

ORDINANCE NO. 17-91  
BY: Earl Williams

Amending various sections of the Shaker Heights Codified Ordinances in order to delegate authority for health permitting, licensing and enforcement under Ohio law to the Cuyahoga County Board of Health, and to eliminate or modify certain ordinances to recognize the delegation of such authority.

WHEREAS, the following sections of the Administrative Code of the Shaker Heights Codified Ordinances were enacted, or amended most recently, by the legislation referenced after each section: Section 121.01 (Ord. 98-57, Enacted 4-27-98); 127.01 (Ord. 60-133, Enacted 8-1-60); 127.02 (Ord. 59-37, Enacted 3-23-59); 127.03-127.05 (Ord. 4237, Enacted 10-20-32); 135.06 (Ord. 88-8, Enacted 2-29-88); 135.07 (Ord. 87-47, Enacted 4-27-87); 135.08, 135.09, 135.10, 135.11 (Ord. 74-138, Enacted 12-23-74); 135.12 (Ord. 76-146, Enacted 12-27-76); 135.13 (Ord. 00-07, Enacted 1-24-00); 135.14 (Ord. 99-112, Enacted 7-12-99); 135.15, 135.17 (Ord. 13-114, Enacted 12-16-13); 135.16 (Ord. 92-91, Enacted 6-22-92); 137.09-137.11 (Ord. 92-186, Enacted 11-23-92); 140.01 (Ord. 96-116, Enacted 7-29-96); 140.02-140.04 (Ord. 96-53, Enacted 3-25-96); 141.21 (Ord. 07-41, Enacted 4-23-07); 141.27 (Ord. 16-48, Enacted 4-25-16); and

WHEREAS, the following sections of the Health Code of the Shaker Heights Codified Ordinances were enacted, or amended most recently, by the legislation referenced after each section: 301.02, 301.04-301.06, 303.01, 303.04, 303.05, 303.07, 305.01-305.20, 307.01-307.07, 309.01-309.08, 311.01, 311.03-311.05, 313.01-313.10, 321.01-321.15, 321.17-321.37, 323.01-323.07, 325.01-325.07, 327.01-327.04, 329.01-329.02, 331.01-331.25, 333.01-333.02, 333.04-333.08, 335.01-335.07, 341.01-341.08, 343.01-343.11, 345.01-345.02, 347.04-347.07, 347.14, 347.17, 347.18, 351.02, 351.04, 351.10-351.12, 353.04, 353.06, 355.01-355.09, 357.01-357.09, 359.01-359.09, 361.01, 379.03 (Ord. 78-75, Enacted 6-26-78); and

WHEREAS, the following sections of the Health Code of the Shaker Heights Codified Ordinances were enacted, or amended most recently, by the legislation referenced after each section: 301.03 (Ord. 72-99, Enacted 9-25-72); 301.08, 301.09, 301.99, 377.03 (Ord. 05-70, Enacted 5-23-05); 303.03, 303.09 (Ord. 05-118, Enacted 12-19-05); 303.06 (Ord. 13-03, Enacted 1-28-13); 303.08 (Ord. 11-109, Enacted 11-28-11); 311.02 (Ord. 87-99, Enacted 4-25-88); 321.16 (Ord. 70-151, Enacted 9-28-70); 333.03 (Ord. 71-4, Enacted 1-25-71); 347.01, 347.02, 347.12-347.13 (Ord. 13-114, Enacted 12-16-13); 347.17 (Ord. 64-121, Enacted 7-29-64); 381.07 (Ord. 97-75, Enacted 7-21-97); 383.02-383.04 (Ord. 78-97, Enacted 7-24-78); 385.01-385.08 (Ord. 88-89, Enacted 11-28-88); 386.05, 386.11, 386.99 (Ord. 01-52, Enacted 7-23-01); and

WHEREAS, the City has determined to delegate the authority for health permitting, licensing and enforcement under Ohio law to the Cuyahoga County Board of Health, and to eliminate or modify certain ordinances to recognize the delegation of such authority.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Shaker Heights, State of Ohio:

Section 1. Sections 121.01, 127.01, 127.02, 127.03-127.05, 135.06-135.17, 137.09, 137.11, 140.01, 140.02-140.04, 141.21, and 141.27 of the

Administrative Code of the Shaker Heights Codified Ordinances; and Sections 301.02-301.06, 301.08, 301.09, 301.99, 303.01-303.09, 305.01-305.20, 307.01-307.07, 309.01-309.08, 311.01-311.05, 313.01-313.10, 321.01-321.37, 323.01-323.07, 325.01-325.07, 327.01-327.04, 329.01-329.02, 331.01-331.25, 333.01-333.08, 335.01-335.07, 341.01-341.08, 343.01-343.11, 345.01-345.02, 347.01-347.02, 347.04-347.07, 347.12-347.14, 347.17-347.18, 351.02, 351.04, 351.10-351.12, 353.04, 353.06, 355.01-355.09, 357.01-357.09, 359.01-359.09, 361.01, 377.03, 379.03, 381.07, 383.02-383.04, 385.01-385.08, 386.05, 386.11, 386.99 of the Health Code of the Shaker Heights Codified Ordinances, as heretofore in effect, are hereby repealed.

Section 2. Sections 121.01, 127.01, 127.02, 135.07-135.17, 137.09, 137.11, and 141.27 of the Administrative Code of the Shaker Heights Codified Ordinances, and Sections 301.02-301.06, 301.08, 301.09, 301.99, 303.01-303.05, 303.07-303.09, 305.02-305.03, 305.05-305.07, 305.12-305.13, 305.16, 305.19, 311.01-311.05, 341.01-341.02, 347.01-347.02, 347.04-347.06, 347.12-347.14, 347.17-347.18, 351.02, 351.04, 351.10-351.12, 353.04, 353.06, 361.01, 377.03, 379.03, 381.07, 383.02-383.04, 386.05, 386.11, 386.99 of the Health Code of the Shaker Heights Codified Ordinances, shall be enacted as amended and re-numbered to read as follows:

#### CHAPTER 121

#### Director of Safety; Police, Fire and Building Departments

##### 121.10 SPECIAL POLICE OFFICERS.

(a) The Director of Safety is authorized to commission the Commissioner of Building, ~~or inspectors of the Department of Building and Housing inspection and their designees~~, the Director of Public Works and ~~the Director's~~ his designees, the Recreation Director, the Pool Manager and the Assistant Pool Manager, ~~the Health Department Inspectors~~ who are not regular members of the Police Department, and the Animal Warden, as special police officers.

(b) The following rules and regulations shall apply to such special police officers and their commissioning:

- (1) The special police officers shall receive no additional compensation for their duties as such;
- (2) The special police officers shall not be on the classified list of the Police Department nor eligible for participation in the Police Pension Fund;
- (3) The special police officers shall have the power to investigate, sign complaints and issue summonses for the violation of the laws of the State and ordinances of the City and shall only exercise such powers with reference to the Administrative, Business Regulation, Fire, Health, Zoning, Building, and Housing Codes of the City, and other similar ordinances or laws of the State relating or applicable to streets, sidewalks, tree lawns or other property belonging to the City, or construction within the City, or health regulations, or housing regulations, and in such other specific cases as the Director of Safety may from time to time direct. The Animal Warden shall enforce all of the ordinances of the City relative to animals.

- (4) Notwithstanding any other provision of this section, special police officers shall not:
- A. Be armed while on duty or while acting in their capacity as special police officers;
  - B. Exercise any authority in enforcement of the Traffic or General Offenses Codes of the City; or
  - C. Arrest, incarcerate or take into custody any person.

**CHAPTER 127**  
**Health Department**

**127.01 CREATION AND PERSONNEL.**

Under the provisions of Section 1, Article V of the Charter there is created a **Health Department** which may consisting of the Director of Health and such other employees as may be authorized by ordinance of Council. The duties and authority of the City's Health Department not otherwise assigned to a Director of Health and any other employees of the City, shall be delegated to the Cuyahoga County Board of Health.

**127.02 REGULATIONS BY DIRECTOR OF HEALTH; ENFORCEMENT.**

The ~~Director of Health~~ shall, ~~with the assistance of the~~ Director of Law and the Police Department shall work cooperatively with the Cuyahoga County Board of Health in the enforcement of laws and regulations, prepare such regulations as he may deem proper for the for the protection of the public health, the prevention or restriction of disease, and the prevention, abatement or suppression of nuisances. The Law DirectorHe shall, with the assistance of the Police Department and Cuyahoga County Board of Health, enforce Ohio law and such regulations when adopted by Council as ordinances enacted by Council, by prosecutions in the Municipal Court of the City, civil actions in the court of appropriate jurisdiction, or such other means as may be lawful.

~~**127.03 HEALTH STATION; REGULATIONS.**~~

~~(a) The Director of Health is authorized to establish a Health Station at the City Hall at which Station there shall be made available to residents and employees of the City such services and medical care in connection with the preservation of public health and the prevention and control of diseases as the Director of Health shall from time to time determine.~~

~~(b) The Director of Health is authorized to establish regulations for the operation of such Health Station, and the admission and treatment of persons thereat.~~

~~**127.04 CHARGES.**~~

~~The Director of Health is authorized to fix a schedule of charges for each visit to the Health Station, and to waive all or any part of such charges in cases in which he finds the person against whom such charge is made unable to pay the same, and the Director's action in allowing such waiver shall be conclusive evidence of such finding.~~

~~**127.05 VOLUNTEER WORKERS.**~~

~~The Director of Health is authorized to arrange for the services of qualified volunteer workers, professional or otherwise, to assist in the operation of the Health Station, and to establish regulations covering the rendition of such voluntary service.~~

**CHAPTER 135**  
**Employment Provisions**

~~**135.06 MEDICAL EXPENSES.**~~

~~—The Director of Finance is hereby authorized to pay certain medical and hospital expenses incurred as the result of any work connected injury by any employee, when such expenses are estimated to be less than seven hundred fifty dollars (\$750.00) and when the payment of such expense is approved by the employee, and, the director of the employee's his department and the **Director of Health**, it being the intent to limit the number of small claims being filed with the Workers' Compensation Bureau so as to retain a favorable rating for the City.~~

**135.067 COMPULSORY RETIREMENT AGE.**

(a) For employees other than firefighters and law enforcement officers, there shall be no mandatory retirement age.

(b) For firefighters and law enforcement officers as defined in Section 11 of the Age Discrimination and Employment Act of 1967 (29 U.S.C. 630 (j) and (k)), the mandatory retirement age is sixty (60).

(c) Nothing in this section shall limit the power of the Mayor to take appropriate action, including but not limited to suspension or termination, in the event that any employee is inefficient in his or her duties for reasons of physical or mental incapacity, or for any other reasons as provided by law.

**135.078 HOURS OF WORK.**

(a) Employees Generally. The work week of all employees shall be thirty-seven and one-half (37.5) hours except as might otherwise be provided herein, or by directive of the Mayor.

**135.089 TRAVEL AUTHORIZATION.**

(a) There is delegated to the Mayor the authority to order such travel by employees as he finds necessary or appropriate in the conduct of the City's business.

(b) The Mayor, upon authorizing any employee to travel, shall issue a written order, subject to certification of availability of funds for such travel by the Director of Finance, setting forth the destination, purpose, date and estimate of such expense.

(c) Whenever it is deemed necessary by the Mayor, and upon issue of a written order, the Director of Finance shall advance such estimate of expense from City funds.

(d) Within forty-eight (48) hours following such authorized travel, such employee shall return such prior issued written order to the Director of Finance, together with a certification as to actual expense substantiated by receipt for each and every item of expense except as otherwise provided herein.

(e) The return of such travel order, certification and receipts for actual expense shall be the authority of the Director of Finance to reimburse such employee for actual expense or such employee shall repay to the City any unexpended balance of his authorized advance of funds for such purpose.

(f) The Mayor and Director of Finance shall issue from time to time a schedule of expense amounts to be paid without receipt for use of personal automobile and daily food allowance. An incidental travel expense of not to exceed five dollars (\$5.00) per day is hereby allowed to be incurred without written receipt.

(g) Any employee authorized to travel and failing to comply with the provisions for authorization, written order, and return of expense as provided herein, shall not be entitled to subsequent travel authorization.

**135. ~~910~~ ORGANIZATIONAL MEMBERSHIPS.**

There is delegated to the Mayor the authority to approve the membership in various associations and the payment of dues therefor for the officials and employees, as the Mayor shall deem advantageous to the City, subject to appropriation of funds therefor by Council. The Director of Finance shall furnish to Council annually with the tentative budget a list of such memberships and the dues involved therewith.

**135. ~~1011~~ GRANDFATHER CLAUSE.**

It is recognized that there are some employees for whom benefits are currently provided who do not come within the indicated employment status and such benefits shall continue for such employees until their employment is terminated.

**135. ~~1112~~ RETIREE RE-EMPLOYMENT.**

Any retiree from a State of Ohio Pension System subsequently employed by this City, shall be entitled to employee benefits on the same basis as a new employee, unless otherwise provided for by ordinance of Council.

**135. ~~1213~~ MILITARY LEAVE.**

(a) Effective January 1, 2000, permanent City employees who are members of the Ohio organized militia, or members of other reserve components of the armed forces of the United States, including the Ohio National Guard, are entitled to leave of absence from their respective positions without loss of pay for the time they are performing service in the uniformed services, for periods of up to one month, for each calendar year in which they are performing service in the uniformed services.

(b) As used in this section, "calendar year" means the year beginning on the first day of January and ending on the last day of December, and "month" means twenty-two eight-hour work days or 176 hours within one calendar year.

(c) Except as otherwise provided in subsection (d) hereof, any permanent City employee who is entitled to the leave provided under subsection (a) hereof and who is called or ordered to the uniformed services for longer than a month, for each calendar year in which the employee performed service in the uniformed services, because of an executive order issued by the President of the United States or an act of Congress, is entitled, during the period designated in the order or act, to a leave of absence and to be paid, during each month of that leave of absence, the lesser of the following:

- (1) The difference between the permanent City employee's gross monthly wage or salary as a permanent City employee and the sum of the permanent City employee's gross uniformed pay and any allowances received that month, exclusive of allowances for travel, food, or housing;
- (2) Five hundred dollars (\$500.00).

(d) No permanent public employee shall receive payments under subsection (c) hereof if the sum of the permanent City employee's gross uniformed pay and allowances (exclusive of allowances for travel, food, or housing) received in a pay period exceeds the employee's gross wage or salary as a permanent City employee for that period or if the permanent City employee is receiving pay under subsection (a) hereof.

(e) (1) During the first month of military leave in each calendar year, as authorized by this section, employees shall accrue the vacation leave, sick leave, and seniority they would

otherwise have been entitled to, had the military leave not occurred. Likewise, all insurance and other benefits (e.g. longevity; educational pay) shall be unaffected during the first month of approved military leave in each calendar year.

- (2) Beginning with the second month of military leave in each calendar year, as authorized by this section, employees shall continue to accrue seniority, but all sick leave and vacation leave shall cease to accrue, and all insurance benefits shall cease to be paid by the City.

(f) The City will comply with the Ohio Revised Code and the rules and regulations of the Police and Fire Disability Pension Fund or Public Employees Retirement System, whichever is applicable, regarding pension contributions for all employees on military leave.

(g) An employee who has been on military leave shall be entitled to reinstatement to his/her previous position (or a position of similar seniority, status and pay) if:

- (1) The employee has given advance written or oral notice of such military service to the City;
- (2) The cumulative length of the absence and all previous absences from a position of employment with the City by reason of military service has not exceeded five years; and
- (3) The returning veteran reports to, or submits a reemployment application to the City in accordance with the notice requirements contained in 38 U.S.C. §4313(a).

#### **135.1314 JURY DUTY LEAVE.**

(a) Each full-time permanent employee, and each part-time permanent employee who works a minimum of twenty (20) hours per week on an annual basis, whether compensated by salary or by the hour, who is absent from a regularly scheduled day of work solely as a result of a summons to either appear in a court of law for examination as a potential juror or appear for jury duty, or a subpoena to appear in a court of law, an administrative hearing, or a deposition as a witness, will receive his or her regular rate of pay.

(b) In addition to his or her regular rate of pay, such employee shall also continue to earn the paid holidays, sick leave and vacation benefits to which such employee is entitled.

(c) The leave provided herein shall be predicated upon the employee's promptly advising his or her supervisor of the receipt of a summons or subpoena, and providing such necessary documentation pertaining to the employee's service as a juror or witness as may be required by the Chief Administrative Officer.

(d) Interpretations of this section, as may be required on a case-by-case basis, may be made by the Mayor, whose decision shall be final.

(e) This section shall not apply to the following:

- (1) Any employee who is involved in a legal action, as a plaintiff or defendant, that is unrelated to his or her employment with the City.
- (2) Any employee who is a member of a collective bargaining unit with which the City has a written collective bargaining agreement.

#### **135.1415 PENSION PICK-UP PLAN.**

(a) For the categories of City and Court employees listed in subsection (d) hereof, the contribution required to be made by each such employee to the Ohio Public Employees Retirement System ("PERS") or the Police and Firemen's Disability and Pension Fund, as applicable, as an employee contribution under Ohio R.C. 145.47 and 742.31 shall be paid by the

City on behalf of the employee in lieu of contribution by the employee in accordance with the provisions of this section.

(b) The gross wages payable by the City to each such employee in any pay period shall be reduced by the amount payable by the City to PERS or the Police and Firemen's Disability and Pension Fund on behalf of each such employee under subsection (a) hereof.

(c) The provisions of this section shall apply to all employees in the categories listed in subsection (d) hereof and no such employee shall have the option to receive direct payment of the amounts contributed by the City to PERS or the Police and Firemen's Disability and Pension Fund on his or her behalf in lieu of such amounts being contributed to PERS or the Police and Firemen's Disability and Pension Fund, or of being excluded from such pick-up.

(d) This section shall apply to all City and Court employees in the following categories:

- (1) Permanent full-time City employees, including both salaried and hourly;
- (2) Department heads and full-time assistant department heads;
- (3) The Mayor;
- (4) Judge, Small Claims Referee, Court Bailiff, Clerk of Court, and full-time employees of the Court;
- (5) Prosecutor;
- (6) Full-time police officers, sergeants and lieutenants;
- (7) Permanent, full-time firefighters, lieutenants and captains.

(e) The Director of Finance or the Director's designee is hereby directed to take all acts necessary and appropriate to initiate implementation of the provisions of this section, including, but not limited to, making applications to the Internal Revenue Service for private letter rulings concerning Federal tax treatment of the PERS and Police and Firemen's Disability and Pension Fund pick-up plans and making applications to the PERS Board and the Police and Firemen's Disability and Pension Fund Board.

(f) Subject to any requirements imposed by the Internal Revenue Service, the PERS Board, and the Police and Firemen's Disability and Pension Fund Board, the provisions of this section shall apply to all payroll payments payable by the City to such employees effective with the pay period commencing April 12, 1985, provided that the same shall be effective only so long as they are approved by the PERS Board or its agents or the Police and Firemen's Disability and Pension Fund or its agents.

### **135. ~~1516~~ COMPENSATION AND BENEFITS FOR DEPARTMENT HEADS.**

(a) The Mayor is hereby authorized, but not required, to provide compensation and benefits for full-time department heads as set forth herein.

(b) Full-time department heads may be provided compensation and benefits within the following described parameters:

- (1) Reasonable relocation and moving expenses for those department heads appointed after the effective date of this section, which may also be provided for other newly appointed full-time administrative staff, as the Mayor shall determine.
- (2) Salary or wages in accordance with the salary ranges for the position established by ordinance of Council.
- (3) Benefits, including but not limited to health, medical, disability and life insurance, vacation and sick leave, generally consistent with the benefits provided other City employees, and such other reasonable benefits as determined by the Mayor, whether or not such benefits are specifically

established by separate ordinance of Council.

- (4) Three months advance written notice of separation from employment within the first three years of employment for reasons other than misfeasance, malfeasance or nonfeasance.

(c) The Mayor shall provide notice to Council of any understanding entered into by the Mayor and a department head.

(d) Nothing herein shall limit the powers of the Mayor as set forth in the City Charter. This section shall be interpreted so as to preserve the respective powers of the Mayor and Council pursuant to the City Charter.

**135.1617 NONSALARY BENEFITS.**

(a) The Mayor and Director of Finance may provide the following nonsalary benefits to employees of the City:

- (1) Refreshments, including meals, at meetings, formal and informal, of City employees and other persons which further the objectives of the City;
- (2) Awards in recognition of prior service to the City;
- (3) Paid leave to City employees if approved specifically by the Mayor and the Director of Finance; and
- (4) Other reasonable nonsalary compensation not otherwise specifically circumscribed by statute.

**CHAPTER 137**

**Landmark Commission**

**137.09 REGULATION OF BUILDING OR ENVIRONMENTAL CHANGE OR REHABILITATION.**

No person owning, renting or occupying property which has been designated a landmark or which is situated in a designated Landmark District shall make any environmental or building change or rehabilitation in such property without consent of the Landmark Commission with respect to such building or environmental change or rehabilitation. The following procedures shall apply to all alterations, demolitions, removals or constructions of such property in the City:

- (a) Any application to the Building Department for a building permit for an environmental or building change or rehabilitation shall be forwarded to the Commission, together with copies of all detailed plans, designs, elevations, specifications and documents relating thereto, within seven (7) days after receipt thereof. An application may be filed by the applicant directly with the Commission at the same time that an application for a building permit is filed or in lieu of filing for a building permit, if no building permit is required for the proposed building or environmental change or rehabilitation.
- (b) If the Commission finds that the building or environmental change or rehabilitation proposed by the applicant:
  - (1) Shall not adversely affect any significant historical or aesthetic feature of the property and is appropriate and consistent with the spirit and purposes of this chapter and the "Standards for Rehabilitation" adopted by the U.S. Secretary of the Interior, as found in Title 36 of the Code of Federal Regulations, Part 1208 (formerly 36 CFR Part 67); or
  - (2) Shall remedy conditions imminently dangerous to life, health or property, as determined in writing by the Director of Building and Housing, Commissioner of Building or the Fire Chief ~~or the Health Director~~, then the Commission shall grant



permission. (Ord. 98-59. Enacted 4-27-98; Ord. 13-114. Enacted 12-16-13.)

- (c) If the Commission finds that the building or environmental change or rehabilitation proposed by the applicant shall adversely affect any significant historical or aesthetic feature of the property or is inappropriate or inconsistent with the spirit and purposes of this chapter, the Commission shall disapprove the application and so advise the applicant and the Building Department in writing within sixty (60) days after receiving the application.
- (d) If it disapproves the application, the Commission shall have the power to impose and enforce a waiting period of six (6) months from the date of its notice of disapproval, during which period the Commission shall conduct negotiations with the applicant and any other party in an effort to find a means of preserving the property as follows:
  - (1) With respect to an application involving an alteration, the Commission and the applicant shall work together during such period to find a mutually agreeable method of completing the proposed building or environmental change or rehabilitation.
  - (2) With respect to an application involving a demolition, removal, or construction, the Commission may in its discretion extend the original waiting period of six (6) months to one (1) year. During such period and any extension thereof the Commission and the applicant shall undertake meaningful and continuing discussions for the purpose of finding a method of saving such landmark. The Commission shall also investigate the feasibility of all available ways and means of preserving the landmark, including without limitation, inducing by contract or other consideration the creation of covenants restricting the use of the property, leasing and subleasing the property for the purposes of preservation, and acquiring by eminent domain or contract or conveyance all or any part of or interest in the property. If the Commission and the applicant do not agree on a means of preserving the landmark within the waiting period or any extensions thereof, the Commission upon the expiration of such period or extension thereof shall grant permission with respect to the proposed environmental or building change or rehabilitation.
- (e) Upon granting permission, the Commission shall give written notices to the applicant and the Building Department.
- (f) If no action has been taken by the Commission on an application within sixty (60) days after such application has been received by the Commission, application shall be deemed granted.
- (g) Nothing herein contained shall obviate compliance by the owner of such property with all other applicable ordinances, rules and regulations of the City.

#### **137.11 CHANGES NOT PROHIBITED.**

Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of any property which has been designated a landmark or which is situated in a designated Landmark District that does not involve a change in design, material, color or outer appearance thereof, nor to prevent any environmental or building

change that the Building and Housing or, Fire, ~~or~~ **Health Departments** shall certify in writing is required by the public safety because of an unsafe or dangerous condition.

#### ~~CHAPTER 140 -- Shaker Wellness Council~~

##### ~~140.01 CREATION; MEMBERSHIP; TERM.~~

~~There is hereby created a Shaker Wellness Council, which shall consist of the following members: the Mayor of the City (ex-officio); one member from Council (ex-officio); the Superintendent of the City School District (ex-officio); one member from the Board of Education (ex-officio); the **Director of Health**; the Director of Nursing; an administrative staff member from the City School District; a representative from the City Parent Teacher Organization; a student representative from the City School District; a representative from the Youth and Family Counseling Center of Shaker Heights; a representative from the Shaker Family Center at Sussex; a representative from the Senior Adult Office, appointed by the Mayor; a representative from the Police Department and a representative from the Fire Department, appointed by the Mayor; and two citizen members appointed by the Mayor. Each member shall serve a term of two years, commencing on May 1 of every even-numbered year, and may serve for more than one term. The Director of Health shall serve as chairman of the Shaker Wellness Council.~~

##### ~~140.02 PURPOSE.~~

~~The purpose of the Shaker Wellness Council shall be to coordinate efforts of community organizations and individuals concerned with the physical and emotional well-being of the residents of the City in order to improve the health of the Shaker Heights community.~~

##### ~~140.03 DUTIES.~~

~~The duties of the Shaker Wellness Council shall include, but not be limited to, the following:~~

- ~~(a) Work with the **Department of Health** to guide priorities and optimal use of City health resources.~~
- ~~(b) Create a forum for dialogue between organizations and individuals with shared missions regarding the health of City residents.~~
- ~~(c) Develop and implement a system for ongoing assessment of community health.~~
- ~~(d) Provide vision and support for a strategic public health plan for the City, including:
  - ~~(1) Health screening services.~~
  - ~~(2) Health education.~~
  - ~~(3) Health care intervention as needs are identified through community assessment.~~
  - ~~(4) Facilitate citizen access to needed health care, health screening, health education, and social services.~~~~
- ~~(e) Seek innovative sources of public and private funding to support efforts to improve the health of the community.~~

##### ~~140.04 STAFF AND EXPENSES.~~

~~The City shall provide in-house staff and related services from its **Health Department** in support of the Shaker Wellness Council, as may from time to time be required, with the approval of the Mayor and the **Director of Health**. Additional expenses related to the operation of the Shaker Wellness~~

~~Council, including but not limited to postage, printing and stationery, shall be included in the City's annual budget as approved by Council.~~

**CHAPTER 141  
Finance Department; Purchases and Sales**

~~**141.21 HEALTH GRANTS.**~~

~~— (a) The **Director of Health** is hereby authorized to apply for and accept health emergency preparedness planning grants from the Ohio Department of Health or the Cuyahoga County Board of Health, where no City matching funds are required under the grant agreement.~~

~~— (b) The Mayor is hereby authorized to agree, on behalf of the City, to be bound by all contract terms and conditions required in order to receive grant funds for the **Department of Health** authorized by subsection (a) hereof, subject to approval by the Director of Law.~~

**141.2127 CONTRACTS FOR UTILITY SERVICES.**

(a) The Mayor is hereby authorized to conduct competitive proposal processes for the securing of proposals from public utilities, electric distribution utilities, competitive retail electric suppliers, competitive retail natural gas suppliers, electric or gas marketers, or government aggregators, that are authorized under Ohio law to contract for retail electric or natural gas service, for the provision of such services to City facilities.

(b) The Mayor is hereby authorized to enter into contracts with electric and gas utility suppliers that submit the lowest and best proposals for the provision of electric or natural gas supply for City facilities, including contracts in amounts greater than \$25,000.

**PART THREE - HEALTH CODE  
CHAPTER 301  
General Provisions and Enforcement**

**301.02 CONSTRUCTION.**

(a) In any case where a difference may exist between the requirements of this Health Code and those of any other applicable ordinance, statute or regulation, the more restrictive shall govern.

(b) All adjectives and adverbs, such as "adequate", "approved", "attractively", "clean", "good", "qualified", "reasonable", "reliable", "reputable", "sanitary", "satisfactory", "sufficiently suitable" or "well", as used in this Health Code to qualify a person, building or equipment, shall be as determined by the appropriate Director of the CityHealth, which determination shall be made in such manner as to safeguard and promote the public health in the City.

~~— (c) The term "Director of Health", wherever used in this Health Code, means the Director of Health of the City of Shaker Heights.~~

**301.03 RIGHT OF ENTRY AND INSPECTION.**

~~(a) The Director of Building and HousingHealth, or any officer or employee of the City or the Cuyahoga County Board of Health designated by him for that purpose, may at any reasonable hour enter any building or other premises within the City and inspect the same, or may inspect any vehicle within the City, stopping the vehicle if necessary, for the purpose of determining whether any violation of this Health Code, or any ordinance, statute or other regulation establishing requirements for the protection of~~

the public health exists, provided permission to enter or inspect is obtained from the occupant, or, in the case, of unoccupied property, from the owner thereof or his agent.— If such permission is refused or is otherwise unobtainable, a search warrant shall be obtained before such entry or inspection is made, except in the case of an existing emergency in which case entry or inspection may be made at any time and no search warrant is necessary.

~~\_(b) No person shall refuse to permit such emergency entry or inspection, nor shall any person hinder, obstruct, resist or abuse any person making or attempting to make such inspection.~~

#### **301.04 RIGHT TO PURCHASE.**

(a) The Police Department, the Director of Building and Housing~~Health~~, or any officer or employee of the City or the Cuyahoga County Board of Health designated ~~by him~~ for that purpose, shall have the right to purchase at the regular retail price any article offered or possessed for sale within the City, for the purpose of determining whether such article meets the requirements of this Health Code or any ordinance, statute or regulation establishing requirements for the protection of the public health.

(b) No person shall refuse to sell such article to the person authorized in this Section~~Director or any officer or employee of the City.~~

#### **301.05 SEIZURE.**

(a) The Police Department, the Director of Building and Housing~~Health~~, or any officer or employee of the City or the Cuyahoga County Board of Health designated ~~by him~~ for that purpose, may seize any food ~~or drug~~, or a sample of the same, which said authorized person~~he~~ has reason to believe to be adulterated or misbranded, for the purpose of testing the same.

(b) No person shall refuse to permit such seizure, nor shall any person hinder, obstruct, resist or abuse any person making or attempting to make such seizure.

(c) The person seizing a sample for the purposes of this section shall seal the remainder of any such article in a container. No person, without the permission of a~~the~~ sanitarian, shall break the seal or remove the sealed article.

#### **301.06 CONFISCATION AND DISPOSAL.**

(a) The Police Department, the Director of Building and Housing~~Health~~, or any officer or employee of the City or Cuyahoga County Board of Health designated ~~by him~~ for that purpose, shall confiscate any food ~~or drug~~ found by said authorized person~~him~~ to be adulterated or misbranded or existing otherwise in violation of this Health Code or any ordinance, statute or regulation establishing requirements for the protection of the public health.

(b) Such authorized person~~The Director, or other designated person,~~ may also confiscate any utensil or container existing in violation of this Health Code or any ordinance, statute or regulation.

(c) The person so confiscating any such article shall immediately destroy the same, dispose of, or treat the same so as to render it unusable, or he may require the owner or person in possession of the article to so destroy, dispose of, or treat the same. ~~No person shall, upon the order of the sanitarian, refuse or fail immediately to so destroy, dispose of or treat such article.~~

(d) No person shall have any right of ownership or possession in any property seized or confiscated under the authority of this chapter, or any

claim for compensation or damages for any seizure, confiscation, destruction, disposal or treatment of any such article.

### 301.07 VARIANCES.

(a) The Directors of Building and Housing~~Health~~ or Public Works, or the Chief of Police, or Chief of Fire as applicable, may grant a variance in a specific case and from a specific provision of this Health Code or any regulation, order or notice, subject to appropriate conditions and safeguards, and provided the Director or Chief makes specific findings of fact based on evidence relating to the following:

(1) That there are practical difficulties or unnecessary hardships in carrying out the strict letter of this Health Code or any regulation, order or notice; and

(2) That the effect of the application of the provisions would be arbitrary in the specific case; and

(3) That an extension would not constitute an appropriate remedy for these practical difficulties or unnecessary hardships and this arbitrary effect; and

(4) That such variance is in harmony with the general purpose and intent of this Health Code in securing the public health, safety and general welfare.

(b) The Director or Chief in granting any variance may prescribe appropriate conditions and safeguards to protect the public health, safety and general welfare, to achieve the intent of this Health Code and to compel compliance with terms of the variance. ~~Violation or noncompliance with the conditions and safeguards, which are made a part of the terms under which the variance is granted, shall be deemed a violation of this Health Code and subject to the penalty prescribed therefor.~~

### 301.08 ORDERS, ENFORCEMENT AND EMERGENCIES.

(a) In the event of any actual or threatened violation of the City's Health Code or any ordinance, statute or other regulation establishing requirements for the protection of the public health, including an emergency situation, the Directors of Building and Housing or Public Works, or the Chief of Police, or the Chief of Fire, as applicable, Director of Health or said Director's~~his or her~~ or Chief's designee, including an employee of the Cuyahoga County Board of Health, may issue an Order that actions be taken or terminated in order to abate or prevent the violation. In addition to or in lieu of such an order, the Director or Chief, or the Director's or Chief's designee may issue a Notice of such a violation, provide a reasonable time in which the violation must be corrected, and serve said Notice in the same manner as notices of abatement pursuant to Chapter 107 of the Codified Ordinances.

(b) No person shall fail or refuse to comply with any lawful order issued by the appropriate Director or Chief~~of Health,~~ or designee, including an employee of the Cuyahoga County Board of Health.

(c) In the event of any actual or threatened violation of the City's Health Code or any ordinance, statute or other regulation establishing requirements for the protection of the public health, including an emergency situation, the City, in addition to any other action or remedy allowed by law, may bring a criminal action, may institute proper suit in equity or law to prevent or terminate any such violation or remedy such situation, and/or may take action itself or through contractors hired for such purpose to abate the violation or situation in the same manner as the abatement of nuisances

pursuant to Chapter 107 of the Codified Ordinances. If the City takes action on its own or through contractors hired for such purpose to abate the violation or situation, the City may assess its costs in the same manner as set forth in Chapter 107 of the Codified Ordinances.

(d) In any case in which the appropriate Director or Chief, ~~of Health~~ or designee, including an employee of the Cuyahoga County Board of Health, determines that any actual or threatened violation of the City's Health Code or any ordinance, statute or other regulation establishing requirements for the protection of the public health poses an immediate threat of substantial and/or irreparable danger to human life or health, the Director or Chief may declare such condition a nuisance and order its immediate abatement, and the Director or Chief, —or designee, including an employee of the Cuyahoga County Board of Health, may take action necessary to immediately abate the violation or situation constituting such threat without advance notice to the owner. —Such action may include entering a property for the purposes of conducting an inspection, to the extent and in the manner allowed by law, or ordering that the property be immediately vacated.

### **301.09 APPEALS.**

Whenever the Director or Chief~~of Health,~~ or designee, including an employee of the Cuyahoga County Board of Health, issues an order of abatement or a violation notice, or takes any other action pursuant to the City's Health Code, the person that is the subject of the order, notice or action may appeal such order, notice or action to the appropriate Director or Chief~~of Health~~ within thirty (30) days from the date of the order, notice or action appealed. If the Director or Chief refuses to reverse the order, notice or action the appellant may appeal to the Board of ~~Housing Code~~ Appeals within thirty (30) days from the date of the final decision of the Director or Chief.

### **301.99 PENALTY.**

(a) The owners, tenants, agents, occupants, or persons in control of any building or premises where anything in violation of this Health Code is placed or exists, and any person who violates, causes or knowingly permits any violation of this Health Code in buildings or on premises under his charge or control, and any person who violates any provision of this Health Code or fails to comply therewith shall, for each violation or noncompliance, shall be deemed guilty of a misdemeanor of the first degree unless otherwise specifically indicated, and shall be punished as set forth in Section 101.99 of the Administrative Code of the Codified Ordinances. Each day of such violation or failure to comply shall constitute a separate offense.

(b) In addition to the penalties provided herein, the appropriate Director ~~of Health~~ may suspend or revoke any permit or license issued under the provisions of this Health Code.

## **CHAPTER 303 - Permits and Licenses**

### **303.01 DEFINITIONS.**

(a) A "permit" shall constitute authority for one operation of any kind regulated by this Health Code. It does not take the place of any license now or hereafter required by ordinance or other law. It shall be valid for such limited period as the Director of Health Director of Building and Housing or the Director of Public Works, as designated in the particular Section of this Code requiring a license or permit (referred to in this Chapter as the

"Director"), shall determine to be reasonably necessary for completion of the proposed operation.

(b) A "license" shall constitute authority for a period extending to the end of the calendar year in which it is issued for conducting any business, trade, occupation or calling, or performing any series of operations regulated by this Health Code.

### 303.03 PERMIT OR LICENSE REVOCATION OR SUSPENSION; HEARING.

~~(a) The Director of Health ("Director"), shall have the power to revoke or suspend any permit or license for any of the following causes:~~

~~(a1) Violation of any provision of this Health Code or of any other provision of law or regulation applicable to the protection of health with reference to the business, trade, occupation, calling or operation covered by such permit or license.~~

~~(b2) Any false or incorrect statement in any application or representation submitted for the purpose of securing or continuing such permit or license.~~

~~(c3) Any failure on the part of any permittee or licensee to report immediately to the Director any violation within his or her knowledge, on the part of any of his or her concessionaires, of any provision referred to in subsection (a) (1) hereof.~~

~~(b) In the case of a proposal to suspend or revoke a food service operation license or permit, the Director shall provide the licensee or permittee with the written notice of the proposed action and the cause for the action. The notice shall describe the procedure for appealing the proposed suspension or revocation.~~

~~(1) The written notice shall be provided by certified mail, return receipt requested, or by hand delivery. If the notice is returned because of failure of delivery, the Director shall either send the notice by regular mail to the food service operation location listed on the license or permit, or conspicuously post the notice at an entrance of the operation. In either case, the notice shall be deemed to have been received on the date it was mailed or posted.~~

~~(2) The notice shall state that the licensee or permittee may obtain a hearing if a written request for a hearing is mailed or hand-delivered to the Director's address specified in the notice within fifteen days after the affected person receives or is deemed to have received the notice.~~

~~(3) Upon receiving a timely hearing request, the Director shall schedule a hearing before the Director.~~

~~(4) The Director shall, by certified mail or by hand delivery, provide notice of the date, time and place of the hearing to the licensee or permittee no less than ten days before the scheduled date. The Director may additionally post the notice of hearing at the food service operation.~~

~~(5) The licensee or permittee and the Director each shall have one opportunity to reschedule the hearing date upon specific request to the other party. Any other postponements of the hearing shall be by agreement of the Director and the licensee or permittee.~~

~~(6) At the hearing, the licensee or permittee shall have the opportunity to present his or her case orally or in writing and to confront and cross-examine adverse witnesses. The licensee or permittee may be represented by his or her legal counsel, if desired, and may review the case record before the hearing.~~

~~(7) If the Director does not receive a timely request for~~

~~hearing, the Director may immediately enter an order as proposed in the notice.~~

~~(8) A determination by the Director, after appeal, to suspend or revoke a license or permit, may be appealed to the Board of Appeals. An appeal shall stay the order to suspend or revoke a license or permit pending the decision on appeal.~~

**303.04 INSPECTION BEFORE ISSUANCE OF PERMIT OR LICENSE.**

Before a permit or license may be issued, the Director ~~of Health~~ shall cause inspection to be made of the premises, vehicles and equipment to be used whether within the limits of the City or elsewhere. No permit or license shall be issued unless the premises, vehicles and equipment conform to all the requirements of this Health Code and any other law or regulation applicable to the protection of health. Some of the provisions included in this Health Code, along with other requirements, may also be covered by other ordinances, laws, or regulations enforceable by other departments. In such cases, the approval of such other departments shall be required.

**303.05 PERMIT OR LICENSE APPLICATION; DETERMINATION BY DIRECTOR.**

(a) Each application for a permit or license required by this Health Code shall be made to the Director ~~of Health~~ in such form and detail as ~~the Director~~ shall prescribe, and shall be accompanied by the fee required by this Health Code to be charged for such permit or license.

(b) No permit or license shall be required for conducting any business, trade, occupation or calling which is licensed under the authority of any municipality, county or state, or the federal government, so long as the intent or the degree of control of this Health Code is, in the determination of the Director ~~of Health~~, complied with in a substantial manner.

~~**303.06 LICENSE FEES.**~~

~~Pursuant to the authority granted under Ohio R. C. 3717.25, and in accordance with Ohio R.C. 3717.45, the Health Department is hereby authorized to charge license fees in the following programs, for the purpose of enforcing and paying the cost of inspection: Food Service Operations, Retail Food Establishments, Vending Machines and Swimming Pools.~~

~~(a) Food Service Operations and Retail~~

~~Food Establishments.~~

~~(OAC Sections 3701-21-021 and 901:3-4-03)~~

~~(1) Commercial Food Service and Retail Food Establishments based upon level of risk of food borne disease, as follows:~~

| <del>Level of Risk</del> | <del>License Fee</del>          | <del>License Fee</del>             |
|--------------------------|---------------------------------|------------------------------------|
|                          | (Area less than 25,000 sq. ft.) | (Area greater than 25,000 sq. ft.) |
| <del>Risk I</del>        | <del>\$150.00</del>             | <del>\$250.00</del>                |
| <del>Risk II</del>       | <del>\$220.00</del>             | <del>\$260.00</del>                |
| <del>Risk III</del>      | <del>\$400.00</del>             | <del>\$800.00</del>                |
| <del>Risk IV</del>       | <del>\$500.00</del>             | <del>\$900.00</del>                |

~~(2) Noncommercial Food Service Operations and Noncommercial Retail Food Establishments.~~

~~Type: School, government, nonprofit youth group~~

| <del>Level of Risk</del> | <del>License Fee</del> | <del>License Fee</del> |
|--------------------------|------------------------|------------------------|
|                          | (Area less than        | (Area greater than     |



|   |   |                   |          |
|---|---|-------------------|----------|
|   | 25,000 sq. ft.)   | 25,000 sq. ft.)   |          |
|   | Risk I  | \$ 75.00          | \$125.00 |
|   | Risk II   | \$110.00          | \$130.00 |
|   | Risk III  | \$200.00          | \$400.00 |
|   | Risk IV   | \$250.00          | \$450.00 |
| <u>(3) Mobile Food Service Operations and Mobile Retail Food Establishments.</u>  |   |                   |          |
|   | Type  | License Fee       |          |
|   | Return daily to Commissary                                    | \$60.00           |          |
|   | Do not return daily to Commissary                             | \$60.00           |          |
| <u>(4) Vending Machine Locations/Commissary Food Service Operations.</u>  |   |                   |          |
|   | Type  | License Fee       |          |
|   | Location or Commissary  | \$25.00           |          |
| <u>(5) Temporary Food Service Operations and Temporary Retail Food Establishments.</u>  |   |                   |          |
|   | Type  | License Fee       |          |
|   | Whole event   | \$30.00           |          |
| <u>(b) Water Sample Fee.</u>  |   |                   |          |
|   | Type  | License Fee       |          |
|   | Bacteriological water sample                                  | \$10.00           |          |
| <u>(c) Recreational Park/Camp Program.</u>  |   |                   |          |
|   | Type  | License Fee       |          |
|   | Manufactured home parks                                       | N/A Due to Zoning |          |
|   | Marinas   | N/A Due to Zoning |          |
|   | Private water system program                                  | N/A Due to Zoning |          |
| <u>(d) Public Swimming Pool, Spa, Special Use Pool. (OAC Section 3701-31-022)</u>   |   |                   |          |
|   | Type  | License Fee       |          |
|   | (1) Individual public swimming pool                           | \$120.00          |          |
|   | (2) Individual public spa                                     | \$120.00          |          |
|   | (3) Individual special use pool                               | \$120.00          |          |
|   | (4) Additional pools, spas, special use pools at same address | \$25.00           |          |
|   | (5) Government/school operated pools, spas, special use pools | \$25.00           |          |
|   | (6) Water Sample Fee (Bacteriological)                        | \$15.00           |          |
| <u>(e) A penalty of twenty-five percent (25%) of the License Fee shall be assessed for all Food Service Operation, Retail Food Establishment and Vending Machine Food Service Operation Licenses when the application for the License is received after the renewal date.</u> |   |                   |          |

### **303.067 ISSUANCE OF PERMITS AND LICENSES.**

The Director ~~of Health~~ shall examine, or cause to be examined, each application for a permit or license authorized by this Health Code and, if ~~the Director~~ shall find the application to be in proper form and detail as prescribed ~~by him~~ the Director and accompanied by the proper fee, and if ~~the Director~~ shall find that the business, trade, occupation, calling or operation for which a permit or license is sought in the application will not conflict with the provisions of this Health Code, ~~the Director~~ shall cause the permit or license to be issued; otherwise ~~the Director~~ shall refuse to issue the same. ~~A permit or license issued for any business, trade, occupation, calling or operation conflicting with any provision of~~

~~this Health Code shall be void.~~

**303.078 ADDITIONAL HEALTH DEPARTMENT LICENSES AND PERMITS; FEES.**

~~(a) Any owner, occupant, party in control, operator or contractor that constructs, installs, or maintains a compost pile shall obtain a one-time permit from the Director of Public Works after paying The City fee for each of the following permits and licenses issued pursuant to the Health Code shall be as follows:~~

~~(1) For each compost pile construction permit, a fee of five dollars (\$5.00).~~

~~(b) Any owner, occupant, party in control, operator or contractor that constructs, installs, or maintains a~~

~~(2) For each private or public swimming pool shall obtain a one-time permit for the construction of the pool from the Director of Building and Housing after paying a construction permit, a fee of seventy-five cents (\$0.75) per 100 square feet, with a minimum fee of three dollars (\$3.00).~~

~~(3) For each license issued for a food establishment or a place where food is prepared or sold, except as hereinbefore provided, a fee of fifty dollars (\$50.00).~~

~~(4) For each huckster's license, a fee of twenty dollars (\$20.00).~~

~~(c) Any owner, party in control, operator or contractor that operates or intends to operate~~

~~(5) For each a garbage/refuse collection vehicle, must obtain a one-time license from the Director of Public Works, after paying license, a fee of twenty-five dollars (\$25.00).~~

~~(6) For each license to conduct, operate and maintain a private swimming pool, a fee of twenty-five dollars (\$25.00).~~

~~(d) (7) For any other permit or license required by the Health Code, the owner, party in control, operator or contractor, as applicable, shall obtain said permit or license after paying a fee of thirty dollars (\$30.00).~~

~~(b) The Director of Health may charge a fee for health services rendered to members of the public, including but not limited to influenza vaccinations, inoculations, and tests for contagious diseases, as set forth herein.~~

~~(1) Such fees shall be intended to defray the City's costs, or a portion thereof, for providing the service in question.~~

~~(2) Such fees shall be approved by the Mayor and reported to Council prior to their implementation. Furthermore, such fees shall be posted at City Hall for a period not less than thirty days before they shall become effective.~~

~~(3) No fee shall be charged where prohibited by state or federal law.~~

~~(4) Provisions shall be made for the reduction or waiver of fees based upon financial need.~~

~~(5) The Director of Health may promulgate such additional rules and regulations as are necessary for the provision of health services to the public, and any fee which may be charged therefore.~~

~~(c) Effective October 16, 2009, the fee charged for certified copies of birth or death certificates shall be twenty-four dollars (\$24.00).~~

**303.089 IMMEDIATE DANGER TO PUBLIC HEALTH.**

(a) In the case of a violation presenting an immediate danger to the public health, the Director or the Director's designee may immediately take

action pursuant to the authority of Section 301.08 of the Health Code, including, but not limited to, issuing an order to abate the violation, seizing or embargoing product as permitted by this Health Code or State law and regulation, or suspending a license or permit, pursuant to the following requirements:

(1) The Director or designee shall provide the licensee or permittee with a contemporaneous written notice of the action, and the effective date of the action. The written notice shall specify the procedure for appealing the suspension and shall list the address to which a hearing request shall be sent or delivered. An appeal shall not stay any action by the City or the effectiveness of an order by the Director or designee to abate an immediate danger to public health. An appeal shall stay a license suspension pending the outcome of the appeal.

(2) The licensee or permittee may appeal the action or order by mailing or hand-delivering a written request for hearing to the address specified in the notice.

(3) If a hearing is requested, it shall be heard no later than two business days after the request is received by the Director.

(4) At the hearing, the licensee or permittee shall have the opportunity to present his or her case orally or in writing and to confront and cross-examine adverse witnesses. The licensee or permittee may be represented by his or her legal counsel, if desired, and may review the case record before the hearing. At the hearing, the Director shall determine whether the immediate danger to the public health continues to exist.

(b) The Director shall, immediately after the hearing, render a decision to uphold, modify or reverse the action or order appealed. A decision of the Director on appeal may be appealed to the Board of Appeals

## CHAPTER 305 Definitions

### ~~305.01 APPLICATION.~~

~~The following definitions and general provisions shall apply to this Title Three - Communicable and Occupational Diseases.~~

### 305.012 ~~CARRIER; INFECTED PERSON.~~

~~(a) "Carrier" means a person who, without apparent symptoms of a communicable disease, harbors the specific microorganisms and may serve as a source of infection for others.~~

~~(b) In distinction to carrier, T~~the term "infected person" means a person in whose tissues the etiological agent of a communicable disease is lodged and produces symptoms.

### 305.023 CHILD.

"Child" means any person under eighteen (18) years of age.

### ~~305.04 CLINICAL RECOVERY.~~

~~"Clinical recovery" means complete recovery, in the opinion of the Director of Health.~~

### 305.035 CONTACT.

"Contact" means a person or animal known to have been in such association with an infected person or animal as to have been presumably exposed to infection.

**305.046** COMMUNICABILITY, PERIOD OF.

"Period of communicability" means the times during which the etiological agent may be transferred directly or indirectly from an infected person to another person.

**305.057** DISINFECTION; ~~CONCURRENT AND TERMINAL.~~

(a) "Disinfection" means the destruction of the viability of pathogenic microorganisms by chemical or physical means directly applied.

~~(b) When the word "concurrent" is used as qualifying disinfection, it indicates the application of disinfection immediately after the discharge of infectious material from the body of an infected person, or after the soiling of articles with such infectious discharges.~~

~~(c) When the word "terminal" is used as qualifying disinfection, it indicates the process of rendering the personal clothing and immediate physical environment of the patient free from the possibility of conveying the infection to others, at the time when the patient is no longer a source of infection.~~

~~**305.08** DISINFESTATION.~~

~~"Disinfestation" means any physical or chemical process by which undesired animal forms such as arthropods, may be destroyed upon the person, on his clothing or in his environment. This includes the process that is commonly called "delousing", as applied to infestation with pediculus humanis, the body louse.~~

~~**305.09** IMMUNE PERSON.~~

~~"Immune person" means a person rendered insusceptible through specific protective antibodies acquired either actively or passively. "Immunity" is a relative term and an ordinary protection may be overwhelmed by an excessive dose of the infectious agent or a highly virulent strain.~~

~~**305.10** IMMUNITY; PASSIVE AND ACTIVE.~~

~~(a) "Immunity" means a state of protection from an infectious agent attained by the possession of specific protective antibodies.~~

~~(b) "Passive immunity" is attained either by maternal transfer or by inoculation of specific protective antibodies and is therefore of brief duration.~~

~~(c) "Active immunity" is either natural, induced by an attack of the disease, or artificial, by inoculation of products of an infectious agent or the agent itself in killed or modified form.~~

~~**305.11** IMMUNIZATION.~~

~~"Immunization" means the induction of specific protective antibodies in a susceptible person or animal.~~

**305.1206** INCUBATION PERIOD.

"Incubation period" means the time interval between the invasion of a susceptible person by the causative organism and the appearance of the first signs or symptoms of the disease in question.

**305.0713** ISOLATION.

"Isolation" means the separation for the period of communicability of infected persons from susceptible persons, in such places and under such

circumstances as will prevent the direct or indirect conveyance of the infectious agents to susceptible persons.

~~**305.14 MINGLE WITH THE PUBLIC.**~~

~~"Mingle with the public" when used in this Health Code shall, without prejudice to the generality of the term, include entrance into any public vehicle or conveyance, or any place of business, office, school, shop or store, and willful exposure of oneself to other persons in any place.~~

~~**305.15 PERMISSION OF THE DIRECTOR OF HEALTH.**~~

~~"Permission of the Director of Health" means written permission granted by the Director of Health to do or omit certain acts, such permission to be granted only when the Director shall find that the acts may be done or omitted without danger to the public health. Such permission shall be subject to such conditions, if any, as the Director shall find necessary or appropriate to avoid such danger. The granting of the permission by the Director shall be conclusive evidence that the Director has made the findings herein required to precede and/or condition the grant. Such permission may be revoked at any time by the Director, immediately and without notice, for violation of any condition thereof.~~

**305.0816 QUARANTINE.**

"Quarantine" means the limitation of freedom of movement of persons or animals who have been exposed to communicable disease for a period of time equal to the longest usual incubation period of that disease to which they have been exposed, in such manner as to prevent effective contact with those not so exposed.

~~**305.17 QUARANTINABLE DISEASE.**~~

~~"Quarantinable disease" means any disease specified as Class A in Section 307.01, or any other communicable disease which is declared to be unduly prevalent by the Director of Health, notice of which declaration must be given either in person to cases, parents, persons in loco parentis, or by publication in a newspaper of general circulation in the City.~~

~~**305.18 REPORT OF A DISEASE.**~~

~~"Report of a disease" means notification to the Department of Health, and also, in the case of communicable disease in animals, notification by the Department of Health to the Department of Agriculture or other governmental agency which has immediate jurisdiction, that a case of communicable disease exists or is suspected of existing in a specified person or animal at a given address.~~

**305.019 SUSCEPTIBLE.**

"Susceptible" refers to a person or animal who is not known to have become immune to the particular disease in question by natural or artificial processes.

~~**305.20 VECTOR.**~~

~~"Vector" means an arthropod which conveys a pathogenic organism from a person or animal to another person or animal. The conveyance may be by mere contact with the skin or mucous membrane of the person or animal or by inoculation of the pathogenic organism into or through some part of the skin or mucous surface in the course of biting the person or animal.~~

~~CHAPTER 307 -- Report of Diseases~~

~~307.01 DISEASES, DISABILITIES AND INFESTATIONS TO BE REPORTED.~~

~~The diseases, disabilities and infestations herein named and classified as "Class A" and "Class B" are declared to be dangerous to the public health, are made notifiable, and the occurrence of cases or suspected cases shall be reported as provided in the following sections:~~

- ~~(a) Class A.~~
- ~~Aids Granuloma inguinale~~
- ~~Anthrax Hansen's disease (leprosy)~~
- ~~Brucellosis Hepatitis:~~
- ~~Chancroid 1. acute infectious~~
- ~~Chickenpox 2. homologous serum~~
- ~~Cholera Histoplasmosis~~
- ~~Diarrhea, epidemic of newborn Influenza~~
- ~~Diphtheria Impetigo (institutional)~~
- ~~Dysentery, amebic (amebiasis) Leptospirosis~~
- ~~Dysentery, bacillary Lymphopathia venereum~~
- ~~(shigellosis) Malaria~~
- ~~Encephalitis (arthropod-borne) Measles~~
- ~~Encephalitis (other types) Meningococcus meningitis~~
- ~~Food poisonings: (cerebro-spinal fever)~~
  - ~~1. Botulism Mumps~~
  - ~~2. Staphylococcal Paratyphoid fever~~
- ~~Gonococcal infections Pertussis~~
- ~~(specify type) Plague (bubonic, pneumonic and septicemic)~~
- ~~Poliomyelitis Trachoma~~
- ~~Psittacosis Trichinosis~~
- ~~Q fever Tuberculosis:~~
- ~~Rabies 1. pulmonary~~
- ~~Rheumatic fever 2. nonpulmonary~~
- ~~Rocky Mountain spotted fever Tularemia~~
- ~~Rubella (German measles) Typhoid fever~~
- ~~Salmonellosis Typhus fever~~
- ~~Scarlet fever Yellow fever~~
- ~~Smallpox (variola) In addition, persons~~
- ~~Syphilis identified as typhoid carriers~~
- ~~Tetanus shall be reported as herein provided.~~

~~(b) Class B.~~

~~An occupational disease is any disease of disability contracted as a result of the nature of a person's employment including those caused by:~~

- ~~(1) Dusts~~
- ~~(2) Fumes~~
- ~~(3) Gases~~
- ~~(4) Vapors~~
- ~~(5) Mists~~
- ~~(6) Radiation~~
- ~~(7) Infective agents~~
- ~~(8) Abnormal temperatures~~
- ~~(9) Abnormal atmospheric pressures~~
- ~~(10) Abnormal sounds.~~

~~(c) Any other communicable or occupational disease is to be reported~~

~~whenever declared to be unduly prevalent by the Director of Health, notice of which declaration must be given either in person to cases, parents, persons in loco parentis, or by publication in a newspaper of general circulation in the City.~~

### ~~307.02 REPORT REGULATIONS.~~

~~(a) In reporting diseases, disabilities and infestations required by law or by regulation of the State Department of Health, physicians, the Director of Health and other persons whose duty it is to make such reports shall conform to the nomenclatures of the international statistical classification of diseases, injuries and causes of death.~~

~~(b) When report of a disease, disability or infestation is received by the Director of Health which does not conform to the aforesaid list, the Director shall bring the matter to the attention of the person making the report and shall have the report changed to conform to the approved nomenclature.~~

~~(c) When two or more distinct diseases, disabilities or infestations occur in the same patient, no matter what their interrelation in the patient may be, a separate report shall be made for each disease.~~

### ~~307.03 DUTY TO REPORT; RECORDS.~~

~~(a) Every physician practicing in the City shall be primarily responsible for submitting the report of a case of notifiable disease, disability or infestation in any person attended by him. If no physician is in attendance, a nurse, midwife or any other person having knowledge of such disease is made responsible for submitting the report of any suspected or recognized case of notifiable disease, disability or infestation.~~

~~(b) The head of the household, the proprietor, lessee or other person in charge of a hotel, rooming house or place of similar character, the superintendent or other person in charge of any public, private or parochial school, public, semi-public or private institution shall be responsible for immediately submitting a report of such case in any person who is a member of the household, a guest, boarder, roomer, lodger or employee of the hotel, rooming house or place of similar character, or a pupil, attendant, employee or inmate of any public, private or parochial school, or public, semi-public or private institution.~~

~~(c) The Director of Health shall forthwith ascertain and make a written record of the name, age, address, sex, color, occupation and school, if any, attended by any members of the family of the person, and the name and address of the physician, if any, attending the person. No person having any such information shall refuse to furnish the same to the Director of Health or any member of the Department of Health.~~

### ~~307.04 REPORTS FROM DISPENSARIES, CLINICS, HOSPITALS, ETC.~~

~~(a) A physician attending patients at a dispensary, clinic, hospital, asylum, or other public, semi-public or private institution may, in writing, authorize the superintendent or other officer or person in charge to submit the reports of cases of notifiable diseases, disabilities or infestations in persons who are citizens of the City and who are attended by him at the dispensary, clinic, hospital, asylum, or other public, semi-public or private institution, to the City Department of Health. However, under no other circumstances shall a physician be relieved of the primary responsibility of reporting cases of notifiable diseases, disabilities or infestations in persons attended by him.~~

~~(b) The reports of cases of notifiable diseases, disabilities or infestations authorized to be submitted to the Department of Health by the superintendent or other officer or person in charge of a dispensary, clinic, hospital, asylum or other public, semi-public or private institution shall be submitted in writing on the standard report blanks within the same time limitations as required for reports from physicians.~~

~~**307.05 INFORMATION TO BE GIVEN; TIME LIMIT.**~~

~~Each report of a case of notifiable disease, disability or infestation listed in Section 307.01 as "Class A" and "Class B" shall state the disease, disability or infestation and the name, address, age, sex and color of the patient. Unless otherwise provided, each report shall be submitted in writing to the Director of Health within twelve (12) hours after the existence of the case of notifiable disease, disability or infestation is known or reasonably suspected, except that reports of cases of inflammation of the eyes of the newborn and gonorrhoeal ophthalmia shall be submitted within six (6) hours, as required by law.~~

~~**307.06 TELEPHONE REPORTS.**~~

~~In lieu of the written reports from physicians required in Section 307.05, the Director of Health may accept from physicians verbal reports by telephone or otherwise, within the same time limitations as required for written reports.~~

~~**307.07 SALE OF FOOD FORBIDDEN IN CERTAIN CASES.**~~

~~When a case of infectious disease exists on any farm or dairy producing milk, cream, butter, cheese or other food likely to be consumed raw, no such food shall be sold or delivered within the City from such farm or dairy without the written permission of the Director of Health.~~

**CHAPTER 309 — Control of Diseases**

~~**309.01 REMOVAL OF QUARANTINABLE CASES.**~~

~~(a) Whenever it is necessary for any person with a communicable disease, or any susceptible person exposed to a communicable disease, or any carrier of a communicable disease, to remove from the City to another health district, it shall be the duty of the person or his parent or guardian to request permission from the Director of Health. If permission is granted, the Health Commissioner of the district to which they desire to remove shall be notified, and the removal shall not be made without his permission.~~

~~(b) The Director of Health may cause the removal to a quarantine hospital or any other suitable place for segregation and treatment, whether within the City or without the City, of any person infected or supposed to be infected with any quarantinable disease, when he shall deem such removal can be made without danger to life of the person. The Director's removal or order for removal of the person shall be conclusive evidence that the Director has made the findings herein required.~~

~~**309.02 METHODS OF CONTROL.**~~

~~The following methods of control shall be enforced by the Director of Health and shall be observed by any person afflicted with or susceptible to any of the following named diseases or conditions.~~

~~**309.03 ISOLATION.**~~



~~Persons suffering from the following diseases shall be isolated as herein provided:~~

- ~~Anthrax: Until all lesions have healed.~~
- ~~Chancroid: Until all lesions have healed.~~
- ~~Chickenpox: Not released earlier than seven (7) days from the onset of the vesicles.~~
- ~~Cholera: Until three (3) consecutive stool cultures, taken no earlier than three (3) days following cessation of drug therapy and no less than twenty-four (24) hours apart, have been reported as negative for cholera vibrio.~~
- ~~Diarrhea, epidemic of the newborn: Until clinical recovery.~~
- ~~Diphtheria: Until two (2) cultures from the throat and two (2) cultures from the nose, taken not less than twenty-four (24) hours apart and not earlier than the ninth (9th) day of the disease, and in absence of membrane, fail to show the presence of diphtheria bacilli.~~
- ~~Dysentery, amebic (amebiasis): Until clinical recovery.~~
- ~~Dysentery, bacillary (shingellosis): Until three (3) consecutive stool cultures taken after clinical recovery, not less than twenty-four (24) hours apart and no earlier than three (3) days following cessation of drug therapy, have been reported as negative.~~
- ~~Encephalitis (arthropod-borne): Isolate from arthropod vectors during acute phase.~~
- ~~Conococcal infections (specify type): Until clinical recovery.~~
- ~~Granuloma inguinale: Until all lesions have healed.~~
- ~~Hepatitis, acute infectious: Until clinical recovery, but not less than seven (7) days.~~
- ~~Impetigo contagiosa: Until all lesions have healed.~~
- ~~Influenza: Until clinical recovery.~~
- ~~Leprosy: Until apparent arrest has been present for at least six (6) months, as determined by clinical observations and absence of acid-fast bacilli on repeated examinations.~~
- ~~Lymphopathia venereum: Until all lesions have healed.~~
- ~~Malaria: Isolation from arthropod vectors during acute illness.~~
- ~~Measles: For five (5) days after onset of rash.~~
- ~~Meningococcus meningitis (cerebro-spinal fever): Seven (7) days from onset, if free from acute symptoms.~~
- ~~Mumps: Until swelling of the salivary glands has entirely disappeared and patient has clinically recovered.~~
- ~~Ophthalmia neonatorum (inflammation of the eyes of the newborn): Until found noninfectious.~~
- ~~Plague (bubonic, pneumonic and septicemic): Until two (2) days have elapsed following complete clinical recovery.~~
- ~~Pneumonia, all forms: Until clinical recovery.~~
- ~~Poliomyelitis: For seven (7) days from onset, if free from acute symptoms.~~
- ~~Psittacosis: Until clinical recovery.~~
- ~~Rabies: For duration of illness.~~
- ~~Scarlet fever: Until clinical recovery, or twenty-four (24) hours after treatment is initiated, including the cessation of all abnormal discharges and the healing of all open sores or wounds.~~
- ~~Smallpox (variola): Until all scabs and crusts have entirely~~

~~disappeared.~~  
~~Syphilis: Until rendered noncommunicable by treatment.~~  
~~Trachoma: Until acute lesions have completely healed.~~  
~~Tuberculosis: As long as tubercle bacilli are discharged by the patient.~~  
~~Typhoid (paratyphoid) fever: Until three (3) consecutive cultures from feces and urine specimens, collected not less than twenty-four (24) hours apart following clinical recovery, and no earlier than three (3) days after cessation of therapy, have been reported negative.~~  
~~Typhus fever: Until patient and environment are louse-free.~~  
~~Yellow fever: Isolate from arthropod vector for a period of five (5) days.~~

#### ~~309.04 QUARANTINE.~~

~~Susceptible persons exposed to any of the diseases specified as Class A in Section 307.01, or any other disease which is declared to be epidemic by the Director of Health, shall be quarantined. Notice of the quarantine shall be given either in person to cases, parents, persons in loco parentis, or by publication in a newspaper of general circulation in the City.~~

#### ~~309.05 CONCURRENT DISINFECTION AND DISINFESTATION.~~

~~Concurrent disinfection or concurrent disinfestation is required to be practiced in the handling of persons suffering from any of the diseases specified as "Class A" or any other disease which is declared to be epidemic by the Director of Health.~~

#### ~~309.06 TERMINAL DISINFECTION.~~

~~Terminal disinfection shall be followed in cases where isolation has been required.~~

#### ~~309.07 CONTROL OF CONTACTS.~~

~~The following quarantine procedures are required to be followed in handling persons exposed to any one of the following named diseases:~~

~~Cholera: Surveillance of contacts for five (5) days following last exposure to known case.~~

~~Diarrhea, epidemic of the newborn: The contaminated nursery shall be closed to new admissions and the hospital shall accept no new admissions to the maternity service unless adequate personnel and satisfactory facilities, including uninfected nurseries, are available to care for new admissions until the last baby in the contaminated nursery has been discharged and terminal disinfection carried out. All infected and suspected babies shall be cared for by separate medical and nursing personnel.~~

~~Diphtheria: All intimate child contacts and adult contacts whose occupation involves the handling of foods or close association with children shall be quarantined until shown by bacteriologic examination of the nose and throat not to be carriers.~~

~~Impetigo (Institutional): The contaminated areas must be closed to new admissions. Any maternity service must be suspended unless adequate personnel and satisfactory facilities, including uncontaminated nurseries, are available for the caring of new admissions. All infected babies shall be cared for by separate medical and nursing personnel schooled in communicable disease techniques.~~

~~Meningococcus meningitis: Until given prophylactic sulfanilamide.~~

~~Plague: Contacts of pneumonic cases: disinfected with insecticide and quarantine for six (6) days. Contacts of bubonic plague: disinfection and surveillance for six (6) days.~~

~~Poliomyelitis: All intimate child contacts shall be quarantined for seven (7) days from last exposure.~~

~~Persons residing apart from the patient: exposed persons who are immune by reason of a previous attack or previous successful vaccination within the past five (5) years shall not be quarantined. Exposed persons who are vaccinated within two (2) days of the first exposure to a known case shall be kept under observation for a period of ten (10) days by the Director of Health or physician appointed by him, but shall not be quarantined.~~

~~Typhus fever: In the presence of lice, exposed susceptibles shall be quarantined for fourteen (14) days following last exposure, or may be released after application of an appropriate insecticide with residual effect.~~

### ~~309.08 CARRIERS.~~

~~Persons known to be carriers of dysentery, amebic dysentery (amebiasis), bacillary dysentery (shigellosis), paratyphoid, salmonellosis, and typhoid fever shall not be engaged in any occupation involving the handling of food for human consumption. Registers which include the names, addresses, status, whereabouts and movements of such individuals known to be carriers of these diseases shall be kept by the Department of Health.~~

## CHAPTER 311 - Animal-Borne Diseases

### 311.01 REPORT OF BITE OR SCRATCH BY ANIMAL.

(a) Whenever a person is bitten or scratched by an animal, prompt report of such bite or scratch shall be made to the Cuyahoga County Board of Health~~Director of Health~~. The report ~~herein required~~ shall be made by the physician treating such bite or scratch or, if such person is received at a hospital or dispensary for treatment, the report herein required shall be made by the superintendent or person in charge of such hospital or dispensary.

(b) Where a physician is not consulted and the person is not taken to a hospital or dispensary, the report shall be made by the person bitten or scratched or by any other person who has knowledge of the facts. Whenever a veterinarian has examined an animal that has bitten or scratched a person, the veterinarian~~he~~ shall promptly report the result of his examination to the Cuyahoga County Board of Health~~Director~~.

### 311.02 QUARANTINE OF ANIMALS.

Any animal inflicting a bite or scratch upon any person shall immediately be examined by a qualified veterinarian and results of such examination shall be reported to the Cuyahoga County Board of Health~~Director of Health~~ within twenty-four (24) hours. At the direction of the Cuyahoga County Board of Health~~Director~~, the dog or other animal shall either be confined by its owner, keeper or harbinger to the his or her premises of the owner, keeper or harbinger, away from the public at large, or be placed under supervision of a veterinarian at the expense of the owner, keeper or harbinger. The isolation or observation period shall not be less than ten (10) days from the date the person is bitten or scratched at which time report of the condition of the animal shall be made to the Cuyahoga County Board of Health~~Director~~. No animal shall be released from confinement until it is determined by the Cuyahoga County Board of Health~~Director~~ that the animal is not inflicted with rabies.

**311.03 REPORTABLE COMMUNICABLE DISEASES OF ANIMALS.**

All communicable diseases of animals shall be reported to the Cuyahoga County Board of Health~~Department of Health~~ immediately upon the recognition of such disease by the owner, attending veterinarian or person having the diseased animal in his possession or control.

**311.04 CONTROL OF COMMUNICABLE DISEASES IN ANIMALS.**

(a) No person shall bring into the City, sell or offer for sale in the City any animal having a communicable disease, or which has been exposed to or which is liable to carry infection from a communicable disease.

(b) Every veterinarian or other person attending a case of communicable disease in any animal shall, within twelve (12) hours after the recognition of the disease, report the same to the Cuyahoga County Board of Health~~Department of Health~~, giving the name of the owner and the owner's~~his~~ place of residence.

(c) Any person having knowledge of the existence of a case of communicable disease of any animal which has not been reported shall, within twelve (12) hours after the discovery of the existence of the communicable disease, report the same to the Cuyahoga County Board of Health~~Department of Health~~.

(d) The City~~Department of Health~~, upon obtaining information as to the existence of a communicable disease of any animal, shall, under the direction of the Director of Health, request that the Cuyahoga County Board of Health send an official or employee of the Cuyahoga County Board of Health~~Department of Health~~ to supervise the destruction, removal or isolation of the animal having such disease.

**311.05 RABIES.**

(a) Any person owning or having the possession or charge of any animal known to have or suspected of having rabies, or any animal subject to rabies and known to have bitten a human being, shall immediately surrender the animal to the City's Animal Warden or the Cuyahoga County Board of Health~~Department of Health~~.

(b) Any person having knowledge of the existence of any animal having rabies, which has not been surrendered ~~to the Department of Health~~, shall, within six (6) hours after the discovery thereof, report the same to the Cuyahoga County Board of Health~~Department of Health~~, ~~which Department shall cause the animal to be taken up and quarantined.~~

(c) Any animal surrendered or taken up by the City's Animal Warden or the Cuyahoga County Board of Health~~Department of Health~~, as required in this section, shall be quarantined for a period not to exceed one hundred eighty (180) days, ~~as directed by the Director of Health~~ at the expiration of which period such animal shall be removed by the owner from the place of quarantine if such animal shall be declared by such official to be free from rabies.

**CHAPTER 313 - Tuberculosis**

~~**313.01 DUTY TO REPORT.**~~

~~Every physician, surgeon, nurse or other person having knowledge of the existence of a case of tuberculosis shall report the name, age, sex, color, occupation and address of such case to the Department of Health.~~

~~**313.02 CHANGE OF ADDRESS TO BE REPORTED.**~~

~~Every physician, surgeon, nurse or other person having knowledge of the change of residence or removal from the City of a case of tuberculosis shall report same to the Department of Health.~~

~~**313.03 CASE TO BE VISITED.**~~

~~Every case of tuberculosis shall be under regular medical care. Each case shall be contacted by a nurse employed by the Department of Health.~~

~~**313.04 REMOVAL AND DETENTION.**~~

~~The Director of Health may cause the removal of any patient who exposes members of his family or the public to infection to an institution provided for the care of tuberculosis, and the patient may be detained for such a period of time as in the judgment of the Director may be necessary.~~

~~**313.05 TERMINAL DISINFECTION.**~~

~~Every owner, lessee or person having charge or control of any room which has been occupied by a person afflicted with active tuberculosis, if the room has been vacated by the person so suffering or if the person has been removed therefrom shall, on the order or direction of the Department of Health, cause the complete cleansing and disinfection thereof.~~

~~**313.06 RE-OCCUPANCY OF ROOM.**~~

~~No owner, agent or lessee of any room, house or apartment occupied by a patient having active tuberculosis shall re-rent the room, house, or apartment until the room, house or apartment is cleansed and disinfected to the satisfaction of the Director of Health.~~

~~**313.07 DISPOSAL OF BEDDING, CLOTHING, ETC.**~~

~~No bedding, clothing or household furniture having been used in the quarters of an active tuberculosis patient shall be traded, sold or otherwise disposed of until properly cleansed and disinfected to the satisfaction of the Department of Health. (Ord. 78-75. Enacted 6-26-78.)~~

~~**313.08 SCHOOL EMPLOYEES.**~~

~~No person having active tuberculosis shall serve as a principal, teacher or janitor in any public, private or parochial school, except under conditions approved by the Director of Health.~~

~~**313.09 SCHOOL CHILDREN.**~~

~~No child having active tuberculosis shall be permitted to attend a public, private or parochial school, except under conditions approved by the Director of Health.~~

~~**313.10 FOODHANDLER.**~~

~~No person with active tuberculosis shall be permitted to work in any grocery store, milk depot, meat market, restaurant, confectionery store, bakery, drug store, hotel, cigar store or any place where food is exhibited, stored or sold, or any barber shop or beauty parlor.~~

~~**CHAPTER 321 - Food Establishments**~~

~~**321.01 DEFINITIONS.**~~

- ~~(a) The following definitions shall apply to this chapter:~~
- ~~(1) "Department" means the Department of Health of the City of~~

~~Shaker Heights.~~

~~(2) "Sanitarian" means an inspector for the Health Department of places where food is prepared or sold.~~

~~(3) "Department employees" means sanitarians and all other individuals who are authorized by the Director of Health to do any work or perform any duty in connection with any inspection or other administration or enforcement under this chapter.~~

~~(4) "Prepare or sell", "prepare" or "sold", or "preparation for sale" means either or both preparation and sale, including possession, and any handling, packaging, cutting up, transportation, storage, stocking, offering, displaying or other disposition.~~

~~(5) "Food" means all articles used for food, drink, confectionery or condiment, whether simple, mixed or compound, and all substances or ingredients used in the preparation thereof.~~

~~(6) "Food establishment" means any place whether temporary or permanent, stationary or mobile, or whether it is considered public, semi-public or private, where food or drink is prepared, processed, manufactured, packaged, stored, served, sold or offered for sale. However, the following places are not included:~~

~~A. Homes containing what is commonly known as the family unit and their nonpaying guests.~~

~~B. Food service operations as defined in Ohio R.C. 3732.01.~~

~~C. Establishments as defined in Ohio R.C. 3707.371 for the production, processing and transportation of milk and milk products in the City.~~

~~D. Establishments as defined in Ohio R.C. 3717.52 and Chapter 325 of this Health Code for the sale and manufacture of frozen desserts.~~

~~(7) "Person" means any person, firm, corporation, association, company or organization of any kind.~~

~~(8) "Inspected and passed" means the product has undergone an inspection and was found, at the time of the inspection, to be sound, wholesome and fit for human food.~~

~~(9) "Inspected and condemned", or any authorized abbreviation thereof, means any food inspected and marked as unsound, unhealthful, unwholesome or otherwise unfit for human food.~~

~~(10) "Approved chemical sanitizer product" means a product that has been registered with the United States environmental protection agency, does not require use of a final potable water rinse, and bears a label claiming that it will sanitize food contact surfaces.~~

~~(11) "Approved detergent sanitizer product" means a product in which all chemicals are compatible, which is registered with the United States environmental protection agency, does not require use of a final potable water rinse, and bears a label claiming that it will clean and sanitize food contact surfaces.~~

~~(12) "Director" means the Director of Health.~~

~~(13) "Easily cleanable" means that surfaces are readily accessible and made of such materials and finish and so fabricated that residue may be effectively removed by normal cleaning methods.~~

~~(14) "Equipment" means stoves, ovens, ranges, hoods, slicers, meat slicers, tables, counters, refrigerators, sinks, dishwashing machines, steam tables, and similar items other than utensils.~~

~~(15) "Employee" means any person who works in a food handling~~

~~operation.~~

~~(16) "Food" means any raw, cooked or processed edible substance, ice, beverage or ingredient used or intended for use or for sale, in whole or in part for human consumption.~~

~~(17) "Food contact surfaces" means those surfaces of equipment and utensils which, under normal conditions, come into contact with food and those surfaces from which food may drain, drip or splash back onto surfaces normally in contact with food.~~

~~(18) "Hermetically sealed container" means a container designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its contents after processing.~~

~~(19) "Kitchenware" means pots, pans and all multi-use utensils other than tableware.~~

~~(20) "Licensor" means the board of health of any city or general health district, or the authority having the duties of a board of health as authorized by the Ohio Revised Code.~~

~~(21) "Operator" means the person, firm, association, corporation or governmental operation that is in responsible charge of conducting a foodhandling operation.~~

~~(22) "Portion of premises utilized for the food service operation" means and includes those portions of the structure or building and any parts of the property used for food preparation, food serving, food storage and related purposes, as well as places where meals or lunches or portions thereof are prepared for consumption elsewhere.~~

~~(23) "Potentially hazardous food" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, tofu, baked or boiled potatoes, cooked rice, cooked beans or other ingredients including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include clean, whole, uncracked, uncooked, odor-free shell eggs, or foods which have a pH level of four and six-tenths (4.6) or below, or a water activity (aw) value of 0.85 or less.~~

~~(24) "Sanitization" means effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on utensils and equipment.~~

~~(25) "Sealed" means free of cracks or other openings that permit the entry or passage of moisture or any deleterious substance or compound.~~

~~(26) "Single-service articles" means cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping materials, toothpicks and similar articles intended for one-time, one-person use and then discarded.~~

~~(27) "Single-use container" means any container into which food has been packaged by the manufacturer or packer which is of such construction as to render it difficult to clean, and, when empty, is to be discarded. Examples of single-use containers include number ten (10) cans, crinkled aluminum pie pans, bread wrappers, plastic jugs with difficult-to-clean interiors, and similar containers.~~

~~(28) "Unwholesomeness" means adulteration, as defined in Ohio R.C. 3715.59(A) to (F).~~

~~(29) "Utensils" means and includes kitchenware, tableware and any other implement coming in contact with food during storage, preparation, transportation or serving.~~

~~(b) In the administration and enforcement of the Ohio Revised Code~~

~~and the Ohio Administrative Code, all adjectives and adverbs such as adequate, approved, clean, convenient, effectively, good, sanitary, satisfactory, sufficient, safe or suitable shall be interpreted in a manner consistent with the published interpretation and recommendations in the usage of the words, as they relate to food service operations, by the food and drug administration, public health service, of the United States Department of Health and human services, or consistent with the usage and understanding of the words by the food service industry and the food service regulatory agencies or other appropriate regulatory agencies, to the extent that these interpretations are not in conflict with the laws of this State.~~

### ~~321.02 LICENSE REQUIRED; POSTING.~~

~~(a) No person shall operate or be employed in any food establishment within the City, unless the place where food is prepared or sold shall be licensed in good standing under the provisions of Chapter 303. (Ord. 78-75. Enacted 6-26-78.)~~

~~(b) A reactivated food establishment operation which has not been continually licensed or has not been in operation for twelve (12) consecutive months shall be considered a new food establishment operation and shall comply with all provisions of this chapter in effect at the time of reactivation.~~

~~(c) The current license of a food establishment shall be displayed in a conspicuous and public manner on the premises.~~

### ~~321.03 PLAN AND EQUIPMENT APPROVAL.~~

~~(a) No person shall construct, install, provide, equip or extensively alter a food establishment until the plans have been submitted to and approved in writing by the licensor or its authorized representative. When plans are submitted they shall be acted upon within thirty (30) days after date of receipt.~~

~~(b) The plans and specifications submitted for the approval of the licensor shall clearly confirm that the applicable provisions of Sections 321.06 to 321.37 can be adequately complied with. The plans and specifications shall be legible, be drawn to a scale of not less than one-eighth (1/8) inch per foot and shall include:~~

- ~~(1) The type of operation proposed and foods to be prepared.~~
- ~~(2) All portions of the premises in which food operations are to be conducted.~~
- ~~(3) Entrances and exits.~~
- ~~(4) Location, number and types of plumbing fixtures, including all water supply facilities.~~
- ~~(5) Plan of lighting, both natural and artificial with foot-candles indicated for critical surfaces.~~
- ~~(6) A floor plan showing the general layout of fixtures and other equipment.~~
- ~~(7) Building materials and finished surface to be used.~~
- ~~(8) An equipment list with equipment manufacturer and model numbers.~~

~~(c) All equipment used in a food establishment operation shall be of a type approved by the Department or a recognized food service equipment testing agency or approved by the licensor. All equipment shall be of such material and so constructed and installed as to readily conform with all provisions of this chapter.~~



~~**321.04 CONDEMNED OR UNWHOLESOME FOOD.**~~

~~No person shall prepare or sell within the City, any food which has been inspected and condemned or which, whether inspected or not, is clean, unwholesome, spoiled or otherwise unfit for human consumption.~~

~~**321.05 INSPECTION SERVICES AND CHARGES.**~~

~~(a) Every food establishment within the City shall have inspection pursuant to this Health Code.~~

~~(b) The reasonable cost of inspection rendered by the Department of Health shall be paid for by the person to which such inspection is furnished, according to a stated list of charges approved by the Director of Health and kept on file in the Department of Health. Such reasonable cost shall include time consumed, including travel time, in any case, and shall also include expenses incurred in traveling by Health Department employees outside the City limits when such inspection is furnished outside the City limits.~~

~~**321.06 STANDARDS.**~~

~~No person shall prepare for sale or sell within the City any food, unless the place where food is prepared or sold conforms to all of the following requirements, in addition to the requirements of Chapters 341 and 343.~~

~~**321.07 LIGHTING.**~~

~~(a) Permanently fixed artificial light sources shall be installed to provide at least forty (40) foot-candles of light on all food preparation surfaces and at equipment or utensil washing work levels.~~

~~(b) Permanently fixed artificial light sources shall be installed to provide at least twenty (20) foot-candles of light at a distance of thirty (30) inches from the floor in walk-in refrigerating units, dry food storage areas, utensil and equipment storage areas, employee lavatory and toilet areas, and in all other areas. This requirement also shall apply to dining areas and lavatory and toilet areas for the public during cleaning operations.~~

~~(c) Shielding or shatter-resistant bulbs to protect against broken glass falling onto food shall be provided for all artificial lighting fixtures located over, adjacent to, or within food storage, preparation, service (except packaged food storage areas) and display facilities, and facilities where utensils and equipment are cleaned and stored.~~

~~(d) Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.~~

~~**321.08 ROOM VENTILATION.**~~

~~(a) All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes. Ventilation systems for rooms intended for human occupancy shall be installed and operated according to Ohio Administrative Code 4101:2-47 entitled "Ventilation Air (Mechanical)", as amended. When vented to the outside, the ventilation system shall not create an unsightly, harmful or unlawful discharge.~~

~~(b) Intake and exhaust air ducts shall be maintained to prevent the entrance of dust, dirt and other contaminating materials.~~

~~**321.09 FLOORS, WALLS AND CEILINGS.**~~

~~(a) Floors shall be clean and in good repair.~~

~~(1) Floors, mats, duckboards, carpets and other floor coverings shall be kept clean.~~

~~(2) Floors and floor coverings of all food preparation, food service, food storage and utensil washing areas, garbage or refuse storage rooms, and the floors of all walk-in refrigerating units, dressing rooms, locker rooms, toilet rooms, and vestibules shall be constructed of smooth, durable, nonabsorbent material such as sealed concrete, terrazzo, ceramic tile, durable grades of linoleum or plastic, or tight wood impregnated with plastic and shall be maintained in good repair. Nothing in this rule shall prohibit the use of antislip floor covering in areas where necessary for safety reasons.~~

~~(3) Carpeting, if used as a floor covering, shall be of closely woven construction, properly installed, easily cleanable, and maintained in good repair. Carpeting is prohibited in food preparation, equipment and utensil washing areas, food storage areas, and in toilet room areas where urinals or toilet fixtures are located.~~

~~(4) Mats shall be of nonabsorbent, grease-resistant materials and of such size, design, and construction as to facilitate their being easily cleaned.~~

~~(5) In all new or extensively remodeled operations in which water flush or wet mop cleaning methods are used, the junctures between walls and floors shall be coved and sealed. In all other cases, the juncture between walls and floors shall not present an open seam.~~

~~(6) Exposed utility service lines and pipes should be installed in a way that does not obstruct or prevent cleaning of the floor. In all new or extensively remodeled operations, installation of exposed horizontal utility lines and pipes on the floor is prohibited.~~

~~(b) Walls and ceilings shall be clean and in good repair.~~

~~(1) Walls and ceilings including doors, windows, skylights and similar closures shall be maintained clean and in good repair.~~

~~(2) Light fixtures, vent covers, wall-mounted fans, and similar equipment attached to walls or ceilings shall be easily cleanable and shall be maintained, clean and in good repair.~~

~~(3) Walls, including nonsupporting partitions and wall coverings, and ceilings of walk-in refrigerating units, food preparation areas, toilet rooms, and vestibules shall be smooth, nonabsorbent, and easily cleanable. Concrete or pumice blocks used for interior wall construction in these locations shall be finished and sealed to provide an easily cleanable surface.~~

~~(4) Studs, joists and rafters shall not be exposed in walk-in refrigerating units, food preparation areas, equipment washing and utensil washing areas, toilet rooms and vestibules. If exposed in other rooms or areas, they shall be finished to provide an easily cleanable surface.~~

~~(5) Exposed utility service lines and pipes should be installed in a way that does not obstruct or prevent cleaning of the walls and ceilings. Utility service lines and pipes should not be unnecessarily exposed on walls or ceilings in walk-in refrigerating units, food preparation areas, equipment washing and utensil washing areas, toilet rooms and vestibules.~~

~~(6) Wall and ceiling covering materials shall be attached and sealed so as to be easily cleanable.~~

### ~~321.10 LIVING AND SLEEPING ROOMS.~~

~~No building or portion of any building that is used as a food establishment shall be used for living, sleeping or cooking purposes, unless~~

~~the portion of the building used as a place where food is prepared or sold shall be completely separated by a stud or masonry partition, extending from floor to ceiling, without an opening of any kind.~~

~~**321.11 OCCUPATIONS TO BE SEPARATED.**~~

~~— No building or portion of any building that is used as a food establishment shall be used for the process of barbering, shoe repairing, or any other operation or process in which any offensive substance or odors are set free, unless the portion of building so used shall be completely separated from the portion of the building used as a place where food is prepared or sold by a stud or masonry partition, extending from floor to ceiling, without an opening of any kind.~~

~~**321.12 SEWER CONNECTION AND RUNNING WATER.**~~

~~— No building or portion of any building shall be used as a food establishment unless it is connected with a public sewer, and unless every room thereof in which food is prepared is supplied with running water from an approved water supply, and unless the floor of such room is of hard wood or masonry material, so constructed as to drain freely into a public sewer.~~

~~**321.13 TOILET AND HANDWASHING FACILITIES.**~~

~~— (a) Ratio and Installation.~~

~~— (1) Toilet facilities shall be provided according to Ohio Administrative Code 4101:2-28-08 entitled "Toilet Room and Plumbing Fixture Requirements", as amended, except that toilet rooms opening into food preparation, equipment and utensil washing or storage areas shall be completely enclosed and shall have tight-fitting self-closing doors, which shall be closed except during cleaning and maintenance. Toilet facilities shall be conveniently located and shall be accessible to employees at all times.~~

~~— (2) Toilets and urinals shall be designed to be easily cleanable.~~

~~— (3) Lavatories shall be provided and installed according to law and shall be located so as to permit convenient use by all employees in each food preparation areas and utensil washing areas. Lavatories also shall be located in or immediately adjacent to toilet rooms or vestibules.~~

~~— (4) Lavatories shall be accessible to employees at all times.~~

~~— (5) Each lavatory shall be provided with hot and cold or warm potable running water.~~

~~— (b) Facilities shall be clean and in good repair.~~

~~— (1) Toilet facilities shall be kept clean and in good repair. A supply of toilet tissue shall be provided in an appropriate dispenser at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials. Toilet rooms used by women shall have at least one (1) covered waste receptacle.~~

~~— (2) A supply of hand cleaning soap or detergent shall be available at each lavatory. A supply of sanitary towels or a hand drying device providing heated air shall be conveniently located near each lavatory. Common hand towels are prohibited. If disposable towels are used, easily cleanable waste receptacles shall be conveniently located near the handwashing facilities.~~

~~— (3) Lavatories, soap dispensers, hand-drying devices, and all related fixtures shall be kept clean and in good repair.~~

**~~321.14 SINKS.~~**

~~For manual washing, rinsing and sanitizing of utensils and equipment, a sink with not fewer than three (3) compartments shall be provided and used. Sink compartments shall be large enough to permit the accommodation of the equipment and utensils.~~

**~~321.15 SCREENING.~~**

~~Every door and window opening to the outer air in a food establishment shall, from April 15 to October 31 of each year, be provided with screens of a wire mesh having not less than sixteen (16) wires to the inch, and shall be constructed and maintained so as to prevent the ingress of flies, unless such door openings are protected by manual or automatic swinging doors or an air entrance sufficient to keep out insects, animals and street dirt, and unless such window openings are kept closed.~~

**~~321.16 HOT AND COLD STORAGE.~~**

~~All food needing refrigeration to prevent spoilage shall be maintained at temperatures of forty-five degrees Fahrenheit (45° F) or seven and twenty-two one hundredths degrees Centigrade (7.22° C) or below, and hot foods shall be kept at one hundred forty degrees Fahrenheit (140° F) or sixty degrees Centigrade (60° C) or above, except during periods of preparation and service when it is not practical to maintain such temperatures.~~

**~~321.17 REFRIGERATORS.~~**

~~Every refrigerator, icebox or appurtenance in which any food is stored, and which is cooled by storage of ice, shall be equipped with a separate compartment for the storage of the ice, which compartment shall be lined with a nonabsorbent substance and be watertight, except for a drain connected with a public sewer.~~

**~~321.18 MECHANICAL DEVICES.~~**

~~Any mechanical device or other apparatus or container used in the preparation of any food, shall be constructed, equipped, located and protected so that none of its contents is exposed to contact with any foreign substance or any source of contamination.~~

**~~321.19 DESIGN OF EQUIPMENT AND UTENSILS.~~**

~~No equipment, utensils or other apparatus which is unclean, rusty, or in bad repair, or which is in such condition or of such design that it cannot easily be cleaned shall be used in the preparation or sale of food.~~

**~~321.20 MATERIALS OF EQUIPMENT AND UTENSILS.~~**

~~No equipment, utensils or other apparatus shall be used in the preparation or sale of food if it is composed or made, either in whole or in part, of lead or other metallic substance, or of any other material that is or may be affected by any other substance or material coming in contact with it in process of operation, so that compounds may be formed which would render any food unclean, unwholesome or detrimental to health.~~

**~~321.21 HABITS OF EMPLOYEES; REGULATION OF CLOTHING.~~**

~~All employees in places where food is prepared or sold shall keep clean and wear clean garments of washable material. Each employee shall wash his hands before beginning work and after visiting the toilet room. No person shall wash his hands in any sink used for the preparation of food or the~~

~~cleaning or sanitizing of utensils. No clothing of employees shall be kept in toilet rooms or in any manner as to be likely to cause contamination to food or utensils. All soiled linens and clothing shall be kept in sanitary containers. Caps, hair nets or special types of clothing may be required in such instances as are deemed essential by the Director of Health.~~

### ~~321.22 USE OF TOBACCO BY EMPLOYEES.~~

~~No employee in any food establishment shall smoke or chew tobacco or use snuff, or engage in any practice which is unsanitary or which tends to be detrimental to the cleanliness or sanitation of the place of the food prepared or sold therein.~~

### ~~321.23 PERSONNEL.~~

#### ~~(a) Employee Health.~~

~~(1) No person, while infected with a disease in a communicable form that can be transmitted by foods while a carrier of organisms that cause such a disease, or while afflicted with a boil, an infected wound, or an acute respiratory infection, shall work in a food service operation in any capacity in which there is a likelihood of the person contaminating food or food contact surface with pathogenic organisms or transmitting disease to other persons.~~

~~(2) When the licensor or its authorized representative has reasonable cause to suspect possible disease transmission by an employee of a food service operation, the licensor or authorized representative may secure a morbidity history of the suspected employee or make any other investigation indicated. The licensor or its authorized representative shall notify the operator of measures that are necessary for the operator to achieve compliance with subsection (a)(1) hereof.~~

#### ~~(b) Personal Cleanliness and Employee Practices.~~

~~(1) Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods in the food service operation.~~

~~(2) Employees shall thoroughly wash their hands and the exposed portions of their arms with soap and warm water before starting work, during work as often as is necessary to keep them clean, immediately prior to handling single-service utensils packaged in bulk containers, and after smoking, eating, drinking or using the restroom facilities. Employees shall keep their fingernails clean and trimmed.~~

~~(3) Employees shall consume food only in designated dining areas. An employee dining area shall not be so designated if consuming food there may result in contamination of other food, equipment, utensils or other items needing protection.~~

~~(4) Employees shall not use tobacco in any form while engaged in food preparation or service or while in areas used for equipment or utensil washing or for food preparation, nor shall there be any evidence of tobacco use in these areas. Employees shall use tobacco only in designated areas. An employee tobacco use area shall not be designated for that purpose if the use of tobacco there may result in contamination of food, equipment, utensils or other items needing protection.~~

~~(5) Sinks used for food preparation or for washing equipment or utensils shall not be used for handwashing.~~

~~(6) The use of lavatories and utensil washing, equipment washing or food preparation sinks for the disposal of mop water or similar liquid waste is prohibited.~~

~~(c) Clothing and Hair Control.~~

~~(1) The outer clothing of all employees shall be clean.~~

~~(2) Employees shall keep personal belongings and clothing in appropriate storage areas or facilities.~~

~~(3) Employees shall wear their hair clean, neat, and under control at all times. Beards or mustaches shall be neatly trimmed or a snood is to be worn. Employees shall refrain from unnecessary handling of their hair and shall wash their hands after combing or brushing their hair.~~

~~**321.24 PHYSICAL EXAMINATION OF EMPLOYEES.**~~

~~Whenever required by the Director of Health, any person employed in any food establishment shall submit to a physical examination by the Director. No person who refuses to submit to the examination shall be employed. However, any person so employed may, instead of submitting to examination by the Director, submit to examination by a reputable, legally qualified physician satisfactory to the Director and furnish a certificate by the physician stating that the person is not affected with any communicable disease. This examination shall include a chest x-ray, blood test, and such laboratory examinations as may be required, and the results thereof shall be shown on the certificate.~~

~~**321.25 CLEANLINESS OF EQUIPMENT.**~~

~~No tool, utensil, container or other equipment shall be used in any food establishment unless it is maintained in a clean condition at all times. Every tool, utensil, container or other equipment which, in the process of preparation or sale of food, comes in contact with any food, shall be cleaned at least once during each day of use, and each tool, utensil, container or other equipment used in such place by the consumer of food shall be cleaned after each use.~~

~~(a) Wash, Rinse and Bactericidal Treatment Manual.~~

~~(1) The following procedure shall be used to manually wash, rinse and sanitize tableware, kitchenware and other food contact surfaces in a three-compartment sink:~~

~~A. Sinks shall be cleaned, if necessary prior to use;~~

~~B. Equipment and utensils shall be immersed and thoroughly washed in the first compartment with a hot detergent solution that is kept clean;~~

~~C. Equipment and utensils shall be rinsed free of detergent and abrasives with clean water in the second compartment;~~

~~D. Equipment and utensils shall be sanitized in the third compartment according to one (1) of the methods approved in this rule.~~

~~(2) The food contact surfaces of all equipment and utensils shall be sanitized by:~~

~~A. Immersion for at least one-half (0.5) minute in clean hot water at a temperature of at least one hundred seventy degrees Fahrenheit (170° F) (seventy six and seven-tenths degrees Celsius (76.7° C));~~

~~B. Immersion for at least one (1) minute in a clean solution containing at least fifty (50) ppm of available chlorine as a hypochlorite and at a temperature of at least seventy-five degrees Fahrenheit (75° F) (twenty-three and nine-tenths degrees Celsius (23.9° C));~~

~~C. Immersion for at least one (1) minute in a clean solution containing at least twelve and one-half (12.5) ppm of available iodine and having a pH not higher than the pH designated by manufacturer and at a temperature of at least seventy-five degrees Fahrenheit (75° F) (twenty-~~

~~three and nine-tenths degrees Celsius (23.9° C);~~

~~D. Immersion in a clean solution containing any other chemical sanitizing agent allowed under 21 C.F.R. 178.1010 that will provide the equivalent bactericidal effect of a solution containing at least fifty (50) ppm of available chlorine as a hypochlorite at a temperature of at least seventy-five degrees Fahrenheit (75° F) (twenty-three and nine-tenths degrees Celsius (23.9° C)) for one (1) minute;~~

~~E. Treatment with steam, free from materials or additives other than those specified in 21 C.F.R. 173.310, in the case of equipment too large to sanitize by immersion but in which steam can be confined; or~~

~~F. Rinsing, spraying or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution under this rule in the case of equipment too large to sanitize by immersion.~~

~~(3) Equipment and utensils shall be exposed to the final chemical sanitizing rinse in accordance with the manufacturer's specifications for time and concentration of the approved chemical sanitizer product being used.~~

~~(4) Food contact surfaces shall not be subjected to chemical sanitizer concentrations higher than the maximum permitted under 21 C.F.R. (Code of Federal Regulations) 178.1010.~~

~~(5) Notwithstanding Section 321.14, a two-compartment sink may be used for manually washing and sanitizing utensils and equipment when an approved detergent sanitizer product is used and the two-compartment sink meets the requirements of Section 321.37 and has been in use prior to May 1, 1983.~~

~~The licensor may grant a variance from the requirements of the preceding sentence, upon application by the operator, if modification of the existing sink or installation of a three-compartment sink will cause undue hardship to the operator.~~

~~(b) Wiping Cloths.~~

~~(1) Cloths used for wiping food spills on tableware, such as plates or bowls being served to the consumer, shall be clean, dry and used for no other purpose.~~

~~(2) Moist cloths used for wiping food spills on kitchenware and food contact surfaces of equipment shall be clean and shall be rinsed frequently in one (1) of the sanitizing solutions permitted in this rule, and shall be used for no other purpose. These cloths shall be stored in the sanitizing solution between uses.~~

~~(c) Cleaning Frequency of Food Contact Surfaces.~~

~~(1) Tableware shall be washed, rinsed and sanitized after each use. Kitchenware and food contact surfaces of equipment shall be washed, rinsed and sanitized after each use and following any interruption of operations during which time contamination may have occurred.~~

~~(2) If equipment and utensils are used for the preparation of potentially hazardous foods on a continuous or production-line basis, utensils and the food contact surfaces of equipment shall be washed, rinsed and sanitized at intervals throughout the day on a schedule based on food temperature, type of food and amount of food particle accumulation.~~

~~(3) The food contact surfaces of grills, griddles and similar cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once a day, except that this requirement shall not apply to hot oil cooking equipment and hot oil filtering systems. The food contact surfaces of all cooking equipment shall be kept free of encrusted grease deposits and other accumulated soil.~~

~~(d) Cleaning Frequency of Nonfood Contact Surfaces. Nonfood contact surfaces of equipment shall be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, food particles and other debris.~~

~~**321.26 FOOD AND NONFOOD CONTACT SURFACES.**~~

~~(a) Food contact surfaces — design, construction, maintenance.~~

~~(1) All multi-use equipment and utensils shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, distortion, pitting, chipping, crazing, scratching and decomposition.~~

~~(2) If solder is used, it should be composed of safe materials and be corrosion resistant. Multi-use equipment and utensils shall be smooth and easily cleanable and shall be constructed and repaired with safe materials, including finishing materials that are corrosion resistant and nonabsorbent.~~

~~(3) Food contact surfaces shall be smooth, easily cleanable, free of difficult-to-clean internal corners and crevices, and free of breaks, open seams, cracks, chips, pits and similar imperfections.~~

~~(4) Equipment, utensils and single-service articles shall not impart odors, color or taste, or contribute to the contamination of foods. Single-service articles shall be made from clean, sanitary and safe materials.~~

~~(5) Safe plastic, rubber or rubber-like materials that are of sufficient weight and thickness to permit cleaning and sanitizing by normal dishwashing methods and that meet the general requirements set forth in this rule are permitted for repeated use.~~

~~(6) Single-use containers not designed for multi-use shall not be reused. Mollusk and crustacea shells may be used only once as a serving container.~~

~~(7) Hard maple or equivalently nonabsorbent material that meets the general requirements set forth in this rule may be used for cutting blocks, cutting boards, and similar surfaces. Wood may be used for single-service articles such as chop sticks, stirrers or ice cream spoons.~~

~~(8) Cast iron may be used as a food contact surface only if the surface is heated such as in grills, griddle tops and skillets.~~

~~(9) Within food contact surfaces, threads shall be designed to facilitate cleaning. Ordinary "V" type threads are prohibited, except that in equipment such as ice makers, hot oil cooking equipment, or hot oil filtering systems, "V" threads shall be minimized.~~

~~(10) Equipment containing bearings and gears requiring unsafe lubricants shall be designed and constructed so that the lubricants cannot leak, drip, or be forced into food or onto food contact surfaces. Only safe lubricants shall be used on equipment designed to receive lubrication of bearings and gears on or within food contact surfaces.~~

~~(11) Tubing conveying beverages or beverage ingredients to dispensing heads may be in contact with stored ice if the tubing is fabricated from safe materials, is grommeted at entry and exit points to prevent moisture (condensation) from entering the ice-making machine or the ice storage bin, and is kept clean. Drainage or drainage tubes from dispensing units shall not pass through the ice-making machine or the ice storage bins.~~

~~(12) Unless designed for in-place cleaning, food contact surfaces shall be accessible for cleaning and inspection:~~

~~A. Without being disassembled;~~

~~B. By disassembling without the use of tools; or~~



~~C. By easy disassembling with the use of only simple tools such as a mallet, a screwdriver, or an open-end wrench kept available near the equipment.~~

~~(13) Equipment intended for in-place cleaning shall be so designed and fabricated that:~~

~~A. Cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen;~~

~~B. Cleaning and sanitizing solutions will contact all interior food contact surfaces; and~~

~~C. The system is self-draining or capable of being completely evacuated.~~

~~(14) Fixed equipment designed and fabricated to be cleaned and sanitized by pressure spray methods shall be sealed electrical wiring, switches and connections.~~

~~(b) Nonfood contact surfaces; design, construction, maintenance, installation and location.~~

~~(1) Surfaces of equipment not intended for contact with food but which are exposed to splash or food debris or which otherwise require frequent cleaning shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections or crevices, readily accessible for cleaning, and shall be of such material and in such repair as to be easily maintained in a clean and sanitary condition.~~

~~(2) Ventilation hoods and devices for cooking appliances shall be designed and installed according to Ohio Administrative Code 4101:2-37 entitled "Kitchen Exhaust Equipment (Mechanical)", as amended, to prevent grease or condensation from collecting on walls and ceilings and from dripping into food or onto food contact surfaces. Filters or other grease extracting equipment shall be readily removable for cleaning and replacement if not designed to be cleaned in-place.~~

~~(3) Aisles and working spaces between units of equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food contact surfaces by clothing or personal contact. All easily movable storage equipment such as pallets, racks and dollies shall be positioned to provide accessibility to working areas.~~

~~(4) Equipment, including ice-making machines and ice storage equipment, shall not be located under exposed or unprotected sewer lines or water lines, open stairwells, or other sources of contamination. This requirement does not apply to automatic fire protection sprinkler heads that may be required by law.~~

### ~~321.27 STORAGE AND HANDLING OF EQUIPMENT AND UTENSILS.~~

~~(a) Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination. Spoons, knives and forks shall be touched only by their handles. Cups, glasses, bowls, plates and similar items shall be handled without contact with inside surfaces or surfaces that contact the user's mouth.~~

~~(b) Cleaned and sanitized utensils and equipment shall be stored at least six (6) inches above the floor in a clean, dry location in a way that protects them from contamination by splash, dust and other means.~~

~~(c) Equipment and utensils shall be air dried before being stored or shall be stored in a self-draining position.~~

~~(d) The storage and handling of food equipment, or utensils in toilet rooms or vestibules is prohibited.~~

~~321.28 ANIMALS PROHIBITED.~~

~~No live animals shall be permitted to be in any food establishment, except guide dogs accompanied by blind patrons.~~

~~321.29 GARBAGE AND REFUSE DISPOSAL.~~

~~(a) Containers.~~

~~(1) Garbage and refuse shall be kept in durable, cleanable, insect-proof and rodent-proof containers that do not leak and do not absorb liquids. Plastic bags and wet-strength paper bags may be used to line these containers.~~

~~(2) Containers used in food preparation and utensil washing areas shall be kept covered when not in use or after they are filled.~~

~~(3) Containers stored outside the operation and dumpsters, compactors, and compactor systems shall be cleanable, shall be provided with tight fitting lids, doors or covers, and shall be kept covered when not in actual use. In dumpsters and compactors designed with drains, drain plugs shall be in place at all times except during cleaning.~~

~~(4) There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates.~~

~~(5) Soiled containers shall be cleaned at a frequency sufficient to prevent insect and rodent attraction. Each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food, equipment, utensils or food preparation areas.~~

~~(6) Suitable facilities, including steam or hot water and detergent, shall be provided and used for washing refuse containers. Liquid waste from compacting or cleaning operations shall be disposed of as sewage.~~

~~(7) Garbage and refuse on the premises shall be stored in such a manner as to make it inaccessible to insects and rodents. Outside storage of unprotected plastic bags, wet-strength paper bags, or baled units containing garbage or refuse is prohibited. Cardboard or other packaging material not containing garbage or food wastes shall be stored in a manner that does not create a nuisance.~~

~~(b) Storage Area.~~

~~(1) Outside storage areas or enclosures shall be large enough to store the garbage and refuse containers that accumulate and shall be kept clean and stored on or above a smooth surface that is kept clean, maintained in good repair, and graded to prevent pooling of water.~~

~~321.30 FOOD PROTECTION.~~

~~(a) Potentially Hazardous Foods; Temperature Requirements.~~

~~(1) Potentially hazardous foods shall be kept at an internal temperature of forty-five degrees Fahrenheit (45° F) (seven and two-tenths degrees Celsius (7.2° C)) or below or at an internal temperature of one hundred forty degrees Fahrenheit (140° F) (sixty degrees Celsius (60° C)) or above during storage, display and transportation, except that rare roast beef shall be held at an internal temperature of at least one hundred thirty degrees Fahrenheit (130° F) (fifty-four and four-tenths degrees Celsius (54.4° C)).~~

~~(2) Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to a temperature of at least one hundred forty degrees Fahrenheit (140° F) (sixty degrees Celsius (60° C)), except that:~~

~~A. Poultry, poultry stuffings, stuffed meats and~~

~~stuffings containing meat shall be cooked to heat all parts to at least one hundred sixty-five degrees Fahrenheit (165° F) (seventy-three and eight-tenths degrees Celsius (73.8° C)) with no interruption of the cooking process;~~

~~B. Pork and any product containing pork shall be cooked to heat all parts of the food to one hundred fifty degrees Fahrenheit (150° F) (sixty-five and five-tenths degrees Celsius (65.5° C)) or, if cooked in a microwave oven, to at least one hundred seventy degrees Fahrenheit (170° F) (seventy-six and seven-tenths degrees Celsius (76.7° C));~~

~~C. Rare roast beef shall be cooked to an internal temperature of at least one hundred thirty degrees Fahrenheit (130° F) (fifty-four and four-tenths degrees Celsius (54.4° C)) or, if cooked in a microwave oven, to an internal temperature of at least one hundred forty-five degrees Fahrenheit (145° F) (sixty-three degrees Celsius (63° C));~~

~~D. Raw or rare potentially hazardous food may be served if so ordered by the consumer.~~

~~(3) Potentially hazardous foods requiring refrigeration shall be rapidly cooled to an internal temperature of forty-five degrees Fahrenheit (45° F) (seven and two-tenths degrees Celsius (7.2° C)) utilizing such methods as shallow pans, mechanical agitation, quick chilling or water circulation external to the food container so that the cooling period does not exceed four (4) hours.~~

~~(4) Potentially hazardous foods that have been cooked and then refrigerated shall be reheated rapidly to one hundred sixty-five degrees Fahrenheit (165° F) (seventy-three and eight-tenths degrees Celsius (73.8° C)) or higher throughout before being served or before being placed in a hot food storage facility, except that rare roast beef may be reheated to one hundred thirty degrees Fahrenheit (130° F) (fifty-four and four-tenths degrees Celsius (54.4° C)). Steam tables, bains-marie, warmers and similar hot food holding facilities not designed for rapid reheating are prohibited for the rapid reheating of potentially hazardous foods.~~

~~(5) Nondairy creaming, whitening, or whipping agents may be reconstituted on the premises only when they do not exceed one (1) gallon in capacity and are cooled to forty-five degrees Fahrenheit (45° F) (seven and two-tenths degrees Celsius (7.2° C)) or below within four (4) hours after preparation.~~

~~(b) Sufficient Facilities to Maintain Product Temperature.~~

~~(1) Enough conveniently located hot holding facilities, refrigeration facilities or effectively insulated facilities shall be provided to assure maintenance of potentially hazardous foods at the required temperature during storage, transportation and display.~~

~~(c) Thermometers.~~

~~(1) Each refrigerated facility, excluding freezers, storing potentially hazardous food shall be provided with a numerically sealed indicating thermometer, accurate to plus or minus three degrees Fahrenheit ( $\pm 3^{\circ}$  F) (plus or minus one and seven-tenths degrees Celsius ( $\pm 1.7^{\circ}$  C)), located to measure the air temperature in the warmest part of the facility and located to be easily readable. Recording thermometers, accurate to plus or minus three degrees Fahrenheit ( $\pm 3^{\circ}$  F) (plus or minus one and seven-tenths degrees Celsius ( $\pm 1.7^{\circ}$  C)), may be used in lieu of indicating thermometers.~~

~~(2) Each hot food facility storing potentially hazardous food shall be provided with a numerically sealed indicating thermometer, accurate to plus or minus three degrees Fahrenheit ( $\pm 3^{\circ}$  F) (plus or minus one and seven-tenths degrees Celsius ( $\pm 1.7^{\circ}$  C)), located to measure the air in the~~

~~coolest part of the facility and located to be easily readable. Recording thermometers, accurate to plus or minus three degrees Fahrenheit ( $\pm 3^{\circ}$  F) (plus or minus one and seven-tenths degrees Celsius ( $\pm 1.7^{\circ}$  C)), may be used in lieu of indicating thermometers. If it is impractical to install thermometers on equipment such as bains-marie, steam tables, steam kettles, heat lamps, cal-rod units or insulated food transport carriers, a metal stem-type, numerically scaled product thermometer must be available and used to check the internal food temperature.~~

~~(3) Metal stem-type, numerically scaled product thermometers, accurate to plus or minus two degrees ( $\pm 2^{\circ}$  F) (plus or minus one and one-tenth degrees Celsius ( $\pm 1.1^{\circ}$  C)), shall be provided and used to assure the attainment and maintenance of proper internal cooking, holding or refrigeration temperatures of all potentially hazardous foods.~~

~~(d) Thawing of Foods. Potentially hazardous foods shall be thawed:~~

~~(1) In refrigerated units at a temperature not to exceed forty-five degrees Fahrenheit ( $45^{\circ}$  F) (seven and two-tenths degrees Celsius ( $7.2^{\circ}$  C)); or~~

~~(2) Under cold potable running water with sufficient water velocity to agitate and float off loose particles into the overflow; or~~

~~(3) In a microwave oven, only when the food will be immediately transferred to conventional cooking facilities as part of a continuing cooking process or when the entire uninterrupted cooking process takes place in the microwave oven; or~~

~~(4) As a part of the conventional cooking process.~~

~~(e) Re-serving of Food. Once served to a consumer, portions of leftover food shall not be served again. Packaged food, other than potentially hazardous food, that is still packaged and is still in sound condition may be re-served.~~

~~(f) Storage, Preparation, Display and Transportation.~~

~~(1) At all times, including while being stored, prepared, displayed or transported, food shall be protected from potential contamination, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, hair, flooding, drainage, and overhead leakage or overhead drippage from condensation.~~

~~(2) Food, whether raw or prepared, if removed from the container or package in which it was obtained, shall be stored in a clean, covered, approved container except during necessary periods of preparation or service. Container covers shall be impervious and nonabsorbent, except that clean linens or napkins may be used for moisture retention in raising dough or lining or covering bread or roll containers. Solid cuts of meat shall be protected by being covered in storage, except that primal cuts, quarters or sides of meat may be hung uncovered on clean, sanitized hooks if no food product is stored beneath the meat.~~

~~(3) Containers of food shall be stored a minimum of six (6) inches above the flood in a manner that protects the food from splash and other contamination and that permits easy cleaning of the storage area, except that containers may be stored on dollies, racks or pallets if the equipment is easily movable.~~

~~(4) Food and containers of food shall not be stored under exposed or unprotected sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law. The storage and handling of food in toilet rooms or vestibules is prohibited.~~

~~(5) Food not subject to further washing or cooking before serving shall be stored in a way that protects it against cross-contamination from~~

~~food requiring washing or cooking.~~

~~(6) Food, food containers or food utensils shall not be stored in ice intended for human consumption, except that the ice may be used for cooling tubes conveying beverages or beverage ingredients to a dispenser head.~~

~~(7) Packaged food shall not be stored in contact with water or undrained ice.~~

~~(8) Raw fruits and raw vegetables shall be thoroughly washed with potable water before being cooked or served.~~

~~(9) Reconstituted dry milk and milk products may be used only in instant desserts and whipped products or for cooking and baking purposes.~~

~~(10) Uncooked liquid, frozen or dry eggs and egg products shall be used only for cooking and baking purposes.~~

~~(11) Dairy creamers and nondairy lighteners shall be provided:~~

~~A. In an individual service container;~~

~~B. In a protected pour-type pitcher; or~~

~~C. Drawn from a refrigerated dispenser designed for such service.~~

~~(12) Condiments, seasonings and dressings for counter service and self-service use shall be provided in individual packages, from dispensers, or from containers protected in accordance with this rule, except that catsup and other sauces may be served in the original container or a pour-type dispenser.~~

~~(13) Food on display shall be protected from consumer contamination by the use of packaging or protected display cases or by the use of easily cleanable counter serving line food shields.~~

~~(g) Handling of Food.~~

~~(1) Food shall be prepared and served with the least possible manual contact, with suitable utensils, and on surfaces that prior to use have been cleaned, rinsed and sanitized to prevent cross-contamination.~~

~~(2) Employees shall use scoops, tongs or other ice dispensing utensils when serving ice to consumers. Consumers may obtain ice for use only through approved automatic self-service ice dispensing equipment or at locations equipped with suitable food shields and ice dispensing utensils.~~

~~(h) In use Storage of Dispensing Utensils.~~

~~(1) Between uses during service, dispensing utensils shall be:~~

~~A. Stored, in the food with the dispensing utensil's handle extended out of the food;~~

~~B. Stored clean and dry;~~

~~C. Stored in potable running water with sufficient water velocity to agitate and float-off loose particles into the overflow; or~~

~~D. Dispensing utensils and malt collars used preparing frozen desserts shall be stored either in a potable running water dipper well or clean and dry.~~

~~(2) Ice dispensing utensils shall be stored on a clean surface or in the ice storage bins with the dispensing utensil's handle extended out of the ice. No utensil shall be stored inside an ice-making machine unless the machine is equipped for its storage.~~

~~(3) Between uses, ice transfer receptacles shall be stored off the floor in a way that protects them from contamination.~~

~~(4) The storage and handling of food, equipment or utensils in toilet rooms or vestibules is prohibited.~~

~~(i) Properly Labeled.~~

~~(1) All oysters, clams and mussels shall be packaged in~~

~~nonreturnable packages identified with the names and address of the original processor or packer. All oysters, clams and mussels, if shucked, shall be kept in the original containers in which they were received until they are used.~~

~~(2) Unless its identity is unmistakable, bulk food such as cooking oil, syrup, salt or flour not stored in the product container or package in which it was obtained shall be stored in a container identifying the food by common name.~~

### ~~321.31 SHELLFISH.~~

~~All oysters, clams and mussels shall be from approved sources and, if shucked, shall be kept until used or sold in the containers in which they were placed at the shucking plant.~~

### ~~321.32 DISPOSAL OF CLEANING WASTES.~~

~~Cleaning wastes shall not be emptied into sinks used for the preparation of food or the cleaning or sanitizing of utensils.~~

### ~~321.33 UTENSILS TO BE USED FOR ONE PURPOSE ONLY.~~

~~No utensils used in the preparation or sale of food shall be used for any other purpose.~~

### ~~321.34 SINGLE-SERVICE UTENSILS.~~

~~(a) Single-service articles — storage and dispensing.~~

~~(1) Single-service articles shall be stored at least six (6) inches above the floor in closed cartons or containers which protect them from contamination and shall not be placed under exposed sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law.~~

~~(2) Single-service articles shall be handled and dispensed in a manner that prevents contamination of their surfaces which may come in contact with food or with the mouth of the user. Unless single-service knives, forks and spoons are prewrapped or prepackaged, approved holders shall be provided to protect these items from contamination and to present the handle of the utensil to the consumer.~~

~~(3) Single-service articles shall not be stored or handled in toilet rooms or vestibules.~~

~~(b) Re-use of single-service articles is prohibited.~~

### ~~321.35 USE OF TABLECLOTH AND NAPKINS.~~

~~No tablecloth or napkin shall be used in any food establishment for any purpose other than as a tablecloth or napkin furnished to the person served with food.~~

### ~~321.36 OUTDOOR PREPARATION, DISPLAY OR SALE OF FOOD.~~

~~No person shall prepare, display, offer for sale or sell outdoors on or from the premises of any food establishment, any food, except that food may be served outdoors on the premises of such place for immediate consumption upon the premises.~~

### ~~321.37 STRUCTURAL CHANGES AND EQUIPMENT REPLACEMENT.~~

~~In the absence of a serious health or safety hazard, any food establishment licensed under Chapter 303 shall not be required by the licensor to make any structural changes in the food establishment or to install or~~

~~replace any existing equipment used in the operation while the structure or equipment remains substantially in as good condition as it was on May 1, 1983.~~

## ~~CHAPTER 323 -- Hucksters~~

### ~~323.01 DEFINITIONS.~~

~~The following definitions shall apply to this chapter:~~

~~(a) "Huckster" means any person who sells food on any public street or ground within the City, whether from a vehicle or otherwise.~~

~~(b) "Food" means all articles used for food, drink, confectionery or condiment, whether simple, mixed, or compound, and all substances or ingredients used in the preparation thereof.~~

### ~~323.02 LICENSE; VEHICLE TAG.~~

~~(a) No person shall engage or be employed in business as a huckster within the City unless he or his employer is the holder of a license in good standing issued under the provisions of Chapter 303.~~

~~(b) Upon the issuance of a huckster's license, the Director of Health shall cause to be issued to the licensee one (1) or more tags or labels in such form as the Director shall prescribe. One (1) tag or label shall be placed in a conspicuous location upon each vehicle used in this City by the licensee, and shall be kept upon such vehicle during all times the license is effective, and removed immediately when the license ceases for any reason to be effective.~~

### ~~323.03 STORAGE OF FOOD.~~

~~(a) Each huckster shall keep on file with the Director of Health a written statement showing the place of storage of all food to be brought into the City for sale, and shall keep each such place open for inspection, at any time, by any person designated by the Director to inspect the same.~~

~~(b) Each such place of storage shall be maintained in a clean and sanitary condition and equipped so as to preserve the food stored therein in a clean and sanitary condition and equipped so as to preserve the food stored therein in a clean and wholesome condition. No huckster shall sell or transport or offer for sale within the City any food which has been stored otherwise than as required by this section.~~

### ~~323.04 STORAGE OF VEHICLES.~~

~~(a) Each huckster shall keep on file with the Director of Health a written statement showing the place of storage of each vehicle used by him in the City, and shall keep each such place open for inspection, at any time, by any person designated by the Director to inspect the same.~~

~~(b) Each place of storage and each vehicle used by a huckster within the City shall be maintained in a clean and sanitary condition. No huckster shall use any vehicle within the City unless the same is stored and maintained as required by this section.~~

### ~~323.05 ADULTERATED FOOD.~~

~~No huckster shall sell, transport or offer for sale within the City any food which is adulterated or misbranded.~~

### ~~323.06 CERTAIN FOODS NOT TO BE SOLD.~~

~~No huckster shall sell, transport or offer for sale within the City any~~

~~meat, meat product, poultry, poultry product, fish, or seafood, unless it is frozen, packaged and handled as required in Section 327.04.~~

### ~~323.07 COMMUNICABLE DISEASES; PHYSICAL EXAMINATION.~~

~~(a) No person having a communicable disease, or being a carrier of a communicable disease, shall engage or be employed in business as a huckster within the City.~~

~~(b) Whenever required by the Director of Health, any person engaged or being employed as a huckster within the City shall submit to a physical examination by the Director. No person who refuses to submit to the examination shall engage or be employed in the business as a huckster within the City. However, any person so engaged or being employed in business may, instead of submitting to examination by the Director, submit to examination by a reputable, legally qualified physician satisfactory to the Director, and furnish a certificate by the physician stating that the person is not affected with any communicable disease. The examination shall include a chest x-ray, blood test and such laboratory examinations as may be required, and the results thereof shall be shown on the certificate.~~

## ~~CHAPTER 325 - Frozen Desserts~~

### ~~325.01 DEFINITIONS.~~

~~The following definitions and general provisions shall apply to this chapter:~~

~~(a) "Frozen desserts" means ice cream, frozen custard, milk sherbet, ice or ice sherbet, and imitation ice cream as defined in this chapter.~~

~~(b) "Milk products" means pure, clean and wholesome cream, pure milk fat, butter, milk, evaporated milk, skimmed milk, condensed milk, sweetened milk, sweetened condensed milk, and condensed skimmed milk, sweetened condensed skimmed milk, dried milk and dried skimmed milk.~~

~~(c) "Ice cream" means the pure, clean, frozen product made from a combination of two (2) or more of the following ingredients: milk products, eggs, water and sugar with harmless flavoring and with or without harmless coloring, and with or without added stabilizer composed of wholesome edible material. It contains not more than one-half of one percent (0.5%) by weight of stabilizer, not less than ten percent (10%) by weight of milk fat, not less than eighteen percent (18%) by weight of total milk solids, except when fruit, nuts, cocoa or chocolate, maple syrup, cakes or confection are used for the purpose of flavoring, then it shall contain not less than ten percent (10%) by weight of milk fat and not less than eighteen percent (18%) by weight of total milk solids, except for such reduction in milk fat and in total milk solids as is due to the addition of the flavoring but in no case shall it contain less than eight percent (8%) by weight of milk fat nor less than fourteen percent (14%) by weight of total milk solids. In no case shall any ice cream weigh less than four and one-quarter (4-1/4) pounds per gallon.~~

~~(d) "Frozen custard" means custard ice cream, ice custard, parfaits and similar frozen products. Frozen custard is a clean, wholesome product made from a combination of two (2) or more of the following ingredients: milk products, eggs, water and sugar with harmless flavoring, and with or without harmless coloring, and with or without added stabilizer composed of wholesome, edible material. It contains not more than one-half of one percent (0.5%) by weight of stabilizer, not less than ten percent (10%) by weight of milk fat, and not less than eighteen percent (18%), by weight of total milk solids. Frozen custard shall contain not less than five (5) dozen clean~~



~~wholesome egg yolks, or one and five-tenths (1.5) pounds of wholesome, dry egg yolk containing not to exceed seven percent (7%) by weight of moisture, or three (3) pounds of wholesome, frozen egg yolk containing not to exceed fifty-five (55) percent by weight of moisture, or the equivalent of egg yolk in any other form, for each ninety (90) pounds of frozen custard. In no case shall any frozen custard weigh less than four and one-quarter (4-1/4) pounds per gallon.~~

~~(c) "Milk sherbet" means the pure, clean, frozen product made from milk products, water and sugar, with harmless fruit or fruit juice flavoring, and with or without harmless coloring, with not less than thirty-five one hundredths of one percent (0.35%) of acid as determined by titrating with standard alkali and expressed as lactic acid, and with or without added stabilizer composed of wholesome, edible material. It shall contain not less than four percent (4%) by weight of milk solids.~~

~~(f) "Ice" or "ice sherbet" means the pure, clean, frozen product made from water and sugar with harmless fruit or fruit juice flavoring, with or without harmless coloring, with not less than thirty-five one hundredths of one percent (0.35%) acid, as determined by titrating with standard alkali and expressed as lactic acid, and with or without added stabilizer composed of wholesome, edible material.~~

~~(g) "Imitation ice cream" means any frozen substance, mixture or compound, regardless of the name under which it is represented, which is made in imitation or semblance of ice cream, or is prepared or frozen as ice cream is customarily prepared or frozen and which is not ice cream, frozen custard, milk sherbet, ice or ice sherbet. It shall contain not less than six percent (6%) butterfat and not less than sixteen percent (16%) total milk solids.~~

~~(h) "Mix" or "ice cream mix" means the mixture from which ice cream is frozen, made from a combination of milk products, and one (1) or more of the following ingredients: eggs, sugar, dextrose, corn syrup, in liquid or dry form, and honey, with or without flavor and coloring, and with or without edible gelatin or vegetable stabilizer. It contains not more than one-half of one percent (0.5%) by weight of edible gelatin, vegetable, or any recognized stabilizer, not less than ten percent (10%) by weight of milk fat, and not less than eighteen percent (18%) by weight of total milk solids. Ice cream mix in concentrated or condensed form shall contain such relative amounts of ingredients that, when diluted according to directions or common practice, it shall comply with the above definition of ice cream mix, and the finished product shall comply with the legal definition of ice cream.~~

#### ~~325.02 PROVISIONS OF CHAPTER 321 TO APPLY.~~

~~The provisions of Chapter 321 relative to the preparation and sale of food shall apply to the places where frozen desserts are prepared or sold, and the personnel and equipment engaged in the preparation or sale.~~

#### ~~325.03 SEPARATE WORK ROOMS REQUIRED.~~

~~All rooms where frozen desserts are manufactured shall be separate and apart from all other work rooms or processing rooms.~~

#### ~~325.04 REQUIREMENTS AS TO EQUIPMENT.~~

~~Every tool, utensil, container or other equipment which, in the process of preparation or sale of any frozen dessert or ice cream mix, comes in contact with the frozen dessert or ice cream mix, shall be wholly of tin, tinned copper, or other nonabsorbent and noncorrosive material and, if seamed, shall be flushed smooth. No such tool, utensil, container or~~

~~equipment shall be used for any other purpose than the preparation or sale of frozen desserts or ice cream mix.~~

~~**325.05 SALE OF THAWED OR RE-FROZEN DESSERT.**~~

~~— No person shall sell, possess, offer, transport or display for sale any frozen dessert which has been frozen and thawed, in whole or in part, or which has been re-frozen.~~

~~**325.06 LABELING AND PLACARDING.**~~

~~(a) All frozen desserts which are packaged by the manufacturer, either wholesale or retail, or by the distributor, for immediate or ultimate distribution and sale at retail in such form, for consumption on or off the premises where sold, shall be packaged in containers which are completely filled and which are conspicuously labeled in easily legible, simple letters, giving the name and address of the manufacturer, and the correct name of the frozen dessert contained therein as defined in this chapter.~~

~~(b) At any fountain, cabinet, container or counter at which any frozen dessert is sold at retail otherwise than in packages labeled as provided in subsection (a) hereof, there shall be conspicuously displayed a sign of such size and form as may be prescribed by the Director of Health, which sign shall be legible to the purchaser, stating the name and address of the manufacturer of the frozen dessert.~~

~~**325.07 MANUFACTURE ON VEHICLES PROHIBITED.**~~

~~— No person shall sell, possess, offer, transport or display any frozen dessert, the ingredients of which have been mixed, frozen or otherwise manufactured on a motor vehicle. (Ord. 78-75. Enacted 6-26-78.)~~

~~**CHAPTER 327 — Frozen Foods**~~

~~**327.01 DEFINITIONS.**~~

~~— The following definitions shall apply to this chapter:~~

~~(a) "Frozen food" means all frozen articles, except frozen desserts, used for food, drink, confectionery or condiment, whether simple, mixed or compound, and all substances or ingredients used in the preparation thereof.~~

~~(b) "Person" means any person, firm, corporation, association, company or organization of any kind.~~

~~**327.02 SALE OF THAWED FOOD.**~~

~~— No person shall sell, possess, offer or display for sale within the City any food which has been frozen and thawed, in whole or in part, except when plainly marked or labeled to indicate that the food has been frozen and thawed.~~

~~**327.03 SALE OF RE-FROZEN FOOD.**~~

~~— No person shall sell, possess, offer, transport or display for sale within the City any food which has been re-frozen, in whole or in part.~~

~~**327.04 STORAGE, TRANSPORTATION AND DISPLAY OF FROZEN FOODS.**~~

~~— No person shall store, display or transport for sale in a frozen condition within the City any frozen food, except in a compartment, display case or vehicle so insulated and refrigerated as to prevent the frozen food from thawing, in whole or in part.~~

## ~~CHAPTER 329 — Ice~~

### ~~329.01 — SALE OF ICE.~~

~~No person shall sell, offer or expose for sale within the City, or transport for the purpose of sale within the City, any artificial ice, except ice frozen from water which has been filtered or distilled and chlorinated to an extent and in a manner approved by the Director of Health as rendering the water safe for human consumption, and manufactured in equipment maintained in a clean condition. No person shall permit any artificial ice to come into contact with any food or beverage sold, offered or displayed for sale, or transported for sale within the City, unless such artificial ice has been so produced.~~

### ~~329.02 — CLEANLINESS OF EQUIPMENT.~~

~~No person shall manufacture, handle, transport or store within the City any ice, except with utensils, containers or other equipment maintained in a clean condition at all times.~~

## ~~CHAPTER 331 — Meat and Meat Products~~

### ~~331.01 — DEFINITIONS.~~

~~The following definitions shall apply to this chapter:~~

~~(a) "Department" means the Department of Health of the City of Shaker Heights.~~

~~(b) "Edible" means suitable for or intended to be eaten as food by humans, and inspected, passed, and approved as such under the provisions of this Health Code.~~

~~(c) "Inedible" means not edible.~~

~~(d) "Sanitarian" means an inspector of meat for the Department.~~

~~(e) "Department employees" means sanitarians and all other individuals employed in the Department of Health who are authorized by the Director of Health to do any work or perform any duty in connection with meat inspection.~~

~~(f) "Adulterated edible meat" means edible meat which is adulterated within the meaning of the Ohio Revised Code.~~

~~(g) "Meat and meat products" means the flesh, integument, viscera and other portions of animals capable of being used for human food, including any primal part of any animal, any product or preparation comprised in whole or in part of meat as defined herein, and any package or container with meat or a meat product therein. The term "meat" does not include any article or product comprised or derived solely from fowl or fish or other piscatorial animals or such articles as organo-therapeutic substances, meat juice, meat extract and the like, which are only for medicinal purposes and are advertised only to the medical profession.~~

~~(h) "Carcass" means all parts, including viscera, of a slaughtered animal that are capable of being used for human food.~~

~~(i) "Primal parts" means the usual sections, cuts, or parts of the dressed carcass, commonly known in the trade as sides, quarters, shoulders, hams, backs, bellies, tongues and livers, before they have been cut, shredded or otherwise subdivided preliminary to use in the manufacture of meat food products.~~

~~(j) "Prepare or sell", "prepared or sold" or "preparation for sale" means either or both preparation and sale, including possession and handling, transportation, storage, stocking, offering, displaying or other disposition.~~

~~(k) "Approved" means approved by the Department of Health as complying~~

~~with the provisions of this Health Code and with rules and regulations adopted and promulgated hereunder to prevent the use and consumption of unsound, unhealthful, unwholesome, diseased, contaminated, adulterated or otherwise unfit or inedible meat or meat products. Such approval may be given either upon inspection by the Shaker Heights Department of Health or upon inspection by any other department of health or similar agency determined by the Director of Health to issue or withhold approval under laws, ordinances, rules or regulations equivalent to those under which the Shaker Heights Department of Health grants or withholds approval.~~

~~—— (l) "Official establishment" means slaughtering, meat canning, curing, smoking, salting, packing, rendering or other similar establishment, or any food handling establishment at which inspection is maintained meeting the requirements of this Health Code.~~

~~—— (m) "Inspected and passed" means inspected and passed under this Health Code and found and marked at the time of such inspection and passage to be sound, healthful, wholesome and fit for human food. Such marking may consist of the term "Inspected and Passed" or any abbreviation or symbol thereof approved by the Director of Health.~~

~~—— (n) "Passed for sterilization" means carcasses, parts of carcasses, meat or meat products inspected, passed, and marked on condition that they be rendered into lard or tallow or otherwise sterilized by methods approved by the Director of Health.~~

~~—— (o) "Inspected and condemned", or any authorized abbreviation thereof, means, carcasses, parts of carcasses, meat or meat products inspected and marked as unsound, unhealthful, unwholesome, or otherwise unfit for human food.~~

~~—— (p) "Retained" means an article so marked held for further examination by an inspector to determine its disposal.~~

~~—— (q) "Suspect", or any authorized abbreviation thereof, means an animal inspected and marked as suspected of being infected with a disease or condition which may require its condemnation in whole or part when slaughtered, and subject to further examination by a sanitarian to determine its disposal.~~

~~—— (r) "Condemned" means an animal infected and marked as found to be immature, in a dying condition, or to have died otherwise than by slaughter, or to be affected with any other condition or with any disease that will require condemnation of its carcass.~~

~~—— (s) "Inspection legend" means a mark or a statement authorized by this Health Code on an article or on the container of an article, indicating that the article has been inspected and passed for food by a sanitarian.~~

~~—— (t) "Immediate container" or "true container" means the unit can, pot, tin, canvas, other receptacle, or covering in which any meat or meat product is customarily delivered to consumers.~~

### ~~331.02 LICENSE REQUIRED.~~

~~—— (a) No person shall prepare or sell any meat or meat product within the City unless he is the holder of a license in good standing therefor issued and maintained under the provisions of Chapter 303.~~

~~—— (b) However, the holder of a license in good standing issued and maintained under the provisions of Chapter 321 need not secure an additional license for preparation or sale of meat or meat products.~~

### ~~331.03 SLAUGHTERING AND MEAT PACKING ESTABLISHMENTS TO BE INSPECTED.~~

~~—— Every establishment in which cattle, sheep, swine or goats are~~

~~slaughtered for sale or in which carcasses, parts of carcasses, meat, or meat products derived from cattle, sheep, swine or goats, which are capable of being used as food for man, are wholly or in part canned, cured, smoked, salted, packed, rendered or otherwise prepared for sale within the City shall have inspection under this Health Code.~~

~~**331.04 MEAT AND MEAT PRODUCTS TO BE INSPECTED.**~~

~~— All animals and all meat and meat products in every establishment which prepares or sells edible meat, and all products prepared or sold in whole or in part in such establishments, shall be inspected, handled, prepared, marked and labeled as required by the provisions of this Health Code and the rules and regulations adopted and promulgated hereunder.~~

~~**331.05 SALE OF UNCLEAN, SPOILED, UNFIT MEAT PROHIBITED.**~~

~~— No person shall prepare or sell purportedly edible meat or meat products which are unclean, unwholesome, spoiled or otherwise unfit for human consumption.~~

~~**331.06 SALE OF MEAT WITHOUT INSPECTION MARK PROHIBITED.**~~

~~— No person shall prepare or sell any edible meat or meat product which does not bear the inspection legend or other mark of identification of the Department of Health, the United States Department of Agriculture, or any inspection service currently approved by the Shaker Heights Department of Health. Such legend or other mark of identification shall indicate that the meat or meat product has been slaughtered and prepared under the supervision of one or more of the aforementioned governmental inspection services and that the same has been inspected and passed as edible.~~

~~**331.07 INSPECTION SERVICES AND CHARGES.**~~

~~— The reasonable cost of inspection rendered by the Department of Health shall be paid for by the person to whom such inspection is furnished, according to a stated list of charges approved by the Director of Health and kept on file in the Department of Health. Such reasonable cost shall include time consumed, including travel time, in any case, and shall also include expenses incurred in traveling by Health Department employees outside the City limits when such inspection is furnished outside the City limits.~~

~~**331.08 REINSPECTION.**~~

~~(a) All meat and meat products, whether fresh or cured, even though previously inspected and passed, shall be reinspected by a sanitarian as often as may be necessary, in order to ascertain whether the same are sound, healthful, wholesome and fit for human food at the time the same leaves official establishments. If upon such reinspection any article is found to have become unsound, unhealthful, unwholesome or in any way unfit for human food, the original mark, stamp or label thereon shall be removed or defaced and the article condemned.~~

~~(b) Due care shall be taken to prevent meat and meat products from falling on the floor or becoming in any way contaminated. In event of their so falling or becoming contaminated, all, or such portion thereof as cannot be cleaned and rendered wholesome and fit for food, shall be condemned.~~

~~**331.09 MARKING, BRANDING AND IDENTIFYING.**~~

~~(a) The Director of Health may approve and authorize the use of abbreviations of marks of inspection under these regulations. Such~~

~~abbreviations shall have the same force and effect as the respective marks for which they are so authorized to be used.~~

~~(b) Except for the purpose of submitting a sample of the same to the Director of Health for approval, no person shall make or prepare, or cause to be made or prepared, the inspection legend, or any abbreviation, copy or representation thereof, without the written authority therefor of the Director, given in advance.~~

~~(c) No person shall affix or place the inspection legend, or any abbreviation copy or representation thereof, to or on any meat or meat product, except under the supervision of the Health Department sanitarian.~~

~~(d) No person shall fill or cause to be filled in whole or in part, with any meat or meat product, any container bearing, or intended to bear, the inspection legend, or any abbreviation, copy, or representation thereof, except under the supervision of the Health Department Sanitarian.~~

~~(e) No person shall affix or place, or cause to be affixed or placed, the inspection legend, or any abbreviation, copy or representation thereof, to or on any container of any meat or meat product, except under the supervision of the Health Department Sanitarian.~~

~~(f) No person shall make, prepare, affix or use, or cause to be made, prepared, affixed, or used, the inspection legend, or any abbreviation, copy or representation thereof, except in compliance with this section.~~

~~(g) Advertisements, photographs and other representations of any meat or meat product prepared exclusively in official establishments, which contain copies or reproductions of the inspection legend and which are not false or misleading, may be permitted when approved in advance by the Health Department Sanitarian.~~

~~(h) All marks of inspection shall be carefully applied and securely affixed.~~

~~(i) No person shall remove or cause to be removed from an official establishment any article which this section requires to be marked in any way, unless the same is clearly and legibly marked in compliance with this Health Code.~~

### ~~331.10 REQUIREMENTS FOR OFFICIAL ESTABLISHMENTS.~~

~~(a) Official establishments in which meat or meat products are prepared or sold, and all equipment and utensils used in such preparation or sale, shall be maintained in a clean and sanitary condition, and to this end the requirements of subsections (b) through (h) hereof shall be complied with.~~

~~(b) There shall be abundant light, both natural and artificial, and sufficient ventilation for all rooms and compartments, to insure a sanitary condition.~~

~~(c) There shall be an efficient drainage and plumbing system for the establishment and premises, and all drains and gutters shall be properly installed with approved traps and vents.~~

~~(d) The water supply shall be ample, clean and potable, with adequate facilities for its distribution in the official establishment. Every official establishment shall make known and, whenever required, shall afford opportunity for inspection of the source of its water supply and the location and character of its reservoirs and storage tanks.~~

~~(e) The floors, walls, ceilings, partitions, posts, doors and other parts of all structures shall be of such materials, construction and finish as will make them susceptible of being readily and thoroughly cleaned. The floors shall be kept watertight. The rooms and compartments used for edible~~

~~meats or meat products shall be separate and distinct from those used for inedible meat or meat products.~~

~~(f) The rooms and compartments in which any meat or meat product is prepared or handled shall be free from odors from dressing and toilet rooms, catch basins, hide cellars, casing rooms, inedible tank and fertilizer rooms and stables.~~

~~(g) Every practicable precaution shall be taken to keep official establishments free from flies, rats, mice and other vermin. The use of rat poisons is prohibited in rooms or compartments where any unpacked meat or meat product is stored or handled but their use is not forbidden in hide cellars, inedible compartments, out-buildings or similar places, or in storerooms containing canned or tierced meat products. So-called rat viruses shall not be used in any part of an official establishment or the premises thereof.~~

~~(h) Dogs, cats and other household pets shall be excluded from official establishments.~~

### ~~331.11 ACCOMMODATIONS AND FACILITIES FOR EMPLOYEES.~~

~~Adequate sanitary facilities and accommodations shall be furnished by every official establishment. Of these, the following are specifically required:~~

~~(a) Dressing rooms, toilet rooms and urinals, sufficient in number, ample in size, conveniently located, properly ventilated, and meeting all requirements as to sanitary construction and equipment. These shall be separated from the rooms and compartments in which meat and meat products are prepared, stored, or handled. Where both sexes are employed, separate facilities shall be provided.~~

~~(b) Modern lavatory accommodations, including running hot and cold water, soap, towels, etc. These shall be placed in or near toilet and urinal rooms and also at such other places in the establishment as may be essential to assure cleanliness of all persons handling any meat or meat product.~~

~~(c) Properly located facilities for disinfecting and cleansing utensils and hands of all persons handling any meat or meat product.~~

### ~~331.12 EQUIPMENT AND UTENSILS.~~

~~Equipment and utensils used for preparation or sale of any meat or meat product shall be of such materials and construction as will make them susceptible of being readily and thoroughly cleaned and such as will insure strict cleanliness in the preparation and handling of all meat and meat products. Trucks and receptacles used for inedible products shall bear some conspicuous and distinctive mark and shall not be used for handling edible products.~~

### ~~331.13 SECONDHAND TUBS, BARRELS AND BOXES.~~

~~Secondhand tubs, barrels and boxes intended for use as containers of any meat or meat product shall be inspected when received at the official establishment and before they are cleansed. Those showing evidence of misuse rendering them unfit to serve as containers for food products shall be rejected. The use of those showing no evidence of previous misuse may be allowed after they have been thoroughly and properly cleansed. Steaming after thorough scrubbing and rinsing is essential to cleansing tubs and barrels.~~

### ~~331.14 TAGGING REJECTED EQUIPMENT.~~

~~Department employees shall attach a "Rejected" tag to any equipment or utensil which is unsanitary, or the use of which would be in violation of this chapter. No equipment or utensil so tagged shall again be used until made sanitary. Such tag so placed shall not be removed by anyone other than a Department employee.~~

### ~~331.15 PERSONNEL.~~

~~(a) All employees in establishments which prepare or sell edible meat shall keep clean and shall wear clean garments of washable material. Special types of clothing may be required in such instances as are deemed essential by the Department.~~

~~(b) No person in any such official establishment shall engage in any practice which is unsanitary or which tends to be detrimental to the cleanliness and sanitation of the establishment or the edible meat or meat products prepared or sold therein.~~

~~(c) No establishment shall employ any person affected with a disease in a communicable form or any person with open lesions or sores.~~

### ~~331.16 CASINGS.~~

~~(a) The only animal casings which may be used as containers of any meat or meat products are those from cattle, sheep, swine or goats.~~

~~(b) Casings for meat and meat products shall be carefully inspected. Only those which have been carefully washed and thoroughly flushed with clean water are suitable for containers.~~

~~(c) Portions of casings which show infestations with esophagostomum or other nodule-producing parasite, and weasands infested with the larvae of hypoderma lineatum, shall be rejected, except that when the infestation is slight and the nodules and larvea are removed, the casing or weasand may be passed.~~

~~(d) Intestines shall not be used as ingredients of meat food products.~~

~~(e) The fermenting and sliming of hog and sheep casings shall be done only in compartments separate from those in which either edible or inedible products are handled.~~

### ~~331.17 PREPARATION OF LARD.~~

~~Lard which is to be labeled "pure lard" shall be prepared in equipment used exclusively for that product. Pipes used to convey leaf lard and pipes used to convey other kinds of lard shall be so arranged that the identity of each product shall be maintained until the product is properly labeled.~~

### ~~331.18 SAMPLES FOR INSPECTION.~~

~~(a) Samples of meat and meat products, water, dyes, chemicals, preservatives, spices or other articles in any official establishment shall be taken, without cost to the Department, for examination as often as may be deemed necessary by the official charged with the enforcement of this Health Code.~~

~~(b) No dye, chemical, preservative or other substance, the use of which is prohibited by this Health Code, shall be brought into or kept in an official establishment.~~

### ~~331.19 ADDED INGREDIENTS.~~

~~(a) No meat or meat product shall contain any substance which impairs its wholesomeness, or contains, except as permitted by subsections (b) or (g) hereof, any preservative or added chemical.~~



~~(b) There may be added to a meat or meat product common salt, sugar, wood smoke, cider, vinegar, wine vinegar, malt vinegar, sugar vinegar, glucose vinegar, spirit vinegar, pure spices, saltpeter and nitrate of soda. Benzoate of soda may be added to meat or meat products, other than fresh meat or fresh meat products, when declared on the label, and in amounts not exceeding one tenth of one percent (0.1%) by weight.~~

~~(c) No meat or meat product prepared for sale or sold in the City shall be artificially colored with any dye, chemical or other substance, except natural wood smoke. The provisions of this section shall include and apply to the casings of all types of weiners, bologna and sausage.~~

~~(d) Sausage shall not contain cereal in excess of three and one-half percent (3.5%).~~

~~(e) Water or ice shall not be added to sausage except for the purpose of facilitating grinding, chopping and mixing, in which case the added water or ice shall not exceed ten percent (10%).~~

~~(f) No lard substitute, lard or lard compound shall contain added water.~~

~~(g) The use of substances necessary for the proper preparation, clarification or refining of meat and meat products may be permitted, subject to the approval of the Department, provided they do not impair the quality of the meat or meat product, and are eliminated during further process of manufacture as, for example, the use of bicarbonate of soda and Fuller's earth in the preparation of fats, and the use of sal soda or lime in the cleansing of tripe.~~

### **~~331.20 SAUSAGE TO BE MARKED.~~**

~~When cereal not in excess of three and one-half percent (3.5%) is added to sausage, the product shall be marked with the phrase "Cereal Added". When water and cereal are added to sausage, the product shall be marked "Sausage, Water, and Cereal". When water, but no cereal, is added to sausage, the addition of water need not be stated.~~

### **~~331.21 HAMBURG.~~**

~~(a) No person shall sell or display, possess or offer for sale any hamburg containing any added chemicals, preservatives, coloring matter, pork or meat other than beef, or any old, decomposed or returned meat loaf, sausage or other ground meat product, cereal, milk powder, soya bean flour, or animal or vegetable substance, other than fresh beef and suet, except seasoning, such as salt and pepper. The fat content, as determined by standard extraction methods of a health laboratory designated by the Director of Health, shall not exceed twenty percent (20%) of the weight of the hamburg as sold, displayed, possessed, or offered for sale.~~

~~(b) For the purposes herein, "hamburg" means ground fresh beef, with or without the addition of suet or seasoning.~~

### **~~331.22 GROUND MEAT.~~**

~~(a) No person shall sell or display, possess or offer for sale any ground meat or ground meat products, except sausage or hamburg, which contains over thirty percent (30%) fat as determined by standard extraction methods of a health laboratory designated by the Director of Health. If such ground meat or meat product contains pork and is sold without being thoroughly cooked, each package of such product shall be stamped, labeled or otherwise clearly marked "Contains Pork".~~

~~(b) No person operating any wholesale or retail meat market,~~

~~delicatessen store, lunch counter, restaurant or other place shall display, have for sale, or in their possession or sell any sausage containing over fifty percent (50%) fat as determined by standard extraction methods of a health laboratory designated by the Director of Health.~~

### ~~331.23 PREPARATION AND SALE OF RABBIT CARCASSES.~~

~~— No person shall prepare for sale or sell any carcass or portion of carcass of any wild rabbit unless the carcass or portion thereof has been inspected and passed by an agency of the United States Department of Agriculture, or by the Director of Health, or by some other department of health or similar agency designated by the Director of Health under provisions of Section 331.01, and marked as having been so inspected and passed. When any rabbit carcass or portion thereof has been placed in a closed container for sale, the inspection legend may be placed on the closed container.~~

### ~~331.24 SALE OF LIVE RABBIT PROHIBITED.~~

~~— No person shall sell or display, possess or offer for sale any live rabbit.~~

### ~~331.25 SALE FROM VEHICLES PROHIBITED.~~

~~— No person shall sell any meat or meat product at retail from any vehicle unless the meat or meat product is frozen, packaged and handled as required by Section 327.04.~~

## ~~CHAPTER 333 - Milk and Milk Products~~

### ~~333.01 DEFINITIONS.~~

~~— The following definitions and general provisions shall apply to this chapter:~~

~~— (a) "Milk" means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one (1) or more healthy cows, which contains not less than twelve percent (12%) of milk solids and not less than three percent (3%) of milk fat.~~

~~— (b) "Goat milk" means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one (1) or more healthy goats. The word "milk" shall be interpreted to include goat milk.~~

~~— (c) "Standardized milk" means milk of which the original fat content has been changed by partial skimming or by the addition of skimmed milk, cream, or milk rich in fat and which contains not less than three and one-half percent (3.5%) of milk fats and twelve percent (12%) of total solids. The can, bottle or vessel containing such milk shall be labeled "standardized milk".~~

~~— (d) "Milk fat" or "butter fat" means the fat of milk.~~

~~— (e) "Cream" means a portion of milk which contains not less than eighteen percent (18%) milk fat.~~

~~— (f) "Sour cream" means cream the acidity of which is more than twenty hundredths of one percent (0.20%) expressed as lactic acid.~~

~~— (g) "Whipping cream" means cream which contains not less than thirty percent (30%) milk fat.~~

~~— (h) "Whipped cream" means cream to which a harmless gas has been added to cause whipping of the product. It may also contain sugar, other harmless flavoring and a harmless stabilizer.~~

~~— (i) "Half and half" means a product consisting of a mixture of milk and cream which contains not less than eleven and one-half percent (11.5%)~~

~~milk fat.~~

~~(j) "Reconstituted" or "recombined half and half" means a product resulting from the combination of reconstituted milk or reconstituted skimmed milk with cream or reconstituted cream which contains not less than eleven and one-half percent (11.5%) milk fat.~~

~~(k) "Concentrated milk" means a fluid product, unsterilized and unsweetened, resulting from the removal of a considerable portion of the water from milk. When recombined with water in accordance with instructions printed on the container, the resulting product conforms with the standards for milk fat and solids not fat of milk as defined in this section.~~

~~(l) "Concentrated milk products" means homogenized concentrated milk, vitamin D concentrated milk, concentrated skimmed milk, concentrated flavored milk, concentrated flavored dairy drink, concentrated flavored drink and similar concentrated products made from concentrated milk or concentrated skimmed milk, as the case may be, and which, when recombined with water in accordance with instructions printed on the container, conforms with the definitions of the corresponding milk products in this section.~~

~~(m) "Dry milk" means milk from which at least ninety-five percent (95%) of the water has been removed.~~

~~(n) "Skimmed milk" means milk from which a sufficient portion of milk fat has been removed to reduce its milk fat content to less than three percent (3%).~~

~~(o) "Nonfat", "fat free" or "defatted milk" means skimmed milk which contains not more than one tenth of one percent (0.1%) of milk fat.~~

~~(p) "Skimmed milk solids" means concentrated skimmed milk and nonfat dry milk solids.~~

~~(q) "Nonfat dry milk solids" means nonfat milk from which at least ninety-five percent (95%) of the water has been removed.~~

~~(r) "Flavored milk" means any drink made from milk, cream, skimmed milk or other similar dairy product together with sugar or syrup, and chocolate or other flavoring matter, if it contains three and one-half percent (3.5%) or more of milk fat, which shall be labeled as "milk", together with the true name of such flavor.~~

~~(s) "Flavored dairy drink". If any such product shall contain less than three and one-half percent (3.5%) of milk fat, but two percent (2%) or more of milk fat, then such product shall be labeled as "dairy drink", together with the true name of the flavor of such product.~~

~~(t) "Flavored drink". If any such product shall contain less than two percent (2%) of milk fat, it shall be labeled as "drink" together with the true name of the flavor of such product, and shall also be distinctly labeled, in addition thereto, with the following statement: "made with skimmed milk".~~

~~(u) "Flavored reconstituted milk" means flavored milk made from reconstituted milk.~~

~~(v) "Flavored reconstituted dairy drink" means flavored milk made from reconstituted milk containing less than three and one-half percent (3.5%) milk fat but two percent (2%) or more of milk fat.~~

~~(w) "Homogenized milk" means milk which has been treated in such a manner as to insure break-up of the fat globules to such an extent that after forty-eight (48) hours of quiescent storage no visible cream separation occurs on the milk and the fat percentage of the top one hundred (100) milliliters of milk in a quart bottle, or of proportionate volumes in containers of other sizes, does not differ by more than ten percent (10%) of itself from the fat percentage of the remaining milk as determined after~~

~~thorough mixing. The word "milk" shall be interpreted to include homogenized milk.~~

~~(x) "Milk products" means cream, whipping cream, sour cream, half and half, reconstituted half and half, whipped cream, concentrated milk, concentrated milk products, skimmed milk, nonfat milk, flavored milk, flavored dairy drink, flavored drink, flavored reconstituted milk, flavored reconstituted dairy drink, flavored reconstituted drink, buttermilk, cultured buttermilk, cultured milk, vitamin D milk, reconstituted or recombined milk, reconstituted cream, reconstituted skimmed milk and any other product made by the addition of any substance to milk or to any of these milk products and used for similar purposes and designated as a milk product by the Director of Health.~~

~~(y) "Pasteurization" means the process of heating every particle of milk or milk products to at least one hundred forty three degrees Fahrenheit (143° F) or sixty degrees Centigrade (60° C) and holding it at such temperature continuously for at least thirty (30) minutes, or to at least one hundred sixty degrees Fahrenheit (160° F), or seventy degrees Centigrade (70° C), and holding it at such temperature continuously for at least fifteen (15) seconds, in approved and properly operated equipment. Nothing contained in this definition shall be construed as disbaring any other process which has been demonstrated to be equally efficient and is approved by the Ohio Department of Health.~~

~~(z) "Adulterated", and "misbranded milk and milk products" means any milk or milk product which is adulterated or misbranded.~~

~~(aa) "Milk producer" means any person who owns or controls one (1) or more cows, a part or all of the milk or milk products from which is sold or offered for sale.~~

~~(bb) "Milk distributor" means any person who offers for sale or sells or gives away to another any milk or milk products for human consumption as such.~~

~~(cc) "Producer-distributor" means a milk producer who is also a milk distributor.~~

~~(dd) "Dairy" or "dairy farm" means any place or premises where one (1) or more cows are kept, a part or all of the milk and milk products from which are sold or offered for sale.~~

~~(ee) "Producer dairy" means a dairy farm which sends milk or cream to a milk plant for processing.~~

~~(ff) "Milk hauler" means any person, other than a milk producer or a milk plant employee, who transports milk and/or milk products to and from a milk plant or a collecting point.~~

~~(gg) "Milk plant" means any place, premises or establishment where milk or milk products are collected, handled, processed, stored, pasteurized, bottled or prepared for distribution, except an establishment where milk or milk products are sold at retail only.~~

~~(hh) "Flavored reconstituted drink" means a flavored drink made from reconstituted milk and contains less than two percent (2%) milk fat.~~

~~(ii) "Buttermilk" means a fluid product resulting from churning of milk or cream. It contains not less than eight and one-fourth percent (8-1/4%) of milk solids not fat.~~

~~(jj) "Cultured buttermilk" means a fluid product resulting from the souring or treatment, by a lactic acid or other culture, of pasteurized skim milk, or of pasteurized reconstituted skimmed milk. It contains not less than eight and one-fourth percent (8-1/4%) of milk solids not fat.~~

~~(kk) "Cultured milk" means a fluid or semi-fluid product resulting from~~

~~the souring or treatment, by a lactic acid or other culture, of pasteurized concentrated milk. It contains not less than eight and one-fourth percent (8-1/4%) of milk solids not fat and not less than three and one-half percent (3.5%) of milk fat.~~

~~(ll) "Vitamin D milk" means milk the vitamin D content of which has been increased by an approved method to at least four hundred (400) U.S.P. units per quart.~~

~~(mm) "Fortified milk and milk products" means milk, other than vitamin D milk, the vitamin and/or mineral content of which has been increased by a method and in an amount approved by the Director of Health. Fortified milk products are those milk products defined in this Health Code, other than vitamin D milk products, the vitamin and/or mineral content of which has been increased by a method and in an amount approved by the Director of Health and to which skimmed milk solids may or may not have been added. The label shall contain the word "fortified" and shall clearly show the amount and source of each vitamin and/or mineral added.~~

~~(nn) "Reconstituted" or "recombined milk" means a product resulting from the recombining of milk constituents with water, and which complies with the standard for milk fat and solids not fat of milk as defined herein.~~

~~(oo) "Reconstituted" or "recombined cream" means a product which results from the combination of dry cream, butter or milk fat with cream, milk, skimmed milk, or water and which complies with the milk fat standards of cream as defined herein.~~

~~(pp) "Reconstituted" or "recombined skimmed milk" means a product which results from the recombining of skimmed milk constituents with water, and which contains not less than eight and one-fourth percent (8-1/4%) of milk solids not fat.~~

~~(qq) "Cottage cheese" means the soft uncured cheese prepared from the curd obtained by adding harmless lactic acid producing bacteria, with or without enzymatic action, to pasteurized skimmed milk or pasteurized reconstituted skimmed milk. It contains not more than eighty percent (80%) moisture.~~

~~(rr) "Creamed cottage cheese" means the soft uncured cheese which is prepared by mixing cottage cheese with pasteurized cream or with a pasteurized mixture of cream and milk or skimmed milk, and which contains not less than four percent (4%) milk fat by weight, and not more than eighty percent (80%) moisture.~~

~~(ss) "Average bacterial plate count", "direct microscopic count", "reduction time", and "cooling temperature". Average bacterial plate count and average direct microscopic count shall mean the logarithmic average, and "average reduction time" and "average cooling temperature" shall be taken to mean the arithmetic average, of the respective test results of the last four (4) consecutive samples taken upon separate days.~~

~~(tt) "Prepare or sell", "prepared or sold", or "preparation for sale" means either or both preparation and sale, including possession, and any handling, transportation, storage, stocking, offering, displaying or other disposition.~~

### **~~333.02 SALE OF ADULTERATED, MISBRANDED OR UNGRADED PRODUCTS PROHIBITED.~~**

~~(a) No person shall produce, sell, offer or expose for sale, or have in possession with intent to sell or give away, any milk or milk product which is adulterated, misbranded or ungraded. No person, elsewhere than in a private home, shall have in his possession any adulterated, misbranded, or ungraded milk or milk product. In an emergency, the sale of ungraded~~

~~pasteurized milk or pasteurized milk products may be authorized by the Director of Health upon the approval of the Ohio Department of Health, in which case they shall be labeled "ungraded".~~

~~(b) Any adulterated, misbranded and/or improperly labeled milk or milk products may be impounded by the Director of Health and disposed of in accordance with the provisions of Chapter 301.~~

### ~~333.03 LICENSE REQUIRED.~~

~~No person shall prepare or sell any milk or liquid milk products within the City unless he is the holder of a license in good standing therefor issued and maintained under the provisions of Chapter 303 of this Health Code or under the provisions of Ohio R.C. 3707.373; provided, however, that the holder of a license in good standing issued and maintained under the provisions of Chapter 321 of this Health Code need not secure an additional license for preparation or sale of milk or liquid milk products.~~

### ~~333.04 INSPECTION OF DAIRY FARMS AND MILK PLANTS.~~

~~(a) Prior to the issuance of a license and at least once every six (6) months thereafter, the Director of Health shall inspect all dairy farms and all milk plants whose milk or milk products are intended for consumption within the City. However, the Director may, in lieu of any inspection or report required by this section, accept a similar inspection or report made by any inspection service currently approved by the Director. If the Director should discover the violation of any requirement, he shall make a second inspection after a lapse of such time as he may deem necessary for the defect to be remedied, but not before the lapse of three (3) days; the second inspection shall be used in determining compliance with the requirements of this chapter. Any violation of the same requirement of this chapter on such reinspection shall call for immediate degrading, suspension of license, and/or court action.~~

~~(b) One (1) copy of the inspection report shall be posted by the Director of Health in a conspicuous place upon an inside wall of the milk house or milk plant, and the inspection report shall not be defaced or removed by any person except the Director. Another copy of the inspection report shall be filed with the records of the Health Department.~~

~~(c) Every milk producer and distributor shall, upon the request of the Director of Health, permit him access to all parts of the establishment, and every distributor shall furnish the Director, upon his request, for official use only, a true statement of the actual quantities of milk and milk products of each grade purchased and sold, together with a list of all sources of the milk and milk products, records of inspections and tests and pasteurization time and temperature records.~~

### ~~333.05 TRANSFERRING OR DIPPING MILK; DELIVERY CONTAINERS; COOLING; QUARANTINED RESIDENCES.~~

~~(a) Except as permitted in this section, no milk producer or distributor shall transfer milk or milk products from one (1) container to another on the street, in any vehicle or store, or in any other place within the City. The sale of dip milk is prohibited.~~

~~(b) Milk and fluid milk products sold in the distributor's containers in quantities of one (1) gallon or less shall be delivered in standard milk bottles or in single-service containers. No hotels, soda fountains, restaurants, groceries and similar establishments shall sell or serve any milk or fluid milk products, except in the individual original container in~~

~~which it was received from the distributor or from a bulk container equipped with an approved dispensing device. This requirement shall not apply to cream, whipped cream, or half and half which is consumed on the premises, which may be served from the original bottle or from a dispenser approved for such services.~~

~~(c) No hotel, soda fountain, restaurant, grocery, hospital or similar establishment shall sell or serve any milk or milk product which has not been maintained, while in its possession, at a temperature of fifty degrees Fahrenheit (50° F) or ten degrees Centigrade (10° C) or less. If containers of milk or milk products are stored in water for cooling, the pouring lips of the containers shall not be submerged.~~

~~(d) It shall be the duty of all persons to whom milk or milk products are delivered to clean thoroughly the containers in which such milk or milk products are delivered before returning the containers.~~

~~(e) The delivery of milk or milk products to and the collection of milk or milk products containers from residences in which cases of communicable disease transmissible through milk supplies exists shall be subject to the special requirements of the Director of Health.~~

### ~~333.06 PROCEDURE WHEN INFECTION SUSPECTED.~~

~~(a) When reasonable cause exists to suspect the possibility of transmission of infection from any person concerned with the handling of milk or milk products, the Director of Health is authorized to require any or all of the following measures:~~

~~(1) The immediate exclusion of that person from milk handling;~~

~~(2) The immediate exclusion of the milk supply concerned from distribution and use;~~

~~(3) Adequate medical and bacteriological examination of the person, of his associates, and of his or their body discharges.~~

### ~~333.07 CLEANLINESS OF MILK.~~

~~No person shall prepare or sell any milk or liquid milk product which has been determined to be dirty or filthy.~~

### ~~333.08 ENFORCEMENT; INTERPRETATION.~~

~~(a) This chapter shall be enforced by the Director of Health in accordance with the applicable interpretations thereof contained in the 1953 edition of the United States Public Health Service Milk Code, a certified copy of which shall be on file in the City Clerk's office, except that in case any provision, or part thereof, in this Health Code does not meet the minimum requirements of State law, then, and in that case, the requirements of the State law shall apply only to that provision or part thereof so affected.~~

~~(b) The Director is further authorized to enforce any part of this chapter which may not be covered by either the United States Public Health Service Milk Code or Ohio law by applying interpretations thereof which are necessary to safeguard the public health.~~

## ~~CHAPTER 335 - Poultry and Poultry Products~~

### ~~335.01 DEFINITIONS.~~

~~The following definitions shall apply to this chapter:~~

~~(a) "Department" means the Department of Health of the City of Shaker Heights.~~

~~(b) "Sanitarian" means an inspector of poultry or poultry products for the Department.~~

~~(c) "Department employees" means sanitarians and all other individuals employed in the Department of Health who are authorized by the Director of Health to do any work or perform any duty in connection with the inspection of poultry and poultry products.~~

~~(d) "Carcass" means any poultry carcass.~~

~~(e) "Condition" means any condition, including, but not being limited to, the state of preservation, cleanliness or soundness of any product, or any condition, including, but not limited to, the processing, handling or packaging which affects such product.~~

~~(f) "Condition and wholesomeness" means the condition of any product and its healthfulness and fitness for human food.~~

~~(g) "Dressed poultry" means poultry which has been slaughtered for human food with head, feet and viscera intact and from which the blood and feathers have been removed.~~

~~(h) "Edible poultry byproduct" means any giblets or any edible part of dressed poultry other than eviscerated poultry.~~

~~(i) "Edible product" means any product other than live poultry and dressed poultry.~~

~~(j) "Giblets" means the liver from which the bile sac has been removed, the heart from which the pericardial sac has been removed, and the gizzard from which the lining and contents have been removed, provided that each such organ has been properly trimmed and washed.~~

~~(k) "Inspected and passed" means that the product has undergone an inspection and was found, at the time of such inspection, to be sound, wholesome and fit for human food.~~

~~(l) "Inspected and condemned" or any authorized abbreviation thereof, means carcasses, parts of carcasses, poultry or poultry products inspected and marked as unsound, unhealthful, unwholesome or otherwise unfit for human food.~~

~~(m) "Official establishment" means any slaughtering, processing or other similar establishment or any food handling establishment at which inspection is maintained meeting the requirements of this Health Code.~~

~~(n) "Poultry" means any kind of domesticated bird, including, but not being limited to, chickens, turkeys, ducks, geese, pigeons and guineas.~~

~~(o) "Poultry food product" means any article of human food or any article intended for or capable of being so used which is prepared or derived in whole or in substantial part from any edible portion of dressed poultry.~~

~~(p) "Poultry products" means each of the following: dressed poultry, ready-to-cook poultry, edible poultry by products and poultry food products.~~

~~(q) "Prepare or sell", "prepared or sold" or "preparation for sale" means either or both preparation and sale, including possession and any handling, cutting up, transportation, storage, stocking, offering, displaying or other disposition.~~

~~(r) "Ready-to-cook poultry" means any dressed poultry from which the pinfeathers, vestigial feathers (hair or down as the case may be), head, shanks, crop, oil glands, trachea, esophagus, entrails, reproductive organs and lungs have been removed and with or without the giblets, and is ready to cook without need of further processing, or any cut up or disjointed portion of such poultry.~~

~~(s) "Retained" means an article so marked held for further examination by a sanitarian to determine its disposal.~~

~~(t) "Suspect", or any authorized abbreviation thereof, means any~~



~~poultry inspected and marked as suspected of being infected with a disease or condition which may require its condemnation in whole or part when slaughtered, and is subject to further examination by a sanitarian to determine its disposal.~~

~~(u) "Approved" means approved by the Department of Health as complying with the provisions of this chapter and with rules and regulations adopted and promulgated hereunder to prevent the use and consumption of unsound, unhealthful, unwholesome, diseased, contaminated, adulterated or otherwise unfit or inedible poultry or poultry products. Such approval may be given either upon inspection by the Shaker Heights Department of Health or upon inspection by any other department of health or similar agency determined by the Director of Health to issue or withhold approvals under laws, ordinances, rules or regulations equivalent to those under which the Shaker Heights Department of Health grants or withholds approvals.~~

#### ~~335.02 LICENSE REQUIRED.~~

~~(a) No person shall prepare or sell any poultry or poultry products within the City unless he is the holder of a license in good standing therefor issued and maintained under the provisions of Chapter 303.~~

~~(b) However, the holder of a license in good standing issued and maintained under the provisions of Chapter 321 need not secure an additional license for preparation or sale of poultry or poultry products.~~

~~(c) Further, a license shall not be required of any person selling poultry products prepared from poultry entirely raised by himself on his own farm from eggs.~~

#### ~~335.03 SLAUGHTERING AND OTHER ESTABLISHMENTS TO BE INSPECTED.~~

~~Except for farms on which poultry or poultry products may be prepared for sale and sold without license, as provided in Section 335.02, every establishment in which poultry is slaughtered for sale, or in which carcasses, parts of carcasses, poultry or poultry products which are capable of being used as food are prepared for sale within the City, shall have inspection under this chapter.~~

#### ~~335.04 CONDEMNED OR UNWHOLESOME POULTRY.~~

~~No person shall prepare or sell within the City any poultry or poultry product which has been inspected and condemned or which, whether inspected or not, is unclean, unwholesome, spoiled or otherwise unfit for human consumption.~~

#### ~~335.05 INSPECTION SERVICES AND CHARGES.~~

~~The reasonable cost of inspection rendered by the Department of Health shall be paid for by the person to whom such inspection is furnished, according to a stated list of charges approved by the Director of Health and kept on file in the Department of Health. Such reasonable cost shall include time consumed, including travel time in any case, and shall also include expenses incurred in traveling by Health Department employees outside the City limits when such inspection is furnished outside the City limits.~~

#### ~~335.06 LIVE POULTRY NOT TO BE SOLD.~~

~~No person shall sell or display, possess or offer for sale any live poultry within the City.~~

#### ~~335.07 SALE FROM VEHICLES.~~

~~No person shall sell dressed poultry of any kind, including cut-up poultry, at retail from any wagon, pushcart or other vehicle, unless the poultry is frozen and packaged.~~

## **TITLE SEVEN - Buildings and Other Places**

### **CHAPTER 341 - Places Where Persons are Employed**

#### **341.01 DEFINITIONS.**

The following definitions shall apply to this chapter:

(a) "Place where persons are employed" means any building or portion of a building occupied as a store, shop, office, school, church or other establishment of any kind, other than apartments or private dwellings, where any person is employed.

(b) "Employment" or "employed" includes self-employment by the proprietor of the establishment.

#### **341.02 NOTICE TO PROSPECTIVE OCCUPANTS.**

(a) The Director of Building and Housing~~Health~~, upon learning of any proposed change of proprietorship or use of any place where persons are employed, shall cause written notice to be posted at the main entrance of such place and at such other entrances as he may deem necessary. The notice shall advise prospective new proprietors or users of such place to inquire at the Building and Housing~~Health~~ Department of the City for information as to regulations applicable to the proposed proprietorship or use.

(b) No person shall deface, destroy or remove any such notice, except that the Director of Building and Housing~~Health~~ shall cause the same to be removed after the new proprietorship or use is commenced.

#### **~~341.03 BASEMENT ROOMS.~~**

~~No room in the cellar or basement of any building shall be used as a place where persons are employed unless such room has at least five (5) foot candles of light in all parts thereof, and sufficient ventilation, either by natural or forced flow of air, or both, to change the air therein at least six (6) times per hour. The walls and floors of the entire cellar or basement containing such rooms shall be dampproof and the entire cellar or basement, including such room, shall be well drained and dry.~~

#### **~~341.04 REMOVAL OF DUST, GASES AND OTHER IMPURITIES.~~**

~~No room shall be used as a place where persons are employed unless all dust and other air-borne solids and all gases, fumes and other impurities that are generated, released or set in motion in quantities sufficient to injure the health of any person in such room, are removed by mechanical devices approved as adequate for such purpose by the Director of Health.~~

#### **~~341.05 SANITATION.~~**

~~Each place where persons are employed shall be provided with sanitary facilities as required by Chapter 343.~~

#### **~~341.06 RECEPTACLES FOR WASTE.~~**

~~Receptacles for waste shall be provided as required by Chapter 373 for each place where persons are employed.~~

#### **~~341.07 DRINKING FOUNTAINS OR CUPS.~~**

~~Each place where persons are employed shall be provided with a supply of pure drinking water dispensed only by drinking fountains or single-service drinking cups. Each drinking fountain shall be so designed and maintained as to give an upward flow of water at such an angle and in such quantity as not to fall back upon the orifice.~~

~~**341.08 CLEANLINESS.**~~

~~Each place where persons are employed, and all furniture and equipment therein, shall be maintained at all times in good repair and in a clean condition.~~

~~**CHAPTER 343 - Toilet Facilities**~~

~~**343.01 WATER CLOSET REQUIRED.**~~

~~No building or portion of any building shall be used as a dwelling or a place where any person is regularly employed or engaged in work, or as a school, church, theater or other place of public assembly unless it is provided with at least one water closet, installed and maintained in the manner required by law and ordinance, located in a separate compartment from any other water closet, and intended for use by the occupants of the building or portion of building only. Additional water closets, urinals or both, shall be provided in any such building or portion of building as required by law or ordinance.~~

~~**343.02 WATER SUPPLY FOR FIXTURES.**~~

~~Every water closet and every urinal, whether required by this chapter or not, shall be provided with a sufficient supply of water for flushing to keep it in a clean condition, and shall be connected to a public sanitary sewer, except as provided in the following sections.~~

~~**343.03 TEMPORARY TOILET FACILITIES DURING CONSTRUCTION.**~~

~~During the construction of any building or portion thereof, other than one-family or two-family houses, or the construction of any public improvement, and only during the time when no public sanitary sewer connection is available on the site of such construction, and in any event for not more than thirty (30) days, temporary privies with vaults shall be maintained meeting the requirements of this section. Such privies shall be so maintained during the construction of one-family or two-family houses whenever the Director of Health deems such maintenance necessary for the protection of the public health.~~

~~(a) A temporary privy may be located in the basement of a building under construction at a place in the basement designated by the Director of Health. Unless located in a basement, the privy shall be located in a rear yard at least fifty (50) feet from the nearest building, except garages and buildings under construction.~~

~~(b) The privy shall be provided with a vault at least four feet six inches (4' 6") deep.~~

~~(c) Each privy shall be completely enclosed, and all openings in the enclosure shall be completely screened so as to prevent the entrance of flies and other insects.~~

~~(d) When the use of any such privy is discontinued, the contents of the vault shall be completely covered with slaked lime and the vault completely filled with fresh earth.~~

~~343.04 PERMANENT TOILET FACILITIES ON PUBLIC GROUNDS.~~

~~Permanent privies may be constructed and maintained on public grounds only when authorized by the Director of Health. Such privies shall be constructed and maintained in compliance with the Ohio Building Code.~~

~~343.05 NUMBER OF FIXTURES REQUIRED.~~

~~Each building or portion of building hereinafter referred to in this section shall be provided with toilet fixtures as follows:~~

~~(a) Theaters and Assembly Halls. The number of fixtures required is based upon seating capacity of each theater and assembly hall, assuming equal division between the sexes. Water closets: One (1) to each one hundred fifty (150) females or fraction thereof. One (1) to each three hundred (300) males or fraction thereof. Urinals: One (1) to each two hundred (200) males or fraction thereof.~~

~~(b) Schools. The number of fixtures required for each school is based upon the number of pupils for which the building is designed, assuming equal division between sexes.~~

~~(1) For male pupils.~~

| <del>No. of pupils</del>          | <del>Water Closets</del> | <del>Urinals</del> |
|-----------------------------------|--------------------------|--------------------|
| <del>50 or fraction thereof</del> | <del>2</del>             | <del>3</del>       |
| <del>51 to 100</del>              | <del>4</del>             | <del>5</del>       |
| <del>101 to 200</del>             | <del>7</del>             | <del>9</del>       |
| <del>201 to 300</del>             | <del>9</del>             | <del>13</del>      |
| <del>301 to 400</del>             | <del>11</del>            | <del>15</del>      |
| <del>401 to 500</del>             | <del>12</del>            | <del>17</del>      |
| <del>501 to 1000</del>            | <del>19</del>            | <del>27</del>      |
| <del>1001 to 2000</del>           | <del>32</del>            | <del>48</del>      |

~~(2) For female pupils.~~

| <del>No. of pupils</del>          | <del>Water Closets</del> |
|-----------------------------------|--------------------------|
| <del>50 or fraction thereof</del> | <del>4</del>             |
| <del>51 to 100</del>              | <del>7</del>             |
| <del>101 to 200</del>             | <del>12</del>            |
| <del>201 to 300</del>             | <del>16</del>            |
| <del>301 to 400</del>             | <del>19</del>            |
| <del>401 to 500</del>             | <del>21</del>            |
| <del>501 to 1000</del>            | <del>34</del>            |
| <del>1001 to 2000</del>           | <del>59</del>            |

~~(c) Churches. The number of fixtures required for each church is based upon the seating capacity of the main hall or worship, assuming equal division between the sexes.~~

~~(1) Water closets: One (1) to each one hundred fifty (150) females or fraction thereof. One (1) to each three hundred (300) males or fraction thereof.~~

~~(2) Urinals: One (1) to each two hundred (200) males or fraction thereof.~~

~~(d) Hotels. Each hotel shall be provided with one (1) water closet for each guest room. Restaurants and assembly halls in hotels shall be provided with toilet facilities as though they were detached from the hotel.~~

~~(e) Restaurants. The number of fixtures required is based upon seating capacity for patrons of each restaurant, assuming equal division between sexes.~~

~~(1) Water closets: One (1) to each one hundred fifty (150) females or fraction thereof. One (1) to each three hundred (300) males or fraction thereof.~~

~~(2) Urinals: One (1) to each two hundred (200) males or fraction thereof.~~

~~The term "restaurant", as used in this subsection, does not include food service facilities in drug stores, delicatessens, or any restaurant having a seating capacity of twenty-five (25) or less.~~

#### ~~343.06 TOILET FACILITIES FOR EMPLOYEES.~~

~~(a) In each building other than private residences and apartments, where persons are employed, there shall be provided toilet facilities for employees as follows:~~

~~(1) Water closets: One (1) to each twenty-five (25) males or fraction thereof. One (1) to each twenty (20) females or fraction thereof.~~

~~(2) Urinals: One (1) to each fifty (50) males (or additional water closets).~~

~~(b) Toilet facilities shall be located so as to be within one hundred twenty-five (125) feet of any place in the building where any person is employed, and not more than one (1) floor above or below any floor on which any person is employed.~~

#### ~~343.07 TOILET ROOMS; LAVATORIES.~~

~~(a) The toilet fixtures required by this chapter shall be located in rooms separate for each sex and enclosed by soundproof walls extending from the floor to the ceiling. Entrances to men's rooms and women's rooms shall be at least twenty (20) walking feet apart whenever structurally possible. Each entrance shall be provided with a self-closing door. Each entrance shall be marked by a sign with letters not less than four (4) inches in height indicating whether the room is to be used by men or women. Plumbing fixtures and toilet rooms shall be provided as specified in Ohio Basic Building Code 4101:2-28-08.~~

~~(b) Each toilet room shall be provided with and kept in operation a separate system of ventilation, either by natural or forced flow of air, or both, sufficient to change the air therein at least six (6) times per hour.~~

~~(c) In each toilet room there shall be not less than twenty (20) foot candles of illumination at any point in such room.~~

~~(d) In each toilet room there shall be provided at least one (1) lavatory for each three (3) toilet fixtures required by this chapter, except that in each toilet room in a place where food is prepared or sold there shall be one (1) lavatory for each twenty (20) employees or fraction thereof. Each lavatory shall be provided with hot and cold running water, soap and clean, individual towels or approved roller towels.~~

#### ~~343.08 DRESSING ROOMS.~~

~~Each place of business in which five (5) or more employees of one (1) sex on one (1) shift change into uniforms, shall be provided with a dressing room for that sex. The entrance to such dressing room shall be marked to indicate whether the room is to be used by men or women.~~

#### ~~343.09 CLEANLINESS.~~

~~Toilet rooms, dressing rooms, fixtures and other equipment referred to in this chapter shall at all times be maintained in good repair and in a clean and sanitary condition. A supply of toilet tissue shall be provided at all times in an appropriate dispenser at each toilet.~~

~~343.10 COMMON USE OF TOWELS PROHIBITED.~~

~~(a) No person, owning or having the possession, charge or management of any lavatory available for use by the public or in any place where persons are employed, whether such lavatory is required by this chapter or not, shall provide or permit to be used in or about such lavatory any towel for common use.~~

~~(b) The term "common use", as used in this section, means use by any person after use by any other person of any individual towel or portion of a roller towel without the cleansing thereof before each such use. Such cleansing shall consist of a thorough washing and drying of such towel in such manner as to destroy pathogenic bacteria.~~

~~343.11 COMMON USE OF SOAP.~~

~~No person, owning or having the possession, charge or management of any lavatory available for use by the public or in any place where persons are employed, whether such lavatory is required by this Health Code or not, shall provide or permit to be used in or about such lavatory any piece of soap or detergent for common use. The term "common use", as used in this section, means use by more than one (1) person of any piece of soap or detergent.~~

~~CHAPTER 345 - Public Swimming Pools, Public Spas and Special Use Pools~~

~~345.01 COMPLIANCE WITH LAW; LICENSE REQUIRED.~~

~~No person shall operate or maintain a public swimming pool, public spa or special use pool without complying with the provisions of Ohio R.C. Chapter 3749, Ohio Administrative Code Chapter 3701-31, this chapter and without first obtaining a license from the Shaker Heights Director of Health.~~

~~345.02 WATER QUALITY.~~

~~(a) Notwithstanding anything to the contrary in the Ohio Revised Code or the Ohio Administrative Code, bacterial quality of water shall be maintained as provided in this section.~~

~~(b) The bacterial quality of water in the pool shall be maintained so that no two (2) successive samples shall contain more than the number of two (2) total coliform colonies per 100 milliliters. When two (2) consecutive samples are positive, the pool shall be closed until a sample complies.~~

~~(c) A sample shall be taken from each public pool at least once in each week when the pool is in operation, and submitted for test to the Director of Health or to a testing laboratory designated by the Director. The Director may require additional samples to be taken and submitted whenever he determines it necessary for the safe operation of any pool.~~

**CHAPTER 347 - Private Swimming and Wading Pools**

**347.01 DEFINITIONS.**

The following definitions, terms, phrases, words and their derivations shall apply to this chapter:

(a) "~~Director of Health~~" means the Director of Building and Housing~~Health~~ of the City of Shaker Heights or the Director's~~his~~ authorized representative.

(b) "Commissioner of Building" means the Commissioner of Building of the City of Shaker Heights or said Commissioner's~~his~~ authorized representative.

(c) "Family swimming pool" means an artificial body of water, with a

controlled water supply over eighteen (18) inches in depth or two hundred (200) square feet of surface area, and used or intended to be used solely by the owner or lessee thereof and his family, and by friends invited to use it without payment of any fee, and does not include any pool regulated by Ohio Revised Code Chapter 3749.

(d) "Private wading pool" means an artificial body of water with a controlled water supply, not exceeding eighteen (18) inches in depth or two hundred (200) square feet in surface area, and used collectively by numbers of persons for wading, and used or intended to be used solely by the owner or lessee thereof and his family, and by friends invited to use it, without payment of any fee, and does not include any pool regulated by Ohio Revised Code Chapter 3749. Such family wading pools are further defined as follows:

(1) "Portable wading pool" means a container which is designed or used for wading purposes and which may be dismantled, stored or moved from one place to another, and does not include any pool regulated by Ohio Revised Code Chapter 3749.

(2) "Permanent wading pool" means a container which is designed or used for wading purposes, built either upon or below the level of the ground, which is not designed or intended to be readily dismantled, stored or moved from one place to another, and does not include any pool regulated by Ohio Revised Code Chapter 3749.

(e) "Hydrotherapy spa" means a unit designed for recreational and therapeutic use which is not drained, cleaned or refilled for each user, such as a therapeutic pool, hydrotherapy pool, whirlpool, hot spa, or hot tub, and does not include any unit regulated by Ohio Revised Code Chapter 3749. A hydrotherapy spa may include, but not be limited to, hydrojet circulation, hot water, cold water mineral baths, air induction bubbles or some combination thereof.

#### **347.02 CONSTRUCTION PERMIT AND APPROVAL.**

Before work is commenced on the construction of a family swimming or wading pool, or a hydrotherapy spa, or any alteration, addition, remodeling, or other improvement thereto, an application for a permit to construct and the plans and specifications and pertinent explanatory data hereinafter required, shall be submitted to the Commissioner of Building for approval. No part of the work shall be commenced until the Director ~~of Health~~ and Commissioner of Building have evidenced their approval by a suitable endorsement upon such plans and specifications, and have granted a permit therefor.

#### **347.03 LICENSE FEE.**

The fee for a license to conduct, operate and maintain a family swimming pool shall be as specified in Section 303.076 ~~(b) (6)~~. (Ord. 78-75. Enacted 6-26-78.)

#### **347.04 LICENSE TO OPERATE.**

(a) No person shall operate or maintain a swimming pool until a license therefor shall have been issued by the Director ~~of Health~~. ~~The license for a family swimming pool shall be issued for an indefinite period but shall not be transferable as to person or location.~~

(b) All licenses shall be in writing and shall state the conditions thereof and the terms for which the license is granted. No person shall conduct, operate, maintain or manage any swimming pool without complying with the requirements of this Health Code. The ~~Health and~~ Building and Housing

Departments ~~is~~ ~~are~~ charged with the enforcement of the provisions hereof.

#### **347.05 REVOCATION OF LICENSE; APPEALS.**

(a) Any license granted by the Director ~~of Health~~ hereunder may be revoked by the Director ~~him~~ for failure to comply with rules and regulations promulgated hereunder or with any provisions of this Health Code, or whenever, in the determination of the Director ~~of Health~~, further operation under such license creates a menace to the health, safety or morals of the users of the swimming pool.

(b) However, the holder of any license which has been revoked may appeal from such revocation in writing, within thirty (30) days of such revocation, to the Board of Appeals ~~Council, and Council shall, at its next regular meeting, determine the legality or reasonableness of the revocation of the license.~~ No appeal under this section, however, shall entitle the license holder to continue operation of the swimming pool pending action of Council.

#### **347.06 INSPECTION.**

(a) The Director ~~of Health~~ shall inspect or cause to be inspected all pools within the City at such times as he may deem necessary to carry out the intent of this Health Code. The Director ~~of Health~~, or the Director's ~~his~~ duly authorized representative, is authorized to enter upon any premises, private or public, to take such samples of water from such pools at such times as he may deem necessary, and to require the owner, proprietor, or operator to comply with the provisions of this Health Code.

(b) In the event of the failure of compliance after due notice with any provisions of this Health Code, the Director ~~of Health~~ shall have the power to abate or cause a suspension of the use of such pool until such time as the same is, in the opinion of the Director, no longer a menace or a hazard to health, safety or morals.

#### ~~**347.07 COMPLIANCE WITH OHIO DEPARTMENT OF HEALTH.**~~

~~In the construction, operation and maintenance of any swimming pool, laws of the State of Ohio and the rules, regulations and requirements of the Ohio Department of Health shall be observed. In the event of any conflict between the provisions of this Health Code and any provision of state law or requirement, rule or regulation of the Ohio Department of Health, the provision imposing the higher standard or the more stringent requirement shall be controlling.~~

#### **347.12 ENCLOSURE OF SWIMMING POOL.**

(a) Every outdoor swimming pool shall be completely surrounded by a fence not less than four (4) feet in height for family swimming pools, which fence shall be constructed so that horizontal members are on the pool side of the enclosure and vertical members shall not be spaced more than two (2) inches apart. A building or existing wall may be used as part of such enclosure.

(b) All gates or doors opening through such enclosure shall be designed to permit locking and shall be kept locked when the pool is not in actual use or is left unattended.

(c) These requirements shall apply to both new and existing outdoor swimming pools having a maximum depth over eighteen (18) inches. No person in possession of land within the City, either as owner, purchaser, lessee, tenant, or licensee, upon which is situated a swimming pool having a maximum



depth over eighteen (18) inches, shall fail to provide and maintain such fence or wall as herein provided.

(d) The Director ~~of Health~~ or ~~and~~ the Commissioner of Building may make modifications in individual cases, upon a showing of good cause, with respect to the height, nature, or location of the fence, gates or latches, or the necessity therefor, provided the protection as sought hereunder is not reduced thereby. The Director ~~of Health~~ or ~~and~~ the Commissioner of Building may permit other protective devices or structures to be used so long as the degree of protection afforded by the substitute devices or structures is not less than the protection afforded by the wall, fence, gate and latch described herein.

(e) Locked covers may take the place of a fenced enclosure for spas.

### **347.13 PLANS TO BE SUBMITTED.**

(a) Plans, specifications and pertinent explanatory data required to be submitted in connection with an application for a permit to construct a family swimming pool, or any alteration, addition, remodeling or other improvement thereto, shall comply with the following requirements, and shall include the following plans and information, as well as such other data as may reasonably be requested by the Director ~~of Health~~ or ~~and~~ Commissioner of Building:

(1) Plans shall be drawn to a scale of not less than one-eighth (1/8) inch per foot, indicating all materials and methods of construction and indicating all dimensions, including the length, width and depth of the pool and width of the pool deck;

(2) A profile plan showing the same information;

(3) A plot plan showing position of the pool in relation to the buildings and lot lines;

(4) A cross-section of scum gutters, skimmers or overflow troughs, where used;

(5) Pipe diagrams showing size of all pipes, inlets, outlets, make-up water lines, vacuum lines, waste and discharge lines, circulation and other piping;

(6) The pool equipment layout, showing filters, pumps, chlorinators, hair and lint catchers, and their location and other pertinent information;

(7) The liquid capacity of the pool;

(8) The liquid capacity of an accessory wading pool, if any;

(9) The kind, number and size of filters, including the square footage of the filter area in each unit;

(10) Top capacity in gallons per minute of the recirculating system;

(11) The method of chlorination to be used;

(12) The type and range of testing equipment;

(13) The type, design and location of enclosing fence;

(14) A description and plan of lighting facilities.

### **347.14 DESIGN AND CONSTRUCTION REQUIREMENTS.**

(a) The Commissioner of Building shall not issue a permit to construct any family swimming pool or any alteration, addition, remodeling or other improvements thereto, unless the following design and construction requirements are observed.— Family swimming pools shall be constructed and maintained in conformity with the following requirements. For pools already

in existence, the Director ~~of Health~~ or ~~and~~ Commissioner of Building shall furnish the owners with a program of improvements and additions which shall be carried out over a period not to exceed five (5) years after notice, in order to comply with the following requirements of this Health Code:

(1) Material. The water-containing surface of artificial pools shall be light in color, impervious and provide a tight tank with smooth and easily cleaned surfaces. Sand or dirt bottoms are prohibited.

(2) Water supply and outlets. Each pool shall be equipped with water inlets and outlets of sufficient size and proper location to provide a uniform circulation of water in all parts of the pool. All water inlets shall be located not less than one (1) foot above flood rim of the pool, or shall be provided with a vacuum brake sufficient in size to prevent back-flow in the event of lowered pressure in the public water lines. All drainage of the pool shall be into a storm outlet only.

(3) Walkways. The pool shall be completely surrounded by a walkway at least four (4) feet in width drained away from the pool, except that a walkway may be reduced to a minimum of three (3) feet on any side of the pool that has a fence immediately adjacent thereto and except that in the case of portable pools, one (1) or more foot baths approved by the Director ~~of Health~~ may be substituted for such walkway. Private spas shall have a minimum continuous deck of at least three (3) feet around at least forty percent (40%) of the spa perimeter.

(4) Water in pool. The water in the pool shall meet the requirements of the Cuyahoga County BoardHealth Department of Health and/or the Cleveland Division of Water for a safe drinking water supply.

(5) Recirculation. Provisions shall be made for complete circulation of water through all parts of the pool. ~~The~~ system shall be equipped with a water recirculating system of sufficient capacity to provide a complete turnover of water at least once in twenty-four (24) hours. The installation of new pools of the "fill" and "draw" type shall not be permitted.

A. A satisfactory recirculating system for the pool shall be installed consisting of circulating pumps, float valve control on water supply, hair and lint catcher, piping connections to inlets and outlets, and all other necessary fixtures and connections.

B. All equipment shall be readily accessible and every pool shall be provided with necessary equipment for the measurement of acidity or alkalinity and for residual determinations.

(6) Indicating, recording, totalizing instruments, etc. When necessary, in the opinion of the Director ~~of Health~~, indicating, recording, totalizing instruments, flow meters or indicators and pressure gauges shall be installed at such points as may be designated by the Director ~~of Health~~.

(7) Hair and lint catcher. The pump suction line of the recirculating system shall be provided with a hair and lint catcher.

(8) Hose. Hose connections and hose shall be of ample size and pressure to clean all of the pool area.

(9) Towers and steps. Steps and ladders shall be made of an impervious, corrosion-resistant material, with a uniform rise not to exceed twelve (12) inches. ~~The~~ decks of diving towers which are over one (1) meter high shall be protected with suitable railings to prevent falling except into the water.

(10) Lighting. Where a family pool is used during the hours of darkness, illumination of the pool surface and for a distance of ten (10) feet from the edge of the pool shall be maintained between the limits of two

(2) and five (5) candles of light (approximately one-half (0.5) watt per square foot of the area required to be illuminated, where lights are placed not over ten (10) feet above and within the limits of the area). All lighting and wiring shall be in accordance with the National Electrical Code and all fixtures and equipment shall be "UL" approved.

#### **347.17 PURIFICATION.**

Chlorination of family swimming pools shall be accomplished in such manner that the amount of excess or residual chlorine in all parts of the pool at all times when the pool is in use shall not be less than four-tenths (0.4) parts per million, or more than one (1) part per million. ~~No Where a gas chlorinator shall be used it shall be installed in an enclosure other than a dwelling or attached garage and vented to the outside by louvres or forced ventilation, subject to the approval of the Director of Health.~~ Other methods of purification of the pool may be used upon the finding by the Director that such method will result in comparable quality and degree of purification. ~~The installation, operation and maintenance of purification, whether by chlorination or other approved method shall be subject to the approval and inspection of the Director or his duly authorized representative at all times.~~

#### **347.18 QUALITY OF WATER.**

(a) The bacterial quality of water in the pool shall be maintained so that no two (2) successive samples shall contain more than the number of two (2) total coliform colonies per 100 milliliters. When two (2) consecutive samples are positive, the pool shall be closed until a sample complies.

(b) The ~~Cuyahoga County Board of Health~~Cuyahoga County Board of Health~~Director of Health~~ may require samples to be taken and submitted for test whenever he considers it necessary for the safe operation of any pool. (Ord. 78-75. Enacted 6-26-78.)

#### **347.19 POOL OPERATOR.**

Each family swimming pool shall be operated under the supervision of a responsible adult, capable of making field tests such as residual chlorine, and thoroughly familiar with the operation of all mechanical appurtenances of the pool. Any such operator shall, upon request, demonstrate to the satisfaction of the Director ~~of Health~~ the operator's ability to perform such required duties.

### **TITLE NINE - Regulation of Occupations**

#### **CHAPTER 351 - Fumigation**

##### **351.02 PERMIT.**

(a) No person shall use any fumigant in any building, room or other enclosed space within the City except pursuant to a permit therefor issued by the Chief of the Fire Department, and in accordance with the requirements of this chapter.

(b) The Chief of the Fire Department shall issue such permits only to the holders of licenses under this chapter, after notice to the Police Department and ~~Building and Housing Health~~ Department, and shall make no charge for such permits. Each such permit shall designate the premises to which it applies and the date on which work is to be done thereunder.

(c) The permittee shall display the permit on the premises designated therein during all the time that the work of fumigation is being done

thereunder.

#### **351.04 EXAMINATION OF APPLICANT; LIABILITY INSURANCE.**

(a) The Director of Building and HousingHealth shall cause each applicant for a master's or journeyman's license to be examined as to his character, training and experience, and if the Director finds that the applicant is qualified to engage in the business or work for which he seeks a license, he shall cause such license to be issued.

(b) No license shall be issued, however, until the applicant presents evidence that he and (in case of application for a master's license) all his employees engaged in the work of fumigating are covered by liability insurance in the amount of at least three hundredtwenty-five thousand dollars (\$~~30025~~,000) for injury or death to one (1) person, and five hundredfifty thousand dollars (\$500,000) for injury or death to more than one (1) person, resulting from the work of fumigating or the use of fumigants. ~~The company issuing such insurance and the insurance contract shall be subject to approval of the Director of Law.~~

(c) The Director of Building and HousingHealth may cause a master's or journeyman's license to be issued to any person who has passed an examination given by any other public authority which, in the opinion of the Director, indicates that the applicant is qualified as required by this section.

#### **351.05 REVOCATION OR SUSPENSION OF LICENSE.**

In addition to the causes for revoking or suspending licenses set forth in Chapter 303, a fumigator's license shall be revoked if the Director of Building and HousingHealth shall determine at any time that the licensee is not qualified to engage in the business of fumigating, or if the licensee shall be without insurance as required by this chapter.

#### **351.10 ENTRY INTO FUMIGATED BUILDING.**

No person other than a licensed fumigator or City official in the discharge of the official'shis duty shall enter any building, room or other enclosed space where fumigation has been carried on until all traces of gas have disappeared and the warning signs have been removed. ~~In no event shall any adult enter such premises until six (6) hours after the airing thereof has been commenced, or any aged, infirm or convalescent adult or any child under six (6) years of age until sixteen (16) hours after airing has been commenced.~~

#### **351.11 REMOVAL OF FOODS.**

Unless the fumigant to be used is approved by the United States Public Health Service as not affecting foods, all food and drink in the building or room being fumigated shall be removed, except by special exemption of the Cuyahoga County Board of HealthDirector of Health.

#### **351.12 REPORT TO DIRECTOR OF HEALTH.**

Each licensed fumigator shall report to the Cuyahoga County Board of HealthDirector of Health any condition discovered by the fumigatorhim which tends to breed or harbor vermin, rodents, or other pests, or which may be dangerous to the public health.

### **CHAPTER 353 - Extermination**

### 353.04 EXAMINATION OF APPLICANT; LIABILITY INSURANCE.

(a) The Director of Building and Housing~~Health~~ shall cause each applicant for a master's or journeyman's license to be examined as to the applicant's~~his~~ character, training and experience and, if the Director~~he~~ finds that the applicant is qualified to engage in the business or to do the work for which the applicant~~he~~ seeks a license, the Director of Building and Housing~~Health~~ shall cause such license to be issued.

(b) No license shall be issued, however, until the applicant presents evidence that the applicant~~he~~ and (in case of application for a master's license) all of the applicant's~~his~~ employees engaged in the work of exterminating are each covered by liability insurance in the amount of at least three hundred~~twenty-five~~ thousand dollars (\$300~~25~~,000) for injury or death to one (1) person, and five hundred~~fifty~~ thousand dollars (\$500,000) for injury or death to more than one (1) person, resulting from the work of exterminating or the use of exterminants. The company issuing such insurance and the insurance contract shall be subject to approval of the Director of Law.

(c) The Director of Building and Housing~~Health~~ may cause a master's or a journeyman's license to be issued to any person who has passed an examination given by any other public authority which, in the opinion of the Director, indicates that the applicant is qualified as required in this section.

### 353.06 SALE AND USE OF THERMAL GENERATORS.

(a) No person shall manufacture, sell, rent, deliver, or have in their~~his~~ possession with intent to sell, rent or deliver, any thermal generator, unless the thermal generator complies in design with the requirements of this section, nor shall any person use any thermal generator except in accordance with the following requirements of this section.

(1) The thermal generator shall be designed and used so as to release exterminant at the rate not to exceed one (1) gram per fifteen thousand (15,000) cubic feet per twenty-four (24) hours.

(2) No thermal generator shall be used in any home or sleeping quarters or in any other place where any person will be exposed to its fumes continuously for more than eight (8) hours.

(3) Each thermal generator shall be equipped with a proper fuse or thermostat, or both, to prevent excessive discharge of exterminant, and also with a pilot light to indicate whether the unit is operating.

(4) Each thermal generator shall be installed in such location as, in the judgment of the Director of Building and Housing~~Health~~, will prevent the contamination of food or food-handling equipment, and accidental contact with any heating portion of the unit.

## ~~CHAPTER 355 -- Turkish Baths and Massage Parlors~~

### ~~355.01 DEFINITIONS.~~

~~(a) "Turkish bath" means any establishment in which the human body is treated by means, including steam or hot water, hot air, or other means, to induce profuse perspiration, such treatment being followed by massage, as defined in this section.~~

~~(b) "Massage" means treatment of the human body by rubbing, stroking, kneading or tapping, whether by manual or mechanical means.~~

~~(c) "Massage parlor" means an establishment in which massage is practiced without treatment by means of steam, hot water, hot air or other~~

~~means to induce profuse perspiration.~~

~~**355.02 LICENSE REQUIRED.**~~

~~— No person shall operate or be employed in any Turkish bath or massage parlor unless the establishment is licensed in good standing under the provisions of Chapter 303.~~

~~**355.03 INSPECTION.**~~

~~— Every Turkish bath and every massage parlor within the City shall have inspection under this chapter.~~

~~**355.04 TOILET FACILITIES.**~~

~~— Every Turkish bath and every massage parlor shall be provided with toilet facilities, including hot and cold water piped under pressure to a wash basin, and a water-flushed toilet. Where both sexes are employed in any Turkish bath or massage parlor, such Turkish bath or massage parlor shall be provided with separate toilet facilities, meeting the above requirements, for each sex. The construction and maintenance of such facilities shall conform to the requirements of Chapter 343.~~

~~**355.05 CLEANLINESS.**~~

~~— (a) Cleanliness of Person. The hands of each person practicing massage shall be thoroughly washed with soap and water and dried on a clean, freshly laundered towel, or clean individual paper towel, immediately before serving each patron. The person and garments of each person practicing massage shall be clean.~~

~~— (b) Cleanliness of Premises and Equipment. All instruments, equipment, furniture, floors, walls, ceilings, windows, bathrooms, toilets, adjoining rooms, and all articles in any Turkish bath or massage parlor, or within the immediate environment thereof, shall be kept clean and sanitary at all times.~~

~~— (c) Cleanliness of Linen. All towels, sheets and other linen used on a patron must be newly laundered before using. Such laundering shall include washing by mechanical means in water having a temperature of not less than one hundred seventy degrees Fahrenheit (170° F) or seventy-six degrees Centigrade (76° C).~~

~~— (d) Containers for Linen. In each Turkish bath and massage parlor all clean linen must be kept in a closed, dustproof cabinet, and all soiled linen in a covered hamper or receptacle.~~

~~— (e) Massage Tables and Lounging Furniture. Each massage table and article of lounge furniture shall be covered with a newly laundered sheet for each patron.~~

~~**355.06 COMMUNICABLE DISEASES; PHYSICAL EXAMINATION.**~~

~~— (a) Persons with Communicable Diseases Not to be Employed. No person having a communicable disease, or being a carrier of a communicable disease, shall engage in the practice of massaging, or be employed in any Turkish bath or massage parlor.~~

~~— (b) Communicable Diseases to be Reported. Each person in charge of a Turkish bath or massage parlor having knowledge or suspecting that any person working therein, or patron thereof, has contracted any communicable disease, or has become a carrier of such disease, shall notify the Department of Health immediately.~~

~~— (c) Physical Examination Required. Whenever required by the Director~~

~~of Health, any person practicing massaging, or employed in any Turkish bath or massage parlor, shall submit to a physical examination by the Director of Health. No person who refuses to submit to such examination shall so practice or be employed. However, any person so practicing or employed may, instead of submitting to examination by the Director of Health, submit to examination by a reputable, legally qualified physician satisfactory to the Director of Health, and furnish a certificate by the physician stating that the person is not affected with any communicable disease. The examination shall include a chest x-ray, blood test and such laboratory examination as may be required, and the results thereof shall be shown on the certificate.~~

#### ~~355.07 MASSEURS TO HAVE CERTIFICATE.~~

~~No person shall practice massage in any Turkish bath or massage parlor unless he is the holder of a certificate for such practice issued and in good standing under the rules of the Ohio State Medical Board as then in effect. No masseur shall administer any treatment in any Turkish bath or massage parlor except such treatment as is authorized under his certificate.~~

#### ~~355.08 IMMORAL OR INDECENT ACTS PROHIBITED.~~

~~No person shall use or knowingly permit the use of any Turkish bath or massage parlor for any immoral or indecent purpose, or commit or knowingly permit the commission of any immoral or indecent act therein. (Ord. 78-75. Enacted 6-26-78.)~~

#### ~~355.09 HOURS OF OPERATION.~~

~~No person shall operate any Turkish bath or massage parlor, or cause the same to be open for operation or permit any patron to remain therein, except between the hours of 10:00 a.m. and 10:00 p.m.~~

### ~~CHAPTER 357 — Barbering and Cosmetology~~

#### ~~357.01 DEFINITIONS.~~

~~The following definitions shall apply to this chapter:~~

~~(a) "Department" means the Department of Health of the City of Shaker Heights.~~

~~(b) "Sanitarian" means an inspector for the Department of barber shops and beauty parlors.~~

~~(c) "Department employee" means sanitarians and all other individuals who are authorized by the Director of Health to do any work or perform any duty in connection with any inspection or other administration or enforcement under this chapter.~~

~~(d) "Person" means any person, firm, corporation, association, company or organization of any kind.~~

~~(e) "Practice of barbering" means any one (1) or any combination of the following practices, when done upon the head, face and neck for cosmetic purposes and done for the public for pay, free or otherwise; however, nothing in this section or in this chapter shall permit any of the following services or arts to be used for the treatment or cure of any physical or mental disease or ailment.~~

~~(1) Shaving or trimming the beard.~~

~~(2) Cutting hair.~~

~~(3) Giving facial and scalp massage or application of oils, creams, lotions, or other preparations, either by hand or mechanical appliances.~~

~~(4) Singeing, shampooing or dyeing the hair or applying hair tonic.~~

~~(5) Applying cosmetic preparations, antiseptics, powders, oils, clays or lotions to scalp, face or neck.~~

~~(f) "Barber shop" means any premises, building or part of a building wherein any branch or any combination of branches of the practice of barbering is conducted.~~

~~(g) "Practice of cosmetology" means any or all work done for compensation by any person, which work is generally and usually performed by so-called hair dressers, cosmetologists, cosmeticians or beauty culturists, and however denominated, in so-called hairdressing and beauty shops, ordinarily patronized by women, which work is for the embellishment, cleanliness, and beautification of women's hair, such as arranging, dressing, curling, waving, permanent waving, cleansing, cutting, singeing, bleaching, coloring, or similar work thereon and thereabout, and the massaging, cleansing, stimulating, manipulating, exercising, or similar work upon the scalp, face, arms or hands, by the use of mechanical or electrically operated apparatus or appliances, or cosmetics, preparations, tonics, antiseptics, creams or lotions, and of manicuring the nails, which enumerated practices shall be inclusive of the practice of beauty culture but not in limitation thereof. However, nothing in this section nor in this chapter shall permit any of the services or arts herein described to be used for the treatment or cure of any physical or mental diseases or ailments.~~

~~(h) "Beauty parlor" means any premises, building or part of a building wherein any branch or any combination of branches of cosmetology or the occupation of a cosmetologist is practiced.~~

#### ~~357.02 PERSONS EXEMPT.~~

~~The following persons are exempt from the provisions of this chapter while in the proper discharge of their professional duties:~~

~~(a) Persons licensed by the law of Ohio to practice medicine and surgery.~~

~~(b) Commissioned medical or surgical officers of the United States Army, Air Force, Navy or Marine hospital service.~~

~~(c) Registered nurses.~~

~~(d) Undertakers, embalmers and morticians.~~

#### ~~357.03 INSPECTION.~~

~~Every barber shop and every beauty parlor within the City shall have inspection under this chapter.~~

#### ~~357.04 HOT AND COLD WATER SUPPLY.~~

~~Each barber shop and beauty parlor shall be provided with a continuous supply of hot and cold water, piped under pressure to a wash basin or basins.~~

#### ~~357.05 TOILET FACILITIES.~~

~~Each barber shop and beauty parlor shall be provided with toilet facilities, including hot and cold water piped under pressure to a wash basin, and a water-flushed toilet. Where both sexes are employed in any barber shop or beauty parlor, such barber shop or beauty parlor shall be provided with toilet facilities as required by Chapter 343.~~

#### ~~357.06 CLEANLINESS.~~

~~(a) Cleanliness of Person. The hands of each person practicing~~



~~barbering or cosmetology shall be thoroughly washed with soap and water and dried on a clean, freshly laundered towel, or clean individual paper towel, immediately before serving each patron. The person and garments of each person practicing barbering or cosmetology shall be clean.~~

~~(b) Cleanliness of Premises and Equipment. All instruments, equipment, furniture, floors, walls, ceilings, windows, bathrooms, toilets, adjoining rooms and all articles in any barber shop or beauty parlor, or within the immediate environment thereof, shall be kept clean and sanitary at all times.~~

~~(c) Cleanliness of Towels. All towels used on a patron, including dry and steam towels, must be newly laundered before using. Such laundering shall include washing by mechanical means in water having a temperature of not less than one hundred seventy degrees Fahrenheit (170° F) or seventy-six degrees Centigrade (76° C), and shall include drying by mechanical means or such other means as are approved by the Department of Health as equally satisfactory.~~

~~(d) Containers for Towels and Linen. In each barber shop and beauty parlor all clean towels and linen must be kept in a closed, dustproof cabinet, and all soiled towels and linen in a covered hamper or receptacle.~~

~~(e) Headrest. The headrest of each chair used in a barber shop or beauty parlor shall be covered with a newly laundered towel or clean, fresh paper, for each patron.~~

~~(f) Neck Bands. No shampoo apron or hair cloth which is used on more than one (1) patron shall be placed directly against the neck of the patron, but shall be kept from direct contact by the use of an individual paper neck band or freshly laundered towel.~~

~~(g) Shampoo Aprons and Hair Cloths. In any barber shop or beauty parlor each shampoo apron or hair cloth used on any patron shall be in a clean and sanitary condition.~~

~~(h) Use of Neck Dusters, Sponges and Powder Puffs Prohibited. No neck duster, sponge, or powder puff shall be used in any barber shop or beauty parlor.~~

~~(i) Hair Brushes. No hair brush shall be used on any patron in any barber shop or beauty parlor unless the brush, since its last previous use, has been cleaned and sterilized in the manner required in this chapter.~~

~~(j) Wash Basins, Shampoo Bowls, Shampoo Boards, and Cups. In each barber shop and beauty parlor, all wash basins, shampoo bowls, shampoo boards, and cups shall be thoroughly cleaned after each service. When using a shampoo board, a newly laundered towel shall be placed in such a manner that the neck rest on the board does not come in contact with the skin of the patron.~~

### ~~357.07 STERILIZATION.~~

~~(a) Each instrument used in the practice of barbering or cosmetology shall, before each use, be thoroughly cleaned. After such cleaning, it shall be sterilized by one (1) of the following methods:~~

~~(1) By immersion in a five percent (5%) solution of carbolic acid for not less than twenty (20) minutes.~~

~~(2) By immersion in a seventy percent (70%) solution of alcohol for not less than fifteen (15) minutes.~~

~~(3) By immersion in a closed container containing a ten percent (10%) solution of formalin, for not less than twenty (20) minutes.~~

~~(4) By any other method of sterilization approved by the Director of Health as being equivalent in effectiveness to the methods above mentioned.~~

~~(b) Each instrument sterilized by immersion shall, before being used,~~

~~be thoroughly rinsed in warm running water.~~

~~(c) Each instrument, after being cleaned and sterilized shall, unless it is used immediately, be kept until used in a clean, closed container.~~

~~(d) A sterilization solution container not less than eight (8) inches tall and three (3) inches in diameter shall be kept for each chair in operation in each barber shop and beauty parlor. Each container shall be kept filled at all times with a solution meeting the requirements of this section, and such container shall be completely emptied and cleaned and refilled with fresh solution at least once each day.~~

#### ~~357.08 STYPTICS.~~

~~Styptics to arrest bleeding shall be used only in liquid or powder form, applied by means of clean towel, gauze or cotton.~~

#### ~~357.09 COMMUNICABLE DISEASES; PHYSICAL EXAMINATION.~~

~~(a) Persons with Communicable Diseases Not to be Employed. No person having a communicable disease, or being a carrier of a communicable disease, shall engage in the practice of barbering or cosmetology, or be employed in any barber shop or beauty parlor.~~

~~(b) Communicable Disease to be Reported. Each person in charge of a barber shop or beauty parlor, having knowledge or suspecting that any person working therein, or patron thereof, has contracted any communicable disease, or has become a carrier of such disease shall notify the Department of Health immediately.~~

~~(c) Physical Examination Required. Whenever required by the Director of Health, any person practicing barbering or cosmetology, or employed in any barber shop or beauty parlor, shall submit to a physical examination by the Director of Health. No person who refuses to submit to such examination shall so practice or be employed. However, any person so practicing or employed may, instead of submitting to examination by the Director, submit to examination by a reputable, legally qualified physician satisfactory to the Director, and furnish a certificate by the physician stating that the person is not affected with any communicable disease. Such examination shall include a chest x-ray, blood test and such laboratory examination as may be required, and the results thereof shall be shown on the certificate.~~

### ~~CHAPTER 359 - Disposition of the Dead; Funeral Regulations~~

#### ~~359.01 DEFINITION.~~

~~"Disposition" or "disposal" means the burial, entombment, cremation or other disposition of a human body.~~

#### ~~359.02 UNEMBALMED BODIES.~~

~~No funeral director or other person, without a permit from the Director of Health, shall permit any unembalmed body to remain undisposed of for more than twenty-four (24) hours. (Ord. 78-75. Enacted 6-26-78.)~~

#### ~~359.03 UNDISPOSED BODIES TO BE REPORTED.~~

~~Any person having knowledge of any undisposed body, the existence of which has not been reported to the Director of Health, shall report the existence of the undisposed body to the Director.~~

#### ~~359.04 EXPOSURE OF DEAD BODY.~~

~~No person shall retain, expose or allow to be retained or exposed, the~~

~~dead body of any human being, so as to endanger or imperil the life or health of any person.~~

**~~359.05 SEPARATE ROOM.~~**

~~— (a) No person shall carry on the business of preparing dead bodies for disposition in any establishment, except in a separate room used for that purpose only. No dead body, unless completely prepared for disposition, shall be kept in any establishment except in such separate room.~~

~~— (b) During all the time any dead body is in such room, there shall be provided and kept in operation in such room a system of ventilation, either by natural or forced flow of air, or both, sufficient to change the air therein at least six (6) times per hour.~~

~~— (c) The floor of the room shall be constructed so as to drain freely into a public sewer.~~

~~— (d) No rug or other removable floor covering shall be kept or used in the room.~~

**~~359.06 USE OF TEXTILE FABRICS.~~**

~~— No person shall have or use, in the preparation of any dead body for disposition, any article composed wholly or in part of a textile fabric, unless such article can be and is thoroughly washed and sterilized. This provision does not prevent the use of proper clothing and wrapping which shall be disposed of with the body.~~

**~~359.07 NOTIFICATION OF FUNERAL AND BURIAL.~~**

~~— Every funeral director, receiving notice or being called upon to prepare for disposition the body of any person who has died of any communicable disease, as defined in Chapter 305, or any other contagious or infectious disease, shall, within eighteen (18) hours after receiving such notice or call, notify the Director of Health of the time and place of funeral services and of the disposition of the body.~~

**~~359.08 AUTHORITY TO ORDER PRIVATE FUNERAL.~~**

~~— In the case of the death of a person of a communicable disease, as defined in Chapter 305, or any other contagious or infectious disease, under such circumstances that the Director of Health finds that a public funeral and disposition of the body of the person would be dangerous to the public health, the Director may order that the funeral and disposition of the body be private. No person shall hold public funeral services or assist in the public disposition in any case where private services and disposition have been so ordered.~~

**~~359.09 REGULATIONS APPLICABLE TO PRIVATE FUNERALS.~~**

~~— (a) In any case where the Director of Health has ordered a private funeral, under the authority of Section 359.08, the following regulations shall be observed:~~

~~— (1) The body must be placed in a glass or metal sealed innerliner, and disposed of within twenty-four (24) hours.~~

~~— (2) No person shall be permitted to view the body except the immediate adult relatives of the deceased, the funeral director, any person conducting religious service in connection with the funeral and disposition, and any public officer required or authorized by law to view dead bodies. After the innerliner has been sealed it shall not be reopened.~~

~~— (3) The funeral and disposition shall be attended only by such~~

~~persons as are authorized to view the body.~~

~~(4) No flowers shall be received into or displayed in the funeral establishment or at the funeral, grave, tomb, or crematory, except one (1) floral piece, which shall be buried or cremated with the body.~~

## CHAPTER 361 - Garbage and Refuse Collection Contractors

### 361.01 LICENSE REQUIRED; EXCEPTIONS AND CONDITIONS OF ISSUANCE.

(a) No person shall engage in the business of hauling and/or disposing of any rubbish, refuse, or garbage within the City limits unless he has first obtained a license therefor from the Director of ~~Public Works~~Health.

(b) This section shall not apply to any private individual hauling garbage, rubbish, or refuse from ~~the individuals'~~his own premises, or to the City or any person who has contracted with the City to provide such services.

(c) A condition of any license issued shall be that the licensee agrees to collect, transport and dispose of any garbage, rubbish or refuse in a sanitary manner and subject to the provisions of this chapter.

## TITLE ELEVEN - Nuisances

### CHAPTER 377 - Rodents, Animals and Vermin

#### 377.03 WILD ANIMALS; NUISANCE.

(a) The ~~Director of Health and the~~ Director of Public Works, or the ~~Director's~~is ~~sir~~ designees, ~~is~~ are authorized to declare a wild animal, as defined in Section 371.02 of the Codified Ordinances, or a property in which a wild animal is living or nesting, to be a public nuisance and to take action to abate the nuisance, if such animal, by its condition or behavior, or the condition created by the presence of such wild animal on a property, is found by the Director of ~~Public Works~~Health or the Director's designee to be a threat to the public health, safety or welfare. ~~The Director or designee may enter a property and take any necessary action, including emergency action, as set forth in Chapter 301 of this Health Code.~~

(b) Whenever the ~~Director of Health or the~~ Director of Public Works or ~~the Director's~~their designees shall find that a wild animal, whether it is located on public or private property, or in the public right of way, by reason of its condition or behavior is a threat to the health, safety or welfare of the public, the Director may declare the animal to be a public nuisance and take action to immediately abate the nuisance as set forth in Chapters 107 and 371 of the Codified Ordinances.

(c) No person may by feeding wild animals or other activity involving wild animals cause or create a public nuisance on public or private property.

(d) No person, being an owner, tenant, agent, occupant, or person in control of any property shall cause or knowingly permit the property or conditions on the property to attract wild animals or to harbor or contain areas used by wild animals for nesting, hiding or living, so as to create a public nuisance that threatens the public health or safety.

(e) Whenever the ~~Director of Health or the~~ Director of Public Works or their designees shall find that any condition or area on a property is attracting wild animals or by reason of its condition has become a place of harbor for or to contain areas used by wild animals for nesting, hiding or living, so as to create a public nuisance, the Director may declare the property to be a public nuisance and take action to immediately abate the nuisance as set forth in Chapters 371 and 107 of the Codified Ordinances.

(f) The City may charge an owner, tenant, agent, occupant, or person in control of any property for the costs to the City of abating any nuisance involving a wild animal on a property as described in this Section. ~~The City may, after notice provided in accordance with Chapter 107 of the Codified Ordinances, charge the owner of a property for the costs of abating a nuisance involving a wild animal on a property by assessing the property as set forth in Chapter 107 of the Codified Ordinances.~~

(g) The ~~Director of Health or the~~ Director of Public Works may establish rules and regulations for the implementation and enforcement of this Section, including charges and fees for animal control activities and services provided by the City, either by its own action or through a contractor hired for such purpose.

## CHAPTER 379 - Animals and Fowl

### 379.03 PIGEONS.

The common Asiatic pigeon is hereby declared a menace to health and welfare and a source of damage to persons and property, and shall therefore be considered a public nuisance to be disposed of at the discretion of the Director of ~~Public Works~~Health.

## CHAPTER 381 - Miscellaneous

### 381.07 BICYCLE SAFETY.

(a) No person over the age of five years shall operate a bicycle within the City unless such person is wearing a protective helmet on his/her head, with the chin strap fastened under the chin. Such helmet shall be fitted to the size of the operator and shall meet or exceed the standards set by ANSI (American National Standards Institute) or SNELL (Snell Memorial Foundation).

(b) No person shall be a passenger on a bicycle within the City unless such person is wearing a protective helmet on his/her head with the chin strap fastened under the chin. ~~Such helmet shall be fitted to the size of the passenger and shall meet or exceed the standards set by ANSI (American National Standards Institute) or SNELL (Snell Memorial Foundation).~~

(c) No person who is the parent, guardian or legal custodian of a minor who engages in conduct prohibited by subsections (a) and/or (b) hereof shall create a substantial risk to the health or safety of such minor by aiding, abetting, causing, encouraging or permitting conduct which violates subsections (a) or (b) hereof.

(d) When the ~~Chief of Police~~ ~~Director of Health~~ has reason to believe that a person has engaged in conduct in contravention of subsections (a), (b) and (c) hereof, such person, or in the case of a minor, the parent, guardian or legal custodian of such minor, shall be notified of the infraction, in writing by the ~~Chief~~Director, and of the dangers which may result when a bicycle accident occurs to a person not wearing a helmet.

(e) A violation of subsections (a), (b) or (c) shall be considered a civil infraction, punishable by a penalty of \$25 for any violation occurring subsequent to a written notice as provided in subsection (d) hereof.

(f) When the ~~Chief of Police~~ ~~Director of Health~~ has reason to believe that a person has committed a subsequent violation of subsections (a), (b) or (c), ~~the Chief~~he shall provide such person, or in the case of a minor, the parent, guardian or legal custodian, written notice of the violation, and the penalty therefor. ~~Such person or parent, guardian or legal custodian~~

of a minor receiving the written notice of violation may request, in writing, an informal hearing before the ~~Director~~Chief of Police~~of Health~~, within ten (10) days of the date of the notice of violation. -Upon receipt of such request, the ~~Chief of Police~~Director of Health shall schedule an informal hearing wherein the notice of violation may be reviewed with the person requesting the hearing. -The ~~Chief~~Director shall render a decision regarding the violation within a reasonable time after the hearing, advising the parent, guardian or legal custodian, in writing, of his decision. The ~~Chief's~~Director's decision shall be final.

(g) The ~~Chief of Police~~Director of Health may waive the \$25 civil infraction penalty upon presentation of proof of purchase of a protective helmet which meets or exceeds the standards set forth herein subsequent to the violation, or upon good cause shown, as determined solely by the ~~Chief of Police~~Director of Health.

(h) This section shall not be applicable to the operation of a bicycle on private residential property.

(i) The ~~Police Department and~~ other departments of the City, as appropriate, shall cooperate with the ~~Chief of Police~~Director of Health in the enforcement of this section, including, but not limited to, the reporting of violations, and the provision of educational programs concerning bicycle helmet safety.

## CHAPTER 383 - Transportation of Radioactive Materials

### 383.02 PERMIT REQUIRED.

(a) A permit issued by the ~~Chief of Police~~Director of Health or ~~the Chief's~~ his designated representative shall be required for the shipping or transportation of the following radioactive materials by motor vehicle into, within, through, or out of the City of Shaker Heights:

- (1) Plutonium isotopes in any quantity and form exceeding two (2) grams or twenty (20) curies, whichever is less;
- (2) Uranium enriched in the isotope U-235 exceeding twenty-five (25) atomic percent of the total uranium content in quantities where the U-235 content exceeds one (1) kilogram;
- (3) Any elements with atomic number eighty-nine (89) or greater, the activity of which exceeds twenty (20) curies;
- (4) Spent reactor fuel elements or mixed fission products associated with such fuel elements the activity of which exceeds twenty (20) curies;
- (5) Large quantity radioactive materials;
- (6) Any quantity, arrangement, and packaging combination of fissile material specified by the United States Nuclear Regulatory Commission as a "Fissile Class III" shipment in 10 CFR Part 71 entitled "Packaging of Radioactive Materials for Transport", Section 71.4(d) (3); or
- (7) Any shipment or transportation of radioactive material that is required by the appropriate regulating agency to be accompanied by an escort for safety reasons.

(b) This section shall not apply to radioactive material shipped or transported by or for the United States Government for military or security purposes or which are related to national defense.

### 383.03 NOTICE.

When those radioactive materials requiring a permit as specified in this chapter are to be shipped or transported into, within, through or out

of the City of Shaker Heights, the shipper or carrier, or person otherwise responsible, shall first notify the Chief of Police~~Director of Health~~ or the Chief's~~his~~ designated representative, in a form provided, two (2) weeks prior to the date of shipment. The form shall include the date of shipment, type and quantity of radioactive materials involved, method of transportation, route, starting point, destination and such other information as the Chief of Police~~Director of Health~~ or the Chief's~~his~~ designated representative may reasonably require.- Any information which cannot be supplied two (2) weeks prior to shipment or transportation, shall be supplied promptly by the person responsible for such shipment or transportation when such information becomes available to said person~~him~~. Nothing herein shall be construed as requiring the disclosure of any defense information or restricted data as defined in the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974, as amended.

### **383.04 ISSUANCE OF PERMIT.**

(a) The Chief of Police~~Director of Health~~, or the Chief's~~his~~ designated representative, shall not issue a permit to any person for the shipment or transportation of those radioactive materials specified in this chapter, unless:

(1) There is a showing that the radioactive material has been or will be containerized and packaged, and all warning labels affixed to the outer container holding the radioactive material and the motor vehicle transporting such material, in conformity with the regulations of the United States Department of Transportation, United States Nuclear Regulatory Commission or other related federal or state agencies regardless of whether the shipment is being made intracity, intrastate or interstate; and

(2) There is a showing that the shipment or transportation of radioactive materials is necessitated by urgent public policy or national security interests transcending public safety and health concerns of the City of Shaker Heights. For the purposes of this section:

A. An "urgent public policy" shall include medical and educational interests.

B. An "urgent public policy" shall not include interests other than medical and educational interests, unless expressly authorized in writing by the United States Department of Transportation, or by any other appropriate federal or state agency which may be required by the Chief of Police~~Director of Health~~ or the Chief's~~his~~ designated representative. -Such authorization shall state that the particular interest involved is, in the opinion of the agency, permitted by federal or state regulations pertaining to the shipment or transportation of radioactive materials, and that the interest involved justifies the apparent risks resulting from such shipment or transportation.

(b) Radioactive materials which are permitted to be shipped or transferred through the City of Shaker Heights pursuant to this chapter shall be shipped or transported through the City over such route or routes, or at such time or times of the day, consistent with the public health, safety and welfare, and the convenience of the shipper or carrier, as the Chief of Police~~Director of Health~~ or the Chief's~~his~~ designated representative may direct.

## **~~CHAPTER 385 - Clean Indoor Air~~**

### **~~385.01 - DEFINITIONS.~~**

~~As used in this chapter, the following terms shall be defined as follows:~~

~~(a) "Bar" means an establishment licensed by the Ohio Department of Liquor Control, or an area of such an establishment, which is devoted to the selling and serving of intoxicating beverages for consumption by patrons on the premises and in which the serving of food is only incidental to the consumption of such beverages. Although a bar may be contained within a restaurant, the term "bar" shall not include the dining area of such restaurant, even when the dining area is directly adjacent to or surrounds the bar.~~

~~(b) "Employee" means any person who is employed by any employer in consideration for the payment of direct or indirect monetary wages or profits, or any person who volunteers his or her services to such employer for no monetary compensation.~~

~~(c) "Employer" means any person who employs one (1) or more persons, or any person in charge of a place of employment. Such term excludes building owners and managers in areas leased, rented or otherwise controlled by tenants.~~

~~(d) "Enclosed area" means all space which is enclosed on all sides by solid walls, windows or floor-to-ceiling partitions, irrespective of the size of such area and of any doorway, stairway or passageway providing a means of ingress and egress to such area.~~

~~(e) "Establishment" means any physical facility operated by a commercial enterprise, nonprofit or government agency, or any other person.~~

~~(f) "Grocery store" means any supermarket, convenience store and any other retail food production and marketing establishment.~~

~~(g) "Health care facility" means any laboratory associated with the rendition of health care treatment, hospital, clinic, physical therapy facility, convalescent home or home for the aged, doctor's office, dentist's office, and any other establishment involved in the provision of health care.~~

~~(h) "Members of the general public" means shoppers, customers, patrons, patients, students, clients and other similar invitees of any establishment and excludes employees thereof, sales representatives, service repair persons and persons delivering goods, merchandise or services to such establishment.~~

~~(i) "Persons" means any individual, firm, partnership, association, corporation, company, organization or legal entity of any kind.~~

~~(j) "Place of employment" means that portion of any enclosed area under the control of an employer which employees normally frequent during the course of employment but to which members of the general public are not normally invited, including, but not limited to, such areas in office workplaces, factories, warehouses and laboratories.~~

~~(k) "Public place" means any area to which members of the general public are invited or permitted, including, but not limited to, banks, educational facilities, health care facilities, child day care facilities, shopping malls, polling places, property owned, occupied or controlled by the City of Shaker Heights, public transportation facilities, reception areas, restaurants, retail stores, grocery stores, theaters, sports arenas and waiting rooms.~~

~~(l) "Restaurant" means any coffee shop, cafeteria, luncheonette, sandwich stand, soda fountain, and any other commercial eating establishment where cooked or otherwise prepared food is sold to members of the general public for consumption on the premises.~~

~~(m) "Retail store" means any place which in the regular course of~~



~~business sells goods directly to the public.~~

~~(n) "Retail tobacco store" means a retail store used primarily for the sale of tobacco, tobacco products and accessories and in which the sale of other products is incidental, but does not include a tobacco department of a larger retail store such as a department store or discount stores.~~

~~(o) "Second hand smoke" means that smoke to which people are involuntarily exposed, either through a smoker exhaling smoke from a tobacco product, or through the lighting or burning of any tobacco product.~~

~~(p) "Service line" or "waiting area" means a queue, line or other formation of persons, whether seated or standing, in which one (1) or more persons are waiting for, providing or receiving, service of any kind, whether or not such service involves an exchange of consideration.~~

~~(q) "Smoke-free work area" means a work area within a place of employment where smoking is not permitted.~~

~~(r) "Smoking" means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe, or any form of lighted object or device which contains tobacco.~~

~~(s) "Sports arena" means any sports pavilion, stadium, gymnasium, health spa, boxing arena, swimming pool, roller or ice-skating rink, bowling alley and other similar place where members of the general public assemble either to engage in physical exercise, participate in athletic competition or witness sports, cultural or similar events.~~

~~(t) "Work area" means any room, desk, station or other area normally occupied by an employee while carrying out his or her primary work functions.~~

#### ~~385.02 PROHIBITION OF SMOKING IN PUBLIC PLACES.~~

~~(a) Smoking is prohibited in all enclosed areas within public places during the times in which members of the general public are invited or permitted, except as otherwise permitted or restricted in accordance with the provisions of this section. Such public places include, but are not limited to, the following:~~

~~(1) Public restrooms; provided, however, that where at least two (2) public restrooms for use by the same gender are available in the same floor of the building, smoking may be permitted in one (1) of such restrooms for each gender.~~

~~(2) Retail stores, other than retail tobacco stores.~~

~~(3) Grocery stores.~~

~~(4) Libraries, museums and galleries.~~

~~(5) Elevators, stairwells, escalators and hallways.~~

~~(6) Courtrooms, jury waiting rooms and deliberation rooms.~~

~~(7) Service lines, waiting areas and lobbies.~~

~~(8) Health care facilities, provided, however, that this restriction shall not apply to any private room, or any semi-private room where both occupants have requested in writing to be placed in a room where smoking is permitted, or in patient lounges designated for smoking provided that such lounges shall not constitute more than fifty percent (50%) of the total lounge space available. This section shall not prohibit smoking in single, separately enclosed offices not ordinarily used for the physical care and treatment of patients or in restaurants and dining areas of health care facilities provided smoking in such restaurants and dining areas is not otherwise prohibited by this section.~~

~~(9) Restaurants with an indoor seating capacity of more than thirty (30) patrons; provided, however, that smoking may be permitted in any part of the restaurant which constitutes a bar and in an area designated for~~

~~smoking, so long as such area contains no more than fifty percent (50%) of the indoor seating capacity of the restaurant. Where a bar exists in a restaurant, the area designated for smoking shall, where practicable, be contiguous to the bar. A seat in a nonsmoking area shall be provided, if available, for all patrons requesting such a seat, and in the case of controlled seating, each patron shall be asked his or her preference. In addition, an individual sign indicating that smoking is prohibited shall be placed upon each table in no smoking areas, and all ashtrays shall be removed from such tables.~~

~~————— (10) Child day care facilities.~~

~~————— (11) Sports arenas; provided, however, that smoking may be permitted in a contiguous lobby area designated for smoking, so long as such area constitutes no more than fifty percent (50%) of any area commonly called a lobby, and that with respect to bowling alleys, smoking is prohibited in any portion of the bowler settee area (the area occupied by bowlers while keeping score and actually bowling), during open bowling when such area is not otherwise under the control of an organized bowling league, but may be permitted in a contiguous designated area of the concourse (the area directly behind the bowler settee area), so long as such smoking area does not constitute more than fifty percent (50%) of the floor space of the concourse area.~~

~~————— (12) Places of meeting or public assembly during such time as a meeting open to the public is being conducted for educational, religious, recreational or political purposes, but excluding meetings conducted in private residences unless such meeting is being conducted in a common area of a multiple dwelling which contains ten (10) or more dwelling units.~~

~~————— (13) All pre-primary, primary and secondary schools providing instruction for students at or below the twelfth grade level; provided, however, that this section shall not prohibit smoking in areas designated for smoking in employee dining areas, lounges, or single, separately enclosed offices, so long as smoking is not otherwise prohibited by this chapter.~~

~~————— (14) All buildings owned, used or controlled by the City of Shaker Heights; provided, however, that this section shall not prohibit smoking in areas designated for smoking in employee dining areas, lounges or single, separately enclosed offices, so long as smoking is not otherwise prohibited by this chapter.~~

~~————— (b) The owner, operator, manager or other person having control of a public area shall utilize his or her best efforts to ensure that the provisions of this section are met, including requesting those persons found to be smoking in violation of this section or this chapter to discontinue smoking. In any dispute arising under this section or this chapter, the rights of the nonsmoker shall be given preference with consideration of the smoker.~~

### ~~385.03 REGULATION OF SMOKING IN PLACES OF EMPLOYMENT.~~

~~————— (a) Any employee in a place of employment shall have the right to designate his or her stationary work area as a no smoking area. If, due to the proximity of smokers, size of the work area, poor ventilation or other factors, such designation does not reduce the effects of smoke to the satisfaction of the employee, the employer shall make additional accommodation by reassigning the employee to a different work area, expanding the size of the work area subject to the prohibition against smoking or implementing other measures reasonably designed to minimize or eliminate the effects of smoke on the employee.~~

~~(b) Smoking shall be prohibited in auditoriums, classrooms, elevators, hallways, restrooms, employee medical facilities, and rooms or areas containing photocopying or other office equipment used in common by employees, and in conference rooms and meeting rooms. Where at least two (2) restrooms for use by the same gender are available on the same floor of the building, smoking may be permitted in one (1) of such restrooms for each gender.~~

~~(c) Nonsmoking areas shall be designated in cafeterias, lunchrooms and employee lounges which areas shall constitute at least fifty percent (50%) of the seating capacity or floor space of such areas, whichever is greater.~~

~~(d) Within ninety (90) days from the effective date of this section, each employer of ten (10) or more employees shall adopt, implement and maintain a written smoking policy which contains, at a minimum, the restrictions set forth in subsections (a), (b) and (c) hereof, the rights and responsibilities of employees, and actions that will be taken to ensure that the policy is effective. The policy shall be communicated to all employees within three (3) weeks of its adoption and at least yearly thereafter. All employers shall provide a written copy of the smoking policy to any prospective employee who so requests, and to all new employees within one (1) week of commencing their employment. A copy of the smoking policy shall be provided to the City Department of Health promptly after its adoption.~~

~~(e) Smoking may be permitted in single, separately enclosed offices, and enclosed areas occupied exclusively by employees who each request, or do not object, that such areas be designated for smoking, even though such enclosed areas may be visited in the normal course of business by other persons or employees. An employer may also designate a separate enclosed room or rooms within a place of employment solely for use by smokers. Smoking in an enclosed office or room shall be permitted only when the door thereto is closed to minimize the effects of smoke upon persons in the immediate area.~~

~~(f) Signs indicating whether or not smoking is permitted shall be clearly, sufficiently and conspicuously posted in every place of employment in such manner as to give adequate notice to employees. The employer shall provide signs indicating that smoking is prohibited to any employee requesting such signs for the purpose of identifying his or her work area as a no-smoking area.~~

~~(g) Each employer shall utilize his or her best efforts to ensure that the provisions of this section are met with regard to places of employment, including requesting those persons found to be smoking in violation of this section or this chapter to discontinue smoking. In any dispute arising under the employer's smoking policy or this chapter, the rights of the nonsmoker shall be given preference with consideration of the smoker.~~

~~(h) No employer shall retaliate or take any adverse personnel action against any employee or applicant for employment who exercises, or attempts to exercise, any rights granted under the written smoking policy pursuant to this section. Such adverse personnel action includes, but is not limited to, dismissal, demotion, suspension, disciplinary action, negative performance evaluation, any action resulting in loss of staff, compensation or other benefits, failure to hire, failure to appoint, failure to promote, or any transfer or assignment or failure to transfer or assign against the wishes of the affected employee.~~

~~(i) This section shall not be construed to permit smoking in any~~

~~enclosed area in which smoking is prohibited pursuant to Section 385.02, and where a place of employment is also a public place where smoking is prohibited pursuant to Section 385.02, the employer shall nevertheless be required to adhere to the provisions of this section with respect to the private areas to which members of the general public do not have access.~~

~~— (j) Nothing in this section shall be construed to impair, diminish or otherwise affect any duty to bargain, grievance procedure, or any other procedure or remedy of a collective bargaining agreement which is presently in effect.~~

~~— (k) Nothing in this section shall be construed to impair, diminish or otherwise affect any rights or remedies provided for the benefit or protection of employees pursuant to State or Federal law or regulation or pursuant to the common law of the State of Ohio.~~

#### ~~**385.04 AREAS WHERE SMOKING IS NOT REGULATED.**~~

~~The following areas shall not be subject to the smoking restrictions of this chapter:~~

~~— (a) Bars, including any bar within a restaurant.~~

~~— (b) Private residences, except when a child care or health care facility is operated therein; provided, however, that an enclosed common area of a multiple dwelling which contains ten (10) or more dwelling units shall be considered a public place subject to the smoking restrictions set forth in Section 385.02.~~

~~— (c) Hotel and motel rooms occupied by, or available for, occupancy by guests.~~

~~— (d) Retail tobacco stores.~~

~~— (e) Enclosed areas in restaurants, catering halls, hotel and motel conference rooms and other such similar facilities during the time these enclosed areas or rooms are being used exclusively for private functions, such as weddings, parties, testimonial dinners and other similar gatherings, such that the seating arrangements are under the control of the sponsor or organizer of the function and not the person who owns, operates or manages such facility.~~

~~— (f) Restaurants with an indoor seating capacity of thirty (30) patrons or less, provided that a sign stating that a no-smoking area is not available is conspicuously posted on all public entrances or in a position clearly visible on entry into the restaurant.~~

~~— (g) Places owned or operated by governmental agencies not subject to the jurisdiction of the City of Shaker Heights.~~

#### ~~**385.05 POSTING OF SIGNS.**~~

~~"Smoking" or "No Smoking" signs, or the international symbols indicating the same, and any other signs necessary to comply with the provisions of this chapter shall be prominently and conspicuously posted at all major entrances to, and appropriate locations within, each enclosed area where smoking is either prohibited, permitted, or otherwise regulated by this chapter, by the owner, operator, manager or other person having control of such area.~~

#### ~~**385.06 REGULATIONS BY THE DIRECTOR OF HEALTH; ENFORCEMENT.**~~

~~(a) The Director of Health shall promulgate rules and regulations, as appropriate, for the administration and enforcement of this chapter.~~

~~(b) The provisions of this chapter shall be enforced by the Director of Health and the City Health Department, although employees of other City departments may also enforce the provisions of this chapter, with the approval~~

~~of the Director of Health.~~

~~(c) Any person who desires to register a complaint under this chapter may do so with the City Department of Health.~~

~~(d) The Director of Health shall seek to obtain voluntary compliance with this chapter by means of publicity and education programs, and the issuance of warnings, where appropriate.~~

### ~~385.07 VIOLATIONS AND PENALTIES.~~

~~(a) It shall be unlawful for any person or organization who owns, manages, operates, or otherwise controls the use of any establishment subject to the restrictions of this chapter to fail to comply with its provisions, except that no violation of this section shall be presumed solely on the basis of violations of subsection (b) hereof.~~

~~(b) It shall be unlawful for any person to smoke in any area restricted by the provisions of this chapter.~~

~~(c) Any person or organization who violates any provision of this chapter is guilty of a minor misdemeanor.~~

~~(d) Each day on which a violation of any provision of this chapter occurs is a separate and distinct offense and shall be punishable as such.~~

### ~~385.08 GENERAL PROVISIONS.~~

~~(a) Nothing in this chapter shall be construed to permit smoking where it is otherwise prohibited by law or regulation.~~

~~(b) Nothing in this chapter shall be construed to preclude owners, operators, managers, employers or other persons having control of any establishment covered by this chapter from prohibiting smoking in such establishment to a greater extent than is provided by this chapter, in accordance with applicable law.~~

## **CHAPTER 386 - Cigarette and Tobacco Vendors; Sales to Minors**

### **386.05 FEE.**

The fee for obtaining or renewing a license shall be established by the ~~Chief of Police~~~~Director of Health~~ with the approval of Council, and shall be sufficient to fund the administration, implementation, and enforcement of this chapter.

### **386.11 SUSPENSION OF LICENSE.**

(a) A licensee, or any agent, employee, or representative of said licensee, convicted of violating Section 737.16 of the Shaker Heights Codified Ordinances shall have said license subject to suspension after notice and an opportunity to be heard as follows:

(1) In the case of a first violation, the licensee shall be fined two hundred dollars (\$200.00) and shall be notified in writing of penalties levied for further violations.

(2) In the case of a second violation in a two-year period, the licensee shall be fined five hundred dollars (\$500.00) and the license shall be suspended for not less than thirty (30) consecutive business days or more than three (3) months. Tobacco retailers must remove all tobacco merchandise from all areas accessible to the public while the license is suspended.

(3) In the case of three or more violations within a two-year period, the licensee shall be fined one thousand dollars (\$1,000) and the license shall be suspended not less than six (6) months or more than eighteen (18) months. Tobacco retailers must remove all tobacco merchandise from all

areas accessible to the public while the license is suspended.

(b) The ~~Chief of Police~~~~Director of Health~~ or ~~the Chief's~~~~his~~ designee shall initiate the enforcement of Section 386.11(a) against license holders, and shall conduct hearings upon the license holder's request. A licensee must request a hearing with the ~~Chief of Police~~~~Director of Health~~ within ten (10) days of the notice of the action taken under subsection (a) hereof. Rulings made by the ~~Chief of Police~~~~Director of Health~~ or ~~the Chief's~~~~his~~ designee regarding the suspension of a license, after an adequate hearing, shall be final.

**386.99 PENALTY.**

A violation of any section of this chapter subjects the licensee, or anyone required to be a licensee, to a fine of \$500.00 per day for each violation. -The ~~Chief of Police~~~~Director of Health~~ or ~~the Chief's~~~~his~~ designee shall have the authority to enforce this chapter.

Section 3. This ordinance shall take effect from and after the earliest time allowed by law.

Enacted November 13, 2017

Approved this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
EARL M. LEIKEN, Mayor

Attest:

\_\_\_\_\_  
JERI E. CHAIKIN  
Clerk of Council

coun17/1005HEALTHCODORDAMEND