

ARTICLE I

GENERAL DEFINITIONS, GENERAL PROVISIONS

1.1.0 - Declaration of Policy

It is hereby declared to be the health policy of the Rockland Health District that the rules and regulations herein contained together with any and all amendments thereto shall constitute and comprise the Sanitary Code of the County of Rockland and shall be known and may be cited as the Rockland County Sanitary Code.

The purpose of this Article is to delineate definitions and general provisions which are applicable to the entire Rockland County Sanitary Code.

1.2.0 - Definitions

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

1.2.1 **Board**

The term "**board**" means the Board of Health of the Rockland County Health District.

1.2.2 **Code**

The term "**code**" means the Sanitary Code of the Rockland County Health District.

1.2.3 **Charter**

The term "**charter**" means the Charter of the County of Rockland.

1.2.4 **Communicable Disease**

The term "**communicable disease**" means infectious, contagious or communicable disease as defined in the Public Health Law and New York State Sanitary Code.

1.2.5 **County**

The term "**county**" means the County of Rockland.

1.2.6 **Commissioner**

The term "**commissioner**" means the Commissioner of Health of the Rockland County Health District.

1.2.7 **Department**

The term "**department**" means the Department of Health of the Rockland County Health District.

1.2.8 **Health District**

The term "**health district**" means the Rockland County Health District as established by the Rockland County Board of Supervisors, Resolution 246 of 1956.

1.2.9 **Local Health Officer**

The term "**local health officer**" means the local health officer as defined in New York State Public Health Law.

1.2.10 **Permit**

The term "**permit**" means a written license and authorization to carry on a specified activity or activities as regulated by this Code, the State Sanitary Code or the Public Health Law and includes any written approval issued by the Commissioner or his duly designated representative.

1.2.11 **Permittee**

The term "**permittee**" means a person who holds a valid permit issued by the Commissioner, the State Department of Health or the State Department of Environmental Conservation.

1.2.12 **Person**

The term "**person**" means any individual, firm, corporation, association, partnership, institution, public body, joint stock association or any other group of individuals, and includes the plural as well as the singular.

1.2.13 **Public Place**

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

1.2.14 **Municipality**

The term "**municipality**" means a town or village located within the County of Rockland.

1.2.15 **State**

The term "**state**" means the State of New York.

1.2.16 State Sanitary Code

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

1.3.0 - Applicability: Legal Effect

- 1.3.1 The provisions of the Code shall be in force throughout the Rockland County Health District.
- 1.3.2 The Code shall be supplemental to the Public Health Law, the State Sanitary Code and other State Laws and shall supersede all local ordinances heretofore or hereafter enacted or promulgated inconsistent with the provisions of the Code.
- 1.3.3 The provisions of this Code shall have the force and effect of law.
- 1.3.4 It shall be the duty of each local board of health and each local health officer in the Health District, existing pursuant to law, to enforce every provision of the Code.
- 1.3.5 Nothing herein contained shall be construed to restrict the power of any town, city or village to adopt and enforce existing ordinances relating to health and sanitation, provided that such ordinances are not inconsistent with the provisions of the Public Health Law, the State Sanitary Code.

1.4.0 - Legal Presumptions, Evidence, Reports as Evidence

- 1.4.1 As provided by the Public Health Law, certified copies of the Code shall be received in evidence in all courts and proceedings in the State.
- 1.4.2 As provided by the Public Health Law, every rule, regulation, order and direction adopted by the Commissioner shall state the date on which it takes effect and a copy thereof signed by the Commissioner or his Deputy shall be filed as a public record in the Department, in the State Department of Health and in the office of the Rockland County Clerk, and shall be published in such manner as the Commissioner may from time to time determine.
- 1.4.3 As defined in New York State Public Health Law, the written reports of the State and local health officers, inspectors, investigators, nurses and other representative of the State and local health officers on questions of fact pertaining to, concerning or arising under and in connection with complaints, alleged violations, investigations, proceedings, actions, authority and orders, related to the enforcement of this Code, the Public Health Law, the State Sanitary Code or any local health regulation shall be presumptive evidence of the facts so stated therein, and shall be received as such in all courts and places.

1.5.0 - Construction

- 1.5.1 This Code is intended to be consistent with the applicable Federal and State Law and shall be construed, whenever necessary, to achieve such consistency.
- 1.5.2 This Code shall be liberally construed for the protection of health and safety in the Health District.

1.6.0 - Separability of Provisions

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

1.7.0 - Saving Clause

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

1.8.0 - The Board of Health, Officers, Meetings

- 1.8.1 The Board shall meet regularly one (1) day of each month. (*Revised 4/16/08.)
- 1.8.2 The chairman, or other presiding officer of the Board may call special meetings thereof when, in his judgment, the protection, preservation or improvement of the public health of the health district or any part thereof requires it.
- 1.8.3 A majority of the membership of the Board shall constitute a quorum at any regular or special meeting of the Board.
- 1.8.4 The Board shall annually elect a chairman from among its members who shall serve as presiding officer of the Board.
- 1.8.5 The Board shall annually elect a vice chairman from among its member who shall serve as presiding officer of the Board in the absence of the chairman.

1.9.0 - The Board of Health: General Powers

As provided by the Charter, the Board shall advise the County Executive and the Legislature of Rockland County in matters related to the powers and duties of the Commissioner of Health. The Board and members thereof shall have the power to inspect and review all facilities and programs of the Department with or without notice to the Commissioner and may report and make recommendations to the County Executive, County Legislature and Commissioner of Health. All such reports shall be deemed public records and available for inspection at the Office of the County Executive at all reasonable times. The Board shall also advise and consult with the capital projects committee with respect to all capital projects necessary for the Department. The Board shall have and exercise such other and related duties required by the Legislature or the County Executive.

1.10.0 - The Commissioner: Quasijudicial Powers

As provided by the Public Health Law and Article VII of the Rockland County Charter, the Commissioner may:

- 1.10.1 Issue subpoenas.
- 1.10.2 Compel the attendance of witnesses.
- 1.10.3 Administer oaths to witnesses and compel them to testify.
- 1.10.4 Designate members of the Department to issue subpoenas.
- 1.10.5 Designate any person or persons to conduct a formal hearing or hearings for the purpose of taking testimony and reporting findings of fact, conclusions and recommendations as a hearing officer or hearing officers for such purpose, concerning any investigation, inquiry, study or violations of the Public Health Law, State Sanitary Code or this Code.

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- 1.10.6 Issue warrants to any peace officer of any municipality in the Health District to apprehend and remove such person or persons as cannot otherwise be subjected to its orders or regulations.
- 1.10.7 Issue warrants to the sheriff of the County to bring to its aid the power of the County whenever it shall be necessary to do so.
- 1.10.8 Prescribe and impose civil penalties for the violation of or failure to comply with any provision of the Code, of the provisions of the State Sanitary Code not exceeding one thousand dollars (\$1000)* for a single violation or failure or omission to act. (*Amended 9/16/98.)
- 1.10.9 Make, without publication thereof, such orders and regulations for the suppression of nuisances and concerning all other matters in his judgment detrimental to the public health in special or individual cases, not of general application, and serve copies thereof upon the owner or occupant of any premises whereon such nuisances or other matters may exist or upon which may exist the cause of other nuisances to other premises or cause the same to be conspicuously posted thereon.
- 1.10.10 Maintain actions in any court of competent jurisdiction to restrain by injunction violators of his orders, rules and regulations, the State Sanitary Code, this Code, or otherwise to enforce such orders and regulations.

1.11.0 - The Commissioner: General Powers

- 1.11.1 As provided by the Public Health Law, the Commissioner shall:
 - 1.11.1.1 Make an annual sanitary survey and maintain sanitary supervision over the territory within the Health District.
 - 1.11.1.2 Make a sanitary inspection periodically of all places of public assemblage and report thereon to those responsible for the maintenance of such places of public assemblage.
 - 1.11.1.3 Promote the spread of information as to the cause, nature and prevention of prevalent diseases and the preservation and improvement of health.
 - 1.11.1.4 Take such steps as may be necessary to secure prompt and full reports by physicians of reportable diseases.
 - 1.11.1.5 Take such steps as may be necessary to secure prompt and complete registration of births and deaths.
 - 1.11.1.6 Attend conferences called by the State Commissioner of Health or his authorized representatives.
 - 1.11.1.7 Enforce within the Health District the provisions of the Public Health Law, State Sanitary Code and this Code.

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- 1.11.2 Whenever the Commissioner is empowered to or charged with the responsibility to do or perform an act, he may deputize any officer or employee in the Department to do or perform the act in his place and stead.
- 1.11.3 The Commissioner is hereby authorized and empowered to make and promulgate all reasonable rules and regulations necessary to enforce the provisions of this Code.

1.12.0 - Fees and Permits

- 1.12.1 All application for permits, or written approval herein required, shall be made upon forms prescribed and furnished by the State Commissioner of Health, or the Commissioner, and shall be signed by the applicant, who shall be the person or authorized agent thereof responsible for conformance to the conditions of the permit or approval applied for. Such applications shall contain such data and information, and be accompanied by such plans as may be required by the Commissioner. A permit issued to a particular person, or for a designated place, purpose, or vehicle, shall not be valid for use by any other person, 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 who 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 Sanitary Code. Each such permit shall expire as stated on the permit, and may be renewed by the Commissioner, suspended for cause by the Commissioner, or revoked by the Commissioner after due notice and hearing.
- 1.12.2 The Commissioner may establish a schedule of and impose fees, including late fees, for the consideration of applications for the issuance of any required licenses, approvals, or permits consistent with the cost of examination and field inspections. (*Amended 6/18/08.)
 - 1.12.2.1 The Commissioner in his discretion may refund in whole or in part any fees accompanying applications where no approval or permit is subsequently issued.
 - 1.12.2.2 The Commissioner may also establish and charge reasonable fees for the filing in his office of required reports.
- 1.12.3* Notwithstanding any other provision of this Code to the contrary, the Commissioner shall not issue or renew any permit required under this Code to any person who has an outstanding fee and/or unpaid civil penalty imposed by the Commissioner of Health. (*Added 4/19/89. Amended effective 1/1/06. Amended 4/16/08. Revised 6/16/10.)

1.13.0 - Inspections: In General

- 1.13.1 The Commissioner or any authorized representative of the Department may inspect any premises, matter or thing within its jurisdiction, including but not limited to any premises where an activity regulated by the State Sanitary Code or this Code is carried on.

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- 1.13.2 The representatives of the Department may inspect any record required to be kept pursuant to the State Sanitary Code or this Code, within its jurisdiction.

1.14.0 - Inspections: Interference

- 1.14.1 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 jurisdiction of the Department, in the discharge of his official duties or Department business.
- 1.14.2 No person shall interfere with, obstruct or refuse to allow the examination of any occupant of any premises, place or thing by an authorized employee or representative of the Department, in the discharge of his official duties.
- 1.14.3 No person shall molest or resist any representative of the Department in the discharge of his official duties. (*Added 4/19/89.)

1.15.0 - Inspections: Taking Samples

The Commissioner, or any authorized representative of the Department may take and remove any substance or thing or any necessary part or portion thereof from any premises or place as a sample for investigation or evidence when in the opinion of such representative such substance or thing may be dangerous or detrimental to the public health.

1.16.0 - Notices: Posting, Destroying

- 1.16.1 Notices shall be in the English language; provided, however, if the Department is of the opinion that the person or persons to whom a required warning, notice or instructional sign is addressed may not understand the English language, the Department may require that such warning, notice or sign shall appear legibly both in English and other designated foreign language.
- 1.16.2 No person shall remove, mutilate, conceal, obstruct or tear down any notice or placard of the Department posted in or on any premises or public place by written permission of an authorized representative of the Commissioner.

1.17.0 - Preliminary Hearings

- 1.17.1 The Commissioner or any authorized representative may investigate any application, complaint, circumstances or alleged violation of the State Sanitary Code or this Code and regulations by conducting a preliminary informal hearing or hearings pertaining thereto.
- 1.17.2 **Hearing**
- 1.17.2.1 Such hearing shall be set down for a day certain and shall be on due and adequate notice to the person or persons concerned.

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- 1.17.2.2 The notice of hearing shall set forth the time and place of the hearing; the name of the person or persons concerned; the purpose of the hearing, general specifications with reference to the particular provisions of the Public Health Law, State Sanitary Code, this Code or other health law or rule or regulation involved, if any.

1.17.3 Conduct of Hearing

- 1.17.3.1 On the return day of the hearing, the Commissioner or the authorized representative shall note the names and addresses of the persons appearing at such hearing and shall thereafter proceed with the business of the hearing.
- 1.17.3.2 Oaths shall not be administered at any preliminary hearing conducted pursuant to this Section, nor shall testimony be taken at such hearing in any formal manner or be recorded verbatim as is customary in formal legal proceedings.
- 1.17.4 Nothing herein contained shall preclude the Department from taking any action which it may deem appropriate or advisable in the circumstances, other than conducting such hearing.
- 1.17.5 The person who conducted the preliminary hearing shall make and file a report thereof.
- 1.17.6 Subsequent to the preliminary hearing, the person conducting such hearing may:
 - 1.17.6.1 Make a final determination or order.
 - 1.17.6.2 Set the matter down for a formal hearing.
 - 1.17.6.3 Direct that any other action shall be taken as authorized by law or this Code.

1.18.0 - Formal Hearings

- 1.18.1 The Commissioner or his authorized representative may cause to be held a formal hearing on any application, complaint, circumstances or alleged violation of the health laws and regulations under jurisdiction of its Department.
- 1.18.2 **Notice of Hearing**
 - 1.18.2.1 Such formal hearing shall be on due and adequate notice to the person or persons concerned and shall be set down for a day certain.
 - 1.18.2.2 The notice of the hearing shall set forth:
 - 1.18.2.2.1 The time and place of the hearing.
 - 1.18.2.2.2 The purpose of the hearing.

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1.18.2.2.3 Changes and violations complained of, if any, with specific reference to the provisions and sections of the Public Health Law, State Sanitary Code and this Code involved.

1.18.2.2.4 The right to present evidence.

1.18.2.2.5 The right to examine and cross-examine witnesses.

1.18.2.2.6 The right to be represented by counsel.

1.18.3 Conduct of Hearing

1.18.3.1 On the return day of the hearing, the hearing officer shall note the appearances of the persons attending the hearing.

1.18.3.2 Witnesses shall be sworn and testimony shall be recorded.

1.18.3.3 The copy of the audio or digital recording of the hearing shall be provided within a reasonable time after the conclusion of the hearing, if requested by either the hearing officer, the respondent or representative of the Health Department. (*Revised 4/16/08.)

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

1.18.5 Nothing herein contained shall preclude the Department from taking any action other than the formal hearing herein provided for, as may be prescribed by law; nor shall the Department be precluded from taking such other action by virtue of the order made pursuant to this section.

1.18.6 Appearances

At any hearing conducted pursuant to this Code, any party to the proceedings may appear personally and with counsel and shall be given the opportunity to produce evidence and witnesses and to cross-examine witnesses. At any formal hearing conducted pursuant to this Code, if a party shall appear without counsel, the hearing officer shall advise such party of his right to counsel, and that if he desires to proceed without counsel, that he may call witnesses, cross-examine witnesses and produce evidence in his behalf. Appearances shall be noted on the official record of hearings.

1.18.7 Adjournments

The hearing officer may grant adjournments upon request of any part to the proceedings, provided that an adjournment shall not be for an indefinite period of time but shall be set down for a day certain. If an adjournment is requested in advance of the hearing date, such request shall be submitted to the hearing officer in writing and shall specify the reason for such request. In considering an application for adjournment of a hearing, the hearing officer shall consider whether the purpose of the hearing will be affected or defeated by the granting of such adjournment.

1.18.8 Subpoenas

The Commissioner, or any person designated by him for such purpose shall issue subpoenas or subpoenas duces tecum upon request of any party to the proceedings.

1.18.9 Procedure

The hearing officer shall not be bound by the rules of evidence in the conduct of a hearing, but the determination shall be founded upon sufficient legal evidence to sustain it. Upon the conclusion of a hearing, the Commissioner shall take such action upon such findings and determinations as he deems proper and shall execute an order carrying such findings and determinations into effect. The action of the Commissioner may include the assessment of civil penalties as provided by law or this Code. An order of suspension or revocation of any permit or license may contain such provisions as to renewal or reinstatement as the Commissioner shall direct. The Commissioner may direct a rehearing or require the taking of additional evidence and may rescind or affirm a prior determination after such rehearing. A copy of the audio or digital recording of the formal hearing shall be made available to all parties if requested at a fee to be determined by the Commissioner. Transcripts of the proceedings may be requested and purchased at the rate per page paid by the County for transcription services. (*Revised 4/16/08.)

1.18.10 Posthearing Procedures

The Commissioner shall cause to be served upon the respondents copies of findings of fact, conclusions and orders made as a result of a formal hearing by forwarding a copy to the respondent by certified mail, return receipt requested, to the respondent's last known residence or his actual or last known place of business.

1.19.0 - Service of Notice

Unless otherwise expressly provided by law or by any other provisions of this Code, service of notice of hearings shall be made as follows:

1.19.1 Personal services upon a natural person shall be made by any of the following methods:

1.19.1.1 By delivering the notice within the State to the person to be served;
or

1.19.1.2 By delivering the notice within the State to a person of suitable age and discretion at the actual place of business, dwelling place or usual place of abode of the person to be served and by mailing the notice to the person to be served at his last known residence.

1.19.1.3 By delivering the notice within the State to the agent for service of the person to be served as designated under Rule 318 of the Civil Practice Law and Rules.

- 1.19.1.4 Where service under paragraphs 1.19.1.1 and 1.19.1.2 cannot be made with due diligence, by affixing the notice to the door of either the actual place of business, dwelling place or usual place of abode within the State of the person to be served and by mailing the notice to such person at his last known residence.

1.20.0 - Service Upon an Incompetent or Conservatee

- 1.20.1 Upon a person judicially declared to be incompetent. Personal service upon a person judicially declared to be incompetent to manage his affairs and for whom a committee has been appointed shall be made by personally serving the notice within the State upon the committee and upon the incompetent, but the Commissioner may dispense with service upon the incompetent.
- 1.20.2 Upon a conservatee. Personal service on a person for whom a conservator has been appointed shall be made by personally serving the notice within the State upon the conservator and upon the conservatee, but the Commissioner may dispense with service upon the conservatee.
- 1.20.3 Personal service upon persons conducting a business as a partnership may be made by personally serving the notice within the State upon any one of them.
- 1.20.4 Service upon a corporation or governmental subdivision. Service upon a corporation or governmental subdivision shall be made by delivering the notice as follows:
- 1.20.4.1 Upon any domestic or foreign corporation, to an officer, director, managing or general agent, or cashier or assistant cashier or to any other agent authorized by appointment or by law to receive service.
- 1.20.4.2 Upon a domestic or foreign corporation to the Secretary of State pursuant to the provisions of the Business Corporation Law.
- 1.20.4.3 Upon a county, to the county executive, chairman or clerk of the board of supervisors, clerk, attorney or treasurer.
- 1.20.4.4 Upon a town, to the supervisor or the clerk.
- 1.20.4.5 Upon a village, to the mayor, clerk, or any trustee.
- 1.20.4.6 Upon a school district, to a school officer, as defined in the Education Law.
- 1.20.4.7 Upon a park, sewage or other district, to the clerk, any trustee or any member of the board.

1.21.0 - Service Without the State Giving Personal Jurisdiction

A person domiciled in the state or subject to the jurisdiction of the State Sanitary Code or this Code or his executor or administrator may be served with a notice without the state in the same manner as service is made within the state by any person authorized to make service within the state who is a resident of the state or by any person authorized to make service by the laws of the state, territory, possessions or country in which service is made or by any duly qualified attorney, solicitor, barrister, or equivalent in such jurisdiction.

1.22.0 - Service by Other than Prescribed Method

The Commissioner, without notice, may order service of notice by any means reasonably determined to give notice to the person or entity if service, after due diligence, cannot be made in a prescribed method.

1.23.0 - Enforcement: Seizure, Embargo, Condemnation, Disposition

1.23.1 Materials dangerous to health.

1.23.1.1 When, in the opinion of the Commissioner, an article, substance or thing is unfit for human consumption or does not meet the requirements of the State Sanitary Code or this Code or otherwise constitutes a danger or is prejudicial to the public health, the Commissioner or his authorized representative may seize, embargo or condemn such material.

1.23.1.2 The Commissioner or his authorized representative may destroy, render harmless or otherwise dispose of all seized, embargoed or condemned material or may direct the owner or person in control thereof to do so.

1.23.1.3 When the Commissioner or his authorized representative determines that embargoed material consists in part of materials which are not in violation of the State Sanitary Code or this Code and which may be salvaged, or that embargoed materials or any part thereof can be brought into compliance with law, the Commissioner or his authorized representative shall permit the owner or person in control, unless, in the opinion of the Commissioner, the protection of the public health otherwise requires, to separate salvageable portions or to bring such materials into compliance with the State Sanitary Code or this Code at the place of embargo or other place acceptable to the Commissioner.

1.23.1.4 When seized, embargoed or condemned material is disposed of by the Department otherwise than destruction, it shall be returned to the owner or person in control after it has been rendered harmless.

1.23.2 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 material.

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- 1.23.3 Except where the protection of the public health requires immediate action, the Department shall not seize, embargo, condemn, destroy, render harmless or otherwise dispose of any material pursuant to Subdivision 1 of this section, until the owner or person in control is notified by an effective means of communication and is given opportunity to be heard.
- 1.23.4 Any article, substance or thing embargoed pursuant to the provisions of this section shall be identified by the placing and physical attachment thereon of an identification tag or label which shall state the alleged nature and description of the article, substance or thing, the reason for embargo, the date of embargo and the signature of the representative of the Department effecting or causing such embargo.
- 1.23.5 No article, substance or thing embargoed pursuant to the provisions of this section shall be used, removed, destroyed or otherwise disposed of while under such embargo except by and under the direction of the Department.

1.24.0 - Enforcement: Violations, Criminal Penalties

As provided by the Public Health Law, the provisions of the State Sanitary Code shall have the force and effect of law and the non-compliance or non-conformance with any provision thereof shall constitute a violation punishable on conviction for a first offense by a fine not exceeding two hundred fifty dollars (\$250) or by imprisonment for not exceeding fifteen days, or both; and for a second or subsequent offense by a fine not exceeding one thousand dollars (\$1000)* or by imprisonment for not exceeding fifteen days (15) or both. As provided by the Public Health Law, any non-compliance or non-conformance with any provision of this Code or of a rule or regulation, duly made thereunder shall constitute a violation punishable on conviction for a first offense by a fine of not more than two hundred fifty dollars (\$250) or by imprisonment for not more than fifteen (15) days or by both such fine and imprisonment; and for a second or subsequent offense by a fine not exceeding one thousand dollars (\$1000)* or by imprisonment for not exceeding fifteen (15) days, or both. (*Amended 9/16/98.)

1.25.0 - Enforcement: Violations, Civil Penalties

- 1.25.1 Any person who violates, disobeys or disregards the terms of any lawful notice, order or regulation of the State Sanitary Code, this Code, or of the Commissioner, shall be subject to the imposition of a civil penalty by the Commissioner, not exceeding one thousand dollars (\$1000)* for each single violation or failure or omission to act. (*Amended 9/16/98.)
- 1.25.2 The penalty provided for by this section may be sued for and recovered by the Commissioner in any court of competent jurisdiction.
- 1.25.3 Nothing in this section contained shall be construed to alter or repeal any existing provision of law declaring such violations or any of them to be violations or misdemeanors or prescribing the penalty therefor.
- 1.25.4 Each day or a part of a day on which violation(s) or failure continues shall constitute a separate violation(s).

1.26.0 - Enforcement: Violations; Other than by Prosecution

1.26.1 Non-compulsory methods of enforcement.

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

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

1.27.0 - Reconsideration

Any aggrieved party, upon submission of a written application on a form prescribed by the Commissioner and a fee in the amount of \$25, may petition for reconsideration of any determination of the Commissioner of Health provided that the application for reconsideration and fee are submitted to the Commissioner's Office within sixty (60) days of the date of the determination sought to be reconsidered. If the Commissioner of Health grants the aggrieved party application for reconsideration, the applicant shall be duly notified to appear before the Commissioner of Health at such time, date and place as he shall provide. The Commissioner of Health, upon reconsideration of any matter as provided herein may affirm, reverse or modify any prior determination(s) in whole or part. Notwithstanding any other provision of this Code to the contrary, the determination of the Commissioner of Health which the aggrieved party sought to be reconsidered, shall be final and binding upon all parties until affirmed, reversed or modified by the Commissioner of Health as provided herein.

1.28.0 - Validity and Amendments

1.28.1 Unconstitutionality Clause

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

1.28.2 Provisions for Revision or Amendment

This Code may be amended or revised by the Commissioner of Health at any regular meeting of the Rockland County Board of Health provided that a legal notice of intent is published in the county's official newspaper at least ten days prior to such regular meeting of the Board. Such notice shall contain the nature of the proposed change(s) and advise that copies of such change(s) are available upon request in the office of the Rockland County Department of Health.

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1.29.0 - Rescission

Any provision of the Rockland County Sanitary Code previously adopted and inconsistent herewith is hereby repealed.

1.30.0 - Effective Date

This Sanitary Code shall be effective as of November 18, 1987. Amended April 19, 1989. Amended September 16, 1998. Amended effective January 1, 2006. Amended and revised April 16, 2008. Amended June 18, 2008. Revised June 16, 2010.