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[HISTORY: Adopted by the Board of Health of Suffolk County:
Art. 1, 9-3-1975; Art. 2, 9-3-1975; Art. 3, 9-3-1975; Art. 4, 4-27-1983; Art. 5, 9-3-1975; Art. 6, 11-19-1980; Art. 7, 5-22-1985; Art. 8, 9-3-1975; Art. 9, 1-14-1987, effective 10-1-1987; Art. 10, 1-9-1979; Art. 11, 5-21-1975, effective 6-1-1975; Art. 12, 9-12-1979, effective 1-1-1980; Art. 13, 11-5-1975; Art. 14, 12-23-96, effective 7-15-97; Art. 15, 6-2-1976; Art. 16, 12-16-98, effective 5-17-99; Art.17, 2-26-03. Amendments used where applicable.]
ARTICLE 1
SHORT TITLE, GENERAL DEFINITIONS, GENERAL PROVISIONS

§760-101 Short Title
The rules and regulations herein contained together with any and all amendments shall constitute and comprise the sanitary code of the County of Suffolk and shall be known and may be cited as the Suffolk County Sanitary Code.

§760-102 General Definitions
1. 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:
   a. **Adequate.** The term *adequate* shall mean sufficient to accomplish the purpose for which it is intended, and to such a degree that no unreasonable risk to health or safety is presented. An item installed, maintained, designed, and assembled, an activity conducted, or acts performed, in accordance with generally accepted standards, principles or practices applicable to a particular trade, business, occupation or profession, is adequate within the meaning of this Code.
   b. **Board.** The term *Board* shall mean the Board of Health of the Suffolk County Health District.
   c. **Charter.** The term *Charter* means the Charter of the County of Suffolk.
   d. **Code.** The term *Code* means the Sanitary Code of the County of Suffolk.
   e. **Commissioner.** The term *Commissioner* means the Commissioner of Health Services of the Suffolk County Health District.
   f. **Communicable Disease.** The term *communicable disease* means infectious, contagious or communicable disease.
   g. **County.** The term *County* means the County of Suffolk.
   h. **Department.** The term *Department* means the Department of Health Services of the Suffolk County Health District.
   i. **Health District.** The term *health district* means the Suffolk County Health District comprising the entire area of the County of Suffolk.
   j. **Municipality.** The term *municipality* means a city, town, or village located within the County of Suffolk.
   k. **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.
l. **Permittee.** The term *permittee* means a person who holds a valid permit issued by the Commissioner or the State Department of Health or the State Department of Environmental Conservation.

m. **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.


o. **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.

p. **State.** The term *State* means the State of New York.


§760-103 **Applicability; Legal Effect**

1. The provisions of the Code shall be in force throughout the Suffolk County Health District.

2. The Code shall be supplemental to the Public Health Law, the State Sanitary Code and other State laws relating to public health, and shall supersede all local ordinances heretofore or hereafter enacted or promulgated inconsistent therewith.

3. The provisions of this Code shall have the force and effect of law.

§760-104 **Legal Presumptions; Evidence; Reports as Evidence**

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.

2. As provided by the Public Health Law, every rule, regulation, order and direction adopted by the Board shall state the date on which it takes effect and a copy thereof signed by the Commissioner or his deputy shall be filed as a public record in the Department, in the State Department of Health and in the Office of the County Clerk, and shall be published in such manner as the Board may from time to time determine.

3. As provided by the Public Health Law, the written reports of State and local health officers, inspectors, investigators, nurses, and other representatives of State and local health officers on questions of fact pertaining to, concerning or arising under and in connection with complaints, alleged violations, investigations, proceedings, actions, authority and orders, related to the enforcement of this Code, the Public Health Law, the 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.
§760-105  Construction
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.

2.  This Code shall be liberally construed for the protection of health and safety in the County.

3.  The metric system equivalent shall apply to all weights and measures appearing in this Code and the standards of the Department when the metric system replaces the English system in this country.

§760-106  Separability of Provisions
In the event that any provision of this Code is declared unconstitutional or invalid, or the application thereof to any person and circumstance is held invalid, the applicability of such provision to other persons or circumstances and the constitutionality or validity of every other provision of the Code shall not be affected thereby.

§760-107  Saving Clause
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.

2.  An act of the Board 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.

3.  Reference in any law to an existing article, section, subdivision or other provision of the Suffolk 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.

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

§760-108  Certified Copies of Code; Fee
The Commissioner or his deputy shall furnish certified copies of the Code and its amendments for a fee of five dollars.

ARTICLE 2
THE DEPARTMENT OF HEALTH SERVICES
ADMINISTRATION AND ENFORCEMENT

§760-200 The Board of Health; Meetings
1. The Board shall meet regularly one day of each month, except during the months of July and August.

2. The 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.

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

4. The Commissioner shall act as the presiding officer of the Board.

5. The Board shall elect a vice president from among its members who shall serve as presiding officer of the Board in the absence of the president.

6. Notwithstanding any of the above, and consistent with Local Law 11-2001, violations of §760-1200e of the code shall be subject to the following penalties:

   a. An amount equal to two dollars ($2.00) for each ton of carbon dioxide emissions in the first year above the requirements set forth in the code, and

   b. An additional one dollar ($1.00) for each ton of carbon dioxide emissions above the requirements set for in the code shall be imposed for each consecutive year thereafter that the major power generating facility fails to meet its obligation pursuant to the requirements of the code.

§760-201 The Board of Health; General Powers
1. As provided by the charter, subject to the provisions of the Public Health Law and the State Sanitary Code, the Board shall adopt, promulgate, amend or repeal rules and regulations affecting public health in the health district.

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

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

§760-202 The Commissioner; General Powers
1. As provided by the Public Health Law, the Commissioner shall:

   a. make an annual sanitary survey and maintain sanitary supervision over the territory within the health district;

   b. 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;

c. promote the spread of information as to the cause, nature, and prevention of diseases, and the preservation and improvement of health;

d. take such steps as may be necessary to secure prompt and full reports by physicians of reportable diseases;

e. take such steps as may be necessary to secure prompt and complete registration of births and deaths;

f. attend conferences called by the State Commissioner of Health or his authorized representative;

g. enforce within the health district the provisions of the Public Health Law, State Sanitary Code and this Code.

2. Whenever the Commissioner is empowered to or charged with the responsibility to do or perform any act, he may deputize any officer or employee in the Department to do or perform the act in his place and stead.

§760-203 The Commissioner; Quasi-Judicial Powers

1. As provided by the Public Health Law and the charter, the Commissioner may:

   a. issue subpoenas;

   b. compel the attendance of witnesses;

   c. administer oaths to witnesses and compel them to testify;

   d. designate any officer or employee of the Department or any other 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 State Sanitary Code or this Code;

   e. issue warrants to the sheriff of the County to bring to his aid the power of the County whenever it shall be necessary to do so;

   f. 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 his orders or regulations;

   g. when a civil penalty is not otherwise prescribed by law, prescribe and impose penalties for violation of or failure to comply with any lawful notice, order, provision, or regulation of this Code or of the State Sanitary Code or of the Commissioner, not exceeding two thousand ($2,000) for a single violation or failure;

   h. 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;

i. maintain actions in any court of competent jurisdiction to restrain by injunction violators of
his orders and the orders, rules and regulations of the Board, or otherwise to enforce such
orders and regulations.

§760-204  Inspections: In General
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.

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.

§760-205  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 jurisdiction of the Department in the discharge of his 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 an authorized employee or representative of the Department in the discharge
of his official duties.

3. No person shall molest or resist any representative of the Department in the discharge of his
official duties.

§760-206  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.

§760-207  Notices; Postings; Destroying
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.

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 except by written permission of an
authorized representative of the Commissioner.

§760-208  Investigations; Preliminary Hearings
1. The Commissioner or any authorized representative may investigate any application, complaint,
circumstances or alleged violation of the health laws and regulations by conducting a
preliminary informal hearing or hearings pertaining thereto.
2. a. Such hearing shall be set down for a day certain and shall be on due and adequate notice to the person or persons concerned.

    b. 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.

3. a. On the return day of the hearing, the Commissioner or his 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.

    b. 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.

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.

5. The person who conducted the preliminary hearing shall make and file a report thereof.

6. Subsequent to the preliminary hearing, the person conducting such hearing may:

    a. make a final determination or order;

    b. set the matter down for a formal hearing;

    c. direct that any other action shall be taken as authorized by law or this Code.

§760-209 Investigations; Formal Hearings

1. The Commissioner, at his discretion, may cause to be held a formal hearing on any application, complaint, circumstances, or alleged violation of the health laws and regulations under his jurisdiction.

2. a. 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.

    b. The notice of the hearing shall set forth:

       (1) the time and place of the hearing;
       (2) the purpose of the hearing;
       (3) charges 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;
       (4) the right to present evidence;
       (5) the right to examine and cross-examine witnesses;
       (6) the right to be represented by counsel.

3. a. On the return day of the hearing, the hearing officer shall note the appearances of the persons attending the hearing.
b. Witnesses shall be sworn and testimony shall be recorded.

c. The testimony shall be transcribed within a reasonable time after the conclusion of the hearing.

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

5. The order provided for in subdivision 4 of this section shall be filed in the Department and a copy thereof shall be served on all respondents.

6. 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.

§760-210 Investigations; Service of Notice
Unless otherwise expressly provided by law, or by any other provision of this Code, service of notice of hearings shall be made as follows:

a. enclosing the notice in a postpaid envelope directed to the person or persons concerned at the address last known to the Department, and depositing such envelope at a United States Post Office or in a mailbox or mail chute maintained by the United States Post Office; or

b. leaving the notice with the person concerned, or if the person is not an individual, with a member of the partnership or other group concerned or with an officer of the corporation or person in charge of the office or premises; or

c. posting the notice at the entrance door of the premises involved, if any.

§760-211 Investigations; Hearings; Appearance
1. 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.

2. 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.

3. Appearances shall be noted on the official record of hearing.

§760-212 Investigations; Hearings; Adjournments
1. The hearing officer may grant adjournments upon request of any party to the proceedings, provided that an adjournment shall not be for an indefinite period of time, but shall be set down for a day certain.

2. 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.
3. 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.

§760-213 Investigations; Hearings; Subpoenas
The Commissioner or his duly authorized deputy shall issue subpoenas and subpoena duces tecum upon request of any party to the proceedings of any hearing set down by the Commissioner.

§760-214 Investigations; Hearings; Procedure
1. 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.

2. 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.

3. The action of the Commissioner may include the assessment of civil penalties as provided by law or this Code.

4. 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.

5. The Commissioner may direct a rehearing or require the taking of additional evidence and may rescind or affirm a prior determination after such rehearing.

6. The minutes of a formal hearing shall be made available to all parties for examination at the office of the Department. Copies of minutes may be purchased at the rate per page covering the cost thereof.

§760-215 Investigations; Post-Hearing Procedures
1. 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.

2. Service of findings of fact, conclusions and orders shall be made in the manner prescribed for the service of notice of hearings.

§760-216 Enforcement; Seizure; Embargo; Condemnation; Disposition
1. a. When, in the opinion of the Department, an article, substance or thing 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 Department may seize, embargo or condemn such material.

   b. The Department 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.

   c. 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.
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.

§760-217 Enforcement; Violations; Criminal Penalties
1. As provided by the Public Health Law, the provisions of the State Sanitary Code shall have the force and effect of the 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, or by imprisonment not exceeding 15 days or both; and for a second or subsequent offense by a fine not exceeding five hundred dollars, or by imprisonment not exceeding 15 days or both.

2. 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 by a fine of not more than two hundred fifty dollars or by imprisonment for not more than 15 days or by both such fine and imprisonment.

§760-218 Enforcement; Violations; Civil Penalties
1. a. As provided by the Public Health Law, any person who violates, disobeys or disregards the terms of any lawful notice, order or regulations, prescribed by the State Commissioner of Health or the State Sanitary Code, or any provision of the Public Health Law or State Sanitary Code, for which a civil penalty is not otherwise prescribed by law, shall be liable to the people of the state for a civil penalty of not to exceed two thousand ($2,000) dollars for every such violation.

b. The penalty provided for by subdivision 1(a) of this section may be recovered by an action brought by the State Commissioner of Health in any court of competent jurisdiction.

2. a. When a civil penalty is not otherwise prescribed by law, any person who violates, disobeys, or disregards the terms of any lawful notice, order, provision, or regulation of the State Sanitary Code, of this Code, or of Suffolk County Commissioner of Health Services, shall be subject to the imposition of a civil penalty by the Commissioner not exceeding two thousand ($2,000) dollars for a single violation or failure.

b. The penalty provided for by subdivision 2(a) of this section may be sued for and recovered by the Commissioner in the health district.

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

4. Each day or part of a day on which a violation or failure continues shall constitute a separate violation.

§760-219 Enforcement; Violations; Other than by Prosecution
1. a. In lieu of enforcement of this Code by way of prosecution, recovery of civil penalties, revocation of permits, seizure, embargo and condemnation, or other means, the Department, by its duly authorized representative, may seek to obtain the voluntary compliance with this Code by way of notice, warning or educational means.
b. This section shall not be construed to require that such non-compulsory methods must be employed or attempted before proceeding by way of compulsory or other legally prescribed procedures.

§760-220 Board of Review
1. The Commissioner may establish a Board of Review within the Department and rules of procedure to govern the operation thereof.

2. Such board shall consist of not less than three nor more than twenty persons, three of whom shall be designated to hear and report each appeal from the determination of a deputy or application for variance.

3. In any case where an applicant for a permit or approval is dissatisfied with a determination of the deputy authorized to act for the Commissioner, or seeks a variance from the strict application of the letter of the standards promulgated pursuant to this Code, he may appeal from the determination of the deputy or for consideration of his application to the Board of Review.

4. Such board shall be promptly designated and convene, hear the applicant and his witness, the deputy and other members of the staff or consultants, consider the evidence and exhibits adduced, and make a determination of the hearing.

5. The action, order or determination of the Board of Review shall be forthwith filed in the Office of the Commissioner, and unless reversed or modified by him within three work days after such filing, shall be deemed to be the action, order or determination of the Commissioner.

6. In all appropriate cases, proceedings before the Board of Review shall be deemed to be an administrative remedy, and as such a prerequisite to the institution of a special proceeding against the Commissioner pursuant to the civil practice law and rules.

§760-221 Department Standards
1. There is hereby delegated to the Commissioner the authority to promulgate and establish standards as may be necessary from time to time to effect the purposes of this Code.

2. The Commissioner may, in instances where standards are deemed by him to be necessary, adopt by reference standards promulgated by the New York State Commissioner of Health and set forth in the Official Compilation of Codes, Rules and Regulations, but notwithstanding such State standards, he may promulgate and establish standards for Suffolk County more strict than those imposed by the State code.

§760-222 Exchange of Information
The Commissioner may exchange information with other agencies having responsibility for making health and/or safety inspections of establishments, facilities, or activities regulated by this Code and may utilize said information in making a determination regarding the issuance of a permit required by this Code. Said information may also be utilized in a legal action initiated by the Department involving an establishment, facility, or activity regulated by this Code.

§760-223 Prohibition Against Offers of Benefits
No person shall confer or offer or agree to confer any benefit upon any employee or authorized
representative of the Department under circumstances whereby it may reasonably be inferred that he has done so for the purpose of:

1. influencing the vote, opinion, judgment, action, decision or exercise of discretion of the employee or authorized representative while acting in his capacity as an employee or authorized representative of the Department; or

2. rewarding the employee or authorized representative of the Department for having violated his duty as an agent of the Department; or

3. rewarding the employee or authorized representative of the Department for engaging in official conduct which he was required or authorized to perform.

ARTICLE 3

PERMITS AND LICENSES; GENERAL PROVISIONS

§760-300 Permits and Licenses; Application
1. Application for a permit or for the renewal of a permit shall be made on forms furnished by the Department and shall contain all information called for by said forms.

2. Application for a permit or for the renewal of a permit shall be accompanied by such other information, evidence or documentation as the Department may require or as may be provided by the State Sanitary Code or this Code.

3. In addition to the information specifically required to be submitted to the Department, or if no specific information is required for certain permits, the Department may require the following information:
   a. the name, age, sex, residence and business address of the applicant, and if the applicant is a partnership or other group, of each member of such partnership or group, and, if the applicant is a corporation, of each officer of the corporation;
   b. the ability of the applicant, or of its individual members or officers, to read and write the English language; and
   c. to the extent that such information is relevant to the conduct of the business, trade, occupation or activity for which the permit is to be issued, information concerning the applicant, its individual members or officers, relating to education, training or experience, moral character, physical health, addiction to alcohol or habit-forming drugs, history of prior criminal conviction, including violations and offenses, other than motor vehicle offenses, history of mental illness, and record of insolvency or bankruptcy.

4. Application for a permit or for the renewal of a permit shall be made by and signed by the individual who is to be the permittee, or if a partnership or group other than a corporation is to be the permittee, by one individual who is a general partner of the partnership or duly designated representative of such group; and, if a corporation is to be the permittee, by a duly authorized officer of the corporation, who shall submit a certified copy of a resolution of the board of directors of such corporation authorizing the making of such application.

5. Application for a permit or for renewal of a permit shall constitute an agreement that the permittee assumes responsibility for the operation, conduct and maintenance of the activity authorized by the permit, in accordance with the provisions of the State Sanitary Code and of this Code and the conditions required by the permit and to inspections pertaining thereto.

§760-301 Permits and Licenses; Fees
1. a. The Commissioner may establish a schedule of and impose fees for the consideration of applications for the issuance of licenses, approvals or permits consistent with the cost of examination and field inspections.

   b. The Department may refund in whole or in part any fees accompanying applications where no license, approval or permit is subsequently issued.
c. The Commissioner may also establish and charge reasonable fees for the filing in his office of required reports.

2. Application for a permit or renewal thereof shall be accompanied by payment of a fee as may be required.

3. The Department may delay collection of the prescribed fee until the issuance of the permit.

4. When a permit has a stated expiration date and application therefore is made within six months of such date, one-half of the annual fee shall be paid; provided, however, that this provision shall not apply (a) if the annual fee is less than ten dollars, or (b) if application is being made for renewal of a permit which has expired, or if, in the opinion of the Department, the activity for which the permit is required is seasonal.

5. Whenever the Department is required to make an inspection of any premises located outside of the County for which a permit may be required by the Code or any other provision of law, the applicant for such permit shall pay the required fee for such permit and in addition thereto a fee of twenty-five dollars for each day, consisting of seven hours or part thereof during which a representative of the Department spends traveling to and from and inspecting such premises, and in addition thereto, the applicant shall pay all necessary expenses, including but not limited to, expenses for travel, lodging and meals.

6. Upon the application for a permit or renewal thereof, the Department may require the payment of any outstanding civil penalty imposed by the Commissioner, related to the activity for which the permit is sought or for violations related to the particular facility or site.

§760-302 Permits and Licenses; Posting; Expiration
1. Every permit shall expire on the date stated in the permit and may be extended by the Department in writing for a specified limited time for cause.

2. Every permittee shall apply for renewal of a permit not later than thirty days prior to the expiration date of such permit; unless otherwise required by this Code or by law.

3. A permittee shall comply with the conditions contained in the permit and the provisions and requirements of the Code and the Department under which such permit was issued.

4. Every permit shall be kept on the premises designated or covered by the permit and shall be posted in a conspicuous place on such premises in such manner as to be clearly visible to the public. It shall be available for inspection at all times by the Department.

5. Permits shall remain the property of the Department and shall be surrendered to a duly authorized representative of the Department on demand upon the expiration thereof or when suspended or revoked as herein provided.

§760-303 Permits and Licenses; By Municipalities
No provision of this Code shall be construed to restrict or abrogate the authority of any municipality in the County health district to issue permits or licenses pursuant to any ordinance of such municipality provided, however, that the issuance of such municipal permit or license shall not be inconsistent with the requirements of this Code; and provided further that whenever inspection as to
health and sanitation is required, no municipality shall issue or renew a permit or license without first having obtained approval from the Department with respect to compliance with the Code and the rules and regulations and requirements of the Department.

§760-304 Permits and Licenses; Not Transferable
1. 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.

2. Any attempted or purported transfer of a permit to a person not designated as the permittee therein, or for a purpose, place or vehicle not authorized by such permit automatically revokes such permit.

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

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

§760-305 Permits and Licenses; Suspension and Revocation
1. The Commissioner may suspend a permit which was issued by the Department for violation or non-conformance with the conditions or requirements or provisions of the Code under which such permit was issued.

2. The Commissioner may revoke a permit for cause after due notice and hearing.

3. Nothing herein contained shall interfere with the authority of the Commissioner to summarily suspend and revoke a permit issued by the Department, pending a hearing on the merits if, in the opinion of the Commissioner, the immediate protection of the public health demands such summary action provided that the permittee shall be entitled to a hearing as soon after such summary action as is practicable or as the circumstances may require.

§760-306 Permits and Licenses; Refusal to Issue
1. The Department may refuse to issue a permit or a renewal thereof when the application thereof is incomplete or not accompanied by the required fee, if any.

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

3. The Department may refuse to issue a permit or renewal thereof if the application or investigation thereof indicates to the Department that the activity or premises to be covered by the permit applied for does not meet the requirements of the Code or other provision of law; or that the maintenance, conduct or operation of such activity or premises does not meet the
requirements or provisions of law or may result in a public health hazard.

4. The Department may refuse to issue a permit or renewal thereof or a certificate of approval for any activity, operation, or premises that, in the opinion of the Department, may result in a condition which may be dangerous or harmful to health and life, or that fails to meet the requirements of the Public Health Law, the State Sanitary Code or the requirements of this Code.

5. The Department may refuse to issue a permit or a renewal thereof upon a determination that the applicant is not in compliance with an outstanding order of the Commissioner related to the activity for which the permit is sought or for violations related to the particular facility or site.

§760-307 Permits and Licenses; Denial; Suspension; Revocation; Forfeiture; Effective Date
1. Except as may otherwise be ordered by the Commissioner, the denial of a permit or certificate of approval, or the suspension or revocation of a permit or certificate of approval shall become final five days after service of a notice thereof, exclusive of the day of service, on the applicant or permittee concerned.

2. Service of a notice of denial or refusal to issue a permit or certificate of renewal shall be made in the manner provided in the Code for the service of a notice of hearing.

3. A permit or written approval shall terminate and be considered forfeit and shall become null and void upon service of written notice under any of the following circumstances.
   a. that the process of construction or the operation involved reveals conditions otherwise than as indicated in the approved plans and application; or
   b. that the construction operation involved is in violation of any ordinance or regulation of any duly constituted government authority or any political subdivision thereof; or
   c. that the construction or operation involved is otherwise than in accordance with standards, rules, and regulations pertaining to such construction or the conditions of a permit or written approval issued pursuant to the provisions of the Public Health Law, the State Sanitary Code, or this Code; or
   d. that no action has been taken under such permit or written approval within the period specified in the permit or if no period is specified, within a period of one year following the date of issuance thereof or within a period beyond which the purpose, need or usefulness of the permit or written approval no longer exists.

§760-308 Permits and Licenses; Denial; Appeal
1. Whenever the Department refuses to issue a permit or a renewal thereof or a certificate of approval and no hearing has been had in the matter, the applicant may appeal such action to the Commissioner by serving a notice of appeal in writing in the Department addressed to the Commissioner, within ten days following the service of notice of denial or refusal to issue the permit.

2. The notice of appeal shall contain:
   a. the full name of the applicant, permittee or party affected;
b. the type of permit or certificate of approval for which the application was made or the nature of the action complained of;

c. the place of business listed in the application to which the appeal relates;

d. a statement that the applicant or permittee or other party affected appeals to the Commissioner to review the action of the Department; and

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

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

4. The Commissioner may affirm the action of the Department or he may set the matter down for a hearing upon notice as provided in this Code.

§760-309 Operating Without A Permit
Whenever a permit is required to operate an establishment, facility, or activity by any provision of this Code or the State Sanitary Code and no application has been properly made to the Department for such permit, such failure to apply shall constitute a violation of this Code subject to enforcement as provided in Article 2.

ARTICLE 4
WATER SUPPLY

§760-401 Declaration of Policy
The groundwater of Suffolk County, Long Island, is the sole source of drinking water. The federal government has officially designated the Long Island aquifer as a sole source for water supply. Therefore, the policy of the County of Suffolk is to protect the groundwater to insure the availability of an adequate and safe source of water supply for generations to come by: enforcing the local, state and federal laws regulating water supply; promoting the extension of public water supply to all areas of the County; maintaining a process of groundwater planning; carrying out research and development in the field of alternatives to community water supply; and by promoting education and acceptance of the importance of groundwater management and protection.

§760-402 Statement of Purpose
It is the intent and purpose of this Article to protect the public health through the control of drinking water supplies and to insure that Suffolk County residents have a healthful and plentiful supply of water.

§760-403 Definitions
Whenever used in this Article, unless otherwise expressly stated, or unless the context or subject matter requires a different meaning, the following terms shall have the respective meanings set forth or indicated.

A. Commissioner means the Suffolk County Commissioner of Health Services of the Suffolk County health district, or his/her authorized representative.

B. Community Water System means a public water system which serves at least five service connections used by year-round residents or regularly serves at least twenty-five year-round residents.

C. Contaminant means any physical, chemical, microbiological or radiological substance or matter in water.

D. Department means the Suffolk County Department of Health Services.

E. Drinking Water Supply means water which is provided for human consumption and other domestic uses.

F. Emergency Source of Water Supply means a source of water which has not been developed and approved as a regular source of water and which is developed during an emergency for temporary use as a source of water in case of failure or inadequacy of the regular source of public water supply.

G. Noncommunity Water System means a public water system that is not a community water system.

H. Nontransient Noncommunity Water System (NTNC) means a public water system that is not a community water system but is a subset of a noncommunity water system that regularly serves
at least 25 of the same persons, four hours or more per day, for four or more days per week, for 26 or more weeks per year.

I. **Private Water System** means any system to provide drinking water other than that secured from a public water system.

J. **Public Water System** means either a community, noncommunity or nontransient noncommunity water system which provides piped water to the public for human consumption, if such system has at least five service connections or regularly serves an average of at least 25 individuals daily at least 30 days out 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.

K. **Replacement of Private Water System** means the change in screen setting of an existing private well, screen replacement, or the relocation of the private well.

L. **Source of Water Supply** means any groundwater aquifer, surface water body or water course from which water is taken either periodically or continuously for drinking, culinary or food processing purposes, or which has been designated for present or future use as a source of water supply for domestic or municipal purposes.

M. **Supplier of Water** means any person(s) who owns or operates a public water system.

§760-404 Enforcement Provisions; Powers and Duties of the Commissioner
A. The Commissioner may:

1. inspect public and private water systems for compliance with all applicable rules and regulations;

2. collect appropriate information to determine if water quality is being maintained including but not limited to water samples, and soil, geological and hydrological data;

3. prepare, review, analyze, monitor and evaluate comprehensive water supply plans and prepare studies as may be necessary in the area of water resources management;

4. engage in engineering and enforcement activities for the protection and management of groundwater resources;

5. monitor groundwater and wastewater discharges as they may affect water supply;

6. take appropriate legal action which may include fines for failure to comply with the intent of this Article;

7. promulgate and establish standards to effect the purpose of this Article.

B. The Commissioner may delegate this authority where appropriate.
§760-405 General Provisions
A. No person shall provide or make accessible a supply of water for human consumption or other domestic use unless such water supply is protected from actual or potential sources of contamination and so maintained as to deliver a drinking water supply of potable quality. Such delivered water shall at a minimum meet the prevailing standards of the New York State Sanitary Code Subparts 5-1 through 5-6 and any standards promulgated by the Suffolk County Board of Health.

§760-406 Approval of Plans and Specifications
A. No supplier of water shall make, install or construct, or allow to be made, installed or constructed, a public water system or any additions or deletions to or modifications of a public water system until plans and specifications have been submitted to and approved by the Department or received approval of the State in accordance with the provisions of Subpart 5-1 of the New York State Sanitary Code.

B. "Recommended Standards for Water Works" and "Rural Water Supply" as issued and updated by the New York State Department of Health and other standards promulgated by the Commissioner shall be the basis upon which all plans and specifications for public water systems will be reviewed for approval.

C. "Rural Water Supply" as issued and updated by the New York State Department of Health, "Standards for Individual Water Supply Systems" as issued and updated by the Department, and other standards promulgated by the Commissioner shall be the basis upon which all plans and specifications for private water systems will be reviewed and approved.

D. Approval to construct a private water system will require the submission by the property owner and/or his/her designee of plans and specifications and any other information necessary to ensure that such system conforms to approved standards.

§760-407 Realty Subdivisions and Developments: Approval of Plans
A. No realty subdivision or development shall be sold, offered for sale, leased or rented by any corporation, company or person, and no permanent building shall be erected thereon, until a plan of such realty subdivision or development has been approved by the Department in accordance with Article 6 of the Suffolk County Sanitary Code, including approval of the plans for water supply facilities for said realty subdivision or development and the filing of such approved plans in the Office of the Clerk of the County of Suffolk.

§760-408 Permit to Construct
A. No person shall construct a public or private water system or modify a public water system without first having applied to and obtained from the Department a permit or certificate of approval for construction thereof.

B. Application for permit or certificate of approval to construct a private water system must include evidence satisfactory to the Department that there is no public water supply available.

C. Public and private wells for new water systems must be installed by a well driller certified in accordance with criteria promulgated by the Department.
§760-409 Approval of Completed Works
A. Inspection of a public water system constructed or reconstructed subsequent to the effective date of this Article is required.

B. No supplier of water shall place into service any works until approval has been received from the Department and, if necessary, the approval of the State in accordance with the provisions of Subpart 5-1 of the New York State Sanitary Code.

C. Replacement private water systems must meet standards of the Department specific for replacement facilities and installed by a well driller certified by the Department.

§760-410 Emergency Changes and Plans
A. No owner or operator of any public water supply system shall:

   1. take, use or cause to be taken for use for public water purposes water from an emergency source; or

   2. discontinue the disinfection treatment of any public water supply; or

   3. make any change to source, treatment, storage or distribution system which may affect the quality of water supply; without prior notification and approval as required by Subpart 5-1 of the New York State Sanitary Code.

B. The public drinking water supplier may be required to prepare, update and submit to the Commissioner a written emergency plan designed to provide for quick, efficient responses to emergencies.

§760-420 Standards; Quality
A. All drinking water supplies shall conform with the prevailing water quality standards of Subpart 5-1 of the New York State Sanitary Code and any other standards that may be promulgated by the Suffolk County Board of Health.

B. Conformance with standards shall be determined by analysis of water quality sampling conducted in a manner and frequency consistent with Subpart 5-1 of the New York State Sanitary Code and in conformance with such additional requirements as may be imposed by the Commissioner. Samples shall be collected and analyzed by a laboratory certified by the New York State Department of Health.

§760-421 Bottled and Bulk Water
A. No person shall offer for sale, sell or deliver any bottled or bulk drinking water unless such water shall have been obtained from an approved drinking water supply and manufactured, prepared, bottled and delivered under conditions satisfactory to the Department. Bottled and bulk water sold in Suffolk County must have approval of the New York State Department of Health in accordance with the requirements of Subpart 5-6 of the New York State Sanitary Code.

B. The Suffolk County Board of Health may require additional information, labeling and testing for bottled and/or bulk drinking water.
§760-422 Ice; Natural and Mechanically Created
A. No person shall offer for sale, sell, deliver or manufacture any natural or mechanically-created ice unless such ice shall have been obtained from a source approved and regulated by the Department, and manufactured, prepared and delivered under conditions satisfactory to the Department.

§760-423 Natural Springs
A. Natural springs will not be approved as a source of public or private drinking water supply.

§760-430 Protection of Drinking Water Supply Sources
A. The supplier of water shall maintain and supervise all sources of drinking water supply to prevent contamination and/or depletion.

B. When any source of water supply is found to be of unsatisfactory quality, as determined by the Department such source shall not be used until treatment is provided satisfactory to the Department.

C. When a public water supply is found to be unsatisfactory, the Commissioner may order treatment, discontinuance, abandonment, sealing or posting of such public water supply or any portion thereof.

D. Abandoned wells shall be sealed and filled in accordance with the methods acceptable to the Department.

§760-431 Operation and Maintenance; Public Water Systems
A. Public water systems shall be operated and maintained so as to deliver an adequate supply and pressure of water at all times. The water supply distribution system including pumping equipment, supply mains, distribution system, water storage and other related works shall be so constructed, maintained and operated by the owner as to continuously assure a minimum working pressure of 20 pounds per square inch at ground level at all points in the distribution system.

B. Interruption of service or leak repair and other damage to a public water system shall be corrected immediately after discovery of the damage unless extraordinary circumstances are encountered.

C. In addition to the requirements of Subpart 5-1 of the New York State Sanitary Code, if interruption of service of a public water system does occur, the owner shall immediately notify the Department. A written report shall be submitted within seven days of the event in accordance with Department requirements.

D. The Commissioner may publish, annually, a listing of water supplies that have physical plant deficiencies, operational problems, or water quality difficulties.

E. To safeguard the consumers and insure that a safe and potable water supply is available, the Commissioner may, pursuant to Article 13 of the Public Health Law, take such actions as may be required to insure that emergencies and/or service interruptions constituting a public health nuisance are responded to and corrected promptly by the deficient public water supplier.
§760-432 Operating Reports
A. The Department may require that operating reports be submitted by owners of a public water system at a frequency more stringent than required by Subpart 5-1 of the New York State Sanitary Code.

§760-433 Conservation
A. Owners of public water systems shall be responsible to take water conservation measures to control the quantity of water being utilized.

B. The Department may require the owner of a public water system to submit documentation that an adequate water conservation program is in effect.

§760-440 Water Treatment
A. The owner of a public water system shall provide treatment facilities to ensure that the water delivered to consumers conforms to Subpart 5-1 of the New York State Sanitary Code and any standards that may be promulgated by the Commissioner.

B. If necessary, adequate treatment satisfactory to the Department will be required for a new individual private water supply.

C. A waiver of paragraph A of this section may be granted in accordance with the provisions of Subpart 5-1 of the New York State Sanitary Code.

§760-441 Disinfection
A. Minimum treatment for a public water system obtained in whole or in part from a surface water, or in whole or in part from a groundwater source shall be disinfected by a method acceptable to the New York State Commissioner of Health, unless a waiver has been issued in accordance with the requirements of Subpart 5-1 of the New York State Sanitary Code.

B. No well, water main, standpipe, reservoir, tank or other pipe or structure through which water is delivered to consumers for potable purposes shall be placed in use until it has been disinfected in accordance with the requirements of the New York State Department of Health and unless satisfactory microbiological evidence has been submitted to the Department.

§760-442 Corrosion Control
A. The owner of a public water system shall provide treatment to ensure that the water delivered shall be noncorrosive as defined by Subpart 5-1 of the New York State Sanitary Code.

B. The Commissioner may promulgate regulations to assure that public water systems are noncorrosive.

§760-443 Safety Controls
A. The owner of a public water system shall provide adequate safety controls for all chemicals used by the public water supply.

B. The owner of a public water system shall conduct a program of testing and inspection of safety controls periodically.
§760-450 Surveillance and Monitoring
A. Water suppliers for community water systems, noncommunity water systems, and nontransient noncommunity systems are required to analyze their drinking water supply in accordance with Subpart 5-1 of the New York State Sanitary Code. The Commissioner may require additional analysis as necessary.

B. The Department may require that laboratory analysis reports be submitted by the owners of public water systems. The frequency of reporting shall be determined by the Department.

§760-451 Cross-Connection Control
A. An active program acceptable to the Department to prevent the backflow or entry of undesirable contaminants and/or toxic substances into the water distribution system will be implemented and maintained by the public water system in accordance with the latest edition of "Cross-Connection Control," issued by the New York State Department of Health, and any other standards that may be promulgated by the Commissioner.

B. A detailed report of the cross-connection control program of a public water system may be required by the Department.

C. All community water system owners shall adopt and submit for approval to the Commissioner rules and regulations requiring installation and testing of approved backflow prevention devices.

§760-452 Special Provisions
A. Use of lead or other deleterious materials:

1. The owner or operator of a public water system shall not use or permit the use of lead or other deleterious material, as defined by the Department, in the construction of new, modified or repaired water mains, water service lines, or in any vessel or other water-conveying or storage facility.

2. The owner or operator of a public water system shall effect the removal of any part of an existing water main, water service line or any vessel or other water-conveying or storage facility that is the responsibility of the public water system, which contains lead or other deleterious material of any type, and effect the replacement of same with material approved by the Department.

B. Fishers Island Water Supply

1. Watershed protection measures for the Fishers Island Water Supply shall be promulgated in the form of standards established by the Department in order to minimize impacts of pollution on surface and groundwater quality. The standards may impose more stringent requirements than other sections of the Suffolk County Sanitary Code.

C. Hydraulic Analysis:

1. The owner of a public water system shall conduct a hydraulic analysis of any water main(s), or portions of the water system requested by the Department.
§760-460 Water Treatment Plant Personnel
A. Every public water system shall be supervised by at least one operator of the appropriate grade pursuant to Subpart 5-4 of the New York State Sanitary Code. Additional operators may be required by the Commissioner.

B. It shall be the responsibility of the public water supplier to provide the necessary training of personnel as prescribed in the New York State Sanitary Code to insure adequate operation and maintenance of the facilities.

§760-470 Variances and Waivers
In any case where an applicant for a permit or approval is dissatisfied with a determination of the authorized agent to act for the Commissioner, or seeks a variance or waiver from the strict application of the letter of the requirements of this article, or standards promulgated pursuant to this article, the applicant may appeal from the determination of the deputy or for consideration of the application to the Board of Review in accordance with the provisions of Section 760-609 of the Suffolk County Sanitary Code.

§760-471 Separability of Provisions
In the event that any provision of this article 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 this article shall not be affected thereby.

ARTICLE 5
GENERAL SANITATION

§760-501 Offensive Material
1. The term "offensive material" as used in this section shall mean any sewage, fecal matter, urine, garbage, or any putrescible organic matter, the contents of private or individual sewage disposal systems, either liquid or solid state, laundry waste waters, or any other substance or liquid which may affect health.

2. No person shall permit, deposit, store, or hold any offensive material on any premises or place unless such material is so treated, screened, covered, placed or located so as not to create a public health nuisance. No person shall discharge or place any offensive material into any of the waters of the health district without special permission from the Commissioner, or unless a permit is issued for such discharge in accordance with provisions of the New York State Environmental Conservation Law.

3. All containers for the storage of offensive material shall completely confine the material, shall be rodent and insect proof, and shall be kept in an inoffensive and sanitary condition at all times.

4. No person shall remove or transport, or permit the removal or transportation of any offensive material except in such manner as will prevent the creation of a public health nuisance, or the loss or discharge of material in any 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 public health nuisance. All vehicles and implements used in connection therewith shall be kept in a sanitary condition.

5. No person, excepting a municipality, shall engage in the business of removing, collecting, transporting, disposing of offensive material, or cleaning or reconditioning private or individual sewage disposal systems by the addition of chemicals or otherwise within the health district without a permit therefore issued by the Commissioner.

6. As a condition to issuing any permit under this Article, the Commissioner may require the filing of reports of actions subsequently taken by the permittee pursuant thereto.

7. The Commissioner may promulgate standards and establish guidelines for determining under what circumstances additives may be introduced into private or individual sewage disposal systems to clean or recondition them.

8. Any person to whom a permit is issued under this Article shall keep and maintain and make available for inspection by the Commissioner, on demand, such records as may reasonably be required of him by the Commissioner. Authority is hereby delegated to the Commissioner to require of permittees by directive the keeping of such records as the Commissioner shall deem necessary for the proper discharge of his responsibilities.

§760-502 Sewage Disposal
1. No person, either as owner, lessee or tenant of any property, dwelling, building, or place shall construct or maintain any private or individual sewage disposal system, pipe, or drain so as to expose or discharge the sewage contents or any other deleterious liquid or matter therefrom.
onto the surface of the ground, or expose to the atmosphere nor so to endanger any source or supply of drinking water.

2. No person shall discharge any sewage into any waters of the health district unless a permit therefore has been issued by the Commissioner or unless a permit is issued under the provisions of the New York State Environmental Conservation Law for such discharge.

3. No person shall undertake to construct, operate, or provide a system or facilities for the private or individual disposal of waterborne sewage, domestic or industrial or trade wastes to serve any building, dwelling, school, institution, or any other premises from which such wastes may be discharged, unless such construction conforms to standards approved by the Commissioner or a permit is issued for such system under the provisions of the New York State Environmental Conservation Law. The Commissioner may require the submission of plans and any other information necessary to insure that such systems conform to approved standards.

4. a. No person shall construct or permit to be constructed on any premises any private or individual sewage disposal system where an approved public sanitary sewer is available and accessible.

b. Sewage from any building or premises shall be discharged directly into a municipal sewage disposal system, if available and accessible.

c. If there is no municipal sewage disposal system or facility connecting therewith available and accessible, sewage from any building or premises shall be discharged directly into a privately-owned community sewage disposal system or a facility connecting with a privately-owned community sewage disposal system, if available and accessible.

d. If there is no municipal or privately-owned community sewage disposal system or facility connecting therewith available and accessible, an individual sewage disposal system approved by the Department as hereinafter provided may be used.

e. In the event that a municipal or communal sewage disposal system or facility connecting therewith becomes available and accessible, any building or premises shall be connected to such municipal or privately-owned community sewage disposal system, and immediately thereafter the use of any other sewage disposal system or facility shall be discontinued.

f. At the time of connection of an industrial, non-residential institutional, non-residential commercial or trade building to a municipal or communal sewage disposal system, all other points of liquid discharges except uncontaminated stormwater runoff and non-contact cooling water shall be discontinued and the discharge pipes permanently removed or sealed. All cesspools, septic tanks, dry wells and other drainage facilities for any liquid discharges other than stormwater runoff or non-contact cooling water shall be pumped dry of any liquid, cleaned of any accumulated sludge and filled in to grade with clean soil. Any industrial or domestic sludge or liquid waste resulting from such cleaning shall be removed by a properly licensed industrial or domestic waste hauler. Any pre-treatment necessary to render a liquid waste acceptable to the municipal or communal sewage disposal system shall be provided prior to discharge to the sewer. No discharges to or into the ground shall be allowed when sewer service is available except for stormwater runoff and non-contact cooling water.
5. Variances and Waivers. The Commissioner of the Department of Health Services, in his
discretion, and upon recommendation of the Board of Review, may grant or deny a variance or
waiver from this section after an application requesting such relief is made and supporting
evidence has been presented to the Board of Review. The Commissioner may grant an
application only if the variance or waiver will be in harmony with the general purpose and intent
of this section to protect groundwater, surface water and drinking water supplies and public
health, safety and welfare. The determination whether the variance or waiver should be granted
shall be made pursuant to the criteria and conditions in §760-609 of this Code.

§760-503 Public Toilets
Every person who shall provide a toilet for the use of employees, patrons or members or available to
the public, shall maintain such toilet in a clean, well-lighted, ventilated and sanitary condition at all
times. The floor of such toilet shall be impervious to moisture and properly drained. An adequate
supply of soap and sanitary individual towels or their equivalents shall be provided, and there shall
be running water available at all times. The owner of a building or dwelling, or his agent in charge
thereof, wherein two or more tenants have common use of the toilet shall be responsible for the
maintenance of such toilet so that it is kept in repair and in a clean and sanitary condition at all
times.

§760-504 Public Health Nuisances
Whenever any establishment, building, premises or place becomes or is maintained or operated in
such a manner so as to constitute a nuisance which in the opinion of the Commissioner may affect
health or is the cause of such nuisances existing elsewhere, the Commissioner shall cause an
investigation to be made, and after a hearing if, in his opinion, such nuisance requires abatement, the
Commissioner may order its abatement. Failure to comply with such order shall be deemed a
violation of the Sanitary Code.

§760-505 Insect and Rodent Control
1. Every occupant of a dwelling or dwelling unit shall store and dispose of rubbish, boxes, lumber,
scrap metal, or any other materials in such a manner as to prevent rodent harborage in or about
any dwelling or dwelling unit. Such material shall be stacked in piles elevated to a level of at
least eight inches off the ground and in a manner to permit effective cleaning.

2. Any person feeding animals in the open shall feed them in a suitable container. Such container
shall prevent access by rodents, animal species identified as rabies carriers, vermin and other
pests.

3. All approved means necessary or required shall be taken to eliminate flies, insects, rodents or
other vermin from any habitable building or grounds and to prevent the breeding or harboring of
such vermin on the premises. Approved means shall include, but not be limited to, removal of
stagnant water, prevention of food sources, and elimination of breeding sites.

§760-506 Heating Standards, Utilities and Services
1. No person as owner or occupant shall let to another or permit another to occupy a dwelling or
dwelling unit which does not comply with the following requirements.

   a. Heating Facilities. Every dwelling shall have heating facilities which are properly installed,
      and are maintained in safe and good working conditions, and are capable of safely and
adequately heating all habitable rooms, bathrooms and water closet compartments in every
dwelling unit as noted in b. below.

b. Minimum Temperature. During the months between October first and May thirty-first, the
minimum temperature to be provided shall be sixty-eight degrees Fahrenheit whenever the
outdoor temperature falls below fifty-five degrees; provided, however, that the Multiple
Residence Law shall govern, where applicable.

2. No owner, operator or occupant shall cause or be responsible for the discontinuance of heat,
water, or electric service to any occupied dwelling or dwelling unit; provided, however, that
temporary interruption may be necessary and permissible while actual repairs or alterations are
in process, or during temporary emergencies when discontinuance of service is not reasonably
avoidable or is approved by the Commissioner.

§760-507 Water Supply
No person, nor any business entity of any type, nor any combination thereof, as landlord, lessor,
licensor or owner, shall rent, lease, license or otherwise allow the use and occupancy of residential
premises or dwelling units or premises used for residential purposes served by an on-site drinking
water supply well where the water quality exceeds the maximum contaminant levels prescribed in
Subpart 5-1 of the New York State Sanitary Code

ARTICLE 6
REALTY SUBDIVISIONS, DEVELOPMENTS
AND OTHER CONSTRUCTION PROJECTS

§760-601 Definitions
As used in this Code, unless the context otherwise requires:

A. Clustered Realty Subdivision means a realty subdivision consisting of one or more relatively undersized parcels, which is designed in such a manner so as to allow a substantial unimproved portion of the tract to stand open and uninhabited.

B. Commercial or Industrial Center means a realty subdivision or development to be used for non-residential purposes.

C. Community Sewerage System means a system utilized for the collection and disposal of sewage or other waste of a liquid nature, including the various devices for the treatment of such wastes, serving more than one parcel, whether owned by a municipal corporation, private utility, or otherwise.

D. Community Water System means a source of water and necessary appurtenances together with a distribution system serving more than one parcel, whether owned by a municipal corporation, private utility, or otherwise.

E. Department means the Suffolk County Department of Health Services.

F. Developer means any person or group of persons, or any legally cognizable entity or entities or any combination of the foregoing, who:

1. is undertaking or participating in the establishment of a realty subdivision or other construction project:
   a. either individually, or
   b. pursuant to a common scheme, plan or venture, or

2. owns, acquires, possesses, controls or creates a development or other construction project.

G. Development means two, three or four contiguous parcels located wholly or partially within the County of Suffolk, or any tract of land located wholly or partially within the County of Suffolk which has, is or will be divided into two, three, or four identifiable parcels.

H. Development Rights shall be defined in the same way as under Section 261-a(1) of the Town Law (McKinney's, 1995).

I. Groundwater Management Zone means any of the areas delineated in Suffolk County by the "Long Island Comprehensive Waste Treatment Management Plan (L.I. 208 Study)," as revised by the "Long Island Groundwater Management Plan," and subsequent revisions adopted by the Board identifying differences in regional hydrogeologic and groundwater quality conditions. The boundaries of the Groundwater Management Zones are set forth on a map adopted by the Board, filed in the Office of the Commissioner in Hauppauge, New York.
J. **Individual Sewerage System** means a single system of piping, tanks, or other facilities serving only a single parcel and disposing of sewage or other liquid waste into the soil of such parcel.

K. **Individual Water Supply System** means a single system of piping, tanks, or other facilities together with a source of water intended to supply only a single parcel.

L. **Multi-Family Housing** means dwelling units designed for occupancy by more than two separate family units.

M. **Non-Residential Parcel** means any parcel that is not a residential parcel.

N. **Other Construction Project** means other than a conventional single-family residential subdivision or development; including, but not limited to cluster subdivisions, condominiums, two-family residences, multi-family housing, commercial or industrial centers and projects, whether or not there is a split of land involved.

O. **Population Density Equivalent** means an expression of the quantity of domestic sewage in terms of the calculated population per unit area which would normally contribute the same amount of sewage.

P. **Realty Subdivision** means a realty 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 as such statutes may be amended from time to time.

Q. **Residential Parcel** means any parcel of land of five (5) acres or less located wholly or partially in the County of Suffolk, any point on the boundary line of which is less than one-half mile from any point on the boundary line of another such lot in the same tract, unless any such lot may not legally be used for residential purposes. Without limiting the generality of the foregoing, the term *residential* shall include temporary, seasonal and permanent residential use.

R. **Sewage Collection and Treatment Systems** means the structures, devices and processes installed for the purposes of collecting, treating and disposing sewage and sludge.

S. **Subsurface Sewage Disposal System** means the septic tank and leaching pools and interconnecting piping.

T. **Tract** means any real property, including contiguous parcels of land, which is held, owned, controlled or possessed, either singularly, jointly, commonly or otherwise, by a person or group of persons, or any legally cognizable entity or entities, or any combination of the foregoing, who are acting with reference to such body of land in concert or as part of a common scheme, plan or venture.

U. **Transfer of Development Rights** means the process by which development rights are transferred from one lot, parcel or area of land to another designated lot, parcel or area where increased density development is permitted by the Suffolk County Sanitary Code.

V. **Two-Family Residence** means a dwelling unit designed for occupancy by two separate family units.
§760-602  Department Approval of Realty Subdivision, Development, or Other Construction Project Plans
A. No developer shall after the effective date of this Article:

1. engage in the creation of a realty subdivision, or sell, rent, offer for sale or lease any parcel in a realty subdivision unless Department approval has been obtained of the existing or proposed water supply and sewage disposal facilities in the subdivision;

2. engage in the creation of a development, or lease, rent, give, devise, or otherwise dispose of any parcel in a development, or erect or cause to be erected any permanent building on any parcel in the development unless Department approval has been obtained for the existing or proposed water supply and sewage disposal facilities in the development;

3. engage in the creation of a construction project, or erect or cause to be erected any permanent building unless Department approval has been obtained for the existing or proposed water supply and sewage disposal facilities.

B. A tract of land which is divided shall constitute a development or realty subdivision 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;

2. the method used to describe such tract whether by metes and bounds, or by reference to a map of the property, or otherwise.

§760-603  Applications for Approval
A. Applications for Department approval of existing and/or proposed water supply and sewage disposal facilities, as required by §760-602 above, shall:

1. conform with the standards and regulations prescribed in this Code; and

2. conform with all other Department bulletins, regulations, and requirements; and

3. be made on forms provided by the Department; and

4. are accompanied by such maps, plans, reports, specifications, and data as the Department may require or direct.

B. Plans other than those for community water and/or sewerage systems shall indicate water and/or sewerage systems located upon each parcel.

C. Plans other than those for community water and/or sewerage systems shall not propose to furnish water to more than one parcel and/or dispose of sewage from more than one parcel.

D. Where the developer proposes to obtain and furnish water supply and/or sewerage facilities for a realty subdivision, development, or other construction project by connection to an existing community water and/or sewerage system, the developer shall supply the Department with a certification in writing by the owner of the utility that such facilities will be furnished and kept
available in good operating condition for the realty subdivision, development, or other construction project.

E. The Department, in its discretion, may require the developer to furnish a performance bond to the owner of such utility conditioned upon the developer's making connection to the utility within a specified reasonable period of time.

§760-604 Filing Requirements
Every developer who obtains Department approval of a realty subdivision or development, as required by §760-602, shall thereafter file a map of such realty subdivision or development, bearing the stamp of approval of the Department, in the Office of the Clerk of the County of Suffolk within one (1) year of the date of approval of the Department.

§760-605 Sewage Facilities Requirements for Conventional Single-Family Residential Realty Subdivisions and Developments
A. A community sewage system method of sewage disposal is required when any of the following conditions are present:

1. the realty subdivision or development, or any portion thereof, is located within an existing sewer district;
   a. This requirement shall apply in the absence of proof satisfactory to the Department that the developer cannot effect arrangements for the installation and/or connection of the sewerage system to the existing sewer district.

2. the realty subdivision or development is located in an area where the subsoil or groundwater conditions are not conducive to the proper functioning of individual sewerage systems;

3. the realty subdivision or development is located outside of Groundwater Management Zones III, V and VI, and any parcel in the realty subdivision or development is less than 20,000 square feet in area, unless the realty subdivision or development meets the population density equivalent requirements of paragraph B.1 of this section; or

4. the realty subdivision or development is located within Groundwater Management Zones III, V or VI, and any parcel in the realty subdivision or development is less than 40,000 square feet in area, unless the realty subdivision or development meets the population density equivalent requirements of paragraph B.2 of this section.

B. Individual sewerage systems may be approved by the Department as to the method of sewage disposal provided all of the following conditions are met:

1. the realty subdivision or development is located outside of Groundwater Management Zones III, V and VI, and all parcels of the realty subdivision or development consist of an area of at least 20,000 square feet; or the realty subdivision or development has a population density equivalent equal to or less than that of a realty subdivision or development of single-family residences in which all parcels consist of an area of at least 20,000 square feet;

2. the realty subdivision or development is located within Groundwater Management Zones III, V or VI, and all parcels in the realty subdivision or development consist of an area of at least
40,000 square feet; or the realty subdivision or development has a population density equivalent equal to or less than that of a realty subdivision or development of single-family residences in which all parcels consist of an area of at least 40,000 square feet;

3. the realty subdivision or development, or any portion thereof, is not located within an existing sewer district and is located in an area where subsoil and groundwater conditions are conducive to the proper functioning of individual sewerage systems; and

4. the individual sewerage systems comply with the Department’s current Standards and the minimum State requirements as set forth in 10 NYCRR, Part 75, to the extent applicable to Suffolk County; and

5. the requirements of §760-606 hereof are complied with.

C. Parcels in realty subdivisions or developments of less than 40,000 square feet in area within Groundwater Management Zones III, V or VI may be permitted using transfer of development rights in conformance with standards established by the Department.

D. Parcels in realty subdivisions or developments of less than 20,000 square feet in area within Groundwater Management Zones I, II, IV, VII or VIII may be permitted using transfer of development rights in conformance with standards established by the Department.

§760-606 Water Facilities Requirements for Conventional Single-Family Residential Realty Subdivisions and Developments

A. A community water system method of water supply is required when any of the following conditions are present:

1. the realty subdivision or development, or any portion thereof, is located within an existing water district or service area; or

2. the realty subdivision or development is reasonably accessible to an existing water district or service area; or

   a. This requirement shall apply in the absence of proof satisfactory to the Department that the developer cannot effect arrangements for the installation and/or connection of the water system to the existing water district or service area facilities.

3. individual wells cannot provide an average yield of five (5) gallons per minute of fresh, potable water; or

4. groundwaters in the area are non-potable, or potentially hazardous; or

5. any parcel in the realty subdivision or development is less than 40,000 square feet in area.

B. The following are minimum requirements for community water systems:

1. Community water systems shall be capable of delivering water at an average rate of 100 gal/capita/day when service connections are unmetered, or 75 gal/capita/day when service connections are metered.
2. Community water systems shall be designed to deliver water meeting the quality requirements of the New York State Sanitary Code.

3. Community water systems shall provide for continuity of water service to the satisfaction of the Commissioner.

4. The community water supply system shall have at least two (2) separate wells as a source of supply.

5. Community water systems shall have at least one day's available storage at design average consumption.

6. The relevant provisions of Part 5 of the New York State Sanitary Code and Bulletin 42 of the New York State Department of Health entitled "Recommended Standards for Water Works" will be the basis upon which all plans, specifications and reports for community water systems will be reviewed for approval by the Department.

C. Individual water supply systems may be approved by the Department as the method of water supply for a realty subdivision or development, provided all of the following conditions are met:

1. all parcels in the realty subdivision or development consist of an area of at least 40,000 square feet; and

2. the realty subdivision or development, or any portion thereof, is not located within an existing water district or service area and is not reasonably accessible thereto, and individual wells can provide an average yield of five (5) gallons per minute of fresh potable water; and

3. the individual water supply systems comply with the Department's current Standards and the minimum State requirements as set forth in 10 NYCRR, Part 75, to the extent applicable to Suffolk County.

§760-607 Sewage Facilities Requirements for Construction Projects Other Than Conventional Single-Family Residential Realty Subdivisions and Developments

A. A community sewerage system method of sewage disposal is required for other construction projects when any of the following conditions are present:

1. the construction project is located within Groundwater Management Zones III, V or VI, and the population density equivalent is greater than that of a realty subdivision or development of single-family residences in which all parcels consist of an area of at least 40,000 square feet;

2. the construction project is located outside of Groundwater Management Zones III, V and VI, and the population density equivalent is greater than that of a realty subdivision or development of single-family residences in which all parcels consist of an area of at least 20,000 square feet;

3. the construction project, or any portion thereof, is located within an existing sewer district;
a. This requirement shall apply in the absence of proof satisfactory to the Department that the developer cannot effect arrangements for the installation of the sewerage system to the existing sewer district.

4. the construction project is located in an area where the subsoil or groundwater conditions are not conducive to the proper functioning of individual or subsurface sewerage systems.

B. Individual or subsurface sewerage systems may be approved by the Department as to the method of sewage disposal for a construction project provided all of the following conditions are met:

1. the construction project is located within Groundwater Management Zones III, V or VI, and the population density equivalent is equal to or less than that of a realty subdivision or development of single-family residences in which all parcels consist of an area of at least 40,000 square feet;

2. the construction project is located outside of Groundwater Management Zones III, V and VI, and the population density equivalent is equal to or less than that of a realty subdivision or development of single-family residences in which all parcels consist of an area of at least 20,000 square feet;

3. the construction project, or any portion thereof, is not located within an existing sewer district and is located in an area where subsoil and groundwater conditions are conducive to the proper functioning of individual or subsurface sewerage systems; and

4. the individual sewerage or subsurface systems comply with the Department's current Standards and the minimum State requirements as set forth in 10NYCRR, Part 75, to the extent applicable to Suffolk County.

C. Modified subsurface sewage disposal (denitrification) systems may be approved by the Department as a method of sewage disposal for a construction project, provided all of the following conditions are met:

1. the construction project is located either:

   a. within Groundwater Management Zones III, V, or VI, and the population density equivalent is greater than that of a realty subdivision or development of single-family residences in which all parcels consist of an area of at least 40,000 square feet; or

   b. outside of Groundwater Management Zones III, V, or VI, and the population density equivalent is greater than that of a realty subdivision or development of single-family residences in which all parcels consist of an area of at least 20,000 square feet; and

2. the construction project, or any portion thereof, is not located within an existing sewer district, or does not have the ability to connect to an existing sewer district as shown by proof satisfactory to the Department that the developer cannot effect arrangements for the connection of the project to the existing sewer district; and

3. the subsoil and groundwater conditions are conducive to the proper functioning of a modified subsurface sewage disposal system; and
4. the construction project is on a single parcel that is provided with a community water supply, which parcel is not part of a subdivision or development that is proposed or has already been approved by the Department; and

5. the modified subsurface sewage disposal system is capable of producing a discharge of no more than 10 mg/l total nitrogen in the effluent stream where the total design sewage flow for the parcel (kitchen and sanitary) does not exceed 15,000 gallons per day; and

6. if an application for approval is received by the Department after February 9, 1989, two irrevocable letters of credit are issued by a bank located in New York to the Department in accordance with the following conditions:

a. the total amount of the two letters of credit shall equal the estimated cost of the modified subsurface sewage disposal system (the "system"), as certified by the professional engineer who designed the system and accepted by the Department as a reasonable estimated cost (the "estimated cost"); and

b. the first letter of credit shall be in an amount equal to 65% of said estimated cost and shall be known as the "construction letter of credit"; and

c. the second letter of credit shall be in an amount equal to 35% of said estimated cost and shall be known as the "second construction letter of credit" until the final modified subsurface sewage disposal system is approved by the Department, and thereafter shall be converted to and be known as the "modification letter of credit"; and

d. the construction letter of credit and the second construction letter of credit shall be callable by the Department simultaneously upon terms and conditions to be satisfactory to the Department to assure that the system is properly constructed; and

e. if the construction letter of credit and the second construction letter of credit are called by the Department, the proceeds thereof shall be held by the Department and shall not be released until the system is completed and is approved by the Department (except nothing contained herein shall prevent application of the proceeds by the Department for a lawful purpose requested by the Department and authorized by a court of law); and

f. the construction letter of credit shall be released only upon approval by the Department of the completed system and proof satisfactory to the Department that the second letter of credit has been converted to a modification letter of credit; and

g. the modification letter of credit shall serve as security to assure that any required modification of the installed system is achieved, and said letter of credit shall be released only upon a showing certified by a professional engineer, and accompanied by findings of a certified testing laboratory reasonably consistent with any independent findings of the Department, that, for a period of three consecutive months, the monthly average effluent total nitrogen, based on no fewer than bi-weekly samples, did not exceed 10 mg/l, and building occupancy averaged over three months was not less than 80% of floor space, and actual flow was not less than 50% of design flow; and
7. a one-time non-refundable payment equal to $1.00 per gallon of total daily design sewage flow (kitchen and sanitary) is deposited into an interest-bearing account maintained by the Department, which monies are to be used by the Department exclusively for the following purposes:

a. to undertake all necessary environmental review of a proposed permanent amendment to the Code which, if adopted, will give express authorization to the Department to approve modified subsurface sewage disposal systems, which review is necessitated by the Board's positive declaration pursuant to the State Environmental Quality Review Act on January 17, 1989 (Upon completion of the environmental review process and payment of all costs associated therewith, the above one-time non-refundable payment shall be reduced to $0.50 per gallon of total daily design sewage flow [kitchen and sanitary] for all applications pending or received after the reduction to $0.50.); and

b. to provide maintenance, sampling, and analysis of samples required by applicable Standards or permits at facilities in Suffolk County serviced by a modified subsurface sewage disposal system, where, despite written notice to the owner and/or operator of the facility from the Commissioner that said maintenance, sampling, or analysis must be performed by a specified date, the owner and/or operator of the facility fails to comply (Owners or operators of facilities with modified subsurface sewage disposal systems that exist as of the effective date of this provision shall pay the sum required by this subdivision upon renewal of the State Pollutant Discharge Elimination System Permit for the facility); and

8. the construction project provides for an unpaved and uncovered area for expansion of the modified subsurface sewage disposal system that, at the option of the applicant, is either equal in size to 150% of the area of the installed modified subsurface sewage disposal system or is sufficient to allow for the installation of a sewage treatment plant in the event that the modified subsurface sewage disposal system fails to meet the requirements of its SPDES permit (This requirement is applicable to all applications received after February 9, 1989; applications pending as of February 9, 1989 must provide for an unpaved and uncovered area for expansion of the modified subsurface sewage disposal system that is equal in size to 50% of the area of the installed modified subsurface sewage disposal system.); and

9. the modified subsurface sewage disposal system complies with the Department's current Standards and the minimum State requirements as set forth in 10NYCRR, Part 75, to the extent applicable to Suffolk County.

D. Enforcement of Directives issued by the Commissioner pursuant to §760-607.C.7. Whenever the owner or operator of a modified subsurface sewage disposal system fails to comply with a written directive issued by the Commissioner pursuant to §760-607.C.7 to provide any maintenance, sampling, or analysis required by applicable standards or permits, the Commissioner may provide said maintenance, sampling or analysis with funds contained in the interest-bearing account described in §760-607.C.7, and may thereafter bring a civil action to recover said sums expended plus interest from the owner and/or operator of the facility where the modified subsurface sewage disposal system is located.
1. The obligation imposed upon the owner and/or operator of a facility with a modified subsurface sewage disposal system by any applicable Standard or permit to provide maintenance, and to take and analyze samples, is a continuing obligation.

2. Nothing contained herein shall be construed to require the Commissioner or the Department to provide maintenance, sampling, or analysis of any system, and the failure of the owner or operator to comply with the requirements of applicable Standards or permits with regard to maintenance, sampling, or analysis shall subject the owner and/or operator of the facility to civil penalties pursuant to §760-218.2 of this Code for each day the required maintenance, sampling, or analysis is not performed, and may further subject the owner and/or operator of the facility to any other civil penalty provided for in any applicable code, statute, or regulation.

E. Construction projects within Groundwater Managements Zones III, V or VI may have a population density equivalent to a single-family residential subdivision or development with parcels less than 40,000 square feet in area using transfer of development rights in conformance with standards established by the Department.

F. Construction projects within Groundwater Management Zones I, II, IV, VII or VIII may have a population density equivalent to a single-family residential subdivision or development with parcels less than 20,000 square feet in area using transfer of development rights in conformance with standards established by the Department.

§760-608 Water Facilities Requirements for Construction Projects Other than Conventional Single-Family Residential Realty Subdivisions and Developments

A. A community water system method of water supply is required when any of the following conditions are present:

1. the construction project, or any portion thereof, is located within an existing water district or service area; or

2. the construction project is reasonably accessible to an existing water district or service area; or

   a. This requirement shall apply in the absence of proof satisfactory to the Department that the developer cannot effect arrangements for the installation and/or connection of the water system to the existing water district or service area facilities.

3. individual wells cannot provide sufficient yield of freshwater meeting Department requirements or standards; or

4. groundwaters in the area are non-potable, or potentially hazardous; or

5. the construction project has a population density equivalent that is greater than that of a realty subdivision or development of single-family residences in which all parcels consist of an area of at least 40,000 square feet, or any residential parcel that has an area of less than 20,000 square feet.
B. The following are minimum requirements for community water systems:

1. Community water systems shall be capable of delivering water at an average rate of 100 gal/capita/day when service connections are unmetered, or 75 gal/capita/day when service connections are metered.

2. Community water systems shall be designed to deliver water meeting the quality requirements of the New York State Sanitary Code.

3. Community water systems shall provide for continuity of water service to the satisfaction of the Commissioner.

4. The community water supply system shall have at least two (2) separate wells as a source of supply.

5. Community water systems shall have at least one day's average storage at design average consumption.

6. The relevant provisions of Part 5 of the New York State Sanitary Code and Bulletin 42 of the New York State Department of Health entitled "Recommended Standards for Water Works" will be the basis upon which all plans, specifications, and reports for community water systems will be reviewed for approval by the Department.

C. Individual water supply systems may be approved by the Department as the method of water supply for a construction project, provided all of the following conditions are met:

1. the population density equivalent of the construction project is equal to or less than that of a realty subdivision or development of single-family residences in which all parcels consist of an area of at least 40,000 square feet, and all residential parcels consist of an area of at least 20,000 square feet each; and

2. the construction project, or any portion thereof, is not located within an existing water district or service area and is not reasonably accessible thereto, and individual wells can provide sufficient yield of fresh, potable water meeting Department requirements and standards; and

3. the individual water supply systems comply with the Department's current standards and the minimum requirements of the New York State Sanitary Code.

§760-609 Variances, Waivers and Exemptions

A. Variances and Waivers. The Commissioner of the Department of Health Services, in his discretion, and upon recommendation of the Board of Review, may grant or deny a variance or waiver from the specific sections of this Article after an application requesting such relief is made and supporting evidence has been presented to the Board of Review. The Commissioner may grant an application only if the variance or waiver will be in harmony with the general purpose and intent of this Article to protect groundwater, drinking water supplies, surface water and other natural resources, and public health, safety and welfare.
1. The determination whether the variance or waiver will be in harmony with the general purpose and intent of this Article shall be made upon findings relating to the following criteria:

   a. Whether the use is in general conformity with this Article;

   b. Whether the uses of groundwater, surface water, and drinking water supplies will be impaired, taking into account the direction of groundwater flow;

   c. Whether the application of the proposed variance or waiver to other parcels within the same groundwater management zone will unreasonably impair groundwater, surface water, and drinking water supplies;

   d. Whether the application conforms to a comprehensive groundwater management plan;

   e. Whether granting the proposed variance or waiver will adversely affect the design of an adequate on-site water supply and/or sewage disposal system, taking into account soil conditions, depth to groundwater, direction of groundwater flow, and site-specific physical conditions;

   f. Whether the amount of sewage flow from the project based upon sewage flow design criteria will adversely affect groundwater, surface water and drinking water supplies;

   g. Whether the application can be modified so that the project will not violate the Sanitary Code;

   h. Whether an application for a variance or waiver to another municipal entity would obviate the need for consideration of the application before the Board, and if it would, whether such application has been made and ruled upon;

   i. Any other factor which the Review Board in its discretion deems necessary to consider in order to determine whether the granting of a variance or waiver will be in harmony with the general purpose and intent of this Article, provided that the applicant is given notice of the additional factors and reasonable opportunity to present evidence to the Board with regard thereto.

2. Economic injury alone cannot provide the basis for a variance or waiver from this Article.

3. In all proceedings before the Board of Review, the burden of proof of demonstrating that a variance or waiver should be granted shall be on the applicant.

B. Exemptions. Requirements of this Article shall not apply to:

1. realty subdivisions which have previously been approved by the New York State Department of Health, and have been filed in the Office of the Clerk of the County of Suffolk;

2. developments or other construction projects which have previously been approved by the Department;
3. developments or other construction projects, other than realty subdivisions, which have been approved by a town or village planning or zoning board of appeals prior to January 1, 1981, and which met the requirements of the Department in effect at that time;

4. density requirements for one-family residences on parcels which appeared as separately assessed on the Suffolk County Tax Map as of January 1, 1981, which presently constitutes a build able parcel under applicable municipal zoning ordinances and which met the Department requirements in effect on January 1, 1981. No automatic waiver of these requirements of this Article shall be granted where five (5) or more of such parcels are owned by a developer.

ARTICLE 7
WATER POLLUTION CONTROL

§760-701 Declaration of Policy
The designated best use of all groundwaters of Suffolk County is for public and private water supply, and of most surface waters for food production, bathing and recreation. The federal government has officially designated the aquifer below Suffolk County as a sole-source for water supply. Therefore, it is hereby declared to be the policy of the County of Suffolk to maintain its water resources as near to their natural condition of purity as reasonably possible for the safeguarding of the public health and, to that end, to require the use of all available practical methods of preventing and controlling water pollution from sewage, industrial and other wastes, toxic or hazardous materials, and stormwater runoff.

§760-702 Statement of Purpose
It is the intent and purpose of this Article to safeguard all the water resources of the County of Suffolk, especially in deep recharge areas and water supply sensitive areas, from discharges of sewage, industrial and other wastes, toxic or hazardous materials and stormwater runoff by preventing and controlling such sources in existence when this Article is enacted and also by preventing further pollution from new sources under a program which is consistent with the above-stated Declaration of Policy.

§760-703 Definitions
Whenever used in this Article, unless otherwise expressly stated, or unless the context or subject matter requires a different meaning, the following terms shall have the respective meanings set forth or indicated.

A. Board means the Suffolk County Board of Health.

B. Commissioner means the Commissioner of the Suffolk County Department of Health Services.

C. Communal Sewage System means a series of sanitary intercepting sewers or intercepting collecting sewers, pumping stations, sewage treatment plants, and associated pollution control facilities for the conveyance, treatment, and disposal of sewage operated by a person other than a municipality.

D. Deep Recharge Area means a geographic area of Suffolk County that contributes recharge water to a deep groundwater flow system, thus replenishing the quantity and affecting the quality of the long-term water supply. These areas are identified as Groundwater Management Zones I, II, III and V.

E. Department means the Suffolk County Department of Health Services.

F. 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 ground.

G. Disposal System means any plumbing or conveyances which result in or are capable of resulting in a discharge of sewage, industrial wastes, toxic or hazardous materials, stormwater runoff,
cooling water or other wastes. This includes but is not limited to septic tanks, leaching pools, sumps, tile fields, holding tanks, outfalls and connecting piping.

H. **Groundwater Management Zone** means any of the areas delineated in Suffolk County by the "Long Island Comprehensive Waste Treatment Management Plan (L.I. 208 Study)," as revised by the "Long Island Groundwater Management Plan," and subsequent revisions adopted by the Board identifying differences in regional hydrogeologic and groundwater quality conditions. The boundaries of the Groundwater Management Zones are set forth on a map adopted by the Board, filed in the Office of the Commissioner in Hauppauge, New York.

I. **Housebarge** means the same as **Houseboat** except that a housebarge has no self-contained mechanical method of propulsion.

J. **Houseboat** means a floating structure used as a dwelling with a self-contained mechanical method of propulsion, not primarily designed to be a means of locomotion over water. The design criteria shall be generally accepted standards of naval architecture.

K. **Industrial Waste** means any liquid, gaseous, or solid waste substance or a combination thereof resulting from any operation or process of industry, manufacturing, trade or business or from the development or recovery of any natural resources, which may cause or might reasonably be expected to cause pollution of the water resources of the County of Suffolk in contravention of the requirements of this Article.

L. **Municipal Sewage System** means the series of sanitary intercepting sewers or intercepting collecting sewers, pumping stations, sewage treatment plants, or pollution control facilities, drains and other facilities, connections and equipment or any combination of the aforementioned, for the conveyance, treatment and disposal of sewage operated by the County of Suffolk or a municipality within the County of Suffolk.

M. **Offensive Material** means any sewage or non-sewage fecal matter, urine, garbage, waste, or any putrescible organic matter, scavenger waste, the contents of private or individual sewage disposal systems, either liquid or solid, or other substances or liquid which may adversely affect health.

N. **Other Wastes** means refuse, spillage and the leaching from these materials, oil, tar, acids, chemicals, and all other discarded matter which may reasonably be expected to cause pollution of the waters of the County of Suffolk.

O. **Private or Individual Sewage Disposal System** means a water-flush facility for the disposal of sewage which does not connect either with a municipal or communal sewage system. This includes, but is not limited to, septic tanks, leaching pools and tile fields.

P. **Restricted Toxic or Hazardous Materials** shall mean the following toxic or hazardous chemicals that have been or could be expected to be detected in the groundwater, or in discharges to the groundwater, of Suffolk County. This definition applies to these substances alone or in combination, solution or mixture with other substances, or chemically compounded with other elements or compounds.
Arsenic 1,1 Dichloroethane Roadway Deicing Salt
Barium 1,2 Dichloroethane Silver
Benzene 1,1 Dichloroethylene Styrene
Bromobenzene 1,2 Dichloropropene Tetrachloroethylene
Bromodichloromethane p-Diethylbenzene 1,2,4 Tetramethylbenzene
Bromoform Ethylbenzene Toluene
Cadmium p-Ethyltoluene 1,2,3 Trichlorobenzene
Carbon Tetrachloride Fluoride 1,2,4 Trichlorobenzene
Chlorobenzene Freon 113 1,1,1 Trichloroethane
Chlorodibromomethane Lead 1,1,2 Trichloroethane
Chloroform Mercury 1,1,2 Trichloroethylene
Chlorotoluene Methylene Chloride 1,2,3 Trichloropropene
Chromium Nickel 1,2,4 Trimethylbenzene
Cis 1,2 Dichloroethylene Pesticides 1,3,5 Trimethylbenzene
Creosotes Petroleum Distillates Vinyl Chloride
Cyanide Phenols Xylenes
Dichlorobenzene Phthalates

All other halogenated hydrocarbon compounds.

Q. **Sewage** means the water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such groundwater infiltration and surface water as may be present. A mixture of sewage as herein defined and industrial wastes or other wastes as defined above may be considered industrial wastes or commingling within the meaning of this Article.

R. **Stormwater Runoff** means the portion of total precipitation that travels over natural and developed land surfaces (e.g., woodlands, lawns, farms, gardens, roofs, driveways, parking lots, roads, etc.) transporting contaminants that may be present.

S. **Temporary Disposal System** means a system for the disposal of sewage where such system is intended for use for a specified period of time prior to completion of the construction of an approved sewage treatment and disposal system.

T. **Toxic or Hazardous Materials** shall mean the same as defined in Article 12 of this Code.

U. **Toxic or Hazardous Wastes** shall mean the same as defined in Article 12 of this Code.

V. **Treatment System** means a system designed to reduce or alter the contaminant content of sewage or industrial waste for the purpose of permitting the discharge of some portion of said waste.

W. **Water Supply Sensitive Areas** means:

1. A groundwater area separated from a larger regional groundwater system where salty groundwater may occur within the Upper Glacial aquifer, and where deepening of private wells and/or the development of community water supplies may be limited; or
2. Areas in close proximity to existing or identified future public water supply wellfields. In general, for the purposes of this Article, "close proximity" shall mean within 1,500 feet upgradient or 500 feet downgradient of public supply wells screened in the Upper Glacial aquifer.

3. A limited water budget area, not underlined by fresh Magothy, defined by published reports acceptable to the Commissioner.

4. The areas described in items 2., 3., above are set forth on a map adopted by the Board filed in the Office of the Commissioner in Hauppauge, New York.

§760-704 Powers of the Commissioner

The Commissioner may:

A. make, or cause to be made, or order the owner or operator of any property or facility to make any investigation or study which, in the Commissioner's opinion, is needed for the enforcement of this Article or for controlling or reducing the potential for contamination of the waters of the County from sewage, industrial or other wastes, toxic or hazardous materials and/or stormwater runoff. This may include the ordering of an independent groundwater investigation where evidence suggests that a discharge of toxic or hazardous materials may have occurred.

B. approve, with conditions, non-residential structures, processes, facilities and activities in deep recharge areas and water supply sensitive areas to assure compliance with §760-706. Such conditions shall be embodied in covenants running with the land as specified in the Department's standards;

C. promulgate and establish standards and schedules to effect the purpose of this Article;

D. order the posting of a performance bond or other undertaking either prior to or subsequent to the construction or operation of an industrial facility within Suffolk County on a case-by-case basis if evidence indicates such may be necessary to protect water resources from the adverse effects of operating such a facility.

E. Notwithstanding any other provision of this Article, if the Commissioner finds a condition which has the potential for contaminating the waters of the County with toxic or hazardous materials, or which otherwise constitutes an immediate danger to public health, and determines that it could appear prejudicial to the public interest to delay action, the Commissioner may serve an order upon the permit holder, or if there is no permit upon the person in charge of the facility or site, citing such conditions and specifying the corrective action to be taken and a time period of less than fifteen (15) days within which such action shall be taken.

Such order may state that a permit is immediately suspended and/or that all operations are to be discontinued forthwith.

Any order requiring certain action or the cessation of certain activities immediately or within a specified period of less than fifteen (15) days shall provide such person an opportunity to be heard, which hearing shall be scheduled for a time no more than fifteen (15) days after the date the order is served.
§760-705 General Restrictions and Prohibitions
A. Construction of a Disposal System

1. It shall be unlawful for any person to construct, reconstruct, install or substantially modify any disposal system without first having obtained a permit therefor issued by or acceptable to the Commissioner, pursuant to Department standards.

2. §760-705.A.1 does not apply to stormwater disposal systems unless there is an actual or potential discharge into the system of industrial wastes, toxic or hazardous materials, or sewage.

B. Discharge

1. It shall be unlawful for any person to discharge sewage, industrial wastes, offensive materials, toxic or hazardous materials or other wastes to any surface waters or groundwaters, to the surface of the ground or to a disposal system unless such discharge is specifically in accordance with a State Pollutant Discharge Elimination System (SPDES) Permit or other permit issued by or acceptable to the Commissioner for that purpose.

2. No permits, as stipulated in §760-705.B.1, are required for the following types of discharges:
   a. discharge of sewage from an existing residential structure to a private or individual sewage disposal system, or from any residential structure, houseboat or housebarge to a communal sewage system or municipal sewage system that does not contravene standards or result in a public health nuisance;
   b. discharge of sewage from a commercial or industrial facility to a communal sewage system or municipal sewage system;
   c. discharge of stormwater to a disposal system unless there is an actual or potential discharge into the system of industrial wastes or toxic or hazardous materials or sewage.

3. For existing discharges not prohibited by law prior to the effective date of this Article, a permit shall be obtained within the time limit provided in §760-707.

C. Construction or Operation of a Treatment System

1. It shall be unlawful for any person to construct, modify or operate a treatment system without first obtaining a permit therefor issued by or acceptable to the Commissioner.

D. Commingling

1. It shall be unlawful for any person to commingle stormwater runoff, cooling water, sewage or industrial wastes in any disposal system not approved for that purpose pursuant to this Article.

E. Stormwater Discharges

1. It shall be unlawful for any person to develop or use land in such a manner as to cause stormwater runoff from that land to become contaminated and discharged in contravention of the other provisions of this Article.
F. Marinas

1. It shall be unlawful for any marina to permit overnight docking of any houseboat or housebarge unless the marina has a waste pump-out facility. Construction of said pump-out facilities shall be in accordance with standards which may be promulgated by the Commissioner.

§760-706 Deep Recharge Areas and Water Supply Sensitive Areas
The following additional restrictions and prohibitions shall apply in deep recharge areas and water supply sensitive areas.

A. It shall be unlawful for any person to discharge any restricted toxic or hazardous materials or to discharge industrial wastes from any facility containing restricted toxic or hazardous materials to the groundwaters, to the surface of the ground, beneath the surface of the ground, to a municipal or communal sewage system, or to a disposal system except as follows:

1. application of fertilizers, pesticides or other agricultural chemicals approved for that purpose by the appropriate state and federal agencies; or

2. application of road surfacing or road construction materials or deicing salts to roadways, walkways, and parking areas; or

3. discharge from an establishment to a municipal or communal sewage system with effluent disposal to marine surface waters or recharge outside of the deep recharge areas and water supply sensitive areas, and the following minimum requirements are satisfied pursuant to a permit issued by or acceptable to the Commissioner:

   a. Dual plumbing systems shall be installed, one for sanitary wastes and one for industrial wastes.

   b. Sampling access approved by the administrative head of the municipal or communal sewage system and the Department shall be provided for both the sanitary and industrial waste systems.

   c. The administrative head of the municipal or communal sewage system, with approval of the Department, shall determine which industrial wastes are acceptable to "hold and haul" and which require pretreatment prior to discharge to the collection system in order to assure compliance with the applicable sewer use ordinance.

   d. Personnel authorized by the administrative head of the municipal or communal sewage system or other individual(s) acceptable to the Commissioner, pursuant to Department standards, shall operate at each establishment its pretreatment facility for industrial wastes prior to discharge to the collection system.

   e. Only batch pretreatment of industrial wastes will be permitted. Batch facilities and facilities for storage of drums containing toxic or hazardous wastes shall be located in an area accessible at all times by district personnel, in or adjacent to the industrial building, with heat and power provided by the owner.
f. Personnel authorized by the administrative head of the municipal or communal sewage system or other individual(s) acceptable to the Commissioner, will be responsible for collection and disposal of pretreatment sludges, and other "hold and haul" materials.

g. The owner shall allow the personnel authorized by the administrative head of the municipal or communal sewage system or other individual(s) acceptable to the Commissioner, access, from time to time, to wet process areas to perform their duties and inspections.

h. Industrial process-area floors shall be provided with adequate means to contain any spill of restricted toxic or hazardous materials. The design of containment facilities shall be subject to the approval of the Commissioner.

i. A minimum of four (4) groundwater monitoring wells shall be installed at the owner's expense.

j. Financial assurance shall be provided to pay for cleanup of spills. This cost shall be entered as a judgment upon notice against the owner, occupant, tenant, or lessee responsible for such spill or spills.

B. It shall be unlawful to use or store any restricted toxic or hazardous materials on any premises except as follows:

1. a. the intended use of the product stored is solely for on-site heating, or intermittent stationary power production such as stand-by electricity generation or irrigation pump power; and

b. the facility for such storage is intended solely for the storage of kerosene, number 2 fuel oil, number 4 fuel oil, number 6 fuel oil, diesel oil or lubricating oil; and

c. the facility for such storage is constructed in accordance with the requirements of Article 12 of the Suffolk County Sanitary Code for new construction; and

d. the materials so stored are not industrial wastes from processes containing restricted toxic or hazardous materials; and

e. the materials stored are not intended for resale; or

2. a. for buildings with gross floor area of less than or equal to 20,000 square feet (s.f.), the materials so stored are in containers where the total liquid capacity stored at any time does not exceed 250 gallons and where the dry storage in bags, bulk or small containers does not exceed 2,000 pounds; and

b. for buildings with gross floor area greater than 20,000 square feet (s.f.), the materials so stored are in containers where the total liquid capacity stored at any time does not exceed 0.0125 gals/s.f. of gross floor area and where the dry storage in bags, bulk or small containers does not exceed 0.1 pounds/s.f. of gross floor area; and

c. for the purpose of determining quantity of allowable storage, the internal fluids within production machinery shall not be included; and
d. if storage of restricted toxic or hazardous materials at a facility exceeds 1250 gallons or 10,000 pounds dry storage, then an annual environmental audit is to be conducted of the property, buildings and appurtenances, and the audit will conform to any standards which may be promulgated by the Commissioner; or

3. a. the materials so stored are intended solely for treatment or disinfection of water or sewage in treatment processes located at the site; or

4. a. the materials are stored solely incident to office operations, or wholesale/retail sales on premises and are not processed, pumped, packaged, or repackaged at the site; and
   b. for the purpose of these regulations, Office Operations means a place in which business, clerical or professional activities are exclusively conducted and there are no manufacturing or other industrial activities; and
   c. wholesale storage shall be limited to 5-gallon maximum size containers and the total storage capacity shall not exceed the storage allowed under §760-706 B.2.b or 5,000 gallons or 40,000 pounds of dry storage in bags, bulk, or small containers, whichever is greater; or

5. a. the materials are stored at a service station or similar installation solely incident to the distribution of gasoline, kerosene, diesel oil or other petroleum products for motor vehicular uses and repair; and
   b. the facility for such storage is constructed in accordance with the requirements of Article 12 of the Suffolk County Sanitary Code for new construction; or

6. a. the materials are stored at an establishment for which a permit has been secured in accordance with §760-706.A.3, and a permit for such storage has been granted by the Department.

7. a. the materials are stored on a farm site solely incident to on-premises use, and consist of fertilizers, pesticides, or other agricultural chemicals to be applied in accordance with the provisions of §760-706.A.1.

C. The provisions of §760-706.A and §760-706.B of this Article shall not apply to residential facilities, but shall be applicable:

1. immediately for all non-residential facilities which have not been approved, constructed, or put into operation prior to the effective date of this Article; and

2. immediately for all non-residential facilities which were approved, constructed, or put into operation prior to the effective date of this Article upon:
   a. any change in use or process which results in an increase of mass loading in the discharge of restricted toxic or hazardous materials, or introduces a toxic or hazardous material not previously discharged; or
   b. any change in use or process which results in an increase of the storage or change of type of restricted toxic or hazardous materials.
D. When upgraded in accordance with the time schedule specified in Article 12, existing facilities, including those for petroleum products, not otherwise covered by items §760-706.A., §760-706.B. or §760-706.C., above, shall conform to the requirements of Article 12 for new construction. These requirements do not apply to facilities upgraded in accordance with Article 12 prior to the effective date of this Article.

§760-707 Permits
A. All permits required by this Article shall be applied for in accordance with the provisions of Article 3 of the Suffolk County Sanitary Code.

B. All persons required to obtain a permit by reason of any law, rule or regulation in effect prior to the effective date of this Article shall be governed by such law, rule or regulation in determining when said permit shall be obtained.

C. All persons newly required to obtain a permit by this Article due to any act or condition in existence as of the date this Article becomes effective, shall apply for said permit within one (1) year of that date.

D. All persons required to obtain a permit by this Article due to any act or condition not in existence on the effective date of this Article must apply for and receive said permit prior to undertaking such act or creating such condition.

§760-708 Emergency Embargo; Seizure
A. In accordance with the general provisions of Article 2 of the Suffolk County Sanitary Code, the Commissioner or his authorized agent is authorized to seize and embargo materials consisting of industrial wastes, toxic or hazardous materials, or any combination thereof when in the judgment of the Commissioner, the nature and condition of said material constitutes an actual or potential hazard to the source of drinking water supply.

B. The following additional requirements shall also apply:

1. When materials are embargoed or seized pursuant to subsection A. above, they shall not be moved, used or removed except by or under the direction of an agent authorized by the Commissioner.

2. It shall be unlawful for a person not authorized by the Commissioner to remove or alter an embargo order or tag.

3. After having embargoed, condemned or otherwise seized materials pursuant to this section, the Commissioner shall afford the owner of the seized material an opportunity to be heard at a hearing held within ninety-six (96) hours after the seizure. The Commissioner may then vacate the order or sustain it and order a proper and safe disposition of the material seized.

4. Unless ordered otherwise, removal shall be at the expense of the owner.

§760-709 Monitoring and Reporting
A. All persons maintaining subsurface leaching facilities and holding tanks for the purposes defined in §760-703.G shall make them accessible to representatives of the Department for sampling and monitoring purposes. The type of access shall be in conformance with the requirements of the Commissioner.
B. All persons maintaining a discharge of industrial wastes, toxic or hazardous materials, and/or offensive materials pursuant to a permit issued by the Commissioner must, at their own expense, monitor the discharge for such constituents at such intervals as specified in the permit.

1. The samples shall be collected in a manner acceptable to the Commissioner, pursuant to Department standards, and analytical results shall be reported to the Department as specified in the permit.

2. The permittee may employ private laboratory facilities of its own choosing. However, the laboratory shall be approved by New York State Departments of Health or Environmental Conservation or other agency acceptable to the Commissioner for the type of analyses performed.

3. Sampling shall be by an employee of the laboratory which prepares the analysis, and the laboratory shall be responsible for the accuracy and quality of the sample.

C. Owners, tenants and occupants of industrial facilities may be required to install monitoring systems, such as monitoring wells, both upgradient and downgradient in the groundwater flow. The number and location of the monitoring wells and their installation shall be in conformance with the requirements of the Department. The owner, tenant and occupant shall be responsible for all costs, as well as costs for groundwater monitoring and evaluation as required by the Department.

D. The owners of all real property used for non-residential purposes shall, within thirty (30) days of change, report in writing to the Department:

1. New Facility
   a. Name of tenant or occupant; address, including tax map number.
   b. Description of process, operation, or use.

2. Existing Facility
   a. Name of new tenant or occupant; address, including tax map number; description of process, operation, or use.
   b. Description of change of process, operation, or use.

   This notification requirement shall not apply to changes in tenancy or occupancy of the space where a permit is not, or would not be, required for the use.

§760-710 Requirement to Connect to Public Sanitary Sewer

A. Sewage and industrial wastes from any building or premises shall be discharged directly into a municipal sewage system, if available and accessible. Discharge of industrial wastes to a municipal sewage system shall be in accordance with the applicable sewer use ordinance.

B. If there is no municipal sewage system or facility connecting therewith available and accessible, sewage from any new building or premises shall be discharged directly into a communal sewage system or a facility connecting with a communal sewage system, if available and accessible.
C. If there is no municipal or communal sewage system or facility connecting therewith available and accessible, a private sewage disposal system approved by the Department may be used.

D. In the event that a municipal or communal sewage system or facility connecting therewith becomes available and accessible, any building or premises shall be connected to such municipal or communal sewage system, and immediately thereafter the use of any other sewage disposal system or facility shall be discontinued.

§760-711 Abandonment of Disposal Systems
Existing disposal systems abandoned as a result of connection to municipal sewage systems or communal sewage systems or different disposal systems or for other reasons shall be removed or permanently sealed in a manner acceptable to the Commissioner.

§760-712 Engineering Plans
A. All plans, specifications, and reports required by this Article shall be prepared by a New York State licensed Professional Engineer unless otherwise prescribed in the New York State Education Law.

B. No permit to construct, reconstruct, modify, use or operate shall be issued without the prior submission of plans and/or reports acceptable to the Commissioner, pursuant to Department standards.

§760-713 Operation, Maintenance and Repair of Sewage or Industrial Waste Treatment Facilities
A. All sewage and industrial waste treatment facilities shall be operated by a person or persons with qualifications acceptable to the Commissioner, pursuant to Department standards.

B. An operator of a sewage or industrial waste treatment system shall be physically present at the sewage or industrial waste treatment plants he is responsible for operating for a period of time each day satisfactory to the Commissioner.

C. This section does not apply to underground septic tank and leaching pool systems used for the disposal of domestic sewage.

D. All sewage or industrial waste treatment facilities shall be operated in strict accordance with the discharge permit issued for the facility.

E. All sewage or industrial waste treatment facilities shall be maintained in good operating condition at all times in accordance with good engineering practice. All structures and equipment shall be protected against corrosion and deterioration. Repairs shall be made in a timely fashion to minimize downtime of equipment. Preventative maintenance shall be performed on a scheduled basis to anticipate and prevent equipment failure.

§760-714 Enforcement
The provisions of this Article shall be enforced in accordance with the enforcement provisions of Article 2 of the Suffolk County Sanitary Code.
§760-715 Variances and Waivers
In any case where an applicant for a permit or approval is dissatisfied with a determination of the authorized agent to act for the Commissioner, or seeks a variance or waiver from the strict application of the letter of the requirements of this Article, or standards promulgated pursuant to this Article, the applicant may appeal from the determination of the deputy or for consideration of the application to the Board of Review in accordance with the provisions of §760-609 of the Suffolk County Sanitary Code.

§760-716 Separability of Provisions
In the event that any provision of this Article 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 this Article shall not be affected thereby.

ARTICLE 8
COMMUNICABLE DISEASE

§760-801 Reporting of Communicable Disease by Schools
It shall be the duty of every school medical officer, principal, teacher or other school official having knowledge of a case or suspected case of communicable disease in a member of the student body, faculty or working staff at the school to report the name and address of the person having or suspected of having such communicable disease to the Commissioner within 48 hours of the time such person shall have knowledge of the existence or suspected existence of such disease. For the purposes of this section, "Communicable Disease" shall mean any disease on the list of reportable diseases as determined by the regulations of the State Sanitary Code.

§760-802 Health Examination for Migrant Workers
It shall be unlawful for any person to employ, or for any person to be employed as a migrant farm worker or live in a migrant farm camp unless he or she has had a health examination within the preceding 12 months which must include adequate tests for the presence of active tuberculosis. Proof of this examination and absence of active tuberculosis must be maintained by the employer or camp operator having such migrant farm workers living under his control. In the event that the employee or camp resident has not had such health examination, the camp operator or employer must within 15 days of such employment or residence in the camp have such an examination performed.

ARTICLE 9
TOXIC AND HAZARDOUS MATERIALS REGISTRY

§760-901 Statement of Policy
The health and safety of Suffolk County residents must not be threatened or compromised simply because officials lack the necessary information to take proper precautions. Knowledge of the presence of toxic or hazardous materials is necessary to meet the contingencies of a fire or other emergency resulting from chemical accidents. It is the policy of the County, pursuant to this Article, to secure the health, safety, and welfare of the public, protect those called upon to respond to the emergency, encourage preparedness to meet any danger, and promote planning for future demands for emergency services by requiring the reporting of the presence of toxic and hazardous materials.

§760-902 Scope and Application
This Article shall apply to employers, employees, property owners, and persons who own or operate facilities for the manufacturing, storage or use of toxic or hazardous materials. It is concerned with the protection of health of the public and of persons who may be called upon to respond to an emergency situation resulting from spills, fire, explosions or related emergency conditions. This Article will apply to industrial, commercial and institutional facilities. It does not apply to use by the general public where materials are stored in residential and multi-family homes as long as these facilities are not being used primarily for business purposes.

§760-903 Definitions
A. Chemical Abstracts Service Number means the unique identification number assigned by the Chemical Abstracts Service to chemicals.

B. Chemical Name is the scientific designation of a chemical in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry or the Chemical Abstracts Service rules of nomenclature.

C. Commissioner means the Suffolk County Commissioner of Health Services of the Suffolk County health district.

D. Common Name means any designation of identification such as a code name, code number, trade name, brand name or generic name used to identify a chemical other than by its chemical name.

E. Container means a receptacle used to hold a liquid, solid, or gaseous substance, including but not limited to: bottles, pipelines, bags, barrels, boxes, cans, cylinders, drums, cartons, vessels, vats and stationary or mobile storage tanks.

F. Department means the Suffolk County Department of Health Services.

G. Employer means any person in Suffolk County engaged in business operations classified or designated as manufacturing industries; pipelines, transportation services, communications and electric, gas and sanitary services, wholesale trade, health services, educational services, local governments, or any agency, authority, department, bureau or instrumentality thereof, that use, handle, store, manufacture or otherwise control toxic or hazardous materials.
H. **Facility** means the building, equipment, and contiguous area at a single location used for the conduct of business.

I. **Person** means any individual, corporation, partnership, venture, association, company, trust, unincorporated organization or other entity and shall include any other person that has a substantial interest in, or effectively controls such person, as well as the individual officers, directors, general partners, trustees or other individuals in control of the activities of each such person.

J. **Persons Who May Be Called Upon To Respond To An Emergency** include, but are not limited to, employees of the Suffolk County Department of Health Services, Department of Fire, Rescue and Emergency Services, and Fire and Police personnel.

K. **Property Owner** means a property owner who is possessor of the title to the property on which the toxic or hazardous materials are present.

L. **Toxic or Hazardous Materials** shall mean substances including the following:

   1. **Irritating material** shall mean a liquid or solid substance which upon contact with fire or when exposed to air gives off dangerous or intensely irritating fumes, such as benzylecyanide, chloracetophenone, diphenylaminechlorarsine and diphenylechlorarsine, but not including any poisonous material, Class A;

   2. **Poison A** shall mean those poisonous gases or liquids of such nature that a small amount of the gas, or liquid or vapor of the liquid, when in contact with air is dangerous to life. This class includes the following: bromacetone, cyanogen, cyanogen chloride containing less than 0.9 percent water diphosgene, ethylidichlorarsine, hydrocyanic acid, methylidichlorarsine, nitrogen peroxide (tetroxide), phosgene (diphosgene), nitrogen tetroxide-nitric oxide mixtures containing up to 33.2 percent weight nitric oxide;

   3. **Poison B** shall mean those substances, liquid or solid (including pastes and semi-solids), other than Class A poisons or irritating materials, which are known to be so toxic as to be a hazard to health;

   4. **Corrosive materials** shall mean those acids, alkaline caustic liquids and other corrosive liquids or solids which when in contact with living tissue, will cause severe damage of such tissue by chemical action; or in the case of leakage, will materially damage or destroy other freight by chemical action; or are liable to cause fire when in contact with organic matter or with certain chemicals that cause visible destruction or irreversible alteration in human skin tissue at the site of contact;

   5. **Oxidizing materials** shall mean those substances such as chlorate, permanganate, peroxide or a nitrate that yields oxygen readily to stimulate the combustion of organic matter;

   6. **Flammable solids** shall mean any solid material, other than one designated as explosive, as further defined in this section, which under conditions incident to transportation, cause fires through friction, through absorption of moisture, through spontaneous chemical changes, or as a result of retained heat from the manufacturing or processing. Included in this class are spontaneously combustible and water-reactive materials.
7. **Flammable liquids** shall mean any liquid which gives off flammable vapors (as determined by flash point from Tagliabue's open cup tester, as used for test of burning oils) at or below a temperature of one hundred degrees Fahrenheit.

8. **Radioactive materials** shall mean irradiated nuclear reactor fuel and any other material or combination of materials that spontaneously emits ionizing radiation which the Commissioner of Transportation determines by regulation to present significant potential threat to public health and safety; and

9. Other identical or similar substances which from time to time are identified by the Commissioner.

M. **Trade Secret** Means any formula, plan, pattern, process, production data, information or compilation of information which is not patented, which is known only to an employer and certain other persons, and which is used in the fabrication and production of an article of trade or service, and which gives the employer possessing it a competitive advantage over businesses who do not possess it, or the secrecy of which is certified by an appropriate official of the federal government as necessary for national defense purposes.

§760-904 **Requirements**

A. Every employer or person using, handling, storing, selling, manufacturing or controlling toxic or hazardous materials exceeding 250 gallons or where dry storage in bags, bulk or small containers exceeds 2,000 pounds, shall provide the following information to the Department concerning each toxic or hazardous material for each street address at which any such hazardous material may be found. This information shall include, but not be limited to:

1. the chemical name and Chemical Abstracts Service number of the toxic or hazardous material;

2. the trade name of the chemical and any other common name used;

3. the quantity of the toxic or hazardous material produced, stored, consumed, sold, shipped out or brought into the facility;

4. the potential for flammability, explosion, and reactivity of such substances;

5. the location where such toxic substances are stored and/or used within the facility;

6. any other information required by the Commissioner.

B. The Commissioner may exempt certain categories of commercial establishments from the requirements of the Code which may contain toxic or hazardous materials even though they exceed 250 gallons or 2,000 pounds, if the nature of the business is easily recognizable and the contents of the establishment easily predictable. The general category of the businesses will still be included within the Registry for the purposes of making generic information, with regard to this category, available to emergency personnel in order to assist them in their emergency response.
It shall be the obligation of any responsible party of a facility of an exempt class to report the storage of any excessive quantities or unusual types of materials which would not normally be expected to be found at the class of establishment.

C. The Commissioner may require registration of quantities of toxic and hazardous materials which quantities are less than listed above if such amounts can reasonably be expected to present or cause harm to emergency personnel in the performance of their duty at the facility.

This would apply to establishments where the containment of such toxic and hazardous materials are not easily identifiable, and where serious damages could occur, such as nerve gases, radioactive substances, etc.

§760-905 Timetables
A. The employer or person shall report the presence of toxic or hazardous materials at his/her facility to the Department within ninety (90) days of the effective date of this Article. If an employer or person is unable to obtain the chemical name from the manufacturer or supplier of the hazardous chemical, s/he shall list the material by its common name.

B. The facility information sheet shall be updated annually. In addition, any introduction of a new hazardous substance or material at the facility shall be reported to the Department not more than ninety (90) days thereafter with the required information pursuant to §760-904 of this Article.

§760-906 Trade Secret Claim
A. If an employer or person claims that disclosing information on either the toxic or hazardous material would reveal a trade secret, s/he shall file with the Department a Trade Secret Claim affidavit within ninety (90) days of the effective date of this Article and annually thereafter. The Trade Secret Claim affidavit must be signed and notarized by an authorized person and must stipulate:

1. nature of the toxic or hazardous material;

2. location of process or equipment, specifying the building and section or part of the building in which it is located;

3. name of the process equipment in general terms;

4. authority of the person signing the affidavit;

5. information required pursuant to §760-904 of this Article with the information for which a Trade Secret Claim is being made concealed.

B. Except as provided in subdivision C of §760-906 of this Article, the Department shall not disclose any confidential information to any person except persons who may be called upon to respond to an emergency under any law for the protection of public health, except as noted below.

C. The County of Suffolk may provide any information for which a Trade Secret Claim is pending or approved to medical personnel when such information is needed for medical diagnosis or
treatment. Any such disclosure or information shall be kept confidential pursuant to this subsection.

§760-907 Enforcement
A. Whenever, on the basis of information available to him/her, the Commissioner finds that an employer or person is in violation of §760-904 or §760-905 of this Article or any rule and regulation adopted pursuant thereto, the Commissioner of the Department of Health Services may:

1. issue an order in accordance with §760-203.h of the Suffolk County Sanitary Code requiring the person to comply; and/or

2. bring a civil action in accordance with §760-203.i of the Suffolk County Sanitary Code; and/or

3. levy a civil administrative penalty in accordance with §760-218.2 of the Suffolk County Sanitary Code; and/or

4. bring a proceeding for civil penalty in accordance with §760-209 and §760-210 (Formal Hearing) of the Suffolk County Sanitary Code.

The exercise of any remedy provided in this section shall not preclude recourse to any other remedy so provided.

B. The Commissioner may exchange information with other agencies having responsibility for making health and/or safety inspections of facilities regulated by this Article and may utilize said information in a legal action initiated by the Department involving a facility regulated by this Article.

§760-908 Omission
Any omission or oversight of the County shall not in any way affect any other liability of an employer, nor shall it affect any other duty or responsibility of an employer to submit necessary information and to ensure the safe handling and storage of toxic or hazardous materials.

(Adopted 1/14/1987; Effective 10/1/1987)
ARTICLE 10
ARTICLE 11
SMOKING RESTRICTIONS

§760-1101  Smoking in Public Places
No person shall smoke or carry a lighted cigar, cigarette, pipe or any other form of smoking object or device in any elevator; in any retail food establishment, commonly known as a "supermarket" or "grocery store," including any store which offers foodstuffs for sale, other than restaurants and eating places; and in any department store or retail clothing store. The owner or person in charge may designate special areas where smoking is permitted, unless otherwise prohibited by law or fire department rule or regulation.

§760-1102  Smoking in Classrooms and Lecture Halls
No person shall smoke or carry a lighted cigar, cigarette, pipe or any other form of smoking object or device in any classroom or in any lecture hall, except that the owner or person in charge of such classroom or lecture hall may designate a special contiguous area containing not more than twenty percent (20%) of the total seats of the classroom or lecture hall in which smoking is permitted, unless otherwise prohibited by law or fire department rule or regulation.

§760-1103  Smoking in Health-Care Facilities
No person shall smoke or carry a lighted cigar, cigarette, pipe or any other form of smoking object or device in any hospital, sanitarium, nursing or convalescent home, home for the aged or chronically ill patients, except that the owner of any such facility may designate special areas where smoking is permitted, unless otherwise prohibited by law or fire department rule or regulation, provided that in any health-care facility, such special area shall be so removed from hazard to patients or other residents.

§760-1104  Smoking at Public Gatherings
No person shall smoke or carry a lighted cigar, cigarette, pipe or any other form of smoking object or device in any enclosed public space in which members of the public gather for religious, recreational, political or social purposes; except that the owner or person in charge of any building structure; or place specified in this section may designate a special area therein to be contiguous and constituting not more than twenty percent (20%) of the total seats or floor space, where smoking is permitted, unless otherwise prohibited by law or fire department rule or regulation. (Proviso: §760-1104 shall not apply to any place in which social functions such as weddings, parties, testimonial dinners and similar functions are held and in which seating arrangements are under the control of the sponsor of the function and not of the owner or person in charge of such place.)

§760-1105  Smoking in County-Owned Facilities
No person shall smoke or carry a lighted cigar, cigarette, pipe, or any other form of smoking object or device in any structure or facility owned and/or operated by the County of Suffolk; except in the areas where smoking is permitted, unless otherwise prohibited by law or fire department rule or regulation.

§760-1106  Posting of Notice
A. Signs prohibiting smoking or designating an area where smoking is permitted shall be conspicuously posted in such a manner as to be easily seen by the general public. It shall be the duty of the owner, manager or person in charge of each of the buildings, structures or facilities specified herein to see to it that these signs are installed and properly maintained.
B. Any person operating a Tobacco Shop as a Hookah Lounge or who allows hookah smoking
shall post in a conspicuous place, a sign upon which there shall be imprinted the following
statement:

“HEALTH WARNING

SHISHA, THE SUBSTANCE SMOKED IN HOOKAHPIPES, IS A TOBACCO PRODUCT. IT
CONTAINS NICOTINE AND IS ADDICTIVE. TOBACCO USE AND EXPOSURE TO SECOND HAND
SMOKE PUTS ONE AT RISK FOR CANCER, HEART DISEASE AND LUNG DISEASES.

THE USE OF A WATER PIPE MAY EXPOSE ONE TO TUBERCULOSIS, HERPES, HEPATITIS AND
POSSIBLY OTHER INFECTIOUS DISEASES.

SUFFOLK COUNTY DEPARTMENT OF HEALTH SERVICES”

Such sign shall be printed on white card in black capital letters at least one-half inch in height.
The top line, “Health Warning” and the bottom line, “Suffolk County Department of Health
Services” shall be printed in red.

§760-1107 Tobacco Vendor Education Certification of Tobacco Retailers

§760-1107.1 Purpose
The purpose of this section is to protect public health by establishing safeguards to control the sale
of tobacco products to minors. By controlling the sale of tobacco products to minors, addiction to
the product can be significantly reduced. Article 13-F of the New York State Public Health Law,
known as the Adolescent Tobacco-Use Prevention Act (ATUPA) expressly prohibits the sale of
tobacco products to minors and further charges the Commissioner of the Suffolk County Department
of Health with the duty of enforcing the provisions of ATUPA.

§760-1107.2 Scope
Educating local tobacco retailers will facilitate and enhance retailer compliance with the provisions
of ATUPA and local laws. Local certification requirements will also permit a more systematic
monitoring of local tobacco retailer compliance to ATUPA and ensure that dealers of tobacco
products are fully educated about their responsibility under ATUPA.

§760-1108 Definitions
For purposes of this section,

A. “Person” means an individual person, firm, company, corporation, partnership, sole proprietor,
limited partnership, or association, business entity of any type or any combination thereof.

B. “Tobacco Retail Dealer” means any person who owns or operates a site at which tobacco
products, as defined herein, are sold or offered for sale to the public.

C. “Tobacco Products” means one or more cigarettes or cigars, chewing tobacco, powdered
tobacco or any other tobacco products, including any product made primarily of an herb or
combination of herbs, and intended to be smoked in any of the methods that tobacco is smoked,
including but not limited to, as a cigarette, cigar or pipe filler or chewed.

D. Tobacco Vendor Education Certificate means a certificate issued by the Suffolk County
Department of Health Services.
E. “Commissioner” means the Commissioner of the Department of Health Services.

F. “Department” means the Suffolk County of Health Services.

§760-1109 Registration and Certification for Retail Dealer of Cigarettes and/or Tobacco Products

No person shall sell or offer for sale tobacco products within Suffolk County without first complying with Section 480-a of the New York State Tax Law and having obtained a valid New York State Retail Dealer Certificate of Registration for cigarettes and/or Tobacco Products from the New York State Department of Taxation and Finance and obtaining a valid Tobacco Education Certificate issued by the Commissioner.

A. It is unlawful for any person to engage in the selling of tobacco or tobacco products without obtaining a valid Retail Dealer Certificate of Registration for Cigarettes and/or Tobacco Products. Each tobacco retail dealer must obtain a Retail Dealer Certificate of Registration for Cigarettes and/or Tobacco Products for each site at which tobacco products are sold.

B. It shall be unlawful for any person to be engaged in the sale of tobacco products without first having obtained a valid Suffolk County Tobacco Vendor Education Certificate in accordance with the provisions of this article.

C. A certificate issued in accordance to Section 480-a of the New York State Tax Law and the Tobacco Vendor Educational Certificate shall be conspicuously posted in each place of business of the permittee.

§760-1110 Information Required

A. All tobacco retailer dealers in Suffolk County shall comply with Section 480-a of the New York State Tax Law and possess a valid Retail Dealer Certificate of Registration for Cigarettes and/or Tobacco products, and all tobacco retailers shall provide the commissioner with proof of such compliance.

B. Tobacco product retailer dealers shall submit to the Commissioner, prior to the selling tobacco products, a duplicate of the Application for Registration of Retail Dealers and Vending Machines for Sales of Cigarettes and/or Tobacco.

C. For the purpose of registration the commissioner may require the submission of additional written information on forms furnished by the Department.

D. The commissioner may at her discretion establish criteria for reciprocal agreements for vendor education certification through outside agencies.

§760-1111 Certification Requirements; Recertification

A. One year from the effective date of this article, at least one principal listed on the tobacco retail dealer certificate, or designee, shall possess a valid Tobacco Vendor Education Certificate issued by the Commissioner. Recertification shall be required every three years.

(1) Any person listed on the Application for Registration of Retail Dealers and Vending Machines for Sales of Cigarettes and Tobacco Products, or their designee, shall attend and satisfactorily complete a Tobacco Vendor Education Certification course of instruction...
whenever deemed necessary by the Commissioner.

(2) A Tobacco Vendor Education Certificate may be revoked any time after due hearing, on notice for violations of any of the provisions of this article.

B. Applicants shall meet such further qualifications as may be prescribed by this Article and any other appropriate Article or regulations.

C. Registration for the course shall be in writing on forms furnished by the Department.

§760-1112 Fines, Suspension, Revocation or Denial of Tobacco Vendor Education Certificate

A. The Commissioner may, at her own discretion, deny, refuse to renew or revoke an application for a Tobacco Vendor Education Certificate if the applicant for State registration or any person listed on the application was listed on a previous application where the registration was revoked for violations of Article 13-F of the New York State Public Health Law known as the Adolescent Tobacco Use Prevention Act (ATUPA), or for violations of this Article.

B. The Commissioner shall have the power to impose a fine pursuant to Article 2 of the Suffolk County Sanitary Code upon a Tobacco Retail Dealer or to deny, suspend or revoke a Tobacco Vendor Education Certificate for any one (1) or more of the following causes:

(1) Fraud, deceit, misrepresentation or bribery in securing or use of a Tobacco Vendor Education Certificate.

(2) The making of any false statement in an application for a Tobacco Vendor Education Certificate.

(3) Violations of Article 13-F of the New York Public Health Law; New York State Tax Law Article 20; or a violation of any relevant provision of the Suffolk County Code, this Article, any other appropriate Article of this Chapter or any regulation promulgated hereunder or any amendment made thereto.

(4) Failure to make payment in connection with fines imposed pursuant to this Chapter.

(5) Any misuse of the Tobacco Vendor Certificate.

C. Except for a Tobacco Vendor Education Certification suspension or revocation required because of the loss of the certificate holders’ Retail Dealer Certificate of Registration for Cigarettes and/or Tobacco Products, no Tobacco Vendor Education Certificate shall be suspended or revoked, nor a fine imposed, until after a hearing has been held before the Commissioner or hearing officer designated for that purpose by the commissioner upon at least seven (7) business days notice to the certificate holder. Notice shall be given to persons listed on the State registration who may be affected by the proceedings and to the person whose name appears on the Tobacco Vendor Education Certification Application. Such notice shall be served either personally or by certified mail, return requested, to the last known address of the certificate holder and persons listed on the application for the State registration and shall state the date and place of the hearing as well as enumerate the grounds constituting the allegations against such certificate holder. The certificate holder or other persons who
may be affected by the proceedings may be represented by counsel and may produce witnesses in his own behalf. A record of the hearing shall be served either personally or by certified mail, return receipt requested, to the last known address of the certificate holder and persons listed on the application for State registration and shall state the date and place of the hearing as well as enumerate the grounds constituting the allegations against such certificate holder. The certificate holder or other persons who may be affected by the proceedings may be represented by counsel and may produce witnesses in his own behalf. A record of the hearing shall be taken and preserved. For purposes of such hearing, the Commissioner or designee may administer oaths, take testimony, subpoena witnesses and compel the production of books, paper, records or other documents deemed pertinent to the subject of the hearing.

§760-1113 Severability

If any clause, sentence, paragraph of subdivision or part of this Article or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Article, or in its application to the person, individual, corporation, firm, partnership, entity or circumstance, directly involved in the controversy in which such judgment shall be rendered.

ARTICLE 12
TOXIC AND HAZARDOUS MATERIALS STORAGE AND HANDLING CONTROLS

§760-1201 Declaration of Policy
The designated best use of all groundwaters of Suffolk County is for public and private water supply, and of most surface waters for food production, bathing and recreation. The federal government has officially designated the aquifer below Suffolk County as a sole-source for water supply. Therefore, it is hereby declared to be the policy of the County of Suffolk to maintain its water resources as near to their natural condition of purity as reasonably possible for the safeguarding of the public health and, to that end, to require the use of all available practical methods of preventing and controlling water pollution from toxic and hazardous materials.

§760-1202 Statement of Purpose
It is the intent and purpose of this Article to safeguard the water resources of the County of Suffolk from toxic or hazardous materials pollution by controlling or abating pollution from such sources in existence when this Article is enacted and also by preventing further pollution from new sources under a program which is consistent with the above-stated Declaration of Policy.

§760-1203 Definitions
Whenever used in the Article, unless otherwise expressly stated, or unless the context or subject matter requires a different meaning, the following terms shall have the respective meanings set forth or indicated:

A. **Aboveground**, when referring to tanks, means more than 90 percent exposed above the final ground elevation.

B. **Bulk Storage** means the loose or bagged storage of dry or semi-dry materials.

C. **Commissioner** means the Commissioner of the Suffolk County Department of Health Services.

D. **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 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 or storage of soils, sand or debris containing toxic or hazardous materials;
   4. disposal to: storm drains, cooling water, roof drains, sanitary systems, or any other drainage system or leaching system of toxic or hazardous materials;
   5. burial, land-spreading or dumping anywhere of toxic or hazardous materials, including but not limited to landfill and scavenger facilities, notwithstanding that the material so buried, spread or dumped was containerized at the time of said burial, spreading or dumping;
   6. passing of toxic or hazardous waste materials to any person;
7. abandonment of containers, tanks, pipes, vehicles or premises containing toxic or hazardous materials or residues. For the purpose of this subdivision, abandonment shall mean:

   a. substantially empty and unattended, or

   b. the relinquishment or termination of possession, ownership or control without full disclosure to the new owner thereof of containers, tanks, pipes, vehicles or premises containing toxic or hazardous materials or residues, whether by vacating or by disposition thereof, and shall not depend on a mere lapse of time.

E. **Double-Walled** means constructed with more than one containment layer with space between the layers sufficient to allow monitoring of any leakage into or out of the space.

F. **Impervious** means a layer of natural and/or man-made material of sufficient thickness, density and composition as to prevent the discharge into the underlying groundwater or adjacent surface waters 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 the spilled product with minimum disturbance of the containment material.

G. **New York State Discharge Standards** means standards of quality and purity and special standards, and groundwater quality standards and effluent standards, and/or limitations as found in Title 6, Parts 701-703 of the Official New York Compilation of Codes, Rules and Regulations.

H. **Pollution** means the presence in the environment of conditions and/or contaminants in quantities or characteristics, which are or may be injurious to human, plant or animal life or to property, or which unreasonably interfere with the comfortable enjoyment of life and property throughout such areas of the County as shall be affected thereby.

I. **Product-Tight** means impervious to the material which is or could be contained therein so as to prevent the detectable seepage of the product through the container. To be product-tight, the container shall be made of a material that is not subject to physical or chemical deterioration by the product being contained.

J. **Properly Registered Industrial Waste Scavenger** means a person in the business of collecting industrial wastes who carries a current, valid industrial waste collector registration issued by the New York State Department of Environmental Conservation.

K. **Substantial Modifications** shall mean the construction of any additions to an existing storage facility as defined under §760-1203.M, 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.

L. **Single-Walled** means constructed with walls made of but one thickness of material. Laminated, coated, or clad materials shall be considered as single-walled.
M. **Storage Facility** means tanks, pipes, vaults, buildings, yards, pavements or fixed containers used or designed to be used, either singly or in any combination thereof, for the storage and/or transmission of toxic or hazardous materials or for the storage of portable containers containing toxic or hazardous materials. This shall include skid or wheel mounted tanks if they are used for storing toxic or hazardous materials in a manner that could be accomplished by use of fixed or permanently installed tanks, but shall not include the temporary use of wheeled or skid mounted tanks for the purpose of dispensing petroleum products into "off-road" vehicles and other equipment used for construction-related purposes at construction sites, or for temporary use at spill cleanup or groundwater remediation sites.

N. **Toxic or Hazardous Materials** means any substance, solution or mixture which, because of its quality, quantity, concentration, physical, chemical or infectious characteristics, or any combination of the foregoing, presents or may present an actual or potential hazard to human health or to the drinking water supply if such substance, solution, mixture or combination thereof is discharged to the land or waters of the County of Suffolk. Toxic or Hazardous Materials shall include:

1. each and every substance, material or waste identified or listed anywhere in Part 116, Part 261, or Part 302, Title 40 of the Code of Federal Regulations; or in either or both Part 371 and Part 597, of Title 6 of the New York State Codes, Rules and Regulations;
2. acids and alkalies beyond the pH range of 4 to 10;
3. heavy metal sludges, mixtures and solutions in excess of standards;
4. petroleum products, including fuels and waste oils, except heavy tars and asphalts;
5. organic solvents, including petroleum solvents, halogenated and non-halogenated hydrocarbons;
6. any material listed in Part 703.6 of the Official Compilation of New York Codes, Rules and Regulations, in excess of the concentration standards thereof, except for iron, manganese, foaming agents and pH unless otherwise provided elsewhere in this Article;
7. any substance not included within subdivisions one through six above subsequently declared to be a Toxic or Hazardous Material by the Commissioner;
8. any solid or semi-solid 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 one through seven above.

All Toxic or Hazardous Materials are hereby declared to also be offensive materials for the purposes of Article 5.

O. **Toxic or Hazardous Wastes** mean:

1. Toxic or Hazardous Materials as defined in subdivision (N) above, generated by or as the result of operations in or the existence of any manufacturing or other industrial or commercial establishment, which toxic or hazardous materials are not actually used in a final product for sale, and shall include those toxic or hazardous materials retained as
byproducts of the operations within such manufacturing or other industrial or commercial establishment for the purpose of recouping salvage value; or

2. Toxic or Hazardous Materials generated by one in possession or control of any residential premises, for which materials disposal is intended, and which waste is not domestic wastewater without the admixture of non-sewage wastewater from any industrial process.

3. All toxic or hazardous wastes are Toxic or Hazardous Materials.

P. **Underground**, when referring to tanks, means 10 percent or more below the final ground elevation.

Q. **Existing Storage Facility** means any one constructed before January 1, 1980. It also means any outdoor heating oil tank of 1,100 gallons or less and any indoor heating oil tank of any size constructed before November 1, 1982.

R. **New Storage Facility** means any one constructed after January 1, 1980, except that for any outdoor heating oil tank of 1,100 gallons or less and for any indoor heating oil tank of any size, it shall mean one constructed after November 1, 1982.

S. **Installation** shall mean the same as facility.

§760-1204 **Powers of the Commissioner**

A. The Commissioner may make, or cause to be made, or order the owner or operator of any property or facility to make any investigation or study which, in his/her opinion, is desirable for enforcing this Article or controlling or reducing the potential for contamination of the waters of the County from toxic or hazardous materials. This may include the ordering of a groundwater investigation where information suggests that a discharge of toxic or hazardous materials may have occurred.

B. 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 in the opinion of the Commissioner to bring said land, structure or equipment into compliance with the provisions of this Article and any standards or regulations promulgated thereunder. 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 or abandonment or reconstruction of any installation, tank, storage facility or any part thereof installed in contravention of any of the requirements of this Article or any standards or regulations promulgated thereunder;

4. ordering that physical improvements be performed on any tank, storage facility or part thereof before permitting it to be returned to service including such improvements as tank lining removal and replacement, bottom and structural repairs;
5. ordering the drafting of and/or implementation of contingency plans 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 undertaking either prior to or subsequent to the construction or operation of a storage facility within Suffolk County on a case-by-case basis if evidence indicates such may be necessary to protect the public from the effects of operating or closing such a facility.

C. The Commissioner may require the licensing, pursuant to standards adopted by the Department, of persons and/or companies installing, constructing, testing, inspecting or removing tanks, piping, pipelines, fittings, connections, alarms, and other related equipment required by this Article.

D. Notwithstanding any other provision of this Article, if the Commissioner finds a condition which has the potential for contaminating the waters of the County with toxic or hazardous materials, or which otherwise constitutes an immediate danger to public health, and determines that it could appear prejudicial to the public interest to delay action, the Commissioner may serve an order upon the permit holder, or if there is no permit upon the person in charge of the facility or site, citing such conditions and specifying the corrective action to be taken and a time period of less than fifteen (15) days within which such action shall be taken.

Such order may state that a permit is immediately suspended and/or that all operations are to be discontinued forthwith.

Any order requiring certain action or the cessation of certain activities immediately or within a specified period of less than fifteen (15) days shall provide such person an opportunity to be heard, which hearing shall be scheduled for a time no more than fifteen (15) days after the date the order is served.

§760-1205 Prohibited Discharges, Transporting, Disposal, Improper Storage

A. It shall be unlawful for any person to discharge toxic or hazardous materials in Suffolk County, unless such discharge is specifically in accordance with a State Pollutant Discharge Elimination System (SPDES) Permit or other permit issued by or acceptable to the Commissioner for that purpose.

B. It shall be unlawful for any person to pick up, transport or dispose of toxic or hazardous waste materials in Suffolk County without having a valid and appropriate New York State industrial waste collector registration.

C. It shall be unlawful for any industrial waste collector with a registration issued by the New York State Department of Environmental Conservation to fail to maintain a copy thereof on each vehicle operated by said collector at all times.

D. It shall be unlawful for any person to store toxic or hazardous materials in a facility unless the materials of construction of the facility are compatible with the product being stored.

E. No reactive toxic or hazardous materials shall be stored in close proximity to each other in a manner that could allow a reaction to occur in the case of leakage, spillage or fire.
§760-1206  Construction and Modification Permits
A. It shall be unlawful for any person to construct, install or substantially repair or modify a storage facility, or part thereof, without a valid permit therefor issued by or acceptable to the Commissioner.

B. It shall be unlawful for any person in possession of or acting pursuant to a permit issued under this section to act, allow or cause any act in contravention of any provision of the permit.

C. Any permit issued pursuant to this section shall be effective for the specified duration of time indicated thereon, not to exceed one year from the effective date thereof.

§760-1207  Permits to Operate
A. It shall be unlawful for any person to use, cause to be used, maintain, or fill or cause to be filled with toxic or hazardous materials any storage facility or part thereof without having registered all the tanks at the facility on forms provided by the Commissioner, and without having obtained a valid permit to operate such storage facility or part thereof issued by or acceptable to the Commissioner. Changes to registration information, such as owner name, facility operator, tank contents, use, etc., shall be submitted to the Department by the storage facility owner as they occur.

B. It shall be unlawful for any person in possession of or acting pursuant to a permit issued pursuant to this section to act, permit or cause any act in contravention of any provision of the permit.

C. (Deleted 12/16/92)

D. Any permit issued pursuant to this section shall be effective only for the specified duration of time indicated thereon, not to exceed five (5) years from the effective date thereof. Such permit shall be permanently displayed in a front window of the facility or other equally prominent location clearly visible to any inspector positioned outside the facility.

§760-1208  Exemptions
A. All storage facilities which meet all of the following criteria shall be exempt from all provisions of this Article except those contained in §760-1203 - Definitions; §760-1204 - Powers of the Commissioner; §760-1205 - Prohibited Discharges; §760-1208 - Exemptions; §760-1210.A - New Storage Facilities; §760-1210.F - General Provisions and Requirements; §760-1210.H - Overfill Protection; §760-1211.A.4 - Overfill Detection; §760-1211.D.1 and 2 - Leaks; Repairs; §760-1213.B.1 and 4 - Transfer Operations; and §760-1220 - Variances and Waivers:

1. the materials so stored are not toxic or hazardous wastes; and

2. the volume of the storage facility is less than 1,100 gallons; and

3. the facility is intended solely for the storage of kerosene, number 2 fuel oil, number 4 fuel oil, number 6 fuel oil, diesel oil or lubricating oil, gasoline in aboveground tanks; and

4. the intended use of the product stored is solely for on-site heating, or intermittent stationary power production such as stand-by electricity generation or irrigation pump power; and

5. the materials stored are not intended for resale.
B. All storage facilities which meet the following criteria shall be exempt from the provisions of this Article contained in §760-1210.B, §760-1210.C, §760-1214, §760-1219, and any regulations or standards promulgated thereunder:

1. the materials so stored are not toxic or hazardous wastes; and
2. the volume of the storage facility is greater than 1,100 gallons; and
3. the facility is intended solely for the storage of kerosene, number 2 fuel oil, number 4 fuel oil, number 6 fuel oil, diesel oil, or lubricating oil; and
4. the intended use of the product stored is solely for on-site heating, or intermittent stationary power production such as stand-by electricity generation or irrigation pump power; and
5. the materials stored are not intended for resale.

C. All storage facilities no longer receiving the benefit of any exemption but which were previously exempted from any or all provisions of this Article shall be required to appropriately conform to all of the provisions of this Article and all regulations and standards promulgated pursuant thereto by November 1, 1983.

D. Tanks for the storage of number 6 fuel oil, or other petroleum products of equivalent viscosity, located outside of the deep recharge areas and water supply sensitive areas as defined in Article 7 of this Code, are exempt from the internal inspection and tank lining requirements.

Diked areas surrounding such tanks, regardless of location, need not be lined with material more impervious than sand due to the viscose nature of the oil at ambient temperature.

E. Existing aboveground tanks that are in contact with the ground, but which are, in the opinion of the Commissioner, too large to be moved, are exempt from the requirement for a secondary containment barrier beneath the tank bottom.

F. All storage of toxic or 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 portions of this Article unless specifically ruled otherwise by the Commissioner on a case-by-case basis.

§760-1209 Transfer of Permits Prohibited
It shall be unlawful for any person to transfer a permit issued pursuant to §760-1206 and §760-1207 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 operation under the terms of the old permit until such time as the new permit is issued or denied.
§760-1210 Underground Storage Facilities

A. New Storage Facilities

1. All new storage facilities used or to be used for the underground storage of toxic or hazardous materials shall be designed and constructed in a manner which will, in the opinion of the Commissioner, provide the maximum reasonable protection available against leakage or spillage from the facility due to corrosion, breakage, structural failure, or other means. Double-walled or equivalent facilities are required for all toxic or hazardous materials, except for tanks for the storage of on-premises heating oil at residential homes. For these, single-walled, non-corrodible facilities may be used. Acceptable designs for tanks include cathodically protected steel; glass fiber reinforced plastic; cathodically protected steel clad with glass fiber reinforced plastic; or other equivalent design approved by the Commissioner.

2. Approval of design by the Commissioner is required before installation, and the determination of equivalency or adequacy lies with the Commissioner.

3. Design, construction, fabrication, and installation of new underground storage facilities shall be in accordance with regulations and standards as they may be adopted by the Commissioner under this Article from time to time.

4. (Deleted 12/16/92)

5. It shall be unlawful for any person to sell for use in Suffolk County, install, use, put into service or maintain the existence of any new underground storage facility or part thereof if said new storage facility or part thereof fails to conform to all of the provisions of subsections 1, 2, and 3 above, that were in effect at the time of construction and all regulations and standards promulgated thereunder; subject however to the exemptions contained in §760-1208.

B. Existing Storage Facilities

1. (Deleted 12/16/92)

2. It shall be unlawful for any person to substantially modify or cause the substantial modification of any existing underground storage facility or part thereof without complying with the provisions of subdivision A above and all regulations and standards promulgated thereunder.

3. It shall be unlawful to use, or maintain the existence of any existing underground storage facility beyond January 1, 1990, which is intended for use with toxic or hazardous materials with a specific gravity of less than one and which are only slightly soluble in water such as oils and gasoline, without modifying said storage facility so as to comply with all of the provisions of subdivision A above and all regulations and standards promulgated thereunder.

4. It shall be unlawful to use or maintain the existence of any existing underground storage facility beyond January 1, 1987, which is intended for use with any toxic or hazardous materials other than those with a specific gravity of less than one and which are only slightly soluble in water such as oils and gasoline, without modifying said storage facility so as to comply with all of the provisions of subdivision A above and all regulations and standards promulgated thereunder.
C. Single-walled Non-corrodible Facilities

1. Single-walled non-corrodible facilities with leak detection and overfill protection must be upgraded to meet the secondary containment requirements of new construction. It shall be unlawful to use or maintain the existence of any facility of this description beyond January 1, 2010 for the storage of any toxic or hazardous material which is not adequately protected with a secondary containment system.

D. Abandonment

1. It shall be unlawful for any person to use or maintain the existence of an abandoned underground storage facility or part thereof.

2. It shall be unlawful for anyone to sell or transfer to another an improperly abandoned underground storage facility or land containing an improperly abandoned underground storage facility if there exists any reasonable evidence of the existence of such a facility, unless the purchasing party has been made fully aware of the presence of such facility or evidence.

3. It shall be unlawful for any person to repair, alter or prepare for use any abandoned storage facility without first obtaining a permit to construct from the Commissioner.

4. It shall be unlawful for the owner or other person in possession or control of any real property, building or place or vehicle to fail to immediately empty of all toxic or hazardous materials and to completely fill with sand or concrete or permanently remove an abandoned storage facility or part thereof within ninety (90) days of the discovery thereof on or in said real property, building or place pursuant to the provisions of subdivision 1 below unless approval is granted by the Commissioner to do otherwise.

5. For the purposes of this section, an abandoned storage facility or part thereof means one which has remained out-of-service for two (2) years or more, or which has been declared by the owner to be abandoned.

6. For the purposes of this section, out of service means substantially empty, meaning five (5%) percent or less filled; or 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.

7. For the purposes of this section, discovery means either actual discovery or knowledge of the existence of the abandoned storage facility or part thereof or possession of sufficient knowledge of the facts and circumstances involved so that the existence of the abandoned storage facility or part thereof should have been discovered or known of.

E. Testing and Inspection

1. All existing underground storage facilities or parts thereof which do not meet the construction standards in subdivision A above must be tested and inspected in accordance with the schedule set forth below. It shall be unlawful for any existing underground storage facility owner, operator or lessee to fail to test his/her tanks, and he/she shall be responsible
for insuring that an acceptable certificate of test completion is filed with the Commissioner in accordance with the following schedule:

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<th>AGE OF SYSTEM BY 1980 (in years)</th>
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ALL TANKS COVERED BY §760-1208.B BY VIRTUE OF THE 1986 AMENDMENT SHALL BE INITIALLY TESTED IN 1986 IF THE TANK IS TEN (10) YEARS OR OLDER, AND/OR ALL TANKS SHALL BE TESTED ON THEIR TENTH ANNIVERSARY AND EVERY FIVE (5) YEARS THEREAFTER UNTIL PERMANENTLY CLOSED.

FULL COMPLIANCE FOR ALL FACILITIES EXCEPT THOSE DESCRIBED IN §760-1210.B.3

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<td>Full Compliance for All Facilities</td>
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2. If for any reason testing satisfactory to the Commissioner cannot be performed, the tank must be removed from service or brought up to the standards of subsection A by the first scheduled test date.

3. The Final Test of the National Fire Protection Association (NFPA), Recommended Practice No. 329 or other test of equivalent or superior accuracy as approved by the Commissioner must be used to comply with the testing and inspection requirement of §760-1210.E.1.

4. Any test and inspection as required by this subdivision shall be performed by a person whose qualifications are acceptable to the Commissioner, pursuant to Department standards, for performing such tests. Certificates of test completion containing the results of such tests as performed shall be prepared by the tester and shall be filed by him/her with the Commissioner within thirty (30) days after completion of the testing of the storage facility. No certificate of test completion shall be acceptable to the Commissioner to indicate satisfactory compliance with the testing requirements of this subdivision if the qualifications of the tester have not been accepted by the Commissioner prior to the test. No certificate of
test completion shall be acceptable to the Commissioner, pursuant to Department standards, if the test and inspection were not performed in accordance with subsection 3 of this subdivision and in accordance with any regulations and standards which may be promulgated pursuant thereto.

5. The Certificate of Test Completion shall be filed on a form provided by the Commissioner and a copy of such form, completed, shall be kept by the storage facility owner, operator or lessee and by the tester for a period of not less than five (5) years from the date of its issuance. It shall be unlawful for the storage facility owner, operator or lessee and for the tester thereof to fail to keep a copy of the Certificate of Test Completion for the required five (5) year period.

6. Certificates of Test Completion shall contain a legally authorized form notice to the effect that false statements made knowingly therein are punishable pursuant to 210.45 of the Penal Law.

7. A Certificate of Test Completion not properly completed and/or not subscribed by the tester shall not be acceptable to the Commissioner.

F. General Provisions and Requirements

1. When an underground storage facility or part thereof is found to be leaking, the portion containing the leak must be immediately emptied of all contents therein and removed from service. It shall be unlawful to cause or permit a leaking underground storage facility or part thereof to remain in service or to continue to retain its toxic or hazardous contents after the owner, operator or lessee of said storage facility or part thereof knows or should have known of the existence of the leak therein.

2. It shall be unlawful for any person to repair or to permit the repair, in place, of any underground storage facility or part thereof which has leaked or has otherwise failed, for the purpose of reusing said storage facility, unless:

   a. such repair will result in the storage facility or part thereof complying with the requirements of subdivision A above and all regulations and standards promulgated thereunder; and unless

   b. such repair occurs pursuant to plans therefor previously submitted to and approved by the Commissioner.

3. It shall be unlawful for any person to replace or cause the replacement of any underground storage facility or part thereof for any reason if the replacement facility does not meet the requirements of subdivision A above and all regulations and standards promulgated thereunder.

4. It shall be unlawful for any person to use, maintain, or put into service any underground storage facility or part thereof without first complying with the testing and inspection requirements of subdivision E above and regulations and standards promulgated thereunder.

5. It shall be unlawful not to maintain any secondary containment system for underground storage in a dry condition except for tanks that utilize a fluid-filled space between the tank walls for leak detection. Any liquid which enters a secondary containment system shall be
removed within 24 hours, the source determined and corrected, and a permanent record of
the event made and kept available for inspection by a Department representative.

G. Monitoring and Leak Detection

1. All underground storage facilities or parts thereof must be equipped with 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 unless a
less frequent schedule is allowed by the Commissioner.

2. All underground storage facilities or parts thereof, except those for residential homes, 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 product
records. Leak detection and monitoring can be provided by an electrical continuous leak
detection system; visually operated or float operated alarms for tanks in pits; pressure,
vacuum or fluid level detectors for double-walled facilities; or other equivalent design
approved by the Commissioner. Permanent records of all monitoring shall be kept for a
period of five (5) years.

3. It shall be unlawful for the owner or other person in possession or control of a storage
facility or part thereof to fail to comply with any of the requirements of this subdivision and
of any regulations and standards promulgated pursuant thereto.

H. Overfill Protection

1. 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 prevention device or a product-tight containment
capable of intercepting and preventing the release to the ground or groundwater of an overfill
spill.

2. It shall be unlawful for the owner, operator or lessee to fail to provide satisfactory overfill
protection for any new underground storage facility or part thereof in accordance with the
provisions of this subdivision and any regulations and standards promulgated pursuant
thereto.

I. Removal of Underground Storage Facilities From Service

1. It shall be unlawful for the owner or any other person in possession or control of an
underground storage facility or part thereof, to remove it from service unless:

   a. said storage facility or part thereof is declared abandoned, emptied immediately and
      removed within ninety (90) days of so declaring, and is disposed of as junk by first
      rendering it vapor-free and by sufficiently perforating it so as to render it unfit for further
      use; or

   b. said storage facility or part thereof is declared abandoned, emptied immediately and
      removed within ninety (90) days for reuse for the storage of toxic or hazardous materials
      after having met all of the requirements of subdivision A and all regulations and
      standards promulgated pursuant thereto; or
c. said storage facility or part thereof is declared abandoned, emptied immediately and removed within ninety (90) days for the storage of other than toxic and hazardous materials in which case the facility shall be emptied, cleaned of all residue, and made safe and vapor-free; or

d. said storage facility is declared temporarily out of service and maintained in accordance with subdivision 3 of this section; or

e. said storage facility or part thereof is declared abandoned, emptied immediately and made inert by completely filling with sand or concrete within ninety (90) days; however, this can only be done by special permission by the Department upon application demonstrating the absence of leaks and upon inspection by the Department or its representatives at the owner's expense, or for extraordinary circumstances where complete removal is unreasonable such as beneath a building foundation; or

f. said storage facility is declared to be suspected of leaking and maintained in accordance with §760-1210.F; and

g. proof is obtained and presented to the Department as to whether or not leakage has occurred from said storage facility. Such proof shall be to the satisfaction of the Commissioner.

2. Any declaration of facility abandonment or of taking a facility temporarily out of service or returning a facility to service must be made to the Commissioner in writing.

3. It shall be unlawful for the owner or any other person in possession or control of any underground storage facility or part thereof to render it temporarily out of service unless said storage facility or part thereof substantially meets the requirements of §760-1210.A, and it is emptied of its contents immediately, the fill line, gauge opening and pump line are capped and secured against tampering, the vent line is left open, and approval is granted by the Commissioner. No facility in a temporarily out of service condition shall be returned to use prior to approval by the Commissioner and prior to the successful completion of any tightness testing the Commissioner may require. The temporarily out-of-service designation may be extended in two-year increments by the Commissioner upon application. No tank in a temporarily out-of-service condition may be brought back into service after January 1, 1990 without first meeting the requirements of §760-1210.A.

4. It shall be unlawful for anyone to place toxic or hazardous materials in a facility which is temporarily out of service.

§760-1211 Outdoor Aboveground Storage Facilities
A. New Storage Facilities

1. (Deleted 12/16/92)

2. It shall be unlawful to fabricate, construct, install, use or maintain any new aboveground storage facility or part thereof in a manner which will allow the discharge of a toxic or hazardous material to the ground, groundwaters, or surface waters of Suffolk County.

3. It shall be unlawful to 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 or part thereof, conforming to the following requirements:

a. 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 dike level occupied by other tanks. Additional volume up to 10% of the total volume of all other tanks or vessels contained in the diked area may be required if the configuration, arrangement and spacing of the tanks and dikes do not meet National Fire Protection Association standards.

b. The dikes and the entire area enclosed by the dikes 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 barrier is impervious to the new material stored.

c. Drainage of precipitation from within the diked area shall be controlled in a manner that will prevent any toxic or hazardous material from entering the ground, groundwaters or surface waters of Suffolk County.

d. Alternate designs may be approved if, in the opinion of the Commissioner, they provide protection equivalent to that of a diked enclosure.

4. It shall be unlawful to 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 shall not necessarily be limited to, both visual and audible alarms at a point on the storage facility most frequently manned. The overflow point must be clearly visible to the operator filling the facility or the operator at the receiving facility where possible. If not possible, adequate means must be provided to immediately detect an overflow.

5. It shall be unlawful to fabricate, construct, install, use or maintain any new aboveground storage facility or part thereof without conforming to all regulations and standards promulgated pursuant to this section relating to such new storage facilities.

6. It shall be unlawful to 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 and making contact therewith, or part thereof, unless and until the exterior surface of the areas in contact with the ground are cathodically protected in conformance with a design approved by the Commissioner. The interior bottom of such facilities shall be coated with a properly bonded epoxy coating or other approved coating system to minimize interior corrosion. (See Exemptions Section 760-1208.)

B. Existing Storage Facilities

1. (Deleted 12/16/92)

2. Commencing January 1, 1990, it shall be unlawful for any person to use, maintain or fill with toxic or hazardous materials any existing aboveground storage facility or part thereof without conforming to all of the requirements of subdivision A above and all regulations and standards promulgated pursuant thereto, except as noted in the Exemptions Section 760-1208. In achieving the above compliance, the following schedule shall be adhered to:
a. By January 1, 1985, all interior coating of facilities shall be completed.

b. By January 1, 1985, all facilities shall be protected against overfill.

c. By January 1, 1987, installation of cathodic protection shall be completed on all facilities in contact with the ground which were built prior to 1967.

d. By January 1, 1988, installation of cathodic protection shall be completed on all facilities in contact with the ground which were built between 1967 and 1972.

e. By January 1, 1989, installation of cathodic protection shall be completed on all facilities in contact with the ground which were built between 1972 and 1977.

f. By January 1, 1992, all inspections and interior coating of tanks containing No. 6 fuel oil shall be completed.

3. It shall be unlawful for any person to use, maintain or fill with toxic or hazardous materials an existing aboveground storage facility or part thereof without complying with the following inspection schedule and all regulations and standards promulgated pursuant thereto, and without submitting to the Commissioner a statement of Proof of Inspection.

a. Any owner or other person in possession or control of an aboveground storage facility or part thereof shall have said tanks and vessels inspected and shall file a Proof of Inspection with the Commissioner by January 1, 1985. Where interior coating has not yet been applied, such inspection will be performed before coating.

b. For the purpose of this section, inspection means the inspection of all aboveground tanks and other vessels for the storage of toxic or hazardous materials constituting an aboveground storage facility or part thereof.

c. Any inspection of an existing aboveground storage facility of greater than 10,000 gallon capacity or part thereof as required by this subdivision shall be performed in accordance with a written protocol submitted to and approved by the Commissioner, pursuant to Department standards, by an authorized tank inspection firm or person or by a professional engineer licensed to practice professional engineering in the State of New York, and it shall be performed in compliance with any regulations and standards promulgated pursuant to this section relating to such inspections.

d. Aboveground storage facilities or parts thereof sitting on the ground and in contact therewith or partially buried in the ground and in contact therewith, shall be emptied and cleaned to facilitate inspection of portions thereof not accessible from the outside.

e. Proofs of Inspection must be filed with the Commissioner on a form provided by the Commissioner or one acceptably equivalent thereto within thirty (30) days of each inspection and before the tank is refilled, and a copy of such form shall be kept and maintained by both the owner or other person in possession or control of the aboveground storage facility or part thereof and the inspector for a period of not less than five (5) years from the date of the inspection. The Proof of Inspection form shall be subscribed by both the owner or other person in possession or control of the aboveground storage facility inspected and the inspector. This Proof of Inspection form
shall contain a legally authorized form notice to the effect that false statements made knowingly therein are punishable pursuant to 210.45 of the Penal Law.

4. It shall be unlawful for any person to substantially modify or cause the substantial modification of any aboveground storage facility or part thereof without complying with the provisions of subdivision A above and all regulations and standards promulgated pursuant thereto.

C. General Provisions

1. It shall be unlawful for any person to abandon an aboveground storage facility or part thereof. Aboveground tanks, if they are not in active service, must be either placed in a temporarily out of service condition or removed. A temporarily out-of-service tank need not meet all requirements of the Code for storage until it is ready to be brought back into service, however, it must be completely protected from deterioration during the time it is held in a temporarily out-of-service condition. This shall include at least the following:

   a. sufficient exterior coating to prevent rusting;

   b. cathodic protection continuously applied and maintained for all portions of the tank in contact with the soil.

   c. maintenance of the interior in a dry condition to prevent rusting from moisture accumulation.

To place a tank in a temporarily out-of-service condition it must first be cleaned of all residue, vented until dry and safe and secured with hatches opened for ventilation but protected from precipitation. All connections shall be severed or blank-flanged to prevent filling.

Notice must be given to the Department and approval granted before a tank can be placed in a temporarily out of service condition. Approval will be granted for up to two years and can be renewed at two-year intervals upon satisfactory demonstration to the Department that the tank is being maintained sufficiently to prevent degradation.

For the purpose of this subdivision, an abandoned aboveground storage facility or part thereof means one that has remained substantially empty or unattended for one (1) year or more without being either declared temporarily out-of-service or maintained in all respects as an active tank as required by this Code.

2. It shall be unlawful for the owner or other person in possession or control of an aboveground storage facility or part thereof to remove it from service unless:

   a. said storage facility or part thereof is disposed of as junk by first rendering it vapor-free and by sufficiently perforating it so as to render it unfit for further use, and demolishing it and removing it from the site; or

   b. said storage facility or part thereof is demolished for sale or use elsewhere in which case it must be first cleaned and made vapor-free to be safe in transit, and such reuse shall be
in accordance with all pertinent portions of this Article if relocation is to be within Suffolk County; or

c. said storage facility is declared temporarily out-of-service; and
d. the Commissioner has been notified of the intended status of removal from service.

3. It shall be unlawful for anyone to place toxic or hazardous materials in an abandoned or temporarily out-of-service aboveground storage facility.

4. It shall be unlawful for any person to bring an abandoned aboveground storage facility back into service without meeting all of the requirements of subsections A or B above. No abandoned facility shall be brought back into service without a complete inspection acceptable to the Commissioner.

5. It shall be unlawful for any person to bring a temporarily out-of-service facility back into use after January 1, 1990, without first meeting all the requirements of subsections A or B above.

6. It shall be unlawful for the owner or other person in possession or control of an aboveground storage facility or part thereof to fail to empty, clean, and inspect pursuant to subsection B.3.c above, to file Proof of Inspection pursuant to subsection B.3.e above, to leak test, and/or to recoat if necessary every seven (7) years each tank or vessel for the storage of toxic or hazardous materials within the said storage facility or part thereof.

7. It shall be unlawful for any person to replace or cause the replacement of any aboveground storage facility or part thereof for any reason without complying with the new storage requirements of subdivision A above and without complying with the inspection and Proof of Inspection requirements of subsections B.3.c and B.3.e, respectively.

8. It shall be unlawful for any person to use, maintain, construct, fabricate, modify or install any aboveground storage facility or part thereof without conforming to all plans and specifications submitted to and approved by the Commissioner prior to such use, maintenance, construction, fabrication, modification or installation.

9. It shall be unlawful after January 1, 1990 for any person to use, maintain, construct, fabricate, modify or install any aboveground storage facility or part thereof, which has tanks that rest on the ground or which has underground piping, unless permanent groundwater monitoring wells are installed to the satisfaction of the Department for the purpose of detecting any leakage that may have occurred from the facility into the ground. The wells shall be constructed and installed in accordance with standards established by the Department and shall number 4 (1 upstream and 3 downstream) unless directed otherwise by the Department.

D. Leaks; Repairs

1. When an aboveground storage facility or part thereof is found to be leaking, it must immediately be emptied of all contents therein contained and removed from service unless approval is specifically granted by the Commissioner to do otherwise.

2. It shall be unlawful for the owner or other person in possession or control of a leaking aboveground storage facility or part thereof to cause or permit it to remain in service or to
continue to retain its toxic or hazardous contents after said owner or other person knows or should have known of the existence of the leak.

3. It shall be unlawful for any person to reuse and repair or cause the reuse and repair of an aboveground storage facility or part thereof which is leaking or which has leaked without:

   a. performing or having said repairs performed in accordance with a written protocol submitted to and approved by the Commissioner prior to said repairs; and

   b. inspecting or having said leaking storage facility or part thereof inspected by a person whose qualifications are acceptable to the Commissioner, with such inspection in accordance with subsection B.3.c above and filing a Proof of Inspection in accordance with subsection B.3.e above, with such inspection performed and Proof of Inspection filed prior to reuse of the storage facility or part thereof or filling it with a toxic or hazardous material but after repairs have been effected.

§760-1212 Piping, Fittings, Connections
A. New Installations

1. (Deleted 12/16/92)

2. All new installations shall:

   a. 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 Suffolk County; and

   b. be protected against corrosion by the use of non-corrodible materials, cathodic protection with coatings approved by the Commissioner or the functional equivalent of the foregoing options approved by the Commissioner; and

   c. be designed, constructed and installed with access points as required by the Commissioner to permit periodic pressure testing of all underground piping without the need of extensive excavation; and

   d. be designed, constructed and installed with a 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; and

   e. be constructed of double-walled pipe or be constructed in durable product-tight galleries or otherwise be protected by a secondary containment system approved by the Commissioner. This applies to aboveground as well as below ground piping, except that piping for No. 6 oil need not have secondary containment other than underground in the groundwater management zones and water supply sensitive areas and where a discharge from a pipe might threaten surface waters.

3. It shall be unlawful for any person to fabricate, construct, install, use or maintain or to cause the fabrication, construction, installation, use or maintenance of any new substantial installation or part thereof for use with toxic or hazardous materials:
a. without previously having submitted plans therefor to the Commissioner, and without having received approval of said plans; and

b. without complying with the plans submitted to and approved by the Commissioner as required in subsection A.3.a above; and

c. without complying with the provisions of subsections A.1 and A.2 above and any regulations and standards promulgated thereunder.

B. Existing Installations

1. (Deleted 12/16/92)

2. Existing aboveground piping and underground piping not associated with underground tanks shall be brought into conformance with the provisions of subdivision A above by January 1, 1995.

   Underground piping associated with underground tanks shall be brought into conformance with the provisions of subdivision A above at the time the tanks are upgraded.

3. (Deleted 12/16/92)

4. (Deleted 12/16/92)

C. General Provisions

1. Notwithstanding the requirements of subsection C.4, it shall be unlawful for the owner or other person in possession or control of a new or existing installation or part thereof not to test said installation or part in accordance with the procedures set forth in subsection C.4 and in all regulations and standards promulgated thereunder whenever the Commissioner has determined that such a test is necessary, or whenever the Commissioner has ordered that such a test be performed.

2. 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.

   a. It shall be unlawful for the owner or other person in possession or control of said leaking installation or part thereof to cause or permit it to remain in service or to continue to retain its toxic or hazardous contents after said owner or other person knows or should have known of the existence of the leak.

   b. It shall be unlawful for any person to repair or cause the repair of any new or existing installation or part thereof which has leaked or otherwise failed without performing said repairs or having said repairs performed in a manner approved by the Commissioner.

   c. It shall be unlawful for any person to reuse or cause the reuse of any new or existing installation or part thereof which had leaked or otherwise failed without repairing said installation pursuant to the provisions of subsection C.2.b above and all regulations and standards promulgated thereunder.

   d. It shall be unlawful for any person to reuse or to cause the reuse of any new or existing installation or part thereof which had leaked or otherwise failed without repairing said
installation or part so as to conform to the requirements of subdivision A above and all regulations and standards promulgated thereunder.

e. It shall be unlawful for any person to reuse or cause the reuse of any new or existing installation or part thereof which had leaked or otherwise failed without inspecting or having said installation or part inspected subsequent to the completion of any repairs but prior to said reuse by a person whose qualifications are acceptable to the Commissioner in accordance with §760-1211.B.3.c and any regulations and standards promulgated thereunder and without filing with the Commissioner a Proof of Inspection prior to said reuse in accordance with §760-1211.B.3.e and any regulations and standards promulgated thereunder.

3. It shall be unlawful not to maintain a secondary containment piping system in a dry condition unless it is a system that depends on the space between primary and secondary pipes being filled with fluid for leak detection in which case it shall be unlawful not to maintain the leak detection fluid at the proper level. Any liquid which enters a secondary containment system shall be removed within 24 hours.

4. It shall be unlawful for the owner or other person in possession or control of any single-walled piping installation or part thereof to fail to pressure test said piping or part thereof by January 1, 1994 and every year thereafter.

Testing of all pressure piping shall be to at least 150% of maximum operating pressure, but not to exceed the manufacturer's maximum design specifications, and the pressure shall be held for at least one-half hour.

5. It shall be unlawful for the owner or other person in possession or control of an existing installation or part thereof when testing or contracting to test said installation or part pursuant to subsection C.4 above:

a. to fail to test or have said installation or part thereof tested by a person whose qualifications are acceptable to the Commissioner; and

b. to fail to test or have tested said installation in a manner acceptable to the Commissioner; and

c. to fail to test or have tested said installation in accordance with a written protocol submitted to and approved by the Commissioner prior to said test; and

d. to fail to test or have tested said installation in accordance with any regulations or standards which may be promulgated under this subdivision relating to said testing; and

e. to fail to submit to the Commissioner within thirty (30) days of said test a completed Certificate of Test Completion form, pursuant to §760-1210.E.3-6 and any regulations and standards promulgated thereunder.

§760-1213 Transfer of Toxic or Hazardous Materials
A. Transfer Facilities

1. Transfer facilities means truck fill stands and/or any other facility for the loading or unloading of toxic or hazardous materials.
2. It shall be unlawful for any person to fabricate, construct or install a transfer facility or part thereof:
   a. without first submitting plans therefor to the Commissioner and without first obtaining
      the Commissioner's approval thereof; and
   b. without fabricating, constructing and installing said transfer facility or part thereof in
      accordance with the plans submitted and approved pursuant to subsection A.2.a above; and
   c. without providing a simple, effective, reliable means of monitoring the transfer facility
      or part thereof for leakage or spillage, including a warning device; and
   d. without providing 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.

3. It shall be unlawful for any person to operate, maintain or use a transfer facility or part thereof so as to permit the escape therefrom of toxic or hazardous materials to the ground, groundwaters or surface waters of Suffolk County. All holding tanks associated with spill control shall be maintained in an empty condition at all times to provide maximum storage capacity at the time of a spill.

4. It shall be unlawful for any person to fabricate, construct, install, use, operate or maintain any transfer facility or part thereof without doing so in accordance with all regulations and standards pertaining thereto which may be promulgated by the Commissioner.

B. Transfer Operations

1. It shall be unlawful for any person to 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 at the time of said transfer to ensure a safe transfer operation without the occurrence of spills, leaks or accidents.

2. Failure of a transfer facility to conform and comply with the provisions of subdivision A and all regulations and standards promulgated thereunder shall constitute a rebuttable presumption that conditions at said transfer facility are inadequate for the purposes of subsection B.1 above.

3. The transfer of toxic or hazardous materials to any storage facility or part thereof which does not comply with all provisions of this Article applicable thereto and any regulations and standards promulgated under this Article applicable thereto, shall constitute a rebuttable presumption that conditions at said transfer facility are inadequate for the purposes of subdivision B.1 above.

4. Conditions at the transfer facility shall be deemed to be inadequate at the time of a transfer if:
a. the transfer facility is constructed so that all possible points of overflow are not visible from the loading and unloading locations; or

b. the truck, storage facility or part thereof being delivered to does not have adequate capacity to contain the amount of toxic or hazardous material being transferred or to be transferred, or if a person performing or causing said transfer does not insure by some reliable means that the truck, storage facility or part thereof has adequate capacity to contain the amount of toxic or hazardous material being transferred or to be transferred.

5. Vehicles shall not be used for transferring toxic or hazardous materials in situations where a permanently installed transfer facility is considered by the Commissioner to be more appropriate, such as multiple deliveries of fuel to small boats at a marina.

§760-1214 Indoor Storage Facilities
A. General

1. An indoor storage facility is specifically intended to include within its meaning all tanks, vessels and appurtenant plumbing which contain or are to contain or be used for the transmission of toxic or hazardous materials regardless of the volume of said tanks and vessels and regardless of the duration of time said tanks and vessels may contain the toxic or hazardous materials and regardless of their use. All processing baths and tanks including dip tanks and rinse tanks and tanks associated with wastewater treatment located indoors shall constitute an indoor storage facility or part thereof.

2. All portable containers and tanks with an individual volume of greater than 80 gallons, stored or located indoors and used to contain toxic or hazardous materials, shall be deemed to be an indoor storage facility or part thereof and shall be subject to all of the provisions of this section and any regulations and standards promulgated pursuant hereto, and not the provisions of §760-1215 and the regulations and standards created thereunder.

B. New Storage Facilities

1. (Deleted 12/16/92)

2. It shall be unlawful to fabricate, construct or install a new indoor storage facility or part thereof unless:

   a. plans and specifications for said storage facility have been first submitted to and approved by the Commissioner; and unless

   b. said fabrication, construction or installation is accomplished in accordance with the approved plans and specifications submitted pursuant to subsection B.2.a above; and unless

   c. said fabrication, construction or installation is accomplished in accordance with all regulations and standards which may be promulgated under this subdivision; and unless

   d. the fabrication, construction or installation provides for impervious secondary containment for the new storage facility or part thereof equal to or greater than 110% of the entire volume to be contained; and unless
e. said storage facility or part thereof is fabricated, constructed or installed in a manner which will prevent the release into the ground, groundwaters or surface waters of Suffolk County of any toxic or hazardous materials; and unless

f. any open tanks or vessels containing or to contain toxic or hazardous materials within the storage facility or part thereof in a building equipped with a sprinkler system are provided with head deflectors or automatic covers or the equivalent thereof acceptable to the Commissioner to prevent the overflow of the tanks by reason of flow from the sprinkler system; and unless

g. high level alarms or other adequate means of detecting an impending overfill condition have been provided for all tanks not readily visible by the operator controlling filling.

3. It shall be unlawful to operate, maintain or use a new indoor storage facility or part thereof unless:

   a. said storage facility or part thereof has been fabricated, constructed and installed in accordance with all of the provisions of subdivision B above and any regulations and standards promulgated thereunder; and unless

   b. said storage facility or part thereof has been inspected prior to said operation, maintenance or use pursuant to the provisions of §760-1211.B.3.c and any regulations and standards promulgated thereunder; and unless

   c. Proof of Inspection is filed with the Commissioner within thirty (30) days of the inspection conducted pursuant to subsection B.3.b above and such filing occurs prior to said operation, maintenance or use, and said Proof of Inspection conforms to all of the provisions of §760-1211.B.3.e and any regulations and standards promulgated thereunder; and unless

   d. said storage facility or part thereof is operated, used or maintained in a manner which will prevent the discharge of toxic or hazardous materials therefrom into the ground, groundwaters or surface waters of Suffolk County.

4. It shall be unlawful to repair and reuse a new indoor storage facility or part thereof without complying with all of the provisions of subsection B.2 above and all regulations and standards promulgated pursuant thereto.

C. Existing Storage Facilities

1. (Deleted 12/16/92)

2. Commencing November 1, 1982, it shall be unlawful to fabricate, construct, install, modify, operate, maintain or use any indoor storage facility or part thereof which does not conform to all of the provisions of subdivision B above and all regulations and standards promulgated thereunder.

3. It shall be unlawful for any person to operate, maintain or use an existing indoor storage facility or part thereof in a manner which will allow the discharge of toxic or hazardous materials therefrom into the ground, groundwaters or surface waters of Suffolk County.
§760-1215 Portable Containers and Tanks

A. Storage Facilities

1. It shall be unlawful to fabricate, construct, install or otherwise create a storage facility or part thereof for portable containers and tanks in excess of 250 gallons total capacity containing toxic or hazardous materials if the facility has to be used for more than thirty (30) days without:

   a. first having submitted satisfactory plans and specifications therefor to the Commissioner; and without

   b. constructing, installing, fabricating or otherwise creating said storage facility in accordance with the reports and plans submitted pursuant to subsection A.1.a above; and without

   c. constructing, installing, fabricating or otherwise creating said storage facility so as to prevent the discharge of any of the toxic or hazardous contents of the portable containers therein to the ground, groundwaters or surface waters of Suffolk County; and without

   d. providing a chemically resistant pad on which to place the portable containers or tanks, impervious to the toxic or hazardous materials being stored in said containers and tanks; and without

   e. providing a complete impervious containment of the storage facility or part thereof sufficient to contain at least thirty (30%) percent of the volume to be stored; and without

   f. constructing, fabricating, installing or otherwise creating a storage facility or part thereof in accordance with all regulations and standards promulgated under this subdivision.

2. It shall be unlawful for any person to use, maintain or operate a storage facility containing portable containers or tanks for the storage of toxic or hazardous materials without:

   a. preventing the discharge of any of the toxic or hazardous contents of the portable containers or tanks to the ground, groundwaters or surface waters of Suffolk County; and without

   b. properly securing the portable containers or tanks containing toxic or hazardous materials so as to protect them from vandalism, unauthorized access and damage by traffic, machinery or falling objects; and without

   c. storing the portable containers and tanks containing toxic or hazardous materials indoors except where such storage is prevented by fire regulations, or where sufficient evidence is presented that physical or financial constraints of the facility make indoor storage impractical.

   Waiver of the indoor storage requirements shall be only by permission of the Commissioner; and without

   d. protecting any outdoor storage of portable containers or tanks containing toxic or hazardous materials from damage from heat, cold, rust and other weather-related conditions; and without
e. complying with all regulations and standards promulgated relating to the maintenance, use or operation of a storage facility containing portable containers containing toxic or hazardous materials; and without

f. complying with all of the provisions of subdivision B below and any regulations and standards promulgated thereunder.

B. Handling of Portable Containers or Tanks

1. It shall be unlawful for the owner or other person in possession or control of a storage facility containing portable containers or tanks which contain toxic or hazardous materials:
   
a. to stack said portable containers or tanks more than two (2) high without using a properly designed storage rack for that purpose, or to attempt any stacking without adequate equipment; and

b. to store said portable containers or tanks in a manner so as to prevent all sides thereof from being available for inspection; and

   c. to fail to maintain current inventory records indicating deliveries, consumption, sale and final disposal of all toxic or hazardous materials stored in portable containers or tanks and to maintain said records for five (5) years from the occurrence recorded; and

   d. to fail to handle the said portable containers or tanks in accordance with any regulations and standards promulgated pursuant to this subdivision; and

   e. to store said portable containers in numbers in excess of the maximum allowed by the approved design of the storage facility.

C. Inspections

1. It shall be unlawful for the owner or other person in possession or control of a storage facility containing portable containers or tanks for the storage of toxic or hazardous materials to fail to have said facility or part thereof containing said portable containers or tanks inspected:

   a. prior to application for the renewal of a permit to operate a storage facility issued pursuant to §760-1207; and

   b. subsequent to any substantial modification of the storage facility or part thereof containing said portable containers or tanks, and prior to the using or putting into service of a storage facility or part thereof; and

   c. prior to the using or putting into service of said storage facility or part thereof after repairs had been performed on it.

2. It shall be unlawful to fail to have the inspections required by subsection C.1 above performed in accordance with the provisions of §760-1211.B.3.c and all regulations and standards promulgated pursuant thereto and those promulgated under this subdivision.
3. It shall be unlawful to fail to file a Proof of Inspection with the Commissioner within thirty (30) days of the performance of an inspection required by subsection C.1 above complying with the provisions of §760-1211.B.3.e and any regulations and standards promulgated pursuant thereto.

D. It shall be unlawful for any person to repair or modify or to cause or permit said repairs or modifications of a storage facility or part thereof containing portable containers or tanks for the storage of toxic or hazardous materials without performing said repairs or modifications or to have them performed pursuant to a written protocol previously submitted to and approved by the Commissioner.

E. At the discretion of the Commissioner, §760-1215.A.1.d, e, f, and §760-1215.C, may be waived for temporary facilities such as spill cleanup operations.

F. Empty Containers

1. Once toxic or hazardous materials containers are empty and no longer in use, they must be labeled as such, and not reused unless they are properly relabeled with their contents. Unless containers are labeled empty, they must be treated as active containers.

2. Empty containers must be stored in a way that will prevent precipitation from entering the containers. Water accumulated in this manner will be presumed to be contaminated with the previous contents of the containers.

§760-1216 Bulk Storage of Toxic or Hazardous Materials

A. It shall be unlawful for any person to fabricate, construct, install, repair or modify any bulk storage facility or part thereof without doing so in accordance with a written protocol previously submitted to and approved by the Commissioner.

B. It shall be unlawful for any person to fabricate, construct, install, modify, repair, use, maintain or operate any bulk storage facility or part thereof without:

1. 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 unless there is provision made for collecting and treating the leachate and runoff generated so as to prevent a discharge of toxic or hazardous materials to the ground, groundwaters or surface waters of Suffolk County and so as to prevent the development of an explosive, incendiary or other hazardous or dangerous condition; and without

2. providing for the segregation of and without segregating 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

3. providing for and storing bagged toxic or hazardous materials on pallets, and within a roofed structure which prevents precipitation from reaching the bags; and

4. in the case of an indoor bulk storage facility, without providing for and 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 within the building; and without

5. providing for and providing adequate security so as to protect the storage facility and toxic or hazardous contents therein from vandalism and accident; and without

6. complying with any regulations and standards which may be promulgated pursuant to this section.

C. Road deicing salt and other deicing materials are toxic or hazardous materials. In addition to the foregoing provisions of this section, road deicing salt may be stored near the shore or other areas where no adverse environmental impact will occur without brine control so long as the Commissioner's approval for such a storage facility has been applied for and received in advance.

§760-1217 Reporting; Records; Clean-up; Maintenance
A. It shall be unlawful for the owner or other person in possession or control of any storage facility or part thereof to fail to report any unauthorized discharge, spill, leak or recognizable loss of toxic or hazardous materials therefrom or the failure of said storage facility to the Commissioner within two (2) hours of the time such owner or other person had sufficient evidence that he knew or should have known of said unauthorized discharge, spill, leak, loss or failure.

1. A report to the Commissioner shall not be deemed compliance with any reporting requirement of any other federal, state or local law.

B. It shall be unlawful for the owner or other person in possession or control of any storage facility or part thereof to fail to keep records in writing reflecting the types and amounts of toxic or hazardous materials stored in the said storage facility or part thereof at any given time.

1. It shall be unlawful for the owner or other person in possession or control of any storage facility or part thereof to fail to keep records of the disposal or other transfer in or out of the said storage facility or part thereof, such records reflecting the types and amounts of toxic or hazardous materials involved in the transfer. The name and vehicle license and registration numbers of the transporter, and the intended destination must also be included if the material is waste.

2. It shall be unlawful for any person required to keep records by any provision of this Article to fail to maintain said records available for inspection by the Commissioner for at least five (5) years from the date of the event, occurrence or transaction recorded. Copies shall be provided by the owner or operator for the Commissioner if requested.

3. It shall be unlawful for any person required to keep records by any provision of this Article to fail to keep, record and maintain said records in accordance with any regulations and standards promulgated pursuant to this section.

C. It shall be the responsibility and obligation of any person who discharges, or causes or permits the discharge of any toxic or hazardous material to the ground, groundwaters or surface waters of Suffolk 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 Commissioner, and to repair any damages caused thereby, all to the satisfaction of the Commissioner.

1. It shall be unlawful for the owner or any other person in possession or control of any source discharging toxic or hazardous materials to the ground, groundwaters or surface waters of Suffolk County to fail to cease said discharge immediately upon obtaining knowledge or notice of its existence.

2. It shall be unlawful for the owner or any other person in possession or control of any source discharging or which has discharged toxic or hazardous materials to the ground, groundwaters or surface waters of Suffolk County to fail to reclaim, recover and/or dispose of the discharged toxic or hazardous materials. Where time permits, cleanup shall be in accordance with a written protocol previously submitted to and approved by the Commissioner.

3. It shall be unlawful for the owner or other person in possession or control of any premises or place to fail to reclaim, recover and/or otherwise dispose of any toxic or hazardous materials discharged thereto, in accordance with a written protocol previously submitted to and approved by the Commissioner, in the event the persons described in subsection C.2 above are not ascertainable or otherwise fail to comply with the provisions of subsection C.2. This provision shall not abridge any existing right of action in any person, nor shall it create any new right of action in any person.

4. It shall be unlawful for the owner or any person in possession or control of any source which has discharged toxic or hazardous materials to the ground, groundwaters or surface waters of Suffolk County to fail to restore the environment contaminated or damaged by the said discharge to its condition prior to the discharge, repairing any damages caused thereby in accordance with a written protocol previously submitted to and approved by the Commissioner.

5. It shall be unlawful for any person required by this Article or by any order of the Commissioner 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, to fail to perform said required acts pursuant to any regulations and standards promulgated pursuant to this subdivision.

D. All storage facility appurtenances, such as level monitors, leak detection systems, cathodic protection systems, etc., shall be kept in proper operating conditions at all times. All systems shall be inspected and tested at least monthly and records kept on each inspection.

§760-1218 Confidentiality of Records

A. Any information relating to secret processes, or methods of manufacture or production, obtained in the course of an inspection or investigation, or submitted to the Department, shall be kept confidential except for the use and purpose of the Department in the enforcement of this Article and the rules and regulations promulgated thereunder.

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
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manufacture or production, an affidavit signed by an authorized person must be filed with the Commissioner, stipulating:

1. location of process or equipment, specifying 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 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 Commissioner 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 Commissioner shall not be disclosed and shall be kept confidential.

§760-1219 Posting and Labeling

A. It shall be unlawful for the owner or other person in possession or control of any place, building, land, vehicle or thing to store toxic or hazardous materials therein without conspicuously posting a notice thereat or thereon 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. It shall be unlawful for any person to use, maintain or operate any storage facility or part thereof:

1. without clearly labeling the specific contents of each portable container conspicuously on said container; and

2. without clearly labeling the specific contents of each indoor and aboveground tank or vessel conspicuously thereon; and

3. without 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. without conspicuously posting any permit issued pursuant to this Article.

C. It shall be unlawful for any person to falsely post or label any container or storage facility or to post an invalid permit.

D. It shall be unlawful for any person to use, maintain or operate any storage facility or part thereof without complying with all regulations and standards promulgated pursuant to this section.
§760-1220 Variances and Waivers
In any case where an applicant for a permit or approval is dissatisfied with a determination of the authorized agent to act for the Commissioner, or seeks a variance or waiver from the strict application of the letter of the requirements of this Article, or standards promulgated pursuant to this Article, he may appeal from the determination of the deputy or for consideration of his application to the Board of Review in accordance with the provisions of §760-609 of the Suffolk County Sanitary Code.

ARTICLE 13
GENERAL FOOD REGULATIONS

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ARTICLE 13
GENERAL FOOD REGULATIONS

§760-1300 Purpose, Scope, Definitions

1. The purpose of this article is to protect public health by establishing safeguards for the control of food and the prevention of the consumption of unwholesome, adulterated or otherwise unfit food.

2. This article is applicable to the production, preparation, processing, transportation, importation, service, storage, or sale of food for public or private consumption in the County of Suffolk, and its provisions are in addition to other applicable regulations in this Code and supplemental to Part 14 of the New York State Sanitary Code.

   a. Each person who operates a food establishment shall comply with those sections of this article that pertain to his operation.

   b. This Article shall not apply to food prepared in a private home by members of the household for their own use. When a foodborne illness is reported in association with food prepared, stored or served in a private home, the investigation shall incorporate the principles of these regulations to determine contributing factors leading to the illness.

3. As used in this article, the following words and terms shall have the indicated meaning:

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

   B. “Adulterated” shall mean the condition of a food if:

      (1) it bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health;

      (2) it bears or contains any poisonous or deleterious substance for which no safe tolerance has been established by regulation, or in excess of such tolerance if one has been established;

      (3) it consists, in whole or in part, of any putrid, filthy or decomposed substance, or if it is otherwise unfit for human consumption;

      (4) it has been processed, prepared, handled, displayed, packed, transferred or stored under any condition whereby it may have become contaminated with filth or been rendered injurious to health;

      (5) it is, in whole or in part, the product of a diseased animal or an animal which has died other than by slaughter; or

      (6) its container is decomposed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.
C. “Approved” shall mean acceptable to the department based on its determination as to conformance with appropriate standards and good public health practice.

D. “Caterer” means a person who prepares, furnishes, or prepares and furnishes food intended for individual portion service at the premises of the consumer whether such premises are temporary or permanent. A caterer is considered a food service establishment and is required to operate in conformance with this article. This does not include individuals who are employed by a family to prepare meals exclusively within the family's private home for family consumption.

E. “Closed” shall mean fitted together tightly so as to prevent the entrance of insects, rodents and other vermin.

F. “Comminuted” shall mean reduced in size by methods including chopping, flaking, grinding, or mincing, and includes fish or meat products that are reduced in size and restructured or reformulated such as gefilte fish, gyros, ground beef, sausage, and a mixture of two or more types of meat that have been reduced in size and combined.

G. “Commissary” shall mean a catering establishment, restaurant, or any other place in which food, containers or supplies are kept, handled, prepared, packaged or stored and from which vending machines, mobile food units and/or any food operations available to the public are serviced.

H. “Commissioner” shall mean the Suffolk County Commissioner of Health Services of the Suffolk County health district.

I. “Contamination” means exposed to filth, toxic substances, manual contact during service or preparation if such food will not be subsequently cooked prior to service, rodent or insect contact or infestation, or any other condition which permits introduction of pathogenic microorganisms, viral particles, or foreign matter. Potentially hazardous foods held at temperatures between 41 degrees Fahrenheit (5 degrees Celsius) and 140 degrees Fahrenheit (60 degrees Celsius) for a period of time exceeding that reasonably required for preparation are considered to be contaminated, unless a variance was approved by the Department in accordance with the provisions of §760-1309 of this Article. Contaminated foods are considered adulterated.

J. “Corrosion resistant material” shall mean a material which maintains its original surface characteristics under prolonged use.

K. “Consumer notification in writing” shall mean the use of written advisories, such as brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means.

L. “Critical violation” shall mean a violation of a provision of this Article that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental health hazard.

M. “Department” shall mean the Suffolk County Department of Health Services.
N. “Easily cleanable” shall mean readily accessible and of such material and finish, and so fabricated that residue may be completely removed by normal cleaning methods.

O. “Employee” shall mean any person working in a food establishment who transports food or food containers, who engages in food preparation or service, or who comes in contact with any food utensils or equipment.

P. “Equipment” shall mean all stoves, ranges, hoods, meatblocks, tables, counters, refrigerators, sinks, warewashing machines, steamtables, and similar items other than utensils, used in the operation of a food establishment.

Q. “Extended family residence” means a multiple person residence where residents share kitchen facilities for preparation of their own meals or where residents may, as a service for gratis, prepare meals consumed by fellow residents that are typically eaten “family-style” in a common dining area.

R. “Food” shall mean any raw, cooked, or processed edible substances, beverages or ingredients, ice, and water used or intended for use or for sale in whole or in part for consumption.

S. “Food contact surfaces” shall mean those surfaces of equipment and utensils with which food normally comes in contact, and those surfaces with which food may come in contact and drain onto surfaces normally in contact with food.

T. “Food Establishment” or “Food Service Establishment” as used in this Article shall mean:

1. An operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption:
   
   a. Such as, but not limited to, a restaurant; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; commissary; market; manned or unmanned vending location; conveyance used to transport people; institution; and
   
   b. That relinquishes possession of food to a consumer directly, or indirectly. Indirectly would include, but not be limited to, relinquishment through a delivery service such as home delivery of restaurant takeout orders or relinquishment from a commissary to another food establishment.

2. Food establishment includes, but is not limited to:
   
   a. An element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location; and
   
   b. An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises; and regardless of whether there is a charge for the food.
(3) Food establishment does not include:

(a) An establishment that offers only prepackaged foods that are not potentially hazardous, vending machines which dispense only commercially pre-packaged non-potentially hazardous foods, or operations providing only commercially prepared, pre-packaged frozen desserts;

(b) locations where hot, non-potentially hazardous beverages and commercially prepared, adequately protected non-potentially hazardous snacks or pre-packaged beverages are offered as a customer courtesy;

(c) A produce stand that only offers whole, uncut fresh fruits and vegetables;

(d) A food processing plant;

(e) A kitchen in a private home where only food that is not potentially hazardous is prepared for sale or service at a function such as a religious or charitable organization's bake sale if allowed by law and if the consumer is informed by a clearly visible placard at the sales or service location that the food is prepared in a kitchen that is not subject to regulation and inspection by the Department;

(f) An area where food that is prepared as specified in Subparagraph (3)(e) of this definition is sold or offered for human consumption;

(g) A kitchen in a private home, where a small family day-care provider is operating; or where a bed-and-breakfast operation that prepares and offers food to guests is operating, but only if the home is owner occupied, the number of available guest bedrooms does not exceed an occupancy of 9, breakfast is the only meal offered, and the consumer is informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the food is prepared in a kitchen that is not inspected for compliance with the requirements of this Article by the department;

(h) A private home that receives catered or home-delivered food;

(i) A kitchen in a private home where food is prepared by members of the household for their own use, except when foodborne illness is reported or suspected.

(j) A communal kitchen in an extended family residence;

(k) A group residence licensed by an approved agency of New York State; or

(l) A food establishment regulated by the New York State Department of Agriculture and Markets (NYSA&M) as mutually agreed by NYSA&M and this Department under the Memorandum of Understanding between the New York State Department of Health and the NYSA&M.
U. “Food-grade” shall mean:

(1) Any material intended for use as a food-contact surface, that is designed, fabricated and maintained in a manner such that it is (1) non-toxic, (2) non-absorbent, (3) durable under normal use, (4) easily cleanable, (5) not affected by foods, cleaning compounds or other substances which may be found in the use environment and, (6) does not impart odor, color or taste, or introduce physical debris, toxic chemicals, harmful substances, or other contamination to the food, or;

(2) Any food additive, food equipment lubricant or other similar substance used in a food processing or preparation environment, that is designed, manufactured and used such that it is does not introduce physical debris, toxic chemicals, harmful substances, or other contamination to the food.

V. “Food processing establishment” is a commercial establishment operated under license, permit or with the approval of an appropriate regulatory authority, where food is manufactured or packaged for human consumption at another establishment or place.

W. “Food vending machine” is a self-service device which when activated dispenses unit servings of food or beverage without requiring replenishing between each vending operation.

X. “Food vending machine commissary” is a place where food, containers or supplies are processed or packaged and prepared for use in food vending machines.

Y. “Food vending operation” is the place where food vending machines are located and includes the food vending machines, machine servicing equipment, utensils, personnel, single-service articles, tables, chairs, that part of the premises used in connection with the food vending operation and all other appurtenances required and used to operate.

Z. “Frozen desserts” are ice cream, frozen custard, French ice cream, French custard ice cream, artificially sweetened ice cream, ice milk, artificially sweetened ice milk, fruit sherbet, non-fruit sherbet, water ices, non-fruit water ices, confection frozen without stirring, dairy confection frozen without stirring, manufactured dessert mix, frozen confection, melloream frozen dessert, parevine, frozen yogurt, freezer made shakes, freezer made milk shakes, dietary frozen dessert, whipped cream confection and bisque tortoni, as all such products are commonly known, together with any mix used in making such frozen desserts, and any products which are similar in appearance, odor or taste to such products, or are prepared or frozen as frozen desserts are customarily prepared and frozen, whether made with dairy products or non-dairy products.

Any operation producing chips or flakes of ice made from water with or without additives, served to the consumer with or without flavorings added by the operator or consumer, is included as a retail frozen dessert within this definition. This operation is commonly known as a slush operation.

Retail frozen desserts are to be manufactured from ingredients and are to be identified in conformance with the applicable requirements of Part 39 of the rules and regulations of the State Department of Agriculture and Markets (1 NYCRR Part 39).
A(1). “Game Animal” means an animal, the products of which are food, that is not classified as cattle, sheep, swine, goat, horse, mule, or other equine, poultry, fish, shellfish, or ratites such as ostrich, emu, and rhea. Game Animal includes mammals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria, or muskrat, and nonaquatic reptiles such as land snakes.

B(1) “HACCP Plan” means a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by the National Advisory Committee on Microbiological Criteria for Foods.

C(1). A "hermetically sealed container" is a container which is designed and intended to be secure against the entry of microorganisms and to maintain the safety and quality of its contents after processing.

D(1). A “highly susceptible population” means a group of persons who are more likely than other populations to experience foodborne disease because they are immunocompromised or elderly and in a facility that provides health care or assisted living services, such as a hospital or nursing home; or preschool age children in a facility that provides custodial care, such as a day care center.

E(1). “Imminent Health Hazard” - An imminent health hazard is any violation, combination of violations, condition or combination of conditions making it probable that the food or drink served to the public by the establishment or its continued operation can injure the health of the consumer or the public. Imminent health hazards include but are not limited to the conditions listed in paragraphs (1) and (2) of this definition.

1. Any of the following five violations are imminent health hazards against the public interest which require the Commissioner or his/her designated representative to order the establishment closed, the permit to operate suspended, and all service of food stopped immediately, if not corrected at the time of the inspection while the Commissioner or representative of the Commissioner is on the premises:

   (a) food is present in the establishment from an unapproved or unknown source or which is or may be adulterated, contaminated or otherwise unfit for human consumption;

   (b) potentially hazardous food is held for a period longer than that necessary for preparation or service at a temperature greater than 41 degrees Fahrenheit (5.0 degrees Celsius) or less than 140 degrees Fahrenheit (60 degrees Celsius) except when a variance has been obtained in accordance with the provisions of §760-1309 of this Article;

   (c) potentially hazardous food exposed to consumer or other contamination is served again;

   (d) toxic items are improperly labeled, stored or used;

   (e) persons with disease or infection which can be transmitted by food or drink are not restricted to prevent food contamination within the food service establishment.
2. Any of the following three conditions (a-c below) are violations constituting imminent health hazards against the public interest which require the Commissioner or his/her designated representative to order the establishment closed, the permit to operate suspended, and all service of food stopped immediately:

(a) If an approved water supply under pressure and in full conformance with the requirements of §760-1350 of this Article is not provided to all areas of the food establishment where the Department deems it necessary for the safe and sanitary operation of the food establishment.

(1) the on-site potable water system serving the food service establishment contains contaminants in excess of the maximum contaminant levels prescribed in applicable sections of Part 5 of the New York State Sanitary Code or §760-1350 of this Article;

   aa. use of an unapproved or contaminated water supply source;

   bb. treatment of the water supply, required for disinfection or removal of contaminants, is not continuous;

   cc. disinfection which is inadequate to destroy harmful microorganisms or to maintain a specified chlorine residual;

   dd. insufficient quantity of water to meet drinking, food preparation, culinary, or sanitary demands.

(b) any cross-connection or other fault in the potable water system which may permit contamination of the potable water supply is cause for an order for immediate closure and cessation of food service if it reasonably appears to the Commissioner or his/her designated representative that it can result in an imminent health hazard. In any case, all such cross-connections are to be corrected within a period of time set by the Commissioner, and in no case more than 30 days from the date of the inspection. If uncorrected within that time, the permit shall be suspended and the establishment ordered closed and food service stopped until all violations are corrected; or

(c) if sewage or liquid waste is not disposed of in an approved and sanitary manner, the Commissioner or his/her designated representative is to order closure and immediate cessation of all food service operations if such sewage or liquid waste contaminates any food, food storage area, food preparation area or area frequented by consumers or employees.

F(1). “Injected” means manipulating a meat so that infectious or toxigenic microorganisms may be introduced from its surface to its interior through tenderizing with deep penetration or injecting the meat such as by processes which may be referred to as “injecting,” “pinning,” or “stitch pumping.”

G(1). “Kitchenware” shall mean all multi-use utensils other than tableware used in the storage, preparation, transfer, conveyance or service of food.
H(1). “Limited Food Service Establishment” means a food service establishment with a self-contained water supply and/or a self-contained sewage disposal system that is not connected to an approved water supply or an approved sewage disposal system at all times and operates in conjunction with an approved commissary.

I(1). “Misbranded” shall mean the presence of any written, printed, or graphic matter, upon or accompanying food or containers of food, which is false or misleading, or which violates any applicable federal, state or local labeling requirements.

J(1). “Mobile food unit” shall mean any food establishment which is readily movable from location to location and in which food or drink is stored, displayed, served, transported, or provided for the public with or without charge.

K(1). “Permit issuing official” shall mean the Suffolk County Commissioner of Health Services or the director of environmental health designated as an additional person authorized to issue the permits required by this article.

L(1). “Person” shall mean an individual, or firm, estate, partnership, company, corporation, trustee, association, or any public or private entity.

M(1). “Person in charge” means the individual present at a food establishment who is responsible for the operation during periods of food preparation, food delivery, and food service and is required to be in possession of a valid Suffolk County Food Manager’s Certificate.

N(1). “Potable water” shall mean water used for human consumption, food preparation, handwashing, culinary, bathing or laundry purposes.

O(1). “Potentially Hazardous Food”

1. Potentially hazardous food means a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting:
   a. The rapid and progressive growth of infectious or toxigenic microorganisms;
   b. The growth of *Clostridium botulinum*; or
   c. In raw shell eggs, the growth of *Salmonella enteritidis*.

2. Potentially hazardous food includes an animal food (a food of animal origin) that is raw or heat-treated; a food of plant origin that has been heat-treated or consists of raw seed sprouts; cut melons; and garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support growth as specified under Subparagraph 1 of this definition.
3. Potentially hazardous food does not include:

   (a) An air-cooled hard-boiled egg with shell intact;

   (b) A food with a water activity \( a_w \) value of 0.85 or less;

   (c) A food with a pH level of 4.6 or below when measured at 75 degrees Fahrenheit (24 degrees Celsius);

   (d) A food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution;

   (e) A food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious or toxigenic microorganisms or the growth of \( S. \ enteritidis \) in eggs or \( C. \ botulinum \) can not occur, such as a food that has an \( a_w \) and a pH that are above the levels specified under subparagraphs (3)(b) and (c) of this definition and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms; or

   (f) A food that does not support the growth of microorganisms as specified under subparagraph 1 of this definition even though the food may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness.

P(1). “Ready-to-eat food” shall mean any food, including ice, and condiments or garnishes, that is served or prepared, or is intended to be served or prepared, without requiring subsequent heating to the minimum temperature required under §760-1333 of this Article.

Q(1). “Safe temperature”, as applied to potentially hazardous food, shall mean product temperature of 41 degrees Fahrenheit (5 degrees C), or below, and 140 degrees Fahrenheit (60 degrees C), or above.

R(1). “Sanitization” shall mean effective bactericidal treatment of clean surfaces of equipment and utensils by a process which has been approved by the department as being effective in destroying microorganisms, including pathogens.

S(1). “Sealed” shall mean free of cracks or other openings which permit the entry or passage of moisture.

T(1). “Single service articles” shall mean cups, containers, lids, or closures; plates, knives, spoons, stoppers, paddles, straws, place mats, napkins, doilies, wrapping materials, toothpicks, and all similar articles which have been manufactured from clean, non-toxic materials and fulfill the requirements of the Federal Food Drug and Cosmetic Act, as amended, and are intended by the manufacturer for eating and drinking usage and generally recognized by the public as items to be discarded after one usage.

U(1). A “Small Family Day Care” includes but is not limited to “Family Day Care Homes” and “Group Family Day Care Homes” as defined below:
(1) Family Day Care Homes are operated at a family residence for three to eight children up to 12 years of age.

(2) Group Family Day Care Homes are operated at a family residence for seven to fourteen children up to 12 years of age.

V(1). “Substantially remodeled” means when 25% or more of the equipment used in a food establishment kitchen, food preparation, food storage, or food service area is replaced, added, moved, altered, renovated, or removed. Percentages shall be based on the storage capacity of the equipment, the floor area of the equipment, or the cubic footage of the equipment, whichever is greater. Remodeling also includes changes in use or area such as the following:

- Expansion of the seating capacity above 16, or the addition of any seating in an establishment lacking a patron toilet approved by the Department.
- Conversion from single service to multi-use tableware.
- The addition of a new food service area, such as a bar, bakery, food preparation room, or barbecue area.
- A change in the footprint or height of the building.

W(1). “Tableware” shall mean all multi-use eating and drinking utensils.

X(1). “Temporary food service establishment” means a place where food is prepared or handled and served to the public, with or without charge, and which operates at a fixed location in conjunction with a single event or celebration of not more than 14 consecutive days duration.

Y(1). “Utensil” shall mean any tableware and kitchenware used in the storage, preparation, transfer or service of food.

Z(1). “Variance” means a written document issued by the Department that authorizes a modification or waiver of one or more requirements of the Code if, in the opinion of the Commissioner, a health hazard or nuisance will not result from the modification or waiver.

A(2). “Warewashing” means the cleaning and sanitizing of utensils and food-contact surfaces of equipment.

B(2). “Whole muscle-intact beef” means whole beef muscle that is not injected, mechanically tenderized, reconstructed, or scored and marinated, from which beef steaks may be cut.

C(2). “Wholesome” shall mean food in a sound condition, clean, free from adulteration and contamination and suitable for consumption.

§760-1301 Enforcement Provisions: Powers and Duties of Commissioner
The commissioner or the commissioner's duly authorized representative shall have full power and
authority;

a. To investigate all suspected food infections and food poisonings;

b. To investigate all consumer food complaints;

c. To inspect and supervise all food establishments in the county; and

d. To promulgate and establish standards to effect the purpose of this article.

§760-1302 General Provisions
1. Any person who owns, operates, maintains or is in charge of a food establishment shall operate and maintain such establishment in a clean and sanitary condition, and in accordance with the requirements of this code, the state sanitary code, federal regulations, and the conditions of any permit issued under or pursuant thereto.

2. Any food establishment located outside of the county which is involved with the preparation, handling, bottling, packaging, distribution, sale or service of food within the county shall operate in accordance with the requirements of this code, the state sanitary code, and the conditions of any permit or regulations issued under or pursuant thereto.

§760-1303 Permit to Operate a Food Establishment Required: Issuance, Suspension, Revocation and Closure; Hearings; Service of Notice of Order; Posting of Notice of Closure and Cessation of Food Operations; Reinstatement of Permits
1. It shall be unlawful for any person to operate a food establishment within the County of Suffolk who does not possess a valid permit issued to him by the permit issuing official. Only a person who complies with the requirements of this article shall be entitled to receive and retain such a permit. The Department may refuse to issue a permit based on the applicant’s past history of non-compliance. Permits shall not be transferable from one person to another person or from one place to another place. A valid permit shall be prominently displayed to the public in every food establishment. Permits will be issued for a period of time not to exceed two years.

2. Any person desiring to operate a food establishment shall make written application for a permit on forms provided by the department. Such application shall include the applicant's full name and post office address and whether such applicant is an individual, firm or corporation, and if partnership, the names of the partners, together with their addresses; proof of the applicant’s authority to collect sales tax in the State of New York; the location and the type of food establishment; and the signature of the applicant or applicants. If the application is for a temporary food establishment, it shall also include the inclusive dates of the proposed operation.

3. An applicant shall submit an application for a permit at least 30 calendar days before the date planned for opening a food establishment, or the date of assuming ownership of an existing food establishment whether or not the requirements of §760-1304 for the submission of plans apply.

4. Permits may be suspended by the commissioner, after notice and an opportunity for a hearing, for failure of the holder to comply with the requirements of this article, or with any lawful notice or order issued pursuant thereto.

5. Notwithstanding the other provisions of this article, if the commissioner or any duly authorized representative finds any imminent health hazards, insanitary or other conditions in the operation of a
food establishment, which constitute a danger to public health, and it appears prejudicial to the public interest to delay action pending a hearing, the commissioner may serve an order upon the permit holder or person in charge citing such condition and specifying the corrective action to be taken and a time period of less than 15 days within which such action shall be taken; and such order may state that the permit is immediately suspended, and all food operations are to be discontinued forthwith and such food establishment operations are to be closed. Any person to whom such an order is issued shall comply immediately therewith but, as promptly as possible thereafter and within 15 days, the commissioner shall provide such person an opportunity to be heard.

6. In any case in which the commissioner shall have taken closure action pursuant to the provisions of this section, the commissioner or any duly authorized representative shall conspicuously post a suitable notice or placard at all entrances of the food establishment, stating the existence of such order and his authority therefore. No person shall interfere with or obstruct the commissioner or any duly authorized representative from posting such notice or placard, nor shall any person conceal, mutilate, or remove any such notice or placard except by permission of the commissioner or any duly authorized representative. In the event that any such notice or placard is concealed, mutilated or removed it shall be the duty of the permit holder or person in charge of such food establishment to immediately notify the commissioner of such fact.

7. The commissioner shall publish notice of such order of closure and cessation along with the reason for such order in the official newspapers of the County. Except where the commissioner has commenced a permit revocation proceeding pursuant to the provisions of this section, any person whose permit has been suspended may, at any time, make application for a reinspection for the purpose of reinstatement of the permit. Following receipt of a statement, signed by the applicant that the conditions which caused the suspension of the permit have been corrected, the commissioner or any duly authorized representative shall within 10 days make a reinspection. If the commissioner or any duly authorized representative finds the establishment to be in compliance with the requirements of this article, the permit shall be reinstated.

8. For serious, repeated or persistent violations of any of the requirements of this article, or for interference with the department's representative in the performance of its duties, after notice and an opportunity for a hearing has been provided by the commissioner, the permit may be revoked.

9. The hearings provided for in this section shall be conducted by the commissioner at a time and place designated by him. Except as otherwise provided for in this section, all notices of hearing served pursuant to the provisions of this article shall be in writing and contain a statement setting forth the grounds therefore and be served at least 15 days prior to the date of the hearing. Based upon the record of such hearing, the commissioner may sustain, modify, or rescind any official notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder by the commissioner.

10. Service of notices of hearing or orders shall be made by personal service or by registered or certified mail. Where service, whether by personal service or by registered or certified mail, is made upon an infant, incompetent, partnership, corporation, governmental subdivision, board or commissioner, it shall be made upon the person or persons designated to receive personal service by Article 3 of the New York Civil Practice Law and Rules.
§760-1304 Plan Review; Construction or Pre-Operational Inspection
1. a. When a food establishment is hereafter constructed or substantially remodeled or when an existing structure is converted for use as a food establishment, properly prepared plans and specifications for such construction, remodeling, or alteration showing the layout, equipment arrangement, construction materials and finishes in all interior and exterior areas, the size and type of all equipment, lighting, ventilation, toilet facilities, locker rooms and all other facilities applicable to the food operation including plumbing, water supply and sewage disposal, shall be submitted to the department for review and approval before construction is started.

b. All construction, remodeling, or alterations shall be done in accordance with the approved plans.

c. Plans and specifications shall be accompanied by an application on a form provided by the department and shall indicate structures and land use adjacent to the food establishment.

d. Plans shall be prepared by a qualified person or, when required by the Education Law of the State of New York, by a registered architect or professional engineer, or as may be required by local building codes or ordinances.

2. When a food establishment is hereafter constructed or substantially remodeled, or when an existing structure is converted for use as a food establishment, a final construction or pre-operational inspection shall be requested by the owner or operator and conducted by the department prior to the opening of the establishment to determine compliance with previously approved plans and all applicable requirements of this article.

§760-1305 Inspection of Food Establishments; Access; Inspection of Records; Issuance of Notices; Service of Notices
1. The commissioner or any authorized representative shall inspect each food establishment located within his jurisdiction and shall make as many additional inspections and reinspections as are necessary for the enforcement of this article.

2. The commissioner or any authorized representative is to be permitted access for purposes of inspection at all times while the food service establishment is in operation, whether or not the establishment is open to the public. Refusal of admittance, after proper identification, is cause for action to obtain permit revocation and an order to close. The Department’s representative shall be permitted to examine the records of the establishment to obtain pertinent information pertaining to food and supplies purchased, received or used, and persons employed. There shall be a responsible person in charge in the food establishment at all reasonable hours who is familiar with its food operations and the provisions of this article.

3. a. Whenever the commissioner or any duly authorized representative makes an inspection of a food establishment, the department's findings shall be recorded on an inspection report form provided for this purpose, and a copy of such inspection report form shall be furnished to the permit holder or person in charge. Such form may incorporate a scoring system, established by the department, which may be used as a basis for regulatory action.

b. The last record of inspection by a representative of the department shall be retained on the premises until the next inspection and shall be available for review by any patron upon request. A notice indicating the availability of this report shall be prominently displayed to the public.
4. Whenever the commissioner or any duly authorized representative makes an inspection of a food establishment and discovers that any of the requirements of the article have been violated, the commissioner or any duly authorized representative shall notify the permit holder or person in charge of such violations by delivering to him a copy of the inspection report or other written notice. In such notification, the commissioner or any duly authorized representative shall:

a. Set forth specific violations found.

b. Establish a specific and reasonable period of time for the correction of the violations that have been found.

c. State that failure to comply with any notice issued in accordance with the provisions of this article may result in immediate suspension of the permit.

d. State that an opportunity for a reconsideration of any notice or inspection finding will be provided if a written request for such reconsideration is filed with the commissioner within the period of time established in the notice for correction.

5. Notices provided for under this section shall be deemed to have been properly served when the original or a true copy of the inspection report or other notice has been delivered personally to the permit holder or person in charge, or such notice has been otherwise served in accordance with the requirements of Article 2, §760-210 of the Suffolk County Sanitary Code. A copy of such notice shall be filed with the records of the department.

§760-1306  Food Establishments Located Outside the Jurisdiction of the Department

1. Food from food establishments outside the jurisdiction of the department may be sold within the area of the jurisdiction if such food establishments conform to the provisions of this article, or to substantially equivalent provisions.

2. To determine the extent of compliance with such provisions, the department may accept and rely upon reports from responsible authorities in other jurisdictions.

§760-1307  Examination and Condemnation of Food

1. The commissioner or any duly authorized representative may take without payment a sample of any food, ingredients, containers, or any substance used in connection with the manufacture, storage, processing, preparation or serving of food for examination as often as he may consider necessary for the purpose of investigation with respect to the unwholesomeness of such food, ingredients, containers, substance or operating procedure.

2. The commissioner or any duly authorized representative may, upon written notice to the owner or person in charge, place an embargo on:

a. Any food which he determines, or has probable cause to believe to be adulterated, misbranded, or unwholesome, or otherwise unfit for human consumption.

b. Any food equipment which the Commissioner determines, or has probable cause to believe, will result in adulterated, unwholesome, or contaminated food if used to process, hold, or serve food.

c. Under a hold order, food shall be suitably sorted and stored.
3. It shall be unlawful for any person to remove or alter an embargo order, notice, or tag placed on food by the department, and neither such food, nor the containers thereof, shall be relabeled, repacked, reprocessed, altered, disposed of, or destroyed without permission of the department, except by order of a court of competent jurisdiction.

4. The permit holder, or person in charge, shall have the opportunity to a hearing within fifteen calendar days after the date of order of embargo. On the basis of evidence produced at such hearing, the commissioner may vacate the hold order, or may, by written order, direct the permit holder, or person in charge of the food which was placed under the hold order, to bring it into compliance with the provisions of this article, or to denature or destroy such food.

5. Samples for the determination of adulteration, misbranding or unwholesomeness, if taken by the permit holder and/or department, shall be examined in accordance with methods acceptable to the department.

6. When the commissioner has reason to believe that food from any food establishment outside the County may be a source of food infection, or may be operating under regulations not substantially equivalent to those of this ordinance, the commissioner or any duly authorized representative may inspect such sources.

7. The presence of any food, drink, or raw material in any part of the food establishment shall be prima facie evidence of its intended use as human food.

8. The department may consider the presence of any food equipment on the premises prima facie evidence of its intended use in the production or service of food for human consumption.

§760-1308 Suspected Infections: Procedure
When the commissioner or any duly authorized representative has reasonable cause to suspect the possibility of disease transmission from any food establishment employee or procedure, the commissioner or any duly authorized representative shall secure a medical history of the suspected employee, or make such other investigation as may be indicated, and take appropriate action. The commissioner may require any or all of the following measures:

a. The immediate exclusion of the employee from all food establishments;

b. The immediate closure of the food establishment concerned until, in the opinion of the department, no further danger of disease transmission exists;

c. Restriction of the employee's services to some areas of the establishment where there would be no danger of transmitting disease; and

d. Adequate medical and laboratory examinations of the employee, of other employees, and of his, or their body discharges.

§760-1309 Variances
1. The Commissioner may grant a variance by modifying or waiving the requirements of this Article, except those related to permits and inspections, if in the opinion of the department a health hazard or nuisance will not result from the variance. If a variance is granted, the department shall retain the information specified in §760-1309.2 in its records for the food establishment.
2. Before a variance from a requirement of this Code is approved by the department, the information that shall be provided by the person requesting the variance and retained in the department’s file on the food establishment includes:

   a. A statement of the proposed variance of the Code requirement citing relevant Code section numbers;

   b. An analysis of the rationale for how the potential public health hazards addressed by the relevant Code sections will be alternatively addressed by the proposal; and

   c. A HACCP Plan that includes the information specified in Section 8-201.14 of the FDA Food Code (“Contents of a HACCP Plan”) as it is relevant to the variance requested.

3. Variances are specific to the condition addressed and apply only to the stated condition. Variances are not transferable.

4. Violation of the HACCP Plan governing the variance(s) is grounds for revocation of the variance(s).

5. Variance(s) will expire when the permit to operate is suspended or terminated.

§760-1310 Reserved

§760-1311 Preventing Health Hazards for Conditions not Addressed

1. If necessary to protect against public health hazards or nuisances, the department may impose specific requirements as authorized by law in addition to the requirements contained in this Article.

2. The department shall document the conditions that necessitate the imposition of additional requirements and the underlying public health rationale. The documentation shall be provided to the permit applicant or permit holder and a copy shall be maintained in the department’s file for the food establishment.

3. Equipment and facilities shall be installed and maintained in conformance with Title 19 NYCRR Chapter XXXIII and any additional local requirements. Actual and potential violations of Title 19 NYCRR Chapter XXXIII and other local requirements will be referred to the agency of statutory jurisdiction.

§760-1312 Postings/Notifications Required by Law

_It is the responsibility of the permit holder to ensure that postings or notifications to the public required by public health law, statute, or regulation are present in the establishment as specified in that law, statute, or regulation. Posting requirements are listed in Appendix B._

§760-1313 Food Establishments Serving a Highly Susceptible Population; Juice

In a food establishment that serves a highly susceptible population, the following criteria apply to juice:

1. For the purpose of this subsection only, children who are age 9 or less and receive food in a school, day care setting, or similar facility that provides custodial care are included as highly susceptible populations;
2. Prepackaged juice or a prepackaged beverage containing juice must be pasteurized. Prepackaged juice or a prepackaged beverage containing juice that bears a warning label stating "WARNING: This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems." may not be served or offered for sale; and

3. Unpackaged juice that is prepared on the premises for service or sale in a ready-to-eat form shall be processed under a HACCP Plan approved by the Department that achieves a 5-log reduction (99.999%) of the most resistant microorganisms of public health significance.

§760-1314 Reserved

§760-1315 Food Supplies: General

Food shall be from sources approved or considered satisfactory by the department and facilities, methods, practices and controls used in the manufacture, processing, packing or holding of food shall be in conformance with applicable federal and state regulations and requirements of this article, and free of unapproved food additives or additives that exceed limits specified in federal regulations. In addition to the foregoing:

a. The use of home-prepared food is prohibited.

b. Hermetically sealed foods shall be processed in approved commercial food processing establishments, and shall conform to the criteria for wholesomeness established by this Article.

c. No food or drink shall be manufactured, prepared, stored, transported, distributed, sold or given away in any package or container showing evidence of leaking, swelling, pronounced dents, corrosion or otherwise of such condition as may render the product unwholesome or exposed to adulteration or potential contaminants. Upon receipt, potentially hazardous food shall be free of evidence of previous temperature abuse.

d. A food service establishment which packages foods using a reduced oxygen packaging method, including vacuum packaging, sous vide, modified atmosphere packaging, and controlled atmosphere packaging, is required to submit a safety plan meeting the requirements specified in Appendix C of this article to the permit-issuing authority and receive its approval prior to commencing operation.

e. Food that is unsafe, adulterated, not from an approved source, or food that has been contaminated by via hand contact, bodily discharges or may have been contaminated by an excluded employee, shall be discarded.

f. Food shall be offered for human consumption in a way that does not mislead or misinform the consumer, or misrepresent the true appearance, color, or quality of the food. Food not meeting this criteria shall be reconditioned by approved procedure or discarded.

g. No foods containing artificial trans fat shall be stored, distributed, held for service, used in preparation of any menu item or served in any food service establishment, except food that is being served directly to patrons in a manufacturer’s original sealed package.
§760-1316 Milk and Milk Products
1. Milk and milk products produced, processed, prepared, transported, stored, sold or delivered for consumption in the County of Suffolk shall comply with the requirements of the New York State Department of Agriculture and Markets regulations 1NYCRR Part 2 and with this article.

2. Manufactured milk products, including but not limited to cheese, butter and dry milk, shall meet the standards of quality established by applicable federal, state and local laws, rules and regulations. Dry milk and milk products may be reconstituted in the establishment if used for cooking purposes only.

3. Only pasteurized milk or milk products may be sold, offered for sale, delivered, given away, or served in a food establishment, provided, however, that "Certified" milk and milk products may be sold for home consumption only.

4. Milk and milk products for drinking purposes shall be purchased and served in the original, unopened, individual container in which they were packaged at the milk plant, or shall be served from an approved bulk milk dispenser. Milk, cream, half and half and other hot beverage lighteners shall be stored, handled and served in a manner acceptable to the department.

§760-1317 Frozen Desserts
1. Frozen dessert plants and frozen desserts as defined in §760-1300.3(Y) of this Article, shall meet the standards of quality established for such products by applicable federal and state laws and regulations and by this article.

2. Bulk containers of pasteurized frozen desserts mix shall be of a type acceptable to the department and sealed in a manner acceptable to the department.

3. Bulk containers of pasteurized frozen desserts mix shall be labeled showing the name and address of the processor (or assigned code number filed with the department) and date of pasteurization.

4. Frozen desserts or frozen desserts mix or ingredients which have been spilled, overflowed, or leaked shall be discarded.

§760-1318 Shellfish
1. Shellfish plants and fresh or frozen oysters, clams, and mussels shall meet the standards of quality established for such products by applicable federal laws and regulations of the New York State Department of Environmental Conservation and by this article. No food establishment shall have in its possession shellfish taken from any unapproved or excluded sources, or from unauthorized suppliers, or shellfish containing antiseptics or preservatives.

2. If the source is outside the state, it shall be one which appears on the current federal Food and Drug Administration "Interstate Certified Shellfish Shippers' List."

3. Shellfish shall be identified with a suitable tag showing the name and address of the original shell-stock processor, shucker-packer, or repacker, the foreign, intrastate, and interstate certification number issued according to law, the date shipped, the type and quantity of shellfish received and the area of harvest. The tag shall also contain the following statement in bold, capitalized type: “This tag is required to be attached until container is empty and thereafter kept on file for 90 days.”
4. Shellstock tags shall remain attached to the container in which the shellstock are received until the container is empty.
   
a. The identity of the source of shellstock that are sold or served shall be maintained by retaining shellstock tags or labels for 90 calendar days from the date the container is emptied by:

   (1) Using an approved record keeping system that keeps the tags or labels in chronological order correlated to the date when, or dates during which, the shellstock are sold or served; and

   (2) If shellstock are removed from their tagged or labeled container:

      a. Preserving source identification by using a record keeping system as specified under Subsection 4.a. (1) above, and

      b. Ensuring that shellstock from one tagged or labeled container are not commingled with shellstock from another container before being ordered by the consumer.

5. Shellfish are potentially hazardous food and shall be stored and transported according to the Code requirements for potentially hazardous food.

6. Shucked shellfish are molluscan shellfish removed from the shell or on a half-shell. Fresh and frozen shucked shellfish shall be packed in non-returnable containers identified with a legible label that identifies the name, address, and certification number of the shucker-packer or repacker of the molluscan shellfish, and the “sell by” date or date shucked.

7. Shucked shellfish shall be kept in the original container until used.

§760-1319 Fish and Other Seafood

1. When foodservice establishments purchase food fish or crustaceans harvested in New York State’s marine waters, they shall be from the following sources:

   (a) A dealer with a valid food fish and crustacean dealers license issued by the New York State Department of Environmental Conservation; or

   (b) A commercial fisherman with a valid commercial fish license, commercial lobster license, or commercial crab license issued by the New York State Department of Environmental Conservation. If marine food fish or crustaceans are purchased directly from a licensed commercial fisherman, the foodservice establishment must obtain a record of the sale that includes the license number of the harvester and retain the record for a period of not less than three years.

2. Foodservice establishments may only purchase wild caught New York State freshwater fish where not prohibited by New York State Department of Environmental Conservation current management regulations.

3. Purchase of food fish or crustaceans not harvested in New York States waters shall comply with applicable laws and regulations.
4. Fish plants and fresh, frozen, or smoked fish, eel and edible crustacea including lobster, crab, scallops and shrimp shall meet the standards of quality established for such products by applicable federal, state regulations and by this article.

5. Fresh raw fish shall be of high quality and exhibit firm elastic flesh, a fresh mild odor, bright and full eyes, and shiny bright skin.

6. Frozen raw fish shall exhibit solidly frozen flesh with no browning or discoloration, little or no odor, and no signs of dehydrated or dried-out flesh.

7. Whole fish shall be kept in ice or refrigerated from the time they are received until prepared for cooking or storage.

8. After gutting or filleting, fish shall be cleaned under a flow of clean potable water, and stored under mechanical refrigeration.

9. The use of any coloring matter on fish is prohibited.

10. Refrigerated, unfrozen smoked fish and smoked fish products shall be maintained at a temperature of 38 degrees Fahrenheit (3 degrees Celsius) or less during delivery to the food service establishment, during refrigerated storage, and except for brief time periods for preparation until served to the consumer.

   a. Frozen smoked fish and smoked fish products shall remain frozen until thawed at refrigeration temperatures and maintained at 38 degrees Fahrenheit (3 degrees Celsius) or below after thawing as described in §760-1390.10. Food service establishments shall not re-freeze thawed smoked fish or smoked fish products.

   b. No foodservice establishment shall produce, package, sell, offer for sale any smoked fish or smoked fish products packaged so that oxygen is reduced or excluded, unless the product has been produced by a pre-approved process as described in §760-1315.d of this Article and designed to ensure that after packaging a temperature and time sufficient to destroy all spores of *Clostridium botulinum* is achieved in a package that also prevents subsequent bacterial contamination.


   a. For fish, other than molluscan shellfish, that are thoroughly cooked to 140 degrees Fahrenheit (60 degrees Celsius) as required in §760-1333.8 of this Article prior to service or sale, the cooking process is adequate to destroy parasites.

      (1) If the fish are tuna of the species *Thunnus alalunga*, *Thunnus albacares* (yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bigeye tuna), or *Thunnus thynnus* (Bluefin tuna, Northern), the fish may be served or sold in a raw, raw-marinated, or partially cooked ready-to-eat form without freezing as specified under §760-1319.11.b.(1) & (2) of this subsection.

   b. For fish, other than molluscan shellfish, that have been identified as reasonably likely to contain a parasite hazard and that are intended for service or sale as a raw, raw-marinated, partially cooked, or marinated-partially cooked product, the fish shall be frozen using one of...
the following freezing time and temperature combinations to destroy parasites prior to service or sale:

(1) Frozen and stored at -4 degrees Fahrenheit (-20 degrees Celsius) or below for seven (7) days (total time) in a freezer, or

(2) Frozen at –31 degrees Fahrenheit (-35 degrees Celsius) or below until solid and then stored in a freezer at -31 degrees Fahrenheit (-35 degrees Celsius) or below for 15 hours, or

c. If any species listed as reasonably likely to contain a parasite hazard in Appendix A or the current Edition of the FDA Fish and Fisheries Products Hazards and Control Guide are received fresh or unfrozen and that species is intended for service or sale in a raw, raw-marinated, partially cooked, or marinated-partially cooked form, the foodservice establishment must freeze the product as described in §760-1319.11.b.(1) & (2) to destroy parasites and keep records documenting freezing time and temperature prior to service or sale.

d. If any species listed as reasonably likely to contain a parasite hazard in Appendix A or the current Edition of the FDA Fish and Fisheries Products Hazards and Control Guide is received in a frozen or previously frozen form and that species is intended for service or sale in a raw, raw-marinated, partially cooked, or marinated-partially cooked form, the foodservice establishment must obtain documentation from their supplier demonstrating that the product has been frozen as described in §760-1319.11.b.(1) & (2) to destroy parasites or freeze the product in their establishment as described in §760-1319.11.b.(1) & (2) to destroy parasites prior to service or sale.

§760-1320 Meat; Horse Meat; Game and Meat Products
1. Meat and meat products including horse meat and game intended for human consumption shall be processed in an establishment under the supervision of the United States Department of Agriculture or the State Meat Inspection Service and marked, stamped or branded as having been inspected for wholesomeness and passed by the authorized representative of such agency. In addition, all meat and meat products shall comply with the applicable provisions of this article.

2. The use of any matter which imparts color to meat or to casings is prohibited, unless such complies with the provisions of the federal and state laws and the rules and regulations promulgated pursuant thereto.

§760-1321 Poultry and Poultry Products; Shell, Liquid, Frozen Eggs
1. Poultry and poultry products, including game birds, shall be identified as having been inspected and passed under a federal or state regulatory program and shall meet the provisions of this article.

2. Shell eggs shall meet federal and state grading regulations. In addition:

   a. Shell eggs shall be received and stored at 41 degrees Fahrenheit (5 degrees Celsius) or below.

   b. The sale of leakers and smashed eggs for human consumption is prohibited.

3. Shell eggs, liquid eggs, and frozen eggs shall be considered potentially hazardous foods.
Pasteurized eggs and egg products must meet standards established by law.

4. All containers in which shell eggs are received in a food service establishment must identify the source and must be labeled with the notation “SAFE HANDLING INSTRUCTIONS” and the following language “To prevent illness from bacteria: Keep eggs refrigerated, cook eggs until yolks are firm, and cook food containing shell eggs thoroughly.”

§760-1322 Bakery Products
1. Bakery products shall be manufactured under clean and sanitary conditions using clean and sanitary fixtures, furnishings, machinery, apparatus, equipment, implements, utensils and receptacles, wholesome ingredients, and prepared, handled, transported and displayed in accordance with federal and state laws and regulations and applicable provisions of this article.

2. Bakery products shall be wrapped or packaged in clean sanitary wrappers, bags, liners, boxes or other suitable containers in order to avoid possible contamination. No pie carrying cases fabricated of wood, fiber board, plywood or similar pervious material, which cannot be readily washed and sanitized, shall be used for transporting unpackaged pies or other bakery products.

3. Vehicles, boxes, baskets and other receptacles, in which bakery products are contained, shall be kept clean and covered or otherwise protected.

§760-1323 Packaged Non-Alcoholic Drinks
1. Sanitation requirements set forth in this article and in 1NYCRR Part 2 of the New York State Department of Agriculture and Markets regulations relating to milk sanitation shall apply to plants processing non-dairy packaged drinks.

2. Ingredients entering into this product, and the finished product, shall be clean and unadulterated.

3. Re-usable containers shall be filled only if mechanically cleaned and sanitized immediately preceding the filling operation.

4. Products labeled to show the name and address of the distributor instead of the name and address of the processor shall be further labeled to show a code number assigned to the processing plant and filed with the department.

§760-1324 Mushrooms
1. Mushrooms in food service establishments must be obtained from one of the following sources:
   a. Cultivated mushroom species that are grown, harvested, and processed in an operation that is regulated by the food regulatory agency that has jurisdiction over the operation; or
   b. Wild mushroom species if they are in packaged form and are the product of a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

§760-1325 Game Animals
1. If game animals are received for sale or service they shall be commercially raised for food and slaughtered and processed according to the applicable laws governing meat and poultry, or under a voluntary inspection program administered by USDA for game animals such as exotic animals or “rabbits” that are “inspected and certified” by the New York State Department of Agriculture and
Markets. All specific requirements pertaining to game animals listed in Appendix D of this article must be met. The requirements of this subparagraph do not apply to deer or big game taken by lawful hunting, that is donated, in accordance with Public Health Law § 225, to a charitable or not-for-profit organization for preparation and service, without cost, to the poor or needy.

2. A game animal listed as endangered or threatened may not be received for sale or service.

§760-1326 Reserved
§760-1327 Reserved
§760-1328 Reserved
§760-1329 Reserved

§760-1330 Food Protection; General Provisions
1. Food, including ice, shall be protected from contamination during processing, handling, packaging, storage, preparation, display and service, dispensing by a vending machine, and while in transit. Foods not meeting the requirements of this article shall be disposed of in a manner approved by the department.

2. Food shall be properly labeled or otherwise identifiable.

3. Potentially hazardous foods, except as herein provided, shall be kept at all times under appropriate heat treatment or properly refrigerated in order to prevent the growth of pathogenic organisms.

4. When deemed necessary, the commissioner may establish requirements for dating potentially hazardous foods.

§760-1331 Bacteriological Standards; Potentially Hazardous Foods
1. The commissioner may establish microbiological standards for potentially hazardous foods.

2. No person shall manufacture, produce, pack, possess, sell, offer for sale, deliver or give away any potentially hazardous food of the name or type designated pursuant to provisions of this section, if such food contains fecal coliforms, salmonellae, shigellae, or other pathogenic microorganisms or their toxic products.

§760-1332 Temperature
1. A sufficient number of refrigerators, hot food storage facilities, accurate thermometers and accurate operating temperature controls shall be provided in each area of the food establishment, for the purpose of keeping, transporting, or storing food at a temperature required by the department. Ice may not be used in lieu of mechanical refrigeration to maintain required temperatures of potentially hazardous food in storage, display, or service unless approved.

2. Hot and cold food storage facilities shall be provided with an indicating thermometer with an increment scale accurate to plus or minus two degrees Fahrenheit (1°C Celsius). For hot food storage the thermometer shall register the temperature in the coldest part of the facility, and for cold storage the thermometer shall register the temperature of the warmest part of the facility in which potentially hazardous food is stored. The thermometer shall be of such type and so situated that it may be readily observed for temperature determination. Zone-type thermometers without increment scales shall not be acceptable. Metal stem-type, numerically scaled, indicating thermometers thermocouples, or thermistors, accurate to plus or minus two degrees Fahrenheit (1°C) shall be
provided and used by employees to monitor food temperatures for compliance with the requirements of this article.

3. Potentially hazardous food shall be received and maintained at or below 41 degrees Fahrenheit (5 degrees Celsius), or at or above 140 degrees Fahrenheit (60 degrees Celsius) except as otherwise provided in this article and during necessary times of preparation.

   a. Roast beef cooked to 130 degrees Fahrenheit (55 degrees Celsius) can be held at 130 degrees Fahrenheit (instead of 140 degrees Fahrenheit) on the day cooked.

   b. Cooked and refrigerated food that is prepared for immediate service in response to an individual consumer order, such as a roast beef sandwich au jus, may be served at any temperature.

4. Frozen food shall be received and maintained at 0 degrees Fahrenheit (-18 degrees Celsius), or lower except when being thawed for preparation and use.

**§760-1333 Preparation**

1. Potentially hazardous frozen food shall be thawed at 41 degrees Fahrenheit (5 degrees Celsius), or below, or under potable running water at or below 70 degrees Fahrenheit (21 degrees Celsius) with sufficient water velocity necessary to agitate or dislodge loose particles into the overflow, or quick thawed as part of the cooking process.

2. Unless the consumer is notified in writing of the increased health risk associated with the consumption of uncooked or undercooked eggs, pasteurized eggs or egg products shall be substituted for raw shell eggs in the preparation of foods such as Caesar salad, hollandaise or bernaise sauce, mayonnaise, eggnog, ice cream, egg-fortified beverages, and other foods containing shell eggs that are not:

   a. Cooked to 145 degrees Fahrenheit (63 degrees Celsius) or above for 15 seconds if broken and prepared in response to a consumer’s order and for immediate service; or

   b. Cooked to 155 degrees Fahrenheit (68 degrees Celsius).

3. Whole frozen poultry or poultry breasts, must be completely thawed prior to conventional cooking, except for a single portion intended for service to an individual consumer.

4. With the exception of a single portion prepared for immediate service to an individual consumer, potentially hazardous foods which are to be served without further cooking, such as salads, sandwiches, filled pastry products and other mixed foods containing potentially hazardous food ingredients shall be prepared from ingredients pre-chilled to 41 degrees Fahrenheit (5 degrees Celsius) before mixing, using cleaned and sanitized containers and utensils and without bare hand contact.

5. All hot potentially hazardous food that is to be refrigerated shall be placed in shallow pans or contained in such quantities as will insure rapid cooling from 140 degrees Fahrenheit (60 degrees Celsius) to 70 degrees Fahrenheit (21 degrees Celsius) within 2 hours, and from 70 degrees Fahrenheit (21 degrees Celsius) to 41 degrees Fahrenheit (5 degrees Celsius) or less within 4 additional hours. Food containers in which food is being cooled may be left uncovered or partially
covered to facilitate heat transfer from the surface of the food and must be protected from overhead contamination during the cooling period.

6. The entire mass of all precooked, refrigerated potentially hazardous food that is to be reheated shall be heated so that all parts of the food reach a temperature of at least 165 degrees Fahrenheit (74 degrees Celsius) or above within 2 hours, and held at or above 140 degrees Fahrenheit (60 degrees Celsius) until served.

7. Completed custard-filled, cream-filled pastries, pies or similar bakery products, including synthetics, shall, unless served immediately following preparation, be refrigerated at or below 41 degrees Fahrenheit (5 degrees Celsius) until served unless otherwise approved by the commissioner.

8. All parts of potentially hazardous foods requiring cooking are to be heated to at least 145 degrees Fahrenheit (63 degrees Celsius) for 15 seconds, except:
   a. Poultry, wild game animals as specified in §760-1325, stuffed meats, stuffed fish, stuffed pasta, stuffed poultry, stuffed ratites, or stuffing containing meat, fish, game animals, or ratites are to be heated so all parts are at least 165 degrees Fahrenheit (74 degrees Celsius) with no interruption of the cooking process;
   b. Pork and food containing pork is to be heated so all parts of the food are at least 150 degrees Fahrenheit (66 degrees Celsius); and
   c. Whole-muscle, intact beef (roasts and steaks) are to be heated to an internal temperature of at least 130 degrees Fahrenheit (54 degrees Celsius), unless otherwise ordered by the consumer.
   d. Shell eggs or foods containing shell eggs are to be heated to at least 145 degrees Fahrenheit (63 degrees Celsius) unless an individual consumer requests preparation of a shell egg or food containing shell eggs in a style such as raw, poached or fried which must be prepared at a temperature less than 145 degrees Fahrenheit (63 degrees Celsius) in order to comply with the request, and the consumer advisory requirements of §760-1333.9 are met.
   e. All parts of ground meat or food containing ground meat are to be heated to at least 158 degrees Fahrenheit (70 degrees Celsius), unless a consumer requests preparation of a single order of ground meat or food containing ground meat which must be prepared at a temperature less than 158 degrees Fahrenheit in order to comply with the request, and the advisory requirements of §760-1333.9 are met.
   f. Ratites are to be heated to at least 158 degrees Fahrenheit (70 degrees Celsius).
   g. Commercially raised game animals are to be heated to 155 degrees Fahrenheit (68 degrees Celsius). Wild game animals, where allowed by §760-1325.2 of this Article, are to be heated to 165 degrees Fahrenheit (74 degrees Celsius).

9. When food of animal origin is served raw or not cooked to temperatures prescribed by this Article, the consumer is to be notified by brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means of the significantly increased risk associated with certain especially vulnerable consumers eating such foods in raw or undercooked form; except,
a. Unmarinated beef steaks that meet the definition of “whole-muscle, intact beef” may be served without a consumer advisory if cooked on the top and bottom to a surface temperature of 145 degrees Fahrenheit (63 degrees Celsius) or above and a cooked color change is achieved on all external surfaces, if:

1. obtained packaged and labeled as “whole-muscle, intact beef steaks” from a food processing plant; or,

2. cut in the establishment from beef labeled at a food processing plant as meeting the definition of “whole-muscle, intact beef”, prepared to remain intact, and individually packaged and labeled as “whole-muscle, intact beef steak”

b. Raw or undercooked food of animal origin shall not be served to a highly susceptible population.

10. Precooked potentially hazardous foods from commercially processed hermetically sealed containers and precooked potentially hazardous foods in intact packages from commercial food processing establishments that are to be heated for the first time within the food service establishment must be heated to 140 degrees Fahrenheit (60 degrees Celsius) within two hours and held above 140 degrees Fahrenheit (60 degrees Celsius) until served.

11. Raw animal foods cooked in a microwave oven and potentially hazardous food reheated in a microwave oven for hot holding shall be:

   a. Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;

   b. Covered to retain surface moisture;

   c. Heated to a temperature of at least 165 degrees Fahrenheit (74 degrees Celsius) in all parts of the food; and

   d. Allowed to stand covered for 2 minutes after cooking to obtain temperature equilibrium.

12. Fruits and vegetables that are cooked for hot holding shall be cooked to a temperature of 140 degrees Fahrenheit (60 degrees Celsius).

   (1) Raw fruits and vegetables shall be washed in potable water before use. Fruit and vegetable washing products approved for use on foods may be used in accordance with manufacturers’ specifications.

§760-1334 Storage of Food
1. Containers of food shall be stored at least six inches above the floor on clean racks, dollies, or other clean surfaces, in such a manner as to be protected from splash or other contamination. Potentially hazardous foods, such as broths, gravies, high protein salads, sauces, and cream type dressings shall be stored in a shallow pan or small container when refrigerated.

2. Containers of prepared food stored in refrigerated units shall be covered in such a manner as to be protected from overhead contamination. Storage of raw or prepared foods directly on refrigerator
shelves is prohibited.

3. Food not subject to further cooking before serving shall be stored in such a manner as to be protected against contamination from food requiring washing or cooking.

4. Refrigeration or storage of packaged food and beverage by immersion is prohibited.

5. Food shall not be stored under soil, waste or other sewer lines or other sources of possible contamination. When out buildings or structures are used to store food (other than cased food in waterproof containers), effective overhead protection or other approved method(s) shall be provided to protect food in transit.

6. Ice for human consumption shall be made from potable water, protected from contamination, and handled in a sanitary manner.

§760-1335 Display and Service of Food

1. Where open food or drink is placed on display in all types of food operations, including smorgasbords, buffets and cafeterias, it shall be protected against contamination from consumers and other sources by effective, easily cleanable, counter-protector devices, cabinets, display cases, containers, or other similar type of protective equipment. Self-service openings in counter guards shall be so designed and arranged as to protect food or drink from unnecessary manual contact by consumers. The quantity of food displayed shall be for immediate needs only. Suitable utensils such as deli tissue, spatulas, tongs single-use gloves or other dispensing equipment shall be provided at all self-service areas to prevent bare hand contact with ready-to-eat food.

2. Food employees may not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves or dispensing equipment.

   a. An adequate supply of suitable utensils, single-use gloves or dispensing equipment as specified in §760-1335.2 above, shall be kept conveniently located in the food service and preparation areas of the food service establishment.

   b. Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form.

3. Ice for consumer use shall be dispensed only with scoops, tongs, or approved ice-dispensing equipment. Self-service ice shall be dispensed through automatic self-service dispensing equipment.

4. Dispensing scoops, spoons, and dippers used in serving frozen desserts shall be stored, between uses, either in an approved running water dipper-well or in a manner approved by the department.

5. Sugar, condiments, seasonings, and dressings for self-service usage shall be provided only in approved closed dispensers or in individual single service packages.

6. Unused food that has been served to a customer shall not be served again, except that, other than in a food establishment serving a highly susceptible population, wrapped or otherwise protected wholesome non-potentially hazardous food may be re-served.
7. Serving utensils shall be stored to prevent contamination of food contact surfaces. Tableware for self-service consumer use shall be dispensed in a manner that protects the tableware from contamination. If additional food is obtained by consumers at self-service display and serving equipment, clean tableware shall be used, except that cups and glasses may be reused if refilling is a contamination-free process.

§760-1336 Transportation
1. During transportation, including transportation to another location for service, vending or catering operations, food is to meet the requirements of this Article relating to food protection, temperature, handling and storage. Food, utensils, equipment and tableware are to be protected from contamination during transportation by use of covered containers, complete wrappings or packaging. Original individual packages do not need to be overwrapped or covered if the original package has not been torn or broken

2. Except when otherwise approved by the department, vehicles used for the transportation of potentially hazardous foods shall be equipped with insulation and mechanical refrigeration systems capable of maintaining a product temperature of 41 degrees Fahrenheit (5 degrees Celsius), or lower, and of 0 (zero) degrees Fahrenheit (-18 degrees Celsius), or lower, if transporting frozen food. When hot potentially hazardous foods are transported, approved transport equipment capable of maintaining product temperatures of 140 degrees Fahrenheit (60 degrees Celsius) or above shall be used.

3. When potentially hazardous food is transported, food temperature logs shall be maintained indicating the temperature at which the food was loaded into the transport equipment and the time of delivery. The Department may also require the log to include the temperature of the food at the service location immediately prior to service.

§760-1337 Poisonous and Toxic Materials
1. Only such poisonous and toxic materials, lawfully permitted under federal, state and local regulations, as are required to maintain sanitary conditions, including pest control, sanitization, chemical drying agents, and boiler water additives may be stored or used in food establishments.

2. Such poisonous or toxic materials shall be identified, and shall be used only in such manner and under such conditions as will not contaminate food, food contact surfaces, water, or constitute a hazard to employees or customers.

3. Containers of poisonous and toxic materials used for cleaning and sanitizing shall be prominently and distinctively marked or labeled for easy identification as to contents. A container previously used to store poisonous or toxic materials may not be used to store, transport or dispense food.

4. When not in use, poisonous and toxic materials shall be stored in cabinets which are used for no other purpose, or in a place which is outside the food storage, preparation, display, and cleaned equipment and utensils storage areas. Bactericides and cleaning compounds shall not be stored in the same cabinet or area of the room with insecticides, rodenticides, or other poisonous materials.

5. Bactericides, cleaning compounds, or other compounds, intended for use on food-contact surfaces, shall not be used in such manner as to leave a toxic residue on such surfaces, nor to constitute a hazard to employees. Phenolic compounds shall not be used for sanitizing utensils or equipment.
6. Poisonous materials shall not be used in any way as to contaminate food, equipment, or utensils, nor to constitute other hazards to employees or consumers.

7. The storage of personal medications shall be restricted from food preparation and service areas. First-aid supplies shall be restricted to designated locations.

8. Insecticides and rodenticides shall be kept, clearly labeled, in the original containers. Those in powder form shall have a distinctive color.

9. Insecticide spraying shall be prohibited in food preparation and service areas while food is being processed, prepared and/or served or where unprotected food or clean utensils and containers are displayed or stored.

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§760-1340 Personnel, Health, and Disease Control; Training
1. No person who is infected with any disease specified in Part 2.50 of the New York State Sanitary Code that is transmissible through food, water, utensil or equipment; or who is a carrier of such disease; or who has suppurating lesions on arms, hands, face or other exposed parts of the body; or who is suffering from periods of vomiting or diarrhea or persistent coughing or sneezing shall handle food, water, utensils, equipment, clean linen, or single-service items in any food establishment.

   a. The permit holder shall require food employee applicants to whom a conditional offer of employment is made and food employees to report to the person in charge, information about their health and activities as they relate to diseases that are transmissible through food. A food employee shall report the information in a manner that allows the person in charge to prevent the likelihood of foodborne disease transmission, including the date of onset of jaundice, and if the employee or applicant:

      1) Is diagnosed with an illness due to:

         a) *S. typhi,*

         b) *Shigella spp.*,  

         c) Shiga toxin-producing *E. coli,*  

         d) hepatitis A virus, or  

      2) Has a symptom caused by illness, infection or other source that is associated with acute gastrointestinal illness such as: diarrhea, fever, vomiting, jaundice, sore throat with fever, or  

      3) Has a lesion containing pus such as a boil or infected wound that is open or draining and is on the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover, or a similar lesion on exposed portions of the arms or other parts of the body, unless the lesion is protected by an impermeable cover.
4) Had a past illness from:
   a) *S. typhi* within the past three months;
   b) *Shigella* spp. within the past month;
   c) ShigaToxin-Producing *E.coli* within the past month; or
   d) A past illness from Hepatitis A virus; or,
   e) Is suspected of causing or being exposed to a confirmed foodborne disease outbreak, prepared food implicated in the outbreak, consumed food implicated in the outbreak, or consumed food prepared by a person who is infected or ill with the infectious agent that caused the outbreak or who is suspected of being a shedder of the infectious agent; or,
   f) Lives in the same household as, and has knowledge about, a person who is diagnosed with a disease caused by *S. typhi, Shigella* spp., Shiga Toxin-Producing *E. coli*, or hepatitis A virus or attends or works in a setting where there is a confirmed disease caused by the aforementioned agents.

2. The operator, manager or person in charge of a food establishment shall not permit any such person as specified in subsection (1) of this section to handle food nor shall he employ anyone with any disease transmissible through food, water or utensils or suspected of being a carrier of such disease or any person who refuses a physical examination when so directed by the department.

3. If the operator, manager or person in charge of a food establishment suspects that an employee has contracted such disease or has become a carrier of such disease he shall immediately notify the Commissioner.

4. A food employee shall be excluded from a food establishment if:

   a. The food employee is diagnosed with an infectious agent specified under Part 2.50 of the New York State Sanitary Code, including, but not limited to;
      
      (1) salmonellosis, shigellosis, hepatitis A, shiga toxin-producing *Escherichia coli*, or
      
      (2) jaundice of unknown origin;

   b. If the food employee experiences a symptom such as diarrhea, fever, vomiting, or sore throat with fever caused by illness, infection, or other source that is associated with an acute gastrointestinal illness;

5. Removal of Exclusions and Restrictions.

   a. A foodworker, excluded as specified under Part 2.50 of the New York State Sanitary Code may return to work only after obtaining approval from the Commissioner.

   b. A foodworker, excluded as specified in §760-1340.4.b may return to work:

      (1) When free of the symptoms specified in §760-1340.4.b, or
(2) After providing written medical documentation from a physician licensed to practice medicine or, if allowed by law, a nurse practitioner or physician assistant, stating that the gastrointestinal symptoms experienced result from a chronic noninfectious condition such as Crohn's disease, irritable bowel syndrome, or ulcerative colitis.

c. The Commissioner shall be consulted to determine if employees with jaundice of unknown origin may return to work.

d. The person in charge shall maintain records pertaining to restriction and reinstatement of ill employees. These records shall include the name of the restricted employee(s), the duties of the employee(s), the date(s) of restriction(s), the nature of the restriction(s), the date(s) of removal of restriction(s), and other employee information allowed by law and requested by the Department to facilitate a foodborne illness investigation.

6. There shall be a designated person in charge of the food establishment who holds a valid Food Manager’s Certificate issued by the Commissioner during all hours of operation. No food establishment shall employ a person in charge of its operation unless such person holds a valid Food Manager's Certificate issued by the commissioner. In the case of an owner-operated establishment, the owner must be so certified. Recertification shall be required every three years.

7. Wherever deemed necessary, the Commissioner shall require the attendance and satisfactory completion of food sanitation instruction approved by the department, of any owner and/or employee of a food establishment.

8. A valid Food Manager’s Certificate shall be prominently displayed to the public in every food service establishment.

9. A Food Manager’s Certificate may be revoked at any time after due notice and opportunity for a hearing for failure to operate the food establishment in compliance with this Article.

10. The Commissioner may establish training standards which qualify a responsible person to operate a food service establishment in compliance with the requirements of this Article.

11. Based on the risks of foodborne illness inherent to the food operation, during inspections and upon request the person in charge shall demonstrate to the Department knowledge of foodborne disease prevention, application of the Hazard Analysis Critical Control Point principles, and the requirements of this Article. The person in charge shall demonstrate this knowledge by full compliance with sections and subsections of this Article that govern critical violations, substantial compliance with all other sections and subsections of this Article, and by possession of a valid Suffolk County Food Manager’s Certificate.

12. The Commissioner may certify and require, in accordance with standards established by him a qualified person to be responsible for self-inspection and maintaining compliance with the requirements of this article.

13. The Commissioner may establish criteria for recognition of alternative training that would allow for the issuance of a reciprocal Suffolk County Food Manager’s Certificate.
14. The person in charge of the food establishment shall ensure that employees and others entering the establishment for business purposes, such as delivery, maintenance and pesticide applicators comply with applicable provisions of this Article.

15. The person in charge shall ensure that all employees are properly trained in food safety as it relates to their assigned duties.

§ 760-1341 Cleanliness of Employees; Clothing, Hand Washing; Fingernails, Hair Restraints, Cosmetics and Jewelry, Tobacco, Eating and Drinking, Handling Soiled Utensils and Busing Tables, Restriction of Traffic

1. The following requirements shall be applicable to employees of food establishments:

   a. Employees shall wear clean outer garments and footwear; maintain a high standard of personal cleanliness; and conform to hygienic practices while on duty.

   b. Employees shall wash their hands and exposed areas of the arms thoroughly with soap and warm water in an acceptable handwashing facility before starting work and as often thereafter as may be necessary to remove soil and contamination. Employees shall wash hands thoroughly after using the toilet, smoking, sneezing, coughing, eating, drinking, or otherwise soiling their hands, and before returning to work after leaving their work area. Food employees shall clean their hands and exposed portions of their arms with a cleaning compound in a lavatory that is equipped with handsoap and hand drying facilities by vigorously rubbing together the surfaces of their lathered hands and arms for at least 20 seconds and thoroughly rinsing with clean water. Employees shall pay particular attention to the areas underneath the fingernails and between the fingers. The use of a nailbrush is recommended.

   c. When used, single-use gloves shall be used for only one food task such as working with ready-to-eat food or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the food task. Single-use gloves that are otherwise in good repair shall be discarded and replaced at least once each hour when in continuous use. When re-gloving is required, employees shall wash hands thoroughly before re-gloving and resuming work.

   d. Employees shall keep fingernails clean and neatly trimmed.

   e. Employees involved in food service, food preparation, and utensil washing shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

   f. While preparing food and while engaged in food service, food employees may not wear jewelry on their arms and hands. This part does not apply to a plain ring such as a wedding band. Unless wearing intact gloves in good repair, a food employee may not wear fingernail polish or artificial fingernails when working with exposed food.

   g. Employees shall not use tobacco in any form while engaged in food preparation or service, or while in equipment or utensil washing areas. The use of tobacco will be restricted to designated areas, acceptable to the commissioner, where no contamination hazard will result.
h. The consumption of food and drink by food service establishment employees shall be restricted to dining areas or other designated areas acceptable to the commissioner.

i. All food establishment employees shall exercise proper sanitary techniques in handling soiled tableware during and after clearing of tables and counters.

j. Unnecessary traffic through food preparation and utensil washing areas is prohibited. Traffic by customers through food preparation, food service, food storage, utensil washing, or food equipment areas is prohibited. The presence of unsupervised individuals in these areas is prohibited.

2. A hand sanitizer and a chemical hand sanitizing solution used as a hand dip shall be applied only to hands that are cleaned as specified under 1.b. of this subsection and shall contain active antimicrobial ingredients that do not leave harmful residues or toxic chemicals on the hands or foods.

   a. A chemical hand sanitizing solution used as a hand dip shall be maintained clean and at a strength equivalent to at least 100 mg/L chlorine.

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§760-1345 Food Equipment and Utensils; Design, Materials, Fabrication, Construction and Installation
1. Equipment and utensils shall be so designed and of such material and workmanship as to be smooth, easily cleanable, and durable, and shall be in good repair; and the food contact surfaces of such equipment and utensils shall, in addition, be easily accessible for cleaning, nontoxic, corrosion resistant, relatively nonabsorbent and shall conform to approved design and construction standards.

2. Equipment shall be so installed and maintained as to facilitate the cleaning thereof, and of all adjacent areas. Equipment shall be located and installed in a way that prevents food contamination and facilitates cleaning of the equipment and the establishment. Unobstructed working spaces shall be provided that are sufficient to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact.

3. Equipment shall be installed in conformance with state and local plumbing, electrical and fire protection regulations.

4. a. Only such materials, including food grade plastics, which meet the following criteria shall be used in the construction and repair of equipment and utensils.

   b. Materials shall be nontoxic, corrosive resistant to foods and to cleaning compounds or such other substances as may be found in the use environment, nonabsorbent, durable under normal use, smooth and easily cleanable. They shall not impart odors, color or taste to nor contribute to the adulteration of food and shall maintain their original properties under repeated use. Painted food contact surfaces shall be prohibited.

   c. If soft solder or hard solder (silver solder) is used, it shall be of such formulation as to be
nontoxic under use conditions, corrosion resistant, consistent with good industrial practice in the refining of their constituent elements, and free of cadmium, antimony, bismuth, or other toxic materials. Soft solder shall contain at least 50 percent tin and no more lead than is necessary under good manufacturing practices. Other solders may be acceptable if shown to be nontoxic under normal use conditions.

d. Hard maple or equivalent non-absorbent material meeting the above criteria may be used for cutting blocks and boards, baker's tables and work surfaces and shall be maintained in a smooth, cleanable condition.

e. Canvas or other porous materials, other than for single-service use, shall be prohibited as a food contact surface.

f. Food-grade plastic or rubber and rubber-like materials which are relatively inert, resistant to scratching, scoring, decomposition, crazing, chipping, and distortion under normal use conditions; of sufficient weight and thickness to permit cleaning and sanitizing by normal dishwashing methods; and which meet the other criteria described in this article shall be permitted for use.

g. If mollusk and crustacea shells are used as serving containers, they must be filled as part of the preparation procedure when first opened. Mollusk and crustacea shells may not be used more than once as serving containers. Further reuse of such shells for food service is prohibited. Mollusk and crustacea shells shall be kept refrigerated if the preparation process causes the shells to remain above 41 degrees Fahrenheit (5 degrees Celsius) for two hours or more.

5. a. All equipment and utensils, including plasticware, shall be designed and fabricated for durability under normal use conditions and operation. They shall be resistant to denting, buckling, pitting, chipping, crazing and excessive wear. Food contact surfaces shall be smooth, free of breaks, open seams, cracks, chips, pits, and similar imperfections and free of difficult-to-clean internal corners and crevices. Cast iron may be acceptable as a food contact surface for grills, griddles and skillets and other heated surfaces.

b. No "Vee" type threads shall be used in food contact zones.

c. Only food grade lubricants shall be used on equipment designed to receive lubrication of bearings in the food contact zone. Bearings and gears requiring non-food grade lubricants shall be outside the food contact zone and construction of these shall be such that the lubricant cannot leak, drip, or be forced into the food zone.

d. Sinks, dishtables, and drainboards shall be constructed to be self-draining.

e. Food contact surfaces shall be accessible for cleaning and inspection:

(1) without being disassembled; or

(2) by disassembling without the use of tools; or

(3) by easy disassembling with the use of only simple tools such as a mallet, screwdriver or an open-end wrench kept available near the equipment.
f. Food product lines intended for in place cleaning shall be so designed and fabricated that:

(1) cleaning and sanitizing solutions can be circulated thoroughly;

(2) cleaning and sanitizing solutions will contact all interior surfaces;

(3) the system is self-draining or completely evacuated.

g. Equipment and utensils used in the manufacture, dispensing, and storage of ice shall be designed and fabricated as to comply with the above design and construction requirements of this article.

h. Thermometers intended to be immersed into food or food cooking mediums shall be of an approved metal type.

i. Surfaces of equipment not intended for contact with food, but which are exposed to splash, food debris, or otherwise require frequent cleaning, shall be reasonably smooth, washable, free of unnecessary ledges, projections, or crevices; readily accessible for cleaning; and of such material and in such repair as to be readily maintained in a clean and sanitary condition.

j. Single service articles shall be made from nontoxic materials. All paper, plastics, foil adhesives, and other components of containers shall be free from deleterious substances and shall comply with requirements of the federal Food, Drug and Cosmetic Act.

6. a. Equipment which is placed on tables or counters, unless portable, shall be sealed thereto or mounted on legs or feet at least four inches high, and shall be so installed as to facilitate the cleaning of the equipment and adjacent areas.

b. Portable food service equipment shall be easily movable and have either no utility connection, or a quick disconnect, or a flex connection line of sufficient length to permit the unit to be moved for easy cleaning.

c. Floor-mounted equipment, unless readily movable, shall be sealed to the floor or installed on raised platforms of concrete or other smooth masonry in such a manner as to prevent liquids or debris from seeping or settling underneath, between or behind such equipment in spaces which are not fully open for cleaning and inspection; or such equipment shall be elevated at least six inches above the floor with the exception of vertically mounted floor mixers where the space between the lowest horizontal member of the floor must be at least four inches and the area to be cleaned must not exceed six inches from each side to the center. The space between adjoining units and between the unit and adjacent walls shall be closed, or sealed if exposed to seepage, unless sufficient space is provided for ease of cleaning between and behind such equipment.

d. Aisles or working spaces between equipment, and between equipment and walls, shall be unobstructed, and of sufficient width to permit employees to perform their duties readily without contamination of food or food contact surfaces by clothing or through personal contact.

e. Pipes and electrical wiring used as utility service lines or connections to equipment shall be kept to a minimum and shall be installed in such a manner as not to obstruct or prevent normal cleaning methods. Installation of utility service lines or connections shall be made in compliance with federal, state and local laws and regulations.
f. Food equipment shall not be located directly under soil, waste or sewer lines or other sources of possible contamination, unless the construction criteria for such placement, as specified in Title 19 NYCRR Chapter XXXIII is met, certified in writing by the appropriate regulatory agency, and the construction passes an on-site flood test.

7. Equipment which was installed in a food establishment prior to the effective date of this article and which does not meet fully all of the material, design and fabrication requirements of this section may be deemed acceptable for that establishment if it is in good repair, capable of being maintained in a sanitary condition, and the food contact surfaces are nontoxic. Such equipment shall be so located and installed as to enable reasonable compliance with all of the requirements of this section pertaining to equipment installation and food protection.

§760-1346 Cleanliness and Sanitization
1. No food equipment, utensil or item of tableware which is not clean shall be used to process, prepare, hold, display or serve food.

2. Tableware shall be thoroughly cleaned and sanitized after each usage.

3. Kitchenware and food contact surfaces of equipment, including food temperature measuring devices, exclusive of cooking surfaces of equipment, used in the preparation or serving of food or drinks and all food storage utensils, shall be thoroughly cleaned and sanitized:
   a. After each use, and following any interruption of operations during which contamination of the food contact surfaces is likely to have occurred; and,
   b. Before each use with different types of raw animal food; and,
   c. Each time there is a change from working with raw foods to ready-to-eat foods or between raw fruits and vegetables and potentially hazardous foods.

4. The cooking surfaces of grills, skillets and similar devices shall be cleaned at least once daily and shall be free of encrusted grease and other soil. Microwave oven cavities, doors and seals shall be cleaned daily.

5. Utensils and food contact surfaces of equipment used in the processing, preparation, service display, or storage of potentially hazardous food shall be thoroughly cleaned and sanitized prior to use. Where equipment and utensils are used for the preparation of potentially hazardous food on a continuous production line basis, the food contact surfaces of such equipment and utensils shall be cleaned and sanitized immediately before use and at intervals throughout the day on a schedule acceptable to the Department.
   a. Equipment food contact surfaces and utensils used in the preparation of raw shell eggs shall be cleaned and sanitized at least hourly.

6. Non-food contact surfaces of equipment shall be cleaned at such intervals as to be free of accumulations of dust, dirt, food particles, and other debris.

7. After being cleaned and sanitized and until use, all food contact surfaces of equipment and utensils shall be protected from contamination.
8. The use of sponges and wiping cloths shall be restricted. Sponges and cloths used by food service personnel for wiping spills on food contact surfaces shall be clean, and such cloths used for wiping food contact surfaces shall be used for no other purpose. Sponges and cloths used for wiping counter and table surfaces shall be clean and used for no other purpose. Such sponges and cloths shall be stored between uses in a chlorine solution of at least 50 parts per million of available chlorine (or other approved sanitizer with a bactericidal effect equivalent to at least 50 parts per million of available chlorine). A suitable sanitizer test kit shall be available and used. Dry cloths used for nonfood wiping purposes, such as for moving hot equipment, shall be a distinctly different color than moist wiping cloths.

9. Food establishments which do not have adequate and effective facilities for cleaning and sanitizing utensils shall use single service articles.

10. All single service articles shall be stored, handled, and dispensed in a sanitary manner, and shall be used only once.

11. Adequate facilities shall be provided for cleaning, and sanitizing multi-use utensils and equipment. An adequate supply of an approved sanitizer shall be on-premises during all hours of operation.

12. Multi-use eating, drinking, cooking and storing utensils and equipment shall be cleaned, rinsed out, and, when required, be sanitized in accordance with prescribed methods approved by the department and shall conform to surface contamination control standards established by such authority.

13. A three compartment sink shall be provided in every food service establishment and used for manual cleaning and sanitization of kitchenware and equipment, or in lieu thereof, by such other method as shall be satisfactory to the department. The installation of a mechanical dishwasher does not negate the necessity for the installation of an adequate three compartment sink.

   a. Sinks used for manual cleaning and rinsing and sanitizing operations shall be of adequate length, width and depth to permit the complete immersion of the largest items of equipment and utensils. These sinks are to be equipped with suitable drainboards of adequate size and used for soiled items prior to washing and for clean items following sanitization. Drainboards are to be self-draining and to be located and constructed so that they do not interfere with the proper use of dishwashing facilities. Use of easily movable bus tables for the storage of soiled items or the use of easily movable drainracks for the storage of clean items following sanitization is acceptable.

   b. Each compartment of such sinks shall be supplied with potable hot and cold running water. The temperature of hot water shall be a minimum of 140 degrees Fahrenheit (60 degrees Celsius).

   c. Kitchenware and equipment not requiring sanitization shall be washed mechanically or in a sink having not less than two compartments with drainboard.

   d. When hot water is used as the sanitizing agent in manual operations, the following facilities shall be provided and used:

      (1) An integral heating device or fixture installed in or under the sanitizing
compartment of the sink capable of heating and maintaining the hot water sanitizing rinse temperature of not less than 170 degrees Fahrenheit (77 degrees Celsius).

(2) An indicating thermometer accurate to plus or minus two degrees Fahrenheit convenient to the manual sink operations to permit frequent checks of the hot water temperature.

(3) Dish baskets of such size and design to contain and permit complete immersion of the tableware, kitchenware, and equipment in the hot water sanitizing rinse. Either dish table or drainboards, of adequate size for proper handling of soiled utensils prior to washing and for cleaned utensils following rinsing or sanitization, shall be provided, and shall be so located or constructed as not to interfere with the proper use of dishwashing facilities.

e. Sinks shall be cleaned thoroughly prior to usage. Equipment and utensils shall be preflushed or prescraped and, when necessary, presoaked to remove gross food particles and soil.

f. When manual dishwashing is employed, equipment and utensils shall be thoroughly washed in a hot soap solution which is kept clean and then shall be rinsed free of soap and abrasives.

g. Equipment, utensils and food contact surfaces requiring sanitization shall be sanitized by one of the following methods:

(1) Immersion for at least one half minute in hot water at a temperature of at least 170 degrees Fahrenheit (77 degrees Celsius).

(2) Immersion for at least 7 seconds in a clean solution containing at least 50 parts per million but not more than 200 parts per million of available chlorine at a pH less than 10 and water temperature of at least 100 degrees Fahrenheit (38 degrees Celsius); A suitable chlorine test kit shall be available and used.

(3) Immersion for at least 30 seconds in a clean solution containing any other chemical sanitizing agent acceptable to the permit-issuing official that will provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine as hypochlorite at a temperature of at least 75 degrees Fahrenheit (24 degrees Celsius) for one minute, and shall be used in accordance with the instructions for use on the EPA approved manufacturer’s label. Suitable chemical field test kits are to be present in the establishment and used to assure adequate chemical concentrations to achieve sanitization.

(4) Equipment too large to treat by methods above may be treated with steam of culinary quality, in the case of equipment in which steam can be confined, or by rinsing, spraying, or by swabbing with a solution of at least 50 parts per million, but not more than 200 parts per million, of available chlorine.

h. Cleaned and sanitized utensils and equipment shall be air dried.

14. Adequate mechanical dishwashing facilities shall be provided and conveniently located in all
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food establishments where food is served for on-premises consumption and wherever multi-use eating and drinking utensils are used, and in such existing food establishments as deemed necessary by the commissioner, subject to the following requirements:

a. Dishwashing machines (spray type or immersion) shall be properly installed and maintained in good repair. The flow pressure of spray type dishwashing machines shall not be less than 15 nor more than 25 pounds per square inch on the water line adjacent to the machine. A suitable gauge cock shall be provided immediately upstream from the control valve to permit checking the flow pressure of the final rinse water. Rinse water shall be so protected by baffles, or other effective means, as to minimize the entry of wash water into the rinse water.

b. Conveyors and cycles in dishwashing machines shall be accurately regulated, as outlined in the manufacturer's specifications, to assure proper washing, rinsing and sanitizing and shall be acceptable to the department. An easily readable thermometer shall be provided in each tank of the dishwashing machine to indicate, to an accurate plus or minus two degrees Fahrenheit, the temperature of the water. In addition, a thermometer of equal accuracy shall be provided to indicate the temperature of the final rinse water as it enters the manifold.

c. Automatic detergent dispensers and wetting agent dispensers, if used, shall be properly installed and maintained in operating condition.

d. Drainboards shall be of adequate size for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitization and shall be so located or constructed as not to interfere with the proper use of the dishwashing equipment.

e. When chemicals are relied upon for sanitization they shall be automatically dispensed in such concentration and for such a period of time as to provide effective bactericidal treatment of the equipment and utensils. Suitable chemical test kits are to be present in the establishment and used to assure adequate chemical concentrations to achieve sanitization in machines using chemicals.

f. Any other type of machine, device or facilities may be acceptable for cleaning or sanitizing equipment and utensils, if it can be demonstrated that such machine, device, or facilities will thoroughly clean equipment and utensils, and provide effective bactericidal treatment as demonstrated by an average plate count per utensil surface examined, of not more than 100 colonies and free from coliform organisms.

g. The dishwashing machine shall be thoroughly cleaned following usage. During operation, the machine shall be properly maintained in a satisfactory condition. Prior to cleaning, equipment and utensils shall be preflushed or prescraped and when necessary presoaked to remove gross food particles and soil. Following preflushing, prescraping or presoaking, equipment and utensils shall be placed in racks, trays, baskets, or on conveyors in such a manner that food contact surfaces are subject to unobstructed application of wash and rinse waters, and to permit free draining.

h. Wash water shall be kept clean. Wash water temperature shall not be less than 140 degrees Fahrenheit (60 degrees Celsius) for single tank, stationary rack, door type chemical sanitizing machines and spray type chemical sanitizing glass washers. When chemicals are relied upon for sanitization, the sanitizing rinse temperature shall not be less than 75 degrees Fahrenheit.
i. When sanitizing with hot water, wash and pumped rinse waters shall be kept clean. Wash and pumped rinse temperatures shall be measured in the respective tanks and final rinse temperature shall be measured at the manifold. The following water temperatures shall be maintained:

(1) Single tank, stationary rack or immersion units (dual temperature).
   (a) Wash temperature 140° - 150° Fahrenheit (60° - 66° Celsius).
   (b) Final rinse temperature 180° - 195° Fahrenheit (82° - 91° Celsius).

(2) Single tank, stationary rack (single temperature).
   (a) Wash temperature 165° Fahrenheit (74° Celsius).
   (b) Final rinse temperature 165° Fahrenheit (74° Celsius).

(3) Single tank conveyor.
   (a) Wash temperature 160° Fahrenheit (71° Celsius).
   (b) Final rinse temperature 180° - 195° Fahrenheit (82° - 91° Celsius).

(4) Multiple tank conveyor.
   (a) Wash temperature 150° Fahrenheit (66° Celsius).
   (b) Pumped rinse temperature 160° Fahrenheit (71° Celsius).
   (c) Final rinse temperature 180° - 195° Fahrenheit (82° - 91° Celsius).

j. (1) Food contact surfaces of cleaned and sanitized utensils and equipment shall be handled in such a manner as to be protected from contamination.

(2) Spoons, knives, and forks shall be picked up and touched only by their handles. Cups, glasses, and bowls shall be handled so that fingers and thumbs do not contact inside surfaces or mouth contact surfaces.

(3) Utensils and equipment shall be stored above the floor in a clean, dry location. Suitable space and facilities shall be provided for such storage so that food contact surfaces are protected from splash, dust, and other contamination. Food equipment and utensils shall not be stored or located under waste or sewer lines or non-potable water lines.

(4) Utensils shall be air dried before being stored, or shall be stored in a self-draining position on suitably located hooks or racks. Stored utensils shall be covered or inverted.
Facilities for the storage of flatware shall be provided and shall be designed and maintained to present the handle to the employee or consumer.

k. (1) Single service articles shall be stored above the floor on clean shelves or racks and in closed containers or cartons and shall be protected from contamination.

(2) Such articles shall be handled and dispensed in such a manner as to prevent contamination of surfaces which may come into contact with food or with the mouth of the user.

(3) Single service articles shall be used only once.

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§760-1350 Water Supply
1. All on-site food service establishment potable water supplies shall comply with the provisions of this section. Water supplies meeting the definition of a public water system as defined in Subpart 5-1 of Part 5 of the New York State Sanitary Code shall comply with the applicable requirements of Subpart 5-1.

2. The permit-issuing official may require a food service establishment operator to implement the annual start-up procedure contain in Subsection 4 of this Section.

3. Minimum treatment for a water source shall be:

   a. Minimum treatment for a ground water source shall be disinfection by chlorination or other disinfection methods acceptable to the permit issuing official unless a disinfection waiver has been issued based upon a satisfactory history of microbiological water quality and all sources of the water supply are properly located, constructed and effectively protected and maintained.

   b. For facilities utilizing disinfection by chlorination, the free chlorine residual disinfection concentration in the water distribution system shall be at least 0.2 milligrams per liter (mg/l).

   c. Minimum treatment for surface water sources or ground water sources directly influenced by surface water shall be filtration and disinfection techniques, approved by the permit issuing official, capable of 99.9 percent removal and/or inactivation of giardia cysts and 99.99 percent removal and/or inactivation of viruses.

4. Annual start-up. The food service establishment operator must ensure that each year the following actions have been taken 15 days prior to the utilization of the facility’s water supply. The following applies to each on-site potable water system that is not subject to continuous water use and, when required by the permit-issuing official, to each food service establishment’s potable water supply distribution system that is not subject to continuous water use which receives water from an off-site public water system:

   a. The food establishment’s water supply system shall be disinfected by:
(1) Completely filling the water supply system to remove all air pockets, flushing the system to remove particulates, and filling the system with potable water. The potable water shall then be chlorinated by feeding liquid hypochlorite at a constant rate such that the water will not have less than a 25 mg/l free chlorine residual throughout the food service establishment’s water system. After a 24-hour holding period there must be a free chlorine residual of not less than 10 mg/l throughout the food service establishment’s water system; or

(2) Using a disinfection method the State Commissioner of Health has determined in writing to be of comparable effectiveness.

b. The water supply system shall be flushed and for facilities utilizing disinfection by chlorination, free chlorine residual disinfection concentrations shall be measured for the two days immediately following the completion of the main disinfection, as prescribed in Subsection 4.a. of this Section, at representative points in the distribution system, to ensure chlorine residuals of not less than 0.2 mg/l.

c. Total Coliform samples shall be collected in accordance with Subsection 6.a. of this Section following the two day flushing and chlorine monitoring period prescribed by Subsection 4.b. of this Section and when a free chlorine residual of not more than 4.0 mg/l is present.

5. Monitoring requirements. Samples shall be collected at representative points in the distribution system and analyzed at a laboratory certified by the New York State Department of Health as follows:

a. At least one sample collected for Total Coliform analysis from each water source prior to opening for the operating season and at least one additional sample collected from each water source during the operating season. For those food service establishments operating more than a calendar quarter, Total Coliform samples shall be collected for each calendar quarter the food service establishment is in operation (or more frequently, as required by Permit Issuing Official). When a water supply serving a food service establishment is operated continuously year round with Total Coliform analysis performed quarterly, the Total Coliform analysis prior to the opening is not required.

b. Additional monitoring parameters and frequencies may be required pursuant to Subpart 5-1 of Part 5 of the New York State Sanitary Code when determined by the permit-issuing official as necessary to evaluate water quality.

c. The food service establishment operator must report sample results that are for Total Coliform or Escherichia Coli to the permit-issuing official as soon as possible, but no later than 24 hours of being notified by the laboratory. Preoperational water analysis reports must be submitted to the permit-issuing official prior to permit issuance. All other water analysis reports required to be made by this Subpart or requested or ordered by the permit-issuing official shall be submitted to the permit-issuing official within 10 days after the end of each month in which samples were collected or as otherwise directed by the permit-issuing official.

6. Report on water treatment. At facilities where water treatment is required, accurate and complete water treatment operation reports shall be maintained daily and submitted to the permit-issuing
official within 10 days after the end of each month of operation. Reports must be made on forms provided or approved by the Department.

7. Source protection. All potable water sources and distribution systems shall be designed, located, constructed and maintained to provide protection against contamination or pollution. All pumps, piping fixtures and appurtenances shall be adequately installed and maintained to protect against contamination of any water source.

8. Submission of plans; prior approval. A plan for proposed new or modified potable water supply systems shall be submitted to the permit-issuing official at least 30 days prior to beginning construction. No construction of new or modified potable water supply systems shall commence until plans and specifications have been submitted to and approved by the permit-issuing official. Construction shall be in accordance with the approved plans.

9. Minimum standards. Potable water shall be adequate in quantity and quality and shall be readily available.

10. Connections prohibited. There shall be no physical connection between the potable water supply and any non-potable water supply. Any fixture, installation or equipment which is subject to back-siphonage shall be adequately installed and maintained to protect against contamination of the water source(s) or distribution system.

11. A minimum pressure of 20 pounds per square inch, at peak demand, shall be maintained in all parts of the water distribution system.

12. Interruptions, changes in sources or treatments. Any incident or condition which affects the quantity or quality of the on-site potable water supply shall be reported to the permit-issuing official within 24 hours of occurrence. There shall be no changes made to the source or method of treatment of a potable water supply, either temporary or permanent, without first receiving approval from the permit-issuing official. An adequate supply of potable water must be provided and maintained during all times of operation.

13. Hot and cold running water under pressure shall be provided to all areas in the food establishment where the department deems it necessary for the safe and sanitary operation of such food establishment.

(1) The hot water supply shall be adequate to meet the demands of the food service establishment.

   a. The hot water system serving the food service establishment shall be dedicated only to the demands of food service and shall be independent of all other demands, such as residential apartments, space heating, showers, etc. unless otherwise approved during the plan review process.
   b. The hot water system serving the food service establishment shall be under the control of the person in charge.

§760-1351 Sewage Disposal
All sewage, including liquid wastes, shall be disposed of in a public sewer, or in the absence thereof, in a manner satisfactory to the department.
§760-1352  Plumbing

1. a. The minimum requirements of the Codes of the State of New York applicable to plumbing shall be met.

b. Plumbing shall be so sized, installed, and maintained as to carry adequate quantities of water to required locations throughout the establishment; as to prevent contamination of the water supply; as to properly convey sewage and liquid wastes from the establishment to the sewer, or sewage disposal system; and so that it does not constitute an actual or potential source of contamination of food, equipment or utensils or create an insanitary condition or nuisance. Liquid waste drain lines may not pass through food storage equipment, including ice machines or ice storage bins.

c. A direct connection may not exist between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are placed.

(1) Each basin of a sink used for warewashing or for food preparation shall be provided with a separate air gap.

(2) A warewashing machine may have a direct connection between its waste outlet and a floor drain when the machine is located within 1.5 m (5 feet) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.

d. Interior grease traps, when approved by the Suffolk County Office of Wastewater Management or a local sewer agency, shall be installed and located as to be easily accessible for cleaning.

2. a. The potable water system and equipment connected thereto shall be installed in such a manner as to preclude the possibility of backflow.

b. The piping of any nonpotable water system shall be adequately and durably identified by using distinctive yellow colored paint. Such piping shall not be connected to any potable water system or food equipment and shall not have outlets in food preparation areas or in areas accessible to the public.

3. a. Carbonated beverage dispensers connected to a water supply system are to be equipped with an air gap at the water inlet, or a double check valve vented to discharge carbon dioxide gas to atmosphere that provides positive protection against the entrance of carbon dioxide or carbonated water into the water supply system. All water contact surfaces downstream from this protective device are to be of materials that will not produce toxic substances when exposed to carbon dioxide or carbonated water.

b. All lines conveying carbon dioxide gas or carbonated beverages shall be constructed of stainless steel, food grade plastic or other material that will not produce toxic substances when exposed to carbon dioxide or carbonated water.

§760-1353  Toilet Facilities

1. a. Each food establishment shall be provided with adequate, conveniently located, and properly installed toilet facilities for its employees, accessible at all times from the interior of the establishment.
b. Toilet fixtures shall be of sanitary design and readily cleanable and installed in accordance with applicable state and local laws and regulations.

c. Toilet rooms shall be completely enclosed and shall have tight fitting, self-closing doors.

d. Toilet rooms shall be provided with mechanical ventilation constructed, operated and maintained in accordance with generally accepted good practice.

2. a. Toilet facilities, including the toilet room and fixtures, shall be kept clean and in good repair and free from objectionable odors.

b. A supply of toilet tissue shall be provided at each toilet at all times.

c. Easily cleanable receptacles shall be provided for waste paper and other refuse.

d. A toilet room used by females shall be provided with a covered receptacle for sanitary napkins.

e. Employees handwashing signs shall be posted in each toilet room area.

3. Adequate toilet and handwashing facilities, accessible from the interior of the establishment without entering food equipment, food preparation, food service, food storage, or utensil washing areas, shall be provided for patrons where food is served for on-premises consumption. Establishments with only seasonal outdoor seating may provide patron toilet facilities accessible directly from the outdoor seating area.

§760-1354 Handwashing Facilities
1. Adequate hand washing facilities must be provided in or adjacent to toilet rooms and in food preparation areas and food service areas, used only for handwashing, and located as to permit convenient and expeditious use. These must be kept clean and equipped with hot and cold running water dispensed with a mixing faucet, hand cleansing liquid or powdered soap in suitable dispensers, and approved sanitary towels or other approved hand drying devices; provided that the use of hand washing facilities in which the hot and cold water is delivered through separate faucets may be continued until such time as these facilities are relocated or replaced.

2. A sink used for food preparation or utensil washing, or a service sink or curbed cleaning facility used for the disposal of mop water or similar wastes, may not be provided with the handwashing aids and devices required for a handwashing lavatory unless approved by the Department.

§760-1355 Garbage and Refuse Disposal
1. All garbage and refuse containing food wastes shall, prior to disposal, be kept in durable, leakproof, nonabsorbent containers or compactors which shall be kept covered with tight fitting lids when filled or stored, or not in continuous use. Rooms, enclosures, areas and containers, including dumpsters and other commercial containers shall be properly constructed and adequate in size for the storage of all food waste and refuse accumulating on the premises.

2. Cleaning facilities shall be provided, and each container, compactor room or area used shall be maintained in a clean condition, inside and outside, and kept free from encrustations, soil and vermin. Wastewater from such cleaning operations shall be disposed of as sewage.
3. Stored garbage and refuse shall be inaccessible to insects and rodents. Outside storage of plastic bags or wet strength paper bags containing garbage or refuse is prohibited unless they are stored in nonabsorbent, leakproof containers with tight fitting lids.

4. Outside storage areas or enclosures, shall be adequate in size and shall be clean and not constitute a nuisance. Containers, compactors and dumpsters shall be stored on a smooth concrete slab or other relatively nonabsorbent surface, maintained in good repair and kept clean.

5. All garbage shall be disposed of daily or with such greater frequency as to prevent a nuisance. Burning of garbage or refuse on the premises is prohibited, except in an approved and properly operated incinerator.

6. Adequate refuse containers are to be made available for customer use to dispose of refuse, wrapping materials, single-service items, and uneaten food resulting from the operation of the establishment.

7. The operator or person in charge is responsible to maintain, empty, and clean all refuse containers furnished as part of the operation.

8. The department may require the installation of refrigerated garbage facilities in new or existing food establishments.

§760-1356 Insect and Rodent Control

1. Effective measures shall be taken to protect against the entrance into the establishment and the breeding or presence on the premises of insects, rodents, and other pests. These measures shall include:

   a. Routinely inspecting incoming shipments of food and supplies;
   
   b. Routinely inspecting the premises for evidence of pests;
   
   c. Using methods, if pests are found, such as trapping devices or other approved means of pest control; and
   
   d. Eliminating harborage conditions.

2. Rodent bait shall be contained in a covered, tamper-resistant bait station.

3. A tracking powder pesticide may not be used in a food establishment.

4. If used, a nontoxic tracking powder such as talcum or flour may not contaminate food, equipment, utensils, linens, and single-service and single-use articles.

5. The use of any insecticide or insecticide dispensing device shall conform to §760-1337 of this article and to the following requirements:

   a. The insecticide shall be safe and not harmful to humans under conditions intended for use.
   
   b. Anyone using insecticides must be certified as a "commercial applicator" by the New York State Department of Environmental Conservation.
c. The use of the insecticide shall not result in contamination of food, food containers or food contact surfaces.

d. Certified performance data acceptable to the department for all automatic insecticide dispensing devices by a reputable testing laboratory shall be furnished prior to the use of such device within the county.

e. Under no circumstances shall the use of an insecticide be permitted in place of or as a substitute for proper sanitation.

f. The use of an insecticide or insecticide dispensing device contrary to the provisions of this article is prohibited.

6. Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device and shall be installed so that:

   a. The devices are not located over food preparation areas or equipment, and

   b. Dead insects and insect fragments are prevented from being impelled onto or falling on exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

§760-1357 Reserved
§760-1358 Reserved
§760-1359 Reserved

§760-1360 Floors, Walls and Ceilings
1. All floors, walls and ceilings in food establishments, including doors, windows, skylights and similar closures and attached equipment such as light fixtures, vent covers, wall mounted fans and decorative materials, shall be kept clean and in good repair. All wall and floor junctures shall be coved. Studs, joints and rafters and metal framework shall not be left exposed in food preparation or utensil washing areas, except as permitted by the department in temporary food establishments. If left exposed in other parts of the establishment, they shall be finished as to provide an easily cleanable surface.

2. a. The floor surfaces in food storage and preparation areas, utensil washing areas, dressing or locker rooms, toilet rooms and handwashing areas shall be of smooth, nonabsorbent materials, so constructed as to be easily cleanable, such as terrazzo, ceramic tile, concrete with surface bond material or durable grades of slip resistant linoleum or vinyl.

    b. Mats or duckboards, if used, shall be of such design, size and construction as to be cleanable, removable for cleaning and shall be kept clean.

    c. Properly installed carpeting that is of woven construction and easily cleanable is permitted as a floor covering in public areas of food establishments, such as vestibules, dining rooms, powder rooms, hallways and lobbies.

    d. The use of sawdust, wood shavings, peanut hulls and similar materials on floors shall be prohibited in food preparation areas unless otherwise approved by the commissioner.
e. Properly plumbed floor drains shall be provided in all rooms where floors are subjected to
flooding type cleaning or where normal operations release or discharge water or other liquid
waste on the floor and such floors shall be graded to drain to the floor drain. The drains
from refrigerators, cooking kettles, hot or cold food tables, or similar equipment shall not be
directly connected to a sewer or waste line.

3.  a. All walls or rooms or areas in which food is prepared, or utensils or hands are washed, and
walls in toilet rooms shall be easily cleanable, light colored and shall have nonabsorbent
washable surfaces.

b. Wall covering material such as sheet metal, linoleum, vinyl, and similar coverings shall be
attached and sealed to the wall so as to leave no open spaces or cracks which would permit
accumulations of grease or debris or provide harborage for insects, rodents or vermin.

c. Concrete blocks or other masonry used in wall construction shall be finished and sealed so
as to provide a cleanable surface.

4. Materials used on ceilings in areas exposed to grease and water shall be finished so as to provide
a nonabsorbent, easily cleanable surface.

§760-1361 Cleaning
1. Appropriate cleaning methods that minimize the dispersal of dust shall be used, and where
sweeping is necessary, push type brooms and dust arresting sweeping compounds shall be employed.
Such cleaning, except emergency floor cleaning, shall be performed during those periods when the
least amount of food is exposed, such as after closing or between meal rush hours, care being taken
to prevent contaminating food or cleaned equipment.

2. Cleaning equipment and supplies shall be maintained and stored in such a manner as not to
contaminate food, utensils or food equipment.

3. At least one service sink or one curbed cleaning facility equipped with hot and cold running
water and a floor drain shall be provided and conveniently located for the cleaning of mops or
similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste. The use
of hand washing or utensil, equipment or food preparation sinks or an outside storm drain or ground
surface for this purpose is prohibited.

§760-1362 Premises, Exterior
The walking and driving surfaces of exterior areas of food establishments shall be maintained so as
to facilitate maintenance and to minimize dust, and premise areas shall be maintained in such a
manner as to prevent conditions conducive to the creation of a nuisance.

§760-1363 Lighting
1. Areas in which food is prepared or stored or where utensils are washed, and all handwashing
areas, dressing or locker rooms, toilet rooms, and garbage and refuse storage areas shall be provided
with adequate lighting and shall be well lighted when in use. At least 50 foot candles of light shall
be required on working surfaces and at least 30 foot candles of light shall be provided on all other
surfaces and equipment. During all clean-up activities at least 20 foot candles of light at a distance of
30 inches from the floor shall be provided in the areas being cleaned, and upon or around equipment
being cleaned.
2. Light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is exposed food; food equipment, utensils, and linens; or unwrapped single-service and single-use articles.

§760-1364 Ventilation
1. Rooms in which food is prepared or served or utensils are washed, dressing or locker rooms, toilet rooms, and garbage and refuse storage areas shall be well ventilated.

2. Ventilation hoods and devices shall be designed and maintained to prevent grease or condensate from dripping into food or onto food preparation surfaces.

3. Filters or grease extractors, where used, shall be readily removable or accessible for cleaning or replacement and shall be kept clean.

4. Intake air ducts, when used, shall be properly designed and maintained.

5. Rooms, areas and equipment from which aerosols, objectionable odors, or noxious fumes or vapors may originate, shall be effectively vented to the outside air and in such manner as to prevent the creation of a nuisance.

§760-1365 Dressing Rooms and Lockers
1. Adequate facilities shall be provided for the proper storage of employees' clothing and personal belongings.

2. Where employees change clothes within the food establishment, one or more dressing rooms or designated dressing areas shall be provided for this purpose.
   a. Such designated areas shall be located outside of the food preparation, storage and serving areas, and the utensil washing and storage areas.
   b. Designated areas shall be equipped with adequate lockers and lockers or other suitable facilities shall be provided in dressing rooms.

3. Dressing rooms and lockers shall be kept clean.

§760-1366 Miscellaneous
1. Only articles considered necessary to the routine operation and maintenance of the food operation shall be permitted in the food establishment.

2. a. None of the operations connected with a food establishment shall be conducted in any rooms used as living or sleeping quarters.
   b. A solid tight fitting partition and self-closing door, if needed, shall be provided between any food operation and living or sleeping quarters. Such living or sleeping quarters shall be equipped with separate toilet facilities, containing a lavatory and a shower or tub, for personal hygiene and shall meet the requirements of the 9(B) NYCRR, “New York State Uniform Fire Prevention and Building Code,” and any additional local requirements.

3. a. Laundry facilities, if provided on the premises, shall be used only for laundering items used in the operation of the food establishment.
b. If a mechanical clothes washer or dryer is provided, it shall be located so that the washer or dryer is protected from contamination and only where there is no exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

c. Soiled linens, coats, and aprons shall be kept in suitable containers until removed for laundering.

d. Laundered cloths, uniforms, aprons, and napkins shall be stored in a clean place and protected from contamination until used.

4. Except as specified in (a) and (b) below, live animals shall not be allowed on the premises of a food establishment.

a. Live animals may be allowed in the following situations if the contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result:

(1) Edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;

(2) Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs in outside fenced areas;

(3) In areas that are not used for food preparation and that are usually open for customers, such as dining and sales areas, service animals that are controlled by the disabled employee or person, if a safety hazard will not result from the presence or activities of the service animal;

(4) In areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly restricted, such as in a variety store that sells pets or a tourist park that displays animals.

b. Live or dead fish bait may be stored if contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result.

§760-1367 Reserved
§760-1368 Reserved
§760-1369 Reserved

§760-1370 **Mobile Food Units and Other Limited Food Establishments; Food Protection, Storage, and Display, Single-Service Articles, Garbage, Cleaning and Servicing, Preparation, Potable Water, Condiments, Identification of Food Servings, Display of License, and Identification of Vehicle.**

1. Mobile food establishments and other Limited Food Establishments shall comply with all applicable provisions of this article and adopted standards for the administration of this section. The department may augment such requirements when needed to assure the service of safe food; prohibit the sale of certain potentially hazardous foods; and modify specific requirements for physical facilities when, in its opinion, no imminent health hazard will result.
2. Adequate mechanical refrigeration shall be provided for the safe storage and display of potentially hazardous foods to be served cold or until heated for service.

3. Unless otherwise approved by the Department, Limited Food Establishments shall be restricted to the use of single service articles for service to the consumer.

4. Garbage and refuse shall be properly stored and removed as frequently as necessary to prevent a nuisance and shall be disposed of in a manner acceptable to the department.

5. a. An enclosed service area shall be provided for cleaning and servicing mobile food units.

   b. Such an area shall be physically separated from all food operations, and shall be provided with potable water and approved facilities for the drainage and disposal of liquid wastes and the storage of solid wastes.

6. a. A Limited Food Establishment shall not engage in food preparation or cooking operations unless specifically approved by the department.

   b. In the absence of such approval, Limited Food Establishments shall handle only completely wrapped or packaged food which has been manufactured, processed, prepared and packaged in individual servings at an approved food establishment and transported and stored in accordance with the provisions of this article; provided, however, that non-potentially hazardous beverages may be dispensed from covered urns or other protected containers approved by the department.

7. Potable water shall be obtained only from an approved source and transferred to and on the Limited Food Establishment in a sanitary manner.

8. Pre-filled individual single service containers shall be provided for condiments such as sugar, mustard, ketchup, salt, pepper and relish.

9. All prepackaged individual servings of food shall be identified as to place of preparation and packaging, and last date of permitted sale. For potentially hazardous foods, the last day of permitted sale shall be the date of preparation, unless otherwise approved by the Department.

10. The operator of a mobile food establishment shall possess a current motor vehicle license. A valid vehicle registration is required for all mobile units.

11. The name and address of the person to whom the permit has been issued shall be displayed on or be clearly visible from the outside of the vehicle, adjacent to the area of the vehicle from which the food is served.

12. Wherever deemed necessary, the commissioner shall require the attendance and satisfactory completion of food sanitation instruction approved by the department, of any owner and/or employee of a mobile or other Limited Food Establishment.

13. Limited Food Establishments shall operate in conjunction with a commissary approved by the Department.
§760-1371  Limited Food Establishment Commissary
1. A Limited Food Establishment commissary shall comply with the requirements of Article 13 of the Suffolk County Sanitary Code and Part 14 of the New York State Sanitary Code not specifically stated in this section and shall be constructed, equipped and maintained so that:

   A. the interior of the building is clean, free from rodents and insects, odors, pooled water, garbage, debris and unnecessary materials and equipment;

   B. there is adequate space in the building to permit access for cleaning of the largest mobile unit, separate from storage areas for food, ingredients, equipment, tableware and utensils;

   C. acceptable cleaning and sanitizing facilities are provided, including storage for cleaned equipment and utensils which protects them from contamination;

   D. lighting is not less than 30 footcandles at working surfaces in food handling and equipment cleaning areas;

   E. toilet and adjacent handwashing facilities are readily available to all employees of mobile units and the depot, with handwashing signs posted at each handwashing facility, together with lockers for clothing and personal possessions;

   F. storage facilities are constructed and maintained to prevent contamination of all materials and supplies, including mixes, flavors, syrups, edibles, single-service items;

   G. a supply of hot and cold potable water under pressure is available whenever needed in quantities required for sanitation and other operations;

   H. all plumbing is constructed and installed in a manner to protect the water supply, food, equipment and utensils from contamination;

   I. all waste, sewage and waste water is disposed of in a system accepted by the permit issuing official without contamination of the premises; and

   J. the entire premises is operated and maintained in a sanitary condition, does not create a nuisance, and is not a potential source of contamination.

§760-1372  Reserved
§760-1373  Reserved
§760-1374  Reserved
§760-1375  Reserved
§760-1376  Reserved
§760-1377  Reserved
§760-1378  Reserved
§760-1379  Reserved

§760-1380  Vending Machine Operations
1. No person shall operate a food vending machine for the sale of packaged food or beverages in closed bottles or containers unless:
a. the machine is designed and constructed to allow effective cleaning and maintenance and to remain free from insect and rodent harborages and other nuisances;

b. the machine is designed and constructed so as not to become a hazard to children or others while in use or under foreseeable conditions of abuse; potentially hazardous foods shall be kept at or below 41 degrees Fahrenheit (5 degrees Celsius) or at or above 140 degrees Fahrenheit (60 degrees Celsius);

c. the machine and the surrounding area are kept clean and sanitary.

2. No person shall operate a food vending machine for the sale of unpackaged food or for the sale of beverages other than in closed bottles or containers unless the requirements of §760-1380.1 are met and, in addition, the device is free from lead, cadmium or any other substance which may be so affected by the food or beverage as to form dangerous or deleterious compounds, or as to render food or beverage which comes in contact with such substance unwholesome or detrimental to health, or to impart odor, color or taste to the food. When the food vending machine is connected to a water supply system, it shall be designed and constructed to prevent contamination of the water supply system. Devices which dispense carbonated beverages shall be equipped with an air gap at the water inlet and a protective device to vent any leaking carbon dioxide to the atmosphere, or any other protective device approved by the Department which will provide positive protection against the entrance of carbon dioxide or carbonated water into the water supply system. The water supply contact surfaces in devices which dispense carbonated beverages, from the protective device downstream including the protective device itself, shall not have any copper or copper lined components in contact with the water supply or the beverage and any other components including any ice making and dispensing apparatus.

3. Potentially hazardous food shall be dispensed in individual, original containers or wrappers in which it was packaged at the food vending machine commissary or food processing establishment. Potentially hazardous food shall not be dispensed from bulk supplies.

4. Potentially hazardous ready-to-eat foods dispensed from vending machines shall be clearly marked with the date by which the food must be consumed or discarded. That date shall be no more than seven days from the date of preparation (or removal from original packaging for commercially prepared products) if held below 41 degrees Fahrenheit (5 degrees Celsius).

5. All food, other than fresh fruit, shall be stored or packaged in clean protective containers, or dispensed into clean single-use containers, and all food shall be prepared and vended in a sanitary manner and shall in all respects comply with the provisions of this Article.

§760-1381 Reserved
§760-1382 Reserved
§760-1383 Reserved
§760-1384 Reserved
§760-1385 Reserved
§760-1386 Reserved
§760-1387 Reserved
§760-1388 Reserved
§760-1389 Reserved
§760-1390  Temporary Food Service.
1. A temporary food establishment shall comply with all provisions of this article applicable to its operation and adopted standards for the administration of this section. Permits for temporary food establishments shall be issued for a period of time not to exceed 14 days.

2. The department may augment such requirements when needed to assure safe food.

3. When the Department determines that no imminent hazard to the public health will result, temporary food establishments which do not fully meet the requirements of this article may be permitted to operate when food preparation and service are restricted and deviations from full compliance are covered by the additional or modified requirements as set forth below:

   a. The preparation of potentially hazardous food, such as cream-filled pastries, custards, including synthetics and similar products, and meat, poultry, eggs and fish in the form of salads, or sandwiches, shall be prohibited, unless specifically approved by the department.

   b. This prohibition shall not apply to hamburgers, frankfurters, and other food which, prior to service, requires only limited preparation, such as seasoning and cooking; nor to any potentially hazardous food which is obtained in individual servings, is stored in approved facilities which maintain such food at safe temperatures, and is served directly in the individual original container in which it was packaged at an approved commercial food establishment.

4. a. Ice which will be consumed, or which will come into contact with food, shall be obtained from an approved source only in chipped, crushed, or cubed form and dispensed in an approved manner.

   b. Such ice shall be obtained in single-use plastic or wet strength paper bags which are filled and sealed at the point of manufacture and shall be held therein until used.

   c. Ice chests and ice tables shall be equipped with an open drain.

5. Wet storage of packaged food and beverage shall be prohibited.

6. Food contact surfaces of food preparation equipment such as grills, stoves, and worktables shall be protected from contamination by consumers and other contaminating factors. Where necessary, effective shields for such equipment shall be provided.

7. Equipment shall be properly located and installed to facilitate cleaning the establishment and to prevent food contamination.

8. Adequate supply of water from an approved source shall be available for cleaning and hand washing in the establishment.

9. Heating facilities located on the premises and capable of producing an ample supply of hot water for such purpose shall be provided.

10. Liquid waste shall be disposed of in a manner which conforms to applicable state and local requirements so as not to create a public health hazard or nuisance.
11. Convenient toilet and hand washing facilities shall be provided for employees, and hand washing signs shall be posted.

12. Floors shall be maintained in a clean and dry condition and shall be surfaced in a manner satisfactory to the department.

13. Operators of temporary food service establishments shall submit to the department, as part of the application for a permit, an itinerary for all temporary events in which they participated for two weeks prior to the proposed event, and indicating all locations at which they intend to vend food or beverage for the two-week period after the proposed event. The itinerary shall include:

   a. The address of the event.

   b. The event organizer’s name, address, and phone number.

   c. The dates and times during which the applicant vended food or beverage, or, for future events, the dates and times the applicant intends to vend food or beverage.

   d. An emergency contact number (if available) by which the department can contact the applicant before, during, or after the event.

   e. A complete menu of foods and beverages prepared, handled dispensed, or stored at events during the two weeks prior to the proposed event, during the proposed event, and a similar listing for events at which the applicant plans to operate in the two weeks after the proposed event.

   f. A list of employees and their duties at each event covering the two-weeks prior to the proposed event, during the proposed event, and for the two weeks after the proposed event.

Fish species currently identified as reasonably likely to contain the parasite hazard in the 2001 Edition of the FDA Fish and Fisheries Products Hazards and Control Guide include the following:

- Sea Bass (all species)
- Capelin and roe
- Chilean Sea Bass or Patagonian toothfish
- Cobia
- Cod (all species)
- Corvina (all species)
- Eelpout (all species)
- Flounder (all species wild and aquacultured if fresh fish or plankton are used as feed)
- Grouper (all species)
- Gag
- Halibut (all species wild and aquacultured if fresh fish or plankton is used as feed)
- Herring (all species)
- Hind (all species)
- Hogfish
- Jacks (all species)
- Jewfish
- Jobfish
- Kahawai
- Mackerel (all species)
- Monkfish
- Mullet (all species)
- Ocean perch
- Octopus
- Plaice (all species)
- Pollock (all species)
- Rockfish (all species)
- Sablefish
- Salmon and roe (all species wild ocean caught and aquacultured if fresh fish or plankton are used as food)
- Scad (all species)
- Sea trout
- Crimson and Cardinal Snapper
- Sole (all species)
- Sprat or Brisling
- Squid
- Thornyhead
- Tomcod
- Tonguesole
- Trevally
- Rainbow or Steelhead Trout (wild only)
- Skipjack Tuna
- Black Skipjack Tuna
- Longtail Tuna
- Slender Tuna
- Bullet Tuna
- Frigate Tuna
- Spotted Tunny
- Little Tunny
- Turbot (all species)
- Wenchman
- Wolffish
Appendix B  Postings and Notifications to Consumers

The following postings and notifications as required by this Article, Part 14 of the New York State Sanitary Code, Public Health Law of the State of New York, and Local Laws of the County of Suffolk are required in food service establishments:

1. First Aid for Choking (poster)

2. Consumer advisory re: raw and undercooked foods

3. Nutrition Labeling Information when nutrient content claims are made

4. Notice that the last inspection is available to customers on request

5. Alcohol consumption warning

6. Smoking prohibited signs, as per the NYS Clean Indoor Air Act and Suffolk County Code, Chapter 437

7. Permit to Operate a Food Service Establishment

8. Food Manager Certification

9. Employee Handwashing Signs in toilet rooms

10. Notice to patrons that resuscitation equipment is available
Appendix C  Reduced Oxygen Packaging, Criteria.

(A) A food establishment that packages food using a reduced oxygen packaging method and *Clostridium botulinum* is identified as a microbiological hazard in the final packaged form shall ensure that there are at least two barriers in place to control the growth and toxin formation of *C. botulinum*.

(B) A food establishment that packages food using a reduced oxygen packaging method and *Clostridium botulinum* is identified as a microbiological hazard in the final packaged form shall have a HACCP plan that contains the information specified under Section 8-201.14 of the FDA Food Code and that:

1. Identifies the food to be packaged;

2. Limits the food packaged to a food that does not support the growth of *Clostridium botulinum* because it complies with one of the following:
   
   (a) Has a water activity value of 0.91 or less,

   (b) Has a pH of 4.6 or less,

   (c) Is a meat or poultry product cured at a food processing plant regulated by the U.S.D.A. using substances specified in 9 CFR 318.7 Approval of substances for use in the preparation of products and 9 CFR 381.147 Restrictions on the use of substances in poultry products and is received in an intact package, or

   (d) Is a food with a high level of competing organisms such as raw meat or raw poultry;

3. Specifies methods for maintaining food at 41 degrees Fahrenheit (5 degrees C) or below;

4. Describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:
   
   (a) Maintain the food at 41 degrees Fahrenheit (5 degrees C) or below, and

   (b) Discard the food if within 14 calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption;

5. Limits the shelf life to no more than 14 calendar days form packaging to consumption or the original manufacturer’s “sell by” or “use by” date, whichever occurs first;

6. Includes operational procedures that:
   
   (a) Prohibit contacting food with bare hands,

   (b) Identify a designated area and the method by which:
       
       (i) Physical barriers or methods of separation of raw foods and ready-to-eat
foods minimize cross contamination, and

(ii) Access to the processing equipment is restricted to responsible trained personnel familiar with the potential hazards of the operation, and

(c) Delineate cleaning and sanitization procedures for food-contact surfaces; and

(7) Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the:

(a) Concepts required for a safe operation,

(b) Equipment and facilities, and

(c) Procedures specified under Subsection (B), (6) of this section and Chapter 8-201.14 “Contents of a HACCP Plan” of the FDA Food Code.

(C) Except for fish that is frozen, before, during, and after packaging, a food establishment may not package fish using a reduced oxygen packaging method.
Appendix D  Game Animals

(A) If game animals are received for sale or service they shall be:

(1) Commercially raised for food and:

   (a) Raised slaughtered, and processed under a voluntary inspection program that is conducted by the agency that has animal health jurisdiction, or
   
   (b) Under a routine inspection program conducted by a regulatory agency other than the agency that has animal health jurisdiction, and
   
   (c) Raised, slaughtered, and processed according to:

      (i) Laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program, and

      (ii) Requirements which are developed by the agency that has animal health jurisdiction and the agency that conducts the inspection program with consideration of factors such as the need for antemortem and postmortem examination by an approved veterinarian or veterinarian's designee;

(2) Under a voluntary inspection program administered by the USDA for game animals such as exotic animals (reindeer, elk, deer, antelope, water buffalo, or bison) that are "inspected and approved" in accordance with 9 CFR 352 Voluntary Exotic Animal Program or rabbits that are "inspected and certified" in accordance with 9 CFR 354 Rabbit Inspection Program;

(3) As allowed by law, for wild game animals that are live-caught:

   (a) Under a routine inspection program conducted by a regulatory agency such as the agency that has animal health jurisdiction, and

   (b) Slaughtered and processed according to:

      (i) Laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program, and

      (ii) Requirements which are developed by the agency that has animal health jurisdiction and the agency that conducts the inspection program with consideration of factors such as the need for antemortem and postmortem examination by an approved veterinarian or veterinarian's designee; or

(4) As allowed by law, for field-dressed wild game animals under a routine inspection program that ensures the animals:

   (a) Receive a postmortem examination by an approved veterinarian or veterinarian's designee, or
(b) Are field-dressed and transported according to requirements specified by the agency that has animal health jurisdiction and the agency that conducts the inspection program, and

(c) Are processed according to laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program.

(B) A game animal may not be received for sale or service if it is a species of wildlife that is listed in 50 CFR 17 Endangered and Threatened Wildlife and Plants.
ARTICLE 14
BODY ART ESTABLISHMENT REGULATIONS

§760-1400 Purpose, Scope, Definitions
1. The purpose of this Article is to protect public health by establishing minimum standards for the regulation of BODY ART ESTABLISHMENTS to prevent communicable and non-communicable disease. This Article is not intended to regulate the lawful PRACTICE OF MEDICINE nor THE PRACTICE OF DENTISTRY.

2. This Article is applicable to all locations where BODY ART PROCEDURES are conducted in the County of Suffolk.

   a. Each person who operates a BODY ART ESTABLISHMENT shall comply with those sections of this Article that pertain to his/her operation.

   b. BODY ART PROCEDURES and BODY ARTISTS at temporary events shall comply with the requirements of this Article.

3. This Article shall not be construed to authorize any practice or procedure prohibited by Federal, State or local law or regulation.

4. This Article shall not be construed to alter or limit any existing power, authority or Duty of the Suffolk County COMMISSIONER of the DEPARTMENT of Health Services or the Suffolk County DEPARTMENT of Health Services.

5. In the event that the State of New York adopts legislation or promulgates regulations concerning the subject matter herein, the more stringent requirements shall apply.

6. As used in this Article, the following words and terms shall have the indicated meaning:

   a. ADEQUATE shall mean sufficient to accomplish the purpose for which something is intended.

   b. ADULT shall mean a person 18 years of age or older.

   c. AFTERCARE means written instructions given to the client, specific to the BODY ART PROCEDURE(s) rendered, about caring for the BODY ART and its surrounding area(s). These instructions will include information about when to seek medical treatment, if necessary, and they must be consistent with the AFTERCARE Standards set forth in Appendix A.

   d. APPRENTICE means an individual, who is no less than 18 years old, working under the direct, on-site supervision of a Suffolk County Certified BODY ARTIST(s) in a Suffolk County permitted BODY ART ESTABLISHMENT to learn the skills of the trade.

   e. APPRENTICESHIP means a written agreement an APPRENTICE has with a Suffolk County Certified BODY ARTIST(s) to learn the skills of BODY ART PROCEDURES while working under the direct, on-site supervision of the aforementioned BODY ARTIST(s) in a Suffolk County permitted BODY ART ESTABLISHMENT.
f. **BIOMEDICAL WASTE** shall mean any solid or liquid waste that may present a threat of infection to humans, including non-liquid tissue, body parts, blood, blood products, and any body fluids from humans and other primates: laboratory and veterinary wastes that contain human disease-causing agents; and discarded SHARPS. The following also are included (a) used absorbent materials saturated with blood, blood products, body fluids or excretions or secretions contaminated with visible blood, as well as absorbent materials saturated with blood or blood products that have dried; and (b) nonabsorbent disposable devices that have been contaminated with blood and that have not been treated by an approved method.

g. **BODY ART or BODY ART PROCEDURE** shall mean the practice of applying body adornment to an individual using invasive methods such as BODY PIERCING, TATTOOING, COSMETIC TATTOOING, PERMANENT MAKE-UP, MICRO-PIGMENTATION, DERMOPIGMENTATION, BRANDING, and SCARIFICATION.

h. **BODY ART ESTABLISHMENT** shall mean any permanent or temporary place or premises where BODY ART PROCEDURES are performed with or without compensation.

i. **BODY ART SHOP OPERATOR** shall mean any person, persons, firm, estate, partnership, company, corporation, trustee, association or any other public or private entity that operates a BODY ART ESTABLISHMENT.

j. **BODY ARTIST** shall mean any person, no less than 18 years old, who performs BODY ART PROCEDURES as defined herein.

k. ** BODY ARTIST CERTIFICATION** is the issuance, by the COMMISSIONER, of a written BODY ART INSTRUMENT authorizing the person named therein to engage in the practice of BODY ART PROCEDURES as defined herein.

l. **BODY ARTIST MENTOR** is a Suffolk Certified BODY ARTIST who has a history of no less than three years of practicing his/her profession in Suffolk County and who is willing to sponsor and mentor an APPRENTICE BODY ARTIST.

m. **BODY PIERCING** shall mean to puncture, penetrate or pass through any mucosal or non-mucosal part of the body with a sharp STERILIZED, SINGLE-USE needle, for the purpose of applying STERILIZED JEWELRY or other STERILIZED ornament made of JEWELRY quality materials to various parts of the body. This term does not include EAR PIERCING as herein defined.

n. **BRANDING** shall mean any method using heat, cold or chemical compound, or cauterizing to apply a scar to the body for the purpose of creating a permanent mark or design on the skin.

o. **COMMISSIONER** shall mean the COMMISSIONER of the Suffolk County DEPARTMENT of Health Services.

p. **COSMETIC TATTOOING** shall mean a form or type of TATTOO or TATTOOING for cosmetic purposes and may require specific educational and/or training requirements set forth in Standards established by the COMMISSIONER.
q. **DEPARTMENT** shall mean the Suffolk County DEPARTMENT of Health Services.

r. **DERMOPIGMENTATION** shall mean a form or type of TATTOO or TATTOOING for cosmetic purposes and may require specific educational and or training requirements set forth in Standards established by the COMMISSIONER.

s. **EAR PIERCING** means the puncturing of the lobe of the ear with a pre-STERILIZED, SINGLE-USE stud-and-clasp ear-piercing system following manufacturer’s instructions. EAR PIERCING is subject to the provisions of this Article relating to personal hygiene, USE of SINGLE-USE STERILE EQUIPMENT and/or BODY ART INSTRUMENTS, JEWELRY, and AFTERCARE instructions, but is exempt from all other provisions.

t. **ESTABLISHMENT** shall mean the BODY ART ESTABLISHMENT.

u. **EQUIPMENT** shall mean all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks, fixtures and all other apparatus and appurtenances used in connection with the operation of a BODY ART ESTABLISHMENT.

v. **HAND WASHING or WASHING OF THE HANDS** shall mean scrubbing his/her hands and wrists thoroughly with warm, clean, fresh water and hand soap from a dispenser for a minimum of 30 seconds, rubbing in between the fingers and around the fingernails in particular, followed by subsequent, thorough rinsing with warm, running water and finally drying with clean, SINGLE-USE paper towels from an enclosed dispenser.

w. **HOT WATER** shall mean water that attains and maintains a temperature of 100 degrees Fahrenheit (37.8 degrees Celsius) minimum.

x. **IMPLANT** shall mean the insertion of an object or objects such as, but not limited to ball bearings, rods, spikes, beads, rings, jewels or JEWELRY under the surface of the skin so as to completely encapsulate the object under the surface of the skin or to form a pocket in the skin so as to partially expose the inserted object.

y. **BODY ART INSTRUMENTS USED FOR BODY ART** shall mean implements such as, but not limited to hand pieces, needles, needle bars, tubes, clamps, ring spreaders and receiving tubes that can come into contact with the client’s body or may be exposed to body fluids during BODY ART PROCEDURES.

z. **INVASIVE or INVASIVE PROCEDURE** shall refer to entry into the body by incision, by insertion of a BODY ART INSTRUMENT into or through the skin or mucosa, or by any other means intended to puncture, break or compromise the skin or mucosa.

aa. **JEWELRY** shall mean any personal ornament that has been properly STERILIZED prior to USE and that is to be inserted into a newly pierced area. JEWELRY used in BODY ART PROCEDURES shall be made only of the following materials: surgical-IMPLANT grade stainless steel; solid 14k or 18k white or yellow gold; niobium; titanium; platinum; or a dense, low-porosity surgical-grade plastic capable of being autoclave-STERILIZED without compromising the original characteristics of the plastic. All JEWELRY shall be free of nicks, scratches, or irregular surfaces.
bb. **MICROPIGMENTATION** shall mean a form or type of TATTOO or TATTOOING for cosmetic purposes and may require specific educational and/or training requirements as set forth in Standards established by the DEPARTMENT.

c. **MINOR** shall mean any person under the age of eighteen (18) years.

dd. **MOBILE BODY ART ESTABLISHMENT** shall mean any BODY ART operation that readily moves from location to location and inside which approved BODY ART PROCEDURES are performed.

ee. **PERMANENT MAKE-UP** shall mean a form or type of TATTOO or TATTOOING for cosmetic purposes and may require specific educational and/or training requirements as set forth in Standards established by the COMMISSIONER.

ff. **PIERCING DEVICE** shall mean any device used for the piercing of the skin for the purpose of applying JEWELRY.

gg. **THE PRACTICE OF DENTISTRY** shall be defined as diagnosing, treating operating, or prescribing for any disease, pain, injury, deformity, or physical condition of the oral and maxillofacial area related to restoring and maintaining dental health. THE PRACTICE OF DENTISTRY includes the prescribing and fabrication of dental prostheses and appliances. THE PRACTICE OF DENTISTRY may include performing physical evaluations in conjunction with the provision of dental treatment as per New York State Education Law Article 133, § 6601.

hh. **THE PRACTICE OF MEDICINE** shall mean the practice of the profession of medicine as defined in diagnosing, treating, operating or prescribing for any human disease, pain, injury, deformity or physical condition as per New York State Education Law § 6521.

ii. **RECORDS** shall mean a written, drawn, printed, typed, digital, photographic or electronic logging or description of a drawing, file, or accounting of an event, procedure, or transaction relating to BODY ART PROCEDURES or the operation of any BODY ART ESTABLISHMENT.

jj. **SANITIZATION, SANITIZE or SANITIZING** shall mean effective bactericidal treatment of clean surfaces of EQUIPMENT by a process that has been approved by the DEPARTMENT as being effective in destroying microorganisms, including pathogens.

kk. **SCARIFICATION** shall mean the use of BODY ART PROCEDURES, intentional destruction of the skin, or any other technique that changes the contour, or level plane of the skin and results in a scar on the skin.

ll. **SHARPS** mean objects (sterile or contaminated) capable of puncturing, lacerating, or otherwise penetrating the skin or mucosa.

mm. **SHARPS CONTAINER** means a rigid, leak and puncture resistant container, designed primarily to contain SHARPS, clearly labeled with the phrase “biological hazard” and the international biological hazard symbol.

nn. **SINGLE-USE PRODUCTS or ITEMS** are those intended by the manufacturer for one-time, one-person use and disposal after use.
oo. **SKIN BRAIDING** shall mean the forming of strips of detached skin and the subsequent braiding, transplanting and/or overlapping of these skin strips to form a pattern or design and the subsequent reapplication of these skin strips to the recipient’s procedure area for permanent healing and/or re-bonding to the body.

pp. **STERILIZE or STERILIZATION** shall mean the destruction of all living organisms around and in an object.

qq. **TATTOO or TATTOOING** shall mean to mark or color the skin by pricking non-toxic coloring matter such as ink, pigments or dyes into or under the skin or mucosa with the aid of needles or any other similar BODY ART INSTRUMENT(s) used to puncture the skin. TATTOOING results in the permanent coloration and/or scarring of the skin or mucosa. This includes, but is not limited to, DERMOPIGMENTATION, MICROPIGMENTATION, PERMANENT MAKEUP, and COSMETIC TATTOOING.

rr. **TATTOO ARTIST** shall mean any person who actually performs the work of TATTOOING and may require additional training and/or educational requirements set forth in Standards established by the COMMISSIONER.

ss. **TEMPORARY BODY ART ESTABLISHMENT or EVENT** means any place or premises operating at a fixed location where a properly permitted operator and properly certified BODY ARTIST(s) perform BODY ART PROCEDURES at a fixed location in conjunction with a single event or celebration of no more than 14 consecutive days duration. Such permit is not renewable.

tt. **TRANSIENT BODY ARTIST** as used in this Article shall mean any person who performs BODY ART PROCEDURES on a temporary basis of not more than fourteen (14) consecutive days duration, usually at a special event or show.

uu. **ULTRASONIC CLEANER or CLEANING DEVICE**, for the purposes of this Article, shall mean a device that applies intense, high-frequency sound to a liquid to produce a chemical and/or physical reaction which is designed to enhance detergency, degreasing, strip away oxides, films and oil coatings, disrupt biological cells, emulsify particulates and ultimately clean surfaces of BODY ART INSTRUMENTS USED FOR BODY ART, JEWELRY and EQUIPMENT.

vv. **UNIVERSAL PRECAUTIONS** shall mean a set of guidelines and controls that have been published by the Centers for Disease Control and Prevention (CDC) as “Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health-Care and Public-Safety Workers” in *Morbidity and Mortality Weekly Report (MMWR)*, June 23, 1989, Vol. 38, No. S-6, and as “Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures” in *MMWR*, July 12, 1991, Vol. 40, No. RR-8 or such other guidelines and controls established by the COMMISSIONER. This method of infection control requires the employer and the employees to assume that all human blood and specified human body fluids are infectious for HIV, HBV, and other blood pathogens. Precautions include HAND WASHING, gloving, personal protective EQUIPMENT, injury prevention, and proper handling and disposal of needles, other sharp BODY ART INSTRUMENTS, and products contaminated with blood and body fluids.
§760-1401 Powers of the COMMISSIONER; Enforcement

1. The COMMISSIONER or her/his duly authorized representative shall have the power to:

   a. Enter upon any premises for the purpose of making investigations and inspections in respect to the provisions of the New York State Sanitary Code, New York State Public Health Law, this Article, and the requirements of the DEPARTMENT.

   b. Require any owner of a BODY ART ESTABLISHMENT or BODY ARTIST in possession of BODY ART EQUIPMENT, BODY ART INSTRUMENTS, or RECORDS to make such EQUIPMENT, BODY ART INSTRUMENTS, or RECORDS, and himself/herself available for inspection at a reasonable time and for as long as it takes to complete the inspection.

   c. Seal, embargo, or prohibit the USE of any BODY ART INSTRUMENTS, and EQUIPMENT which does not meet the requirements of the New York State Sanitary Code (when available), this Code, and the requirements of the DEPARTMENT and to take any appropriate enforcement action as deemed necessary and appropriate in accordance with Suffolk County Sanitary Code Article 2, including, but not limited to administrative hearings and the imposition of fines.

   d. Notwithstanding the other provisions of this Article, if the COMMISSIONER or any duly authorized representative finds any unsanitary or other conditions in the operation of a BODY ART ESTABLISHMENT, which constitute a danger to public health and it appears prejudicial to the public interest to delay action pending a hearing, the COMMISSIONER may serve an order upon the permit holder or person in charge citing such condition and specifying the corrective action to be taken and a time period of less than fifteen (15) days within such action shall be taken; and such order may state that the permit is immediately suspended and all BODY ART PROCEDURES are to be discontinued forthwith and the BODY ART ESTABLISHMENT is to be closed. Any person to whom such an order is issued shall comply immediately therewith but; as promptly as possible thereafter and within fifteen (15) days; the COMMISSIONER shall provide such person an opportunity to be heard.

   e. In any case in which the COMMISSIONER shall have taken closure action pursuant to the provisions of this section, the COMMISSIONER or any duly authorized representative shall conspicuously post a suitable notice or placard at all entrances of the BODY ART ESTABLISHMENT stating the existence of such order and his authority therefore. No person shall interfere with or obstruct the COMMISSIONER or any duly authorized representative from posting such notice or placard, nor shall any person conceal, mutilate, or remove any such notice or placard except by permission of the COMMISSIONER or any duly authorized representative. In the event that any such notice or placard is concealed, mutilated or removed it shall be the duty of the permit holder or person in charge of such BODY ART ESTABLISHMENT to immediately notify the COMMISSIONER of such fact.

§760-1402 Prohibition

1. The following procedures and practices are specifically prohibited in BODY ART ESTABLISHMENTS under this article:

   a. No BODY ART PROCEDURE that meets the criteria for THE PRACTICE OF
MEDICINE, including surgery, or THE PRACTICE OF DENTISTRY shall be conducted in a BODY ART ESTABLISHMENT or performed by any BODY ARTIST.

b. A BODY ART PROCEDURE that, in the judgment of the representative of the COMMISSIONER, may meet the criteria for THE PRACTICE OF MEDICINE or THE PRACTICE OF DENTISTRY shall be submitted to the proper regulatory authority for review.

c. No INVASIVE PROCEDURE prohibited by law shall be conducted in a BODY ART ESTABLISHMENT or by any BODY ARTIST.

d. BRANDING or SCARIFYING of a MINOR is prohibited in a BODY ART ESTABLISHMENT, and, in addition, it is prohibited for a BODY ARTIST to BRAND or SCARIFY a MINOR.

§760-1403 Body Art Certification

1. No person except a duly licensed Health Professional (NYS Ed Law) shall perform BODY ART PROCEDURES or act as a BODY ARTIST unless such person has a BODY ARTIST CERTIFICATE issued by the COMMISSIONER.

2. An applicant’s past history of non-compliance and/or the applicant’s criminal record will be a consideration in evaluating whether the DEPARTMENT will issue a BODY ARTIST CERTIFICATE. Previous convictions for criminal offenses shall be considered in accordance with NY Corrections Law Article 23-A.

3. An applicant must be an ADULT to receive a BODY ARTIST CERTIFICATE of any kind.

4. No holder of any BODY ART ESTABLISHMENT permit issued under Section 1403 of this Article shall allow a BODY ARTIST to practice in such shop unless such BODY ARTIST is a holder of a valid BODY ARTIST CERTIFICATE as issued under subdivision (1) of this section. In the case of an owner-operated ESTABLISHMENT, the owner must be so certified.

5. Any person desiring to engage in BODY ART PROCEDURES or act as a BODY ARTIST shall submit an application for a BODY ARTIST CERTIFICATE to the COMMISSIONER along with two (2) passport identification pictures, on a form prescribed by the DEPARTMENT.

6. Each applicant shall be required to demonstrate by successfully passing the DEPARTMENT’S written examination and during subsequent inspections by a representative of the DEPARTMENT, demonstrating knowledge of UNIVERSAL PRECAUTIONS, proper in-shop procedures, the requirements of this Article and aseptic BODY ART PROCEDURES designed to prevent infection(s) and the spread of communicable disease. Furthermore, to qualify for a BODY ARTIST CERTIFICATE of any type, the applicant may be required to successfully complete whatever course(s), training and/or educational programs the DEPARTMENT has deemed relevant and necessary to the safe application of BODY ART PROCEDURES and to protect the public health. These courses, when required, are to be set forth in Standards established by the COMMISSIONER.

7. The COMMISSIONER may certify a BODY ARTIST, by reciprocal agreement with an outside agency or institution, if the BODY ARTIST has successfully completed a course in infectious
disease control approved by the DEPARTMENT and, by examination of the individual’s RECORDS and/or history of experience, training and education, has demonstrated acceptable knowledge of the requirements of this Article to perform BODY ART PROCEDURES.

8. The BODY ARTIST CERTIFICATE shall not be transferable from one person to another. The DEPARTMENT’S original copy of the BODY ARTIST’S CERTIFICATE shall be prominently displayed to the public, at the BODY ARTIST’S workstation, in every ESTABLISHMENT where the BODY ARTIST practices.

9. A BODY ARTIST CERTIFICATE shall expire three (3) years from date of its issuance.

10. A BODY ARTIST CERTIFICATE or BODY ARTIST APPRENTICE CERTIFICATE, or TRANSIENT BODY ARTIST CERTIFICATE may be revoked or suspended by the COMMISSIONER, after notice and an opportunity for a hearing, for failure of the CERTIFICATE holder to comply with the requirements of this Article or with any lawful notice or order issued pursuant thereto or failure to comply with any Federal, State or local law code or regulation.

11. APPRENTICESHIP Procedure

a. An APPRENTICE shall start an APPRENTICESHIP only after a Suffolk-certified BODY ARTIST MENTOR registers the APPRENTICE with the DEPARTMENT on forms provided by the DEPARTMENT. The following information is required for this registration:

   (1) The name and address of the permitted BODY ART ESTABLISHMENT(s) where the APPRENTICE will be training, working and learning the skills of the trade,

   (2) The full name, address, social security number, and date of birth of the APPRENTICE to affirm the applicant is at least 18 years old,

   (3) The name of the Suffolk-certified BODY ARTIST MENTOR supervising the APPRENTICESHIP. If there are multiple artists, then all involved artists must be identified.

   (4) The starting date and anticipated completion date of the APPRENTICESHIP.

b. At least one of the aforementioned BODY ARTIST MENTORS must be present inside the ESTABLISHMENT, within view of the APPRENTICE directly supervising the APPRENTICE when the APPRENTICE is conducting BODY ART PROCEDURES.

c. The APPRENTICE must obtain a Suffolk County BODY ARTIST CERTIFICATE prior to actually performing any BODY ART PROCEDURES. This CERTIFICATE will be clearly identified with the word “APPRENTICE.” This CERTIFICATE must be displayed prominently at whatever workstation the APPRENTICE is working at and this CERTIFICATE is issued subject to the provisions of Section 760-1403 of this Article.

d. An APPRENTICE must complete a minimum of 1,000 hours of training under the direct supervision of the BODY ARTIST MENTOR(s) listed in the aforementioned application prior to being eligible for a full BODY ARTIST CERTIFICATE.
e. The APPRENTICE must maintain an accurate log during the APPRENTICESHIP period and this log is to include the following information:

(1) the name of the APPRENTICE.

(2) the date and the total number of hours working under supervision on that particular date.

(3) a general description of the BODY ART PROCEDURES observed, performed, or outlined on the particular date listed.

(4) the printed name and signature of the supervising BODY ARTIST for the date listed.

(5) the name and address of the ESTABLISHMENT where the work was performed.

f. If the APPRENTICESHIP procedures are not followed as outlined above, a BODY ARTIST CERTIFICATE will not be issued to the APPRENTICE.

g. An APPRENTICE shall follow all the requirements imposed upon a BODY ARTIST by this Article.

12. A TRANSIENT BODY ARTIST must comply with all provisions of this Article as pertains to performing approved BODY ART PROCEDURES.

a. A TRANSIENT BODY ARTIST shall apply for a reciprocal BODY ARTIST CERTIFICATE in accordance with Section 760-1403.5 of this Article. Such reciprocal CERTIFICATE will be issued for a period of time to be determined by the DEPARTMENT and not to exceed three (3) years.

13. At the time of this Article’s adoption, all TATTOO/BODY PIERCING CERTIFICATES already issued by the DEPARTMENT, will remain valid until their assigned expiration dates. Renewal of these pre-existing CERTIFICATES will be done in accordance with this Article without the requirement of APPRENTICESHIP. However, such renewing BODY ARTIST(s) shall fulfill any specific educational and/or training requirements set forth in Standards established by the COMMISSIONER.

§760-1404 Body Art Establishment Permit

1. It shall be unlawful for any person to operate a BODY ART ESTABLISHMENT, Temporary BODY ART EVENT or MOBILE BODY ART ESTABLISHMENT who does not have a valid permit issued under the provisions of this Article. Only a person who complies with the requirements of this Article shall be entitled to receive and retain such a permit.

2. It shall be unlawful for any person(s) to perform BODY ART PROCEDURES at a Temporary BODY ART Event unless that event possesses a valid TEMPORARY BODY ART ESTABLISHMENT Permit.

3. The COMMISSIONER may at her/his discretion issue a TEMPORARY BODY ART ESTABLISHMENT permit for a special event not to exceed fourteen (14) days. The permit holder
for the TEMPORARY BODY ART ESTABLISHMENT and the Certified BODY ARTIST(s) associated with the event must comply with all requirements of this Article.

a. Any person desiring to operate a BODY ART ESTABLISHMENT shall make written application for a permit on forms provided by the DEPARTMENT. Such application shall include the applicant's full name, post office address and home telephone number, as well as the business name, post office address, and telephone number. If the permit applicant is a corporation, partnership or group other than a corporation, additional information must be provided as outlined in Article 3 of the Suffolk County Sanitary Code, Sections 760-300.3, .4, and .5. If the application is for a temporary BODY ART event, it shall also include the inclusive dates of the proposed operation.

b. An applicant’s criminal record and/or past history of non-compliance will be a consideration in evaluating the applicant’s eligibility for a BODY ART ESTABLISHMENT permit. Previous convictions for criminal offences shall be considered in accordance with NY Corrections Law Article 23-A.

4. Permits shall not be transferable from one person to another person or from one place to another place.

5. A valid permit shall be prominently displayed to the public in every BODY ART ESTABLISHMENT, TEMPORARY BODY ART ESTABLISHMENT and MOBILE BODY ART ESTABLISHMENT.

6. If an individual, an applicant must be an ADULT to receive a BODY ART ESTABLISHMENT permit. If a corporation, partnership, or other group, at least one officer, principal or partner must be an ADULT to receive a permit.

7. BODY ART ESTABLISHMENT permits may be revoked or suspended by the COMMISSIONER, after notice and an opportunity for a hearing, for failure of the permit holder to comply with the requirements of this Article, or with any lawful notice or order issued pursuant thereto. For serious or persistent violations of any of the requirements of this Article, or for interference with the DEPARTMENT’S representative in the performance of his/her duties, after notice and an opportunity for a hearing has been provided by the COMMISSIONER, the permit may be revoked or suspended.

8. The hearings provided for in this section shall be conducted by the COMMISSIONER at a time and place designated by her/him. Except as otherwise provided for in this section, all notices of hearing served pursuant to the provisions of this Article shall be in writing and contain a statement setting forth the grounds therefore and be served at least fifteen (15) days prior to the date of the hearing. Based upon the record of such hearing, the COMMISSIONER may sustain, modify, or rescind any official notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder by the COMMISSIONER.

9. Service of notices of hearing or orders shall be made by personal service or by registered or certified mail. Where service, whether by personal service or by registered or certified mail, is made upon an infant, incompetent, partnership, corporation, governmental subdivision, board or COMMISSIONER, it shall be made upon the person or persons designated to receive personal service by Article 3 of the New York Civil Practice Law and Rules.
10. The BODY ART ESTABLISHMENT permit shall expire one (1) year from date of issuance.

§760-1405 Plan Review; Construction or Pre-operational Inspection

1. Floor Plan

   a. When a BODY ART ESTABLISHMENT or MOBILE BODY ART ESTABLISHMENT is hereafter constructed or remodeled, or when an existing structure or mobile unit is converted for use as a BODY ART ESTABLISHMENT or MOBILE BODY ART ESTABLISHMENT, properly prepared plans and specifications for such construction, remodeling or alteration showing the layout; including work area, sinks, counters and storage areas, fixtures, toilet facilities and waiting area, drawn in 1/4 inch scale, shall be submitted to the DEPARTMENT for review and approval before construction is started. The source of an approved, potable water supply and the method of sewage/liquid waste disposal must be detailed.

   b. All construction, remodeling, or alterations shall be done in accordance with approved plans.

   c. Plans and specifications shall be accompanied by an application on a form provided by the DEPARTMENT along with the appropriate application fee.

2. When a BODY ART ESTABLISHMENT or MOBILE BODY ART ESTABLISHMENT is hereafter constructed or remodeled, or when an existing structure is converted for use as a BODY ART ESTABLISHMENT, a final construction or pre-operational inspection shall be requested by the owner or operator and conducted by the DEPARTMENT prior to the opening of the shop to determine compliance with previously approved plans and all applicable requirements of this Article.

§760-1406 Inspection of Body Art Establishments, Access, Inspection of Records. Issuance of Notices; Service of Notices

1. The COMMISSIONER or any duly authorized representative may inspect each BODY ART ESTABLISHMENT located within his jurisdiction and may make as many additional inspections and reinspections as are necessary for the enforcement of this Article.

2. The COMMISSIONER or any duly authorized representative, after proper identification, shall be permitted to enter, at any reasonable time, any BODY ART ESTABLISHMENT within its jurisdiction for the purpose of making inspections to determine compliance with this Article he/she shall be permitted to examine whatever RECORDS exist to obtain pertinent information pertaining to persons receiving BODY ART PROCEDURES, and pertaining to STERILIZATION of EQUIPMENT and/or INSTRUMENTS. There shall be a person familiar with these RECORDS in the shop during the hours of operation.

3. Whenever the COMMISSIONER or any duly authorized representative makes an inspection of a BODY ART ESTABLISHMENT, the DEPARTMENT’S findings shall be recorded on an inspection report form provided for this purpose, and a copy of such inspection report form shall be furnished to the permit holder or person in charge.

4. Whenever the COMMISSIONER or any duly authorized representative makes an inspection of a BODY ART ESTABLISHMENT and discovers that any of the requirements of this Article have
been violated, the COMMISSIONER or any duly authorized representative shall notify the permit holder or person in charge of such violations by delivering to him/her a copy of the inspection report or other written notice. In such notification, the COMMISSIONER or any duly authorized representative shall:

a. Set forth specific violations found.

b. Establish a specific and reasonable period of time for the correction of the violations that have been found.

5. Notices provided for under this section shall be deemed to have been properly served when the original of the inspection report or other notice has been delivered personally to the permit holder or person in charge, or such notice has been sent by registered or certified mail, return receipt requested to the last known address of the permit holder. A copy of such notice shall be filed with the RECORDS of the DEPARTMENT.

6. The most recent record of inspection by a representative of the DEPARTMENT shall be retained on the premises until the next inspection and this report shall be available for review by any person upon request. A notice provided by the DEPARTMENT indicating the availability of this most recent report must be prominently displayed to the public alongside the ESTABLISHMENT’S permit. This notice is provided in Appendix F of this Article.

§760-1407 Examination, Embargo, and Condemnation
1. The COMMISSIONER or any duly authorized representative may take, without payment, any item or any substance, used in connection with BODY ART PROCEDURE(s), for the purpose of examination in connection with an investigation or inspection of the ESTABLISHMENT.

2. The COMMISSIONER or any duly authorized representative may, upon written notice to the owner or person in charge; place an embargo on any item, substance or thing, that is determined or that he/she has probable cause to believe is associated with the cause of an illness or infection, does not meet the requirements of the New York State Public Health Law, the New York State Sanitary Code, the Suffolk County Sanitary Code, or otherwise constitutes a danger or poses a potential threat to the public health.

3. It shall be unlawful for any person to remove or alter an embargo order, notice or tag placed on any item, substance or thing by the DEPARTMENT. Such item, substance or thing shall not be altered, disposed of, or destroyed without permission of the DEPARTMENT, except by order of a court of competent jurisdiction.

4. The permit holder, or person in charge, shall have the opportunity to a hearing within fifteen (15) calendar days after the date of order of embargo. On the basis of evidence produced at such hearing, the COMMISSIONER may vacate the hold order, or may, by written order, direct the permit holder, or person in charge of the item, substance or thing, which was placed under the hold order, to bring it into compliance with the provisions of this Article, or to destroy such item, substance or thing.

§760-1408 Suspect Infections; Procedures
1. When the COMMISSIONER or any duly authorized representative has reasonable cause to suspect the possibility of disease transmission from any BODY ART ESTABLISHMENT employee or procedure, the COMMISSIONER or any duly authorized representative shall secure a medical
history of the suspected employee, or make such other investigation as may be indicated, and take appropriate action. The COMMISSIONER may require any or all of the following measures:

a. The immediate exclusion of the employee from all BODY ART ESTABLISHMENTS;

b. The immediate closure of the ESTABLISHMENT concerned until, in the opinion of the DEPARTMENT, no further danger of disease transmission exists;

c. Restriction of the employee's services to areas of the ESTABLISHMENT where there would be no danger of transmitting disease; and

d. ADEQUATE medical and laboratory examinations of the employee, of other employees, and of his, or their body discharges, consistent with the applicable laws.

2. When a BODY ARTIST, operator of the BODY ART ESTABLISHMENT, or any other employee of the BODY ART ESTABLISHMENT is made aware that a customer/patron suspects that his/her BODY ART PROCEDURE might be infected, it is the obligation of the personnel affiliated with the ESTABLISHMENT to direct that customer or patron to seek medical attention. Documentation of this report is to be written onto the customer’s record.

3. A BODY ARTIST who is under the influence of alcohol or taking medication or drugs that could impair the artist’s ability to safely perform BODY ART PROCEDURES in any way, shall not conduct any BODY ART PROCEDURES on any clients or patrons.

§760-1409 Personnel, Health, and Disease Control

1. No person who is known to be infected with any communicable disease shall engage in the practice of BODY ART PROCEDURES. The skin of the exposed areas of the BODY ARTIST such as the arms, hands, face, neck, and legs shall be free of rash or infection. No BODY ARTIST affected with visible boils, infected wounds, open sores, abrasions, weeping dermatological lesions on exposed areas of the body, or acute respiratory infection shall work in any area of the BODY ART ESTABLISHMENT in any capacity in which there is a likelihood that that person could contaminate BODY ART EQUIPMENT, BODY ART INSTRUMENTS, supplies, or working surfaces with body substances or pathogenic organisms.

a. The operator, manager or person in charge of the BODY ART ESTABLISHMENT shall not employ any person to engage in the practice of BODY ART PROCEDURES who is suspected of being a carrier of such disease or any person who refuses a physical examination and/or medical laboratory test when so directed by the DEPARTMENT.

b. If the operator, manager or person in charge of the BODY ART ESTABLISHMENT suspects that an employee has contracted such disease or has become a carrier of such disease the operator shall immediately notify the COMMISSIONER.

c. BODY ARTISTS shall document prophylaxis against Hepatitis B Virus (HBV). Such documentation against HBV shall be a certification of completed vaccination or laboratory evidence of immunity.

d. A BODY ARTIST may file a CERTIFICATE of vaccination declination for Hepatitis B virus; the declination for vaccination shall be filed on a form provided by the
DEPARTMENT.

e. As soon as a BODY ARTIST has knowledge that he/she has a communicable disease, he/she must immediately inform the operator or person in charge of the BODY ART ESTABLISHMENT of this fact.

2. The following requirements shall be applicable to all employees engaged in the practice of BODY ART PROCEDURES:

   a. During all BODY ART PROCEDURES, the BODY ARTIST must wear clean outer garments, observe a high degree of personal cleanliness, conform to hygienic practices, and employ the practice of UNIVERSAL PRECAUTIONS as defined herein. While engaged in doing a BODY ART PROCEDURE where the BODY ARTIST’S forearm(s) may come into contact with the BODY ART PROCEDURE, the BODY ARTIST’S forearm(s) must be suitably protected with an effective SINGLE USE barrier product.

   b. The BODY ARTIST shall perform proper HAND WASHING in an acceptable HAND WASHING facility before starting work and as often thereafter as may be necessary. Both of the BODY ARTIST’S hands shall be covered with disposable, SINGLE USE, examination gloves approved by the DEPARTMENT when a BODY ART PROCEDURE is being performed. These gloves must be changed if they have visible holes, rips, tears, or other compromises, touch any other person, or touch any object or thing that might be a source of contamination prior to or during a BODY ART PROCEDURE. New gloves must be donned for each new customer.

   c. The BODY ARTIST shall keep fingernails clean and neatly trimmed.

   d. The BODY ARTIST shall not wear cosmetics or jewelry that is deemed to interfere with personal hygiene and grooming practices put forth in this Article or that would interfere with effective HAND WASHING or the performance of any BODY ART PROCEDURES as defined herein.

   e. The use of tobacco in any form or any other substance used in the form of a cigarette or pipe for smoking purposes while engaged in BODY ART PROCEDURES is prohibited. The use of tobacco will be prohibited within the BODY ART ESTABLISHMENT in conformance with New York State Public Health Law, Article 13 E, Sections 1399-o and 1399-p.

   f. The consumption of food and drink by employees shall be restricted to designated areas acceptable to the COMMISSIONER. There shall be no consumption of food or drink in the workstation areas of the BODY ART ESTABLISHMENT.

§760-1410 Work Room
1. Each BODY ART ESTABLISHMENT shall have its workroom(s) physically separate and apart from waiting and all other areas. The workroom shall not be used as a corridor for access to other rooms. Only patrons or customers actually receiving BODY ART PROCEDURES and staff are allowed in said workroom.

2. Unnecessary traffic through a workroom is prohibited.
3. Each workstation in the workroom shall be equipped with HAND WASHING sink for the exclusive use of the BODY ARTIST for washing his/her hands and preparing customers who are receiving BODY ART PROCEDURES. Each such sink shall be equipped with hot and cold running water dispensed through a mixing faucet with wrist action, automatic, or foot controls, hand cleaning liquid or powdered soap in suitable labeled dispensers, a United States Food and Drug Administration (FDA) approved antimicrobial solution, individual hand brushes and fingernail files for each BODY ARTIST, and approved SINGLE-USE sanitary towels from an enclosed dispenser. An employee HAND WASHING sign provided by the DEPARTMENT is to be posted at each workstation hand sink.

4. Individual workstations in the workroom shall be provided with counter areas and storage cabinetry for BODY ART INSTRUMENTS, dyes, ointments, bandages, etc., that are of sanitary design, maintained in good repair, and protected from potential sources of contamination.

5. Work chairs, benches or tables shall be provided for each BODY ARTIST. Surfaces of the chairs, benches or tables shall be constructed of material that is smooth, non-absorbent, and easily cleanable.

6. The surfaces of furniture, EQUIPMENT and fixtures that come in contact with the body part receiving the BODY ART PROCEDURE or that may be directly or indirectly exposed to contamination from blood, blood products, and other body fluids during the course of a BODY ART PROCEDURE must be covered or draped with an appropriate SINGLE-USE, non-absorbent sanitary or sterile barrier material.

7. Easily cleanable, covered receptacles shall be provided for waste paper, BIOMEDICAL WASTE and other refuse at each individual workstation. These receptacles must have a hands-free mechanism to open and close the lid while the BODY ARTIST is engaged in BODY ART PROCEDURES.

8. BODY ARTISTS may not set up temporary facilities at fairs, festivals or expositions unless a TEMPORARY BODY ART ESTABLISHMENT permit is obtained from the COMMISSIONER.

9. In all new, remodeled, expanded or renovated BODY ART ESTABLISHMENTS, TEMPORARY BODY ART ESTABLISHMENTS and MOBILE BODY ART ESTABLISHMENTS, BODY ARTIST'S work station in the ESTABLISHMENT shall have a procedure area with at least 45 square feet of floor space. BODY ART ESTABLISHMENTS in existence at the time of the adoption of this Article are exempt from this requirement until remodeled, expanded or renovated.

10. All BODY ART ESTABLISHMENTS, TEMPORARY BODY ART ESTABLISHMENTS and MOBILE BODY ART ESTABLISHMENTS shall provide at least one procedure area that is capable of being completely screened from public view for clients requesting privacy.

11. The work station areas shall be supplied with an ADEQUATE supply of SINGLE-USE barrier materials for the purpose of covering or draping EQUIPMENT, hardware, spray bottles or any other surfaces that might come into contact with the gloved hands of the BODY ARTIST so as to prevent potential contamination from one person to another.

12. All containers in the BODY ART ESTABLISHMENT are to be labeled as to their contents.
13. Poisonous compounds, toxic compounds, and cleaning agents must be clearly labeled and stored and used in a manner that will not pose a threat to safe compounds, BODY ART INSTRUMENTS and EQUIPMENT used for BODY ART PROCEDURES or occupants of the BODY ART ESTABLISHMENT.

§760-1411 Operation Standards; Records
1. RECORDS

a. The holder of a BODY ART ESTABLISHMENT permit shall maintain proper RECORDS of BODY ART PROCEDURES that have been administered and/or JEWELRY that has been installed for each patron.

b. A record of each patron shall be prepared prior to any BODY ART PROCEDURE being performed. In the case where multiple visits are necessary to complete the BODY ART PROCEDURE, the original or first RECORD may be subsequently noted with the date of the visit and the progress of the procedure appropriately described until its completion. The patron’s RECORD shall include the patron’s name and signature, address, age, if applicable, manner of verification of identity and age, the date of the procedure, the design of the TATTOO, its location on the patron's body, the type of JEWELRY applied, location of the piercing on the patron's body, or similar information for other types of approved BODY ART and the name of the BODY ARTIST who performed the work. The patron RECORD may also be used as a consent form for the application of a BODY ART PROCEDURE. This RECORD must include the “Consent for BODY ART PROCEDURES” in Appendix D of this Article. Prior to any piercing procedure, the BODY ARTIST must also provide the patron with a copy of “Healing Periods for BODY PIERCINGS” in Appendix E of this Article.

c. The RECORDS shall be entered in ink, on paper, which is kept in an organized file, notebook or folder that is kept solely for this purpose. These RECORDS shall be available during the course of an inspection for examination by the COMMISSIONER'S representative and shall be preserved for at least two (2) years from the date of the most recent BODY ART PROCEDURE recorded in the ESTABLISHMENT.

d. Before performing the BODY ART PROCEDURE, there shall be a discussion with the patron on the risks of the procedure and the possible health complications, which shall be noted in the record.

e. Consent

(1) MINORS are prohibited from being TATTOOED, NY Penal Law 260.21. No one can give consent for the application of a TATTOO to a MINOR, NY Penal Law 260.21.

(2) Pursuant to Suffolk County Local Law 4-1997, BODY PIERCING of a MINOR is prohibited. However, the prohibition of BODY PIERCING may be waived as prescribed by Suffolk County Local Law 4-1997.

(3) Prior to the performance of any BODY ART PROCEDURE, the patron must sign the consent form provided in Appendix D of this Article.
(4) For any MINOR receiving a BODY PIERCING, a parent or legal guardian must also sign the consent form in Appendix D of this Article.

f. No BODY ART PROCEDURES shall be performed upon a person who appears incoherent, or appears to be under the influence of drugs or alcohol.

2. TATTOOING Procedures

a. There shall be printed AFTERCARE instructions, as approved by the DEPARTMENT and consistent with Appendix A of this Article, given to each patron or customer on the care of the skin to prevent infection and proper, safe healing after TATTOOING. The printed material shall include information for the patron to consult a personal physician immediately who, in turn, may immediately notify the Suffolk County DEPARTMENT of Health Services, or advise the patient to do so, should an infection become evident.

b. A copy of such printed AFTERCARE instructions shall be posted in a conspicuous place in the workroom, clearly visible to the person being TATTOOED.

c. When necessary to shave the area to be TATTOOED, only SINGLE-USE, disposable safety razors shall be used.

d. Before placing the design on the patron's skin, the BODY ARTIST shall treat the area with a United States Food & Drug Administration (FDA) approved or hospital grade antimicrobial solution, which shall be applied with a new, SINGLE-USE cotton, paper product or gauze. Only petroleum jelly (petrolatum) or ointments shall be applied to the area to be TATTOOED and only from SINGLE-USE, collapsible metal or plastic tubes. The application may be spread by the use of a new, SINGLE-USE tongue depressor, gauze, gloves or other suitable applicator; but not directly with the fingers.

e. The use of SINGLE-USE tissue and hectograph pencils or SINGLE-USE duplicator stencil masters shall be required for applying a TATTOO outline to the skin. Multi-use stencils are prohibited. If drawn free hand, non-toxic markers or other devices as approved by the DEPARTMENT shall be used.

f. Any skin or mucosa to receive a BODY ART PROCEDURE shall be free of rash or any visible infection.

3. Coloring Agents or Pigments

a. In preparing non-toxic coloring agents or pigments to be used by a BODY ARTIST, only non-toxic, material(s) designed for use in TATTOOING shall be used. SINGLE-USE or individual portions of coloring agents or pigments in new, clean, SINGLE-USE containers must be used for each patron.

b. After TATTOOING, the remaining unused dye or pigment in the SINGLE-USE or individual containers must be discarded.

c. All inks, dyes, pigments, needles, BODY ART INSTRUMENTS and EQUIPMENT for performing BODY ART PROCEDURES shall be specifically manufactured for that purpose and shall be used according to the manufacturer’s instructions. When available, the inks,
dyes and pigments for BODY ART PROCEDURES must comply with applicable United States Food and Drug Administration (FDA) regulations. The mixing of approved inks, coloring agents or pigments and/or their dilution with sterile water or alcohol using sanitary procedures is acceptable if in conformance with applicable United States Food & Drug Administration (FDA) regulations when available.

d. Patrons shall be provided printed warning of the potential physical reactions from the use of certain dyes (when available) in a form acceptable to the DEPARTMENT.

4. STERILIZING and Care of TATTOO Needles and EQUIPMENT

a. Only new, SINGLE USE, STERILIZED needles shall be used by a TATTOO ARTIST for each new patron. An ADEQUATE number of STERILIZED needles shall be on hand to supply peak demands.

b. STERILIZATION shall be accomplished by holding needles in an acceptable steam autoclave for no less than 20 minutes at no less than 15 pounds pressure at a temperature of no less than 250 degrees Fahrenheit or 121 degrees Celsius or other methods as approved by the DEPARTMENT.

c. All sets of needles shall be placed in chemically treated sealed bags that indicate, by color change, STERILIZATION has occurred.

d. No rusty, defective or faulty needles shall be used for TATTOOING.

e. Unused, STERILIZED needles shall remain in sealed STERILIZED bags until needed and stored in such a manner as to prevent contamination.

f. Upon conclusion of the use of a set of TATTOO needles on a patron by a BODY ARTIST, and if the needle stems are going to be reused, the used needle & stem unit is to be first STERILIZED, then the needles shall be removed from the needle stem and placed immediately into an acceptable SHARPS container for storage until final disposal from the premises.

g. All needle tubes are to be of the shallow open-end type and must be STERILIZED in accordance with approved methods prior to use. STERILIZED needle tubes shall be stored in such a manner as to prevent contamination.

5. AFTERCARE of TATTOO

a. The completed TATTOO shall be washed with a piece of STERILE, SINGLE USE gauze, paper product or cotton saturated with an FDA approved or hospital grade antimicrobial solution. It shall be allowed to air dry.

b. After drying, anti-bacterial ointment shall be applied from a SINGLE-USE collapsible metal or plastic tube and the entire area covered with a piece of sterile, non-stick tissue, bandage or gauze and fastened to the site with a low-tack tape. AFTERCARE instructions provided to the client must be consistent with those outlined in Appendix A of this document.
6. BODY PIERCING, SCARIFICATION and BRANDING Procedures

a. Printed AFTERCARE instructions, as approved by the DEPARTMENT and consistent with Appendix A of this Article, shall be given to each patron or customer informing the patron of the increased risk of an invasive infection resulting from a BODY PIERCING. Such printed instructions shall also include information for the patron on the care of the body opening caused by BODY PIERCING, SCARIFICATION or BRANDING as a precaution to prevent infection and to consult a private physician immediately who, in turn, may immediately notify the Suffolk County DEPARTMENT of Health Services or advise the patient to do so should an infection become evident. Information should also be provided with reference to the security or snugness of certain JEWELRY to prevent accidental ingestion or lodging in body cavities.

b. A copy of such printed AFTERCARE instructions shall be posted in a conspicuous place in the workroom, clearly visible to the person being pierced. A copy of “Healing Periods for BODY PIERCING,” Appendix E of this Article, must be posted at each BODY PIERCING station.

c. When necessary to shave the area to be pierced, only a new, SINGLE-USE and disposable safety razors shall be used.

d. EAR PIERCING guns and SINGLE USE, STERILIZED ear-piercing studs are to be used for piercing ear lobes only. This PIERCING DEVICE may not be used to pierce any other part of the body.

e. For all BODY PIERCING, a SINGLE-USE, STERILIZED piercing needle of the same or larger gauge as the JEWELRY shall be used.

f. Skin shall be marked with a non-toxic marker prior to applying a suitable antiseptic. The area being pierced must be free of sores and lesions.

g. When applied, JEWELRY should be pushed through the skin following the needle, in the same direction as the piercing.

h. Persons and establishments that do EAR PIERCING only are exempt from provisions of the Article, except those provisions dealing with personal hygiene (760-1409), use of SINGLE- USE, STERILIZED INSTRUMENTS (760-1411.6 & .7), AFTERCARE instructions (760-1411.6) and JEWELRY (760-1400.6.aa). The device used to apply the ear-piercing stud(s) is exempt from STERILAZATION between uses.

i. If the BODY ART PROCEDURE area requires covering, it must be done with sterile, non-stick gauze, non-stick bandage or non-stick tissue and fastened to the body with an appropriate, adhesive first-aid type bandaging tape.

7. STERILIZATION of Piercing JEWELRY and Needles; JEWELRY Requirements

a. An individually bagged STERILIZED SINGLE-USE needle and bagged STERILIZED JEWELRY shall be used for each piercing.

b. STERILIZATION shall be accomplished by holding in an acceptable steam autoclave for
no less than 20 minutes at no less than 15 pounds pressure at a temperature of no less than 250 degrees Fahrenheit or 121 degrees Celsius or by any other method approved by the DEPARTMENT.

c. All sets of needles and JEWELRY shall be placed in chemically-treated, sealed bags that indicate, by color change, STERILIZATION has occurred.

d. Unused, STERILIZED needles and JEWELRY shall remain in sealed, STERILIZED bags until needed and stored in such a manner as to prevent contamination.

e. Corroded, defective or faulty needles and JEWELRY shall not be used for BODY PIERCING.

f. Upon completion of the piercing, used needles shall be placed immediately into an acceptable SHARPS CONTAINER for storage until final disposal from the premises.

g. Packages of SINGLE-USE, factory-STERILIZED needles, JEWELRY, tubes, clamps and other BODY ART BODY ART INSTRUMENTS must indicate the process by which STERILIZATION was accomplished, have an indicator that clearly demonstrates successful STERILIZATION and, if there is an expiration date on the package, the contents must not be kept in the BODY ART ESTABLISHMENT past such date.

h. JEWELRY to be used for a BODY ART PROCEDURE must consist only of those materials listed in the definition of JEWELRY herein.

8. Care of Multi-use BODY ART INSTRUMENTS for BODY ART and Related EQUIPMENT.

a. All other multi-use EQUIPMENT and BODY ART INSTRUMENTS used in connection with the a BODY ART PROCEDURE shall be so designed and of such material as to be durable, non-toxic, corrosion resistant, smooth and easily cleanable. Such EQUIPMENT and BODY ART INSTRUMENTS shall be stored clean and in a protected manner and when necessary be STERILIZED prior to use.

b. The following process shall be performed after each use of a multi-use BODY ART INSTRUMENT used for BODY ART:

(1) The BODY ART INSTRUMENT shall be cleaned by scrubbing with an appropriate soap or disinfectant solution and warm water, or by procedures that follow the manufacturer’s cleaning instructions to remove blood and tissue residue.

(2) The BODY ART INSTRUMENT shall be placed in an ULTRASONIC CLEANER, which shall be operated in accordance with the manufacturer’s instructions. A copy of these instructions shall be kept by the BODY ARTIST(S) in the area of the ULTRASONIC CLEANER for review by the DEPARTMENT’S representatives and the BODY ARTISTS.

(3) The BODY ART INSTRUMENT(S) shall be packed individually in a SINGLE USE pouch, envelope or other container designed for STERILIZING INSTRUMENTS. Such packages must contain either a STERILIZER indicator or an internal temperature indicator. The INSTRUMENT(S) shall then be STERILIZED.
(4) All multi-use and SINGLE-USE BODY ART INSTRUMENTS, needles, JEWELRY autoclaved on-premise must have the date of STERILIZATION and the initials of the person doing the STERILIZATION. Any such STERILIZED item not used within 365 days of the processing date is to be opened and its contents re-STERILIZED.

c. STERILIZERS shall be used, cleaned and maintained according to the manufacturer’s instructions. A copy of the procedures recommended by the manufacturer for the operation of the STERILIZATION unit shall be available for inspection by the DEPARTMENT.

d. A written RECORD showing the history of the use of the STERILIZER in the most recent 36 months shall be kept on the premises. This RECORD will include the type of BODY ART INSTRUMENTS STERILIZED, the date of the process, duration of time for the STERILIZATION process, the maximum temperature and pressure attained during the process and the name of the person performing the process.

e. The BODY ART ESTABLISHMENT shall demonstrate by quarterly spore destruction tests that the STERILIZER used is capable of attaining STERILIZATION. The tests shall be verified through an independent laboratory approved by the DEPARTMENT. These test RECORDS shall be retained in the BODY ART ESTABLISHMENT for a period of 3 years. The BODY ART ESTABLISHMENT’S permit shall not be issued nor renewed until the DEPARTMENT receives such documentation of the STERILIZER’S ability to destroy spores.

f. The ULTRASONIC CLEANER (S) and the STERILIZER unit(s) shall not be located or operated in BODY ART PROCEDURE areas or areas frequented by the public.

g. Prior to use, all BODY ART INSTRUMENTS used for BODY ART PROCEDURES and JEWELRY to be used in approved BODY ART PROCEDURES are to be STERILE and SINGLE-USE. Those BODY ART INSTRUMENTS that are designed for multiple uses must be STERILIZED in accordance with Sections 760-1410.4b and 760-1410.7b described herein. These sterile BODY ART INSTRUMENTS and JEWELRY are to be stored in a safe, sanitary, manner and protected from accidental contamination until such time as they are to be used for the BODY ART PROCEDURE. All JEWELRY and BODY ART INSTRUMENTS used for BODY ART PROCEDURES that are packaged and STERILIZED in the ESTABLISHMENT must be clearly marked with the date of STERILIZATION and the initials of the person monitoring the process. If the package containing the BODY ART INSTRUMENT has been breached, the expiration date has passed, the “indicator” has not changed to verify a successful STERILIZATION process, or the package is otherwise visibly compromised or contaminated, the BODY ART INSTRUMENT or JEWELRY must be repackaged and re-STERILIZED.

§760-1412 General, Facilities and Equipment

1. Floors, Walls and Ceilings - All floors, walls and ceilings in BODY ART ESTABLISHMENTS, including doors, windows, skylights and similar closures and attached EQUIPMENT such as light fixtures, vent covers, wall mounted fans and decorative materials, shall be kept clean and in good repair. Studs, joints and rafters, and metal framework shall not be left exposed in the workstation area. If left exposed in other parts of the ESTABLISHMENT, they shall be finished as to provide an easily cleanable surface.
2. The floor surfaces in the workstation area and toilet rooms shall be made of smooth, non-absorbent materials, and constructed so as to be easily cleanable. The floor of the BODY ART ESTABLISHMENT shall be of impervious material. The workstation and toilet room floor(s) shall be wet-mopped with an approved SANITIZER daily.

3. All walls in the workstation area and walls in toilet rooms shall be easily cleanable, light colored and shall have a nonabsorbent washable surface(s).
   
   a. Concrete blocks or other masonry used in wall construction shall be finished, covered and/or sealed so as to provide an easily cleanable surface.

4. All EQUIPMENT shall be installed in conformance with federal, state and local plumbing, electrical, fire, and building regulations.

5. All BODY ART ESTABLISHMENTS shall be completely separated by solid partitions or walls extending from floor to ceiling, from any room used for human habitation, any food ESTABLISHMENT or room where food is prepared, any hair salon, spa, health club facilities or any other operation or activity that could cause potential contamination of the BODY ART INSTRUMENTS, supplies or EQUIPMENT for BODY ART PROCEDURES, artist work areas and work surfaces.

§760-1413 Lighting and Ventilation
Areas in which BODY ART PROCEDURES are performed shall be provided with ADEQUATE lighting and ventilation. The BODY ART ESTABLISHMENT shall have artificial light sources that provide at least 20-foot candles at 3 feet above the floor level and at least 100-foot candles at the level where the BODY ART PROCEDURE is performed and where BODY ART INSTRUMENTS and SHARPS are handled.

§760-1414 Toilet Facilities
1. Each BODY ART ESTABLISHMENT shall be provided with ADEQUATE, conveniently located and properly installed toilet facilities for its employees and patrons and must be accessible at all times of operation.

2. Toilet fixtures shall be of sanitary design, easily cleanable and installed in accordance with all applicable state and local laws and regulations.

3. Toilet rooms shall be completely enclosed and shall have tight fitting, self-closing doors. Toilet facilities shall not open directly into the workstation area.

4. In the absence of an operable window, the toilet room shall be provided with ADEQUATE mechanical ventilation vented to the exterior through a wall or ceiling in accordance with applicable state and local laws and regulations and the Board of Fire Underwriters.

5. Toilet facilities, including the toilet room and fixtures, shall be kept clean, sanitary, in good repair and free from objectionable odors.
   
   a. An ADEQUATE supply of toilet tissue shall be provided at each toilet at all times.
   
   b. Easily cleanable, covered receptacles shall be provided for waste paper and other refuse.
c. Employees HAND WASHING signs shall be posted in each toilet room area.

6. ADEQUATE and convenient HAND WASHING facilities shall be provided in toilet rooms. These facilities must be equipped with hot and cold running water, dispensed with a mixing faucet, hand cleansing liquid or powdered soap in suitable labeled dispensers SINGLE-USE towels in an enclosed dispenser.

§760-1415 Garbage, Biomedical Waste & Refuse
1. The BODY ART ESTABLISHMENT operator(s) shall provide for the ADEQUATE, proper and safe disposal of all types of waste products. A properly licensed, commercial waste disposal company shall be used for the safe disposal of all types of waste products.

2. Commercially acceptable SHARPS CONTAINER (S) shall be provided for the safe disposal of all needles and other similar BODY ART INSTRUMENTS used for BODY ART PROCEDURES. This SHARPS CONTAINER shall never be filled past its overflow rim and must be kept properly covered until safely disposed of in conformance with 6 NYCRR Part 364.9.

3. Storage of BIOMEDICAL WASTE onsite shall not exceed the period specified by the DEPARTMENT, or more than 30 days.

4. BIOMEDICAL WASTE that may release liquid blood or body fluids when compressed, or that may release dried blood or body fluids when handled shall be placed in an approved “red” bag marked with the international biohazard symbol and disposed of by a BIOMEDICAL WASTE transporter. BIOMEDICAL WASTE must be stored and disposed of in a manner approved by the DEPARTMENT, which shall mean in conformance with 6NYCRR Part 364.9.

§760-1416 Premises, Exterior
The building and EQUIPMENT used in the BODY ART ESTABLISHMENT operation shall be maintained in a state of good repair at all times, and be free of rodent and insect infestation. The BODY ART ESTABLISHMENT’S premises shall be kept clean, neat and free of litter and rubbish.

§760-1417 Water Supply
The water supply shall be ADEQUATE, of a safe and sanitary quality, from an approved source, and shall meet the requirements of the New York State Sanitary Code (10 NYCRR Part 5) and the Administrative Rules and Regulations of the New York State Department of Health (10 NYCRR Part 72).

§760-1418 Sewage
All sewage, including liquid wastes, shall be disposed of in a public sewer or, in the absence thereof, in a manner satisfactory to the DEPARTMENT.

§760-1419 Miscellaneous
1. Only articles considered necessary to the routine operation and maintenance of the BODY ART ESTABLISHMENT shall be permitted in the BODY ART ESTABLISHMENT.

2. No live bird, turtle, snake, dog, cat or other animal shall be permitted in any area used for the conduct of BODY ART PROCEDURES or in the immediate, open adjacent areas, including the main waiting area and the public access to the toilet room except as follows:
a. Patrol dogs accompanying police or security officers in offices, sales, display and storage areas.

b. Service animals that are controlled by the disabled employee or person so as to not constitute a safety hazard only in areas that are not used for BODY ART PROCEDURES.

3. Effective measures shall be taken to protect against the entrance into the BODY ART ESTABLISHMENT and the breeding, potential harborage or presence on the premises of insects and rodents.

   a. Anyone using insecticides and rodenticide must be certified by the New York State Department of Environmental Conservation.

   b. Insecticides or rodenticides shall not be used in a manner that may cause a potential hazard to the occupants of the ESTABLISHMENT or the contamination of dyes, inks, pigments, BODY ART INSTRUMENTS, EQUIPMENT, JEWELRY, SINGLE-USE ITEMS or any other items used in connection with BODY ART PROCEDURES.

   c. Whenever pesticides are applied in a BODY ART ESTABLISHMENT, the ESTABLISHMENT owner or one of the ESTABLISHMENT’S certified BODY ARTISTS must be present for the duration of the application(s) and/or treatment(s).

4. DEPARTMENT-approved First Aid instructions for fainting, unconsciousness and bleeding are to be prominently posted to the employees in the work area(s) and include the emergency phone number to call for emergency medical assistance. An ANSI first aid kit shall be provided in the ESTABLISHMENT and all employees are to be familiar with its location. A clean pillow or small cushion and a clean blanket must be readily available to support first aid for fainting or unconsciousness. See Appendix C of this Article.

5. The BODY ART ESTABLISHMENT must have ADEQUATE storage closets, lockers, drawers or cabinets for employees to store their personal items & clothing. Personal belongings and non-BODY ART related items are not to be commingled with any EQUIPMENT, BODY ART INSTRUMENTS or supplies that are directly related to performing BODY ART PROCEDURES.

§760-1420 Variances
1. The COMMISSIONER may grant a variance(s) by modifying or waiving the requirements of this Article, except those related to permits and inspections, if in the opinion of the DEPARTMENT a health hazard or nuisance will not result from the variance(s). If a variance is granted, the DEPARTMENT shall retain the information specified in Section 760-1420.2 in its RECORDS for the BODY ART ESTABLISHMENT.

2. Before a variance from a requirement of this Article is approved by the DEPARTMENT, the applicant must submit the following to the DEPARTMENT for review:

   a. A statement of the proposed variance of the Code requirement citing the relevant Code section number(s).

   b. An analysis of the rationale for how the potential public health hazards addressed by the relevant Code sections will be alternatively addressed by the proposal.
3. Variances are specific to the condition addressed and apply only to the stated condition. Variances are not transferable.

4. Violation(s) of the approved procedures governing the variance(s) is grounds for DEPARTMENT revocation of the variance(s).

5. Variance(s) will expire when the permit to operate is suspended, terminated, expired, or revoked.

§760-1421 Postings/Notifications Required by Law
1. It is the responsibility of the BODY ART ESTABLISHMENT’S permit holder to ensure that postings or notifications to the public that are required by NY State Public Health Law, Statute, this Article and/or other pertinent regulations are present in the BODY ART ESTABLISHMENT as specified in law, statute or regulation. Many of the posting requirements are listed in Appendix B of this Article.

2. The BODY ART Disclosure Statement and Notice of Inspection, Appendix F of this Article, must be posted conspicuously alongside the BODY ART ESTABLISHMENT permit.

Appendix A

Suggested Aftercare Guidelines For Body Art Procedures

**Body Piercing, General Aftercare**

a. First, wash your hands with soap and water and dry with clean paper towels. 
   No cloth towels!

b. Soak area with sterile saline solution or a liquid anti-microbial cleanser 2-3 
   times daily. It may be easier to apply using saturated sterile gauze.

c. Dry the piercing area with sterile gauze. Do not use cloth towels!

d. You may shower daily, use soap and rinse thoroughly.

e. During healing one might experience some bleeding, localized swelling, tenderness, bruising, 
   discoloration, itching, secretion of a whitish-yellow fluid (not pus) that will form some crust 
   around the jewelry as the piercing heals.

f. A piercing heals from the outside inward and thus may appear healed before healing is 
   complete. *Be patient!*

g. Maintain clean, comfortable bedding and clothing.

h. Avoid the following:

   - Undue trauma or playing with the piercing,
   - The use of alcohol, hydrogen peroxide, Betadine, Hibiclens or ointments,
   - Over-cleaning,
   - Oral contact, rough play, contact with other people’s body fluids,
   - Stress, recreational drug use, excessive caffeine, nicotine and alcohol,
   - Submerging the piercing in bodies of water such as lakes, pools, hot tubs, Jacuzzis, 
     marine water, etc.,
   - All beauty and personal care products such as cosmetics, lotions, sprays, etc., on or 
     around the piercing.
   - Do not pick at the crusted matter at the piercing site, this is dried lymph fluid secreted by 
     your body to cleanse the piercing. (The crusting should come off during your routine 
     soaking & cleansing period only.)

*If one suspects, in any way, that the piercing might be infected, immediately seek medical attention.*
Body Piercings; Additional, Specific Aftercare for Particular Areas

a. The Navel

1. A hard, vented eye patch (sold at pharmacies) can be applied under tight clothing or secured using a length of ace bandage around the body (to avoid irritation). This can protect the navel area from restrictive clothing, excess irritation, friction, and impact during physical activities such as contact sports.

2. Do not routinely use this to cover the piercing and do not use it for extended periods of time. Its use should not inhibit adhering to your normal soaking & cleaning routine.

b. Ear, Ear Cartilage and Facial

1. Use a fresh, clean side of the pillow covering every night.

2. Maintain cleanliness of telephones, headphones/earphones, eyeglasses, helmets, hats and anything else that contacts the pierced areas.

3. Use caution when styling your hair and advise your stylist of a new or healing piercing.

c. Nipple

Use of a tight or snug, clean cotton shirt or sports bra may provide additional protection and make the piercing more comfortable, especially for sleeping or reclining.

d. Genital

1. Comfort and hygiene are vital. Initially, abstinence is strongly recommended.

2. Be patient & pursue sexual activity only if you feel ready and comfortable.

3. During healing, all sexual activities must be gentle.

4. Prior to sexual activity and to reduce trauma and increase comfort, soak piercing in warm saline solution or plain water to remove any crusty matter.

5. Use clean, disposable barriers such as condoms, dental dams, and Tegaderm to avoid contact with sex toys and partner’s bodily fluids, even in long-term relationships.

6. Use a new container of water-based lubricant; do not use saliva as a lubricant.

7. After sex, perform an additional soak or cleansing with clean saline solution or water.

8. Some piercings can bleed freely for the first few days.

9. After cleansing a piercing near to or including the urethra area with a mild soap, be sure to urinate.
e. Oral

1. Use an antibacterial, alcohol free mouth rinse or sterile saline solution for 30 to 60 seconds after eating and at bedtime while your piercing heals.

2. Gently use a new soft-bristled toothbrush after the piercing to avoid irritating or traumatizing the procedure area and/or introducing bacteria into your mouth.

3. For exterior surfaces of cheek and lip piercings, follow the entire General Aftercare Instructions in Section 1 of this Appendix.

4. Eat slowly taking small bites of food placed directly onto the molars. Avoid eating spicy, salty, acidic, or hot temperature foods or beverages for several days.

5. For tongue piercings, try to keep the tongue level in the mouth while chewing and swallowing. For cheek and lip piercings, avoid opening the mouth too wide as this can result in the backing of the jewelry catching on the teeth.

Tattoo Aftercare

a. First, wash your hands thoroughly with mild soap and water and dry your hands with clean paper towels. No cloth towels!

b. The dressing may be removed after approximately 4 hours.

c. Using warm water, a mild soap and gentle technique carefully cleanse the tattoo area, do not scrub.

d. Using a sterile gauze or dressing, gently pat the area dry. Do not rub. Do not use a cloth towel.

e. After a few days, gently and lightly apply a sanitary, gentle, mild skin lotion to the tattoo, do not leave excess lotion on the skin. Do not use any lotions or oily applications or petroleum jelly on the tattoo.

f. Do not scratch or pick at the tattoo during the healing period, allow scab material to fall off naturally (usually in 4-7 days).

g. If there is any reason to suspect an infection of the tattoo or its surrounding area, immediately seek medical attention!

h. Avoid soaking the tattoo in pools, spas, Jacuzzis, hot tubs, beach water, baths, etc.

i. Avoid direct sunlight, after healing use sunscreen on the tattoo if sun exposure is expected.

Branding and Scarification Aftercare

a. First, wash your hands thoroughly with soap and water and then dry them with clean paper towels. No cloth towels!
b. Using a mild antibacterial soap gently and thoroughly cleanse the procedure area twice daily, morning and evening. Use a very gentle circular motion with a sterile gauze or dressing when cleaning. Do not scrub the area!

c. Let the area air dry or use sterile gauze or dressings to gently blot dry. Don’t rub! Do not use cloth towels, paper towels or tissues!

d. During the initial healing phase, if you wish to cover the scar or branding, use a non-stick sterile gauze or dressing. If the naturally secreted lymph fluids cause the bandage to adhere, use clean water or sterile saline solution to soak the bandage and soften the adhered matter to prevent pulling the scab off and damaging the scar or branding.

e. Do not pick at the scarred or branded area or adhered matter on same procedures.

If you suspect the procedure area or the branding or scar itself is infected, immediately seek medical attention.
Appendix B

Required Notices for Posting

1. Establishment Permit
2. Body Artist Certificate(s)
3. No Smoking Sign at entranceway
4. Employee Hand Washing signs at all hand sinks
5. Appendix A, Aftercare Instructions for Body Art Procedures performed on site and posted at all work-stations
6. Appendix C, First Aid Procedures for Fainting, Unconsciousness & Bleeding posted prominently in the workspace
7. Appendix E, Healing Periods for Body Piercings posted at the piercing station(s)
8. Appendix F, Body Art Disclosure Statement & Notice of Inspection
Appendix C

First Aid for Fainting, Unconsciousness and Bleeding

A. If the person feels faint:

1. Most Patients – Seat the patient with head between the knees if there is no injury or heart condition. You can often prevent a patient from fainting by placing him/her in a seated position and lowering the head to a level between the knees or, have the person calmly lie down, face up and slightly elevate the feet. Do not do this for people with fractures, neck, spinal or severe head injuries.

2. Patients with breathing or heart problems – Have the patient lie down with the feet slightly elevated; give emotional support and Call 911 for emergency medical assistance.

B. For patients who have fainted, unconsciousness:

1. Position the person on his or her back. Make sure the legs are elevated above the heart level.

2. Watch the airway carefully. People who lose consciousness may vomit.

3. Check for breathing. Position your ear over the person’s mouth to listen for breathing sounds. If breathing has stopped, the problem is more serious than a fainting spell. Initiate cardiopulmonary resuscitation (CPR). Get emergency medical care. Call 911.

4. Help restore blood flow. If the person is breathing, restore blood flow to the brain by raising the person’s legs above the level of the head. Loosen belts, collars or other constrictive clothing. If the person loses consciousness, Call 911.

C. Bleeding:

1. Apply direct pressure to the area using a sterile material to contact the skin area. Elevating the bleeding area above the body, if possible, may help reduce the bleeding.

2. If the bleeding is not readily controlled, immediately call for emergency medical assistance.

*** For Emergency Medical Assistance – Dial 911***
Appendix D

CONSENT FOR BODY ART PROCEDURES

THE SUFFOLK COUNTY DEPARTMENT OF HEALTH SERVICES DOES NOT ENDORSE OR RECOMMEND BODY ART PROCEDURES IN ANY FORM. This includes, but not limited to Tattooing, Body Piercing, Branding, Scarification, Cosmetic Tattooing, Permanent Makeup, Micropigmentation and Dermopigmentation.

Date: ___________

I, ___________________________________, consent to the following body art procedure:________________________ performed by __________________________ at __________________________

(Name of Customer) (Name of Body Artist) (Name of Body Art Establishment & Town/Hamlet)

The aforementioned Body Artist has fully explained to me the nature of the procedure(s) and has informed me of the potential complications and risks including, but not limited to: bleeding, pain, swelling, infection, prolonged healing, scarring, nerve damage, fainting and death.

I am aware that Body Art Procedures are invasive and may involve possible health risks, especially for people with certain underlying medical conditions. I am also aware that I should consult with my physician prior to receiving any Body Art Procedure. If I experience an adverse effect during the healing period related to the Body Art Procedure I received, I have been advised to seek medical care as soon as possible and advise the Body Artist and/or the Body Art Establishment where I received the procedure.

*NOTE: It is possible to become infected with Hepatitis B, Hepatitis C, HIV or any other blood-borne disease with any procedure that involves exposure to blood products or instruments contaminated with blood products. In addition, an individual cannot donate blood for 12 months after having any body art procedure.

I have been provided with a copy of Appendix A, Aftercare Instructions, for my particular Body Art Procedure, and, if it’s a Body Piercing, a copy of Appendix E relating to healing periods. I have also had the opportunity to have any questions about the procedure answered.

Client Signature:_____________________________________________________

Parent/Guardian signature (for Body Piercing of Minors only):

State of New York) ss:
County of Suffolk)

On this ____ day of _____________, 20___, before me personally appeared __________________________, to me known to be the same person described herein and who executed the foregoing instrument and acknowledged that s/he executed the same.

______________________________
Notary Public, State of New York
Appendix E

Estimated Healing Periods for Body Piercings

<table>
<thead>
<tr>
<th>Location</th>
<th>Healing Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ear lobe</td>
<td>6 to 8 weeks</td>
</tr>
<tr>
<td>Ear cartilage</td>
<td>4 months to 1 year</td>
</tr>
<tr>
<td>Eyebrow</td>
<td>6 to 8 weeks</td>
</tr>
<tr>
<td>Female genitalia</td>
<td>4 to 10 weeks</td>
</tr>
<tr>
<td>Lip</td>
<td>2 to 3 months</td>
</tr>
<tr>
<td>Male genitalia</td>
<td>4 weeks to 6 months</td>
</tr>
<tr>
<td>Navel</td>
<td>4 months to 1 year</td>
</tr>
<tr>
<td>Nipple</td>
<td>up to 6 months</td>
</tr>
<tr>
<td>Nostril</td>
<td>2 to 4 months</td>
</tr>
<tr>
<td>Nasal septum</td>
<td>6 to 8 months</td>
</tr>
<tr>
<td>Nasal bridge</td>
<td>8 to 10 weeks</td>
</tr>
<tr>
<td>Tongue</td>
<td>4 weeks</td>
</tr>
</tbody>
</table>

These are approximate, average healing times. Information on the healing time and the aftercare instructions must be provided to clients prior to the piercing procedure as the healing time range and aftercare rigor may not meet with the client’s expectations. Human bodies are highly individual and healing times can vary greatly, are not guaranteed and may be complicated by certain medical conditions.
Appendix F

PUBLIC NOTICE

Body Art Disclosure & Notice of Inspection

The Suffolk County Department of Health Services does not endorse or recommend Body Art Procedures in any form; this includes, but not limited to Tattooing, Body Piercing, Branding, Scarification, Cosmetic Tattooing, Permanent Makeup, Micropigmentation and Dermopigmentation.

The Establishment’s Permit and the Body Artist’s Certificate signify their respective obligations to observe all the requirements of Article 14 of the Suffolk County Sanitary Code governing Body Art Procedures and the Health Department’s inspection of the establishment for such compliance.

Body Art Procedures are invasive and accordingly may involve possible health risks, especially if you have certain medical conditions. It is recommended that you consult with your physician prior to receiving any body art procedure.

Body Art Procedures could result in bleeding, pain, swelling, infection, scarring, nerve damage, fainting and death.

The Body Artist’s obligations include, but are not limited to:

1. Provide a “Consent Form” as detailed in Appendix D of Article 14 SCSC
2. Properly cleanse and prepare the site prior to the procedure.
3. Use sterilized instruments, needles, equipment, and jewelry.
4. Use sterile and aseptic technique and universal precautions
5. Inform the client/patron of proper aftercare for the particular Body Art Procedure.
6. Inform the Department of any customer reported injury, infection or illness.

Notice of Inspection

In accordance with Section 760-1405.6, the Department’s most recent record of inspection must be kept in the establishment and upon request by anyone and made available for their review.

For information or complaints, contact the Suffolk County Department of Health Services at (631) 852-5950.
ARTICLE 15
RADIATION CONTROL

§760-1500 Definitions as Used in this Article
A. **Commissioner** means the Commissioner of the Suffolk County Department of Health Services.

B. **Department** means the Suffolk County Department of Health Services.

C. **Person** means any individual, firm, corporation, association, partnership, institution, public body, joint stock association or any group of individuals, including the plural as well as the singular.

D. **X-Radiation Facility** means a place or mobile unit where x-radiation equipment in operable condition, or intended to be used, is located or used.

E. **X-Radiation Producing Equipment** means x-ray tube, or any device which can emit radiation by virtue of the application thereto of high voltage.

§760-1501 Radiation Control; General
Any person who transfers, receives, possesses or uses any x-radiation producing equipment shall comply with the provisions of Part 16, Ionizing Radiation, of the New York State Sanitary Code pertaining thereto. The requirements of the Article shall be in addition to those of Part 16, Ionizing Radiation, of the New York State Sanitary Code.

§760-1502 Powers of the Commissioner
The Commissioner or his duly authorized representative shall have the power to:

A. Enter upon any premises for the purpose of making investigations and inspections in respect to the provisions of the New York State Sanitary Code, this Code, and the requirements of the Department;

B. Require any owner or user of x-radiation producing equipment to make such equipment, the operator, and himself available for inspection at a reasonably predetermined time and for as long as it takes to complete the inspection;

C. Inspect any records showing exposure to x-radiation by persons operating the x-radiation producing equipment;

D. Survey any x-radiation producing equipment with respect to the provisions of the New York State Sanitary Code, this Code, and the requirements of the Department;

E. Seal or prohibit the use of any x-radiation producing equipment which does not meet the requirements of the New York State Sanitary Code, this Code, and the requirements of the Department.

§760-1503 Construction and Installation
A. No person shall construct, install, renovate, or convert any premises or part thereof for use as an x-radiation facility without first having obtained a permit therefor from the Department.
B. Plans and specifications for the construction, installation, renovation, or conversion of premises or part thereof for use on an x-radiation facility, or for x-radiation equipment for diagnostic or therapeutic use shall be submitted for review and approval by the Department and in accordance with the requirements of the Department.

C. This section shall not be construed to contravene or interfere with the provisions of the New York State Labor Code, or the regulations of other agencies as provided by the New York State Sanitary Code.

§760-1504 Registration and Inspection Certificate
A. No person shall possess or operate any x-radiation producing equipment or permit such equipment to be operated without first having registered with the New York State Department of Health as required by the New York State Sanitary Code.

B. No person shall operate or permit the operation of any x-radiation producing equipment without first having the equipment inspected and having obtained an inspection certificate therefor from the Department.

§760-1505 Notification of Transfer
Any owner, distributor, retailer or other agent who sells, leases, transfers, loans or installs x-radiation producing equipment shall notify the Department in writing within ten (10) days after making such a sale, lease, transfer, loan or installation, in accordance with the requirements of the Department.

§760-1506 Corrective Action
A. Any owner or operator of x-radiation producing equipment shall be prohibited of its use, if the equipment lacks the proper collimation.

B. Any owner or operator of x-radiation producing equipment shall be prohibited of its use, if the equipment lacks the required filtration.

C. The owner or operator of any x-radiation producing equipment which does not meet any other requirements of the New York State Sanitary Code, this Code, and the requirements of the Department after an initial inspection shall notify the Department in writing within fifteen (15) days of what corrective action is proposed to be taken.

D. Upon written notification from the owner or operator of faulty x-radiation producing equipment of what action is proposed to be taken, the owner or operator shall, within sixty (60) days, make the necessary corrections. The owner or operator shall promptly notify the Department in writing when all the corrections are completed.

§760-1507 Notice of Emergency
A. Any person who possesses or controls any radioactive material of any x-radiation producing equipment shall report immediately to the Department in writing or in person any radiation incident, emergency, accident, or overexposure as required by the New York State Sanitary Code, this Code or the requirements of the Department.

B. Any person who loses or finds any radioactive material or any x-radiation producing equipment shall immediately report such incident to the Department.
§760-1508 Notice of Treatment
Any professional practitioner who treats or diagnoses any radiation ailment or radiation injury shall notify the Department as required by the New York State Sanitary Code, this Code, or the requirements of the Department.

§760-1509 Notification of Transportation of Radioactive Materials
A. No person shall ship, transport, convey or receive radioactive materials in categories listed in Subsection B unless said person, not less than forty-eight (48) hours prior thereto, shall notify the Commissioner, in writing and by telephone, of the proposed shipment, transport, conveyance or receipt. It shall be the sole discretion of the Commissioner upon request to accept any notice required herein within a period less than the forty-eight (48) hour period. Such notice shall set forth:

1. Date of shipment.
2. Place of shipment.
3. Name and address of shipper and official authorized to act for same.
4. Category identification of the type and quantity of radioactive materials.
5. Methods of transportation.
6. Route of transportation.
7. Date of destination.
8. Place of destination.
9. Name and address of person to receive such radioactive material and name of official authorized to act for same.
10. Vehicle license number.
11. Provisions for surveillance in the event that radioactive materials do not reach stated destination as scheduled.
12. Procedures undertaken to minimize the limits of radiation and the possibility of contamination from said radioactive materials.

B. Notification is required of:

1. Any shipment of solid, liquid or gaseous radioactive materials equivalent to or exceeding the following amounts:
   a. Twenty (20) curies of Group I radionuclides.
   b. Twenty (20) curies of Group II radionuclides.
   c. Two hundred (200) curies of Group III radionuclides.
   d. Two hundred (200) curies of Group IV radionuclides.
e. Five thousand (5,000) curies of Group V radionuclides.
f. Fifty thousand (50,000) curies of Group VI radionuclides.
g. Fifty thousand (50,000) curies of Group VII radionuclides.

(Reference: Title 49 Code of Federal Regulations, Section 173.390)

2. Spent nuclear fuel;

3. Any quantity of radioactive materials of plutonium 238, 239, 241, uranium 233, 235, or any material containing these radioisotopes;

4. Any shipment of radioactive wastes;

5. Transportation of any package exceeding ten (10) milligrams of radium 226.

C. If the Commissioner finds that any of the information included under §760-1509, subsection A is unsatisfactory or the procedures are unsafe or are not in compliance with existing regulations, the Commissioner may determine that a proposed shipment should not be made as scheduled. Notice of such determination shall be given to the shipper, transporter, receiver, and any others properly concerned whereupon the shipment will not be made until permission therefor has been given.

D. Any person transporting radioactive materials shall immediately notify the Commissioner in the event of an accident, loss, theft, breakdown, or any other incident during transport that is not set forth in the notification required by Subsection A herein above.

ARTICLE 16
RECREATIONAL FACILITIES

§760-1601 Declaration of Policy
Recreation is an important component of the lifestyle of Suffolk County residents as well as a significant industry attracting tens of thousands of visitors annually. Recreational venues are many and varied in scope each posing unique potential hazards to the health and safety of those engaging in such activities. It is the policy of the County of Suffolk to protect the health and safety of the public, both resident and visitor, at all permitted recreational facilities.

§760-1602 Statement of Purpose
It is the intent and purpose of this Article to safeguard the public health by assuring the maintenance of a sanitary, safe and healthful environment, free of preventable hazards, for the public, when using the many and varied recreational facilities within the County of Suffolk.

§760-1603 Applicability
This article and its provisions are in addition to other applicable regulations in this Code and supplemental to all other New York State regulations and shall apply to all permitted recreational facilities except those:

A. Owned and/or maintained by an individual for the sole use of his family and friends;

B. Used only under medical supervision or associated with hospitals.

§760-1604 Definitions
Whenever used in this Article, unless otherwise expressly stated, or unless the context or subject matter requires a different meaning, the following terms shall have the respective meanings as set forth or indicated as follows:

A. Recreational Facility shall mean a facility having a bathing beach, swimming pool, wading pool or spa pool as defined in 10 NYCRR §6-1.2 and §6-2.2.

B. Qualified Swimming Pool Treatment Operator shall mean an individual possessing evidence of the successful completion of either of the following courses:

1. A New York State Department of Health Water Treatment Plant Operator Certification Course Type A or B; or

2. A course of instruction approved by the New York State Department of Health.

C. Medical Supervision shall mean treatment provided by a medical professional following a physician's written orders.

D. Uniform Code shall mean the New York State Uniform Fire Prevention and Building Code, 9 NYCRR, Subtitle S, Chapter I.
§760-1605 Enforcement Provisions; Powers and Duties of the Commissioner
A. The Commissioner may:

1. Inspect recreational facilities for compliance with all applicable rules and regulations;

2. Collect information appropriate to determine if a facility is being maintained and operated in compliance with applicable provisions of this Article and all other New York State regulations;

3. Engage in engineering and enforcement activities for the protection of the public health relative to the use of recreational facilities;

4. Take appropriate administrative or legal action which may include imposing or seeking fines for failure to comply with this Article;

5. Promulgate and establish standards to affect the purpose of this Article;

6. Engage in any other such actions as may be deemed necessary to protect the public health and safety.

B. The Commissioner may delegate this authority where appropriate.

§760-1606 Certified Pool Operator Requirement
Every swimming pool at a recreational facility (including wading pools and spa pools) shall be operated by at least one individual, on site, possessing certification as a Certified Pool Operator (CPO) as defined elsewhere in this Article and subject to the Standards accompanying this Article. A CPO associated with a homeowners association, condominium or cooperative, as defined in 10 NYCRR §6-1.2(p), must be an employee or full-time resident of the association, condominium or cooperative, but need not be on-site at all times of pool operation.

§760-1607 Ventilation Requirement
Every indoor recreational facility shall have ventilation designed, installed, operated and maintained in accordance with the requirements of the Uniform Code and the New York State Sanitary Code Part 6, as applicable. Other requirements, as defined in the Standards accompanying this Article, shall apply.

§760-1608 Supervision Requirement
Supervision shall be required at all recreational facilities (defined in §760-1604A). The level and type of supervision shall be in accordance with standards promulgated by the Commissioner and by the New York State Department of Health provided that supervision standards which may be promulgated by the Commissioner are not inconsistent with those promulgated by the New York State Department of Health.

§760-1609 Cardiopulmonary Resuscitation (CPR) Requirement
A. With the exception of facilities exempt from the supervision requirement as designated in 10 NYCRR §6-1.23(a) (Homeowners Associations, Cooperatives and Condominiums), facilities not otherwise required to have a qualified lifeguard shall have at least one person, a minimum of eighteen years of age, possessing American Red Cross (ARC) Community CPR or equivalent cardiopulmonary resuscitation certification, on premises whenever any recreational facility is open to patrons. The certification period must not exceed one year.
B. There shall be certain specific, required CPR apparatus on site as defined in the Standards accompanying this Article.

C. There shall be certain specific signage and posting requirements as defined in the Standards accompanying this Article.

§760-1610 Safety Plan Requirement
A safety plan shall be required at all recreational facilities, in accordance with the standards promulgated by the Commissioner and the New York State Department of Health.

§760-1611 Operating Permit Requirement
An operating permit shall be required for all recreational facilities.

§760-1612 Swim Diaper Requirement
In accordance with 10 NYCRR §6-1.24, the release of fecal matter to the waters of a swimming pool, wading pool or spa pool is prohibited. A placard reading, “The Suffolk County Department of Health Services recommends that swim diapers be worn by bathers who are incontinent, lack toilet training or are otherwise lacking voluntary control of excretory functions.” shall be posted at the facility, and the recommendation shall be conveyed to facility patrons as appropriate.

§760-1613 Exemptions
In accordance with 10 NYCRR Chapter I, Subpart 6-2, the requirements of this Article shall not apply to bathing beaches that are owned and operated by a condominium (i.e., property subject to Article 9-B of the Real Property Law, also known as the Condominium Act), a property commonly known as a cooperative, in which the property is owned or leased by a corporation, the stockholders of which are entitled, solely by reason of their ownership of stock in the corporation, and occupy apartments for dwelling purposes, provided an “offering statement” or “prospectus” has been filed with the Department of Law, or an incorporated or unincorporated property association, all of whose members own residential property in a fixed or defined geographical area with deeded rights to use, with similarly situated owners, a defined bathing beach, provided such bathing beach is used exclusively by members of the condominium, cooperative apartment project or corporation or association and their family and friends.

(Adopted 12/16/1998; Effective 5/17/1999)
ARTICLE 17
PETTING ZOOS

§760-1701  Purpose
The purpose of this Article is to protect public health by minimizing the risk of transmission of zoonotic illnesses at petting zoos and to facilitate the Department’s investigation of and response to any such occurrences. Of special concern is the transient nature of the visitors and mobile or traveling petting zoos originating outside Suffolk County.

§760-1702  Applicability
The requirements of this Article shall apply to facilities, operations, or activities in which direct contact by the public with animals is promoted or encouraged, and not merely incidental or casual. Petting zoos may include, but not be limited to: animal rides, carnival animal exhibits, circuses, fairs, performing animal exhibitions, pet shops, petting zoos, photo opportunities, shows and zoos. The requirements of this Article shall not apply to: equestrian facilities; equine performances, rides, demonstrations, or parades; animal hospitals; animal shelters; humane societies; boarding or breeding kennels/catteries; dog and cat shows; or, any establishment with the purpose of training, leasing, or selling guard or service animals. The requirements of this Article shall not apply to wildlife rehabilitators licensed pursuant to New York State Environmental Conservation Law.

§760-1703  Pet Shops
Pet shops shall be exempt from all provisions of this Article except §760-1714 Information/Signage and §760-1712 Contagious Diseases. Direct public contact with animals manifesting signs of zoonotic illness shall not be permitted unless a licensed veterinarian certifies the animal is no longer contagious.

§760-1704  Definitions
As used in this Article, the following words and terms shall have the indicated meanings:

Actively immunized shall mean that the animal has been injected with a rabies vaccine suitable to the species and which meets the standards prescribed by the United States Department of Agriculture for interstate sale and which was administered according to the manufacturer’s instructions under the direction of a duly licensed veterinarian not later than the expiration date on the package. Active immunization shall begin fourteen days following primary vaccination or immediately following a booster vaccination, and continue for the period stated in the manufacturer’s instructions.

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

Animal shall mean every non-human species of animal both domestic and wild including but not limited to dogs, cats, livestock and fowl.

Approved vaccine shall mean any rabies vaccine which meets the standards prescribed by the United States Department of Agriculture for interstate sale.
Certificate of immunization shall mean a signed statement issued by the veterinarian containing the following information: name and address of the owner, date or dates of vaccination, type of vaccine administered and duration of immunity, amount and manner of administration, name of manufacturer of the vaccine, and the lot number and expiration date of the vaccine. The certificate of immunization for domestic livestock may include multiple animals. The system of identification applicable to the livestock is to be used.

Exposure shall mean introduction of the rabies virus into the body of a human or animal. Any penetration by mouth to the skin of humans or animals constitutes a bite exposure. A nonbite exposure is a scratch, abrasion, open wound, or contamination of mucous membranes with saliva or other potentially infectious material from a rabid animal.

Permit Issuing Official shall mean the Suffolk County Commissioner of Health Services of the director of public health as an additional person authorized to issue the permits required by this Article.

Person shall mean an individual, or firm, estate, partnership, company, corporation, trustee, association, or any public or private entity.

Pet Shop shall mean any room or group of rooms, cage or pen, not part of a kennel, pound, shelter or veterinary clinic or hospital wherein dogs, cats or other animals are kept or displayed for retail sale.

Petting Zoo shall mean any permanent or mobile establishment or premises where living animals are displayed to the public in a manner in which direct contact by the public with animals is promoted or encouraged, and not merely incidental or casual.

Proof of active immunization shall mean any permanent or mobile establishment or premises where living animals are displayed to the public in a manner in which direct contact by the public with animals is promoted or encouraged, and not merely incidental or casual.

§ 760-1705 Permit
Permit to operate a petting zoo required; application, issuance, revocation, posting.

A. No person shall operate any petting zoo without a permit to do so from the permit-issuing official. No organizer of a temporary event shall allow on the premises of the temporary event any petting zoo that does not have a permit from the permit-issuing official.

B. Application for a permit to operate a petting zoo shall be made to the permit issuing official, on a form and in a manner described by the permit-issuing official, by the person who will operate the petting zoo. Application for a permit to operate a petting zoo shall be made at least thirty (30) days before the first day of proposed operation of such petting zoo or prior to the expiration of an existing permit. An application shall be filed for a new permit, following the revocation of a permit, 30 days before the proposed resumption of operation of the petting zoo. In the event of an intended change of operator of a petting zoo, the new operator shall apply for a permit before the change is effected. An application for a permit shall be filed before a change in the name or address of a petting zoo is made. Permits for petting zoos shall be issued for a period of not more than three years from the date of issue.

C. A permit shall not be transferable or assignable.
D. A permit may be revoked if the permit-issuing official finds that the petting zoo for which the permit was issued is maintained or operated in violation of law, this Article, or the sanitary code.

E. A permit issued for the operation of a petting zoo shall be posted in a place on the premises conspicuous to the public.

F. The permit-issuing official may establish procedures for the exchange of information with other Federal, State or local governmental agencies having responsibility for making inspections of petting zoos as defined in this Article, and may utilize the information provided by any such agency in making a determination regarding the issuance of a permit required by this Article.

G. A person to whom any permit is issued shall comply with the provisions of this Article and with all conditions stated in the permit, and shall allow the permit-issuing official or his representative to enter the premises at any reasonable time to ascertain compliance with this Article.

H. Adequate staff shall be provided to assure proper operation of the petting zoo.

I. Petting zoo staff shall be clearly identifiable.

§760-1706 Generally Accepted Standards
Generally accepted standards for the enforcement of this Article shall include, but not be limited to, current editions or versions of the: National Association of State Public Health Veterinarians (NASPHV) *Copendium of Animal Rabies Prevention and Control*, National Association of State Public Health Veterinarians *Compendium of Measures to Prevent Disease and Injury Associated with Animals in Public Settings*, New York State Department of Agriculture and Markets *Fair Season Regulations* and New York State Department of Health *Model State Program for Management of Livestock in Rabies Enzootic Areas*.

§760-1707 Animal Identification
Animals having contact with the public shall be uniquely identified. Acceptable identification allows positive matching of the animal to all accompanying documents including papers with laboratory test results and vaccination statements. If a sketch or photograph is to be used for official identification of an animal, the sketch or photograph shall contain the signature of the attending veterinarian and date. Sketches and descriptions should reference color pattern, hair whorls, chestnuts, scars and other markings. Drawings shall positively identify the individual animal. A name or a statement of color without additional distinguishing features or man made identification is not acceptable identification.

§760-1708 Attendance Log
An attendance log or guest log shall be made available for use by those visitors having direct contact with animals. The log shall provide for date of visit, name, address and telephone number. Attendance logs shall be maintained by the operator for a minimum of six months. Attendance logs shall be made available to the permit-issuing official upon request.

§760-1709 Separation
Separation between animal areas and food service areas shall be as prescribed in Article 13 of this code. Contemporaneous food service or consumption in areas where there is direct public contact with animals is prohibited.
§760-1710 Supervision
Petting zoo staff shall provide adequate supervision of visitors.

§760-1711 Compliance with Other Codes, Rules and Regulations
All petting zoos shall be in compliance with applicable Federal, State and local codes, rules and regulations.

§760-1712 Contagious Diseases
Direct public contact with animals manifesting signs of zoonotic illness shall not be permitted unless a licensed veterinarian certifies the animal is no longer contagious.

§760-1713 Hand Washing
Adequate hand wash facilities, accessible to children and adults, shall be located within 100 feet of all areas where the general public is allowed to come into direct contact with animals. These facilities shall be constructed of easily cleanable materials, and maintained is a sanitary condition and in good repair and adequate signs shall be conspicuously posted indicating the location of the hand wash facilities.

§760-1714 Information/Signage
Information and signage shall be provided. Persons promoting or encouraging direct public contact with animals shall inform visitors about the risk for transmission of pathogens from animals to humans, and strategies for prevention of such transmission. Signage shall indicate that hand-mouth activities such as eating, drinking, smoking and carrying toys and pacifiers should not occur while there is direct contact with animals, that hand washing should immediately follow direct contact with animals, and that children should be provided adult supervision.

§760-1715 Itinerary
Mobile or traveling petting zoos shall maintain an itinerary for the six months immediately preceding and six months immediately succeeding stops within Suffolk County. The itinerary shall include: dates, site name or location, city, state, regulatory agencies and telephone numbers for all stops. Itineraries shall be made available to the permit-issuing official upon request.

§760-1716 Notification of Alleged Bite, Contact or Illness
The operator of a petting zoo shall report immediately to the permit-issuing official, the full name, age, address, and telephone number of any person who has been exposed to any animal suspected of having rabies or known to have an illness communicable to humans, and all pertinent facts relating to such exposure. The operator shall maintain a log of such occurrences. Such logs shall be made available to the permit-issuing official upon request.

The operator of a petting zoo having knowledge of the existence of an animal exhibiting clinical signs suggestive of rabies shall report immediately to the permit-issuing official.

§760-1717 Rabies Vaccination
All mammals at least three months of age for which there is a USDA licensed rabies vaccine shall be actively immunized prior to allowing direct public contact at a petting zoo.

Proof of active immunization for rabies shall be made available to the permit-issuing official upon request.
For mammals entering Suffolk County and not actively immunized for rabies, direct public contact is prohibited for 10 days immediately following their departure from Suffolk County. Where such isolation is impractical, a certificate of veterinary inspection indicating the animal is free of rabies symptoms shall be submitted on the 11th day following the animal’s departure from Suffolk County.

Whenever the State Commissioner of Health confirms that rabies exist in terrestrial animals in Suffolk County, there shall be no further direct public contact with unvaccinated or “off-label” vaccinated mammals.

§760-1718 Variance and Waivers

A. Variance—In order to allow time to comply with a provision of this Article, an operator may submit a written request to the permit-issuing official for a variance. A request for a variance will not be considered unless the operator demonstrates that the health and safety of the public will not be prejudiced by the variance, and that there are practical difficulties or hardships in immediate compliance with the provision. An operator must meet all terms and conditions of an approved variance.

B. Waiver—In order to obtain a waiver permitting alternative arrangements that do not meet the provisions of this Article but do protect the health and safety of the public, an operator may submit a written request to the permit-issuing official for a waiver from a specific provision of this Article. Such request must demonstrate that the alternative arrangements provide adequate protection of the health and safety of the public. An operator must meet all terms of an approved waiver. Where necessary, a waiver will remain in effect indefinitely unless revoked by the permit-issuing official or the facility changes operators.