

Livingston County Board of Supervisors  
Geneseo, New York



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**LIVINGSTON COUNTY BOARD OF SUPERVISORS  
ADOPTION OF LOCAL LAW**

**LOCAL LAW NO. 4 - 2020 SANITARY CODE OF THE COUNTY OF LIVINGSTON**

Be it enacted by the Board of Supervisors of the County of Livingston as follows:

**SECTION ONE** – The Livingston County Board of Supervisors hereby adopts the following as the Sanitary Code of the County of Livingston:

**ARTICLE I - DEFINITIONS AND GENERAL PROVISIONS**

**Section 1. Title.**

1.1 The rules and regulations herein contained shall be known as the “Livingston County Sanitary Code.”

**Section 2. Definitions.** Whenever used in this Code, unless otherwise expressly stated or the context or subject matter requires a different meaning, the following terms shall have the respective meanings hereinafter set forth or indicated:

2.1 “Board of Health” shall mean the Livingston County Board of Health.

2.2 “Chief Executive Officer” shall mean the Public Health Director of the Department of Health who, with appropriate medical and other technical consultation as approved by the New York State Department of Health, serves as primary administrator of all health programs in the Department of Health provided, however, in the event that the County of Livingston establishes the position of County Health Commissioner, then, in such event, and upon the effective date of the creation of such position, the term “Chief Executive Officer” shall mean the County Health Commissioner of the Department of Health. The powers and duties of the Chief Executive Officer as herein defined shall be those conferred upon such officer by applicable provisions of the State Public Health Law and State Sanitary Code.

2.3 “Complaint” shall mean a written or oral allegation by one party against another.

2.4 “Department of Health” shall mean the Livingston County Department of Health established on November 19, 1968 by Livingston County Board of Supervisor’s Resolution Number 68-171.

2.5 “Farming Operation” is as defined by Section 301 of Article 25-AA of the Agriculture and Markets Law of the State of New York and generally means the land and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise.

2.6 “Permit” shall mean written approval to engage in specific activities regulated by the Sanitary Code.

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- 2.7 “Persistent Noncompliance” (PNC) occurs when a regulated entity violates provisions of the State Public Health Law, State Sanitary Code or Sanitary Code on more than two (2) site visits or inspections during the course of a calendar year.
- 2.8 “Person” shall mean an individual, group of individuals, partnership, firm, corporation, association, county, city, town or village or improvement district.
- 2.9 “Premises” is a lot, plot or parcel of land, easement or public way, including any structures thereon.
- 2.10 “Public Health and Health Planning Council” shall mean the Public Health and Health Planning Council of the New York State Department of Health.
- 2.11 “State Public Health Law” shall refer to the body of statutes constituting chapter forty-five of the consolidated laws of New York State.
- 2.12 “Repair Orders” shall mean a document issued by the Chief Executive Officer that directs an owner or operator to make repairs to a piece of equipment, structure, system, or item that is identified as being necessary to prevent the occurrence of a condition that could result in a public health hazard, Public Health Nuisance, or result in the release of Offensive Materials. The Repair Order shall identify the equipment, structure, system or item in need of repair, set a timeframe for completion of the repair, and indicate acceptable evidence that the repair has been completed, such as providing a receipt or bill of sale from an established vendor capable and qualified to make the required repairs.
- 2.13 “Sanitary Code” shall mean and comprise the rules and regulations now or hereinafter formulated, promulgated, and adopted by the Livingston County Board of Health pursuant to Section 347 of the State Public Health Law.
- 2.14 “State Sanitary Code” shall mean the sanitary code established by the Public Health and Health Planning Council of the New York State Department of Health.
- 2.15 “Violation” shall mean non-compliance or non-conformance with any provision of the Sanitary Code, State Sanitary Code or State Public Health Law.

### **Section 3. Sanitary Code.**

- 3.1 The provisions of the Sanitary Code shall be in force throughout Livingston County. Unless otherwise required by the State Public Health Law or the State Sanitary Code, the enforcement of provisions of the Sanitary Code shall be subject to the restrictions imposed by Section 305-a of Article 25-AA of the Agriculture and Markets Law of the State of New York. The restrictions imposed by Section 305-a of Article 25-AA of the Agriculture and Markets Law of the State of New York shall also apply to persons actively engaged in farming operations on land not located within an agricultural district.

### **Section 4. Interference with Notices.**

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- 4.1 No person shall remove, mutilate, or conceal any notice or placard of the Department of Health posted in or on any premises or public place except by permission of the Chief Executive Officer.

### **Section 5. Special Provisions.**

- 5.1 The regulations of this code shall be supplemental to the regulations, rules and orders of the applicable parts of the State Sanitary Code, State Public Health Law, and other New York State laws relating to public health.

### **Section 6. Inspections.**

- 6.1 All premises covered by the regulations of the Sanitary Code located in Livingston County shall be subject to inspection by the Chief Executive Officer or his/her duly authorized representative. Inspections may include but not be limited to investigations, observations, interviews, review of written materials and collection of samples and testing.
- 6.2 No person shall refuse to allow the Chief Executive Officer or his/her duly authorized representative to fully inspect any and all premises and no person shall molest or resist the Chief Executive Officer or his/her duly authorized representative in the discharge of their duties.

### **Section 7. Permits.**

- 7.1 Applications - All applications for permits or written approval herein required shall be made upon forms prescribed and furnished by the Department of Health, and shall be signed by the applicant, who shall be the person responsible for compliance with the conditions of the permit or approval applied for, or legally authorized agent thereof. Such application shall contain or have attached thereto such date, information, documents and plans as may be required.
- 7.2 Permits; Nontransferable - A permit issued to a particular person or for a designated place, purpose, or vehicle shall not be valid for use by any other person, or for any other place, purpose or vehicle than that designated therein.
- 7.3 Permits; Conditions - Such permits or written approvals may contain general and specific conditions and every person who shall have obtained a permit or written approval, as herein required, shall conform to the conditions prescribed in said permit or written approval and to the provisions of the Sanitary Code. Each such permit shall expire on the date stated in the permit or until revoked, and may be renewed or extended by the Chief Executive Officer after due notice and review, or temporarily suspended pending a hearing. Notwithstanding the foregoing provisions, in the event that any of the terms, conditions and provisions of a permit issued or written approval granted is or may subsequently be less restrictive than the State Public Health Law or the State Sanitary Code, then the more restrictive provisions of the State Public Health Law or State Sanitary Code shall govern.
- 7.4 Permits; Property of the Department of Health - All permits issued hereunder shall remain the property of the Department of Health and shall, on demand, be surrendered to an authorized representative of the Department of Health, whenever any such permit expires, is suspended or revoked. Permits shall

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be posted conspicuously on the premises or carried in the vehicle for which they are issued and shall be produced on request of the Chief Executive Officer, or his/her duly authorized representative.

7.5 Permits; Authority Not to Renew – Notwithstanding any other provision of law, the Department of Health shall not be required to issue and/or renew any license, permit or certificate of qualification, authority or operation of any business, individual or other entity if such business, individual or other entity has failed to pay any outstanding fees, civil fines or penalties assessed by the Department of Health or Board of Health for licensing or regulatory matters or is in Persistent Noncompliance.

## **Section 8. Fees.**

8.1 The Board of Health may determine and set fees for any permits issued or services provided by the Department of Health, subject to approval by the Livingston County Board of Supervisors. The fee shall be set to defray the cost of services provided in connection with the permit issued.

8.2 All fees shall be payable to the Livingston County Department of Health.

## **Section 9. Separability Clause.**

9.1 In the event that any section, paragraph, sentence, clause or phrase of this Sanitary Code shall be declared unconstitutional or invalid for any reason, the remainder of said Sanitary Code shall not be affected thereby and shall remain in full force and effect.

## **ARTICLE II - SEWAGE TREATMENT—INDIVIDUAL SYSTEMS**

### **Section 1. Applicability.**

1.1 This article shall apply to the construction and maintenance of all individual sewage treatment systems located within Livingston County which are designed and installed to discharge sewage without admixture of industrial or other waste to the ground waters of New York State, from a dwelling designed to house less than three families, or any other establishment from which the sewage flow is determined to be less than one thousand gallons per day.

### **Section 2. Definitions.**

2.1 “Individual Sewage Treatment System” means a complete or incomplete system of piping, tanks and other facilities for the on-site collection, treatment and disposal of sewage, or other liquid wastes into the soil of one or more parcels of land (applicability defined in Section 1).

2.2 “Chief Executive Officer” shall mean the Public Health Director of the Department of Health who, with appropriate medical and other technical consultation as approved by the New York State Department of Health, serves as primary administrator of all health programs in the Department of Health provided, however, in the event that the County of Livingston establishes the position of County Health Commissioner, then, in such event, and upon the effective date of the creation of such position, the term “Chief Executive Officer” shall mean the County Health Commissioner of the

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Department of Health. The powers and duties of the Chief Executive Officer as herein defined shall be those conferred upon such officer by applicable provisions of the State Public Health Law and State Sanitary Code.

- 2.3 “Community Sewerage System” shall mean 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 waste serving more than one (1) lot whether owned by a municipal corporation or private utility.
- 2.4 “Department of Health” shall mean the Livingston County Department of Health established on November 19, 1968 by Livingston County Board of Supervisor’s Resolution Number 68-171.
- 2.5 “Design Professional” is a person licensed or registered in the State of New York and authorized by the State Education Law to design the systems described in Part 75 standards.
- 2.6 “Director” shall mean the Director of the Center for Environmental Health of the Livingston County Department of Health.
- 2.7 “Part 75” shall mean Part 75 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York.
- 2.8 “Sewage” means human excreta or the water-carried discharge of the human body and/or the liquid wastes from residences, businesses, recreation or trade establishments or other places, without the admixture of industrial or other wastes. It is understood that sewage in this article refers only to those effluents from premises not required to have New York State Department of Environmental Conservation approval. The Livingston County Department of Health may require written verification of New York State Department of Environmental Conservation jurisdiction.
- 2.9 “State Standards” shall mean Appendix 75-A, Wastewater Treatment Standards—Individual Household Systems, pursuant to the authority vested in the New York State Commissioner of Health by Section 201(1)(1) of the State Public Health Law.

### **Section 3. Disposal Requirements.**

- 3.1 No person shall discharge, or permit or cause to be discharged untreated sewage, the overflow effluent or contents of a septic tank, or other putrescible, impure, or offensive wastes into an abandoned well, sink hole, crevice or opening extending into limestone, sandstone, or other rock or shale formation, or any water course or surface body of water in Livingston County or into any storm water sewer or drain or roadside ditch or onto the surface of the ground, unless otherwise permitted by the New York State Department of Environmental Conservation.
- 3.2 Where no approved Community Sanitary Sewerage System is available, each residence provided with a water supply, plumbing fixtures, or with a receptacle to create a sanitary flow, shall be equipped with an Individual Sewage Treatment System. Greywater systems shall not be excluded.

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- 3.3 No permits for the construction or repair of an Individual Sewage Treatment System shall be issued for property accessible to a public or municipal sanitary sewerage system.
  - 3.4 Any person who is engaged, in whole or part, in the business of installing septic tanks or private sewage treatment systems shall obtain approval from the Department of Health in accordance with the provisions of Section 9 of this Article. The application for such registration and approval shall be on a form prescribed and furnished by the Director. Any person who installs septic tanks or individual sewage treatment systems and who fails or refuses to register and obtain approval shall be in violation of the Sanitary Code and shall be subject to enforcement as set forth in Article VI, Section 1 of the Sanitary Code. Any sewage treatment system installed by a non-approved installer will not be approved by the Department of Health.

### **Section 4. Installation Permit.**

- 4.1 The property owner or his/her designated agent shall make application for a permit to the Chief Executive Officer for the construction or installation of an Individual Sewage Treatment System prior to the start of work.
- 4.2 The applications shall be made in writing on a form prescribed by the Chief Executive Officer and shall contain all pertinent information relative to the location, construction and installation of an Individual Sewage Treatment System and any other information required by the Chief Executive Officer.
- 4.3 For all new Individual Sewage Treatment Systems, plans prepared by a Design Professional shall be submitted to the Department of Health for review and approval, in accordance with the State Standards. A Design Professional may be required for designing repairs to an existing Individual Sewage Treatment System if deemed necessary by the Chief Executive Officer or his/her designee.
- 4.4 No person shall construct, install, or modify an Individual Sewage Treatment System within Livingston County without having filed for and received a written permit from the Chief Executive Officer.
- 4.5 An Individual Sewage Treatment System shall be constructed or installed within two (2) years from the date of issuance of the permit therefore except as provided in subdivision 4.6 of this section. If the Individual Sewage Treatment System has not been constructed or installed within two (2) years from the date of issuance of the permit, the permit shall automatically expire. No additional periods of time will be granted to the permittee to complete his/her system unless, upon good cause shown by the permittee to the Chief Executive Officer, an additional period of time (not to exceed one (1) year) is granted beginning either at the time of the request for an extension, if the permit has already expired, or to be added onto the original expiration date should the permit still be valid at the time of the request (whichever is a longer duration). Any permit that has been expired in excess of ten (10) years will not be granted an extension and permittee shall be required to resubmit the documents required to obtain a new permit, including but not limited to fees and applications.

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- 4.6 An Individual Sewage Treatment System required in order to correct a violation shall be constructed or installed prior to the date of permit expiration unless, upon good cause shown by the permittee to the Chief Executive Officer, an additional period of time is granted. The permittee is required to apply for the permit within two weeks of the date of the notice of violation letter issued to the permittee unless, upon good cause, an additional period of time is granted.
  - 4.7 Any person who constructs, provides, or begins construction of an Individual Sewage Treatment System without first obtaining a permit to construct such system or facility according to the terms or conditions of the permit or approved amendments thereto is in violation of the Sanitary Code and shall be subject to enforcement as set forth in Article VI, Section 1 of the Sanitary Code.
  - 4.8 The Chief Executive Officer may refuse issuance of an installation permit or renewal thereof, to construct, or install an Individual Sewage Treatment System, or, after notice and/or a hearing, revoke or suspend same, if, upon investigation and/or review of submitted information, it is determined the site does not comply with State Standards, or if false or erroneous information was furnished to acquire a permit.
  - 4.9 The Chief Executive Officer may allow for the transfer and/or modification of a valid permit to another party upon receipt of an application by the parties seeking the transfer. The date of expiration of the permit being transferred shall not be extended except as provided in subdivision 4.5. A fee set by the Chief Executive Officer will be charged to process such a transfer and/or modification.

### **Section 5. Design, Construction and Installation.**

- 5.1 All new Individual Sewage Treatment Systems shall be designed, constructed and installed in accordance with the State Standards. The specifications of any new Individual Sewage Treatment System shall be based on the results of at least two percolation tests and one deep hole test. The Department of Health or its designated representative may be required to witness the deep hole. Additional deep hole tests may be required by the Department of Health as deemed necessary. The design flow per bedroom shall be in accordance with Section 75-A.3 of the State Standards.
- 5.2 A homeowner who chooses to install an aerobic unit instead of a septic tank must meet all requirements prescribed in the State Standards.
- 5.3 The Department of Health or its designated representative, or Design Professional, as deemed necessary, shall be present at the site of a private sewage treatment system during final inspection. Any person who has constructed or installed a septic tank or private sewage treatment system shall also be present at the time of the final inspection.

### **Section 6. Specific Waiver in Accordance with Part 75.**

- 6.1 Where a violation exists and the site conditions exist which makes strict conformance with State Standards impossible or impractical, the Chief Executive Officer may waive specific code requirements. Approval or denial of such a waiver will be based upon completion and submission of a waiver application form which must contain sufficient documentation demonstrating that the granting

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of such a waiver will not pose an unacceptable health and/or environmental risk. All new construction shall adhere to the State Standards and a specific waiver may only be granted if said application demonstrates that the proposed deviation from Appendix 75-A requirement(s) will provide a degree of protection equivalent to the intent of Appendix 75-A and will not result in an increased risk to public health or the environment.

### **Section 7. Inspections**

- 7.1 A final inspection of the Individual Sewage Treatment System must be conducted to verify correct installation in accordance with plan requirements and permit conditions. The inspection must be performed by a Design Professional or Department of Health representative.
- 7.2 No portion of the Individual Sewage Treatment System shall be covered with soil or be placed into operation until the system has been inspected and approved by the Chief Executive Officer or his/her designated representative. The Chief Executive Officer may require the system to be uncovered if back filled without such authorization.
- 7.3 The Chief Executive Officer or his/her representative may make inspections during the course of construction of the Individual Sewage Treatment System to verify compliance with this regulation.
- 7.4 No Individual Sewage Treatment System shall be put into service until written approval is issued by the Chief Executive Officer and final grading of the system has been completed. The Chief Executive Officer or his/her representative may authorize a system's use pending issuance of the written approval and final grading if necessary to correct existing health hazards, provided a new health hazard would not be created. The Chief Executive Officer or his/her designee may approve the use of an Individual Sewage Treatment System on a conditional basis when final grading has not been completed due to weather conditions. When use of an Individual Sewage Treatment System is authorized before final grading has occurred, a written agreement between the permittee and the Department of Health which identifies an acceptable date for completion shall be required.

### **Section 8. Exposure or Discharge of Sewage.**

- 8.1 It is a violation of this Sanitary Code to allow the exposure or surface discharge of sewage. No person shall maintain or operate any Individual Sewage Treatment System, so as to expose or discharge sewage or sewage effluent there from onto the surface of the ground, or any water course or surface body of water in Livingston County or into any storm water sewer or drain or roadside ditch or in any manner potentially hazardous to the health of others. Any Individual Sewage Treatment System so maintained or operated shall be corrected to prevent the exposure or discharge of sewage or sewage effluent onto the surface of the ground, or any water course or surface body of water in Livingston County or into any storm water sewer, drain or roadside ditch or hazard to the health of others. The provisions of this Section shall not apply to those discharges of sewage effluents duly approved and permitted under Article 17 of the Environmental Conservation Law.

### **Section 9. Installers of Individual Sewage Treatment Systems.**

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- 9.1 No person shall install an Individual Sewage Treatment System in Livingston County unless there is a valid permit issued by the Chief Executive Officer pursuant to this Article.
  - 9.2 All installers of Individual Sewage Treatment Systems must obtain approval from the Department of Health. To obtain approval an installer must demonstrate the ability to install Individual Sewage Treatment Systems in accordance with State Standards, as that term is defined in the Sanitary Code. An installer must also demonstrate the ability to Install Individual Sewage Treatment Systems by providing the Department of Health with a list of previously installed and approved Individual Sewage Treatment Systems or by providing proof of other relevant experience in Installing Individual Sewage Treatment Systems.
  - 9.3 All installers agree to be subject to performance checks by the Department of Health. An installer's approval may be revoked by the Department of Health if it is determined that the installer is not complying with Article II of the Sanitary Code or State Standards.
  - 9.4 An installer, after obtaining approval to install an Individual Sewage Treatment System, shall install the system according to the installation permit and all conditions contained within the permit.
  - 9.5 An installer shall cease installation if it is determined that the system cannot be installed according to the permit and Part 75-A Standards and shall immediately contact the Department of Health and the Design Professional to discuss acceptable design changes to reach compliance with the permit and applicable regulations.
  - 9.6 The Department of Health, its designee or the Design Professional will serve as a consultant to the installer should a question/problem occur on site regarding the installation of the system. All installers must have the ability to adjust the Individual Sewage Treatment System in accordance with any suggested changes by the consultant.
  - 9.7 An installer shall be present during the final inspection.
  - 9.8 Any Individual Sewage Treatment System installed by a non-approved installer will not be approved by the Department of Health.

### **Section 10. Sewage Treatment System Cleaners.**

- 10.1 Collection, transportation and final disposal of material removed, drained or flushed from sewage treatment systems shall be performed in a safe, sanitary manner and in accordance with the New York State Environmental Conservation Law, Section 27-0301 *et seq.* and Part 364 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

## **ARTICLE III - NUISANCE ABATEMENT**

### **Section 1. Definitions**

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- 1.1 “Approved Disposal Area” shall mean a specific area, site or location operated under a permit or approval of the New York State Department of Environmental Conservation or a location using a generally acceptable method of waste management.
  - 1.2 “A Public Health Nuisance” is a condition that causes a common injury adversely affecting the health and/or safety of the residents of the local community.
  - 1.3 “Offensive Material” shall mean any offal, sewage, fecal matter, urine, refuse, rubbish, garbage, dead animals, meat wastes, body fluids, or any putrescible matter or any solid, liquid or gaseous material which the Chief Executive Officer or his/her designee determines may be dangerous to or adversely affect health.

### **Section 2. Policy**

- 2.1 It is the policy of the Department of Health to prevent the transmission of communicable diseases to residents of Livingston County by preventing exposure to sources or potential sources of such diseases. It is the policy of the Department of Health to prevent or have abated all Public Health Nuisances that may be detrimental to the life and health of the citizens of Livingston County.
- 2.2 Any person who causes a Public Health Nuisance or condition that may adversely affect health is in violation of the Sanitary Code.

### **Section 3. Filing Complaints**

- 3.1 Complaints shall be received in any form so that prejudice with regard to literacy, language, religion, ethnicity or other cause may be avoided. Complaints must include a description of the concern or incident, a description of the public health impact and other relevant information such as the location or facility so that the person who may be responsible for the Public Health Nuisance can be identified.
- 3.2 Complaints shall be evaluated as to their merit, cause for, and source to determine their validity. Complaints determined to be valid shall be provided to the Chief Executive Officer or his/her designee to determine if an investigation is warranted.

### **Section 4. Investigation**

- 4.1 Whenever any establishment, building, premises, place of business or residence becomes or is maintained or operated in such a manner so as to emit, discharge, dispose, release or cause an accumulation of Offensive Material that would constitute a Public Health Nuisance, may adversely affect health or is the cause of a nuisance elsewhere, the situation shall be investigated.
- 4.2 An investigation may be conducted in response to a complaint or when the Chief Executive Officer or his/her designee becomes aware of a condition that may adversely affect health.
- 4.3 The Chief Executive Officer, or his/her designee, may enter to investigate upon or within any building, premises or place where Public Health Nuisances or conditions identified in a complaint that may

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affect health are known or believed to exist, or which are the cause of Public Health Nuisances known or believed to exist elsewhere.

- 4.4 The investigation may include visual observation, conducting tests, collecting materials for testing, and/or the reviewing documentation on or off of the premises related to the Public Health Nuisance.
- 4.5 The results of the investigation shall be documented in a written statement describing the findings of the investigation, including the results of any testing or review conducted in response to the complaint.
- 4.6 The documentation shall indicate: the date and time of the investigation; the conditions found; cite the regulations that were violated; contain a sufficiently descriptive statement to support a conclusion of whether a Public Health Nuisance or a condition that may adversely affect health exists at the location or has been caused to exist elsewhere. The health official performing the investigation shall also document actions, if any, already taken to abate the condition and indicate if the nuisance has been abated by the actions taken.

### **Section 5. Abatement**

- 5.1 The Chief Executive Officer or his/her designee shall evaluate the complaint and investigation results to determine if a Public Health Nuisance or a condition that may adversely affect health continues to exist. If the condition requires further abatement, the Chief Executive Officer or his/her designee shall order its abatement through the delivery of a Repair Order to the owner, operator or person responsible for causing the Public Health Nuisance. The abatement of the nuisance or condition that may adversely affect health shall be completed within 72 hours of receipt of the Repair Order, or the time allowed in the Repair Order.
- 5.2 Abatement shall be the responsibility of the operator of the facility, owner of the premises or person responsible for causing the condition in need of abatement. All costs for abatement shall be borne by the responsible person, operator or owner.
- 5.3 The actions of abatement shall include the removal and proper disposal of the Offensive Material in an Approved Disposal Area. The area where the Offensive Material was staged, released or traveled to will also be abated and/or decontaminated, if deemed necessary by the Chief Executive Officer or his/her designee, to remove the potential for remaining residues to result in conditions that may adversely affect health.
- 5.4 If abatement is not conducted within 72 hours of the receipt of the Repair Order, or the time allowed in the Repair Order, the Chief Executive Officer shall issue a summons and notice of citation for the owner, operator, and/or the person responsible for causing the Public Health Nuisance to appear at a formal hearing to answer to the charges.

### **Section 6. Control of Offensive Material**

- 6.1 Any person who generates, stores, or holds Offensive Materials on or in any premises shall ensure that the material is stored or handled in a manner that will not result in the creation of a nuisance or

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adversely affect health. No person, operator or facility shall store any Offensive Material in any place or in any building or structure unless the material is treated, screened, covered, or placed so as not to create a nuisance or adversely affect health. All structures or containers for storage shall completely confine the material and hold it without a release. All containers for storage or staging shall be kept in a sanitary condition.

- 6.2 Offensive Materials shall not be deposited, thrown, discharged, dumped or otherwise allowed to enter into streams, ponds or other bodies of water or onto the surface of the ground or into the ground or groundwater, except in such a manner which is consistent with any and all applicable federal, state and local laws rules, regulations, and ordinances.
- 6.3 No person, operator, or owner shall remove or transport or permit the removal or transport of any Offensive Material except in a manner which is consistent with any and all applicable federal, state and local laws, rules, regulations and ordinances and in such a manner that will prevent the creation of a nuisance or condition that may adversely affect health. All materials shall be handled, packaged, covered, or treated so that it cannot escape or be accessible to vectors and vermin or create a Public Health Nuisance, or condition which may adversely affect health.
- 6.4 All dead domestic or farm animals shall be buried, or disposed of in a sanitary manner by the owner, operator, or person responsible for the animal, within 72 hours of its death or after its carcass has been discovered, except as otherwise regulated by Article 26 of the Agriculture and Markets Law of the State of New York.

### **Section 7. Liability**

- 7.1 Any person, operator or owner that has caused a release of Offensive Material or is holding, staging or storing Offensive Material that is causing a nuisance or that may adversely affect health shall be liable for all costs associated with the clean-up, removal and disposal of said Offensive Materials.
- 7.2 If the owner, operator, or person responsible for the release, holding, staging or storage of Offensive Material does not complete abatement within the time allowed by the order of the Chief Executive Officer or his/her designee, to protect the health and safety of the public, the Department of Health may take whatever action is deemed appropriate to remediate and abate the condition. Any and all costs incurred in the course of abatement shall be the responsibility of the owner, operator or person responsible for creating the Public Health Nuisance.

### **Section 8. Condemnation**

- 8.1 Whenever it is found by the Chief Executive Officer or his/her designee that a premises, or any part thereof, has become unsanitary and may adversely affect health or is unfit for human habitation or other type of occupancy, the premises will be considered to be a Public Health Nuisance. The Chief Executive Officer may issue a Repair Order requiring the occupant, operator, or owner to abate the nuisance or condition that may adversely affect health by placing the premises into a habitable and sanitary condition within the time period specified by the Chief Executive Officer or his/her designee.

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- 8.2 Upon failure of the occupant, operator, or owner, or agent thereof to comply with such Repair Order, the Chief Executive Officer or Board of Health may issue an additional order, to be affixed conspicuously upon the premises, to discontinue its use at such a time as identified in the order, until the time that the premises or part thereof can be placed in a sanitary and habitable condition and the nuisance abated.
- 8.3 Upon failure of such a premises to be vacated within the time specified, the Chief Executive Officer or Board of Health may issue a warrant to the Livingston County Sheriff, directing that such premises be vacated until such time as the nuisance is abated, and the Livingston County Sheriff shall forthwith execute such warrant pursuant to the law.

### **ARTICLE IV - RABIES CONTROL**

#### **Section 1. Definitions**

- 1.1 "Confinement and observation" refers to the conditions under which apparently healthy dogs, cats, domesticated ferrets, and domestic livestock, which are not exhibiting symptoms of rabies, must be maintained if such an animal has potentially exposed a person to rabies, and the owner wishes to avoid euthanizing and testing the animal. The required ten (10) day confinement and observation period for an animal not actively immunized against rabies at the time of the bite must take place, at owner's expense, at an appropriate facility approved by the Department of Health. The Chief Executive Officer or his/her designee may allow home confinement and observation for animals actively immunized. Confinement and observation includes verification by the Chief Executive Officer or his/her designee, both during and at the end of the ten (10) day period, that the animal cannot or has not escaped and has remained healthy.
- 1.2 "Quarantine" refers to a six (6) month period of restriction for animals which are not actively immunized against rabies and have been exposed to a potentially rabid animal, in accordance with applicable regulations of the Department of Health. The quarantine must include provisions to prevent escape of the animal during the quarantine period and to minimize contacts with humans and other animals, and these provisions must be verified by a Department of Health representative during and at the end of the six (6) month period.

#### **Section 2. Policy**

- 2.1 It is the policy of the Department of Health to prevent the potential for the transmission of rabies to residents of Livingston County by preventing exposure to animals that have been ordered to be confined or quarantined and have been found not properly quarantined or confined.

#### **Section 3. Inspection**

- 3.1 In accordance with State Sanitary Code Part 2.14, inspection of animals ordered to be confined or quarantined shall be conducted during the confinement or quarantine periods.

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3.2 In accordance with the provisions of the State Sanitary Code and Sanitary Code, the Department of Health may make inspections to determine compliance with applicable provisions of the Sanitary Code.

## **Section 4. Seizure**

4.1 Any duly appointed dog control officer, animal control officer, peace officer, police officer, or health officer may seize and confine any dog, cat or domesticated ferret found at large and may destroy a dog, cat or domesticated ferret found at large that is exhibiting symptoms of rabies and cannot be seized without placing any person at serious risk of physical injury. Any duly appointed person who seizes, confines, or destroys a dog, cat or domesticated ferret pursuant to this Section shall immediately report in writing the facts relating thereto to the Chief Executive Officer or his/her designee.

## **ARTICLE V – FOOD SERVICE ESTABLISHMENTS**

### **Section 1. Training**

- 1.1 It is the policy of the Department of Health to prevent the potential for the transmission of communicable diseases to residents of Livingston County by reducing the potential for exposure at facilities under the regulation of the Department of Health.
- 1.2 To reduce the potential for the transmission of communicable diseases to residents of Livingston County and visitors to regulated food service establishments in Livingston County, it shall be required that at least one (1) employee of every regulated food service establishment have a current certificate of training from a food service training program approved by the Department of Health. The receipt of a training certificate shall be based upon attendance at an approved course and achieving a passing grade on testing associated with said course.
- 1.3 A training certificate shall be obtained prior to opening a new food service establishment and the issuance of a permit.

### **Section 2. Posting**

2.1 To communicate correct practices for food handling and to assist in the continued implementation of safe practices, posters identifying handwashing instructions and choking instructions shall be posted at each food service establishment. The posters will be provided by the Department of Health and must be placed in a location readily observable by food service workers during their work activities.

## **ARTICLE VI - ENFORCEMENT**

### **Section 1. Enforcement.** Civil and Criminal Penalties; Hearings; Procedures.

1.1 It shall be the duty of the Board of Health, or its authorized designee, to enforce the provisions of the State Public Health Law, the applicable parts of the State Sanitary Code and the Sanitary Code and the Board of Health shall have such powers and duties as conferred upon it by the provisions of the State Public Health Law.

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1.2 Pursuant to the provisions of the State Public Health Law, the Board of Health, or its authorized designee, may:

- (i) issue subpoenas which shall be regulated by the Civil Practice Law and Rules of New York State;
- (ii) compel the attendance of witnesses;
- (iii) administer oaths to witnesses and compel them to testify;
- (iv) issue warrants to any peace officer in the County or a municipality within the County to apprehend and remove any person or persons as cannot otherwise be subjected to their orders and regulations, and to the Sheriff of Livingston County to bring to its aid the power of the County whenever it shall be necessary to do so;
- (v) issue Repair Orders; and
- (vi) prescribe and impose penalties for the violation of or failure to comply with any of its orders or regulations, or any of the provisions of the State Sanitary Code or Sanitary Code. Such penalties shall not exceed the maximum authorized by the State Public Health Law for each violation to be sued for and recovered by the Board of Health, or its authorized designee, in any court of competent jurisdiction. Nothing herein contained shall be construed to exempt an offender from any other prosecution or penalty provided by law.

1.3 Every warrant issued by the Board of Health, or its authorized designee, shall be forthwith executed by the officer to whom directed, who shall have the same powers and be subject to the same duties in the execution thereof, as if it had been duly executed out of a court record of the State.

1.4 Nothing contained in this Section shall be construed to alter or repeal any existing provisions of law declaring such violations or any of them misdemeanors or felonies or prescribing a penalty therefore.

1.5 Pursuant to the provisions of Section 348 of the State Public Health Law:

- (i) provisions of the Sanitary Code shall have the force and effect of law.
- (ii) certified copies of the Sanitary Code shall be received in evidence in all courts and proceedings in New York State.

1.6 Hearings.

The Board of Health, or its authorized designee, may cause to have issued and served upon the person complained against a written notice, together with a copy of the complaint made against said person, which shall specify the provisions of the code, rule or regulation of which such person is said to be in violation and a statement of the manner in which that person is said to have violated such code, rule or

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regulation and shall require the person so complained against to answer the charges of such complaint at a public hearing before the Board of Health, its authorized designee, or its designated hearing officer at a time not less than fifteen (15) days after the date of service of such notice.

The Board of Health, or its authorized designee, may serve, together with a copy of the complaint, a stipulation offer to the person complained against. The stipulation offer shall allow the person complained against to enter into a stipulation with the Department of Health, agreeing to correct the violations set forth in the complaint under the terms and conditions as set forth in the stipulation offer. The person complained against shall have the option of entering into the stipulation or proceeding with a formal hearing.

## 1.7 Complaints; Conduct of hearings.

- (i) The respondent to such complaint may file a written answer thereto and shall appear at such hearing in person with or without counsel, and may submit testimony, or may do both.
- (ii) The Board of Health may issue subpoenas and administer oaths in connection with any hearing or investigation under and pursuant to this Article, and it shall be the duty of the Board of Health for such purposes to issue subpoenas at the request of and upon behalf of the respondent requiring the attendance of witnesses and/or the production for examination of any book or paper relating to the matter at any hearing or investigation.
- (iii) The testimony at the hearing shall be under oath and recorded.

## 1.8 Order or Determination.

After due consideration of the written and oral statements, the testimony and arguments that shall be submitted under the provisions of subsection 1.7 above, or default in appearance of the respondent on the return day which shall be specified on the notice given in subsection 1.6 above, the Board of Health, its authorized designee, or designated Hearing Officer may issue and enter such final order, or make such final determination as it shall deem appropriate under the circumstances, and it shall notify the respondent thereof in writing by certified mail or by personal service.

## 1.9 Review.

Any final order or determination or other final action by the Board of Health, its authorized designee, or designated Hearing Officer and the validity or reasonableness of any code, rule or regulation of the Board of Health shall be subject to review as provided in Article 78 of the Civil Practice Law and Rules of New York State.

**SECTION TWO** – All prior enactments of the Sanitary Code of the County of Livingston are hereby repealed.

**SECTION THREE** – This Local Law shall be effective upon filing with the New York State Department of Health and the New York State Secretary of State.

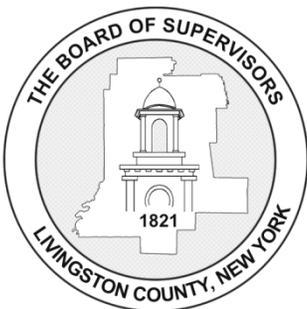
Livingston County Board of Supervisors  
Geneseo, New York



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Dated at Geneseo, New York  
November 18, 2020 (Introduced)  
December 16, 2020 (Adopted)

Michele R. Rees, IIMC-CMC  
Clerk of the Board



*This is to Certify that I, the undersigned, Clerk of the Board of Supervisors of the County of Livingston, have compared the foregoing copy of resolution with the original resolution now on file in this office and which was duly adopted by the Board of Supervisors of said County on the 16<sup>th</sup> day of December, 2020 and that the same is a true and correct transcript of said resolution and of the whole thereof.*

*In Witness Whereof I have hereunto set my hand and the official seal of the Board of Supervisors of the County of Livingston, this 16<sup>th</sup> day of December, 2020.*

*Michele R. Rees*  
Michele R. Rees, Clerk of the Board

Livingston County Board of Supervisors  
Geneseo, New York



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**LIVINGSTON COUNTY BOARD OF SUPERVISORS  
ADOPTION OF LOCAL LAW**

**LOCAL LAW NO. 4 - 2020 SANITARY CODE OF THE COUNTY OF LIVINGSTON**

Be it enacted by the Board of Supervisors of the County of Livingston as follows:

**SECTION ONE** – The Livingston County Board of Supervisors hereby adopts the following as the Sanitary Code of the County of Livingston:

**ARTICLE I - DEFINITIONS AND GENERAL PROVISIONS**

**Section 1. Title.**

1.1 The rules and regulations herein contained shall be known as the “Livingston County Sanitary Code.”

**Section 2. Definitions.** Whenever used in this Code, unless otherwise expressly stated or the context or subject matter requires a different meaning, the following terms shall have the respective meanings hereinafter set forth or indicated:

2.1 “Board of Health” shall mean the Livingston County Board of Health.

2.2 “Chief Executive Officer” shall mean the Public Health Director of the Department of Health who, with appropriate medical and other technical consultation as approved by the New York State Department of Health, serves as primary administrator of all health programs in the Department of Health provided, however, in the event that the County of Livingston establishes the position of County Health Commissioner, then, in such event, and upon the effective date of the creation of such position, the term “Chief Executive Officer” shall mean the County Health Commissioner of the Department of Health. The powers and duties of the Chief Executive Officer as herein defined shall be those conferred upon such officer by applicable provisions of the State Public Health Law and State Sanitary Code.

2.3 “Complaint” shall mean a written or oral allegation by one party against another.

2.4 “Department of Health” shall mean the Livingston County Department of Health established on November 19, 1968 by Livingston County Board of Supervisor’s Resolution Number 68-171.

2.5 “Farming Operation” is as defined by Section 301 of Article 25-AA of the Agriculture and Markets Law of the State of New York and generally means the land and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise.

2.6 “Permit” shall mean written approval to engage in specific activities regulated by the Sanitary Code.

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- 2.7 “Persistent Noncompliance” (PNC) occurs when a regulated entity violates provisions of the State Public Health Law, State Sanitary Code or Sanitary Code on more than two (2) site visits or inspections during the course of a calendar year.
- 2.8 “Person” shall mean an individual, group of individuals, partnership, firm, corporation, association, county, city, town or village or improvement district.
- 2.9 “Premises” is a lot, plot or parcel of land, easement or public way, including any structures thereon.
- 2.10 “Public Health and Health Planning Council” shall mean the Public Health and Health Planning Council of the New York State Department of Health.
- 2.11 “State Public Health Law” shall refer to the body of statutes constituting chapter forty-five of the consolidated laws of New York State.
- 2.12 “Repair Orders” shall mean a document issued by the Chief Executive Officer that directs an owner or operator to make repairs to a piece of equipment, structure, system, or item that is identified as being necessary to prevent the occurrence of a condition that could result in a public health hazard, Public Health Nuisance, or result in the release of Offensive Materials. The Repair Order shall identify the equipment, structure, system or item in need of repair, set a timeframe for completion of the repair, and indicate acceptable evidence that the repair has been completed, such as providing a receipt or bill of sale from an established vendor capable and qualified to make the required repairs.
- 2.13 “Sanitary Code” shall mean and comprise the rules and regulations now or hereinafter formulated, promulgated, and adopted by the Livingston County Board of Health pursuant to Section 347 of the State Public Health Law.
- 2.14 “State Sanitary Code” shall mean the sanitary code established by the Public Health and Health Planning Council of the New York State Department of Health.
- 2.15 “Violation” shall mean non-compliance or non-conformance with any provision of the Sanitary Code, State Sanitary Code or State Public Health Law.

### **Section 3. Sanitary Code.**

- 3.1 The provisions of the Sanitary Code shall be in force throughout Livingston County. Unless otherwise required by the State Public Health Law or the State Sanitary Code, the enforcement of provisions of the Sanitary Code shall be subject to the restrictions imposed by Section 305-a of Article 25-AA of the Agriculture and Markets Law of the State of New York. The restrictions imposed by Section 305-a of Article 25-AA of the Agriculture and Markets Law of the State of New York shall also apply to persons actively engaged in farming operations on land not located within an agricultural district.

### **Section 4. Interference with Notices.**

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- 4.1 No person shall remove, mutilate, or conceal any notice or placard of the Department of Health posted in or on any premises or public place except by permission of the Chief Executive Officer.

### **Section 5. Special Provisions.**

- 5.1 The regulations of this code shall be supplemental to the regulations, rules and orders of the applicable parts of the State Sanitary Code, State Public Health Law, and other New York State laws relating to public health.

### **Section 6. Inspections.**

- 6.1 All premises covered by the regulations of the Sanitary Code located in Livingston County shall be subject to inspection by the Chief Executive Officer or his/her duly authorized representative. Inspections may include but not be limited to investigations, observations, interviews, review of written materials and collection of samples and testing.
- 6.2 No person shall refuse to allow the Chief Executive Officer or his/her duly authorized representative to fully inspect any and all premises and no person shall molest or resist the Chief Executive Officer or his/her duly authorized representative in the discharge of their duties.

### **Section 7. Permits.**

- 7.1 Applications - All applications for permits or written approval herein required shall be made upon forms prescribed and furnished by the Department of Health, and shall be signed by the applicant, who shall be the person responsible for compliance with the conditions of the permit or approval applied for, or legally authorized agent thereof. Such application shall contain or have attached thereto such date, information, documents and plans as may be required.
- 7.2 Permits; Nontransferable - A permit issued to a particular person or for a designated place, purpose, or vehicle shall not be valid for use by any other person, or for any other place, purpose or vehicle than that designated therein.
- 7.3 Permits; Conditions - Such permits or written approvals may contain general and specific conditions and every person who shall have obtained a permit or written approval, as herein required, shall conform to the conditions prescribed in said permit or written approval and to the provisions of the Sanitary Code. Each such permit shall expire on the date stated in the permit or until revoked, and may be renewed or extended by the Chief Executive Officer after due notice and review, or temporarily suspended pending a hearing. Notwithstanding the foregoing provisions, in the event that any of the terms, conditions and provisions of a permit issued or written approval granted is or may subsequently be less restrictive than the State Public Health Law or the State Sanitary Code, then the more restrictive provisions of the State Public Health Law or State Sanitary Code shall govern.
- 7.4 Permits; Property of the Department of Health - All permits issued hereunder shall remain the property of the Department of Health and shall, on demand, be surrendered to an authorized representative of the Department of Health, whenever any such permit expires, is suspended or revoked. Permits shall

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be posted conspicuously on the premises or carried in the vehicle for which they are issued and shall be produced on request of the Chief Executive Officer, or his/her duly authorized representative.

7.5 Permits; Authority Not to Renew – Notwithstanding any other provision of law, the Department of Health shall not be required to issue and/or renew any license, permit or certificate of qualification, authority or operation of any business, individual or other entity if such business, individual or other entity has failed to pay any outstanding fees, civil fines or penalties assessed by the Department of Health or Board of Health for licensing or regulatory matters or is in Persistent Noncompliance.

## **Section 8. Fees.**

8.1 The Board of Health may determine and set fees for any permits issued or services provided by the Department of Health, subject to approval by the Livingston County Board of Supervisors. The fee shall be set to defray the cost of services provided in connection with the permit issued.

8.2 All fees shall be payable to the Livingston County Department of Health.

## **Section 9. Separability Clause.**

9.1 In the event that any section, paragraph, sentence, clause or phrase of this Sanitary Code shall be declared unconstitutional or invalid for any reason, the remainder of said Sanitary Code shall not be affected thereby and shall remain in full force and effect.

## **ARTICLE II - SEWAGE TREATMENT—INDIVIDUAL SYSTEMS**

### **Section 1. Applicability.**

1.1 This article shall apply to the construction and maintenance of all individual sewage treatment systems located within Livingston County which are designed and installed to discharge sewage without admixture of industrial or other waste to the ground waters of New York State, from a dwelling designed to house less than three families, or any other establishment from which the sewage flow is determined to be less than one thousand gallons per day.

### **Section 2. Definitions.**

2.1 “Individual Sewage Treatment System” means a complete or incomplete system of piping, tanks and other facilities for the on-site collection, treatment and disposal of sewage, or other liquid wastes into the soil of one or more parcels of land (applicability defined in Section 1).

2.2 “Chief Executive Officer” shall mean the Public Health Director of the Department of Health who, with appropriate medical and other technical consultation as approved by the New York State Department of Health, serves as primary administrator of all health programs in the Department of Health provided, however, in the event that the County of Livingston establishes the position of County Health Commissioner, then, in such event, and upon the effective date of the creation of such position, the term “Chief Executive Officer” shall mean the County Health Commissioner of the

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Department of Health. The powers and duties of the Chief Executive Officer as herein defined shall be those conferred upon such officer by applicable provisions of the State Public Health Law and State Sanitary Code.

- 2.3 “Community Sewerage System” shall mean 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 waste serving more than one (1) lot whether owned by a municipal corporation or private utility.
- 2.4 “Department of Health” shall mean the Livingston County Department of Health established on November 19, 1968 by Livingston County Board of Supervisor’s Resolution Number 68-171.
- 2.5 “Design Professional” is a person licensed or registered in the State of New York and authorized by the State Education Law to design the systems described in Part 75 standards.
- 2.6 “Director” shall mean the Director of the Center for Environmental Health of the Livingston County Department of Health.
- 2.7 “Part 75” shall mean Part 75 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York.
- 2.8 “Sewage” means human excreta or the water-carried discharge of the human body and/or the liquid wastes from residences, businesses, recreation or trade establishments or other places, without the admixture of industrial or other wastes. It is understood that sewage in this article refers only to those effluents from premises not required to have New York State Department of Environmental Conservation approval. The Livingston County Department of Health may require written verification of New York State Department of Environmental Conservation jurisdiction.
- 2.9 “State Standards” shall mean Appendix 75-A, Wastewater Treatment Standards—Individual Household Systems, pursuant to the authority vested in the New York State Commissioner of Health by Section 201(1)(1) of the State Public Health Law.

### **Section 3. Disposal Requirements.**

- 3.1 No person shall discharge, or permit or cause to be discharged untreated sewage, the overflow effluent or contents of a septic tank, or other putrescible, impure, or offensive wastes into an abandoned well, sink hole, crevice or opening extending into limestone, sandstone, or other rock or shale formation, or any water course or surface body of water in Livingston County or into any storm water sewer or drain or roadside ditch or onto the surface of the ground, unless otherwise permitted by the New York State Department of Environmental Conservation.
- 3.2 Where no approved Community Sanitary Sewerage System is available, each residence provided with a water supply, plumbing fixtures, or with a receptacle to create a sanitary flow, shall be equipped with an Individual Sewage Treatment System. Greywater systems shall not be excluded.

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- 3.3 No permits for the construction or repair of an Individual Sewage Treatment System shall be issued for property accessible to a public or municipal sanitary sewerage system.
  - 3.4 Any person who is engaged, in whole or part, in the business of installing septic tanks or private sewage treatment systems shall obtain approval from the Department of Health in accordance with the provisions of Section 9 of this Article. The application for such registration and approval shall be on a form prescribed and furnished by the Director. Any person who installs septic tanks or individual sewage treatment systems and who fails or refuses to register and obtain approval shall be in violation of the Sanitary Code and shall be subject to enforcement as set forth in Article VI, Section 1 of the Sanitary Code. Any sewage treatment system installed by a non-approved installer will not be approved by the Department of Health.

### **Section 4. Installation Permit.**

- 4.1 The property owner or his/her designated agent shall make application for a permit to the Chief Executive Officer for the construction or installation of an Individual Sewage Treatment System prior to the start of work.
- 4.2 The applications shall be made in writing on a form prescribed by the Chief Executive Officer and shall contain all pertinent information relative to the location, construction and installation of an Individual Sewage Treatment System and any other information required by the Chief Executive Officer.
- 4.3 For all new Individual Sewage Treatment Systems, plans prepared by a Design Professional shall be submitted to the Department of Health for review and approval, in accordance with the State Standards. A Design Professional may be required for designing repairs to an existing Individual Sewage Treatment System if deemed necessary by the Chief Executive Officer or his/her designee.
- 4.4 No person shall construct, install, or modify an Individual Sewage Treatment System within Livingston County without having filed for and received a written permit from the Chief Executive Officer.
- 4.5 An Individual Sewage Treatment System shall be constructed or installed within two (2) years from the date of issuance of the permit therefore except as provided in subdivision 4.6 of this section. If the Individual Sewage Treatment System has not been constructed or installed within two (2) years from the date of issuance of the permit, the permit shall automatically expire. No additional periods of time will be granted to the permittee to complete his/her system unless, upon good cause shown by the permittee to the Chief Executive Officer, an additional period of time (not to exceed one (1) year) is granted beginning either at the time of the request for an extension, if the permit has already expired, or to be added onto the original expiration date should the permit still be valid at the time of the request (whichever is a longer duration). Any permit that has been expired in excess of ten (10) years will not be granted an extension and permittee shall be required to resubmit the documents required to obtain a new permit, including but not limited to fees and applications.

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- 4.6 An Individual Sewage Treatment System required in order to correct a violation shall be constructed or installed prior to the date of permit expiration unless, upon good cause shown by the permittee to the Chief Executive Officer, an additional period of time is granted. The permittee is required to apply for the permit within two weeks of the date of the notice of violation letter issued to the permittee unless, upon good cause, an additional period of time is granted.
  - 4.7 Any person who constructs, provides, or begins construction of an Individual Sewage Treatment System without first obtaining a permit to construct such system or facility according to the terms or conditions of the permit or approved amendments thereto is in violation of the Sanitary Code and shall be subject to enforcement as set forth in Article VI, Section 1 of the Sanitary Code.
  - 4.8 The Chief Executive Officer may refuse issuance of an installation permit or renewal thereof, to construct, or install an Individual Sewage Treatment System, or, after notice and/or a hearing, revoke or suspend same, if, upon investigation and/or review of submitted information, it is determined the site does not comply with State Standards, or if false or erroneous information was furnished to acquire a permit.
  - 4.9 The Chief Executive Officer may allow for the transfer and/or modification of a valid permit to another party upon receipt of an application by the parties seeking the transfer. The date of expiration of the permit being transferred shall not be extended except as provided in subdivision 4.5. A fee set by the Chief Executive Officer will be charged to process such a transfer and/or modification.

### **Section 5. Design, Construction and Installation.**

- 5.1 All new Individual Sewage Treatment Systems shall be designed, constructed and installed in accordance with the State Standards. The specifications of any new Individual Sewage Treatment System shall be based on the results of at least two percolation tests and one deep hole test. The Department of Health or its designated representative may be required to witness the deep hole. Additional deep hole tests may be required by the Department of Health as deemed necessary. The design flow per bedroom shall be in accordance with Section 75-A.3 of the State Standards.
- 5.2 A homeowner who chooses to install an aerobic unit instead of a septic tank must meet all requirements prescribed in the State Standards.
- 5.3 The Department of Health or its designated representative, or Design Professional, as deemed necessary, shall be present at the site of a private sewage treatment system during final inspection. Any person who has constructed or installed a septic tank or private sewage treatment system shall also be present at the time of the final inspection.

### **Section 6. Specific Waiver in Accordance with Part 75.**

- 6.1 Where a violation exists and the site conditions exist which makes strict conformance with State Standards impossible or impractical, the Chief Executive Officer may waive specific code requirements. Approval or denial of such a waiver will be based upon completion and submission of a waiver application form which must contain sufficient documentation demonstrating that the granting

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of such a waiver will not pose an unacceptable health and/or environmental risk. All new construction shall adhere to the State Standards and a specific waiver may only be granted if said application demonstrates that the proposed deviation from Appendix 75-A requirement(s) will provide a degree of protection equivalent to the intent of Appendix 75-A and will not result in an increased risk to public health or the environment.

### **Section 7. Inspections**

- 7.1 A final inspection of the Individual Sewage Treatment System must be conducted to verify correct installation in accordance with plan requirements and permit conditions. The inspection must be performed by a Design Professional or Department of Health representative.
- 7.2 No portion of the Individual Sewage Treatment System shall be covered with soil or be placed into operation until the system has been inspected and approved by the Chief Executive Officer or his/her designated representative. The Chief Executive Officer may require the system to be uncovered if back filled without such authorization.
- 7.3 The Chief Executive Officer or his/her representative may make inspections during the course of construction of the Individual Sewage Treatment System to verify compliance with this regulation.
- 7.4 No Individual Sewage Treatment System shall be put into service until written approval is issued by the Chief Executive Officer and final grading of the system has been completed. The Chief Executive Officer or his/her representative may authorize a system's use pending issuance of the written approval and final grading if necessary to correct existing health hazards, provided a new health hazard would not be created. The Chief Executive Officer or his/her designee may approve the use of an Individual Sewage Treatment System on a conditional basis when final grading has not been completed due to weather conditions. When use of an Individual Sewage Treatment System is authorized before final grading has occurred, a written agreement between the permittee and the Department of Health which identifies an acceptable date for completion shall be required.

### **Section 8. Exposure or Discharge of Sewage.**

- 8.1 It is a violation of this Sanitary Code to allow the exposure or surface discharge of sewage. No person shall maintain or operate any Individual Sewage Treatment System, so as to expose or discharge sewage or sewage effluent there from onto the surface of the ground, or any water course or surface body of water in Livingston County or into any storm water sewer or drain or roadside ditch or in any manner potentially hazardous to the health of others. Any Individual Sewage Treatment System so maintained or operated shall be corrected to prevent the exposure or discharge of sewage or sewage effluent onto the surface of the ground, or any water course or surface body of water in Livingston County or into any storm water sewer, drain or roadside ditch or hazard to the health of others. The provisions of this Section shall not apply to those discharges of sewage effluents duly approved and permitted under Article 17 of the Environmental Conservation Law.

### **Section 9. Installers of Individual Sewage Treatment Systems.**

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- 9.1 No person shall install an Individual Sewage Treatment System in Livingston County unless there is a valid permit issued by the Chief Executive Officer pursuant to this Article.
  - 9.2 All installers of Individual Sewage Treatment Systems must obtain approval from the Department of Health. To obtain approval an installer must demonstrate the ability to install Individual Sewage Treatment Systems in accordance with State Standards, as that term is defined in the Sanitary Code. An installer must also demonstrate the ability to Install Individual Sewage Treatment Systems by providing the Department of Health with a list of previously installed and approved Individual Sewage Treatment Systems or by providing proof of other relevant experience in Installing Individual Sewage Treatment Systems.
  - 9.3 All installers agree to be subject to performance checks by the Department of Health. An installer's approval may be revoked by the Department of Health if it is determined that the installer is not complying with Article II of the Sanitary Code or State Standards.
  - 9.4 An installer, after obtaining approval to install an Individual Sewage Treatment System, shall install the system according to the installation permit and all conditions contained within the permit.
  - 9.5 An installer shall cease installation if it is determined that the system cannot be installed according to the permit and Part 75-A Standards and shall immediately contact the Department of Health and the Design Professional to discuss acceptable design changes to reach compliance with the permit and applicable regulations.
  - 9.6 The Department of Health, its designee or the Design Professional will serve as a consultant to the installer should a question/problem occur on site regarding the installation of the system. All installers must have the ability to adjust the Individual Sewage Treatment System in accordance with any suggested changes by the consultant.
  - 9.7 An installer shall be present during the final inspection.
  - 9.8 Any Individual Sewage Treatment System installed by a non-approved installer will not be approved by the Department of Health.

### **Section 10. Sewage Treatment System Cleaners.**

- 10.1 Collection, transportation and final disposal of material removed, drained or flushed from sewage treatment systems shall be performed in a safe, sanitary manner and in accordance with the New York State Environmental Conservation Law, Section 27-0301 *et seq.* and Part 364 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

## **ARTICLE III - NUISANCE ABATEMENT**

### **Section 1. Definitions**

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- 1.1 “Approved Disposal Area” shall mean a specific area, site or location operated under a permit or approval of the New York State Department of Environmental Conservation or a location using a generally acceptable method of waste management.
  - 1.2 “A Public Health Nuisance” is a condition that causes a common injury adversely affecting the health and/or safety of the residents of the local community.
  - 1.3 “Offensive Material” shall mean any offal, sewage, fecal matter, urine, refuse, rubbish, garbage, dead animals, meat wastes, body fluids, or any putrescible matter or any solid, liquid or gaseous material which the Chief Executive Officer or his/her designee determines may be dangerous to or adversely affect health.

### **Section 2. Policy**

- 2.1 It is the policy of the Department of Health to prevent the transmission of communicable diseases to residents of Livingston County by preventing exposure to sources or potential sources of such diseases. It is the policy of the Department of Health to prevent or have abated all Public Health Nuisances that may be detrimental to the life and health of the citizens of Livingston County.
- 2.2 Any person who causes a Public Health Nuisance or condition that may adversely affect health is in violation of the Sanitary Code.

### **Section 3. Filing Complaints**

- 3.1 Complaints shall be received in any form so that prejudice with regard to literacy, language, religion, ethnicity or other cause may be avoided. Complaints must include a description of the concern or incident, a description of the public health impact and other relevant information such as the location or facility so that the person who may be responsible for the Public Health Nuisance can be identified.
- 3.2 Complaints shall be evaluated as to their merit, cause for, and source to determine their validity. Complaints determined to be valid shall be provided to the Chief Executive Officer or his/her designee to determine if an investigation is warranted.

### **Section 4. Investigation**

- 4.1 Whenever any establishment, building, premises, place of business or residence becomes or is maintained or operated in such a manner so as to emit, discharge, dispose, release or cause an accumulation of Offensive Material that would constitute a Public Health Nuisance, may adversely affect health or is the cause of a nuisance elsewhere, the situation shall be investigated.
- 4.2 An investigation may be conducted in response to a complaint or when the Chief Executive Officer or his/her designee becomes aware of a condition that may adversely affect health.
- 4.3 The Chief Executive Officer, or his/her designee, may enter to investigate upon or within any building, premises or place where Public Health Nuisances or conditions identified in a complaint that may

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affect health are known or believed to exist, or which are the cause of Public Health Nuisances known or believed to exist elsewhere.

- 4.4 The investigation may include visual observation, conducting tests, collecting materials for testing, and/or the reviewing documentation on or off of the premises related to the Public Health Nuisance.
- 4.5 The results of the investigation shall be documented in a written statement describing the findings of the investigation, including the results of any testing or review conducted in response to the complaint.
- 4.6 The documentation shall indicate: the date and time of the investigation; the conditions found; cite the regulations that were violated; contain a sufficiently descriptive statement to support a conclusion of whether a Public Health Nuisance or a condition that may adversely affect health exists at the location or has been caused to exist elsewhere. The health official performing the investigation shall also document actions, if any, already taken to abate the condition and indicate if the nuisance has been abated by the actions taken.

### **Section 5. Abatement**

- 5.1 The Chief Executive Officer or his/her designee shall evaluate the complaint and investigation results to determine if a Public Health Nuisance or a condition that may adversely affect health continues to exist. If the condition requires further abatement, the Chief Executive Officer or his/her designee shall order its abatement through the delivery of a Repair Order to the owner, operator or person responsible for causing the Public Health Nuisance. The abatement of the nuisance or condition that may adversely affect health shall be completed within 72 hours of receipt of the Repair Order, or the time allowed in the Repair Order.
- 5.2 Abatement shall be the responsibility of the operator of the facility, owner of the premises or person responsible for causing the condition in need of abatement. All costs for abatement shall be borne by the responsible person, operator or owner.
- 5.3 The actions of abatement shall include the removal and proper disposal of the Offensive Material in an Approved Disposal Area. The area where the Offensive Material was staged, released or traveled to will also be abated and/or decontaminated, if deemed necessary by the Chief Executive Officer or his/her designee, to remove the potential for remaining residues to result in conditions that may adversely affect health.
- 5.4 If abatement is not conducted within 72 hours of the receipt of the Repair Order, or the time allowed in the Repair Order, the Chief Executive Officer shall issue a summons and notice of citation for the owner, operator, and/or the person responsible for causing the Public Health Nuisance to appear at a formal hearing to answer to the charges.

### **Section 6. Control of Offensive Material**

- 6.1 Any person who generates, stores, or holds Offensive Materials on or in any premises shall ensure that the material is stored or handled in a manner that will not result in the creation of a nuisance or

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adversely affect health. No person, operator or facility shall store any Offensive Material in any place or in any building or structure unless the material is treated, screened, covered, or placed so as not to create a nuisance or adversely affect health. All structures or containers for storage shall completely confine the material and hold it without a release. All containers for storage or staging shall be kept in a sanitary condition.

- 6.2 Offensive Materials shall not be deposited, thrown, discharged, dumped or otherwise allowed to enter into streams, ponds or other bodies of water or onto the surface of the ground or into the ground or groundwater, except in such a manner which is consistent with any and all applicable federal, state and local laws rules, regulations, and ordinances.
- 6.3 No person, operator, or owner shall remove or transport or permit the removal or transport of any Offensive Material except in a manner which is consistent with any and all applicable federal, state and local laws, rules, regulations and ordinances and in such a manner that will prevent the creation of a nuisance or condition that may adversely affect health. All materials shall be handled, packaged, covered, or treated so that it cannot escape or be accessible to vectors and vermin or create a Public Health Nuisance, or condition which may adversely affect health.
- 6.4 All dead domestic or farm animals shall be buried, or disposed of in a sanitary manner by the owner, operator, or person responsible for the animal, within 72 hours of its death or after its carcass has been discovered, except as otherwise regulated by Article 26 of the Agriculture and Markets Law of the State of New York.

### **Section 7. Liability**

- 7.1 Any person, operator or owner that has caused a release of Offensive Material or is holding, staging or storing Offensive Material that is causing a nuisance or that may adversely affect health shall be liable for all costs associated with the clean-up, removal and disposal of said Offensive Materials.
- 7.2 If the owner, operator, or person responsible for the release, holding, staging or storage of Offensive Material does not complete abatement within the time allowed by the order of the Chief Executive Officer or his/her designee, to protect the health and safety of the public, the Department of Health may take whatever action is deemed appropriate to remediate and abate the condition. Any and all costs incurred in the course of abatement shall be the responsibility of the owner, operator or person responsible for creating the Public Health Nuisance.

### **Section 8. Condemnation**

- 8.1 Whenever it is found by the Chief Executive Officer or his/her designee that a premises, or any part thereof, has become unsanitary and may adversely affect health or is unfit for human habitation or other type of occupancy, the premises will be considered to be a Public Health Nuisance. The Chief Executive Officer may issue a Repair Order requiring the occupant, operator, or owner to abate the nuisance or condition that may adversely affect health by placing the premises into a habitable and sanitary condition within the time period specified by the Chief Executive Officer or his/her designee.

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- 8.2 Upon failure of the occupant, operator, or owner, or agent thereof to comply with such Repair Order, the Chief Executive Officer or Board of Health may issue an additional order, to be affixed conspicuously upon the premises, to discontinue its use at such a time as identified in the order, until the time that the premises or part thereof can be placed in a sanitary and habitable condition and the nuisance abated.
- 8.3 Upon failure of such a premises to be vacated within the time specified, the Chief Executive Officer or Board of Health may issue a warrant to the Livingston County Sheriff, directing that such premises be vacated until such time as the nuisance is abated, and the Livingston County Sheriff shall forthwith execute such warrant pursuant to the law.

### **ARTICLE IV - RABIES CONTROL**

#### **Section 1. Definitions**

- 1.1 "Confinement and observation" refers to the conditions under which apparently healthy dogs, cats, domesticated ferrets, and domestic livestock, which are not exhibiting symptoms of rabies, must be maintained if such an animal has potentially exposed a person to rabies, and the owner wishes to avoid euthanizing and testing the animal. The required ten (10) day confinement and observation period for an animal not actively immunized against rabies at the time of the bite must take place, at owner's expense, at an appropriate facility approved by the Department of Health. The Chief Executive Officer or his/her designee may allow home confinement and observation for animals actively immunized. Confinement and observation includes verification by the Chief Executive Officer or his/her designee, both during and at the end of the ten (10) day period, that the animal cannot or has not escaped and has remained healthy.
- 1.2 "Quarantine" refers to a six (6) month period of restriction for animals which are not actively immunized against rabies and have been exposed to a potentially rabid animal, in accordance with applicable regulations of the Department of Health. The quarantine must include provisions to prevent escape of the animal during the quarantine period and to minimize contacts with humans and other animals, and these provisions must be verified by a Department of Health representative during and at the end of the six (6) month period.

#### **Section 2. Policy**

- 2.1 It is the policy of the Department of Health to prevent the potential for the transmission of rabies to residents of Livingston County by preventing exposure to animals that have been ordered to be confined or quarantined and have been found not properly quarantined or confined.

#### **Section 3. Inspection**

- 3.1 In accordance with State Sanitary Code Part 2.14, inspection of animals ordered to be confined or quarantined shall be conducted during the confinement or quarantine periods.

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3.2 In accordance with the provisions of the State Sanitary Code and Sanitary Code, the Department of Health may make inspections to determine compliance with applicable provisions of the Sanitary Code.

## **Section 4. Seizure**

4.1 Any duly appointed dog control officer, animal control officer, peace officer, police officer, or health officer may seize and confine any dog, cat or domesticated ferret found at large and may destroy a dog, cat or domesticated ferret found at large that is exhibiting symptoms of rabies and cannot be seized without placing any person at serious risk of physical injury. Any duly appointed person who seizes, confines, or destroys a dog, cat or domesticated ferret pursuant to this Section shall immediately report in writing the facts relating thereto to the Chief Executive Officer or his/her designee.

## **ARTICLE V – FOOD SERVICE ESTABLISHMENTS**

### **Section 1. Training**

- 1.1 It is the policy of the Department of Health to prevent the potential for the transmission of communicable diseases to residents of Livingston County by reducing the potential for exposure at facilities under the regulation of the Department of Health.
- 1.2 To reduce the potential for the transmission of communicable diseases to residents of Livingston County and visitors to regulated food service establishments in Livingston County, it shall be required that at least one (1) employee of every regulated food service establishment have a current certificate of training from a food service training program approved by the Department of Health. The receipt of a training certificate shall be based upon attendance at an approved course and achieving a passing grade on testing associated with said course.
- 1.3 A training certificate shall be obtained prior to opening a new food service establishment and the issuance of a permit.

### **Section 2. Posting**

2.1 To communicate correct practices for food handling and to assist in the continued implementation of safe practices, posters identifying handwashing instructions and choking instructions shall be posted at each food service establishment. The posters will be provided by the Department of Health and must be placed in a location readily observable by food service workers during their work activities.

## **ARTICLE VI - ENFORCEMENT**

### **Section 1. Enforcement.** Civil and Criminal Penalties; Hearings; Procedures.

1.1 It shall be the duty of the Board of Health, or its authorized designee, to enforce the provisions of the State Public Health Law, the applicable parts of the State Sanitary Code and the Sanitary Code and the Board of Health shall have such powers and duties as conferred upon it by the provisions of the State Public Health Law.

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1.2 Pursuant to the provisions of the State Public Health Law, the Board of Health, or its authorized designee, may:

- (i) issue subpoenas which shall be regulated by the Civil Practice Law and Rules of New York State;
- (ii) compel the attendance of witnesses;
- (iii) administer oaths to witnesses and compel them to testify;
- (iv) issue warrants to any peace officer in the County or a municipality within the County to apprehend and remove any person or persons as cannot otherwise be subjected to their orders and regulations, and to the Sheriff of Livingston County to bring to its aid the power of the County whenever it shall be necessary to do so;
- (v) issue Repair Orders; and
- (vi) prescribe and impose penalties for the violation of or failure to comply with any of its orders or regulations, or any of the provisions of the State Sanitary Code or Sanitary Code. Such penalties shall not exceed the maximum authorized by the State Public Health Law for each violation to be sued for and recovered by the Board of Health, or its authorized designee, in any court of competent jurisdiction. Nothing herein contained shall be construed to exempt an offender from any other prosecution or penalty provided by law.

1.3 Every warrant issued by the Board of Health, or its authorized designee, shall be forthwith executed by the officer to whom directed, who shall have the same powers and be subject to the same duties in the execution thereof, as if it had been duly executed out of a court record of the State.

1.4 Nothing contained in this Section shall be construed to alter or repeal any existing provisions of law declaring such violations or any of them misdemeanors or felonies or prescribing a penalty therefore.

1.5 Pursuant to the provisions of Section 348 of the State Public Health Law:

- (i) provisions of the Sanitary Code shall have the force and effect of law.
- (ii) certified copies of the Sanitary Code shall be received in evidence in all courts and proceedings in New York State.

1.6 Hearings.

The Board of Health, or its authorized designee, may cause to have issued and served upon the person complained against a written notice, together with a copy of the complaint made against said person, which shall specify the provisions of the code, rule or regulation of which such person is said to be in violation and a statement of the manner in which that person is said to have violated such code, rule or

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regulation and shall require the person so complained against to answer the charges of such complaint at a public hearing before the Board of Health, its authorized designee, or its designated hearing officer at a time not less than fifteen (15) days after the date of service of such notice.

The Board of Health, or its authorized designee, may serve, together with a copy of the complaint, a stipulation offer to the person complained against. The stipulation offer shall allow the person complained against to enter into a stipulation with the Department of Health, agreeing to correct the violations set forth in the complaint under the terms and conditions as set forth in the stipulation offer. The person complained against shall have the option of entering into the stipulation or proceeding with a formal hearing.

## 1.7 Complaints; Conduct of hearings.

- (i) The respondent to such complaint may file a written answer thereto and shall appear at such hearing in person with or without counsel, and may submit testimony, or may do both.
- (ii) The Board of Health may issue subpoenas and administer oaths in connection with any hearing or investigation under and pursuant to this Article, and it shall be the duty of the Board of Health for such purposes to issue subpoenas at the request of and upon behalf of the respondent requiring the attendance of witnesses and/or the production for examination of any book or paper relating to the matter at any hearing or investigation.
- (iii) The testimony at the hearing shall be under oath and recorded.

## 1.8 Order or Determination.

After due consideration of the written and oral statements, the testimony and arguments that shall be submitted under the provisions of subsection 1.7 above, or default in appearance of the respondent on the return day which shall be specified on the notice given in subsection 1.6 above, the Board of Health, its authorized designee, or designated Hearing Officer may issue and enter such final order, or make such final determination as it shall deem appropriate under the circumstances, and it shall notify the respondent thereof in writing by certified mail or by personal service.

## 1.9 Review.

Any final order or determination or other final action by the Board of Health, its authorized designee, or designated Hearing Officer and the validity or reasonableness of any code, rule or regulation of the Board of Health shall be subject to review as provided in Article 78 of the Civil Practice Law and Rules of New York State.

**SECTION TWO** – All prior enactments of the Sanitary Code of the County of Livingston are hereby repealed.

**SECTION THREE** – This Local Law shall be effective upon filing with the New York State Department of Health and the New York State Secretary of State.

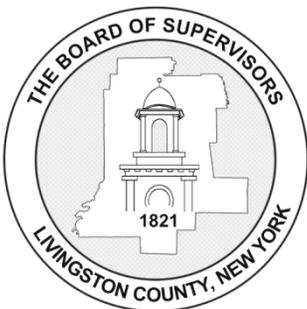
Livingston County Board of Supervisors  
Geneseo, New York



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Dated at Geneseo, New York  
November 18, 2020 (Introduced)  
December 16, 2020 (Adopted)

Michele R. Rees, IIMC-CMC  
Clerk of the Board



*This is to Certify that I, the undersigned, Clerk of the Board of Supervisors of the County of Livingston, have compared the foregoing copy of resolution with the original resolution now on file in this office and which was duly adopted by the Board of Supervisors of said County on the 16<sup>th</sup> day of December, 2020 and that the same is a true and correct transcript of said resolution and of the whole thereof.*

*In Witness Whereof I have hereunto set my hand and the official seal of the Board of Supervisors of the County of Livingston, this 16<sup>th</sup> day of December, 2020.*

*Michele R. Rees*

Michele R. Rees, Clerk of the Board