be so placed on units as to leave not less than twenty-five (25) feet between any such building and any street line or adjoining property line.

The lighting of such camp shall be adequate for the preservation of life or health.

HISTORICAL NOTE: Adopted Nov. 22, 1938, eff. Dec. 1, 1938; amd. Sept. 9, 1941, eff. Oct. 1, 1941; re-enacted without change June 17, 1943, eff. July 1, 1943.

#### Section 5. Additional Sanitary Requirements.

No permit shall be issued for a tourist camp where flush toilet and wash basin conveniences for each unit are not provided unless there shall be provided in separate buildings at locations as designated on the plan toilets, urinals, wash basins, slop sinks, showers or baths, water faucets or spigots as follows:

- (a) One water closet for each sex for every ten units or fraction thereof;
- (b) In the building for men one urinal stall for every three water closets or fraction thereof;
- (c) One wash basin for every two water closets or fraction thereof;
- (d) One shower or bath tub for each sex for every two water closets or fraction thereof;
- (e) One slop sink with water supply to be located in a separate room for every fifteen units or fraction thereof.

The building containing such toilet and sanitary facilities shall be located not more than two hundred feet from the units which it is intended to serve.

Such buildings shall be well lighted and well ventilated with screened openings and shall be constructed of such moisture proof material as shall permit rapid and satisfactory cleaning, scouring and washing.

The floors and walls to a height of four (4) feet of such buildings shall be constructed of concrete or similar material elevated not less than four (4) inches above grade and each floor shall be provided with effective floor drains.

HISTORICAL NOTE: Adopted Nov. 22, 1938, eff. Dec. 1, 1938; amd. Sept. 9, 1941, eff. Oct. 1, 1941; re-enacted without change June 17, 1943, eff. July 1, 1943.

Section 6.      Permit.

Upon approval of such application and the plans by the commissioner he shall issue a written permit for the establishment of such tourist camp and the erection of the structures thereon in accordance with the approved plans and application therefor.

Upon completion of such tourist camp referred to in such permit and before any such units are occupied or used for living, sleeping, or eating, such permit shall be returned to the commissioner with a request for inspection of such tourist camp referred to therein. The commissioner shall promptly cause an inspection to be made and shall promptly either cause said permit to be endorsed "occupancy approved" together with the date of such endorsement and return the said permit to the permittee or cause the permittee to be notified in writing that he cannot so endorse such permit and the causes therefor and shall retain such permit until the said causes are removed.

Every such permit, when issued, shall be issued subject to the following rules and regulations, which shall be printed thereon, and which, by the acceptance of such permit the permittee agrees to conform to and comply with:

- (a) Regular inspections of the water and sanitary system shall be made and the same shall be kept in good repair and working order.
- (b) The system of collection and disposal of garbage and refuse shown in the application upon which the permit was granted shall be maintained at all times.
- (c) No accumulation of material or vehicles of any kind shall be allowed so as to produce a nuisance or condition dangerous to life or health.
- (d) All buildings shall be kept in a sanitary condition by necessary painting, cleaning, repairing and disinfecting.
- (e) No person having the management of such building shall maintain in or about such building or camp any towel or towels or drinking cup or cups for use in common, i.e., to be used by more than one person.
- (f) Fire extinguishers shall be installed as directed by the commissioner.
- (g) Dogs, cats or other pet animals or birds shall be kept under proper control at all times and shall be either confined in proper enclosures or on leash.
- (h) Any and all cases or suspected cases of communicable disease in such tourist camp shall be forthwith reported to the commissioner.

- (i) Any and all acts of a disorderly character or tending to the disturbance of order or decency committed by any person or persons within the camp shall be reported forthwith to the department of police.
- (j) Any change in the personnel of the management of such tourist camp shall be forthwith reported to the commissioner.
- (k) Every such tourist camp shall be provided with a building to be known as the office in which shall be kept at all times, the permit and a register of all persons accommodated in the camp. Said register shall show the names of the persons accommodated, their home addresses, the license number and state of registration and description of their vehicle or vehicles. Such permit and register shall at all times be open to inspection by the department of health or department of police.
- (l) This Article and a copy of Chapter VII of the state sanitary code together with any further orders or regulations of the department of health or of the state commissioner of health shall be posted as directed from time to time in conspicuous locations throughout the camp.

HISTORICAL NOTE: Adopted Nov. 22, 1938, eff. Dec. 1, 1938; amd. Sept. 9, 1941, eff. Oct. 1, 1941; re-enacted without change June 17, 1943, eff. July 1, 1943.

#### Section 7. Revocation of Permit.

Any permit may be suspended or revoked at any time by the commissioner for willful, continued or persistent violation of the state sanitary code or of this Article or of any other rules or regulations of the department of health or upon discovery of any misstatement of fact in the application therefor or fraud in procuring the permit.

HISTORICAL NOTE: Adopted Oct. 1, 1938, eff. Dec. 1, 1938; amd. Sept. 9, 1941, eff. Oct. 1, 1941; re-enacted without change June 17, 1943, eff. July 1, 1943.

#### Section 8. Permit not Assignable.

Any permit shall not be assigned or transferred to any other person without the consent in writing of the commissioner.

HISTORICAL NOTE: Adopted Oct. 1, 1938, eff. Dec. 1, 1938; amd. Sept. 9, 1941, eff. Oct. 1, 1941; re-enacted without change June 17, 1943, eff. July 1, 1943.

#### Section 9. Nuisances.

The owner, lessee, tenant and occupant of a tourist camp or of any building, unit, part or portion of such camp, where there shall be a nuisance or a violation of any section of this Article, shall be jointly and severally liable therefor, in so far as they, respectively, have the power to prevent or abate such nuisance, or prevent such violation, and, to such

extent, each of them may be required to abate the nuisance, or comply with the order of the department of health in respect to such building, premises, or part thereof.

No person, whether, owner, lessee, tenant or occupant of any building, unit, or portion of a tourist camp shall cause or allow any matter or thing to be or to be done in or about any such tourist camp so as to become a nuisance or dangerous or prejudicial to life or health.

HISTORICAL NOTE: Adopted Oct. 1, 1938, eff. Dec. 1, 1938; amd. Sept. 9, 1941, eff. Oct. 1, 1941; re-enacted without change June 17, 1943, eff. July 1, 1943.

#### Section 10. Use of Trailer Facilities.

No flush toilet in a trailer or house car shall be used in the County of Nassau except when in a trailer camp and with the discharge pipe or outlet thereof directly and properly connected to the sewerage system of said camp. No dry or chemical toilet shall be used and such toilets and flush toilets, unless connected as aforesaid shall be sealed while inside the County limits. If a trailer or house car is equipped with a running water system, but not sewer connected, a suitable and adequate receptacle of water-tight and fly-tight construction must be provided underneath for the collection and storage of such liquid wastes, other than sewage. It shall be the duty of the permittee to enforce such provisions within the trailer camp.

HISTORICAL NOTE: Adopted Oct. 1, 1938, eff. Dec. 1, 1938; amd. Sept. 9, 1941, eff. Oct. 1, 1941; re-enacted without change June 17, 1943, eff. July 1, 1943.

#### Section 11. Notices.

Any notice required by this Article shall be sufficient if given in writing and either personally delivered to the person to be notified or deposited in a United States Post Office in a sealed envelope, postage prepaid, addressed to the person to whom such notice is directed at the address which appears on the records of the department of health.

HISTORICAL NOTE: Adopted Oct. 1, 1938, eff. Dec. 1, 1938; amd. Sept. 9, 1941, eff. Oct. 1, 1941; re-enacted without change June 17, 1943, eff. July 1, 1943. Sec. 12 repealed June 17, 1943, eff. July 1943.

**NASSAU COUNTY PUBLIC HEALTH ORDINANCE**

**ARTICLE VI**

**PUBLIC DRINKING WATER SUPPLY**

**Section 1. Statement of Purpose.**

The purpose and intent of this Article is to protect the public health through the regulation of the public drinking water supply in Nassau County in order to assure the protection of sources and the quality of drinking water and to provide for the effective design, operation, and safety of public water supply facilities.

**Section 2. Definitions.**

Whenever used in this Article, the following terms shall have the meanings shown; terms not defined in this section shall have the meaning shown in 10 NYCRR Section 5-1.1; all references in the text are to sections and subsections of this Article unless otherwise stated:

- (a) Commissioner means the Commissioner of the Nassau County Department of Health.
- (b) Countywide Wellhead Protection Regulations means controls enacted by the Department in accordance with Section 5(d) of this Article for the protection from contamination of any and all public water supplies of potable waters and their sources.
- (c) Department means the Nassau County Department of Health.
- (d) Fine Flow means the quantity of water needed to provide fire protection on a daily basis, in addition to domestic and other water demands, as determined by the Commercial Risk Services, Inc. for each community.
- (e) Lead/Tin Solder means a metallic alloy containing lead in concentrations greater than 0.2 percent which is used when melted to join metallic surfaces such as in copper pipes and plumbing fittings.
- (f) MCL Exceedance means a sample with a constituent concentration which is higher than the maximum contaminant level for that constituent contained in 10 NYCRR Section 5-1.52, Tables 1 through 7.

- (g) MCL Violation means an MCL Exceedance confirmed by further sampling and analyses as specified in 10 NYCRR Section 5-1.52, Tables 1 through 7.
- (h) Multiple Dwelling means, for the purposes of this Article, a residential structure containing three or more dwelling units where drinking water is supplied by a single water service pipe.
- (i) Watershed Rules and Regulations means controls enacted by the N.Y. State Department of Health for the protection from contamination of any and all public water supplies of potable waters and their sources pursuant to the provisions of Section 1100 of Title I of Article 11 of the New York State Public Health Law.
- (j) 10 NYCRR means Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York; specific Parts, Subparts, and Sections of 10 NYCRR used in this Article mean the provisions of Chapter I, State Sanitary Code.

Section 3.      Applicability.

- (a) The provisions of this Article shall apply throughout the County of Nassau, New York to all existing and proposed new and modified public water supply systems.
- (b) Compliance with the provisions of this Article does not relieve public water suppliers from responsibility to comply with provisions of 10 NYCRR Part 5 except where provisions of this Article are more stringent.

Section 4.      Approval of Plans and Completed Works.

- (a) No supplier of water shall make, install, or construct, or allow to be made, installed or constructed, a public water system or any addition or deletion to or modification of a public water supply system unless and until the plans and specifications for such changes have been submitted to and approved by the Department.
- (b) Approval of plans and completed works shall be based on this Article, 10 NYCRR Subpart 5-1 and Bulletin No. 42 of the N.Y. State Department of Health titled, “Recommended Standards for Water Works”, 1987 edition, and as they may be amended.

Section 5. Protection of Sources of Drinking Water.

- (a) All areas within 50 feet distance minimum from a new public well shall be owned or otherwise controlled by the supplier of water and such areas shall be used for water supply purposes only.
- (b) All potential sources of groundwater contamination between 50 feet and 100 feet from a new well shall be effectively controlled by the supplier of water through acquisition of non-pollution easements or the provision of equivalent arrangements. Sanitary sewers and stormwater drains may be permitted between 50 and 100 feet from a well provided that they are constructed in conformance with the prevailing water main standards of the American Water Works Association or they are provided with equivalent protection.
- (c) Ownership and other controls prevailing at existing sites of public water supply wells which do not satisfy requirements of Sections 5(a) and 5(b) shall not be further reduced such as by divestiture of land by the supplier of water. Wells on existing sites which are rehabilitated or replaced shall not be considered to be new wells.
- (d) The Commissioner shall prepare Countywide Wellhead Protection Regulations which shall be approved by the Board of Health. Such regulations shall take precedence over Watershed Rules and Regulations of individual suppliers of public water except where Countywide Wellhead Protection Regulations are less restrictive.

Section 6. Maximum Contaminant Levels.

- (a) Public water suppliers shall comply with maximum contaminant levels (MCL) as required by 10 NYCRR Subpart 5-1.
- (b) Compliance with MCLs does not relieve public water supplies from compliance with additional water quality requirements contained in this Article.

Section 7. Sampling and Analysis of Water Quality.

- (a) Water suppliers shall collect samples and conduct analyses as well as prepare and retain records in accordance with 10 NYCRR Section 5-1.72.
- (b) Additionally, public water suppliers shall collect such samples, perform analyses, and prepare and maintain records as may be required by the Commissioner to ensure adequate control of the quality of the water supply.

- (c) Schedules for sampling of water in the distribution system shall be representative of water quality in the entire distribution system, both in terms of selection of sampling points and the sampling protocol to be used, and shall be approved by the Department.

Section 8. Operation of Public Water Systems.

- (a) The supplier of water shall:
  - (1) Operate a public water system in accordance with 10 NYCRR Section 5-1.72 and the additional requirements contained in this Article.
  - (2) Maintain well facilities and appurtenances in conformance with approved plans.
  - (3) Provide the following specific protection from contamination for common suction well systems:
    - (i) Perform disinfection treatment during operation of common suction wells independent of general disinfection treatment which may be practiced for the entire system.
    - (ii) Prevent the discharge into common suction well fields of stormwater runoff and other sources of contamination which may cause contravention of prevailing groundwater quality standards.
  - (4) Provide auxilliary sources of power for well pumps and water treatment facilities to enable operation of the water system during failure of primary electrical power. Sufficient facilities shall be equipped with auxilliary sources of power to collectively satisfy at least the average daily demand. Fuel for auxilliary systems, which is stored on-site, shall be available at all times to provide at least three days of continuous operation. Capability to operate under auxilliary power shall be maintained at all times by the supplier of water. Inspection and testing of auxilliary power equipment and appurtenances shall be conducted at least on a monthly interval.
  - (5) Comply with all of the safety requirements for water plant operations identified in Section 5.3 of Bulletin 42, Recommended Standards for Water Works, 1987 edition, and as further identified in 10 NYCRR Section 5-1.22(b) and as they may be amended.
- (b) Water pumps with a mercury seal shall not be approved by the Department for new installations or major modifications to existing water systems.



Additionally, the water supplier shall remove and replace existing pumps containing mercury seals no later than December 31, 1992 in accordance with procedures of Section 4. Removal of such pumps shall use methods which will prevent contamination of wells by the release of mercury.

- (c) Oil lubricated well pumps shall be permitted to operate only if the following actions are taken by the supplier of water to prevent contamination of drinking water:
  - (1) Lubricating oil used shall meet the U.S. Food and Drug Administration requirements for mineral oil use as an indirect food additive under 21CFR 178.3620(c) dated April 1, 1985 and as it may be amended, and
  - (2) Water level within the well shall be continuously monitored and provided with an audible alarm system and automatic well pump shut-off valve to be actuated when the water level drops to a predetermined critical level, or well shall be equipped with a backpressure valve and the water level within the well shall be inspected on at least a quarterly interval.
  - (3) Existing wells with oil-lubricated pumps shall be brought into compliance with Sections 8(c)(1) through 8(c)(2) as soon as feasible but not later than 18 months following adoption of this Article.

Section 9. Records and Reports.

- (a) The supplier of water shall keep complete daily records of the operation of a public water system as required by 10 NYCRR Section 5-1.72 and by this Article.
- (b) A monthly operation report shall be prepared by the supplier of water a copy of which shall be forwarded to the Department by the tenth calendar day of the next reporting period on forms prescribed by the Department.
  - (1) The report shall summarize all pertinent information and data describing status of the operation of the water supply system to include but not be limited to water demand, system pressure, changes in wells and treatment, testing of auxilliary power sources as well as emergency disinfection equipment and system interconnections, changes and repairs of storage tanks and distribution mains, activity in the cross-connection control program, type and number of consumer complaints relating to water quality and sufficiency, water testing required to be conducted by plant operators, and local activity in sewer and storm drain construction.
  - (2) A summary report of bacterial monitoring compliance in the distribution system shall be part of the monthly operation report together with a

tabulation of analyses of microbiological samples collected for the report month.

- (c) The supplier of water shall forward to the Department copies of all reports of analyses of water samples conducted by a laboratory approved by the N.Y. State Department of Health as soon as feasible after the analyses are completed and no later than 30 days thereafter. Analyses which exceed MCL values identified in Section 6 shall be reported to the Department by the most expeditious means available after the laboratory analysis is completed but within 48 hours for MCL exceedances and within 24 hours for MCL violations.

Section 10. Water Treatment.

- (a) Public water suppliers shall provide treatment facilities as needed to ensure that the water delivered to consumers does not exceed the MCLs identified in Section 6.
- (b) All public water supplies shall, as a minimum, be disinfected in accordance with provisions of 10 NYCRR Subpart 5-1 except as follows:
  - (1) Those public water systems granted a waiver from disinfection treatment under Section 11 and under 10 NYCRR Section 5-1.30, shall not be required to provide disinfection treatment continuously but shall maintain facilities and equipment to perform disinfection treatment during emergencies and shall at all times maintain a minimum of a three-day supply of disinfection chemicals.
  - (2) Disinfection treatment facilities and equipment provided for emergency conditions shall be inspected and tested by the supplier of water as often as needed to maintain proper operational conditions. Such inspection shall be performed at least monthly and testing conducted at least quarterly.
- (c) Where chlorine is used as a disinfectant, a free chlorine residual of at least 0.1 mg/l and no greater than 1.5 mg/l shall be maintained at representative points in the distribution system.
  - (1) Where a free chlorine residual is confirmed not to be present within the distribution system, the supplier of water shall take prompt and appropriate actions to provide a free chlorine residual.
  - (2) Notwithstanding the maximum chlorine residual of 1.5 mg/l, the maximum level shall be as low as practicable. A maximum residual higher than 1.5 mg/l may be approved by the Commissioner provided the supplier of water demonstrates that all practicable means have been taken

to minimize the higher residual without compromising the attainment of the lowest permissible residual level.

- (d) Sequestering treatment for iron shall be approved on the basis of effectiveness of such treatment in preventing color and turbidity of water at the point of use.
  - (1) No new sequestering treatment shall be approved using polyphosphate compounds where raw water combined concentrations of iron and manganese exceed 1.0 mg/l and using sodium silicate, where the combined concentrations exceed 1.5 mg/l.
  - (2) Sequestering treatment in existing applications where raw water quality exceeds the criteria of Section 10(d)(1) and in any application, shall be discontinued on a reasonable schedule determined by the Commissioner where a review of water quality data at point of use and the incidence of consumer complaints related to precipitation of iron from drinking water demonstrates that the treatment is not effective in providing water quality meeting all standards for color and turbidity, applied at the point of use.

Section 11. Waivers from Disinfection Treatment.

Waivers from disinfection treatment shall be recommended by the Department to the New York State Department of Health in accordance with 10 NYCRR, Section 5-1.30, and additional criteria established by the Commissioner as authorized under that section.

Section 12. Safety Controls.

- (a) The supplier of water shall provide safety controls at all chemical treatment facilities in the water supply system in order to prevent introduction of excessive amounts of treatment chemicals into the water distribution system. Devices to provide safety controls shall be designed, installed, operated, and tested in accordance with this Section and Section 4.
- (b) Safety devices shall prevent energizing of chemical feeding equipment during such times that the corresponding well or booster pump is not operating and may consist of a primary or power interlock, a secondary or flow actuated device and a tertiary or backup device which does not duplicate the primary or secondary interlock, all connected in series on the electrical circuit supplying power to the chemical feed pump in a manner that the latter can operate only if all the integral safety controls are operative.
- (c) A triple safety device system shall be provided to control application of caustic soda or fluoride chemicals into the drinking water consisting of primary

(power), secondary (flow) and tertiary (backup) controls. A double safety device system, primary and secondary, shall be used for all other chemical applications.

- (d) Parallel electrical circuits which by-pass the safety controls shall not be installed except for those equipped with manually operated spring-return switches used for testing only, and which will break contact when the switch is released.
- (e) A program for testing of safety controls at all chemical feed installations in the water system shall be conducted by the supplier of water. The program shall be approved by the Department and include the testing of safety controls on at least a monthly frequency to demonstrate proper operation and an inspection of control circuits and equipment on at least an annual frequency to determine their general condition and suitability for continued use.
- (f) Standard operating procedures shall be prepared and adopted by the supplier of water to ensure that installed safety device systems are not compromised or otherwise rendered ineffective as a result of activities associated with operation, repair, servicing, or maintenance of facilities at well stations. Such procedures shall be approved by the Department.

Section 13. Water Storage.

- (a) The water supplier shall provide storage capacity in the water distribution system sufficient to supply the average daily flow plus fire flow and to maintain a minimum system pressure of 20 psi and a normal working pressure of at least 35 psi as required by Section 14. Well capacity in excess of the average daily flow may be substituted for water storage capacity.
- (b) Existing distribution storage facilities shall comply with 10 NYCRR Section 5-1.32 and uncovered storage facilities shall be provided with additional protection consisting of fencing and other means adequate to prevent trespassing, vandalism, and sabotage.
- (c) New storage facilities shall be covered and otherwise comply with Section 4 and 10 NYCRR Section 5-1.32.

Section 14. Water Distribution.

- (a) The supplier of water shall operate and maintain the public water system to assure a minimum working pressure of 20 pounds per square inch (psi) at all points in the distribution system, measured at ground level. Such minimum

pressure shall be maintained under all conditions of flow. Normal working pressure shall not be less than 35 psi.

- (b) New and replacement water mains which provide fire service are to be at least 6 inches in diameter. Other mains may be less than six inches in diameter provided that the supplier of water can demonstrate that at least 20 psi water pressure can be maintained under all conditions of flow.
- (c) Existing main of less than 6 inches in diameter shall be replaced by the supplier of water on a reasonable schedule. The Department shall approve such plan on the basis of adequacy of public health protection.
  - (1) The supplier shall provide to the Department as part of the December operations report each year, a listing of the length and location of all water mains less than six inches in size which have been replaced during the calendar year.
  - (2) Where investigation by the Commissioner demonstrates that unsatisfactory water pressure exists in a public water supply distribution system, the supplier of water shall perform such actions as are necessary, on a reasonable schedule, to provide a system pressure which is in compliance with Section 14(a).
- (d) Use is prohibited of new water service lines made of lead and the use of lead/tin solder for joining of copper pipes, fittings, and fixtures which are a part of the water supply plumbing.
- (e) Suppliers of water shall provide interconnections between abutting public water supply distribution systems and maintain formal agreements between affected suppliers of water, in order to permit flow of water from one system to another during periods of emergency so that an adequate supply of water at satisfactory water pressures can be maintained insofar as possible during such emergencies. Valves and other appurtenances at each interconnection facility shall be maintained in an operating condition continuously and be inspected and tested on at least an annual basis simultaneously by both water suppliers affected in order to insure that they are operational. A report of each such inspection and the test results to be included in the monthly operation reports forwarded to the Department.
- (f) The installation of new dead-end mains and extension or expansion of any portion of the water distribution system which are designed and constructed so as to substantially diminish the circulation of drinking water within portions of a water distribution system and/or deliver water not meeting all quality standards, are prohibited except as otherwise provided in Section 14(f)(1) and (2).

- (1) New dead-end mains shall be approved by the Department only under the following circumstances:
  - (i) Access for connection of the proposed dead-end main to another water main from the end of a cul-de-sac or other terminal point of a proposed water main is not feasible because all of the intervening properties are developed, a physical barrier such as a waterway exists, or the location is at the limits of the distribution system, and
  - (ii) There is no water quality condition present in the water distribution system in the general vicinity of the proposed main which would lead to the potential for water quality at the water services to be supplied by the proposed main which is likely to exceed values for maximum contaminant levels for one or more drinking water contaminants including turbidity, odor and color.
  - (iii) Where the conditions of Section 14(f)(1)(i) and (ii) are demonstrated to exist by the supplier of water, a dead-end main shall be approved provided that a hydrant or blow-off valve is installed at the terminal of the main and other facilities and appurtenances provided to enable the regular flushing of the main and proper disposal of the flushed water during all seasons of the year as may be necessary to assure the delivery of water of a satisfactory quality to all service connections from the dead-end main.
  
- (2) Extension or expansion of a water distribution system at a location where water circulation is or may be substantially diminished, due to the nature of existing hydraulic conditions or arrangement of the water main network, shall be approved only under the following conditions:
  - (i) The supplier of water shall demonstrated that the portion of the distribution system for which a new water main is proposed cannot be modified by water main connections to other mains to improve water circulation, and
  - (ii) There is no record of consumer complaints or other indication of water quality which exceeds values for maximum contaminant levels for one or more contaminants including turbidity, odor, and color, which may be caused or aggravated by inadequate circulation of water in the vicinity of the proposed extension or expansion.

Section 15. Cross-Connection Control.

- (a) The supplier of water shall protect the public water system by containing potential contamination within the premises of the user in accordance with the provisions of 10 NYCRR Section 5-1.31 and of this Section.
- (b) The supplier of water shall establish and enforce formal requirements for the implementation of a cross-connection control program which shall be applicable to all water services within the public water system.
  - (1) Provision shall be included in the formal requirements established by the supplier of water to inspect users premises and to discontinue water service for those users who have failed to properly install, maintain, and test a backflow prevention device.
  - (2) Requirements of Section 15(b)(1) shall be approved by the Department prior to their implementation by the supplier. Changes in requirements shall also be approved by the Department prior to their implementation by the supplier of water.
- (c) The supplier of water shall evaluate the degree of hazard posed by water users served by the public water system and those premises which are rated as hazardous or aesthetically objectionable are to be required to install and maintain either an approved reduced pressure zone (RPZ) device or a double check valve (DCV) respectively on the water service line located as close as is practicable to the property line and to the water meter.
  - (1) The evaluation shall include an inspection of all premises served which are not already provided with approved backflow prevention devices. Inspections of residential premises shall include as a minimum the determination of the existence of a private well, underground lawn sprinkling system and/or a solar heating system.
  - (2) Such inspections shall be conducted at an interval of no longer than one year for non-residential services and five years for residential services. For the purposes of such evaluations, a multiple dwelling and a residence used in part for business purposes shall be considered to be non-residential.
  - (3) Rating of the degree of hazard shall be in accordance with 10 NYCRR Section 5-1.31.
  - (4) Within 30 days after the determination that a premises requires a backflow prevention device, the supplier of water shall notify the owner and require that an approved RPZ or DCV device as appropriate be

installed and maintained by the owner in accordance with the requirements in effect.

(d) No backflow prevention device may be installed until engineering plans for each proposed backflow prevention installation are approved by both the supplier of water and the Department. Plans are to be prepared either by a professional engineer or a registered architect.

(1) Backflow prevention devices must be of type and manufacture specifically approved by the New York State Department of Health.

(2) Typical engineering plans for the installation of backflow prevention devices may be provided or adopted by the supplier of water for use in specific installations. Such typical plans must be approved by the Department before use in specific applications.

(e) Cross connection control at both existing and new public well stations shall be provided in the following manner:

(1) The supplier of water shall provide an approved backflow protection device on each water service line which taps into either a water distribution main or a pump discharge line, and

(2) The supplier of water shall provide internal plumbing protection against backflow for each potential source of water contamination where more than one source is supplied by a single water service line, such protection to be commensurate with the degree of hazard and include, but not be limited to, the requirements identified in Part 5, Chemical Application, of Bulletin No. 42 of the New York State Department of Health titled, "Recommended Standards for Water Works", 1987 edition, and as it may be amended.

(f) The supplier of water shall ensure that the approved backflow prevention device installed on each user's water service line is inspected and tested on an annual basis by a New York State Department of Health certified backflow prevention device tester, and that any device which has failed such test is repaired and retested within 30 days.

(g) A summary of activity in the cross connection control program of a water supplier shall be provided to the Department on a semi-annual interval.



Section 16. Water Supply Emergency Plans.

- (a) The supplier of public water shall prepare and submit to the Department not later than December 31, 1990 a comprehensive water supply emergency plan to provide drinking water of safe quality and adequate quantity to all consumers during an emergency. Such plan is to be updated as needed and at least biennially to keep its provisions viable.
- (b) Water supply emergency plans shall address specific procedures to be followed by a water supplier for each type of emergency which may occur including, but not limited to, natural disasters, accidents, general power failures, unusual weather conditions, vandalism, and sabotage.
- (c) Water supply emergency plans shall be prepared in a format which can be readily and quickly implemented when an emergency arises. All employees and agents of a water supplier with responsibility for implementing the plan shall be instructed regarding its provisions and the plan shall be tested at least annually by the supplier of water, in an office setting, involving key personnel, responding to a typical simulated emergency. Copies of the plan shall be readily available to all key personnel of the water supplier at all times and at all offices and stations of the supplier located within the water service area which are manned either routinely or occasionally.
- (d) Water supply emergency plans shall conform to the requirements of 10 NYCRR Section 5.133 except where the provisions of this Section are more restrictive.

Section 17. Emergencies.

- (a) The supplier of water shall notify the Department by the most expeditious means feasible when a condition exists that may constitute a public health hazard. Such notification shall be in addition to any notification required in 10 NYCRR Sections 5-1.12, 5-1.23, 5-1.51, 5-1.52, and 5-1.77.
- (b) The supplier of water shall make public notification, upon the determination by the supplier of water or the Department, that a condition exists which constitutes an actual or potential public health nuisance or hazard. Such notification shall contain a clear statement of the type and extent of the nuisance or hazard, be conducted in an expeditious manner and be conveyed to the users of water in one or more ways to ensure that insofar as feasible, all the affected consumers are notified.
- (c) During an emergency, the supplier of water shall take all actions necessary to protect the consumer from exposure to drinking water not meeting all standards of quality. Such actions shall include but not be limited to notification of

affected consumers by the most expeditious means available of the type, extent, and public health significance of the existing emergency, actions being taken by the supplier of water, the appropriate measures to be taken by consumers to prevent or minimize exposure to contaminated water, the projected duration of the emergency, and sources of further information and guidance available to the consumer.

- (d) The supplier of water shall conduct an investigation to determine the circumstances which caused an emergency, the effectiveness of actions taken during the episode, and changes planned in both the water system and in the operation thereof to prevent and to minimize a future emergency. A detailed report of the investigation shall be provided to the Department within 30 calendar days after an emergency episode addressing these matters and shall also include a chronology of the episode.
- (e) A printed copy of 10 NYCRR Section 1.23 and of this Section shall be conspicuously posted in the office used by the supplier of water and all stations.

Section 18. Responsibilities of the Commissioner.

The Commissioner shall have the following responsibilities related to the implementation of this Article:

- (a) Adopt administrative procedures and forms as may be necessary to effectively implement the requirements of this Article.
- (b) Require a supplier of water to conduct a detailed investigation of any specific condition or circumstance in a public water system which, in the Commissioner's judgement, may or does constitute an actual or impending lack of adherence to the general purposes and intent of this Article or the violation of any provision of 10 NYCRR Subpart 5-1 or specific provisions of this Article. Such investigation shall include but not be limited to the following actions:
  - (1) Documentation of actual specific conditions and circumstances by means of collection and assessment of water quality data, evaluation of the performance of facilities and equipment, and the conduct of such other professional and technical studies which may be necessary to properly demonstrate the conditions and circumstances.
  - (2) Preparation of a proposed plan of action which will correct any lack of adherence or compliance within the public water system found during the investigation and include a description of required capital improvements and/or changes in operation together with the costs involved and a reasonable schedule for implementation of the plan of action.

- (3) The investigation and plan of action shall be approved by the Commissioner in form, content, and the schedule for its completion.
- (c) Conduct investigations and studies and collect such data and information which in the judgement of the Commissioner, are necessary and desirable to properly satisfy the general purposes and intent of this Article. The Commissioner or a representative designated by the Commissioner is authorized, on a reasonable schedule consistent with proper protection of the public health, to:
- (1) Enter any facility of a public water system to inspect structures, equipment, and records and to obtain pertinent information.
  - (2) Enter any public and/or privately owned property for the purpose of inspection, collection of samples and other data, and to install such testing, sampling, or other equipment and facilities which may be necessary to evaluate any conditions which may be contributing to the contamination of groundwater sources of drinking water or the quality of water in the public drinking water system.
- (d) Grant a waiver from a specific provision of this Article, which is more stringent than requirements of 10 NYCRR Part 5, in a particular case, subject to appropriate conditions, where such waiver is in harmony with the general purpose and intent of this Article.

Section 19. Effective Date.

This Article shall become effective on February 1, 1990.

HISTORICAL NOTE: Adopted Nov. 22, 1938, eff. Dec. 1, 1938 as Homes for the Care of the Sick or Infirm. Repealed in its entirety March 13, 1984, eff. April 1, 1984. A New Article VI entitled Public Drinking Water Supply was adopted on November 17, 1989, eff. Feb. 1, 1990.

**NASSAU COUNTY PUBLIC HEALTH ORDINANCE**

**ARTICLE VII**

**RESIDENTIAL ENVIRONMENT**

**Section 1.**      **Declaration of Policy.**

In the health district there presently exist premises, dwellings, dwelling units, rooming units, or parts thereof, which by reason of deficiencies in their physical condition, equipment, sanitation, maintenance, or the manner of their use and occupancy, adversely affect the safety, general welfare and health of the residents of this county.

To correct the existence of such conditions, to prevent the creation of future adverse conditions, to protect the physical and mental health and social well-being of the residents of this county, and to promote the health, safety, and general welfare of the public, the establishment and enforcement of minimum residential environmental standards are required.

HISTORICAL NOTE: Adopted Aug. 21, 1974, eff. Oct. 29, 1974.

**Section 2.**      **Statement of Purpose.**

It is hereby declared that the purpose of this Article is to protect, preserve, and promote the physical and mental health and social well-being of the public, to minimize the incidence of communicable diseases, to regulate privately and publicly owned dwellings for the purpose of maintaining adequate sanitation and public health, to insure that the quality of residential environment is adequate for the protection of the public health, safety and general welfare, and to promote the public welfare by the enactment of regulations, which shall be applicable to present and future dwellings.

The achievement of this purpose includes the establishment of minimum standards (a) for basic equipment and facilities for healthful living, such as adequate water, waste disposal, bathroom facilities, light, ventilation, heating and cooling, (b) for safety from fire and accidents, and (c) for an adequate level of sanitary maintenance of dwellings, and further includes the setting forth of the responsibilities of owners, operators and occupants of dwellings, and the establishment of appropriate provisions for administration and enforcement of this Article.

HISTORICAL NOTE: Adopted Aug. 21, 1974, eff. Oct. 29, 1974.

Section 3. Definitions.

When used in this Article, unless otherwise indicated, the following words shall have the following meanings:

- (a) “Accessory structure” shall mean a detached structure or an attached structure located on or partially on any premises, which is not used or is not intended to be used for living or sleeping by human occupants.
- (b) “Approved” shall mean approved by the Commissioner.
- (c) “Central heating system” shall mean a single system supplying heat to one or more dwelling units or to more than one rooming unit.
- (d) “Dwelling” shall mean any building or structure which is wholly or partly used or intended to be used for living or sleeping by human occupants.
- (e) “Dwelling unit” shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities, which are used or intended to be used for living, sleeping, cooking, and eating.
- (f) “Egress” shall mean a place or means of going safely to the outside of a dwelling or building.
- (g) “Extermination” shall mean the control and elimination of insects, rodents, or other pests,
  - (1) by eliminating places of harborage,
  - (2) by removing or making inaccessible materials that may serve as their food, and
  - (3) by poisoning, spraying, fumigating, and trapping, or by any other recognized and approved pest elimination method.
- (h) “Garbage” shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, serving, and non-consumption of food.
- (i) “Guest” shall mean any person who shares a dwelling unit in a non-permanent status for not more than thirty (30) days.
- (j) “Habitable room” shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, furnace rooms, pantries, kitchenettes, and utility rooms of less than fifty (50) square feet, foyers or communicating

corridors, stairways, closets, storage spaces, and workshops, hobby and recreation areas in unsealed or uninsulated parts of a structure below ground level or in attics.

- (k) “Heated water” shall mean water heated to a temperature of not less than 120 degrees Fahrenheit.
- (l) “Infestation” shall mean the presence of any insects, rodents, or other pests within a dwelling or a dwelling unit or units or upon the premises on which the dwelling or the dwelling unit or units are located.
- (m) “Kitchen” shall mean any room which is used primarily for the preparation and cooking of food, and which contains any or all of the following equipment: Sink or other approved device for dishwashing, stove or other approved device for cooking, and refrigerator or other approved device for the cool storage of food. Where a portion of a room is used for the preparation and cooking of food, “kitchen” shall mean that portion of the room which contains such equipment and includes an area of not less than three (3) feet from the equipment.
- (n) “Multiple dwelling” shall mean any dwelling containing more than two (2) dwelling units.
- (o) “Occupant” shall mean any person over one year of age, living, sleeping, cooking, or eating in, or actually having possession of, a dwelling unit or a habitable room, except that in dwelling units a guest shall not be considered an occupant.
- (p) “Operator” shall mean any person who has charge, care, control, or management, of a building or part thereof, or premises in or on which there are dwelling units, rooming units, or a multiple dwelling.
- (q) “Owner” shall mean any person who alone or jointly or severally with others:
  - (1) has legal title to any premises, dwelling, dwelling unit, rooming unit, or multiple dwelling, or
  - (2) has charge, care, control, or management, of any premises, dwelling, dwelling unit, rooming unit, or multiple dwelling, as agent, lessee, mortgagee in possession, vendee in possession, assignee of rents, receiver of rents, or as executor, administrator, trustee, conservator, or guardian, of the estate of the holder of legal title.
- (r) “Person” shall mean any individual, public or private, corporation, political subdivision of the state, agency, board, department or bureau of the state or of any municipality, or partnership, association, firm, trust, organization, estate, or any other legal entity whatsoever which is recognized by law as the subject

of rights and duties, or any officer, agent, or employee of any of the foregoing.

(s) "Plumbing" shall mean the system of pipes and appurtenances supplying illuminating gas, potable water and the discharge of waste water, and shall include the following facilities and equipment: Gas pipes, gas burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch basins, drains, vents, and other similar fixtures, together with all connections to water, sewer, or gas lines.

(t) "Potable Water" means a water which meets the drinking water quality requirements established by Section 5-1.50 through 5-1.55 and Sections 5-1.60 through 5-1.65 sub part 5 of Part 5 of the New York State Sanitary Code. This definition shall also include all New York State Department of Health guidelines for organic chemicals in water.

HISTORICAL NOTE: Amended Feb. 14, 1986.

(u) "Premises" shall mean a parcel of land or part thereof, which is vacant or on which a dwelling, accessory structure, or other structure has been erected.

(v) "Refuse" shall mean all putrescible and non-putrescible solids (except human body wastes), including garbage, rubbish, animal feces, ashes, and dead animals.

(w) "Refuse container" shall mean:

(1) a watertight container which is constructed of metal or of other durable material impervious to rodents and which is capable of being serviced without creating insanitary conditions, or

(2) such other approved container.

Openings into the container, such as covers and doors, shall be tight fitting.

(x) "Rodent harborage" shall mean any place where rodents can live, nest, or seek shelter.

(y) "Rodent proofing" shall mean a form of construction which will prevent the ingress or egress of rodents to or from a given space or building, or their gaining access to food, water, or harborage. Rodent proofing shall include the closing and keeping closed of every opening in foundations, basements, cellars, exterior and interior walls, ground or first floors, roofs, sidewalk gratings, sidewalk openings, and other places that may be reached and entered by rodents climbing, burrowing, or by other methods, by the use of materials impervious to rodent gnawing or by other approved methods.

- (z) “Rooming house” shall mean any dwelling or that part of any dwelling containing one or more rooming units, in which space is occupied by three (3) or more persons who are not related to the owner or the operator thereof.
- (aa) “Rooming unit” shall mean any room, dormitory, or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.
- (bb) “Rubbish” shall mean all non-putrescible solid wastes (excluding ashes) consisting of either or both:
  - (1) combustible wastes including but not limited to paper, cardboard, rags, furniture, plastic containers, yard clippings, tree branches, leaves, and wood, and
  - (2) non-combustible wastes including but not limited to metal cans, glass, crockery, and discarded appliances.
- (cc) “Safety” shall mean the condition of being reasonably free from danger and hazards which may cause accidents or disease.  
HISTORICAL NOTE: Adopted Aug. 21, 1974, eff. Oct. 29, 1974.

Section 4. Responsibilities of Owners and Occupants.

(a) Occupancy and Letting

No vacant dwelling or dwelling unit shall be let to, or occupied by, any person unless, at the time of letting or occupancy, it is in a clean and sanitary condition, is fit for human occupancy, and complies with the requirements of this Article and with all other applicable law.

(b) Maintenance of a dwelling, dwelling unit, or multiple dwelling

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

(c) Maintenance of two-family and multiple dwellings

- (1) Every owner of a dwelling containing two (2) dwelling units shall maintain in a clean and sanitary condition the areas of the dwelling and of the premises which are shared or used in common by the occupants, except where the agreement between the owner and the occupant or occupants provides otherwise.



- (2) Every owner and operator of a multiple dwelling shall maintain the shared or common areas of the dwelling and the premises in a clean and sanitary condition.

(d) Storage and disposition of rubbish and refuse

Pending its collection and disposition, every occupant of a dwelling, dwelling unit, or multiple dwelling shall store his rubbish and refuse in a clean and sanitary manner. Rodent-proof, insect-proof, watertight containers shall be used for storage.

(e) Storage and disposition of garbage

Pending its collection and disposal, every occupant of a dwelling, dwelling unit, or multiple dwelling shall store in a clean and sanitary manner, garbage or any other organic waste, which might provide food or a breeding place for insects, flies, or rodents. Rodent-proof, insect-proof, watertight refuse containers shall be used for storage.

(f) Containers to be provided for rubbish, refuse, and garbage

- (1) It shall be the responsibility of every owner and operator of a multiple dwelling to provide and maintain adequate facilities or suitable refuse containers for the sanitary storage and disposal of rubbish, refuse, and garbage.
- (2) In one and two-family dwellings, it shall be the responsibility of the occupant or occupants to provide and maintain adequate facilities or suitable containers for the sanitary storage and disposal of rubbish, refuse, and garbage.
- (3) Such facilities and containers shall be maintained in good order and repair.

(g) Storage areas for rubbish, refuse, and garbage

It shall be the responsibility of every owner and operator to maintain, or to provide for the maintenance of, storage areas for rubbish, refuse, and garbage in a sanitary condition, and free from odors, flies, vermin, and rodent infestation, except that, in non-owner-occupied one and two-family dwellings, it shall be the responsibility of the occupant or occupants.

(h) Responsibility for Extermination

- (1) In a one-family dwelling (unless there is a written lease provision to the contrary), the occupant shall be responsible for the extermination of any insects, rodents, and other pests therein or on the premises.
- (2) In two-family dwellings and multiple dwellings the owner shall be responsible for the extermination of any insects, rodents, and other pests therein or in the shared or common areas of such dwellings.

HISTORICAL NOTE: Amended Feb. 14, 1986

(i) Occupant's responsibility for fixtures and plumbing facilities

Every occupant of a dwelling unit shall exercise reasonable care in the use and operation of all fixtures and plumbing facilities therein, and shall maintain them in a clean and sanitary condition.

(j) Responsibility for screens

- (1) The owner of a one or two-family dwelling shall be responsible for providing and installing screens, whenever they are required under the provisions of this Article, except where the agreement between the owner and the occupant or occupants provides otherwise. In the absence of such agreement, maintenance or replacement of screens, once installed, becomes the responsibility of the occupant or occupants.
- (2) The owner and operator of each multiple dwelling and each rooming house shall be responsible for providing and installing screens, whenever they are required under the provisions of this Article. It shall be the responsibility of the owner and operator to maintain or, if necessary, to replace such equipment.

HISTORICAL NOTE: Adopted Aug. 21, 1974, eff. Oct. 29, 1974.

Section 5. Rodent Control.

- (a) No person shall store, place, or permit to accumulate, any material in a site accessible to rodents, which may serve as food for rodents or as a rodent harborage.
- (b) In one family dwellings (unless there is a written lease provision to the contrary), the occupant shall be responsible for the proper storage and disposal of accumulated rubbish, boxes, lumber, scrap metal, and any other materials, so as to prevent a rodent harborage.
- (c) In two family dwellings and multiple dwellings the owner shall be responsible for the proper storage and disposal of accumulated rubbish, boxes, lumber, scrap metal and any other materials, so as to prevent a rodent harborage.

- (d) No person shall feed in the open any domestic or wild fowl, birds, or animals other than by the use of a suitable container and in such a manner as to prevent the scattering of the seed or material upon the ground, resulting in a potential source of food for rodents.
- (e) Every window and every opening located at or near ground level of a dwelling shall be supplied with adequate gauge screen or such other devices as will effectively prevent entry by rodents.

HISTORICAL NOTE: Adopted Aug. 21, 1974, eff. Oct. 29, 1974.  
Amended Feb. 14, 1986.

#### Section 6. Heating Requirements for Living Purposes.

- (a) Every dwelling, multiple dwelling, and rooming house shall have heating facilities, which shall be properly installed and maintained in good working order, and shall safely and adequately heat all habitable rooms, bathrooms, shower-rooms, and water closet compartments. The use of unvented flame space heaters and space heaters without back-draft diverters and automatic controls is prohibited.
- (b) A person who shall have contracted or undertaken or who is required by law to furnish heat to any dwelling, dwelling unit, multiple dwelling, or rooming house, shall furnish heat to all habitable rooms, bathrooms, shower rooms, and water closet compartments, so as to maintain therein a temperature of not less than sixty-eight (68°) degrees Fahrenheit during the hours of 6 A.M. to 10 P.M. and not less than sixty-five (65°) degrees Fahrenheit during the hours 10 P.M. to 6 A.M. at a distance of eighteen (18") inches above the floor level and three (3') feet from an outside wall whenever the outdoor temperature falls below fifty-five (55°) degrees Fahrenheit. Such temperatures shall be maintained during the heating season of October 1<sup>st</sup> through the following May 31<sup>st</sup>.

HISTORICAL NOTE: Adopted Dec. 19, 1979, eff. Feb. 1, 1980; amended March 13, 1984,  
eff. April 1, 1984.

- (c) Where fuel rationing is imposed, or an energy crisis or an emergency exists, the Commissioner is authorized to grant a general variance or exemption from the provisions of this Section and the Ordinance and to take such action as he deems necessary or appropriate under the circumstances in the interest of public health, for the period of the fuel rationing, energy crisis, or emergency.
- (d) When there are repeated instances during a heating season of non-compliance with the provisions of sub-division (b) of this Section in a multiple dwelling, the Commissioner may order and direct that a prompt inspection of the heating system be made by a qualified heating engineer at the expense of the owner or operator or both. A copy of the inspection report with the recommendations of the engineer shall be filed with the Department of Health not later than ten (10) days following the date of the Commissioner's order.

The Commissioner shall take such action and make such order as he shall deem necessary or desirable to implement the report and recommendations of the engineer.

Nothing contained in this sub-section (d) shall (1) limit or abridge in any way any duties or powers of the Commissioner imposed upon him or given to him by law, or (2) operate in any respect as a waiver of the responsibility of the owner or operator or both to comply with the provisions of this section.

HISTORICAL NOTE: Adopted Aug. 21, 1974, eff. Oct. 29, 1974.

Section 7. Basic Equipment and Facilities Required for Dwellings, Dwelling Units, and Multiple Dwellings.

No owner or operator shall let for occupancy, or permit to be occupied, any dwelling, dwelling unit, or multiple dwelling for the purpose of living, sleeping, cooking, or eating therein, which does not comply with the following requirements:

(a) Kitchen requirements

Every dwelling unit shall have a room or portion of a room in which food may be prepared or cooked. Such room shall have adequate floor area available for occupant use and shall be equipped with the following:

- (1) A sink in good working condition and properly connected to an approved potable water supply system. The sink shall be provided with an adequate amount of heated and unheated running water under pressure, and shall be connected to an approved sewer system. For the purpose of this section, a lavatory sink or slop sink shall not be considered a kitchen sink.
- (2) Cabinets and shelves for the adequate storage of eating, drinking, and cooking equipment and utensils, and for the adequate storage of food which does not require refrigeration for safe-keeping.
- (3) A counter or table for food preparation with a smooth and impervious surface, which is easily cleanable and will not impart any toxic or other deleterious effect to food.
- (4) A stove or similar device for cooking food which is properly installed with all necessary connections for safe, sanitary, and efficient operation.
- (5) a – A refrigerator for the safe storage of food at temperatures of 45° Fahrenheit or less, but more than 32° Fahrenheit, which is properly installed with all necessary connections for safe, sanitary, and efficient operation.

b – Where an agreement between the owner or the operator and the occupant or occupants provides that the occupant or occupants shall supply their own refrigerator, it shall be the responsibility of the occupant or occupants to provide for the proper installation of the refrigerator with all the necessary connections for safe, sanitary, and efficient operation.

(b) Water Closet Compartment Requirements

Within every dwelling unit there shall be a non-habitable room, which affords privacy to an individual, is adequately lighted, and properly ventilated, and is equipped with a flush water closet in good working condition. The flush water closet shall be connected to a water system under pressure and to an approved sewer system.

(c) Lavatory Sink Requirements

Within every non-habitable room in a dwelling unit which contains a flush water closet, there shall be a lavatory sink. Such sink shall be in good working condition, properly connected to a potable water supply system, provided with an adequate amount of heated and unheated water under pressure, and shall be connected to an approved sewer system.

Where the space in an existing water closet compartment shall be so limited as to preclude the installation of a lavatory sink therein, such sink shall be located adjacent to the door leading to the room in which the water closet is located.

(d) Bathtub or Shower Requirements

Within every dwelling unit, there shall be a room which affords privacy to a person and which is equipped with a bathtub or shower in good working condition. The bathtub or shower may be in the same room as the flush water closet or in another room, and shall be properly connected to an approved potable water supply system. The bathtub or shower shall be provided with an adequate amount of heated and unheated running water under pressure, and shall be connected to an approved sewer system.

(e) Floor Requirements

The floors of such rooms shall be made impervious to water so as to prevent their deterioration and the development of insanitary conditions.

(f) Means of Egress

- (1) Every dwelling unit in a one or two-family dwelling shall have at least one means of egress. A second means of egress shall be provided where there is living above the second floor.
- (2) Every multiple dwelling shall have two or more means of egress from each floor leading to safe and open space at ground level.
- (3) The means of egress shall be unobstructed, physically separated, and sufficiently distant from each other to assure safe egress.
- (4) An approved sprinkler system may be substituted in lieu of one means of egress.

(g) Screening

During that part of each year when there is need for protection against mosquitoes, flies, and other flying insects, each door which opens directly from a dwelling unit to the outdoors shall have properly fitting screens having at least sixteen mesh and a self-closing device, and each window or other device with openings to outdoor space, used or intended to be used for ventilation, shall be properly fitted with screens. However, such screens shall not be required during such period:

- (1) In rooms which are deemed by the Commissioner to be located high enough in the upper stories of buildings so as to be free of such insects, and
- (2) In rooms located in areas which are deemed by the Commissioner to have so few insects as to render screens unnecessary.

HISTORICAL NOTE: Adopted Aug. 21, 1974, eff. Oct. 29, 1974.

Section 8. Minimum Standards for Ventilation and Lighting.

(a) Ventilation

Every habitable room shall have at least one window or skylight, which can easily be opened, or such other approved device as will adequately ventilate the room. The total of openable window area in every habitable room shall be equal to at least 45 per cent of the window area size. Such window or skylight shall comply with building and fire laws and codes and with all other applicable laws and codes.

(b) Electric Service

- (1) Every habitable room shall have at least one floor or wall-type duplex electric convenience outlet for each sixty (60) square feet or fraction

thereof of floor area, but in no case shall there be less than two such outlets.

- (2) Every habitable room, water closet compartment, bathroom, laundry room, furnace room, and public hall shall contain at least one ceiling or wall-type electric light fixture, which shall be supplied by the owner.
- (3) Convenient switches for turning on one light in each room or passageway shall be so located as to permit the area ahead to be lighted.
- (4) Every outlet and fixture shall be properly installed, shall be maintained in good and safe working condition, and shall be connected to a source of electric power in a manner prescribed by law.

(c) Lighting for Public Halls and Stairways – Multiple Dwellings and Rooming Houses

Each public hall and stairway in a multiple dwelling or rooming house shall be adequately lighted by natural or electric light at all times so as to provide at least 10 foot-candles of light at the tread or floor level to allow safe passage, and safe ascent and descent.

(d) Lighting for Public Halls and Stairways – Dwelling Units

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

HISTORICAL NOTE: Adopted Aug. 21, 1974, eff. Oct. 29, 1974.

Section 9. Posting of Notice of Ownership.

Each owner of a multiple dwelling shall post, in a conspicuous place in a public area on the main floor of said building, a current legible notice on durable material indicating the names, street addresses, and telephone numbers of both the owner and the person to be contacted in matters relating to the operation and management of the premises.

HISTORICAL NOTE: Adopted Aug. 21, 1974, eff. Oct. 29, 1974.

Section 10. Discontinuance of Services, Facilities, Equipment, or Utilities.

No owner, operator, or occupant shall cause, or be responsible for causing, any service, facility, equipment, or utility to be removed or shut off from, or discontinued for, any occupied dwelling, dwelling unit, multiple dwelling, and rooming house, except for such temporary interruption as may be necessary while repairs or alternations are actually in

process, or during temporary emergencies when the discontinuance thereof is unavoidable, or as otherwise provided by law.

HISTORICAL NOTE: Adopted Aug, 21, 1974, eff. Oct. 29, 1974.

Section 11. Rooming Houses.

(a) Occupancy and Letting

No owner or operator shall let to any person, and no person shall occupy, any rooming unit unless it is clean, sanitary, and fit for human occupancy, and complies with all applicable requirements of this Article.

(b) Requirements for Water Closet, Lavatory, and Bathtub or Shower

- (1) There shall be, for each six occupants or fraction thereof, including members of the operator's family whenever they share the use of the facilities, at least one flush water closet, lavatory basin, and bathtub or shower, properly connected to approved water and sewer systems and maintained in good working condition.
- (2) Such facilities shall be so located within the dwelling as to be reasonably accessible to all persons sharing the facilities and accessible from a common hall or passageway.
- (3) Every lavatory basin and bathtub or shower shall be supplied with heated and unheated water under pressure at all times.

(c) Cooking

Cooking in a rooming unit is prohibited. Communal cooking and dining facilities in a rooming house are prohibited unless approved in writing by the Commissioner.

(d) Door Locks

Each access door to a rooming unit shall have at least one (1) operating lock to insure privacy. Each lock shall be maintained in good working condition.

(e) Bed Linen, Bedding, and Towels

- (1) The owner or operator shall supply fresh bed linen and towels prior to each letting of a room.
- (2) The owner or operator shall change the supplied bed linens and towels as often as necessitated, but not less than once each week, where the room is occupied by the same occupant on a continuous basis.



(3) The owner or operator shall be responsible for the maintenance of all supplied bed linen, towels, and bedding in a clean and sanitary condition.

(f) Ingress

Access to each rooming unit shall be provided without requiring passage through any other rooming unit.

(g) Egress

Every rooming unit shall have not less than two (2) safe means of egress, which are unobstructed and are sufficiently separated from one another so as to assure safe passage to safe and open space at ground level. An approved sprinkler system may be substituted in lieu of one means of egress.

(h) Responsibility of Owner and Operator

Every owner and operator of a rooming house shall maintain all parts of the rooming house in a clean and sanitary condition.

(i) Responsibility of Occupant

Every occupant of a rooming unit shall maintain such unit in a clean and sanitary condition.

(j) Containers for Rubbish, Garbage, and Refuse

Every owner and operator of a rooming house shall supply adequate containers for the sanitary and safe storage and disposal of rubbish, garbage, and refuse.

(k) Responsibility for Extermination

Every owner and operator shall be responsible for the extermination of any insects, rodents, and other pests in the rooming house or on the premises.

(l) Occupant's Responsibility for Fixtures

Each occupant shall exercise reasonable care in the use and operation of all electrical and plumbing fixtures in the rooming unit.

HISTORICAL NOTE: Adopted Aug. 21, 1974, eff. Oct. 29, 1974.

Section 12. Designation of Unfit Dwellings, Dwelling Units, Multiple Dwellings, Rooming Houses, Rooming Units, and Premises.

- (a) A dwelling, dwelling unit, multiple dwelling, rooming house, rooming unit, or premises shall be designated as unfit for human habitation when, in the judgment of the Commissioner, it constitutes a serious hazard to the health or safety of the occupant or occupants or of the public, because it: (1) is dilapidated, insanitary, unsafe, or vermin-infested, or (2) is lacking in the facilities required by this Article.
- (b) Following such designation, the Commissioner may post a placard on such dwelling, dwelling unit, multiple dwelling, rooming house, rooming unit, or premises, indicating that it is unfit for human habitation, and he may order the dwelling, dwelling unit, multiple dwelling, rooming house, rooming unit, or premises, if occupied, to be vacated within such period of time as he shall deem reasonable under the circumstances.
- (c) No dwelling, dwelling unit, multiple dwelling, rooming house, rooming unit, or premises, which has been so placarded and vacated, shall be used again for human habitation without the prior written approval of the Commissioner.
- (d) No person shall deface or remove such placard without the prior written approval of the Commissioner.
- (e) The order of the Commissioner shall be served upon the owner, operator, and occupants in the manner provided by Section 19 of this Article.
- (f) Within five (5) days after service of the Commissioner's order, the owner, operator, or occupants may appeal the determination in writing to the Commissioner by requesting either a conference or a hearing in the matter.
- (g) If the request is for a conference, the Commissioner may designate a representative to confer with the appellant or appellants, and to make a report and recommendation for action by the Commissioner upon the appeal.
- (h) If the request is for a hearing, the Commissioner may designate a representative to conduct the hearing and to make a report and recommendation to the Commissioner for his action upon the appeal.
- (i) The request of the appellant or the appellants shall set forth the applicable facts and the bases objection to the Commissioner's order.

HISTORICAL NOTE: Adopted Aug. 21, 1974, eff. Oct. 29, 1974.

Section 13. Rodent-Free Certification before Demolition.

Before commencing the demolition of any building or any part of a building, the owner or any person authorized by the owner shall obtain a certification by the Department of Health that the building and premises are free of rodent infestation.

Such application shall be submitted to the Department of Health, on forms approved by the Department of Health, not less than ten (10) days prior to the commencement of such demolition.

Demolition shall be completed within ten (10) days from the date of the issuance of certification by the Department of Health.

HISTORICAL NOTE: Adopted Aug. 21, 1974, eff. Oct. 29, 1974.

Section 14. Safety.

Every foundation, roof, floor, exterior and interior wall, ceiling, inside and outside stair, porch, and every appurtenance to the structure shall be safe to use and shall be kept in sound condition and good repair. Stairways shall have structurally sound, well-secured handrails of reasonable height and, where needed, balusters adequately spaced, and provided with non-skid materials. Every dwelling unit, rooming house, and premises shall be kept free of accident hazards.

HISTORICAL NOTE: Adopted Aug. 21, 1974, eff. Oct. 29, 1974.

Section 14(A). Carbon Monoxide Alarms Required.

The new construction of every dwelling and multiple dwelling in Nassau County in which there is a fuel-fired appliance or attached garage, and all existing Hotel, Motel and Temporary Residences containing fuel-fired appliances or an attached garage, shall be equipped with the appropriate number of carbon monoxide alarms as required under this section.

(a) Definitions: The following definitions shall apply to this section:

- (1) "Dwelling" and "multiple dwelling" shall be as defined in the New York State Uniform Fire Prevention and Building Code, and shall apply to any building or structure which is wholly or partly used or intended to be used for living or sleeping by human occupants. It includes, but is not limited to one, two and multiple family dwellings, hotels, motels and temporary residences.
- (2) "Fuel-fired appliances" shall mean any appliance which burns a fuel of any type including, but not limited to, boilers, furnaces, domestic water heaters,

space heaters, fireplaces, stoves, ranges, clothes dryers, barbecues and engines using fossil fuel or wood as fuel.

(b) Acceptable Carbon Monoxide Alarms

Carbon monoxide alarms are acceptable only if they are certified by a nationally recognized testing laboratory to conform to the latest Underwriters Laboratories Standards (latest UL2034 standards). Carbon monoxide alarms shall be equipped with a digital readout of the carbon monoxide concentration which displays continuously or when in an alarm condition. The alarm shall be equipped with a button to indicate the maximum carbon monoxide concentration recorded since the feature was last reset.

(c) Location and Installation of Carbon Monoxide Alarms

1. Carbon monoxide alarms are required on each level of one-family and two-family dwellings. In one-family and two-family dwellings, the carbon monoxide alarm(s) installed shall be directly connected to the electrical circuit with no intervening wall switch. Line cord-connected, direct plug-in, and battery-powered alarms are not acceptable.

In multiple dwellings, hotels, motels and temporary residences, the carbon monoxide alarms shall be directly connected to the electrical circuit in each dwelling with no intervening wall switch. Line cord-connected and direct plug-in units are not acceptable. Battery-powered alarms are not acceptable. Alarms in multiple dwellings shall be placed as follows:

- (a) Any dwelling unit containing a fuel-fired appliance system which supplies air for cooling, heating or ventilation must have a carbon monoxide alarm on each level where sleeping quarters are located.
  - (b) A carbon monoxide alarm shall be located in dwelling units and sleeping areas sharing a common wall with, or located directly above or below, a room containing a fuel-fired appliance.
  - (c) Carbon monoxide alarms shall be located with 40 feet of all doors to dwelling units or sleeping areas in a corridor in which the corridor serves dwelling units or sleeping areas and also serves a room containing a centralized fuel-fired appliance.
2. Each carbon monoxide alarm shall be mounted in accordance with manufacturer's instructions, however, carbon monoxide alarms shall not be mounted in areas of low air movement.
  3. Each carbon monoxide alarm shall be maintained in accordance with manufacturer's instructions.

4. Carbon monoxide alarms shall be installed in accordance with National Electrical Code standards (National Fire Protection Association Standard #70).

(d) Restrictions

1. It shall be unlawful for any person to remove or render ineffective a carbon monoxide alarm installed to satisfy the requirements of this standard. This provision shall not apply to a building owner, manager or his/her agent in the normal procedure of replacing a carbon monoxide alarm.
2. Where carbon monoxide alarms also provide remote alarm notification, the alarm notification must be clearly distinguishable as a carbon monoxide alarm. Carbon monoxide alarm activation must not activate any fire alarm signals.

(e) Effective Date

The requirements of this section for installing carbon monoxide alarms shall become effective 45 days after adoption by the Nassau County Board of Health for new construction, and one year after adoption by the Nassau County Board of Health for existing hotels, motels and temporary residences.

Section 15. Storage of Drugs and Poisons.

Each dwelling shall have suitable and separate facilities for the safe storage of each of the following:

- (a) Drugs
- (b) Household poisons
- (c) Other hazardous materials.

HISTORICAL NOTE: Adopted Aug. 21, 1974, eff. Oct. 29, 1974.

Section 16. Lead Poisoning.

Existing paint conditions conducive to lead poisoning shall be eliminated in accordance with procedures contained in Article 13, Title X, of the Public Health Law.

HISTORICAL NOTE: Adopted Aug. 21, 1974, eff. Oct. 29, 1974.

Section 17. Service of Notice of Violation.

- (a) A notice of violation shall be deemed to have been duly given when:
- (1) served personally upon an individual owner, operator, or occupant, or sent by registered or certified mail addressed to the individual owner, operator, or occupant at the address of the premises, or sent by registered or certified mail addressed to the premises where the individual owner or operator resides;
  - (2) served personally upon an officer of the corporate owner or operator, or sent by registered or certified mail to the residence of an officer of the corporate owner or operator, or sent by registered or certified mail to an officer of the corporate owner or operator at the address of the premises involved;
  - (3) served personally upon one of the partners, or sent by registered or certified mail addressed to one of the partners at the address of the premises, or sent by registered or certified mail to the residence of one of the partners, where the premises are owned or operated by a partnership;
  - (4) served personally upon an agent designated by the owner or operator for that purpose, or sent by registered or certified mail to the agent at the designated address of the agent.
- (b) Whenever the Commissioner finds that an emergency exists which requires immediate action to protect the health or safety of the public, he may issue an order in writing to the owner, operator, or occupant reciting the existence of such an emergency, and requiring such action to be taken as he deems necessary to meet the emergency.

HISTORICAL NOTE: Adopted Aug. 21, 1974, eff. Oct. 29, 1974.

Section 18. Inspections.

- (a) The Commissioner and his representatives shall have the right, and they are hereby authorized, to make inspections and surveys at all reasonable times to determine the condition of any dwelling, dwelling unit, multiple dwelling, rooming house, rooming unit, and premises.
- (b) Each owner, occupant, and operator thereof shall permit the Commissioner and his representatives to have free access for the purpose of conducting such inspections and surveys.

HISTORICAL NOTE: Adopted Aug. 21, 1974, eff. Oct. 29, 1974.

Section 19. Hearings; Notice and Procedure.

- (a) The Commissioner may institute hearings relating to violations of this Article, and may designate a person to conduct a hearing and to submit a report with recommendations to the Commissioner.
- (b) The Commissioner or such hearing officer may issue subpoenas and administer oaths in connection with any hearing.
- (c) The Commissioner and such hearing officer shall not be bound by the laws of evidence in the conduct of hearings, but the determination of the Commissioner shall be founded upon sufficient legal evidence to sustain it.
- (d) Notice of hearing shall be served at least fifteen (15) days prior to the date of hearing. However, whenever the Commissioner believes that there is or will be danger to the public health to delay action for such period, he may serve the respondent with an order requiring certain action or the cessation of certain activities immediately or within a shorter period than fifteen (15) days, and he shall set a date for a hearing to be held within fifteen (15) days after the date of the service of the order.
- (e) The notice of hearing or order shall be deemed to have been duly given when:
  - (1) served personally upon an individual owner, operator, or occupant, or sent by registered or certified mail addressed to the individual owner, operator, or occupant at the address of the premises, or sent by registered or certified mail addressed to the premises where the individual owner or operator resides;
  - (2) served personally upon an officer of the corporate owner or operator, or sent by registered or certified mail to the residence of an officer of the corporate owner or operator, or sent by registered or certified mail to an officer of the corporate owner or operator at the address of the premises involved;
  - (3) served personally upon one of the partners, or sent by registered or certified mail addressed to one of the partners at the address of the premises, or sent by registered or certified mail to the residence of one of the partners, where the premises are owned or operated by a partnership;
  - (4) served personally upon an agent designated by the owner or operator for that purpose, or sent by registered or certified mail to the agent at the designated address of the agent.
- (f) At a hearing all parties may produce evidence and witnesses on their behalf and cross-examine witnesses, and shall have the right of their own counsel.

- (g) Following a hearing, the Commissioner shall make an appropriate determination or determinations, and shall issue an order in accordance therewith.

HISTORICAL NOTE: Adopted Aug. 21, 1974, eff. Oct. 1974.

Section 20.    Variance.

Where there are practical difficulties or unnecessary hardship in carrying out the strict letter of this Article, the Commissioner may, on written application and after review, grant a variance from the provisions hereof in a specific case, subject to appropriate conditions and provided that such variance is in harmony with the general purpose and intent of this Article.

HISTORICAL NOTE: Adopted Aug. 21, 1974, eff. Oct. 29, 1974.

Section 21.    Application of Article.

- (a) The provisions of this Article shall not apply to a single-family owner-occupied dwelling and premises, except when conditions exist (1) which are or may be conducive to the creation of a nuisance, or (2) which may be injurious to the health or safety of the public.
- (b) The provisions of this Article shall apply to all dwellings, dwelling units, multiple dwellings, rooming houses, and rooming units except those regulated by Parts 7 and 15 of the State Sanitary Code.
- (c) Every provision of this Article, which applies to rooming houses, shall also apply to hotels and motels, except to the extent that any such provision may be in conflict with any laws of the State of New York.

HISTORICAL NOTE: Adopted Aug. 21, 1974, eff. Oct. 29, 1974.



**NASSAU COUNTY PUBLIC HEALTH ORDINANCE**

**ARTICLE VIII**

**REGULATION OF SMOKING**

**ARTICLE VIII**

**REGULATION OF SMOKING**

**Section 1.**     **Declaration of Policy.**

It is the intent and purpose of this Article to provide residents protection from exposure to tobacco smoke by placing restrictions on smoking within the County of Nassau. The provisions of this Article are designed to achieve a reasonable balance between the rights of non-smokers to breathe clean air and the wishes of smokers. It is declared to be the policy of the Nassau County Board of Health to give preferential consideration to non-smokers where disputes arise.

**Section 2.**     **Regulation of Smoking.**

- A. Except as otherwise provided in this Article, no person shall smoke or carry a lighted cigar, cigarette, pipe or any other form of smoking object or device in:
- (1) Public areas of indoor facilities and indoor areas used by the public including, but not limited to: arenas, auditoria, businesses and offices, clubhouses, courthouses, elevators, gymnasia, impatient health care facilities and hospitals, lecture halls, libraries, limousines or buses used to transport the public, medical diagnostic centers, movie houses, museums, public means of mass transportation, public restrooms, public waiting rooms, retail or wholesale premises which offer foodstuffs for sale, schools, spas and health clubs, swimming pools, taxicabs, theaters, and areas of any municipal (political subdivisions of the State of New York) facilities, except in designated areas.
  - (2) Places of employment: except that
    - a. An employer may designate for smoking totally-enclosed offices occupied solely by smokers.
    - b. A smoking section may be established in a cafeteria, lounge or lunchroom that is physically separate from work areas, but in no case shall it exceed 25 percent of capacity.

- (3) Bowling establishments: bowling lanes, scoring and spectator areas.
  - (4) Facilities open to the public to exhibit motion pictures, stage plays, musical presentations, athletic events, or other performances or events shall confine smoking to the area of the premises commonly known as the lobby, provided that the latter is physically separated from the performance area and has been designated for smoking.
  - (5) Movie houses: the message SMOKING IS PROHIBITED or equivalent thereof shall be shown on the screen in conjunction with each showing of the feature presentation.
  - (6) Restaurants, diners and other establishments in which food is served; except in designated areas for smoking not to exceed 25 percent of the seating capacity.
- B. No area may be designated for smoking where prohibited by the Nassau County Fire Prevention Ordinance or by regulation of another agency having jurisdiction.
  - C. Smoking restrictions in this Article will not apply to those portions of a facility in which private social functions are being held and seating arrangements are under the control of the sponsor of the function and not the owner or operator of the facility.
  - D. Smoking restrictions in this Article will not apply to bars where service of food is incidental nor to bar areas in restaurants and other establishments where food is served.

Section 3. Posting of Signs.

SMOKING IS PROHIBITED, EXCEPT IN DESIGNATED AREAS or NO SMOKING signs, using the international NO SMOKING symbol - - consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be prominently and conspicuously posted in every place where smoking is regulated by this Article, by the owner, by the operator, manager or other person having control of such place. SMOKING PERMITTED signs shall be posted as above, except they shall have a green circle. Such signs shall be protected from tampering, damage, removal or concealment.

Section 4. Additional Responsibilities of Management.

The person in charge of the facility shall also be responsible to:

- A. Place receptacles between smoking and no-smoking areas.
- B. Enforce this Article by requesting compliance from patrons verbally or by presenting a Commissioner's Message Card, and by prohibiting employees from smoking, except in designated areas.
- C. Develop and implement a plan of compliance which specifies area(s) where smoking is prohibited, and where smoking is permitted, if any. The plan must include the manner in which this information is conveyed to the public and all employees. The plan shall be available for inspection by the Commissioner of Health or his designees.

Section 5. Inspection and Enforcement.

- A. The owner, operator, manager, or person in charge of the facility shall permit the Commissioner of Health or his designees entrance to the facility to determine compliance with this Article.
- B. The Commissioner of Health or his designees shall be authorized to serve official notices of violation of this Article.

Section 6. Violations.

- A. The owner, operator, manager, or person in charge of a facility who fail to comply with any provision of this Article shall be deemed to be in violation.
- B. An individual smoking or carrying a lighted cigar, cigarette, pipe, or any other form of smoking object or device in areas in which smoking is prohibited shall be deemed to be in violation.

Section 7. Waivers.

The Commissioner of Health, or a person specifically designated by him, shall have the authority to grant a waiver from a specific provision of this Article, in a particular case, subject to appropriate conditions, where such waiver is in harmony with the general purposes and Declaration of Policy of this Article. Waivers shall be valid for not more than 24 months and may be renewed upon application.

Section 8.      Effective Date.

Adopted by the Nassau County Board of Health on July 14, 1987, effective January 4, 1988.

HISTORICAL NOTE: Replaces the original Article VIII, adopted August 13, 1980, revised October 7, 1980, effective December 1, 1980 and repealed January 31, 1986; and the subsequent Article VIII adopted November 6, 1985, effective February 1, 1986, revised January 10, 1986, March 11, 1986, September 16, 1986, and repealed January 3, 1988.

MEMORANDUM:      The present Article VIII of the Nassau County Public Health Ordinance, adopted November 6, 1985, is to be repealed in its entirety and replaced by this new Article VIII.

**NASSAU COUNTY PUBLIC HEALTH ORDINANCE**

**ARTICLE IX**

**SOLID WASTE MANAGEMENT FACILITIES**

HISTORICAL NOTE: Adopted June 6, 1983, eff. July 1, 1983. Article IX repealed in its entirety January 10, 1986 eff. February 1, 1986.

**NASSAU COUNTY PUBLIC HEALTH ORDINANCE**

**ARTICLE X**

**GROUNDWATER PROTECTION**  
**REGULATION OF SEWAGE AND INDUSTRIAL WASTEWATER**

**Section 1.**      **Declaration of Policy.**

The United States Environmental Protection Agency has designated Nassau County groundwaters as sole-source aquifers. The New York State Department of Environmental Conservation has designated the best usage of all groundwaters in Nassau County as a source of portable water supply. Several areas within Nassau County have been identified which are relatively undeveloped and recharge high quality water to the underlying groundwater aquifers which are the prime sources of present and future drinking water for county residents. The areas are therefore now designated Special Groundwater Protection Areas.

It is declared to be the policy of the Nassau County Board of Health to control the amount and types of wastewater being discharged to these aquifers from Special Groundwater Protection Areas in order to preserve the quality of these aquifers and thereby allow for their continued availability as sources of high quality drinking water.

**Section 2.**      **Statement of Purpose.**

It is the intent and purpose of this Article to preserve the quality of the aquifers receiving recharge from areas which have been designated as Special Groundwater Protection Areas. This will be done by requiring new residential subdivisions and new residential developments utilizing individual sewerage systems to provide a net area of at least 40,000 square feet per dwelling unit. For new non-residential developments, the average daily design rate of sewage discharged per square foot of net area can be no more than 0.00375 gallons.

The above requirements, except as provided in this Article, shall also apply to any building or structure resulting from the alteration of and/or addition to an existing building or structure where such alteration and/or addition is of a type which requires prior approval by the local municipality and/or issuance of a new or modification of an existing New York State Pollutant Discharge Elimination System (SPDES) permit or to any existing building or structure for which a change of usage in whole or part, as determined by the Commissioner and/or the local municipality, is proposed. The above requirements shall not apply where the alteration of and/or addition to an existing single family residence or dwelling unit will not result in the creation of one or more additional single family residences, one or more additional dwelling units or a change of usage in

whole or part. Finally, the discharge within these special areas of any industrial wastewater, whether or not it has received treatment, is prohibited.

Section 3. Definitions.

- a. Commissioner shall mean the Commissioner of Health of the Nassau County Department of Health.
- b. Condominium shall mean individual ownership of real property for residential use held in the condominium form of ownership under Article 9B (The Condominium Act) of the Real Property Law of the State of New York.
- c. Cooperative Apartment or Building shall mean a residential structure or structures whose tenants are simultaneously stockholders of the corporation that owns the structures and the real estate. In lieu of rent, each pays a proportionate periodic fixed rate to cover capital retirement and operating costs.
- d. Department shall mean the Nassau County Department of Health.
- e. Developer shall mean any person or group of persons, or any legally cognizable entity or entities or any combination of the foregoing, who is undertaking or participating in the establishment of a residential subdivision, residential development, or non-residential development:
  - (1) either individually, or
  - (2) pursuant to a common scheme, plan or venture.
- f. Dwelling shall mean any building or structure which is wholly used or intended to be used for living or sleeping by human occupants.
- g. Dwelling Unit shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating.
- h. Individual Sewerage System shall mean septic tanks and sub-surface leaching facilities with a maximum design capacity of 30,000 gallons per day serving only a single parcel and disposing of sanitary sewage or other liquid waste into the soil of such parcel.
- i. Industrial Wastewater shall mean water treated or non-treated prior to discharge, containing wastes resulting from any process of industry, manufacture, trade, business or profession, or from the development or recovery of any natural resources.

- j. Multiple Dwelling shall mean any dwelling containing more than one (1) dwelling unit.
- k. Net Area shall mean that area of a tract of land intended for development remaining after deducting areas dedicated to rights-of-way, water supply well sites operated by a public agency and stormwater basins.
- l. Non-residential Development shall mean one or more parcels intended or being used, either wholly or partly, for non-residential purposes or any tract of land located wholly or partially within the County of Nassau which has been divided into two or more identifiable parcels for purposes which are either wholly or partly non-residential.
- m. Parcel shall mean a single building plot, site, or unit which is located wholly or partially within the County of Nassau.
- n. Public Sewer System shall mean the pipes and conduits used for conveying sewage to a location for treatment and disposal wherein all owners of abutting properties have equal rights and which is controlled by a governmental agency.
- o. Residential Development shall mean one parcel or two, three, or four contiguous parcels and intended for or being used for residential purposes or any tract of land located wholly or partially within the County of Nassau which has been divided into two, three, or four identifiable parcels, each of 5 acres or less, for residential purposes. Without limiting the generality of the foregoing, the term “residential” shall include temporary, seasonal, and permanent residential use.
- p. Residential Subdivision shall mean a subdivision as defined in Section 1115 of the Public Health Law of the State of New York and Section 17-1501 of the Environmental Conservation Law of the State of New York and as such statutes may be amended from time to time.
- q. Right-of-Way shall include all roads whose primary purpose is to allow the passage of motor vehicles and shall be assumed to be a minimum of 50 feet in width except as otherwise approved by the Department.
- r. Sewage shall mean water containing the usual water-carried wastes from toilets, water closets, urinals, bathtubs, shower baths, wash basins, laundry tubs, kitchen sinks, and similar plumbing fixtures and shall not include any other liquid or solid matter whatsoever.
- s. Sewage Collection and Treatment System shall mean the structures, devices and processes installed or used for the purposes of collecting, treating and disposing of sewage and sewage residues or sludge.



- t. Single Family Residence shall mean any building or structure consisting of a single dwelling unit.
- u. Special Groundwater Protection Areas shall mean geographic areas, as designated by the Nassau County Board of Health, under this Article where the recharge water is of high quality and contributes to an aquifer system which serves as a source of drinking water for public water supply or has such potential and whose land surface is substantially undeveloped at the time of designation.
- v. Stormwater Basin shall include those open areas set aside for the collection and/or recharge of stormwater runoff as well as the rights-of-way which provide direct access to them.
- w. Tract shall mean any body of land, including contiguous parcels of land, under one ownership or under common control of any group of persons acting in concert as part of a common scheme or plan. A tract of land which is intended for development as one parcel, or has been divided, shall constitute a residential subdivision, residential development or a non-residential development notwithstanding:
  - (1) the method or purpose of such division, or the allowable types of use applicable to such tract, whether commercial, residential, industrial, or other authorized use under local ordinances, and
  - (2) the method used to describe such tract, whether by metes and bounds, or by reference to a map of the property, or otherwise.

Section 4. Requirements for Approval of Plans.

- a. Plans for new residential subdivisions and new non-residential developments shall be consistent with the provisions of this Article and shall be subject to approval by the Department in terms of these provisions.
- b. Plans for all new residential developments shall be consistent with the provisions of this Article and shall be subject to approval, in terms of these provisions, by the various jurisdictions in Nassau County having such authority.
- c. The approval of plans by the Department and/or a local municipality having such authority for any building or structure where all or part of such building or structure is proposed for a change of usage, as determined by the Department and/or the local municipality, or where such building or structure would result from the alteration of and/or addition to an existing building or structure where such alteration and/or addition is of a type which requires prior approval by the local municipality and/or issuance of a new or modification of an existing SPDES permit shall be consistent with the provisions of this Article. Such buildings or

structures shall, except where otherwise excluded by this Article, be considered to be new and are to satisfy the requirements for individual sewerage systems contained in Sections 5, 6 or 7 of this Article according to the category into which such buildings or structures would fall.

- d. Plans shall provide for individual sewerage systems except where a public sewer system is available, as determined by the Department.

Section 5. Individual Sewerage System Requirements for New Single Family Residential Subdivisions and New Single Family Residential Developments located wholly or partially within a Special Groundwater Protection Area.

Individual sewerage systems may be approved as the method of sewage disposal for new single family residential subdivisions and new single family residential developments located wholly or partially within a Special Groundwater Protection Area provided the following conditions are met:

- a. the number of dwelling units may not exceed one (1) per 40,000 square feet of net area, and
- b. the subdivision or development, or any portion thereof, is not located within the service area of an existing public sewer system, and
- c. the subdivision or development is located in an area where subsoil and/or groundwater conditions are conducive to the proper functioning of individual sewerage systems, as determined by the approving authority.

Section 6. Individual Sewerage System Requirements for New Residential Subdivisions and New Residential Developments which are other than Single Family and located wholly or partially within a Special Groundwater Protection Area.

Individual sewerage systems may be approved as the method of sewage disposal for a new residential subdivision, other than single family, or a new residential development, other than single family, and multiple dwelling housing, condominiums and cooperatives located wholly or partially within a Special Groundwater Protection Area provided all the following conditions are met:

- a. the number of dwelling units may not exceed one (1) per 40,000 square feet of net area, and

- b. the subdivision or development, or any portion thereof, is not located within the service area of an existing public sewer system, and
- c. the subdivision or development is located in an area where subsoil and/or groundwater conditions are conducive to the proper functioning of individual sewerage systems as determined by the approving authority.

Section 7. Individual Sewerage System Requirements for New Non-Residential Developments located wholly or partially within a Special Groundwater Protection Area.

- a. Individual sewerage systems may be approved as the method of sewage disposal for a new non-residential development located wholly or partially within a Special Groundwater Protection Area, except for industrial wastewater discharges as provided for in paragraph b of this Section, provided the following conditions are met:
  - (1) the average daily design rate of sewage discharged per square foot of net area, as determined by the Commissioner, may be no more than 0.00375 gallons, and
  - (2) the development, or any portion thereof, is not located within the service area of an existing public sewer system, and
  - (3) the development is located in an area where subsoil and/or groundwater conditions are conducive to the proper functioning of individual sewerage systems, as determined by the approving authority.
- b. A public sewer system method of disposal is required for industrial wastewater and sewage from a new non-residential development which will discharge industrial wastewater, whether or not treated, when the development, or any portion thereof, is located wholly or partially within a Special Groundwater Protection Area.

Section 8. Individual Sewerage System Requirements when Changes of Usage, Alterations, and/or Additions to Existing Buildings or Structures located wholly or partially within a Special Groundwater Protection Area are Proposed.

Any building or structure which results from the alteration of and/or addition to an existing building or structure where such alteration and/or addition is of a type which requires prior approval by the local municipality and/or issuance of a new or modification of an existing SPDES permit, and any existing building or structure which has undergone a change of usage, in whole or part, as determined by the Commissioner and/or the local municipality, shall be deemed a new building or new structure and governed by the

requirements for individual sewerage systems contained in Sections 5, 6 or 7 of this Article according to the category into which such building or structure would fall.

The preceding shall not apply where the alteration of and/or addition to an existing single family residence or dwelling unit will result in neither the creation of additional single family residences, additional dwelling units nor a change of usage.

Section 9. Designation of Special Groundwater Protection Areas.

Special Groundwater Protection Areas are to be designated by resolution of the Nassau County Board of Health for the purpose of implementing this Article and are described in Attachment Numbers 1 and 2 to this Article which delineate the boundaries of the areas.

Section 10. Exceptions.

Requirements of this Article shall not apply to:

- a. residential subdivisions which, though not constructed, have been approved after 1979 and before January 8, 1985 by the Department or the New York State Department of Health, and have been filed in the Office of the Clerk of the County of Nassau;
- b. residential and non-residential developments which, though not constructed, have been approved by the Department before January 8, 1985;
- c. residential and non-residential developments which have been officially approved by a local municipality having jurisdiction prior to January 8, 1985 and which met the Department's requirements in effect at that time.

Section 11. Responsibilities of the Commissioner.

The Commissioner shall have the following responsibilities relative to the implementation of this Article:

- a. grant a waiver from a specific provision of this Article, in a particular case, subject to appropriate conditions, where such waiver is in harmony with the general purposes and intent of this Article as enunciated in Section 1 and 2 of this Article;
- b. provide to developers and other interested persons information reasonably needed relative to the Special Groundwater Protection Area boundaries.

A fee may be charged for such information to cover the direct cost of providing the service.

- c. develop procedures and forms as may be necessary to effectively implement the requirements of this Article.

Section 12.    Effective Date.

This article shall become effective on March 1, 1988.

Historical Note: Adopted by the Nassau County Board of Health on  
December 12, 1984; effective January 8, 1985,  
Amended January 5, 1988; effective March 1, 1988.

ATTACHMENT NO. 1

Article X

SPECIAL GROUNDWATER PROTECTION AREAS  
NORTH HILLS AREA  
TOWN OF NORTH HEMPSTEAD  
NASSAU COUNTY

- : Beginning at the point of intersection of the Queens/Nassau boundary and the northern boundary of the Northern State Parkway, follow,
- : Northern State Parkway east to the point where it intersects southern boundary line of the Village of North Hills.
- : East on southern Village boundary line to the eastern boundary of Shelter Rock Road.
- : North on Shelter Rock Road to northern boundary of the L.I. Expressway.
- : East on L.I. Expressway to south-eastern corner boundary of Christopher Morley Park.
- : North-west along the eastern and northern boundary of Christopher Morley Park to the point of meeting between the north-west corner of the park and Searingtown Road.
- : West directly across Searingtown Road to the northern boundary line of the Village of North Hills.
- : Generally west along the northern boundary of Village of North Hills to the point of contact with Shelter Rock Road.
- : South-west across Shelter Rock Road to the eastern side of Brinkerhoff Lane opposite Third Street.
- : South on the east side Brinkerhoff Lane to southern boundary of Fourth Street.
- : West on Fourth Street to the western boundary of Clapham Avenue.
- : North on Clapham Avenue to the southern boundary of Centre Drive.
- : West on Centre Drive to the eastern boundary of East Drive.
- : South on East Drive to the southern boundary of South Drive.

- : West on South Drive to the western boundary of West Drive.
- : North on West Drive to the intersection of Northern Boulevard (25A).
- : West along the southern boundary of Northern Boulevard (25A) to Community Drive.
- : South along the eastern boundary of Community Drive to the point directly opposite the point of meeting between Community Drive and the north-east corner boundary of the Fresh Meadow Country Club.
- : West across Community Drive to the north-east corner boundary of the Fresh Meadow Country Club.
- : Generally south west along the northern boundary of the Country Club to the point of meeting with the east side of Lakeville Road.
- : South along the east side of Lakeville Road to the southern boundary of the L.I. Expressway.
- : West along the southern boundary of L.I. Expressway to the Nassau/Queens boundary line.
- : South along the County line to the point or place of beginning at Northern State Parkway.

Historical Note: Adopted by the Nassau County Board of Health  
 December 12, 1984, effective January 8, 1985;  
 Amended August 11, 1987, effective September 1, 1987.

ATTACHMENT NO. 2

Article X

SPECIAL GROUNDWATER PROTECTION AREAS  
NORTHEASTERN AREAS OF THE  
TOWN OF OYSTER BAY  
SOUTHEASTERN AREAS OF THE TOWN OF NORTH HEMPSTEAD  
NASSAU COUNTY

- : Beginning at a point where the Northern State Parkway intersects with the north side of Jericho Turnpike proceed:
- : East along the northern boundary of Jericho Turnpike to Underhill Boulevard.
- : North along the western boundary of Underhill Boulevard to a point of intersection with the eastern boundary line of the Village of Muttontown.
- : Generally north along the Village boundary line to a point due west of Belvedere Drive.
- : East along the northern boundary of Belvedere Drive to a point of intersection with Split Rock Road.
- : East across Split Rock Road to the northern boundary of Sagamore Drive.
- : Generally northeast on Sagamore Drive to the point of intersection with Somerset Place.
- : North along the western boundary of Somerset Place to the point of intersection with the southern boundary of the Village of Oyster Bay Cove.
- : Generally east along the Village of Oyster Bay Cove boundary line to Berry Hill Road (South Oyster Bay Road).
- : South on eastern boundary of Berry Hill Road to Renee Road.
- : East on northern boundary of Renee Road to Cold Spring Road.
- : Northeast on northern boundary of Cold Spring Road to South Woods Road (Piquets Lane.)
- : South along the eastern boundary of South Woods Road (Piquets Lane) to Woodbury Road.



- : South on the eastern boundary of Woodbury Road to L.I. Expressway.
- : East along the northern boundary of the L.I. Expressway to the point on intersection with the Northern State Parkway.
- : East along the northern boundary of Northern State Parkway to the point of intersection with Plainview Road.
- : South along the eastern boundary of Plainview Road to the point of intersection with the L.I. Expressway.
- : East along the northern boundary of the L.I. Expressway to the Nassau/Suffolk County line.
- : North along the Nassau/Suffolk line to Northern Boulevard (25A).
- : West along the southern boundary of Northern Boulevard (25A) to Moores Hill Road.
- : West along southern boundary of Moores Hill Road to Oyster Bay Cove Road.
- : North along western boundary of Oyster Bay Cove Road to East Main Street.
- : West along southern boundary of East Main Street to the point of intersection with the western boundary line of the Village of Oyster Bay Cove.
- : South along the western boundary line of the Village of Oyster Bay Cove to the point of intersection with the north-east corner of the Pine Hollow Country Club.
- : Generally south along the western boundary of the Pine Hollow Country Club to Northern Boulevard (25A).
- : West along northern boundary of Northern Boulevard (25A) to Pine Hollow Road (Oyster Bay Road).
- : South on the eastern boundary of Pine Hollow Road to the point of intersection with the northern boundary line of the Village of Muttontown.
- : Generally northwest along the northern boundary line of the Village of Muttontown to the point of intersection with the eastern boundary line of the Village of Upper Brookville.
- : Generally north along the eastern boundary of the Village of Upper Brookville to the western boundary of Pine Hollow Road.
- : North along the western boundary of Pine Hollow Road to a point of intersection with the eastern boundary line of the Village of Upper Brookville (opposite High

Street).

- : Generally north along the eastern boundary of the Village of Upper Brookville to Lake Avenue.
- : North on the western boundary of Lake Avenue to West Shore Drive.
- : North on the western boundary of West Shore Drive to Cleft Road.
- : West on the southern boundary of Cleft Road to Feeks Lane.
- : West on the southern boundary of Feeks Lane to Locust Valley-Bayville Road.
- : North on the western boundary of Locust Valley-Bayville Road to Horse Hollow Rd.
- : West on the southern boundary of Horse Hollow Road to Lattingtown Road.
- : Generally northwest on the southern boundary of Lattingtown Road to Dosoris Lane.
- : South on the eastern boundary of Dosoris Lane to Old Tappen Road.
- : East on the northern boundary of Old Tappen Road to the western boundary line of the Village of Lattingtown.
- : Generally southeast along the southern boundary line of the Village of Lattingtown to the point of intersection with the northern boundary line of the Village of Matinecock.
- : West along the northern boundary line of the Village of Matinecock to a point of intersection with the southeast corner of the Nassau Country Club.
- : North along the eastern boundary line of the Nassau Country Club to Forest Avenue.
- : West along the northern boundary of Forest Avenue to a point of intersection with the northwest corner of the Nassau Country Club.
- : Generally south along the western boundary of the Nassau Country Club to Highland Boulevard (Pearsall Avenue).
- : South on the eastern boundary of Highland Boulevard (Pearsall Avenue) to Duck Pond Road.
- : East along the northern boundary of Duck Pond Road to Viola Drive.
- : South on the eastern boundary of Viola Drive to Frost Pond Road.

- : West on the southern boundary of Frost Pond Road to a point of intersection with the southern boundary line of the City of Glen Cove.
- : Generally southwest along the southern boundary line of the City of Glen Cove to the point of intersection with the Long Island Railroad.
- : South along the Long Island Railroad to the southwest corner of the Glen Head Country Club (Hill Lane):
- : East along the northern boundary of Hill Lane, Hill Drive, Cove Drive and Glen Cove Drive to a point of intersection with the north side of Villa Place:
- : East along the north side of Villa Place to the point of intersection with the western Boundary line of the Village of Old Brookville.
- : Generally south along the western boundary line of the Village of Old Brookville to a point of intersection with the Oyster Bay/North Hempstead Town line.
- : Southeast on the Town line to a point of intersection with the northwestern boundary line of the Village of Old Westbury.
- : Generally south along the western boundary line of the Village of Old Westbury to the south side of the Long Island Expressway (Old Westbury Road).
- : West on the South Service Road of the Long Island Expressway (Old Westbury Road) to the Northern State Parkway exit road to the Long Island Expressway.
- : South along the Northern State Parkway exit road to the point of intersection with the western boundary line of the Village of Old Westbury.
- : Generally south along the western boundary line of the Village of Old Westbury to a point of intersection with the northeast corner of the Wheatley Hills Golf Club.
- : West along the northern boundary of the Wheatley Hills Golf Club to the point of intersection with the western boundary line of the Club.
- : Generally southeasterly along the western boundary line of the Wheatley Hills Golf Club to the point of intersection with the southern boundary line of the Club.
- : East along the southern boundary line of the Wheatley Hill Golf Club to the point of intersection with the western boundary line of the Village of Old Westbury.
- : Generally south along the western boundary line of the Village of Old Westbury to the point or place of beginning at Jericho Turnpike and the Northern State Parkway.

Historical Note: Adopted by the Nassau County Board of Health  
December 12, 1984, effective January 8, 1985;  
amended August 11, 1987, effective September 1, 1987.

**NASSAU COUNTY PUBLIC HEALTH ORDINANCE**

**ARTICLE XI**

**TOXIC AND HAZARDOUS MATERIALS STORAGE, HANDLING AND CONTROL**

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Section 1. Declaration of Policy.

The State designated best use of all groundwaters of Nassau County is as a source of drinking water. The federal government has officially designated Nassau County groundwaters as sole source aquifers for water supply. In addition, the surface waters of the County are extensively used for fishing, swimming and clamming. Therefore, it is hereby declared to be the policy of Nassau County Board of Health to require the use of all available practical methods to prevent and control water pollution caused by toxic and hazardous materials so as to maintain the quality of the groundwater and surface water resources as near to their natural conditions of purity as reasonably possible and thus safeguard the health of the public.

Section 2. Statement of Purpose.

It is the intent and purpose of this Article to safeguard the water resources of the County of Nassau from contamination by toxic and hazardous materials including petroleum products by preventing pollution from the more than 100 million gallons of toxic and hazardous materials currently being stored, transferred, or used by various residential, commercial and industrial facilities. The discharge of these toxic and hazardous materials is caused by leaking tanks, improper storage and handling, as well as accidental spills. The potential for these discharges will be effectively reduced by requiring that proper storage and handling are provided; that new tanks meet rigid standards; and that all tanks are routinely tested and inspected to ensure compliance.

Section 3. Definitions.

Whenever used in the Article, unless otherwise stated, the following terms shall have the indicated meanings:

- a. Abandonment means leaving containers, tanks, pipes, vehicles containing toxic or hazardous materials unattended in terms of:
  - 1) Relinquishment or termination of possession, ownership, or control by the owner thereof, or;
  - 2) Remaining out of service for one (1) year or more, or;
  - 3) Declaration by the owner that control will be discontinued.
  
- b. Aboveground when referring to tanks, means more than 90 percent of the volume located or situated above the final ground surface.

- c. Bulk Storage means the loose or bagged storage of dry or semidry materials.
- d. Commissioner means the Commissioner of the Nassau County Department of Health.
- e. Container means any portable device in which toxic or hazardous material is stored, transported, treated, disposed of, or otherwise handled.
- f. Department means the Nassau County Department of Health and also any person employed by the Nassau County Department of Health and authorized by the Commissioner to carry out the provisions of this article.
- g. Discharge means to release by any means or to relinquish control in a manner that could result in a release to the surface waters, groundwaters, surface of the ground or below the surface of the ground. Discharge includes, but is not necessarily limited to, the following, either singly or in any combination:
  - 1) Leaks from the failure of a storage facility;
  - 2) Spills during transport or transfer of toxic or hazardous materials;
  - 3) Disposal of soils, sand, or debris containing toxic or hazardous materials;
  - 4) Disposal of toxic or hazardous materials to: storm drains, roof drains, sewer systems, or any other drainage system or leaching system;
  - 5) Burial, land-spreading or dumping anywhere, but not limited to landfills and scavenger facilities, of toxic or hazardous materials or waste.
- h. Discovery means either actual discovery or knowledge of the existence of a storage facility or part thereof, or possession of sufficient knowledge of the facts and circumstances involved so that the existence of the storage facility or part thereof should have been discovered.
- i. Disposal means the discharge, deposition, injection, dumping, incinerating, spilling, leaking, or placing of any toxic or hazardous material into or on any land or water so that such toxic or hazardous material or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.
- j. Double-walled means constructed with more than one containment layer having space between the layers that completely surrounds the inner containment



chamber sufficient to allow monitoring of any leakage into or out of the confined space.

- k. Facility or Storage Facility means one or more tanks, containers, pipes, fittings, connections, vaults, buildings, yards, pavements or other structures used or designed to be used, either singly or in any combination, for the storage and/or transfer of toxic or hazardous materials or for the storage and/or transfer of portable containers containing toxic or hazardous materials. A facility may include aboveground or below ground tanks, containers, bulk storage areas, or any combination thereof as well as any appurtenant structures.
- l. Impervious means possessing the quality equivalent to a layer of natural and/or man-made material of sufficient thickness, density and composition so as to prevent the discharge into the underlying ground, groundwater or adjacent surface water of any toxic or hazardous substances for a period of at least as long as the maximum anticipated time during which the toxic or hazardous substances will be in contact with the material, and sufficient to allow complete recovery of any spilled product with minimum disturbance of the containment material.
- m. Industrial Waste Transporter means a person in the business of collecting and transporting industrial wastes who possesses a current, valid industrial waste transporter permit issued by the New York State Department of Environmental Conservation.
- n. New York State Discharge Standards means effluent standards, and/or limitations as found in Title 6, Parts 701-703 of the Official Compilation of Codes, Rules and Regulations of the State of New York and as they may be amended.
- o. Out-of-Service, means not in use, meaning no regular filling or drawing; or not being maintained, meaning lacking adherence to the requirements of this Article; or uncontrolled, meaning not attended or secured; or any combination thereof.
- p. Person means an individual, trust, firm, joint stock company, corporation, partnership, municipality, or association.
- q. Petroleum means any petroleum-based or partly or wholly synthetically constituted oil of any kind which is liquid at 20°C under normal atmospheric pressure and has been refined, rerefined, otherwise processed, contaminated in any way or used, including, but not limited to, that which is suitable for use as a motor fuel or lubricant in the operation or maintenance of an engine, a fuel

utilized for the generation of heat or usable energy, all fuel oils, hydraulic fluids, antifreeze, and cutting oils.

- r. Pollution means the presence in the ambient environment of conditions and/or contaminants in quantities or characteristics, which are or may be injurious to human, plant, animal life or to property, or which, unreasonably interferes with the comfortable enjoyment of life and property.
- s. Product-tight means chemical or physical imperviousness of a vessel to the material which is or could be contained therein so as to prevent the seepage of the product through the container.
- t. Secondary Containment means containment space which prevents any materials spilled or leaked from reaching the land or water outside the containment area before cleanup occurs.
- u. Single-Walled means constructed with walls made of but one thickness of material. Laminated, coated, or clad materials shall be considered as single-walled.
- v. Storage means the containment of any material, for any length of time, in such a manner as not to constitute a disposal of such material.
- w. Substantial Modifications shall mean the construction of any additions or changes to an existing storage facility or restoration, refurbishment or renovation which:
  - 1) increases or decreases the in-place storage capacity of the facility;
  - 2) alters the physical configuration; or
  - 3) impairs or affects the physical integrity of the facility or its monitoring systems.

The repair or replacement of a piping system or other existing equipment will not be considered as a substantial modification.

- x. Substantially Complete means that construction has progressed to the point that changes cannot readily be made to bring the facility into compliance with the requirements of this Article without substantial reconstruction or difficulty.
- y. Tank means a stationary device, designed to contain an accumulation of material and which is constructed primarily of nonearthen materials (i.e., wood, concrete,

steel, plastic) which also provide structural support.

- z. Tightness Test means a test which will determine if a tank and/or piping system is tight or not tight. The test must be capable of detecting a leak as small as five hundredths (0.05) of a gallon in one hour accounting for variables.
  
- aa. Toxic or Hazardous Material means any substance, solution or mixture including petroleum products which, because of its quality, quantity or concentration, its physical, chemical, or infectious characteristics, or any combination of the foregoing, presents or may present an actual or potential hazard to human health, or a threat to the quality of the drinking water supply or a threat to surface water quality, if such substance, solution, mixture or combination thereof is discharged directly or indirectly to the land or waters of the County of Nassau. Toxic or Hazardous Materials shall be as determined by the Commissioner and shall also include any solid or semisolid material which, if left to stand or if exposed to water or other materials will leach out or wholly or partially dissolve forming a toxic or hazardous material.
  
- bb. Toxic or Hazardous Wastes means toxic or hazardous materials as defined in Section 3.11., excluding antifreeze, generated by or as the result of operations of any manufacturing or other industrial or medical facility or commercial establishment, which toxic or hazardous materials are not actually used in a final product for sale or use or in the production of such products, and shall also include those toxic or hazardous materials retained as by-products of the operations within such manufacturing or other industrial or commercial establishment for the purpose of recouping salvage value. All toxic and hazardous wastes are toxic and hazardous materials.
  
- cc. Underground when referring to tanks means 10 percent or more of the volume located or situated below the final ground surface.

Section 4. Powers of the Commissioner.

- a. The Commissioner may make, or cause to be made, any investigation or study which, in his opinion, is desirable for enforcing the provisions of this Article or controlling or reducing the potential for pollution of the groundwaters or surface waters of the County from toxic or hazardous materials.
  
- b. The Commissioner shall prepare regulations and may from time to time prepare revisions to such regulations to properly implement the provisions of this Article, to include technical requirement, administrative procedures, forms, and schedule

of fees for services, provided that such regulations are consistent with this Article and are adopted by the Nassau County Board of Health.

- c. The Commissioner may order the owner or any other person in possession or control of any land, structure or equipment, or agent of such owner or other person, to take whatever action is necessary, to bring said land, structure, or equipment into compliance with the provisions of this Article. Such action may include, but is not necessarily limited to the following, either singly or in any combination thereof:
  - 1) ordering tank testing or the testing of the physical integrity of pipes or any other part of a storage facility or ordering the physical testing of the integrity of an entire storage facility;
  - 2) ordering the removal of the contents of a tank, portable container, storage facility, or any part thereof;
  - 3) ordering the removal, abandonment, or reconstruction of any tank, storage facility, or any part thereof installed in contravention of any of the requirements of this Article.
  - 4) ordering that physical improvements be performed on any tank, storage facility or part thereof before permitting it to be returned to service including, but not limited to, such improvements as tank lining removal and replacement, and bottom and structural repairs;
  - 5) ordering the preparation of and/or implementation of contingency plans for emergencies, if there is evidence that such plans may be necessary to protect the public from toxic or hazardous materials stored at any particular facility;
  - 6) ordering the posting of a performance bond or other security acceptable to the Commissioner, if the evidence indicated to the Commissioner's satisfaction, that such may be necessary to protect the public from any actual or potential adverse health and safety effects of operating such a facility;
  - 7) establishing special requirements for any permit issues in accordance with the provisions of this Article;
  - 8) ordering the testing by the owner or operator of the contents of any tank, portable container, pipe or storage or transfer facility to establish if the contents are a toxic or hazardous material; and,
  - 9) ordering that employees of the Department be provided access to any and all portions of a facility for the purpose of determining compliance with all provisions of this Article.
- d. The Commissioner may lower the quantity limitations listed in Section 7 – Exemptions for specific toxic or hazardous materials where necessary to protect

the public health.

- e. When a leak of toxic or hazardous materials or wastes is suspected or appears probable, or where tests or inspections have not been performed, or where accurate inventory records are not kept and reconciled as required by this Article, the Commissioner may order the owner or operator to inspect and to test the tanks or equipment for tightness and structural soundness. If the owner or operator fails to conduct such tests and inspections within ten (10) days, the Department may conduct, or have conducted, such inspections or tests for tightness or structural soundness. The expenses of conducting such tests as ordered by the Commissioner shall be paid by the facility owner and or any other person in possession or control of said facility.

Section 5. Prohibited Discharges, Transporting and Disposal.

- a. No person shall discharge toxic or hazardous materials or wastes in Nassau County, without a State Pollutant Discharge Elimination System (SPDES) Permit or a permit issued by the Department for that purpose and without being in compliance with all provisions of that permit.
- b. No person shall pick up, transport, or dispose of toxic or hazardous waste in Nassau County without having a valid and appropriate New York State industrial waste transporter's permit or a permit issued by the Department for that purpose and without being in compliance with all provisions of that permit.
- c. Any permitted industrial waste transporter shall maintain a copy of the permit on each vehicle operated by said transporter, at all times.
- d. No person shall generate, store or transfer toxic or hazardous waste in Nassau County without a valid permit issued by the New York State Department of Environmental Conservation and/or the Department for that purpose and without being in compliance with all provisions of that permit.

Section 6. Permits and Registration.

- a. No person shall use, operate, construct, install, or substantially modify a storage facility, or part thereof designed, used for, or containing toxic or hazardous materials and waste without having registered all tanks at the facility with the Department and without having obtained a valid construction or operation permit therefor issued under this Article. All petroleum storage facilities with a total storage capacity greater than 1,100 gallons must be registered with the

Department by December 27, 1986.

- b. Any person in possession of or acting pursuant to a permit issued under the provisions of this Article shall not undertake, allow, or cause, any act in contravention of any provision of the permit and of this Article.
- c. No permit to construct or operate a storage facility as required pursuant to this Article shall be issued by the Department unless and until the prospective permittee.
  - 1) has provided a listing to the Department of all of the toxic or hazardous materials and waste that are or will be stored at the storage facility, including the chemical names of all substances or combinations or mixtures thereof by container or tank and quantity; and,
  - 2) has demonstrated in writing that said storage facility complies with all of the provisions of this Article; and,
  - 3) has registered all tanks with the Department in accordance with the requirements of this Article.
- d. Any permit issued pursuant to this Article shall be effective only for the specified duration of time indicated thereon, not to exceed five (5) years from the effective date thereof.
- e. Any permit issued pursuant to this Article may be combined with other permits issued by the Department. The decision to combine permits rests solely with the Department.
- f. Plans for new construction or substantial modifications to existing facilities must be prepared by a licensed professional engineer proficient in such manners.

Section 7. Exemptions.

- a. Toxic or hazardous materials
  - 1) Tanks for the storage of toxic or hazardous materials which meet all of the following criteria shall be exempt from all provisions of this Article except for those contained in Sections 3 – Definitions; 4 – Powers of the Commissioner; 5 – Prohibited Discharges; 7 – Exemptions; 9.a.10) and 9.a.11) – General, 9.b.2)a) – New Facilities; 10.b.1) – New Facilities; 15.a. and 15.c. – Reporting, Records, Cleanup; 17 – Posting and Labeling; 18 – Waivers; 19 – Effective Date; and the Regulations adopted thereunder.

- a) The materials so stored are not toxic or hazardous wastes, and
  - b) the total storage capacity of the tanks is less than 50 gallons for any halogenated hydrocarbons, and
  - c) the total storage capacity of the tanks is less than 250 gallons for any other toxic or hazardous materials.
- 2) Containers for the storage of toxic or hazardous materials which meet all of the following criteria shall be exempt from all provisions of this Article except those contained in Sections 3 – Definitions; 4 – Powers of the Commissioner; 5 – Prohibited Discharges; 7 – Exemptions; 9.a.10) and 9.a.11) – General, 9.b.2)a) – New Facilities; 15.a. and 15.c. – Reporting, Records, Cleanup; 17 – Posting and Labeling; 18 – Waivers; 19 – Effective Date, and the requirements adopted thereunder.
- a) The materials so stored are not toxic or hazardous wastes, and
  - b) the total storage capacity of the containers is less than 50 gallons for any halogenated hydrocarbons, and
  - c) the total storage capacity of the containers is less than 250 gallons for any other toxic or hazardous materials, and
  - d) the containers are stored within a weathertight, heated structure.
- 3) All storage of toxic and hazardous materials in containers of five gallon capacity or smaller, where the total capacity stored at any time does not exceed 250 gallons or where the dry storage in bags, bulk or small containers does not exceed 2,000 pounds, is exempt from all provisions of this Article unless specifically ruled otherwise by the Commissioner on a case-by-case basis as inconsistent with the intent of this Article.
- 4) All storage of toxic or hazardous materials in tanks or containers which are covered by the provisions of the Nassau County Fire Prevention Ordinance are exempt from all provisions of this Article.
- 5) All existing fuel oil storage facilities with a capacity of 1100 gallons or less which are used solely for on-site space heating purposes shall be exempt from all provisions of this Article, except for Sections 3 – Definitions; 4 – Powers of the Commissioner; 5 – Prohibited Discharges; 7 – Exemptions; 9.a.2), 9.a.10) and 9.a.11) – General; 15.a. and 15.c. – Reporting, Records, Cleanup; 18 – Waivers; 19 – Effective Date, and any Regulations adopted thereunder.
- 6) All new and replacement underground fuel oil storage facilities with a capacity of 1100 gallons or less used solely for on-site space heating purposes shall be exempt from all provisions of this Article except for Sections 3 – Definitions; 4 – Powers of the Commissioner; 5 – Prohibited Discharges; 7 – Exemptions; 9.a.2), 9.a.10) and 9.a.11) – General, 9.b.2.a) – New Facilities; 10.b. – New facilities; 15.a. and 15.c. – Reporting, Records, Cleanup; 18 – Waivers; 19 – Effective Date, and any Regulations adopted thereunder.

- 7) All new and replacement aboveground fuel oil storage facilities with a capacity of 1,100 gallons or less used solely for on-site heating shall be exempt from all provisions of this Article except for Sections 3 – Definitions; 4 – Powers of the Commissioner; 5 – Prohibited Discharges; 7 – Exemptions; 9.a.10) and 9.a.11) – General, 9.b.2)a) – 11.b New Facilities; 15.a. and 15.c. – Reporting, Records, Cleanup; 18 – Waivers; 19 – Effective Date, and any Regulations adopted thereunder.
- 8) All aboveground and underground petroleum storage facilities which are oil production facilities, facilities licensed under Article 12 of the Navigation Law, or facilities regulated under the federal Natural Gas Act are exempt from all provisions of this Article.

b. Toxic or Hazardous Wastes

- 1) All storage of toxic and hazardous wastes except medical wastes in tanks and containers which meet all of the following criteria shall be exempt from all provisions of this Article except those contained in Sections 3 – Definition; 4 – Powers of the Commissioner; 5 – Prohibited Discharges; 7 – Exemptions; 9.a.10) and 9.a.11) – General, 9.b.2)a) – New Facilities; 15.a. and 15.c. – Reporting, Records, Cleanup; 17 – Posting and Labeling; 18 – Waivers; 19 – Effective Date, and the Regulations adopted thereunder.
  - a) The total generation per month, and storage or accumulation at any time is less than 100 kilograms of hazardous waste, and
  - b) for industrial or commercial establishments the total storage or accumulation at any time is 27.5 gallons or less of liquid wastes which if disposed or discharged would be in noncompliance with a New York State Department of Environmental Conservation State Pollution Discharge Elimination System (SPDES) Permit if said permit were to be issued.
- 2) Medical wastes generated in a private home by a resident of the home or by a person providing care to a resident of the home shall be exempt from regulation by this ordinance if the waste is disposed of from the home.

Section 8. Transfer of Permits Prohibited.

No person shall transfer a permit issued pursuant to Section 6 of this Article from one location to another, from one storage facility to another, or from one person to another. Any permit transferred in violation of this section shall be deemed null and void, and without any effect whatsoever as of the date of said unlawful transfer. However, upon making proper application, a new owner of a facility which was previously operating



under a valid permit may continue the same operation under the terms of the old permit until such time as the new permit is issued or denied.

Section 9. Storage and Transfer Facilities.

a. General

- 1) All storage facilities or parts thereof must be equipped with a means of calculating product delivery and consumption. Accurate records must be kept of all deliveries and consumption and the figures reconciled daily in an approved manner. Any unusual inventory variations greater than 3/4 of 1 percent shall be immediately reported to the Department.
- 2) No person shall abandon or render out-of-service any storage or transfer facility or part thereof without doing so in accordance with requirements adopted under this Article.
  - a) Forms of surety or financial assurances may be required by the Department to ensure proper closure of the facilities. The amount of such financial assurances will be set by the Commissioner.
- 3) No person shall sell or transfer to another an improperly abandoned storage or transfer facility or land containing these facilities unless the purchasing party has been made fully aware in writing of such improper abandonment.
- 4) The owner or other person in possession or control of a storage or transfer facility or part thereof shall no render it out-of-service unless said storage facility or part thereof is planned to be returned to active service within one (1) year of its placement out-of-service, it is returned to active service within said one (1) year pursuant to the provisions of this Article, it is drained of all liquid, the fill line, gauge opening and discharge line are capped and blind flanged and secured against tampering, and the vent line is left open.
- 5) No person shall place toxic or hazardous materials in an abandoned or out of service storage facility.
- 6) No person shall bring an out-of-service storage or transfer facility back into service without the written approval of the Department.
- 7) No person shall repair, alter or prepare for use or bring back into service any abandoned storage or transfer facility without first obtaining a permit from the Department.
- 8) The owner or other person in possession or control of a storage or transfer facility or part thereof or the real property on or in which it is situated shall upon discovery of abandonment:
  - a) Immediately remove all toxic or hazardous materials, and;

- b) Within 90 days permanently remove the storage or transfer facility, or part thereof, in accordance with the requirements adopted under this Article unless approval is granted by the Commissioner to do otherwise.
- 9) No person shall replace or cause the replacement of any storage or transfer facility or part thereof for any reason without complying with the new storage or transfer facility Regulations adopted under this Article.
- 10) When a storage or transfer facility or part thereof is found to be leaking, it must immediately be emptied of all contents therein contained and rendered out-of-service by the owner or his agent unless written approval is specifically granted by the Department to do otherwise.
- 11) The owner or other person in possession or control of a leaking storage or transfer facility or part thereof shall not cause or permit the leaking portion to remain in service or to continue to retain its toxic or hazardous material contents after said owner or other person in possession or control knows or should know of the existence of the leak.

b. New Facilities

- 1) For the purpose of this Article a new storage or transfer facility shall be one for which construction is not substantially complete by the effective date of this Article.
- 2) No person shall fabricate, construct, install, sell, use, put into service, or maintain a new storage or transfer facility or part thereof:
  - a) in a manner which will allow the discharge of toxic or hazardous materials to the ground, groundwaters, or surface waters of Nassau County; and
  - b) without previously having submitted plans therefore to the Department, and without having received approval of said plans; and
  - c) without providing proof of compliance with the plans submitted to and approved by the Department. Proof of compliance shall include a certification by a licensed professional engineer stating that the construction is in complete compliance with the approved plans; and
  - d) without complying with all Regulations adopted under this Article with respect to but not limited to, materials of construction, overflow protection, spill protection, monitoring and leak detection, cathodic protection, weather and moisture protection, secondary containment, and certification of installation.

c. Existing Facilities

- 1) For the purpose of this Article an existing storage or transfer facility shall be one for which construction was substantially complete by the effected date of this Article.
- 2) No person shall substantially modify, cause or allow the substantial modification of any existing storage or transfer facility:
  - a) without previously having submitted plans therefore to the Department and without having received approval of said plans; and
  - b) without providing proof of compliance with the plans submitted to and approved by the Department. Proof of compliance shall include certification by a licensed professional engineer that the construction is in complete compliance with the approved plans; and
  - c) without complying with all Regulations adopted under this Article.
- 3)
  - a) No person shall use or maintain the existence of any existing storage or transfer facility without modifying the facility or repairing any defects in said storage facility so as to comply with all requirements adopted under this Article including, but not limited to, overfill protection, spill protection, monitoring and leak detection, cathodic protection, secondary containment and interior coating.
  - b) All modification of storage and transfer facilities for products covered under this Article except existing underground storage facilities, existing on the effective date of this Article shall be completed in accordance with a schedule to be developed in the Regulations adopted under this Article but in no event later than January 1, 1996.
  - c) All storage and transfer facilities which cannot be modified in accordance with the Regulations adopted under this Article and the schedule developed in the Regulations shall be replaced in accordance with the requirements for new storage and transfer facilities.

Section 10. Underground Storage Facilities.

a. General

- 1) In addition to the requirements of this section, all underground storage facilities must conform to the requirements of Section 9.
- 2) All underground storage facilities or parts thereof must be provided with a means of monitoring frequently and accurately for any leakage or spillage that

may occur. All leak detection systems and tanks shall be monitored by the facility operator on a weekly basis and the results recorded and kept with the product inventory records. Leak detection and monitoring must conform to the Regulations adopted under this Article.

b. New Facilities

- 1) All new underground storage tanks, including all piping, shall be double walled or equivalent and in accordance with all requirements adopted under this Article. All new underground storage facilities of less than 1,100 gallons storage capacity used solely for on site space heating purposes may be of single walled fiberglass construction. All tanks and appurtenances are to be installed in a professional and workmanlike manner in accordance with manufacturer's recommendations. The determination of equivalency shall rest solely with the Department.
- 2) A means of overfill protection shall be provided for all new underground storage facilities or parts thereof and for all replacement underground storage facilities or parts thereof. Overfill protection shall consist of either an overfill protection device or a product-tight containment capable of intercepting and preventing the release to the ground, groundwater, or surface water of an overfill spill and shall be in accordance with the Regulations adopted under this Article.
- 3) All new underground storage facilities must be tested for tightness in accordance with Regulations adopted under this Article before being placed in service.

c. Existing Facilities

- 1) All underground storage facilities existing on August 1, 1986 which do not meet the requirements for new tanks, must be tested and inspected at the following frequency:

Testing Schedule (Corrodible and Noncorrodible Tanks)

<u>Age of Tank</u>	<u>Test Date (Initial)</u>
25 years or greater	August 1, 1987
10 years to 24 years	December 27, 1987
5 years to 9 years	August 1, 1991 or on 10 <sup>th</sup> anniversary, whichever is sooner
0 to 4 years	within 6 mos. of 5 <sup>th</sup> anniversary

Note: Underground storage tanks that contain #5 or #6 Fuel Oil and that are 10 years of age or older are exempt from the above Initial Testing Schedule and are required to be initially tested by December 27, 1988.

Repeat Testing

Corrodible Tanks

Tanks 20 years of age or older, retest every year; tanks less than 20 years of age, retest every 2 years.

Noncorrodible Tanks

Test every 5 years, after initial test.

- 2) Testing and inspection for tightness shall include all tanks, piping, fittings, valves and connections for the facility.
- 3) If for any reason testing satisfactory to the Department cannot be performed, the storage facility must be rendered out of service or brought up to the requirements for new storage facilities.
- 4) Testing and inspection shall be done in accordance with the Regulations adopted under this Article and shall be recorded on a Certificate of Test Completion supplied by or acceptable to the Department.
- 5) Certificates of Test Completion and other supporting material shall be prepared by the tester and submitted to the Department within thirty (30) days after completion of the testing.
- 6) Certificates of Test Completion shall be prepared and all testing performed by a tester whose qualifications are acceptable to the Department. Acceptance of qualifications will be based on submission of proof that the tester has received training and/or certification from a recognized school or agency or other proof of training, experience or expertise in testing underground tanks.
- 7) All existing underground storage facilities shall be replaced or modified so as to be in accordance with the requirements for new storage facilities in

accordance with the following schedule. The age of a tank is the age measured from the date of installation as of August 1, 1986.

Replacement Schedule

<u>Age of Tank in Service</u>	<u>Replace Tank by:</u>
30 years or older	August 1, 1990
25 years to 29 years	August 1, 1993
20 years to 24 years	August 1, 1996
15 years to 19 years	August 1, 1999
Less than 15 years	August 1, 2005

Section 11. Aboveground Storage Facilities.

a. General

- 1) In addition to the requirements of this section all aboveground storage facilities must conform to the requirements of Section 9.

b. New Facilities

- 1) No person shall construct, fabricate, install, use or maintain any new aboveground storage facility without providing a positive means of detecting an overfilling condition therein before any spillage can occur, which detection system shall include but no be limited to, alarms both visible and audible at a point on the premises most frequently manned. The overflow point must be clearly visible to the operator filling the facility where possible or an operator of the receiving facility when the fill point is remote from the receiving facility.
- 2) No person shall fabricate, construct, install, use or maintain any new aboveground storage facility sitting on the ground and making contact therewith or partially buried in the ground, unless and until the exterior surface of the areas in contact with the ground are cathodically protected in accordance with the requirements adopted under this Article.
- 3) All tanks and appurtenances are to be installed in a professional and workmanlike manner and in accordance with industry standards. All piping to and from the storage facility are to be protected from corrosion in accordance with the Regulations adopted under this Article.

- 4) No person shall fabricate, construct, install, use, or maintain any new aboveground storage facility or part thereof without having constructed around and under it an impervious containment and dike enclosing the storage facility and provided leak detection in accordance with the Regulations adopted under this Article.
- 5) For aboveground 275-gallon capacity petroleum product storage tanks used solely for heating purposes at single-family residences, a concrete pad extending six inches from the outside boundaries of the tank may be utilized to satisfy secondary containment provisions.

c. Existing Facilities

- 1) All existing aboveground storage tanks sitting on or in the ground and making contact therewith shall be drained, cleaned, sand blasted, tested and repaired, and the interior bottom coated to prevent corrosion in accordance with the Regulations adopted under this Article. The above shall be completed in accordance with the permit but in no event more than five years from the effective date of this Article.
- 2) All existing aboveground storage tanks which are in contact with the ground shall be equipped with overfill protection and cathodic protection in accordance with the Regulations adopted under this Article. Overfill and cathodic protection shall be installed in accordance with the permit but in no event more than five years from the effective date of this Article.
- 3) Any existing aboveground storage facility operator, owner, lessee or person shall inspect their tanks and file an acceptable Proof of Inspection with the Department in accordance with the Regulations adopted under this Article. Aboveground storage facilities or parts thereof sitting on the ground and in contact therewith shall be emptied and cleaned to facilitate inspection of portions thereof not accessible from the outside. Inspections shall be performed at frequencies not to exceed five years.
- 4) Inspection shall include all tanks, piping fittings, valves and connections of the facility.
- 5) If for any reason an inspection to demonstrate compliance with the provisions of this Article and to determine the integrity of tank(s) cannot be performed, the tank(s) must be removed from service or brought up to the requirements for new tanks.
- 6) Inspections shall be done in accordance with the Requirements adopted under this Article and shall be recorded on a Proof of Inspection form supplied by or acceptable to the Department.

- 7) Proof of Inspection shall be submitted to the Department within thirty (30) days after the inspections and before the tank is refilled.
- 8) Proof of Inspection shall be prepared and all inspections performed by a person or firm whose qualifications are acceptable to the Department. Acceptance of qualifications will be based on submission of proof that the inspector has received training and/or certification from a recognized school or agency, or other proof of training, experience or expertise in inspecting tanks.

Section 12. Transfer Operations.

- a. In addition to the requirements of this section, all transfer facilities must conform to the requirements of Section 9.
- b. No person shall transfer, cause the transfer or permit the transfer of toxic or hazardous materials to or from a storage facility, part thereof or vehicle, where conditions at the transfer facility are inadequate in the judgment of the Department at the time of said transfer to ensure a safe transfer operation without the likelihood of occurrence of spills, leaks, or other accidents.
- c. All transfer facilities shall be constructed so that all possible points of overflow are visible from the loading and unloading locations, and the vehicle, or the portion thereof receiving the delivery shall have adequate capacity to contain the amount of toxic or hazardous material being transferred or to be transferred, and a person performing or causing said transfer shall insure by some reliable means that the vehicle, storage facility or part thereof has adequate capacity and capability to contain the amount of toxic or hazardous material being transferred or to be transferred.
- d. All transfer facilities shall be in full compliance with all provisions of the permit for the facility and all Regulations adopted under this Article.
- e. All transfer facilities shall be constructed with a level of spill protection equivalent to that provided by a fill stand area completely paved and curbed with an impervious material and drained to a holding tank of adequate size to contain any spill that could reasonably be expected to occur from the normal operation of the facility, and roofed so as to exclude precipitation which would otherwise tend to fill the holding tank.



Section 13. Bulk Storage of Toxic or Hazardous Materials.

- a. In addition to the requirements of this section, all bulk storage facilities must conform to the requirements of Section 9.
- b. No person shall fabricate, construct, install, modify, repair, use, maintain, or operate, any bulk storage facility or part thereof without doing so in a manner that will prevent the toxic or hazardous materials contained therein from coming into contact with precipitation or other sources of moisture and so as to prevent the development of an explosive, incendiary, or other hazardous or dangerous condition; and without:
  - 1) Providing for the segregation of potentially reactive chemicals which are toxic or hazardous materials or which may react so as to form toxic or hazardous materials, which reaction may present or cause a hazardous or dangerous condition; and without,
  - 2) Providing for and storing bagged toxic or hazardous materials on pallets, and within a roofed structure which prevents precipitation from reaching the bags; and without,
  - 3) Providing an impervious floor without floor drains with a surrounding impervious dike so as to provide containment for hazardous or toxic materials generated from firefighting; and without,
  - 4) Providing for adequate security so as to protect the storage facility and toxic or hazardous contents therein from vandalism and accident; and without,
  - 5) Complying with any other requirements adopted under this Article.
- c. Road deicing salt and other deicing materials or mixtures containing salt or other deicing materials must be stored in an approved permanent, weathertight, enclosed structure on an impervious floor. Outside areas used for mixing of road deicing salts or other deicing materials with abrasives shall have an impervious pad designed to collect and store the brine runoff for proper disposal in accordance with federal, State and local requirements. Brine shall not be discharge onto the ground, into the groundwater, or into any body of fresh surface water. An approved structure may not be required for the storage of road deicing material when such storage is located on or near a body of marine surface water, and when all brine runoff can be discharged directly into the marine surface water in accordance with Federal, State and local requirements. The deicing material must be stored on an impervious, diked pad and covered with a properly secured, waterproof material to minimize any discharge of brine runoff to the marine surface waters. The storage of road deicing salt, other deicing materials or

mixtures shall also be in compliance with the provisions of the permit issued for each facility and all Regulations adopted under this Article.

Section 14. Containers.

- a. In addition to the requirements of this section, all container storage facilities must conform to the requirements of section 9.
- b. No person shall fabricate, construct, install, operate, or otherwise create a container storage facility or part thereof containing toxic or hazardous materials, without doing so in a manner to prevent the discharge of any of the toxic or hazardous contents of the containers therein to the ground, groundwaters or surface waters of Nassau County, and without:
  - 1) First having submitted satisfactory plans and specifications therefore to the Department for approval; and without,
  - 2) Constructing, installing, fabricating, operating or otherwise creating said storage facility in accordance with the reports, specifications and plans submitted and approved by the Department; and without,
  - 3) Constructing, fabricating, installing, operating, or otherwise creating a storage facility or part thereof in accordance with the Regulations adopted under this Article.
- c. The owner or other person in possession or control of a container storage facility shall comply with all Regulations adopted under this Article.
- d. No person shall repair or modify or cause or permit said repairs or modifications of a container storage facility or part thereof for the storage of toxic or hazardous materials without performing said repairs or modifications or having them performed, pursuant to plans and specifications previously submitted to and approved by the Department.

Section 15. Reporting, Records, Cleanup.

- a. The owner or other person in possession or control of any storage or transfer facility or part thereof, or any person with knowledge of such events, shall report by the fastest means possibly any unauthorized discharge, spill, leak, or recognizable loss of toxic or hazardous materials therefrom, or the failure of said storage facility, to the Department within two (2) hours of the time such owner or other person had sufficient evidence that he or she knew or should have known of said unauthorized discharge, spill, leak, loss, or failure. A report to the

Department shall not be deemed to constitute compliance with any reporting requirement of any other federal, State, or local law.

- b. The owner or other person in possession or control of any storage or transfer facility or part thereof shall keep records in writing reflecting the types and amounts of toxic or hazardous materials stored in the said storage or transfer facility or part thereof at any given time. These records shall be stored in a manner to provide access to them during an emergency.
  - 1) The owner or other person in possession or control of any storage or transfer facility or part thereof shall keep records of the disposal or other transfer in or out of the said storage or transfer facility or part thereof, such records reflecting the types and amounts of toxic and hazardous materials involved in the transfer.
  - 2) No person required to keep records by any provision of this Article shall fail to make said records available for inspection by the Commissioner or his representative, for at least five (5) years from the date of the event, occurrence, or transaction recorded. Copies of all records shall be provided to the Department when requested.
  - 3) No person required to keep records by any provision of this Article shall fail to keep, record, and maintain said records in accordance with Regulations adopted under this Article.
  - 4) No person shall fail to submit a report of the types and amounts of toxic or hazardous materials stored in a storage facility upon request of the Commissioner and to periodically update said report on a frequency to be determined by the Commissioner.
  
- c. It shall be the responsibility and obligation of any person or owner, in possession or control of any facility discharging toxic or hazardous materials who causes or permits the discharge of any toxic or hazardous material to the ground, groundwaters or surface waters of Nassau County to cease said discharge, to reclaim, recover and/or properly dispose of the discharged toxic or hazardous material and any other substance contaminated therefrom, to restore the environment to a condition and quality acceptable to the Department, and to repair any damages caused thereby, all to the satisfaction of the Department. Cleanup shall be in accordance with a remedial plan previously submitted to and approved by the Department.
  - 1) No person required by the provisions of this Article, or by any order of the Commissioner, shall fail to reclaim, recover, or otherwise dispose of,

discharged toxic or hazardous materials and other substances contaminated therefrom and/or to restore the environment to the condition that existed prior to the discharge of toxic or hazardous materials thereto, or to fail to perform said required acts pursuant to any Regulations adopted under this Article.

- 2) No person shall store toxic or hazardous materials without first having a standard operating procedures (SOP) for handling of said materials acceptable to the Department and a copy of such SOP posted in all areas where hazardous materials are used and/or stored. All provisions of the SOP shall be followed.
- d. It shall be the responsibility of all Towns, Cities, and Villages in Nassau County to insure compliance with all requirements of the Article and all Regulations adopted thereunder by requiring applicants to obtain approvals from the Department on all matters covered by this Article prior to issuance of any permits or approvals by the local jurisdiction.
  - e. All persons having information relating to tanks, including, but not limited to, sales, installation, leakage and testing of same, are required to report this information to the Department upon request of the Commissioner.

Section 16. Confidentiality of Records.

- a. If any information identified by the owner as confidential relating to secret processes, or methods of manufacture or production, is obtained in the course of an inspection or investigation, or submitted to the Department, it shall be kept confidential except for the use and purpose of the Department in the enforcement of the provisions of this Article.
- b. In the event that a person claims to be unable to file complete reports and/or plans and specifications on the grounds that it relates to and is part of a secret process or method of manufacture or production, an affidavit signed by an authorized person must be filed with the Department describing:
  - 1) Location of the process or equipment, identifying the building and the section or part of the building in which it is located;
  - 2) In general terms, the name of the process equipment;
  - 3) Means to be employed for the control of water contaminants;
  - 4) Nature and estimated rate of discharge of contaminants to the ground or surface waters;
  - 5) Authority of the person signing the affidavit;
  - 6) A sworn statement that the installation is related to a secret process or method of manufacture or production. In the event any such affidavit is filed, the

Department shall determine the extent to which an exemption should be granted. Any information relating to secret processes, methods of manufacture or production which may be required, ascertained or discovered by the Department shall not be disclosed, and shall be kept confidential.

Section 17. Posting and Labeling.

- a. The owner or other person in possession or control of any place, building, land, or thing shall not store toxic or hazardous materials therein or thereon without conspicuously posting a notice on the premises warning of the presence of such materials and providing any safety information necessary to protect the public and assist emergency response personnel in carrying out their responsibilities.
- b. No person shall use, maintain or operate any storage facility or part thereof without:
  - 1) Clearly labeling the specific contents of each portable container conspicuously on said container; and
  - 2) Clearly labeling the specific contents of each aboveground tank conspicuously thereon; and
  - 3) Clearly labeling the specific actual, intended and possible contents of piping associated with any storage facility or part thereof at or near the points of filling or drawing; and
  - 4) Conspicuously posting on the premises of the facility any permit issued pursuant to this Article; and
  - 5) Posting additional signs, upon request of the Commissioner, on the premises with sufficient information on the types and quantities of toxic and hazardous materials stored to assist emergency response personnel. The number, location, size and wording of these signs shall be approved by the Department.
- c. No person shall falsely post or label any container or storage facility or post an invalid permit.
- d. All labels and posting of information and/or signs shall be in accordance with the Regulations adopted under this Article.

Section 18. Waivers.

- a. For those Facilities of over 1100 gallons storage capacity containing Petroleum products as defined in Section 3(q), a waiver may be granted by the Commissioner only for those provisions pertaining to new or substantially

modified facilities.

- b. For those Facilities that have a total storage capacity for Petroleum products of 1,100 gallons or less or those facilities or tanks that do not store petroleum products as defined in Section 3(q), the Commissioner may waive any requirement, mandate, prohibition or time limitation imposed by the provisions of this Article or any procedure, standard, requirement or order generated thereunder.
- c. Requests for waivers must be made in writing and include sufficient information so that a determination that the request for a waiver is in accordance with the intent of this Article may be made.

Section 19.    Effective Date.

This Article shall become effective on February 1, 1986.  
Amended July 25, 1986. Effective August 1, 1986.

**NASSAU COUNTY PUBLIC HEALTH ORDINANCE**

**ARTICLE XI**

**TOXIC AND HAZARDOUS MATERIALS STORAGE, HANDLING AND  
CONTROL**

**REGULATIONS**

Effective August 1, 1986  
(Amended September 16, 1986  
Amended October 7, 1986  
Amended May 10, 1989  
Amended December 15, 1989  
Amended January 12, 1990  
Amended April 1, 1992  
Amended October 1, 1998)

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Section

1.0 Definitions

1.1 Toxic or Hazardous Materials

Toxic or hazardous materials shall include but not be limited to the following:

- (i) Each and every substance, material or waste found listed in either 40 CFR Part 261, or 40 CFR Part 302, or 6 NYCRR Part 371;
- (ii) Acids, alkalis and solutions having a pH range less than or equal to 2.0 or greater than or equal to 12.5;
- (iii) All materials which exhibit the characteristics of hazardous waste (ignitability, corrosivity, reactivity and EP toxicity) as identified in 40 CFR Part 261 or 6 NYCRR Part 371;
- (iv) Petroleum products, including fuels and waste oils;
- (v) Organic chemical solvents, including petroleum solvents, halogenated, and non-halogenated hydrocarbons;
- (vi) Any solution of materials listed in Schedule I of 6 NYCRR 703.6 in excess of the concentration standards thereof, except for iron, manganese, foaming agents and pH unless otherwise provided elsewhere in this definition or this Article and its requirements;
- (vii) Regulated medical wastes as described in Section 1.2;
- (viii) Heavy metal sludges, mixtures and solutions;
- (ix) Any solid or semisolid material which, if left to stand or if exposed to water will leach out or wholly or partially dissolve forming a toxic or hazardous material as defined in subdivisions (i) through (viii) of this subsection;
- (x) Any substance not included within subdivisions (i) through (ix) of this subsection subsequently declared to be a toxic or hazardous material by the Commissioner.

1.2 Regulated Medical Waste

Regulated Medical Waste shall be defined as:

- (i) Cultures and stocks of infectious agents and associated biologicals, including cultures from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate and mix cultures;
- (ii) Pathological wastes, including tissues, organs and body parts that are removed during surgery or autopsy;
- (iii) Liquid waste human blood and products of blood; items saturated and/or dripping with human blood; or items that were saturated and/or dripping with human blood that are now caked with dried human blood; including serum, plasma and other blood components and their containers which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals. Intravenous bags are also included in this category;
- (iv) Sharps that have been used in animal or human patient care or treatment or in medical, research or industrial laboratories, including hypodermic needles, syringes (with or without the attached needle), pasteur pipettes, broken glass and scalpel blades;
- (v) Contaminated animal carcasses, body parts, and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals, or testing of pharmaceuticals.
- (vi) Wastes from surgery or autopsy that were in contact with infectious agents, including soiled dressings, sponges, drapes, lavage tubes, drainage sets, underpads, and surgical gloves.
- (vii) Laboratory wastes from medical, pathological, pharmaceutical, or other research, commercial, or industrial laboratories that were in contact with infectious agents, including slides and cover slips, disposal gloves, laboratory coats and aprons.

- (viii) Dialysis wastes that were in contact with the blood of patients undergoing hemodialysis or renal dialysis including contaminated disposable equipment and supplies such as tubing, filters, disposable sheets, towels, gloves, aprons and laboratory coats.
- (ix) Biological waste and discarded materials contaminated with blood, excretion exudates, or secretion from humans who are isolated to protect others from certain highly communicable diseases, or isolated animals known to be infected with highly communicable diseases.
- (x) The following unused, discarded sharps; hypodermic needles, suture needles, syringes and scalpel blades.
- (xi) Mixtures of refuse and/or nonregulated medical waste and regulated medical waste are considered to be regulated medical wastes.

1.3 Carrier means a person who transports and transfers toxic or hazardous material from one pipe, tank or storage area to another.

1.4 Cathodic Protection means corrosion protection for a metal tank or pipe by causing a continuous electric current to flow from one or more electrodes or a sacrificial anode to the protected structure.

1.5 Combined Storage Capacity or Total Storage Capacity means the sum of the design storage capacity of each tank at a facility which has not been permanently closed.

1.6 Corrodible Tank or Unprotected Tank means any underground tank which does not meet standards specified in Section 3.0 of these Regulations. Examples of corrodible tanks include but are not limited to bare steel tanks; steel tanks which have been rehabilitated with an interior lining; steel tanks with exterior coatings of paint, asphaltum or other similar material, steel tanks which have been retrofitted with cathodic protection; and permeable concrete encased bare steel tanks.

1.7 Corrosion Resistant or Noncorrodible when referring to an underground tank means any tank which meets standards for new underground tanks specified in section 3.0 of these Regulations. When referring to a pipe it means any pipe which meets standards for new underground pipe specified in section 19.0 of these Regulations.

- 1.8 Lining means a coating of a non-corrodible material resistant to the product stored and bonded firmly to the interior surface of the tank.
- 1.9 Spill or spillage means any escape of toxic or hazardous materials from the ordinary containers employed in the normal course of storage, transfer, processing or use.
- 1.10 Stationary Tank means all underground tanks or any aboveground tank which is non-mobile. Examples of stationary aboveground tanks include tanks which may rest on the ground or may be fixed or permanently in place on foundations, racks cradles, or stilts.
- 1.11 “Waters” or “waters of the state” shall be construed to include lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals. The Atlantic Ocean within the territorial limits of the State of New York and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the State or within its jurisdiction.
- 1.12 Working Capacity means total capacity of the tank less an allowance for expansion and freeboard.
- 1.13 Leak Monitoring System means a leak detection system as required in Sections 5.1.5, 5.1.6, 5.1.7, 5.1.8, 5.1.9, 5.1.10 and 5.2.1 of these Regulations.
- 1.14 Non-regulated medical waste means any waste generated from the treatment of patients which is not defined as regulated medical waste. This is not to include office or cafeteria waste.

Section

2.0 Storage of Toxic or Hazardous Waste

2.1 Storage Requirements

2.1.1 All storage areas shall have secondary containment provisions in accordance with Sections 8.0, 14.0 and 16.0 of these Regulations.

2.1.2 Any open tanks in a facility equipped with a sprinkler system shall be provided with head deflectors or automatic covers or the equivalent to prevent the overflow of the tanks.

- 2.1.3 All applicable building and fire codes must be met. Where there is a conflict between these requirements and any building or fire code the more stringent requirement shall apply.
- 2.1.4 Wastes are to be stored in tanks meeting the requirements of Article XI for new and existing tanks or in leakproof containers. All tanks or containers shall be compatible with the materials stored therein. Containers shall not be corroded or leaking and shall be tightly closed.
- 2.1.5 Wastes which deleteriously react with each other must not be stored or mixed together.
- 2.1.6 Waste containers or tanks must be labeled, numbered and distinctly coded and identified as to contents in accordance with the applicable Federal Department of Transportation regulations on hazardous materials under 49 CFR Part 172.
- 2.1.7 Drums containing waste must not be stacked more than two drums high and aisles must be provided so that all drums are accessible and visible for inspection.
- 2.1.8 Drums containing waste are to be stored a minimum of two inches off the ground to facilitate detection of bottom leaks.
- 2.1.9 Wastes which are stored outdoors shall comply with Section 7.0, Weather and Moisture Protection, of these Regulations, and shall be secured to prevent unknowing and unauthorized entry.

## 2.2 Removal of Wastes

Transportation of wastes off-site is to be done only by a New York State Registered Industrial Waste Transporter.

## 2.3 Records and Reports

- 2.3.1 Records must be kept on the premises and made available to the Department upon request. The records are to include:
  - (iv) Quantity and type of waste generated;
  - (v) Waste container inventory and identification, including starting date of collection for each tank or container;

- (vi) Waste removals by the Industrial Waste Transporter including container I.D. numbers and Industrial Waste Transporter I.D. numbers, final disposal site and copies of the manifest;
- (vii) Spill records including the date and time of the spill, persons notified, method of cleanup, material and spill residues, and method of disposal of all materials and residues.

The Department and other agencies must be notified of all spills or discharges in accordance with the provisions of Article XI and these Regulations, and

- (viii) Sampling results when required by permit.

2.3.2 All records shall be kept by the permittee for a minimum of three years.

2.3.3 An operating report summarizing the wastes generated and removed each year shall be prepared on a form satisfactory to the Department and shall be submitted to the Department no later than the fifteenth day of February of the following year.

## 2.4 Storage Tanks

Underground and aboveground storage tanks shall be in conformance with the provisions of Article XI and all applicable requirements of these Regulations.

## 2.5 Special Requirements for Regulated Medical Wastes

Regulated Medical wastes must be stored, handled and disposed of as described herein. All regulated medical wastes shall be segregated from non hazardous waste streams at all times with the exception of on site incineration at the generator.

### 2.5.1 Handling

- (i) All regulated medical wastes except sharps, shall be placed into plastic bags that are seamless, impervious, tear-resistant, and red in color labeled or imprinted with the name and address of the generator. All wastes and/or materials placed in red bags are presumed to be regulated medical wastes.

- (ii) Sharps shall be discarded directly into impervious, rigid, puncture-proof containers that are red in color and are marked with the universal biohazard symbol.
- (iii) Handling of regulated medical wastes shall be done in a manner to minimize the number of persons in contact with or exposed to those wastes.
- (iv) Regulated medical wastes or packages of same may not be compacted prior to final treatment.
- (v) Liquids, including blood, urine, etc. may be discharged into the sewer system if the facility is connected to a public sewer system and providing that the discharge will not be in violation of the sewer use ordinance. If liquids are not discharged into a public sewer system, they must be placed in a container and packaged with sufficient absorbent material to prevent the contents from discharging or leaking if the container is broken. After placement into the container with absorbent material, this package shall be placed into a red bag.
- (vi) Spills, leaks, broken bags, etc. of regulated medical wastes shall be immediately cleaned up and repackaged, and all surfaces which come into contact with the regulated medical wastes shall be disinfected in an approved manner.
- (vii) Laboratory wastes, serums, and vaccines (except sharps) may be autoclaved and disposed of in the nonhazardous waste stream provided a record is maintained of all autoclaved wastes, and autoclave test strips have been included with each batch of autoclaved wastes.

#### 2.5.2 Storage

- (i) The area where regulated medical waste is stored, including refrigerators and freezers, shall have limited access and be posted with the universal biohazard symbol.
- (ii) The bagged wastes must be placed within a rigid or semirigid container. All containers must be weathertight, rodent-proof and labeled with the



universal biohazard symbol. The containers must be securely closed and sealed.

- (iii) All unpreserved pathological wastes and animal carcasses must be stored under refrigeration (1° - 7°C, 34° - 45°F) up to a period of 72 hours. For storage time which exceeds 72 hours, these wastes must be stored in a freezer (at -10°C, 14°F or lower.) These wastes must not be removed from storage until immediately before disposal or treatment.
- (iv) All regulated medical wastes may be stored on-site unrefrigerated for a period up to 72 hours, with the exception described in 2.5.2 (iii). If storage time exceeds 72 hours, the regulated medical wastes must be refrigerated.

### 2.5.3 Transportation Within the Facility and Off-Site

- (i) Carts which are used to move regulated medical waste within the facility must be labeled with the universal biohazard symbol, frequently cleaned and disinfected and may not be used for other purposes.
- (ii) For movement within the facility, the waste must be double-bagged (red bags) or the bagged waste must be placed within a rigid or semirigid container.
- (iii) The time and route of transport within the facility should be selected to limit exposure to a minimum number of people.
- (iv) Generators with on-site incineration must provide contingency plans acceptable to the Department for alternatives in the event of equipment failure.
- (v) Any person who transports regulated medical wastes must have a valid and appropriate New York State Department of Environmental Conservation waste transporter's permit for that purpose and be in compliance with all provisions of that permit.

A generator of less than 50 pounds per month of regulated medical waste (or an employee of the generator) who is transporting that waste to a registered disposal facility is exempt from this requirement. That

generator must have on file with the New York State Department of Health an agreement with the disposal site to accept the generator's waste.

No vehicle used for the transportation of regulated medical wastes shall be leased or used for other purpose unless specifically approved by this Department.

- (vi) Transportation off-site of packaged regulated medical wastes to a disposal facility permitted or approved by the New York State Department of Environmental Conservation must be in closed, leakproof containers or vehicles which have been labeled with the universal biohazard symbol. For disposal at a facility outside of New York State, proof of authorization to accept these wastes shall be provided to the Department.
- (vii) Breakage or leaks which occur during transportation must be handled in accordance with Section 2.5.1 (vi).

#### 2.5.4 Disposal

All regulated medical wastes be incinerated at the generating facility unless otherwise approved by the Department.

### Section 3.0 Materials of Construction for New Storage Facilities

#### 3.1 Underground Tanks

Tanks that are part of a new facility, replacements in an existing facility, or are part of a substantially modified portion of an existing facility must be made of fiberglass reinforced plastic, or steel which is clad with fiberglass.

##### 3.1.1 Fiberglass reinforced plastic tanks

All fiberglass reinforced plastic underground storage tanks must be designed and manufactured in accordance with one of the following standards:

- (i) UL No. 1316; or,
- (ii) CAN4-S615-M83; or,
- (iii) ASTM D 4021

Fiberglass reinforced plastic tanks must be of sufficient structural strength to withstand normal handling and underground use and must be chemically compatible with the products, stored product additives and corrosive soils. Materials must be of sufficient density and strength to form a hard impermeable shell which will not crack, wick, wear, soften or separate under normal service conditions.

### 3.1.2 Steel tanks clad with fiberglass reinforced plastic

Underground storage tanks constructed of steel clad with fiberglass reinforced plastic must meet or exceed one of the following design and manufacturing standards:

- (i) ULC-603; or,
- (ii) UL-58

Tanks must be electrically insulated from the piping system with dielectric fittings, bushings, washers, sleeves or gaskets which are chemically stable when exposed to products stored, product additives, or corrosive soils.

Tanks must have an exterior fiberglass reinforced plastic shell bonded firmly to the steel. This must consist of a base coat of resin five (5) to eight (8) mils (0.005 to 0.008 inches) in thickness overlaid by two layers of resin with fiberglass reinforcement with a thickness of at least eighty-five (85) mils (0.085 inches) after rolling.

A final coat of resin must be applied to a thickness of ten (10) to fifteen (15) mils (0.01 to 0.015 inches). The thickness of the completed coating must be a minimum of one hundred (100) mils (0.1 inches) after curing. The coating's coefficient of thermal expansion must be compatible with steel so that stress due to temperature changes will not be detrimental to the soundness of the coating and a permanent bond between coating and steel is maintained.

The coating must be of sufficient density and strength to form a hard impermeable shell which will not crack, wick, wear, soften or separate and which must be capable of containing the product under normal service conditions in the event the steel wall is perforated. The coating must be noncorrodible under adverse underground electrolytic conditions and must

be chemically compatible with products and product additives.

The coating must be factory inspected for air pockets, cracks, blisters, pinholes and electrically tested at ten thousand (10,000) volts for coating short circuits or coating faults. Any defects must be repaired. The coating must be factory checked with a Barcol Hardness Tester or equivalent to assure compliance with the manufacturer's minimum specified hardness standard for cured resin.

### 3.1.3 Double-walled tanks

Tanks may be fabricated in double-walled construction in accordance with acceptable engineering practices. A double-walled tank must be designed and manufactured in accordance with all of the following standards:

- (i) The interstitial space of the double-walled tank can be monitored for tightness;
- (ii) Outer jackets made of steel must have a minimum thickness of ten (10) gauge and be coated as prescribed in Section 3.1.2 of these Regulations;
- (iii) There are no penetrations of any kind through the jacket to the tank except top entry manholes and fittings required for filling the tank, venting the tank, or monitoring the interstitial space;
- (iv) The jacket must be designed to contain an inert gas or liquid at a pressure greater than then maximum internal pressure or be able to contain a vacuum for a period of one (1) month.

### 3.1.4 Incompatibility

Waivers will be considered from the above requirements if it can be demonstrated beyond any reasonable doubt that the products or product additives stored are incompatible with any of the above tank materials or coatings. In such cases, equivalent protection must be provided.

### 3.1.5 Piping

Underground pipes must be made of fiberglass reinforced plastic or otherwise suitably protected against corrosion. Piping used in conjunction with double walled tanks shall be double walled or equivalent.

### 3.1.6 Labeling

All new underground tanks must bear a permanent label or plate affixed to the top of the tank near a lifting lug with the following information:

- (i) The standard of design by which the tank was manufactured;
- (ii) The types of products and volume of additives which may be stored permanently and compatibly within the tank or reference provided to a list available from the manufacturer which identifies products compatible with all tank material;
- (iii) The year in which the tank was manufactured;
- (iv) A unique identification number;
- (v) The dimensions, design and working capacity and model number of tank;
- (vi) The name of the manufacturer;
- (vii) Underwriters Laboratory identification number and
- (viii) A statement that the tank conforms to the requirements of 6 NYCRR 614 (for petroleum tanks only). A second permanent label which shows all of the information required above, and which also shows the date of installation must be conspicuously displayed and permanently affixed at the fill port. It must be readily visible to the carrier and may be imbedded in concrete, welded to the fill port, or otherwise permanently affixed.

The ends of the tank shall be stenciled with the following information and all letters and numbers to be a minimum of 1½ inches high

- (i) Tank manufacturer;

- (ii) Working capacity of the tank;
- (iii) Underwriters Laboratory identification number and;
- (iv) A statement that the tank conforms to the requirement of 6 NYCRR 614 as well as to the Nassau County Public Health Ordinance, Article XI (for petroleum tanks only).

### 3.1.7 Wear Plates

All tanks must have a ten (10) gauge or thicker steel wear plate on the floor of the tank under each tank opening. Each plate must cover an area of at least one hundred and forty-four (144) square inches and must be installed in a manner which avoids crevice corrosion.

### 3.1.8 Testing

All new tanks, their welds, seams and connecting fittings must be factory tested for tightness using standard engineering practices. All tanks sold for use in Nassau County must be guaranteed by the manufacturer to be tight.

## 3.2 Aboveground Tanks

New aboveground storage tanks must be constructed of steel, and meet one of the following design and manufacturing standards:

- (i) UL 142;
- (ii) UL 58;
- (iii) API Standard No. 650;
- (iv) API Standard No. 620;
- (v) CAN4-S601-M84; *or*
- (vi) CAN4-S630-M84.

Any aboveground storage tanks which are not constructed of steel or do not comply with the above requirements may not be installed unless previously approved by the Department in writing.

The exterior surfaces of all new aboveground storage tanks must be protected by a primer coat, a bond coat and at least two final coats of paint or have an equivalent surface coating system designed to prevent corrosion and deterioration.

Any new tank which is designed to rest on the ground must be constructed with a double bottom or underlain by an impervious barrier which has a permeability rate to water equal to or less than  $1 \times 10^{-6}$  cm per sec. and must not deteriorate in an underground environmental or in the presence of the product stored.

Bottoms of new steel tanks which rest on or in the ground must be cathodically protected. Cathodic protection must be in accordance with the requirements of Section 6.0, Subsections 6.2.; 6.3.; 6.4. and 6.5. of these Regulations.

Section 4.0 Spill and Overfill Protection

4.1 Flood Protection

Any facility located within the 100 year flood plain, or on a site which may be subject to flooding, must be safeguarded against buoyancy and lateral movement by flood or high ground waters in accordance with operating standards set forth in NFPA No. 30, and in accordance with good engineering practice and any state or local flood plain regulations. If such safeguards include ballasting of tanks with water during flood warning periods, tank valves and other openings must be closed and secured in a locked position in advance of the flood. Ballast water removed from the tank after the flood must not be discharged to any surface or groundwaters in contravention of any state or county requirements.

4.2 Responsibility for Transfer

The owner or other person in possession or control of any storage or transfer facility shall be responsible for all transfer activities and must employ practices for preventing transfer spills and accidental discharges. Prior to the transfer, the person performing or causing the transfer must determine that the receiving tank has available capacity and capability to receive the volume of product to be transferred. The person performing or causing the transfer must monitor every aspect of the delivery or transfer, and must take immediate action to stop the flow of product when the working capacity of the tank has been reached or should an equipment failure or emergency occur.

#### 4.3 Drainage

Storm water drainage systems shall be designed and constructed so as to eliminate or minimize the discharge of storm water contaminated because of spills or leaks. Storm water or any other discharge at a facility must be uncontaminated and free of sheen prior to discharge and comply with the provisions of Section 5(a) of Article XI.

#### 4.4 Color Coding of Fill Ports

Beginning one (1) year from the effective date of Article XI, the owner or operator must permanently mark all fill ports to identify the product inside the tank. These markings must be consistent with the color and symbol code of the American Petroleum Institute as follows:

##### Colors

(i)	High gasoline	Red
(ii)	Middle gasoline	Blue
(iii)	Lower gasoline	White
(iv)	Higher unleaded gasoline	Red w/white cross
(v)	Middle unleaded gasoline	Blue w/white cross
(vi)	Lower unleaded gasoline	White w/black cross
(vii)	Vapor recovery	Orange
(viii)	Diesel	Yellow
(ix)	#1 Fuel oil	Purple w/yellow bar
(x)	#2 Fuel oil	Green
(xi)	Kerosene	Brown

##### Symbols

- (i) a circle for gasoline products and vapor recovery lines;



- (ii) a hexagon for distillates; and
- (iii) a border must be painted around fuel products containing extenders such as alcohol. The border will be black around a white symbol and white around all other colors.

4.4.1 Monitoring wells must be permanently marked and identified as a “monitoring well.”

4.5 Gauges for aboveground storage tanks

All aboveground tanks must be equipped with a gauge which accurately shows the level of product in the tank. The gauge must be accessible and be installed so it can be conveniently read.

4.5.1 The design capacity, working capacity and identification number of the tank must be clearly marked on the tank and at the gauge.

4.5.2 A high level warning alarm, a high level liquid pump cutoff controller or equivalent device may be used in lieu of the gauge required in section 4.5.

4.6 Check valve for pump filled tanks

All fill pipes leading to a pump filled tank must be equipped with a properly functioning check valve or equivalent device which provides automatic protection against backflow. A check valve is required only when the piping arrangement of the fill pipe is such that backflow from the receiving tank is possible. New underground piping systems employing a suction pump must not be equipped with more than one check valve.

4.7 Operating valves for gravity drained tanks

Each tank connection through which product can normally flow must be equipped with an operating valve to control the flow. A valve which meets the standards set forth in NFPA No. 30, meets the requirements of this paragraph.

4.8 Level alarm systems for overfill

All tanks must be equipped with a positive means of detecting an overfill condition before any spillage can occur. The detection

system shall include, but not necessarily be limited to, both visual and audible alarms.

#### 4.8.1 Exemptions

All tanks which meet any of the following criteria are exempt from the audible and visual alarm system requirement:

- (i) Aboveground and underground tanks manually filled at the tank; or;
- (ii) Open top tanks whose liquid level is clearly visible to the operator filling the tank at all times, or;
- (iii) Translucent or transparent tanks whose liquid level is clearly visible to the operator filling the tank at all times.

#### 4.8.2 Components

The level alarm systems shall consist of, but not be limited to, a liquid level sensing unit and alarm panel. The level sensing element may be any type mechanical float, optical, ultrasonic, capacitance, conductance, etc. which is compatible with the material being stored. The liquid level sensor will be mounted in the storage tank in order to provide overflow warning at the tank level corresponding to between 90% and 95% capacity. Systems with a float vent valve must be installed with an extractable tee and may only be used on tanks that are limited to gravity fill.

The alarm panel shall be equipped with the audible and visual warning devices. The audible element may be a horn or bell which can be heard by the operator filling the storage tank. The visual element may be a steady burning or flashing light which can be seen in daylight by the operator filling tank. The alarm panel must be equipped with a reset button which will deactivate the audible alarm at high liquid level indication, but the visual alarm must remain on until the liquid level drops below the high level. Subsequent high level conditions must activate both the audible and visual alarms.

The alarm panel must be equipped with a self-checking system capable of monitoring the circuitry as well as the working condition of the audible and visual alarms. This

self-checking feature may be either an automatic or manual operation. Should a malfunction be detected by this check system the alarms should activate. The alarm panel must be located where it will be seen and heard by the operator filling the tank. For multiple tank installations, one visual alarm must be furnished for each tank. One audible alarm for the entire facility is acceptable but it must be independently activated by each tank probe.

All electrical wiring and components shall conform to all applicable electrical and buildings codes and U.L. standards. Electrical enclosures mounted on the tanks must be explosion proof where dictated by the tank contents. Outdoor electrical enclosures must be weatherproof. Power on/off switches on the level sensor or alarm panel or any other component of the level alarm system are not acceptable. All components must be hard wired; plug-in type cords are not acceptable. Upon high liquid level the audible and visual alarm must activate. On pressure fed tanks, the high level alarm system must be interlocked with on-site pumps used to fill tanks. The high level alarm system must shut down the pumps and activate the audible/visual alarms upon high level. The pump starter and level alarm system must be interlocked such that the pump starter and level alarm system must be interlocked such that the pump filling the tank cannot be restarted until the liquid level drops below the high level alarm condition. Pumps incorporated into the delivery tanker truck need not be integral with the tank's high level alarm system.

#### 4.9 Maintenance of spill prevention equipment

The owner and operator must keep all gauges, valves and other equipment for spill prevention in good working order.

#### Section 5.0 Monitoring and Leak Detection

##### 5.1 Underground Tanks

##### 5.1.1 Inventory Tank Records

The operator of an underground storage tank must keep daily inventory records for the purpose of detecting leaks. Records must be kept for each tank (or battery of tanks if interconnected) and shall include measurements of bottom water levels, sales, use, deliveries, inventory on hand and

losses or gains. Reconciliation of records must be kept current, must account for all variables which could affect an apparent loss or gain and must be in accordance with generally accepted practices.

If the tank is unmetred or if the tank contains petroleum for consumptive use on the premises where stored, the operator may detect inventory leakage by an alternative method. This method shall include an annual tightness test or other method acceptable to the Department.

#### 5.1.2 Exemptions

No inventory monitoring is required where the operator can demonstrate to the satisfaction of the Department that it is technically impossible to perform inventory monitoring for the purpose of leak detection.

#### 5.1.3 Maintenance of Inventory Records

Inventory monitoring records must be maintained by the operator and made available for department inspection for a period of not less than five (5) years.

Failure to maintain and reconcile such records constitutes cause for Department-ordered tests and inspections of the facility at the operator's expense.

#### 5.1.4 Reporting of Inventory Losses

If inventory monitoring required above shows: an inventory loss; a recurring accumulation of water in the bottom of the tank during any ten day period; apparent product losses or gains exceed three-quarters (3/4) of one (1) percent of the tank volume; or apparent losses or gains exceed seven and one-half (7.5) gallons per one thousand (1,000) gallons delivered, the operator must initiate an investigation into the possible causes. If the causes cannot be explained by inaccurate recordkeeping, temperature variations or other factors not related to leakage within forty-eight (48) hours, the operator must notify the owner and the Department and must take the tank out of service in accordance with Article XI and Section 12.0 of these Regulations until such time that inspection and/or tightness tests are performed, the cause is determined and necessary repairs or replacements are made.

#### 5.1.5 Leak Detection

All underground storage facilities or parts thereof must be provided with a means of monitoring frequently and accurately for any leakage and spillage that might occur. All leak detection systems and tanks shall be monitored by the facility operator at least on a weekly basis and the results recorded and kept with the inventory tank records. Leak detection and monitoring can be provided by an electrical continuous leak detection system; visually operated or float operated alarms for tanks in vaults and pressure, vacuum or fluid level detectors for double walled tanks. Observation wells and collection barriers in high groundwater areas may be permitted for petroleum products. Permanent records of all monitoring shall be retained for a period of five (5) years.

#### 5.1.6 Monitoring at New Underground Storage Tanks

All new tanks must have one of the following leak monitoring systems:

- (i) A double-walled tank with monitoring of the interstitial (annular) space; or;
- (ii) An in-tank monitoring system; or;
- (iii) Observation wells (See Section 5.1.5), or;
- (iv) In-vault monitoring system.

#### 5.1.7 Monitoring of Double-walled Tanks

If a double-walled tank is used, the interstitial space must be monitored for tightness using pressure monitoring, vacuum monitoring, electronic monitoring, manual sampling once per week or an equivalent method.

#### 5.1.8 Maintenance of Monitoring Equipment

The owner or operator must monitor for traces of product at least once per week. All monitoring systems must be inspected monthly. Monitoring systems must be kept in proper working order. If at any time the monitoring system fails to function effectively, it must be repaired within thirty (30) days. Monitoring records for leak detection systems

must be maintained on the premises for a period of at least five (5) years.

5.1.9 Leak Detection for Underground Tanks Without Double Walls

All new petroleum underground tanks not of doubled walled construction shall be provided with the following means of leak detection or approved equivalent if the groundwater level is above the bottom of the tank excavation. A minimum of (one) 1 driven monitoring well consisting of a 4-inch diameter SCH. 40 PVC pipe. The well is to be constructed with a well screen long enough to provide a length of at least 5 feet above the water table (or to the well cap) and extending a minimum of 5 feet into groundwater or 2 feet below the bottom of the tank, whichever is greater. The well screens are to have a slot size of .020. Monitoring wells are to be brought to grade and must be sealed or capped with a waterproof cap so as to preclude liquid from entering the well from the surface and clearly marked as a monitoring well to prevent accidental delivery of product. Monitoring well locations are to be approved by the Department.

Monitoring wells must be protected from damage if located in a traffic area by means of a manhole frame and cover or other means acceptable to the Department.

For single walled tanks in areas of high groundwater where the water level is above the bottom of the excavation a cut-off wall in conformance with Section 8.3.3 of these Regulations shall be installed around the entire perimeter of the excavation. All leak detection systems are to be located within the confines of the enclosure formed by the cut-off wall.

5.1.10 In-Tank Monitoring Systems

If an in-tank monitoring system is used, it must consist of in-tank equipment which provides continuous monitoring of any leakage from the tank of two-tenths (0.2) of a gallon per hour or larger.

5.2 Aboveground Tanks

All applicable requirements as contained in Sections 5.1.1, 5.1.2, 5.1.3, 5.1.4, and 5.1.5 of these Regulations shall apply to all aboveground tanks.

#### 5.2.1 Monitoring Systems for Aboveground Tanks

All new aboveground tanks sitting on a barrier must have equipment for monitoring between the tank bottom and the impermeable barrier. This includes, but is not limited to, perforated gravity collection pipes or channels in a concrete pad which may be monitored for the presence of product visually, electronically or by other satisfactory methods. Observation wells or other systems which monitor the soil or groundwater beneath the impermeable barrier do not satisfy the leak detection requirements.

#### 5.2.2 Monthly Inspections

The owner or operator of an aboveground storage facility must inspect the facility at least monthly. This inspection must include:

- (i) Inspecting exterior surfaces of tanks, pipes, valves and other equipment for leak and maintenance deficiencies, and
- (ii) Identifying cracks, areas of wear, corrosion and thinning, poor operating and maintenance practices, excessive settlement of structures, separation or swelling of tank insulation, malfunctioning equipment and structural and foundation weaknesses.

#### 5.2.3 Weekly Inspections

The owner or operator of an aboveground storage facility must inspect and monitor on a weekly basis all leak detection systems, cathodic protection monitoring equipment, or other monitoring or warning systems which may be in place at the facility.

#### 5.2.4 Records

Monthly and weekly inspection records must be maintained on the premises for a period of five (5) years.

- Section 6.0 Cathodic Protection
- 6.1 Cathodic protection shall consist of sacrificial anodes or an impressed current system which is designed, fabricated and installed in accordance with one of the following standards:
- (i) API Publication No 1632;
  - (ii) ULC S603.1;
  - (iii) Steel Tank Institute Standard No. sti-P3; or
  - (iv) NACE Standard RP-01-69
- 6.2 The cathodic protection system must be designed to provide a minimum of thirty (30) years of protection.
- 6.3 A licensed professional engineer proficient in such matters must design and supervise the installation of the cathodic protection system. The design must be approved by the Department prior to installation.
- Certification by the engineer must be provided to the Department within thirty (30) days of the completion of the installation indicating that the installation was in complete conformance with the approved plans.
- 6.4 Each cathodic protection system shall have a Protection Prover 1 test station or other approved equivalent monitor which enables the owner or operator to check on the adequacy of the cathodic protection.
- The system shall be monitored weekly and records of the monitoring shall be kept on the premises in accordance with Article XI and these Regulations.
- 6.5 Cathodically protected steel tanks must be electrically insulated from the piping system and other underground metallic structures with dielectric fittings, bushings, washers, sleeves or gaskets which are chemically stable to the product stored, product additive or corrosive soils.



Section 7.0 Weather and Moisture Protection

7.1 Outdoor Storage Areas

All outdoor storage areas and transfer areas must be roofed and suitably protected from the weather.

7.1.1 Roofs must be pitched for drainage. Roof drains shall not drain onto the storage pad or into the secondary containment system. If roof drains lead to an underground leaching facility, they must be hard piped. All storm water leaching facilities must be equipped with a manhole cover at grade.

7.1.2 Where fencing is used in place of walls the roof must overhang the fence and berm by a minimum of two (2) feet six (6) inches on all sides.

7.1.3 Fencing or walls are required around all storage areas. Walls or fencing shall be a minimum of six (6) feet high. A locking gate or door to the storage area shall be provided.

7.1.4 No drains or drainage systems will be allowed within the enclosure. Where possible, the floor shall be pitched toward a sump to facilitate collection of spilled materials. The sump shall be cast integrally with the floor. Pumps shall be hand operated or if electrical shall operate by a switch, which must be held manually in the on position. Automatic float switches or standard on-off switches for electric pumps will not be permitted.

7.2 Drainage

All stormwater drainage for any outdoor storage area shall be contained on the site to the extent possible. Any stormwater which is discharged off-site shall be tested periodically by the owner or operator in accordance with procedures approved by the Department. Constituents to be tested shall include all products and degradation products thereof stored or handled on the site. If any constituent is found in sufficient quantity to degrade ground or surface waters the owner or operator shall cease the discharge and apply for a New York State Pollutant Discharge Elimination Permit or other permit acceptable to the Department and shall be in accordance with all requirements, conditions and provisions of that permit.

All on-site stormwater disposal facilities including sumps, recharge basins and underground leaching pools shall be accessible for inspection and sampling.

7.3 Equivalent Designs

Alternate methods of construction that are equivalent to the requirements of this section may be submitted for review and approval.

Section

8.0 Secondary Containment

8.1 Secondary Containment System for Aboveground Tanks

A secondary containment system must be installed around and under any aboveground storage tank. This system must be constructed so that spills or leaks of products stored will not permeate, drain, infiltrate or otherwise escape to the groundwater or surface waters before cleanup occurs. This system may consist of a combination of dikes, liners, pads, impoundments, curbs, ditches, sumps, receiving tanks and other equipment capable of containing the product stored.

8.1.1 For petroleum products, construction of diking and the storage capacity of the diked area must be in accordance with NFPA No. 30 unless otherwise approved by the Department in writing. In no instance will earthen dikes, in whole or part, be acceptable.

8.1.2 For chemicals, the secondary containment system and the entire area enclosed by the system, including the area under the tanks shall be made permanently impervious to the types of products expected to be stored in the tanks. A tank cannot be switched from one product to another unless the secondary containment system is impervious to the new material stored.

The volume of the diked area shall be at least 110% of the volume of the largest tank contained therein excluding the volume below the diked level occupied by other tanks.

8.1.3 The secondary containment system shall be constructed of reinforced concrete unless other materials of construction are specifically approved.

- 8.1.4 Stormwater which collects within the secondary containment system must be controlled by a manually operated pump or siphon. Sump pumps which are electrically operated shall be equipped with a switch which must be held manually in the on position. Automatic float switches or standard on-off switches for electric pumps will not be permitted.
- 8.1.5 Stormwater discharge shall meet all the provisions of Section 7.2 of these Regulations.

8.2 Secondary Containment for Bulk Storage and Container Storage Facilities

A secondary containment system must be installed for all bulk storage and container storage facilities. The secondary containment system shall be constructed of reinforced concrete unless other materials of construction are specifically approved. The secondary containment system shall comply with the construction and storage capacity requirements of Section 14.0 of these Regulations for bulk storage areas and Section 16.0 of these Regulations for container storage areas.

8.3 Secondary Containment for Underground Storage Tanks

All new underground storage tanks must have a secondary containment system which collects and contains a leak. This must consist of one of the following:

- (i) A double-walled tank; or;
- (ii) A vault; or,
- (iii) Cut-off walls (fresh petroleum products only).

8.3.1 Double-walled tanks

If the secondary containment system consists of a double-walled tank, the tank must be constructed and have a monitoring system in accordance with Section 5.0 and all applicable requirements of these Regulations.

8.3.2 Vaults

If a vault is used for secondary containment, the vault must be water tight, impervious to leakage of product and able to withstand chemical deterioration and structural stresses from

internal and external causes. The vault must be a continuous structure with a chemical resistant water stop used at any joint. There must be no drain connections or other entries through the vault except that there may be top entry manholes and other top openings for filling and emptying the tank, venting and for monitoring and pumping of products which may leak into the vault. The tank or tanks within the vault must be encased or bedded in a manner consistent with acceptable engineering practices.

### 8.3.3 Cut-off Walls (fresh petroleum products only)

Cut-off walls may be used where the lowest possible groundwater levels are above the bottom of the tank excavation. Cut-off walls are only allowed for fresh petroleum product storage.

A cut-off wall must consist of an impermeable barrier which has a permeability rate to water equal to or less than  $1 \times 10^{-6}$  cm/sec. It must not deteriorate in an underground environment and in the presence of any product or product additive.

A cut-off wall must extend around the perimeter of the excavation and to an elevation below the lowest groundwater level.

If a synthetic membrane is used for a cut-off wall, any seams, punctures or tears in the membrane must be repaired and made leak tight prior to backfilling. No penetrations of the cut-off wall are allowed. Synthetic membranes must be installed under the supervision of the manufacturer's representative and in accordance with all manufacturer's recommendations.

Anchoring or weighing to resist buoyancy forces is required where groundwater and floods may affect the tank.

## Section 9.0 Testing – Underground Tanks

### 9.1 Tightness Test

A tightness test is a test acceptable to the Department which will determine if a tank and piping system is tight or not tight. The test must be capable of detecting a tank or piping leak as small as five

hundredths (0.05) of a gallon in one hour accounting for variables such as vapor pockets, thermal expansion of product, temperature stratification, groundwater level, evaporation, pressure and end deflection. Test methods must be acceptable to the New York State Department of Environmental Conservation under Petroleum Bulk Storage regulations before being considered for approval by the Nassau County Department of Health.

## 9.2 Exemption

No periodic tightness test is required where the size and/or normal contents of the tank is such that it is technically impossible to perform a meaningful tightness test. In this case, an alternative test or inspection which is acceptable to the Department must be conducted, or the tank and piping systems must meet the requirements for new construction.

## 9.3 Qualifications of the tester

Qualifications indicating that the person performing the test has received training and/or certification from a recognized school or agency or other proof of training, experience or expertise in testing underground tanks must be submitted in writing to the Department 30 days prior to the commencement of the test.

## 9.4 Test reports

A test report must be sent by the tester to the Department no later than thirty (30) days after performance of the test, except any test or inspection which shows the facility is leaking must be reported by any person with knowledge of such leak to the Department within two (2) hours of the discovery of such leak and in the case of a tank containing petroleum products as defined in section 3(q) of Article XI a report must also be made to New York State Department of Environmental Conservation Hotline (1-800-457-7362) within two (2) hours.

All test reports must be in a form satisfactory to the Department and must include the following information:

- (i) Tank registration number and facility number;
- (ii) Date of test;
- (iii) Results of test;

- (iv) Test method;
- (v) Certification by the tester that test complies with criteria for a tightness test;
- (vi) Address of tester, and
- (vii) Signature of tester.

A copy of the test report(s) must be maintained by the owner of the facility for at least five (5) years.

#### 9.5 Notification

The Department must be notified at least 2 working days prior to any testing.

### Section 10.0 Inspection, Cleaning, Repair and Coating of Aboveground Tanks

#### 10.1 Monthly Inspections

All new and existing aboveground storage facilities must be inspected at least monthly. This must include the following:

##### 10.1.1 Exterior Inspection

Exterior surfaces of tanks, pipes, valves and other equipment be inspected for leaks and maintenance deficiencies.

##### 10.1.2 Inspection for Structural, Mechanical and Other Deficiencies

The facility must be inspected to identify cracks, areas of wear, corrosion and thinning, poor maintenance and operating practices, excessive settlement of structures, separation or swelling of tank insulation, malfunctioning equipment and structural and foundation weaknesses.

##### 10.1.3 Inspection of Monitoring Systems

All leak detection systems, cathodic protection monitoring equipment, and other monitoring and warning systems must be inspected and monitored at the facility.

##### 10.1.4 Repair of Deficiencies

All repairs of deficiencies must comply with the requirements of Section 10.4 of these Regulations.

## 10.2 Five Year Inspections

In addition to monthly inspections required in Section 10.1 above, all aboveground storage facilities sitting on the ground and making contact with the ground must be drained, cleaned, [sand blasted], inspected, tested, repaired and coated in accordance with the following requirements:

### 10.2.1 Schedule

All aboveground storage facilities must be inspected in accordance with the time schedule established in the permit, but in no event less than once every five (5) years.

### 10.2.2 Exemptions

Five year inspections are not required for tanks which are entirely aboveground, such as tanks on racks, cradles or stilts.

Five year inspections are not required for tanks which are constructed and installed in conformance with the requirements for new storage facilities.

### 10.2.3 Draining

Liquid and any residue must be removed from the tank and connecting lines during draining. Any wastes removed shall be disposed of in accordance with all applicable federal, state and local laws.

### 10.2.4 Cleaning

The tank and all difficult to reach areas within the tank shall be cleaned in accordance with accepted practices. Wash water must not be discharged to the ground or surface waters in contravention of any federal, state or local laws and/or requirements.

### 10.2.5 Inspection and Testing

The tank shell shall be inspected and tested for soundness. All welds and seams on the tank bottom shall be tested for porosity and tightness. All testing shall be consistent with

generally accepted industry testing and inspection practices. This may include one or a combination of the following: a tightness test, an air pressure, hydrostatic or vacuum test a penetrant dye test, a nondestructive test to detect thinning of the tank or hammering to detect weak areas.

All internal surfaces of the tank and difficult to reach areas shall be visually inspected for corrosion or failure.

All connecting piping shall be tested for tightness.

#### 10.2.6 Coating

Interior coatings shall be inspected for any signs of failure of the coating system such as cracks, bubbles, blisters, peeling, curling or separation. If the coating has failed in any area, or if the coating is over ten (10) years old, the inside of the tank must be sand blasted and a new coating applied in conformance with Section 10.8. of these Regulations.

#### 10.2.7 Repair of Deficiencies

All repairs of deficiencies must comply with the requirements of Section 10.4. of these Regulations.

### 10.3 Uninspected Facilities

If any portion of a facility is not inspected as required, the uninspected portion of the facility must be taken out-of-service.

### 10.4 Repairs

If any inspection reveals a leak, a tank or equipment deficiency, a deficiency in monitoring equipment, excessive thinning of the tank shell which would indicate structural weakness when the tank is filled with product, or any other deficiency which could result in failure of the facility to function properly or store and contain the product in storage, remedial measures must be promptly taken to eliminate the leak or deficiency.

All repairs must be permanent in nature and equal to or better than the standards of original construction. On steel tanks such repairs must consist of steel welds or steel patches which are welded in place in accordance with accepted practices. All welds must be inspected and tested for tightness before the tank is returned to service. All repairs must be made with materials which are



chemically compatible with the product being stored. Linings, coatings, grouts and other sealing materials may be used in conjunction with permanent repairs but by themselves are not acceptable permanent repairs.

All repairs must comply with the requirements of Sections 10.5 and 10.6 of these Regulations.

## 10.5 Interior Coatings

All tanks must have an approved coating over all interior surfaces below the level of the ground.

- 10.5.1 If the tank has an existing coating, it must be inspected for any signs of failure of the coating system such as cracks, bubbles, blisters, peeling, curling or separation. If the coating has failed in any area, or if the coating is over ten (10) years old the inside of the tank must be sand blasted and a new coating applied.
- 10.5.2 Sandblasting shall be done so that the entire internal surface of the tank is completely free of scale, rust and foreign matter.
- 10.5.3 Any noncorrodible epoxy-based resins, isophthalic polyester-based resins or equivalent coating may be used for reconditioning a steel tank if the coating is of sufficient thickness, density and strength to form a hard impermeable shell which will not leak, crack, wear, soften or separate from the interior surface of the tank.

The coating when applied to properly prepared steel as required in paragraph 10.5.2 must maintain a permanent bond to the tank.

The coating's coefficient of thermal expansion must be compatible with the tank material so that stress due to temperature changes will not be detrimental to the soundness of the coating. The coating must be chemically compatible with the products stored. The coating must be applied and cured in strict accordance with manufacturer's specifications.

The coating must be applied as soon as possible but not later than eight (8) hours after sandblasting and cleaning of the internal surface. Visible rust, moisture or foreign material must not be present. The coating must be checked to assure

compliance with manufacturer's specifications and any defects must be repaired.

10.6 Exterior Coatings

Exterior surfaces of tanks shall be coated in an approved manner, and must comply with the requirements of Section 3.2 of these Regulations.

10.7 Inspection Reports

Reports for each inspection must be maintained and made available to the Department upon request for a period of at least five (5) years. The reports must include the following information:

- (i) Facility number;
- (ii) Registration number for tank inspected;
- (iii) Date of inspection;
- (iv) Results of inspection including a report on the need for repair and/or coating;
- (v) Certification that all repairs and/or coating have been made in accordance with these requirements, and
- (vi) Certification that the inspection was made in accordance with these requirements.
- (vii) Address and signature of inspector.

10.8 Notification

The Department must be notified at least 2 working days prior to the inspection or testing of any aboveground tank.

Section 11.0 Certifications

11.1 Qualifications

Persons submitting certifications to the Department must:

- (i) Be a licensed professional engineer in New York State unless otherwise exempted herein and,

- (ii) Have witnessed the construction or the construction was witnessed by a direct employee of the person submitting the certification and,
- (iii) Sign and seal all papers submitted and,
- (iv) Upon request submit evidence of expertise in the type of work being certified and,
- (v) Upon request submit field notes, diary records, or such other supplementary information as may be needed.

#### 11.2 Exemptions

A licensed professional engineer will not be required for:

- (i) Exempt storage areas indicated in Section 22.6 of these Regulations.
- (ii) The person submitting the certification has been accepted by the Department prior to the commencement of construction.

#### 11.3 Submissions

Submissions shall consist of a set of As-Built drawings along with a statement indicating that all construction is in accordance with the approved plans. Any minor deviations shall be explained. Major deviations or nonconformance must be approved in writing by the Department prior to construction. All plans and statements must be signed and sealed by a licensed professional engineer unless specifically exempted by the Department.

All submissions shall be made in duplicate.

#### 11.4 Acceptance

Acceptance of certifications will be made in writing by the Department after submission of the certification papers and a final inspection by a representative of the Department.

Section 12.0 Abandonment/Out of Service

12.1 Out of Service

Storage tanks or facilities which are out of service for thirty (30) or more days must comply with the following:

- (i) All products must be removed from the tank and piping system to the lowest drawoff point;
- (ii) All manways must be locked or bolted securely and fill lines, gauge openings or pump lines must be capped or plugged to prevent unauthorized use or tampering;
- (iii) Vent lines must be left open;
- (iv) Underground tanks must be filled with water, and
- (v) The maximum time limit that a tank or facility can remain out of service is one year.

12.2 Abandonment of Underground Facilities

Any underground tank or facility that is abandoned must be removed from the ground unless such removal would result in damage to structures and abandonment in place is approved by the Department. Tanks, attested to by the owner as not known to be leaking, storing oil used solely for on site space heating and/or water heating however, may be abandoned in place at the option of the owner. All tanks or facilities abandoned must comply with the following:

- (i) Liquid and any residue must be removed from the tank or facility and all connecting lines. Any waste products removed must be disposed of in accordance with all applicable federal, state and local regulations;
- (ii) All connecting lines must be disconnected and removed or securely capped or plugged;
- (iii) All tanks removed from the ground must be visually inspected and all holes or rust penetrations noted. The tank must remain at the site until removal is approved by the Department. The tank may be removed from the site if no

Department response is received by the end of the next business day after which the removal has been scheduled with the Department. In lieu of inspection by the Department and after prior written notice, certification by a licensed Professional Engineer as to the condition of the tank will be accepted;

- (iv) Tanks abandoned in place must be filled to capacity with a solid inert material (such as clean sand or concrete slurry). All voids within the tank must be filled;
- (v) Written notification of removal/abandonment in place must be submitted to the Department detailing tank size, location, and date of removal/abandonment at least seven (7) days in advance of removal and
- (vi)(1) Where a tank is abandoned in place, a minimum of one observation well, consisting of a 4-inch PVC pipe with ten (10) feet of factory slotted screen, shall be installed five (5) feet into the groundwater table (or as determined by the Department) adjacent to the abandoned tank (or as determined by the Department). This well shall be monitored by the owner on a weekly basis for a minimum of four months and monthly for an additional eight months and readings sent to the Department at the end of a one year period. Observation of product in the well at any time shall result in immediate reporting to the Department. The Department must receive written notification of intent to perform a tightness test in lieu of installing a well. The use of this test in lieu of a well must be approved in writing by the Department and must be performed within three (3) months prior to the abandonment. This tightness test shall include the tank, piping, fittings, valves and connections and be conducted in accordance with this Article and the applicable Regulations. If the system does not pass the tightness test the installation of an observation well will be required;
- (vi)(2) In the case of a facility storing 1,100 gallons or less of petroleum for on site heating, requirements of Sect. 12.2 (vi)(1) shall not apply. The Commissioner of Health shall conduct a study and evaluate the groundwater contamination implications of leaking residential fuel oil tanks and prepare a report of the findings together with appropriate recommendations for revisions to this Article, such report to be completed and submitted to the Board of

Health within two years after adoption;

- (vii) If a tank is to be disposed of as junk, it must be retested for vapors, rendered vapor free if necessary, and punched with holes to make it unfit for storage of liquids;
- (viii) The excavation must remain open for examination by the Department and not backfilled with any material unless permission to backfill is first obtained from the Department. The excavation may be backfilled if no Department response is received by the end of the next business day providing that the Department was notified of the proposed excavation date seven days prior and there is no visible sign of contamination. In lieu of inspection by the Department and after prior written notice, certification by a licensed Professional Engineer as to the condition of the excavation will be accepted. If visible contamination is noted it must be reported to the Department as required in Section 15 a. of the Ordinance.

### 12.3 Abandonment of Aboveground Facilities

Any aboveground tank or facility that is abandoned must be removed and must comply with items i, ii, iii, vi, and vii below. Any facility that is granted an approval by the Commissioner to abandon in place must comply with all items below except vii:

- (i) Liquid and any residue must be removed from the tank and connecting lines. Any waste products removed must be disposed of in accordance with all local, state, and federal regulations;
- (ii) All connecting lines must be disconnected and removed or securely capped or plugged. Manways must be securely fastened in place;
- (iii) Tanks must be rendered free of all vapors. Provisions must be made for natural breathing of the tanks to ensure that the tanks remains vapor free;
- (iv) Tanks must be stenciled with the date of abandonment in place;
- (v) Tanks must be protected from floatation in accordance with good engineering practice;

- (vi) Written notification of removal or abandonment in place must be submitted to the Department detailing tank size, location, and date of abandonment at least seven (7) days in advance of such action;
- (vii) If a tanks is to be disposed of as junk, it must be retested for vapors, rendered vapor free if necessary, and punched with holes to make it unfit for storage of liquids.

12.4 General

- (i) Abandoned storage facilities may not be returned to service unless all requirements for new facilities are met.
- (ii) Storage tanks removed from the ground may not be reused in Nassau County unless they meet all requirements for new storage facilities.

Section 13.0 New Storage or Transfer Facilities

13.1 General Requirements for Construction and Installation of New Storage and Transfer Facilities

All new storage and transfer facilities must comply with the requirements of Sections 2.1, 2.4, 3.0, 4.0, 5.0, 6.0, 7.0, 8.0, 11.0, 14.0, 15.0, 16.0 and 19.0 of these Regulations.

13.2 Installation of Underground Facilities

In addition to the applicable requirements of Section 13.1 above, underground tanks must be installed in a manner consistent with the provision of the following:

- (i) Nassau County Fire Prevention Ordinance;
- (ii) New York State Uniform Fire Prevention and Building Code, 10 NYCRR, sections 1002.2 and 1002.5.
- (iii) NFPA No. 30, sections 2-3.1, 2-3.2, 2-5.6.1, 2-5.6.3, 2-5.6.4, 2-5.6.5, and 2-7.

13.2.1 In addition to the above requirements, all tanks must be installed in strict accordance with manufacturer's recommendations and any damage to the tank or tank coating repaired prior to backfilling.

13.2.2 Any person installing a new storage facility or substantially modifying a facility must notify this Department in writing at least 48 hours prior to commencement of excavation and backfilling.

13.2.3 No underground tanks shall be installed beneath an existing or proposed structure.

13.2.4 Separation Distances

- (i) There shall be at least a ten (10) foot horizontal separation between existing or proposed water lines and product storage tanks and product piping. This distance shall be measured edge to edge.

Product pipes crossing water lines shall be laid to provide a minimum vertical distance of 18 inches between the outside of the product pipe and the outside of the water line. This shall be the case where the water line is either above or below the product pipe. At crossings, one full length of water line shall be located so both joints will be as far from the product piping as possible.

Special structural support for the water line and product piping may be required.

- (ii) Storage tanks and product piping must be at least 100 feet from any water supply well.
- (iii) Stormwater basins, drywells and sanitary leaching pools must be at least 20 feet from the nearest edge of any underground storage tank.

13.3 Installation of Aboveground Facilities

On addition to the applicable requirements of Section 13.1 above, aboveground tanks and appurtenances must be installed in a manner consistent with the following:

- (i) Nassau County Fire Prevention Ordinance;
- (ii) New York State Uniform Fire Prevention and Building Code, 10 NYCRR, sections 1002 and 1171.2;



(iii) NFPA No. 30, sections 2-5.1, 2-5.2, 2-5.3, 2-5.4, and 2-5.5.

13.3.1 New aboveground tanks must be supported on a stable, well drained foundation which prevents movement, rolling or settling of the tank and is designed to minimize corrosion of the tank bottom.

13.3.2 New aboveground tanks, pipes and distribution equipment must not be located along road curves or otherwise exposed to traffic hazards.

13.3.3 New aboveground tanks and product piping must comply with the additional minimum requirement separation distances contained in 13.2.4(i) and (ii).

13.4 Testing

Before being placed in service, all new tanks must be tested for tightness and inspected in accordance with requirements outlined in Sections 9.0 and /or 10.0 of these Regulations.

Section 14.0 Bulk Storage

14.1 Enclosures

All enclosures for bulk storage facilities shall be weathertight and shall be capable of being secured by locked door or such other means as to prevent vandalism or accident.

14.2 Floors

Floors shall be of reinforced concrete without any floor drains. Construction and expansion joints shall be provided with a continuous water stop. The water stop shall be of a material to prevent reaction or deterioration from any accidental spills or discharges of the stored materials.

14.3 Curbs

A curb or retention wall shall be constructed completely around the entire storage area, so as to retain spills or contaminated water created during firefighting. The curb or wall shall be of reinforced concrete poured integrally with the floor slab or bonded to the floor slab. Doors and other openings shall be similarly protected.

No openings will be permitted in either the floor slab, curb or retention wall that will in any way permit the escape of liquids.

14.4 Storage

All materials shall be stored in a manner to permit the rapid detection of leaks or spills.

Section 15.0 Road Deicing Bulk Storage

15.1 Permit for Operation Required

No municipality, person, group of persons, firm, corporation, organization or institution shall operate or maintain a road deicing salt storage facility without a permit from the Department. The permit shall be posted conspicuously at the facility.

15.2 New Road Deicing Storage Facilities

15.2.1 Plan and Specification Requirements

All plans and specifications shall comply with Section 22 of these Regulations and, in addition, shall include the following:

- (i) Pad details such as surface (wearing, leveling) and base course shall be specified on plans and/or specifications;
- (ii) The distance and location of the nearest public water supply well must be listed on the plan;
- (iii) A detailed description of the facility operation shall be included in the plans or specifications, and
- (iv) Plans must be submitted to the Department by a Professional Engineer or a Registered Architect.

15.2.2 Detail Requirements

- (i) All lumber used must be treated lumber and all hardware used must be galvanized or of a noncorrosive material.
- (ii) Ventilation of the storage building must be provided to permit escape of moisture and vehicle exhaust.

- (iii) Floors must be constructed of materials which are impervious. Roofs and walls must be weathertight. Walls in contact with deicing material must be impervious.
- (iv) All joints in the floor and walls must act as waterstops. Such waterstops must be constructed of a noncorrosive material.
- (v) Exterior and interior lighting must be provided for nighttime operations.
- (vi) Concrete used in all areas subjected to deicing material shall contain air entrainment.
- (vii) Minimum slope inside storage building of floor shall be ¼ inch per foot toward center of facility.
- (viii) A slight pitch (1/2°) is required out of the entrance opening.
- (ix) The exterior grade to the storage building must be sloped away from the building.
- (x) All entrances without permanent doors must be covered with a properly secured, waterproof material and situated in such a manner so as to protect the road deicing material from exposure to the weather.
- (xi) Lightning protection must be provided for all facilities and installed in accordance with all applicable codes.

### 15.3 Existing Road Deicing Storage Facilities

An existing enclosed road deicing storage facility must be constructed with at least the following items to comply with the requirements of Article XI for the issuance of a permit:

- (i) Floors, walls and roofs must comply with section 15.2.2(iii) of these Regulations;
- (ii) Entrances without permanent doors must comply with section 15.2.2(x) of these Regulations;

- (iii) Lightning protection must be provided for all facilities and installed in accordance with all applicable codes, and
- (iv) Upgrading of existing facilities must include the submission of plans and specifications to this Department and must conform to Section 15.2.1 and other applicable sections of these Regulations.

15.4 Decks, Grades and Mixing Pads

Any areas used for the mixing of road deicing salt with abrasives or other materials must be constructed of impervious concrete or asphalt, sealed, and diked in such a manner as to prevent the spilled or excess road deicing material from dissolving and seeping into surrounding unprotected areas. Pads must be treated with antispalling compound.

15.5 Drainage Waiver

The drainage provisions of Section 13(c) Article XI, pertaining to outside areas used for the mixing of road deicing salts with abrasives may be waived provided that the agency responsible for the storage of the road deicing material submits to the Commissioner, in writing, a request for a waiver outlining the steps or procedures that will be used to prevent spilled or excess road deicing material from dissolving and seeping into the surrounding area and insures that these steps or procedures are implemented during the operation at the facility. Periodic inspections will be conducted by the Department to verify that these steps or procedures are being performed.

15.6 Flood Protection

No new road deicing storage facility shall be constructed in any area subjected to fresh water flooding. No new road deicing storage facility shall be constructed in the 100 year flood plain without the prior approval of the Department.

Section 16.0 Container Storage

16.1 General Requirements for All Storage Areas

Drums and other portable containers of toxic and hazardous materials must at all times be stored on an impervious, chemically resistant to and nonreactive with the materials being stored. The

storage area shall be completely enclosed with a berm or dike of impermeable construction in compliance with these specifications.

Where possible, dry fire extinguishing systems are to be used in lieu of water sprinkler systems in storage areas to prevent the generation of a large volume of contaminated water in case of a fire.

Drums and other portable containers shall be stored indoors unless prevented by pertinent fire regulations. Outdoor storage for other than fire safety reasons shall only be allowed on written permission of the Department. Heat shall be provided for storage of materials with freezing points above 20°F.

Every container on each site must be available for inspection at any time.

16.2 Required Floor Area

All sides of any stored supply of containers shall be easily accessible for handling and inspection. The minimum required floor area for fifty five (55) gallon drum storage is based upon the total number of drums stacked two high according to the following table (see explanation of table below).

TABLE I

<u>Total No. of Drums (Stacked two high)</u>	<u>Required Area (sq. ft.)</u>
4	25
10	50
14	75
18	100
36	200
54	300
72	400
90	500
180	1000
198	1100
272	1500
362	2000
452	2500

### Explanation of Table 1

For interpolations, use 100 square feet of floor area for 18 drums. Required floor area for containers other than 55-gallon drums is based upon equivalent volumes. In rooms where fire sprinklers are installed, storage capacity in excess of minimum will be required. Minimum berm height is 6 inches unless otherwise approved.

Drums shall not be stacked more than two high and only on their ends unless approved storage racks are provided. Where approved racking systems are installed, which may increase the total number of drums over that described in Table I, the berm size or storage area must be increased to retain a minimum of 30 percent of the total drum volume.

Allowance for protection of larger areas in lieu of specific locations within the floor area of industrial buildings will be considered on a case-by-case basis.

16.3 Berms and Floors shall meet the following requirements:

- (i) Minimum berm height is 6 inches above finished floor grade unless otherwise approved;
- (ii) Minimum floor thickness is 6 inches;
- (iii) Berms may be included as an integral part of building walls and door openings;
- (iv) Berms and floor shall be constructed of materials impervious to attack by the chemicals being stored;
- (v) Berms shall be cast integrally with the floor where possible –if not possible, berms shall be tied into the floor with steel reinforcing and sealed with compounds chemically resistant to and nonreactive with materials being stored;
- (vi) No wall scuppers are allowed below the top of the berm;
- (vii) Ramps for access are required unless otherwise approved;
- (viii) If expansion joints are installed, they must be made impervious to the materials being stored;
- (ix) Surface preparation and finishing shall be consistent with recommendations of the coating manufacturer.

#### 16.4 Doorways

Door openings in storage rooms shall be fitted with liquid-tight raised sills or ramps suitable for passage of fork lift trucks. The height of sills or ramps shall be the same as or higher than the berm height.

#### 16.5 Alternatives

In place of or supplemental to berming, floor drains leading to a holding tank may be installed within the storage room. The floor shall be pitched to the floor drains. The holding tank may be of single-wall construction if kept for emergency use only. Such tanks shall be impervious to the chemicals stored shall be constructed in accordance with Article XI requirements for single-walled tanks in Section 3.1. Each tank shall be fitted with alarms which will meaningfully announce when liquid has entered the tank.

Tanks intended to store drippings or waste products on a day-to-day basis must be of double-walled construction in accordance with the requirements of Article XI and these Regulations for new storage facilities.

Minimum tank sizing shall be equivalent to storage volume lost through reduction in berm size or by fire insurance regulations, whichever is greater. Manways shall be provided for all tanks greater than 1,000 gallons and shall be fitted with gasketed manhole covers with access to grade.

#### 16.6 Upgrading of Existing Storage Areas

Bermed storage areas or storage rooms existing prior to promulgation of these standards must be modified to conform to all of the above requirements of section 16.0 through 16.5 of these Regulations.

#### 16.7 Storage of Materials in Other Structures

Storage in truck bodies, residential-type garden sheds or other unapproved facility is prohibited unless incorporated into an area which meets the criteria described above.

Section 17.0 Records, Reporting, and Standard Operating Procedures

17.1 Records of Disposal or Other Transfer In or Out of Storage Facilities

Records reflecting the disposal of toxic or hazardous wastes must comply with the requirements of Section 2.3 of these Regulations. Operating reports summarizing yearly generation and disposal of wastes shall be submitted once per year to the Department. Operating Report forms are available from the Department.

17.2 Standard Operating Procedures for Handling of Materials

No person shall store toxic or hazardous materials without first having a standard operating procedure (SOP) for handling of said materials acceptable to the Department. The SOP's must be posted and made readily accessible during each work shift to employees when they are in their work areas.

SOP's shall include measures employees can take to protect themselves from chemical hazards including procedures to be implemented to protect employees from exposure to hazardous chemicals including appropriate work practices, emergency procedures and personal protective equipment to be used.

SOP's may contain Material Safety Data Sheets (MSDS) or may be designed to cover groups of hazardous chemicals in areas where it may be more appropriate to address the hazards of a process rather than individual chemicals.

SOP's shall be kept up to date, and include the location and accessibility of specific information including the identity of the chemicals, material safety data sheets, physical and health hazards.

17.3 Maintenance of Records

Except as otherwise specified in Article XI, records shall be kept for a minimum of five (5) years.

17.4 Reporting

In addition to the requirements of Section 15.a of Article XI, all incidents described in Section 15.a of Article XI pertaining petroleum products as defined in the definition of petroleum contained in Section 3.q. of Article XI must be reported to the New



York State Department of Environmental Conservation Hotline (1-800-457-7362) within two (2) hours.

Section 18.0 Posting and Labeling

18.1 Posting Notice of the Presence of Toxic or Hazardous Materials and Providing Safety Information

18.1.1 Warning Signs

A sign with the legend, “Danger – Toxic and Hazardous Materials – Unauthorized Personnel Keep Out” shall be posted at each entrance to the storage or transfer facility. The legend must be written in English. Employers having employees who speak other languages should add the information in those languages.

18.1.2 Safety Information

Safety information identifying the chemicals in use and warning of the physical and health hazards shall be posted in each entrance to the storage or transfer facility. The purpose of providing this information is to protect the public and assist emergency personnel in carrying out their responsibilities.

At a minimum, the type of safety information that should be posted or be made accessible to emergency personnel is that required to be provided by material safety data sheets pursuant to the Occupational Safety and Health Administration (OSHA) Hazard Communications Rule, Part 1910 Title 29 CFR, and such portions of the standard operating procedures as may be applicable.

18.2 Labeling of Containers

Toxic and Hazardous material containers labeled in compliance with the OSHA Hazard Communication Rule, Part 1910 Title 29 CFR or the Department of Transportation (DOT) rules, Part 171 and Part 172 Title 49 CFR shall be deemed to fulfill the requirements of this section.

18.3 Labeling of Aboveground Tanks

The technical name of the contents shall be conspicuously lettered on the exterior surface and be of sufficient size to be discernible from grade level. The date of construction of the tank and the date of the most recent internal inspection shall be stenciled on or near the manhole cover in the tank wall.

Toxic and hazardous material tanks labeled in compliance with the OSHA Hazard Communication Rule Part 1910 Title 29 CFR shall be deemed to fulfill the requirements of this section.

18.4 Labeling of Piping

The technical name of the materials carried by the piping shall be conspicuously lettered on the exterior surface.

Section 19.0 Piping

19.1 New Installations

All new installations shall:

- (i) Be fabricated, constructed and installed in a manner that will prevent the escape of the toxic or hazardous materials contained therein to the ground, groundwater or surface waters of Nassau County;
- (ii) Be protected against corrosion by the use of noncorrodible materials, cathodic protection with approved coatings, or the functional equivalent of the foregoing options;
- (iii) Be designed, constructed and installed with access points to permit periodic pressure testing of all underground piping without the need for extensive excavation;
- (iv) Be designed, constructed and installed with simple, effective, reliable means of monitoring the new installation for leakage including a warning device to indicate the presence of a leak, spill or other failure or breach of integrity for piping installed underground or in areas where piping is not clearly visible;
- (v) Be constructed of double-walled pipe or equivalent be constructed in product-tight trenches or galleries where the piping is buried or below grade except where single wall tanks will be allowed;

- (vi) Cathodic protection when utilized, must be provided by the use of one or a combination of the following: galvanic coatings, sacrificial anodes, or impressed current. Except where cathodic protection is provided by impressed current, underground piping systems must have dielectric bushings, washers, sleeves or gaskets installed at the end to electrically isolate the piping system from the tank and termination. These dielectric connectors must be chemically compatible when exposed to the product stored.

## 19.2 Existing Installations

All existing installations shall:

- (i) Be replaced or modified so as to be in compliance with all of the provisions of Section 19.1 above in accordance with the schedules established in Article XI for underground and aboveground facilities;
- (ii) Be tested whenever the associated storage facility or part thereof is tested;
- (iii) Be tested by a person whose qualifications are acceptable to the Department;
- (iv) Be tested in a manner acceptable to the Department;
- (v) Be tested in accordance with a written protocol submitted to the Department prior to said test;
- (vi) Submit to the Department within thirty (30) days of said test a Certificate of Test Completion.

## 19.3 General Provisions

19.3.1 Whenever an existing or new installation or part thereof is found to be leaking, it must immediately be emptied of all contents therein contained and removed from service.

19.3.2 Before reusing or causing the reuse of any new or existing installation or part thereof which had leaked or otherwise failed, the owner must:

- (i) Perform repairs in a manner acceptable to the Department;

(ii) Have the installation inspected subsequent to the completion of any repairs by a person whose qualifications are acceptable to the Department;

(iii) Provide a Proof of Inspection, prior to reuse.

19.3.3 New piping systems must meet the applicable subsection of Section 6.0 (Cathodic Protection) of these Regulations.

19.3.4 All underground piping systems must be installed in accordance with recognized engineering practices. All joints must be liquid and air tight. All piping systems must be tested for tightness before being covered, enclosed or placed in use.

Section 20.0 Registration of Toxic and Hazardous Materials Storage Tanks

20.1 Applicability

These requirements apply to all new, existing, out of service or abandoned toxic or hazardous material storage tanks not specifically exempted in Section 7 of Article XI or Section 20.2 of these Regulations.

20.2 Exemptions

All tanks which meet the following criteria are exempt from the registration requirement.

- (i) Chemical storage tanks containing pressurized gases such as chlorine, propane, hydrogen and nitrogen need not be registered.
- (ii) Petroleum storage tanks which are used solely for on-site heating at a facility and whose total storage capacity is less than 1100 gallons need not be registered.

20.3 Procedures and Criteria for Registration of Tanks

20.3.1 Existing Tanks

The owner of any toxic or hazardous material storage tank must register the tank with the Department within 12 months

of the effective date of these Regulations except as otherwise stated in the Article. Registration is required for:

- (i) Chemical storage tanks – for each process or storage tank that contains toxic or hazardous materials (raw and waste) including all processing baths and tanks, dip tanks, rinse tanks and tanks associated with wastewater treatment.
- (ii) Petroleum storage tanks – including both raw and waste petroleum or petroleum and water mixtures.
- (iii) Out of service and abandoned tanks – for all types of aboveground and belowground storage tanks.

#### 20.3.2 New or Replacement Tanks

The owner of any new or replacement toxic or hazardous material storage tank must register it with the Department before it is placed in service.

#### Change of Ownership

If ownership of the tanks changes, the new owner must reregister the tanks within 30 days of the ownership transfer.

#### 20.4 Application Forms for Tank Registration

Tanks must be registered on application forms provided by the Department. Forms are available at the Department office in Mineola or by writing the Nassau County Department of Health, 240 Old Country Road, Mineola, New York 11501.

An application submitted by a corporation must be signed by a principal executive officer or at least the level of vice-president or a duly authorized representative who is responsible for the operation of the facility. An application submitted by a partnership or a sole proprietorship must be signed by a general partner or proprietor. An application submitted by a municipal or other public facility must be signed by either a principal executive officer, ranking elected official or other duly authorized employee.

#### 20.5 Registration Fee

The owner must submit with each application for registration a fee adopted by the Nassau County Board of Health.

Section 21.0 Permits

21.1 Procedures

21.1.1 Construction and Modification Permits

Prior to the construction or substantial modification of a storage or transfer facility or part thereof, the owner must submit a complete application package to the Department for a construction permit.

The application must be submitted 3 months prior to the construction or modification on forms supplied by the Department.

The application must include submission of:

- (i) Application form for a permit to construct, signed by the owner;
- (ii) A list of all the toxic and hazardous materials that will be stored at the facility including the chemical names of all substances or combinations or mixtures by container and tank and quantity;
- (iii) Plans for the construction of a new facility or substantial modification of an existing facility to be prepared in accordance with the requirements of Section 22.0 of these Regulations, and
- (iv) The registration of any new tanks to be constructed or installed in accordance with Section 20.0 of these Regulations.

Upon approval of the plans submitted to the Department, a construction permit will be issued for a specified duration of time not to exceed one year from the effective date of issuance.

After completion of construction or substantial modification of a facility, the owner must provide proof of compliance with the plans submitted to and approved by the Department. Proof of compliance shall include a certification by a licensed professional engineer or facility owner in accordance with

Section 11.0 of these Regulations, stating that the construction is in complete compliance with the approved plans.

Upon receipt of the proof of compliance with the plans submitted and approved by the Department, and written proof that the facility is in compliance with all of the provisions of Article XI, the Department will issue a Permit to Operate the facility or part thereof.

#### 21.1.2 Permits to Operate

The owner of an existing storage or transfer facility must submit a complete application for a permit to this Department within 30 days of receiving notice from the Department that a permit is necessary.

The complete application package shall include submission of:

- (i) An application form for a permit to operate signed by the owner, and;
- (ii) A list of all the toxic and hazardous materials that will be stored at the facility including the chemical names of all substances or combination or mixtures by container and tank and quantity;
- (iii) Record of registration of all tanks and;
- (iv) Written proof that the facility is in compliance with all provisions of Article XI applicable to the facility.

Upon receipt and approval of a complete application, the Department will issue a Permit to Operate which will be effective only for the specified duration of time indicated thereon, not to exceed five (5) years from the effective date of issuance.

#### 21.2 Application Forms for Permits

Application forms are available at the Department's office in Mineola or by writing the Nassau County Department of Health, 240 Old Country Road, Mineola, New York 11501.

An application submitted by a corporation must be signed by a principal executive officer of at least the level of vice president, or a duly authorized representative who is responsible for the operation of the facility. An application submitted by a partnership, or a sole proprietorship must be signed by a general partner or proprietor. An application submitted by a municipal or other public facility must be signed by either a principal executive officer, ranking elected official or other duly authorized employee.

21.3 Fees

Prior to the issuance of any permit, all applicable fees as adopted by the Nassau County Board of Health must be paid.

21.4 Change of Ownership

If ownership of the facility changes, the new owner must apply for a new permit within 30 days of ownership transfer.

21.5 Renewals

Application for renewal must be submitted 3 months prior to expiration of the permit on forms supplied by the Department.

Section 22.0 Submission of Plans for the Construction or Substantial Modification of a Storage or Transfer Facility

22.1 General

Article XI requires that no person shall construct, install or modify a storage or transfer facility for toxic and hazardous materials without previously having submitted plans to the Department and without having received approval of said plans.

A permit to construct issued by the Department must be obtained prior to the installation or modification of any facility or part thereof for the storage of toxic and hazardous materials.

No person shall use or cause to be used any facility for the storage of toxic and hazardous materials until a permit to operate issued by the Department has been obtained.

22.2 Application Procedures for Approval to Construct



Written approval of plans and a permit to construct issued by the Department are required before start of construction of a storage facility.

Instruction for applying for a permit to construct a storage facility are detailed in Section 21.0 of these Regulations and requires submission of a complete application for a permit to construct which includes:

- (i) Application form for a permit to construct, signed by the owner of the storage facility, officer of the corporation or general partner;
- (ii) A list of all toxic and hazardous materials that will be stored at the facility;
- (iii) Plans for the construction or substantial modification of the storage facility in accordance with Section 22.3 of these Regulations, and
- (iv) The registration of any new tanks to be constructed or installed (see Section 20.0 of these Regulations).

## 22.3 Submission of Plans

### 22.3.1 Content and Format of Plans

Plans submitted shall:

- (i) Bear the seal and signature of a Professional Engineer licensed in the State of New York on each drawing (See Section 22.6 of these Regulations for exemptions).
- (ii) Be submitted in quadruplicate.
- (iii) Be drawn to scale 1" = 10' to 100' for plot plan, depending upon area covered and a suitable scale for details of the storage area.
- (iv) Be of standard drawing sizes of 18" x 24" or 24" x 36".
- (v) Show the following:
  - 1) Plot plan and key map;
  - 2) Buildings;

- 3) Sewage and industrial disposal system(s);
  - 4) Location of all storm drains including dry wells, water supply lines, water supply wells, or other utilities which are contained on the property or are within 100 ft. of the property line;
  - 5) Details of construction of the proposed storage location including plan cross section and elevation;
  - 6) Depth to groundwater and anticipated maximum and minimum groundwater levels;
  - 7) Proposed finished grading;
  - 8) Description of materials of construction for all standard aspects of the storage area including but not limited to roofing, flooring, foundation, piping and methods of sealing;
  - 9) Location of any surface waters within 100 ft. of the property.
- (vi) Include a schedule for installation and operational status.

22.3.2 The following information shall be supplied for underground tanks in addition to the Requirements of Section 22.3.1 of these Regulations:

- (i) Details of the proposed tank installation and piping system in plan view, cross-section and elevation;
- (ii) Elevation of the existing groundwater level and of the maximum and minimum groundwater levels on the site. Existing groundwater levels shall be based on a test hole where the groundwater level is less than four (4) feet from the bottom of the tank. Maximum and minimum groundwater levels shall be based on monitoring well(s) in proximity to the site;
- (iii) Cross-section of test hole and its location. Test holes shall be carried down at least four (4) feet beyond the bottom of the tank or to groundwater if encountered;

- (iv) Material of construction of the tank and piping system and other related information to show conformance to these requirements;
- (v) Secondary containment system including all monitoring wells. If monitoring wells are required and no groundwater was encountered, an additional test boring will be needed down to groundwater. The cross section of this test boring must be shown on the plan including existing, maximum and minimum groundwater levels as noted previously;
- (vi) Leak detection system;
- (vii) Overfill protection provision.

22.3.3 The following information shall be supplied for aboveground tanks in addition to the Requirements of Section 22.3.1 of these Regulations:

- (i) Details of the proposed tank installation and piping system in plan view, cross-section and elevation;
- (ii) Depth to groundwater. If four (4) feet or less to the bottom of the tank a test hole must be dug and the cross-section shown on the plans along with maximum and minimum groundwater levels;
- (iii) Material of construction of the tank and piping system and other related information to demonstrate compliance with these Requirements;
- (iv) Secondary containment system;
- (v) Leak detection system;
- (vi) Overfill protection provisions.

#### 22.4 Approval of Plans

Upon review of a completed application (application forms, plans, specifications, fees, etc.) and approval of the plans, a permit to construct will be issued by the Department. The permit will be valid for a period not to exceed one year from date of issuance. After one year (365 days) new applications, plans and fees are required if work covered in the previously approved plans has not

been completed unless a waiver granted by the Commissioner has been applied for and granted prior to the expiration of the original permit.

## 22.5 Procedure for Final Approval of Installation

### 22.5.1 Permit to Operate

A permit to operate will be issued for a period not to exceed 5 years for each storage area after the following procedures have been completed:

- (i) A preconstruction meeting where required by the Department attended by the owner (or authorized representative) and contractor to discuss the Department's requirements for inspection;
- (ii) Submittal to the Department of a letter from a licensed Professional Engineer, certifying, that construction has been completed according to approved plans. (See Section 11.0 of these Regulations for details and Section 22.6 of these Regulations for exemptions);
- (iii) Approval of the completed facility after inspection by a representative of the Department;
- (iv) Registration of all storage tanks installed or modified.

## 22.6 Exemptions

### 22.6.1 Exempt Storage Areas

The following storage areas are exempt from the requirement of submission by a licensed Professional Engineer of plans and certification:

- (i) Storage areas with a total capacity of less than twenty (20) 55 gallon drums or equivalent;
- (ii) Tanks with a capacity of 250 gallons or less.

22.6.2 For exempt storage areas indicated in section 22.6.1 above, sketches of planned construction shall be submitted with the application for a permit to construct by the owner in lieu of a Professional Engineer. A final permit to operate will not be

issued until these facilities meet or are upgraded to meet the requirements of Article XI and these Regulations.

## Reference

### Referenced Material

Citations used in these Regulations refer to the publications listed below. These publications are available for copying and inspection at the Nassau County Department of Health, 240 Old Country Road, Mineola, N.Y. 11510.

(1) "UL No. 58" means Underwrites Laboratories, Standard For Steel Underground Tanks For Flammable And Combustible Liquids, No. 58, April 10, 1981, Underwriters' Laboratories, 333 Pfingston Rd., Northbrook, Illinois, 60062.

(2) "UL No. 142" means Underwriters Laboratories, Standard For Steel Aboveground Tanks For Flammable and Combustible Liquids, No. 142, January 16, 1985, Underwriters' Laboratories, 333 Pfingston Rd., Northbrook, Illinois, 60062.

(3) "UL No. 1316" means Underwriters Laboratories, Standard For Glass-Fiber Reinforced Plastic Underground Tanks For Petroleum Products, No. 1316, July 1, 1983, Underwriters' Laboratories, 333 Pfingston Rd., Northbrook, Illinois, 60062.

(4) "ULC-S603" means Underwriters Laboratories of Canada, No. ULC-S603-M1981 Standard For Steel Underground Tanks For Flammable and Combustible Liquids, 1981, Underwriters' Laboratories of Canada, 7 Crouse Rd., Scarborough, Ontario, Canada MIR349.

(5) "ULC-S603.1" means Underwriters Laboratories of Canada, No. ULC-S603.1-M1982, Standard For Galvanic Corrosion Protection Systems For Steel Underground Tanks For Flammable And Combustible Liquids, 1982, Underwriters' Laboratories of Canada, 7 Crouse Rd., Scarborough, Ontario, Canada MIR349.

(6) "CAN4-S630-M84", means Underwriters: Laboratories of Canada, No. CAN4-S601-M84, Standard for Shop Fabricated Steel Aboveground Horizontal Tanks for Flammable and Combustible Liquids, 1984, Underwriters' Laboratories of Canada, 7 Crouse Rd., Scarborough, Ontario, Canada MIR349.

(7) "CAN4-S630-M84", means Underwriters Laboratories of Canada, No. CAN4-S630-M84, Standard for Shop Fabricated Steel Aboveground Vertical Tanks for Flammable and Combustible Liquids, 1984, Underwriters' Laboratories of Canada, 7 Crouse Rd., Scarborough, Ontario, Canada MIR349.

(8) "ULC No. CAN4-S615-M83" means Underwriters Laboratories of Canada, No. CAN4-S615-M83, Standard For Reinforced Plastic Underground Tanks for Petroleum

Products, 1983, Underwriters' Laboratories of Canada, 7 Crouse Rd., Scarborough, Ontario, Canada MIR349.

(9) "API Standard No. 620" means American Petroleum Institute, Standard No. 620, Recommended Rules For Design And Construction Or Large, Welded, Low Pressure Storage Tanks, April 1985, American Petroleum Institute, 1220 L. St., NW, Washington, D.C. 20005.

(10) "API Standard No. 650" means American Petroleum Institute, Standard No. 650, Welded Steel Tanks For Oil Storage, February 1984, American Petroleum Institute, 1220 L. St., NW, Washington, D.C. 20005.

(11) "API Publication No. 1632" means American Petroleum Institute, Publication No. 1632, Cathodic Protection of Underground Petroleum Storage Tanks And Piping Systems, 1983, American Petroleum Institute, 1220 L. St., NW, Washington, D.C. 20005.

(12) "Steel Tank Institute Standard No. sti-P3" means Specifications for sti-P3 Systems For Corrosion Protection of Underground Steel Storage Tanks, July 1983, Steel Tanks Institute, 666 Dundee Rd., Suite 705, Northbrook, Illinois, 60062.

(13) "NACE Standard RP-01-69" means National Association of Corrosion Engineers, Recommended Practice-Control Of External Corrosion On Underground Or Submerged Metallic Piping Systems RP-01-69, (January 1983 Revision) National Association of Corrosion Engineers, Box 218340, Houston, Texas, 77218.

(14) "NFPA 30" means National Fire Protection Association, Flammable And Combustible Liquids Code, No. 30A, July 5, 1984, NFPA, Batterymarch Park, Quincy, Massachusetts, 02269, pgs, 30-17, 30-18, 30-20 and 30-21.

(15) "NFPA No. 30A" means National Fire Protection Association, Automotive and Marine Service Station Code, No. 30A, July 5, 1984, NFPA, Batterymarch Park, Quincy, Massachusetts, 02269, pages 30A-7 and 30A-8.

(16) "Nassau County Fire Prevention Ordinance" means The Nassau County Fire Prevention Ordinance, Article III, Flammable and Combustible Liquids, 1981, and as amended.

(17) "40 CFR Part 261" means Part 261-Identification and Listing of Hazardous Waste, Title 40 of the Code of Federal Regulations, Code of Federal Regulations, Title 40- Protection of Environmental, Parts 190-399, Revised as of July 1, 1985, Office of the Federal Register, National Archives and Records Administration, US Printing Office, Washington, D.C. 20402, pgs. 351-395.

(18) "40 CFR Part 302" means Part 302-Designation, Reportable Quantities and Notification, Title 40 of the Code of Federal Regulations, Federal Register, Volume 50, Number 65, Thursday, April 4, 1985, pgs, 13474-13513, and as amended.

(19) “49 CFR Part 172” means Part 172-Hazardous Materials Tables and Hazardous Materials Communications Regulations, Title 49 of the Code of Federal Regulations, Code of Federal Regulations, Title 49-Transportation, Parts 100-177, Revised as November 1, 1985, Office of the Federal Register, National Archives and Records Administration, US Printing Office, Washington, D.C. 20402, pgs. 71-342, and as amended.

(20) “6 NYCRR Part 371” means Part 371-Identification and Listing of Hazardous Wastes, Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York, effective July 14, 1985, and as amended.

(21) “Schedule I of 6 NYCRR 703.6” means Schedule I of Section 703.6-Effluent Standards and/or Limitations for Discharges to Class GA Waters, Part 703 of Title-6 of the Official Compilation of Codes, Rules and Regulations of the State of New York, effective September 1, 1978, and as amended.

**NASSAU COUNTY PUBLIC HEALTH ORDINANCE**

**ARTICLE XII**

**CHILDREN’S CAMPS**

Section 1.     Declaration of Policy.

The Nassau County Board of Health is authorized and empowered under the New York State Public Health Law with promulgating rules, regulations, orders and directions for the security of life and health in Nassau County. Many of these regulations are derived, in part, from the New York State Sanitary Code. The New York State Sanitary Code (Chapter I of 10 NYCRR), Part 7, Subpart 7-2, provides for the rules and regulations for day camps which operate within New York State, and Section 7-2.4(c) of the New York State Sanitary Code provides for camp operators to submit applications for permit at least thirty days prior to the first day of operation. The Board of Health recognizes that the Nassau County Department of Health is the permit-issuing agency for all children’s camps located within Nassau County. The Board of Health further recognizes that Department officials require more time to review the applications and qualifications of children’s camp operators, conduct the necessary and proper investigations of camp directors, review camp safety plans, conduct on-site inspections and meet administrative deadline requirements for timely issuance of children’s camp permits. In furtherance of established goals to protect the well-being of the residents of this county and to promote the health, safety, and general welfare of the public, the Board of Health hereby establishes regulations for children’s camps.

Section 2.     Incorporation by Reference.

The Nassau County Board of Health does hereby adopt and incorporate by reference the entirety of Part 7, Subpart 7-2 of the New York State Sanitary Code, entitled “Children’s Camps,” except when otherwise set forth in this Article.

Section 3.     Timeliness of Permit Application.

Application for a permit to operate a children’s camp in Nassau County shall be made by the camp operator or director to the permit issuing official (Nassau County Department of Health) at least ninety (90) days prior to the first day of camp operation.\*

\*This provision changes section 7-2.4© of the New York State Sanitary Code.



**NASSAU COUNTY PUBLIC HEALTH ORDINANCE**

**ARTICLE XIII**

**PUBLIC HEALTH NUISANCE**

**Section 1.**      **Definition.**

As defined in Article I, Sec 1.3 (19) of the Nassau County Public Health Ordinance, Nuisance is defined as “any annoying, offensive or vexatious use of property or course of conduct that is adverse to the public health.”

**Section 2.**      **Inspections and Investigations.**

- (A) The Commissioner, or his/her duly authorized representative, shall have the authority to investigate all complaints of any nuisance in the County.
- (B) The Commissioner, or his/her duly authorized representative, may enter upon or within any place or premises where a nuisance is reasonably believed to exist or is maintained or operated in a manner as to constitute a nuisance.
- (C) The Commissioner, or his/her duly authorized representative, may enter upon or within any place or premises which may be the cause of the existence of a nuisance.

**Section 3.**      **Notice to Owners and Others.**

- (A) The Commissioner, or his/her duly authorized representative, shall furnish the owners, agents and occupants of a place or premises upon which a nuisance has been found to exist, or which is the cause of any nuisance to exist elsewhere, with a written statement of the nature of the nuisance.
- (B) The Commissioner, or his/her duly authorized representative, shall initiate such procedures as may reasonably be expected to result in the immediate voluntary abatement of any nuisance found to exist upon or within any place or premises, which is the cause of the existence of a nuisance.

**Section 4.**      **Hearings and Orders.**

- (A) After inspection, a report shall be filed if the examination and inspection of any place or premises reveal:

- (1) That a nuisance exists or is maintained at such place or premises; or,
- (2) That such place or premises contains a condition which causes a nuisance to exist.

In such an event, the Commissioner or duly authorized representative shall cause to be served upon the owner, agent or occupant of such place or premises a Notice to Appear at a stated date, time and place to show cause why such condition should not be declared a nuisance, and why an Order for its abatement should not be issued and a civil penalty assessed.

- (B) If after such a hearing, the Commissioner shall determine that the condition or conditions found to exist constitute a nuisance, a copy of such Findings, Determinations and Order shall be served on the owner, agent or occupants, and be conspicuously posted on the premises.
- (C) If after such a hearing, the Commissioner shall determine that the condition or conditions found to exist constitute a nuisance, the Board of Health may assess a civil penalty against any person found to have caused or maintained said nuisance.

Section 5.      Abatement.

- (A) Following a hearing and finding of a nuisance the Commissioner shall, in writing, order the abatement, suppression or removal of all nuisances from such place or premises.
- (B) Whenever the owner, agent or occupants of any premises whereon any nuisance has been determined to exist or deemed to be the cause of the existence of such nuisance elsewhere, fails to comply with any Order for abatement, suppression or removal of such nuisance, the Commissioner may petition a Court of competent jurisdiction for authorization to enter upon the place or premises to which such Order related, and to abate, suppress or remove such nuisance or condition causing such nuisance.

Section 6.      Abatement Expenses and Remedies.

- (A) The expense of abatement, suppression or removal of a nuisance incurred by the Department shall be paid by the owner or occupant of the premises, or by the person who caused or maintained such nuisance or condition. The Department shall have available any and all remedies for recoupment of expenses as provided for in the New York State Public Health Law.

(B) As provided by the New York State Public Health Law, the Department or County may maintain an action in a Court of competent jurisdiction to recover the expense of such abatement, suppression or removal of a nuisance.

Section 7.      Effective Date.

These provisions shall take effect on June 1, 2001.

**NASSAU COUNTY PUBLIC HEALTH ORDINANCE**

**ARTICLE XIV**

**FOODS CONTAINING ARTIFICIAL TRANS FATS**

- 14.1 Artificial trans fat restricted. No foods containing artificial trans fat, as defined in this section, shall be stored, distributed, held for service, used in preparation of any menu item or served in any food establishment or by any mobile food unit commissary, as defined in Articles 3 and 3A of the Nassau County Public Health Ordinance or Part 14 of the New York State Sanitary Code or successor provisions thereof, except food that is being served directly to patrons in a manufacturer's original sealed package.
- 14.2 Definition. For the purpose of this section, a food shall be deemed to contain artificial trans fat if the food is labeled as, lists as an ingredient, or has vegetable shortening, margarine or any kind of partially hydrogenated vegetable oil. However, a food whose nutrition facts label or other documentation from the manufacturer lists content of the food as less than 0.5 grams per serving, shall not be deemed to contain artificial trans fat.
- 14.3 Labels required.
- 14.3.1 Original labels. Food service establishments and mobile food unit commissaries shall maintain on site original labels for all food products:
- (i) that are, or that contain, fats, oils, margarines or shortenings, and
  - (ii) that are, when purchased by such food service establishments or mobile food unit commissaries, require by applicable federal and state law to have labels, and
  - (iii) that are currently being store, distributed, held for service, used in preparation of any menu items, or served by the food service establishment, or by the mobile food unit commissary.
- 14.3.2 Documentation instead of labels. Documentation acceptable to the Health Department, from the manufacturers of such food products, indicating whether the food products contain vegetable shortening, margarine or any kind of partially hydrogenated vegetable oil, or indicating trans fat content, may be maintained instead of original labels.
- 14.3.3 Documentation required when food products are not labeled. If baked goods, or other food products restricted pursuant to section 14.1 of this section, that are or that contain fats, oils or shortenings, are not required to be labeled when purchased, food service establishments and mobile food

commissaries shall obtain and maintain documentation acceptable to the Health Department, from the manufacturers of the food products, indicating whether the food products contain vegetable shortening, margarine or any kind of partially hydrogenated vegetable oil, or indicating trans fat content.