

# **CANTON CITY HEALTH CODE**

Effective November 25, 2019



# **CANTON CITY HEALTH CODE**

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### **CHAPTER 201**

#### **Definitions and General Provisions**

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#### **CROSS REFERENCES**

Orders and regulations – see Ohio R.C. 3707.48, 3709.20  
Adoption procedure – see Ohio R.C. 3709.20; HLTH. 203.04  
Penalty – see HLTH. 209.99

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#### **201.01 HEALTH CODE CITATION AND HEADINGS.**

- (a) The general and permanent regulations of the Canton Board of Health as codified in this part Two – Health Code are collectively known as the Health Code of the City of Canton and may be referred to herein as “this Health Code” or “this Code”. Code, title, chapter and section headings do not constitute any part of the law as contained in the Health Code.
- (b) All references to titles, chapters and sections are to such components of the Health Code unless otherwise specified. Sections may be referred to and cited by the designation “Section” followed by the number, such as “Section 201.01”.

**201.02 GENERAL DEFINITIONS.**

- (a) As used in the Health Code, unless another definition is provided or the context otherwise requires:
- (1) "Accessory building or structure means a detached building or structure in a secondary or subordinate capacity from the main or principal building or structure on the same premises.
  - (2) "And" may be read "or", and "or" may be read "and", if the sense requires it.
  - (3) "Another" when used to designate the owner of property which is the subject of an offense, includes not only natural persons but also every other owner of property.
  - (4) "Ashes" means the residual from the burning of combustible materials.
  - (5) "Board of Health" or "Board" means the Board of Health of the City of Canton, Ohio.
  - (6) "Building" means a structure built or used for the shelter, occupancy, enclosure or support of persons.
  - (7) "Bulk container" means any garbage, rubbish and/or refuse container having a capacity of two cubic yards or greater, and which is equipped with fittings for hydraulic and/or mechanical emptying, unloading and/or removal. The container shall be covered with a tight-fitting lid.
  - (8) "Business building" means any structure, whether publicly owned or privately owned that is adapted for occupancy for transaction of business, for rendering of professional service, for amusement, for the display, sale or storage of goods, wares or merchandise, or for the performance of work of labor, including hotels, apartment buildings, tenement houses, rooming houses, office buildings, public buildings, stores, theaters, markets, restaurants, grain elevators, slaughter houses, warehouses, workshops, factories, condominiums and all outhouses, sheds, barns and other structures on premises used for business purposes.
  - (9) "City" means the City of Canton, Ohio.
  - (10) "Dwelling" means any enclosed space wholly or partly used or intended to be used for living, sleeping, cooking and eating for one or more persons.
  - (11) "Dwelling unit" means a room or group of rooms located within a dwelling forming a single habitable unit with facilities used or intended to be used by a single family for living, sleeping, cooking and eating purposes.
  - (12) "Eradication" means the control or elimination of insects, rodents or other pests; by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the Health Commissioner.
  - (13) "Garbage" means the animal and vegetable waste resulting from handling, preparation, cooking, serving and nonconsumption of food.
  - (14) "Health Commissioner" means the Health Commissioner of the City of Canton, Ohio, or his authorized representative.
  - (15) "Health Department" or "Department" means the Health Department of the City of Canton, Ohio.

- (16) "Health hazard" means that state or condition of the environment that places, either directly or indirectly, the health of a person in danger or peril.
- (17) "Infestation" means the presence within or around a dwelling or other structure of any rodents, insects or other pests.
- (18) "Insanitary condition" means any environmental condition that may produce a health hazard.
- (19) "Insect" means any of the major group of small, usually winged, animals with three pairs of legs and not limited to flies and roaches.
- (20) "Keeper" or "proprietor" includes all persons, whether acting by themselves or as a servant, agent or employee.
- (21) "Land" or "real estate" includes rights and easements of an incorporeal nature.
- (22) "Multiple dwelling" means any dwelling containing two or more dwelling units.
- (23) "Occupant" means the individual, partnership, corporation or government entity that has the use of or occupies any building or premises or part of fraction thereof, whether the actual owner or tenant. In the case of vacant structures, buildings or premises, the owner or agent or other person having custody of the building, structure or premises shall have the responsibility of an occupant of same.
- (24) "Owner", when applied to property, includes any part owner, joint owner or tenant in common of the whole or part of such property, and includes: any person who has a freehold or lesser estate in the premises; a mortgagee or vendee in possession; or any person who has charge, care or control of the premises as agent, executor, administrator, assignee, receiver, trustee, guardian or lessee.
- (25) "Person" means and includes any individual, firm, corporation, business trust, estate, trust, association, syndicate, partnership, cooperative, governmental agency or any other entity recognized by law.
- (26) "Premises", as applied to property, includes land and buildings. "Premises" means a platted lot or part thereof or unplatted lot or parcel of land or plot of land either occupied or unoccupied by any dwelling or nondwelling structure, and includes any such building, accessory structure or other structure thereon.
- (27) "Property" means real and personal property. "Personal property" includes all property except real. "Real property" includes lands, tenements and hereditaments.
- (28) "Public place" includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance, or any other place for the sale of merchandise, public accommodation or amusement.
- (29) "Refuse" means all putrescible and nonputrescible solids, except body wastes, including garbage, rubbish, ashes and dead animals.
- (30) "Refuse container" means a watertight, insectproofed container that is constructed of metal or other durable material impervious to rodents, and that is capable of being serviced without creating unsanitary conditions, or such other containers as have been accepted by the Health Department. Openings into the container, such as covers and doors, shall be tight-fitting.
- (31) "Registered mail" includes certified mail and "certified mail" includes registered mail.
- (32) "Rodent harborage" means any conditions or places where rodents can live, nest or seek shelter.

- (33) "Rodent proofing" means a form of construction which prevents the ingress or egress of rodents to or from a given space or building, or from gaining access to food, water or harborage. It consists of the closing and keeping closed of every opening in foundations, basements, cellars, exterior and interior walls, ground or first floors, roofs, sidewalk gratings, sidewalk openings and any other place that may be reached and entered by rodents by climbing, burrowing or other method, by the use of materials impervious to rodent gnawing and other methods approved by the Health Commissioner.
- (34) "Rubbish" means nonputrescible solid wastes, excluding ashes, consisting of, but not limited to, either:
  - A. Combustible wastes, such as paper, cardboard, plastic containers, yard clippings and wood; or
  - B. Noncombustible wastes, such as tin cans, glass and crockery.
- (35) "Sidewalk" means that portion of the street between the curb line and the adjacent property line intended for the use of pedestrians.
- (36) "Solid wastes" means such unwanted residual solid or semisolid material as results from industrial, commercial, agricultural and community operations, excluding earth or material from construction, mining or demolition operations, or other waste materials of the type that would normally be included in demolition debris, nontoxic fly ash, spent nontoxic foundry sand, and slag and other substances that are not harmful or inimical to public health, and includes, but is not limited to garbage, combustible and noncombustible material, street dirt and debris.
- (37) "This State" or "the State" means the State of Ohio.
- (38) "Street" includes alleys, avenues, boulevards, lanes, roads, highways, viaducts and all other public thoroughfares within the City.
- (39) "Tenant" or "occupant", as applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of such premises, alone or with others.
- (40) "Vermin" means insects, lice, spiders, mites, ticks, rats and mice which threaten human health.
- (41) "Whoever" includes all persons, natural and artificial; partners; principals, agents and employees; and all officials, public or private.
- (42) "Written" or "in writing" includes any representation of words, letters, symbols or figures. This provision does not affect any law relating to signatures.

### **201.03 RULES OF CONSTRUCTION.**

- (a) Common and Technical Usage. Words and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.
- (b) Singular and Plural; Gender; Tense. As used in the Health Code, unless the context otherwise requires:
  - (1) The singular includes the plural, and the plural includes the singular.
  - (2) Words of one gender include the other genders.



(3) Words in the present tense include the future.

(c) Calendar: Computation of Time.

(1) Definitions.

A. "Week" means seven consecutive days.

B. "Year" means twelve consecutive months.

(2) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

(3) The time within which an act is required by law to be done shall be computed by excluding the first and including the last day, except that when the last day falls on Sunday or a legal holiday, then the act may be done on the next succeeding day which is not a Sunday or a legal holiday. When a public office, in which an act required by law is to be performed, is closed to the public for the entire day which constitutes the last day for doing such act or before its usual closing time on such day, then such act may be performed on the next succeeding day which is not a Sunday or a legal holiday. If any legal holiday falls on Sunday, the next succeeding day is a legal holiday.

(4) When a regulation is to take effect or become operative from and after a day named, no part of that day shall be included.

(5) In all cases where the law shall require any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall mean such time only as may be necessary for the prompt performance of such duty or compliance with such notice.

(d) Authority. When the law requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

(e) Exceptions. The rules of construction shall not apply to any law which shall contain any express provision excluding such construction, or when the subject matter or context of such law may be repugnant thereto.

**201.04 REVIVOR; EFFECT OF AMENDMENT OR REPEAL.**

(a) The repeal of a repealing regulation does not revive the regulation originally repealed nor impair the effect of any saving clause therein.

(b) A regulation which is re-enacted or amended is intended to be a continuation of the prior regulation and not a new enactment, so far as it is the same as the prior regulation.

(c) The re-enactment, amendment or repeal of a regulation does not, except as provided in subsection (d) hereof:

(1) Affect the prior operation of the regulation or any prior action taken thereunder;

(2) Affect any validation, cure, right, privilege, obligation or liability previously acquired, accrued, accorded or incurred thereunder;

(3) Affect any violation thereof or penalty, forfeiture, or punishment incurred in respect thereto, prior to the amendment or repeal;

- (4) Affect any investigation, proceeding, or remedy in respect of any such privilege, obligation, liability, penalty, forfeiture or punishment; and the investigation, proceeding or remedy may be instituted, continued or enforced, and the penalty, forfeiture or punishment imposed, as if the regulation had not been repealed or amended.
- (d) If the penalty, forfeiture or punishment for any offense is reduced by a re-enactment or amendment of a regulation, the penalty, forfeiture or punishment, if not already imposed, shall be imposed according to the regulation as amended.

#### **201.05 CONSTRUCTION OF SECTION REFERENCES.**

- (a) A reference to any portion of the Health Code applies to all re-enactments or amendments thereof.
- (b) If a section refers to a series of numbers or letters, the first and the last numbers or letters are included.
- (c) Wherever in a penalty section reference is made to a violation of a series of sections or of subsections of a section, such reference shall be construed to mean a violation of any section or subsection included in such reference.

References in the Health Code to action taken or authorized under designated sections of the Health Code include, in every case, action taken or authorized under the applicable regulatory provision which is superseded by the Health Code.

#### **201.06 CONFLICTING PROVISIONS.**

- (a) If there is a conflict between figures and words in expressing a number, the words govern.
- (b) If a general provision conflicts with a special or local provision, they shall be construed, if possible, so that effect is given to both. If the conflict between the provisions is irreconcilable, the special or local provision prevails as an exception to the general provision, unless the general provision is the later adoption and the manifest intent is that the general provision prevail.
- (c) (1) If regulations enacted at different meetings of the Board of Health are irreconcilable, the regulation latest in date of enactment prevails.
- (2) If amendments to the same regulation are enacted at different meetings of the Board, one amendment without reference to another, the amendments are to be harmonized, if possible, so that effect may be given to each. If the amendments are substantively irreconcilable, the latest in date of enactment prevails. The fact that a later amendment restates language deleted by an earlier amendment, or fails to include language inserted by an earlier amendment, does not of itself make the amendments irreconcilable. Amendments are irreconcilable only when changes made by each cannot reasonably be put into simultaneous operation.
- (3) In case of irreconcilable conflict with other laws, the provision which establishes the higher standard for the promotion of the health, safety and welfare shall prevail.

#### **201.07 DETERMINATION OF LEGISLATIVE INTENT.**

- (a) In enacting a regulation, it is presumed that:
  - (1) Compliance with the constitutions of Ohio and of the United States is intended;
  - (2) The entire regulation is intended to be effective;
  - (3) A just and reasonable result is intended;

- (4) A result feasible of execution is intended.
- (b) A regulation is presumed to be prospective in its operation unless expressly made retrospective.
- (c) If a regulation is ambiguous, the court, in determining the intention of the Board of Health may consider among other matters:
  - (1) The object sought to be attained;
  - (2) The circumstances under which the regulation was enacted;
  - (3) The legislative history;
  - (4) The common law or former legislative provisions, including laws upon the same or similar subjects;
  - (5) The consequences of a particular construction;
  - (6) The administrative construction of the regulation.

#### **201.08 PROCEDURES AND REQUIREMENTS.**

Except as otherwise specifically provided for by State law, the procedures and requirements of this Health Code shall govern the compliance and enforcement of all health matters in the City.

#### **201.09 SEVERABILITY.**

If any provision of a section of the Health Code or the application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of the section or related sections which can be given effect without the invalid provision or application, and to this end the provisions are severable.



## **CHAPTER 203**

### **Board of Health**

<b>203.01 Meeting Times.</b>	<b>203.10 Legal action; repeat violator.</b>
<b>203.02 Open meetings, executive sessions.</b>	<b>203.11 Complaints; hearing and decision.</b>
<b>203.03 Officers.</b>	<b>203.12 Appeals</b>
<b>203.04 Voting and procedures.</b>	<b>203.13 Variances.</b>
<b>203.05 Minutes, agendas and reports.</b>	<b>203.14 License or permit suspension or revocation; reinstatement.</b>
<b>203.06 Contracts</b>	<b>203.15 Release of confidential information.</b>
<b>203.07 Maternity homes and hospitals.</b>	
<b>203.08 Reporting notifiable diseases and positive laboratory tests.</b>	
<b>203.09 Orders and regulations.</b>	

#### **CROSS REFERENCES**

Orders and regulations – see Ohio E.C. 3707.48, 3709.20  
Establishment, composition and term – see Ohio R.C. 3709.05  
President pro tempore; meetings – see Ohio R.C. 3709.12  
Appointments – see Ohio R.C. 3709.14, 3709.15  
Records – see Ohio R.C. 3709.19

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#### **203.01 MEETING TIMES.**

The Board of Health shall hold a regularly scheduled meeting during the last week of each calendar month, preferably on Monday, except when a special meeting or a change is agreed upon by a majority of the Board members. The exact date and time of each regular meeting shall be announced at the previous regular meeting and recorded in the minutes of such meeting.

#### **203.02 OPEN MEETINGS; EXECUTIVE SESSIONS.**

- (a) In accordance with Ohio R.C. 121.22 and Chapter 109 of the Canton Codified Ordinances, all meetings of the Board of Health are declared to be public meetings and open to the public at all times. No action of the Board shall be taken in executive session except for the following purposes:
- (1) Matters concerning the appointment, dismissal or discipline of Health Department personnel.
  - (2) The consideration of purchase of public property.
  - (3) Conferences with an attorney for the Board or Department.
  - (4) Preparation for bargaining relative to the terms of employment of Department employees.
  - (5) Matters required to be kept confidential by Federal or Ohio law.

- (6) Details of security arrangements necessary for the protection of information relating to the enforcement or prosecution of Ohio statutes, the Ohio Administrative Code, Canton ordinances, and Board and Department regulations and orders.
- (b) The Board may hold an executive session by temporarily adjourning a regular or special meeting or at such other time as it agrees upon by majority vote or as is initiated by the President Pro Tempore.
- (c) During any executive session, Health Department personnel shall not relate confidential communications received concerning individual medical conditions, diseases or health matters.

### **203.03 OFFICERS.**

- (a) The Mayor shall be President of the Board of Health by virtue of his office.
- (b) A President Pro Tempore and a Vice-President Pro Tempore shall be elected by the Board at its first regular meeting in February of each year. Each shall hold office for one year and until the successor is elected and qualified.
- (c) If the offices of President Pro Tempore or Vice-President Pro Tempore become vacant, the Board shall elect a successor from its membership within two months. The Board may elect an interim officer at its next regular meeting. The President Pro Tempore and Vice-President Pro Tempore shall be entitled to vote on the Board.
- (d) The Board shall appoint a Health Commissioner who shall serve as the Secretary of the Board.

### **203.04 VOTING AND PROCEDURE.**

- (a) A majority of the five appointed members of the Board of Health shall constitute a quorum.
- (b) The following procedures shall apply to the action by the Board:
  - (1) Each resolution shall be read by title only, provided the Board may require any reading to be in full by a majority vote of its five appointed members.
  - (2) Each resolution shall be read on three different days, provided the Board may dispense with this rule by a vote of at least three-fourths of its five appointed members.
  - (3) The vote on the passage of each resolution shall be taken separately by yeas and neas and entered upon the minutes.
  - (4) Each resolution shall be passed, except as otherwise provided by law, by a vote of at least a majority of the five appointed members of the Board.
  - (5) Action by the Board, not required by law to be by resolution, may be taken by motion approved by at least a majority vote of the members present at the meeting when the action is taken.
  - (6) The adoption of this Health Code or any amendment thereto and any order or regulation intended for the general public shall only be approved by resolution of the Board.

- (7) Board actions including emergency resolutions shall be published as required by Ohio R.C. 731.21 and 731.22 and the Board Secretary shall certify as to publication in accordance with Ohio R.C. 731.24.
- (8) No resolution passed by the Board other than an emergency resolution shall take effect until ten days after the first publication or until thirty days after passage, whichever is the later date. Emergency resolutions as specified in Ohio R.C. 3709.20 shall only take immediate effect if voted by two-thirds of the five appointed Board members and the reasons for such emergency are stated in one section of the resolution. Emergency resolutions take effect immediately, but shall be published as required by law.
- (9) Resolutions shall be authenticated by the signature of the Board Secretary and the Mayor as Board President or in his absence by the President Pro Tempore. Authenticated resolutions shall be recorded by the Board Secretary in the minutes.
- (c) In those questions of procedure which are not covered herein, Robert's Rules of Order Revised shall govern.

### **203.05 MINUTES, AGENDAS AND REPORTS.**

- (a) Minutes. Board of Health minutes are considered public records as defined in Section 110.02 of the Canton Codified Ordinances, except for matters discussed in executive session or those excluded by Section 110.07 of the Codified Ordinances. Minutes of executive sessions need only reflect the general subject matter of discussion. The cost of furnishing minutes considered as public records is as provided in Section 110.05 of the Codified Ordinances. The Health Department shall keep a record of the recipient, date received and date of any set of minutes distributed. The public may inspect minute books at all reasonable times.
- (b) Agendas. The Board may provide for the preparation and distribution of agendas to visitors at meetings.
- (c) Reports and Records. Copies of reports and records of the Board or the Health Department shall be furnished to any person upon request pursuant to Section 205.09 of the Canton City Health Code. (Amended Res. 2017-15. Passed 10-30-17.

### **203.06 CONTRACTS.**

The Board of Health may contract with other public health districts or departments or other governmental agencies or with any independent non governmental organization necessary for the protection of public health services to the community.  
(Res. 4-98. Passed 12-21-98.)

### **203.07 MATERNITY HOMES AND HOSPITALS.**

No person or corporation shall maintain a maternity boarding house or lying-in hospital without the prior approval of the Board of Health and obtaining a license from the Ohio Department of Health as required by Ohio R.C. Chapter 3711 and Ohio Administrative Code Chapter 3701-7.

### **203.08 REPORTING NOTIFIABLE DISEASES AND POSITIVE LABORATORY TESTS.**

- (a) No attending physician or other person required by law shall fail to report a notifiable disease as required and in accordance with Ohio R.C. 3707.06 and Ohio Administrative Code Chapter 3701-3.
- (b) No attending physician or person in charge of a laboratory shall fail to report a positive laboratory test result for any class A disease as required and in accordance with Ohio Administrative Code 3701-3-26.

### **203.09 ORDERS AND REGULATIONS.**

Pursuant to Ohio R.C. 3709.20, the Board of Health may make such orders and regulations as are necessary for its own government, for the public health, the prevention or restriction of disease, and the prevention, abatement or suppression of nuisances. The Board may also make orders and regulations pursuant to Ohio R.C. 3707.48 to enforce Ohio R.C. Chapter 3707.

### **203.10 LEGAL ACTION; REPEAT VIOLATOR.**

- (a) No legal action shall be commenced by any Health Department personnel against any violator without prior approval of the Board of Health.
- (b) The Board of Health in determining whether a citation shall be issued for violation of or failure to comply with this Health Code shall consider whether the accused is a repeat violator and can be presumed to know from past experience the consequences of his actions. "Repeat violator" as used herein means any person who commits the same or similar violation of this Health Code within a six-month period, computed from the first day when the first violation is brought to the attention of the Health Department.

### **203.11 COMPLAINTS; HEARING AND DECISION.**

- (a) Complaints may be presented to the Board of Health by any person having knowledge of actions by a person which may be violations of Ohio statutes, the Ohio Administrative Code, Canton ordinances, and Board and Department regulations and orders. These complaints may also be made by the Health Commissioner or any other staff member of the Health Department.
  - (1) Initially, all records pertaining to the identification of a complainant shall be kept separate and confidential from the public record of inspection and notice of violation in regard to any business building, multiple dwelling, structure or premises. All other information regarding inspections and notices of violations pertaining to any structure or premises shall be considered a public record and available on request. After a citation is issued and a hearing date is set, the identity of the complainant shall be disclosed to the accused and his legal counsel if the complainant is the person executes an affidavit for issuance of the citation.
- (b) Appropriate staff from the Health Department shall investigate such complaints and present them to the Board. If the Board finds that there are reasonable grounds to believe that a violation has occurred, a written notice of the nature of the violation and the time and date of a hearing on the allegation(s) shall be delivered, either personally or by certified mail to the accused or to his legal counsel.



- (c) A public hearing shall be held, and all relevant evidence presented.
- (d) The Health Department staff shall have the burden of going forward with the presentation of evidence. All parties shall have the right to appear and be heard in person, or by legal counsel, to present their case. All parties shall have the right to:
  - (1) Offer and examine witnesses and present evidence in support of their case; and
  - (2) Cross examine adverse witnesses; and
  - (3) Proffer evidence into the record if its admission has been denied.
- (e) Testimony shall be given under oath, by deposition, written interrogations and/or upon written or oral stipulation. The following oath shall be given by the Board President Pro Tempore to all persons who give evidence in the case before the Board, including staff and persons appearing as alleged violators:
 

"Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth".
- (f) The Board shall rule on all matters of evidence. In so doing, the Board is not strictly bound by the rules of evidence. The Board may ask questions of any witness at any point in the proceedings. The Board may set time limitations for each side in the presentation of evidence. A record of proceedings in the form of a transcript shall be kept for not less than thirty days from the date of its final decision. Parties seeking a stenographic record shall acquire such stenographic record at their own expense.
- (g) Any hearing may be continued by the Board, either on their own motion or at the request of either party.
- (h) The standard of proof for a finding that a violation has occurred shall be the preponderance of the evidence.
- (i) At the conclusion of the presentation of the case the President Pro Tempore may either take the matter under consideration by the Board, or may move for an immediate decision.
- (j) The decision of the Board shall be in writing and shall become effective three days after receipt of certified mail by the accused or his legal counsel, unless otherwise stated in the Board decision. (Res. 5/2006. Passed 7-24-06.)

### **203.12 APPEALS.**

- (a) All parties shall have the right to appeal an order or notice by the Health Commissioner or his authorized representative within fifteen days of the receipt of such order or notice. Late requests may be considered by the Board on an individual basis, but shall not prejudice or otherwise deter pending criminal or civil proceedings which have been initiated during the late period.
- (b) The appeal request shall be considered at the first regular meeting of the Board and, if accepted, the public hearing shall be placed on the agenda for the next regularly scheduled meeting, unless the Board grants an extension for good cause shown.
- (c) The appeal hearing procedure shall be the same as provided in Section 203.11 relative to a complaint hearing.

- (d) The Board, by majority vote, may approve, modify or disapprove the order or notice by written decision which shall become effective three days after receipt of certified mail by the appellant and/or legal counsel, unless otherwise stated in the Board decision.

### **203.13 VARIANCES.**

The Board of Health may grant a variance in a specific case and from a specific provision of any regulation, order or notice subject to appropriate conditions and provided the Board makes specific findings of fact based on evidence relating to the following:

- (a) That there are practical difficulties or unnecessary hardships in carrying out the strict letter of any regulation, order or notice; and
- (b) That the effect of the application of the provisions would be arbitrary in the specific case; and
- (c) That an extension would not constitute an appropriate remedy for these practical difficulties or unnecessary hardships and this arbitrary effect; and
- (d) That such variance is in harmony with the general purpose and intent of the Board in securing the public health, safety and general welfare.

### **203.14 LICENSE OR PERMIT SUSPENSION OR REVOCATION; REINSTATEMENT.**

- (a) Except as otherwise provided by law, the Board of Health may suspend or revoke any license or permit issued under this Health Code, either temporarily or permanently, for failure to comply with any lawful requirement, regulation or order. Before any such suspension or revocation of a license or permit is made, the Board shall give written notice to the licensee or permittee that suspension or revocation is contemplated and the reasons therefore. Such notice shall set a time for hearing before the Board and may be sent by registered mail to the licensee or permittee. The hearing shall be conducted and a decision made in accordance with the procedure set forth for a complaint hearing in Section 203.11.
- (b) Reinstatement of any permit or license which has been suspended or revoked shall be on such terms and conditions as the Board imposes and only after it is satisfied that all noncompliance or violations of this Health Code have been completely satisfied or remedied.

### **203.15 RELEASE OF CONFIDENTIAL INFORMATION.**

Confidential client information designated as a "Medical Record" according to Ohio R.C. 149.43 including sexually transmitted disease (STD) records; human immunodeficiency virus (HIV) test records and women, infants and children (WIC) records shall only be released pursuant to the Ohio Revised Code to the client or to a designated recipient by:

- (a) Signing a release of information when services are provided, or
- (b) Presenting in person to the Health Department with photo identification and signing a release of information, or
- (c) If the client is unable to present in person or if this places an undue burden upon the client, the client can send a notarized release of information which states the information to be released, the purpose for the release and the name and address to whom the information is to be sent.

Confidential client information shall be provided to the Ohio Department of Health or other state or federal regulatory agencies as required by the Ohio Revised Code or federal regulation (e.g. Class A reportable diseases). (Res. 4-98. Passed 12-21-98.)



**CHAPTER 205**  
**Health Department**

<b>205.01 Organization</b>	<b>205.052 Cholesterol/Lipid panel testing service fee.</b>
<b>205.02 Birth certificate laminating fee. (Repealed)</b>	<b>205.06 Vital statistics fee schedule.</b>
<b>205.03 Dispensing drugs.</b>	<b>205.07 Vision, mission, and values.</b>
<b>205.04 Laboratory service fees.</b>	<b>205.08 Environmental health fee schedule.</b>
<b>205.05 Immunization services fees.</b>	<b>205.09 Public records.</b>
<b>205.051 Tuberculosis skin testing service fee.</b>	<b>205.10 Non-Discrimination and Provision of Culturally and Linguistically Appropriate Services</b>

**CROSS REFERENCES**

Appointments – see Ohio R.C. 3709.14, 3709.15  
Reports of attending physicians – see HLTH. 203.08  
Personnel policies – see HLTH. Ch. 207

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**205.01 ORGANIZATION.**

- (a) The Health Department shall consist of a Health Commissioner who shall serve as Secretary of the Board and as head of the Department in charge of the operating divisions and the Director of Administration.
- (b) The Director of Administration shall be a managerial position in the Department and the Director shall serve as deputy Health Commissioner on all departmental matters not requiring medical decisions in the absence of the Health Commissioner. The Director shall be responsible for maintaining and implementing the Department personal information system in accordance with Ohio R.C. Chapter 1347.
- (c) The operating divisions of the Department are as follows:
  - (1) Environmental Service.
  - (2) Vital Statistics.
  - (3) Laboratory.
  - (4) Nursing.
  - (5) Air Pollution Control.
  - (6) Women, Infants and Children Supplemental Food Program.

**205.02 BIRTH CERTIFICATE LAMINATING FEE. (REPEALED)**

(EDITOR'S NOTE: Former Section 205.02 was repealed by Res. 4/2009, passed September 28, 2009.)

**205.03 DISPENSING DRUGS.**

Health Department personnel shall not dispense drugs to any person without a physician's written orders.

**205.04 LABORATORY SERVICE FEES.**

Except as may be otherwise provided for by law, the Health Department may provide laboratory services and shall charge the following fees for all samples when requested by outside sources.

Samples requested by Health Department personnel due to conditions or situations within the City requiring such shall be done at no charge.

LABORATORY SERVICE FEES MILK AND FOOD (including raw milk and foods, bottled water, pasteurized products and finished products and containers)

Standard Plate Count, Pour Plate Method, FDA/NCIMS 2400a	\$9.50
Coliform Plate Count, Pour Plate Method, FDA/NCIMS 2400a	\$17.00
Containers FDA/NCIMS 2400i	\$13.00
Lids FDA/NCIMS 2400i	\$12.00

WATER, POTABLE AND NON-POTABLE utilizing Standard Methods for the Examination of Water and Wastewater 23<sup>rd</sup> edition (including testing for EPA or ODH regulated drinking water sources)

Coliforms and <i>Escherichia coli</i> ( <i>E. coli</i> ) Presence-Absence with NO EPA Reporting, Method 9223B Enzyme Substrate, utilizing Colilert or Colisure	\$15.00
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Coliforms and <i>Escherichia coli</i> ( <i>E. coli</i> ) Presence-Absence or Quantification, Method 9223B Enzyme Substrate, utilizing Colilert or Colisure (This fee includes reporting to other agencies)	\$17.00
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Coliforms and <i>Escherichia coli</i> ( <i>E. coli</i> ) Presence-Absence utilizing Colisure following invalidated Colilert testing for precipitate	\$10.00
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Other analysis as needed, provided by outside vendor at cost  
Handling fee for services provided by outside vendor \$1.00

**WATER TESTING QUALITY CONTROL**

Utilizing methods as described in Ohio EPA Laboratory Manual for Microbiological Analyses of Public Drinking Water

Sterility, MMO first bottle \$9.50  
 Sterility, MMO additional per submission \$3.50  
 Sterility, Quanti-Tray first one \$11.75  
 Additional Quanti-Tray per submission \$4.00  
 Reagent verification (Batch of 3) \$14.50  
 Reagent verification (additional Batch of 3) \$4.00  
 Discount of 33% on bottle Sterility testing when done in combination with QT testing.

For all other tests done on an as needed basis, the Health Commissioner, in consultation with the Fiscal Officer and the Director of Laboratory, is hereby authorized to establish a schedule of fees sufficient to administer Laboratory services.

(Resolution 2019-20; passed 11-25-19)

#### **205.05 TRAVEL CLINIC FEES.**

(a) The Health Commissioner, in consultation with the Fiscal Officer and the Director of Nursing, is hereby authorized to establish a schedule of fees sufficient to administer Nursing clinics. The schedule of fees is to be adjusted on a bi-annual basis. The schedule of fees may include a sliding fee scale where necessary to provide for the efficient operation of the clinics. (Resolution 2015-32; approved 12-21-25)

#### **205.051 TUBERCULOSIS SKIN TESTING SERVICE FEE.**

Fees for tuberculosis (B) skin testing rendered to individuals shall be as follows for services delivered in the TB clinic:

A \$5.00 administration fee will be charged to all individuals presenting to the TB clinic at the Canton City Health Department. This fee may be waived in the event that contact investigation is being conducted to a known case of TB.

No individual will be turned away for inability to pay.

(Res. 2/2010. Passed 1-25-10.)

#### **205.052 CHOLESTEROL/LIPID PANEL TESTING SERVICE FEE.**

Fees for Cholesterol/Lipid Panel testing rendered to individuals shall be as follows for services delivered in the cardiovascular (CVS) clinic:

A \$5.00 administration fee will be charged to all individuals presenting to the CVS clinic at the Canton City Health Department.

No individual will be turned away for inability to pay.

(Resolution 3/2012; passed 04-23-12)

#### **205.06 VITAL STATISTICS FEE SCHEDULE.**

Certified copies issued by the local registrar or person authorized by the local registrar shall be made according to the following fee schedule:

Certified copy of a vital record or certification of birth	\$25.00
Shipping and handling fee for Internet ordering, first class mail	5.00

Shipping and handling fee for Internet ordering, standard overnight delivery	35.00
Certificate protector	.50
Reissued death certificates, per page	1.00

The United States Veteran's Administration may obtain, without expense, certified copies of stillborn or death certificates without payment of the fees prescribed in this section. The United States Bureau of Census, Social Security Administration, and other federal, state or local agencies, and the Ohio Industrial Commission, may obtain without government expense, verification of, or information from, vital records without payment of the fee prescribed in this section. (Res. 4/2009. Passed 9-28-09.)

#### **205.07 VISION, MISSION AND VALUES.**

- (a) The vision Board of Health of the Canton City Health Department is to be the leader in advancing population health.
  - (b) The mission of the Canton City Health Department is to work together to prevent the spread of disease, promote health, and protect the public from harm.
  - (c) The values of the Canton City Health Department are:
    - (1) Quality – Excellence in all we do.
    - (2) Service – Ask, listen, and respond to the needs of the community.
    - (3) Equity – Assure access to opportunities for all to maximize health.
    - (4) Trust – Open and transparent in all our actions.
- (Amended Res. 2017-16. Passed 10-30-17.)

#### **205.08 ENVIRONMENTAL HEALTH FEE SCHEDULE.**

Except as otherwise provided by law, the Division of Environmental Health may provide environmental health services and shall charge the following fees for samples requested by outside sources. Samples requested by Health Department personnel due to conditions or situations within the City requiring such shall be done at no charge.

- (a) The fee for a residential health inspection of a Type B Family Day Care Center as defined in Ohio R.C. 5104.01(e) shall be twenty-five dollars (\$25.00) for each inspection. A re-inspection may be made within a thirty-day period if necessary without additional charge. (Res. 2/2008. Passed 6-23-08.)
- (b) An inspection may be made of a facility that prepares or serves meals or lunches but is exempt from licensing under Ohio R.C. Chapter 3732. The fee for each inspection made at the request of the operator shall be seventy-five dollars (\$75.00). (Res. 4/2011. Passed 6-27-11.)
- (c) The fee for a rabies vaccination for a dog or cat administered in conjunction with a rabies vaccination clinic sponsored by the Canton City Health Department shall be five dollars (\$5.00).
- (d) The cost of specific lead services provided to the general public shall be as follows:



<b>Services</b>	<b>Fee</b>
Lead clearance examination per unit	\$150.00
Dust wipe analysis (price is per wipe used) with a 7-10 day lab turn around	\$9.00
Dust wipe analysis (price is per wipe used) with a 48 hour lab turn around time per request of home owner	\$13.50
Dust wipe analysis (price is per wipe used) with a 24 hour lab turn around time per request of home owner	\$18.00
Repeat clearance examination	\$75.00
Category 1 Lead-based paint inspection/risk assessment	\$55/hr
Category 2 Public Health Lead Risk Assessment	\$55/hr
Category 3 House Exterior Lead-Based paint inspection/risk assessment	\$55/hr
Category 4 Post Abatement Daily Clearance Examination	\$55/hr
Category 5 Post Abatement Final Clearance Examination	\$55/hr

(Res. /2008. Passed 6-23-08.)

### **205.09 PUBLIC RECORDS.**

- (a) Purpose. The purpose of this section is to establish procedures for compliance with Ohio Public Records Act, Chapter 149 of the Ohio Revised Code (ORC).
- (b) Public Record. Pursuant to the ORC, a public record is a record held by a public office that:
- Is stored on a fixed medium (such as paper, computer, e-mail, film, etc.);
  - Is created, received or comes under the jurisdiction of the Canton City Health Department (Health Department);
  - Documents the organization, functions, policies, decisions, procedures, operations or other activities of the office.
- 1) All records of the Health Department are public unless they are specifically exempt from disclosure under Federal Law, the Ohio Revised Code or applicable court precedent.
  - 2) It is the policy of the Health Department that, as required by Ohio Law, records will, to the extent practical, be organized and maintained so that they are readily available for inspection and copying. When required, record retention schedules are to be updated regularly and posted prominently.
  - 3) Each division of the Health Department shall identify a Records Coordinator who shall have the responsibility of maintaining the specific division's records in compliance with the Canton City Health Code. The Records Coordinator may be the division supervisor or other person as determined by the division supervisor or Health Commissioner.

- 4) Each division Records Coordinator shall identify in their record retention schedule those records that are considered public records and those that would not be considered public records. The record retention plan should be used as a guide to fulfilling requests for copies of public records.
  - 5) Where there is some question as to whether the record requested is public or if the record contains both public and confidential information, the Health Department shall immediately refer such request to the City Law Department or other appropriate entity as required by a specific program for review. Such request by the Health Department shall be made in writing and shall be dated and specify the documents, reports or records requested to be reviewed for determination. After the final determination is received by the Health Department, the public record request will be fulfilled with appropriate redaction if applicable.
- (c) Response Timeframe. Public records are to be available for inspection during regular business hours, generally, Monday through Friday, 8:00 a.m. to 4:30 p.m., with the exception of published holidays. Public records must be made available for inspection promptly. Copies of public records must be made available within a reasonable period of time. “Prompt” and “reasonable” take into account the volume of records request; the proximity of the location where the records are stored; and the necessity for any legal review and redaction of the records requested. In processing a request for inspection of a public record, a Health Department employee must accompany the requester during inspection to make certain original records are not taken or altered.
- 1) It is the goal of the Health Department that all requests for public records should be acknowledged in writing or, if possible, satisfied within five (5) business days following the office’s receipt of the request. If a request is deemed to be significantly beyond “routine,” such as seeking a voluminous number of copies or requiring extensive research, the acknowledgement must include the following:
    - An estimated number of business days it will take to satisfy the request.
    - An estimated cost if copies are requested.
    - Any items within the request that may be exempt from disclosure.
- (d) Evaluating the Requests. Each request for public records should be evaluated for a response using the following guidelines:
- 1) Although the Public Records Act does not require that specific language be required to make a public records request, the requester must identify the records requested with sufficient clarity to allow the Health Department to identify, retrieve and review those records. If a request is received by the Health Department, and it is not clear what records are being sought, the Health Department should contact the requester for clarification, and assist the requester in revising the request by informing the requester of the manner in which the office maintains its records.
  - 2) Requesters are encouraged to make any and all public records requests to the Health Department in written form. While the requester does not have to put a records request in writing, a written request enables the Health Department to identify responsive records with greater speed and accuracy.
  - 3) A requester does not have to provide his or her identity or the intended use of the requested public record(s). In many cases, however, such information could enhance the Health Department’s ability to identify, locate and/or deliver responsive public records in response to the request. If the Health Department determines that additional information would enhance the Health Department’s ability to identify, locate and/or deliver responsive records, he or she may

ask the requester to: (1) put the request in writing, (2) provide his or her name and address, and/or (3) explain the purpose of the request or intended use of the information; provided that the requester is informed that the requester may decline to provide any of this information. The Health Department may require sufficient contact information to fulfill the request, either by US Mail, electronic delivery, or inspection.

- 4) In processing the request, the office does not have an obligation to create new records or perform new analysis of existing information. An electronic record is deemed to exist so long as a computer is already programmed to produce the record through simple sorting, filtering or querying. Although not required by law, the office may accommodate the requester by generating new records when it makes sense and is practical under the circumstances.
- (e) Electronic Records. Public records in the form of e-mail, text messaging and instant messaging, including those sent and received via a hand-held communications device are to be treated in the same fashion as records in other formats, such as paper or audio tape.
- 1) Records in Health Department provided e-mail accounts, private e-mail accounts and other electronic records used to conduct public business are subject to disclosure, and all employees or representatives of the Health Department are instructed to retain their e-mails that relate to public business.
  - 2) When an email's content pertains to the work of the Health Department, employees are to treat the e-mails from private accounts as records of the public office, filing them in the appropriate way, retaining them per established schedules and making them available.
  - 3) All employees are discouraged from using private email for public business.
- (f) Denial or Redaction of Records. If the requester makes an ambiguous or overly broad request or has difficulty in making a request for public records, the request may be denied, but the denial must provide the requester an opportunity to revise the request by information the requester of the manner in which records are maintained and accessed by the Health Department.
- 1) Any denial of public records requested must include an explanation, including legal authority. If the initial request was made in writing, the explanation must also be in writing. If portions of a record are public and portions are exempt, the exempt portions may be redacted and the rest released. When making public records available for public inspection or copying, the office shall notify the requester of any redaction or make the redaction plainly visible. If there are redactions, each redaction must be accompanied by a supporting explanation, including legal authority.
- (g) Copying and Mailing Costs. There shall be no cost associated with the inspection of a public record. The first one hundred and twenty-five (125) pages of any public record request shall be provided to the requester at no cost. All other copies will be provided according to the following rates:
- 1) The charge for paper or computer printout copies (per side) is 5¢ per page.
  - 2) The charge for downloaded computer files to a compact disc is the actual cost of the media or disk.
  - 3) There is no charge for documents e-mailed or faxed.

- 4) Requesters may ask that documents be mailed to them. They will be charged the actual cost of postage and mailing supplies.

(Resolution 2014-03; passed 02-24-14)

**205.10 Non-Discrimination and Provision of Culturally and Linguistically Appropriate Services.**

- (a) Canton City Public Health shall use the National Cultural and Linguistic Standards (CLAS) as the general guidelines for the provision of culturally and linguistically appropriate services.
- (b) Canton City Public Health shall not discriminate in the provision of any of its services on the basis of race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, marital status, family/parental status, or age.
- (c) Canton City Public Health shall assure the provision of health services that are culturally and linguistically competent, consumer-guided and community-based.
- (d) Every person or organization applying for a direct services contract with Canton City Public Health shall demonstrate an ability to deliver the services in a culturally and linguistically competent manner.
- (e) The Health Commissioner is responsible for monitoring compliance with this policy.

(Resolution 2018-07; passed 07-23-18)

## **CHAPTER 207**

### **Personnel Policies**

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| <b>207.01 Definitions.</b>   | <b>207.20 Longevity pay. (repealed)</b>  |
| <b>207.02 Physical Examinations.</b>   | <b>207.21 Health care and life insurance coverage; eye and dental benefits.</b>                          |
| <b>207.03 Incompatible employment.</b>   | <b>207.22 Uniform allowance for nurses and clinic assistants and special purpose clothing purchases.</b> |
| <b>207.04 Gratuities.</b>  | <b>207.23 Travel and meeting expenses; City vehicle use.</b>   |
| <b>207.05 Equal employment opportunity; nondiscriminatory services.</b>          | <b>207.24 Terminal pay.</b>  |
| <b>207.06 Civil service application; probationary period.</b>                    | <b>207.25 Resignation and reinstatement.</b>   |
| <b>207.07 Complaints and investigation.</b>                                      | <b>207.26 Mandatory retirement.</b>  |
| <b>207.08 Pay periods and deductions.</b>  | <b>207.27 Tenure of office; reduction, suspension and removal; appeal</b>                                |
| <b>207.09 Raises based on merit and tenure.</b>                                  | <b>207.28 Professional license fees.</b>   |
| <b>207.10 Hours worked; compensatory time; overtime pay.</b>                     | <b>207.29 Smoking policy.</b>  |
| <b>207.11 Leave of absence; attendance.</b>                                      | <b>207.30 Funeral leave.</b>   |
| <b>207.12 Absence without leave; Reinstatement.</b>                              | <b>207.31 Tardiness policy.</b>  |
| <b>207.13 Occupational improvement leave and continuing education incentive.</b> | <b>207.32 Drug-Free Workplace Act policy statement</b>   |
| <b>207.14 Military service restoration rights.</b>                               | <b>207.33 Harassment policy.</b>   |
| <b>207.15 Payment for temporary military service.</b>                            | <b>207.34 Use of computer services and electronic data.</b>  |
| <b>207.16 Payment for jury duty or witness testimony.</b>                        | <b>207.35 Confidentiality and privileged information.</b>  |
| <b>207.17 Sick leave.</b>  | <b>207.36 Employee liability protection.</b>   |
| <b>207.18 Vacations.</b>   | <b>207.37 Safety policy.</b>   |
| <b>207.19 Holidays.</b>  | <b>207.38 Lactation accommodation.</b>   |

#### **Cross References:**

Civil service application – see Ohio R. C. 124.01(A), 124.40  
Appointments – see Ohio R. C. 3709.14, 3709.15  
Duties, salaries and health insurance – see Ohio R. C. 3709.16  
Liability insurance – see Ohio R. C. 3709.161  
Travel expense outside City – see Ohio R. C. 3709.17

**207.01 DEFINITIONS.**

As used in this chapter, certain terms are defined as follows:

- (a) “Anniversary date” means January 1 of the year in which the employee was first employed by the Board of Health.  
(Res. 2-89; Passed 7-17-89.)
- (b) “Appointing authority” means the Board of Health as provided by Ohio R.C. 124.01 (D), and 3709.13, 3709.14 and 3709.15.
- (c) “Employee” means any person holding a position subject to appointment, removal, promotion or reduction by the Board.
  - (1) Part-time employee means an employee of the Board who not in the classified civil service and works less than an annual average of 30 hours per week.
  - (2) Full-time employee means an employee of the Board who is employed by the Board on a regular basis for forty (40) hours or more per work week.
  - (3) Part-time casual employee means a part-time employee and works anytime throughout the calendar year for a specific job duty or purpose.
  - (4) Part-time seasonal employee means a part-time employee who works for a specific season in a calendar year.  
(Resolution 2014-01; passed 02-24-14)
- (d) “Leave of absence” means an authorized absence from employment by the Board with intention to return during which time compensation and other benefits provided under this chapter are suspended.
- (e) Resignation
  - (1) “Resign voluntarily” means an employee of the Board, of his own choosing, ends his employment by the Board.
  - (2) “Resign involuntarily” means the Board, for reasons of impropriety, inefficiency or ineffectiveness on the part of the employee, permits an employee to end his service to the Board.
- (f) “Retire” means an employee of the Board, of his own choosing, withdraws from service to the Board for the purpose of receiving retirement benefits.
- (g) “Suspend” means the Board, for reason of impropriety, inefficiency or ineffectiveness on the part of the employee, causes an employee to interrupt his services to the Board for a specific time, after which time such employee resumes his employee status to the Board.
- (h) “Terminate” means the Board, without the employee’s consent or agreement, causes the services of the employee to the Board to end.
- (i) “Workday” means any twenty-four consecutive hour period commencing at 12:01 a.m. and ending at 12:00 midnight.
- (j) “Work week” consists of five working days during the course of a seven-day period, which period begins at 12:01 a.m. Monday.

- (k) “Working day” consists of an assigned work shift to be compensated by the Board for services rendered in behalf of the Board during a work day. For full time employees a work shift shall consist of a minimum of eight (8) scheduled hours. For part time employees a work shift shall consist of scheduled hours necessary for available work. (Resolution 2014-01; passed 02-24-14)
- (l) “Year” consists of fifty-two work weeks. (A.O.)
- (m) “Immediate family” for consideration of funeral and sick leave, shall be defined as spouse, parent, child, brother, sister, in-laws, step-child, grandparent or grandchild. Special consideration from the Health Commissioner may be given to any other person whose association with the employee is similar to any of the above relationships. (Res. 5-2001; Passed 9-24-01)

#### **207.02 PHYSICAL EXAMINATIONS.**

The Board of Health shall have the right to require a physical examination of any applicant for employment or new employee and, in addition, shall have the right to require periodic medical examinations of all Board employees.

#### **207.03 INCOMPATIBLE EMPLOYMENT.**

No employee shall engage in any occupation or outside activity which is incompatible with their employment by the Board. Any employee engaging in any occupation or outside activity for compensation shall inform the Health Commissioner of the time required and the nature of such activity in writing who shall make a determination if the outside activity is incompatible with their current employment. The employee has the right to appeal the Health Commissioner’s determination to the Board of Health.

(Amended Res. 2019-13. Passed 04-29-19.)

#### **207.04 GRATUITIES.**

No employee shall accept any gratuity, gift or other valuable thing for his personal use from any other person when such gift is given with the expectation or understanding that the employee will attempt to secure for such person at the hands of the Board better or more favorable treatment than that accorded other persons.

#### **207.05 EQUAL EMPLOYMENT OPPORTUNITY; NONDISCRIMINATORY SERVICES.**

- (a) The Board of Health hereby adopts a policy of equal employment opportunity and no person who is an applicant or an employee shall be discriminated against on the basis of race, sex, religion, national origin, color, age or disability. All Board personnel actions shall be conducted in accordance with this policy.
- (b) In the event that an applicant or employee is disabled and able to perform the essential functions of a job description, the Board shall attempt to reasonable accommodate the person pursuant to the Americans with Disabilities Act (ADA), unless the accommodation results in an undue hardship to the Board.
- (c) The Board hereby adopts policy 800-040-P\_EEO and Affirmative Action (Resolution 2017-10; passed 5-22-17)

#### **207.06 CIVIL SERVICE APPLICATION; PROBATIONARY PERIOD.**

- (a) All employees of the Board of Health and positions in the Health Department shall be subject to Civil Service laws and rules.

- (b) All original and promotional appointments including provisional appointments shall be for a probationary period of 90 days. If the service of a probationary employee is unsatisfactory, the Board may remove or reduce such employee for cause during the first half of the probationary period. The Board shall furnish the employee with a copy of the order of removal or reduction stating the reasons therefore and shall file a copy of such order with the Canton Civil Service Commission. The employee may appeal such order by filing a written appeal with the Canton Civil Service Commission within ten days of filing such order. A probationary employee may be removed or reduced by the Board at any time during the second half of the probationary period without cause and without any right of appeal by such employees. The Board shall furnish the employee with a copy of the order of removal or reduction stating the reasons therefore. (Resolution 2014-15; passed 11-17-14)
- (c) All employees hired after January 1, 2008 will be eligible for one-half of a standard unit increase in pay as determined by the Board of Health upon the successful completion of their probationary period. (Res. 11-2007; Passed 11-19-07.)

### **207.07 COMPLAINTS AND INVESTIGATION.**

- (a) Complaints. Complaints concerning the interpretation and application of the provisions of any portion of this chapter shall be directed by the employee to their immediate supervisor or Health Commissioner. Every effort shall be made to resolve any complaints in a manner that is fair to all parties. Any issue that is not capable of resolution to the mutual satisfaction of all parties may be directed in writing to the Board of Health for consideration.
- (b) Board of Health Investigation. Notwithstanding any provisions of this chapter, the following procedure shall be used when an employee directs a complaint to the Board of Health. The Board of Health may modify this procedure as needed on a case by case basis. The Board of Health may authorize other persons as necessary to perform or assist in any investigation as appropriate. Investigations shall be started promptly, and every effort shall be made to complete the investigation within sixty days from the date of the complaint. The investigator shall complete, at a minimum, the following tasks:
  - (1) Log all complaints in a complaint log as described in Section 207.07 (c), "Records".
  - (2) Make a written response acknowledging the receipt of the complaint to the complainant within five days from the receipt of the complaint.
  - (3) Make a written status report to the complainant thirty days and sixty days after the receipt of the complaint.
  - (4) Prepare a final report summarizing the results of the investigation for the complainant.
  - (5) The investigation shall be conducted in a thorough and professional manner. The confidentiality of all parties shall be respected by the investigator.
  - (6) Prepare, at the conclusion of the investigation, a written summary of the investigation and recommendations for any action. This report shall be provided to the Board of Health, Health Commissioner and any affected supervisor.
- (c) Records. A log of all complaints filed pursuant to this policy shall be kept with the department's administrative records. The complaint log, written record of the complaint, findings, and recommendations shall be kept separate from the personnel records. Records of complaints, logs, investigations and recommendations made pursuant to this policy shall be made a part of the permanent records of the department unless otherwise specified by state law.



- (d) Confidentiality. It is understood that any person electing to utilize this complaint procedure will be treated courteously and with respect. Every effort will be made to protect the dignity and privacy of all individuals involved.
- (e) No Retaliation for Filing a Complaint. The registering of a complaint will not be used or held against the employee, nor will it have an adverse impact of the complaining individual's employment, unless it is found that the employee knowingly made false accusations. No retaliation will occur as a result of filing a report. If an employee believes that retaliation has occurred, he or she should inform their supervisor, Health Commissioner, any Board member, or the City of Canton's equal opportunity compliance officer.
- (f) Residual Rights. Notwithstanding any provision of this chapter, any rights or benefits accrued by an employee, under previous Board of Health policy which is superseded by the provisions of this chapter, shall not be abrogated or annulled. (Res. 4/2007. Passed 6-25-07.)

#### **207.08 PAY PERIODS AND DEDUCTIONS.**

- (a) Employees shall be paid bi-weekly which basis includes a two-week hold-back period. (Res. 1-88. Passed 1-25-88.)
- (b) Payroll deductions shall be made for City, State and Federal Income Taxes the Public Employees Retirement System (P.E.R.S.), and any other required deductions as authorized by law. (Resolution 2/2012; passed 03-26-12)

#### **207.09 RAISES BASED ON MERIT AND TENURE.**

- (a) Subject to Civil Service Laws, the Board of Health shall grant all future wage and salary increases only on the basis of merit, fitness and tenure.
- (b) The wage, salary and benefits of the Health Commissioner shall be adjusted commensurate with his merit, tenure, duties and abilities and shall not be tied to any proportion or percentage of any other elected official's or employee's salary and benefits.
- (c) The employee will be evaluated annually by his/her supervisor after the probationary period. The employee may have input into the evaluation process and will have access to the evaluation. (Res. 5-2001. Passed 9-24-01.)

#### **207.10 HOURS WORKED; COMPENSATORY TIME; OVERTIME PAY.**

- (a) The Health Department shall be open for services a minimum of Monday through Friday, from 8:00 a.m. to 4:30 p.m., except on official holidays as listed in section 207.19 of this health code, and at other times as may be determined by the Board. Each employee shall work an assigned shift as assigned by their immediate supervisor or Health Commissioner.
  - (1) Rest breaks. Each employee shall have not more than 20 minutes of rest breaks if worked more than 7 hours in an assigned work shift, or not more than 10 minutes of rest breaks if worked less than 7 hours in an assigned work shift. Rest breaks shall be paid time. These rest breaks may be scheduled as determined by the employee's immediate supervisor or Health Commissioner.
  - (2) Meal breaks. Each full-time employee shall have a one-hour meal break, in which one-half hour is paid, and one-half hour is unpaid, for each regular assigned work shift. At no time shall a full-time employee take less than one-half hour meal break during any assigned shift.

- (3) Each non-full-time employee shall have no less than a one-half hour unpaid meal break for a scheduled workday of four (4) hours or greater.
  - (4) During meal breaks, employees shall be relieved of duty and shall not conduct any work duties. These meal breaks may be scheduled as determined by the employee's immediate supervisor or the Health Commissioner. Any change of meal break time period shall be pre-approved by the employee's immediate supervisor or Health Commissioner.
- (b) Each approved job description shall be classified as exempt or non-exempt from the provision of the Fair Labor Standards Act (FLSA).
  - (c) An employee is allowed to work more than their assigned shift with prior approval from their immediate supervisor or the Health Commissioner.
    - (1) A nonexempt full-time or part time employee shall receive overtime compensation for hours worked over 40 hours in a work week in the form of overtime pay or compensatory time as determined by the Health Commissioner. The form of overtime compensation shall be determined prior to earning overtime compensation or compensatory time. Overtime compensation shall be earned at a rate of one and one-half hours for each hour worked over 40 hours in a work week in 15-minute increments.
    - (2) An exempt full-time employee may receive overtime compensation for hours worked over 40 hours in a work week in the form of overtime pay or compensatory time as determined by the Health Commissioner. The form of overtime compensation shall be determined prior earning overtime compensation or compensatory time. Overtime compensation shall be earned at a rate of one hour for each hour worked over 40 hours worked in 15-minute increments.
    - (3) When any employee is scheduled to work on a federally designated holiday, as defined in section 207.19 of the Canton City Health Code, they shall receive overtime compensation or compensatory time at a rate of two hours for every hour worked over their normally assigned work shift.
    - (4) When any employee is scheduled to work on a different day after the completion of their normal work that employee shall be entitled to a minimum of one hour of compensation, regardless of the actual amount of time worked. For example, if an employee is required to come to work on a Saturday and the work takes less than one hour to complete, the employee shall receive one hour of compensation. If the work takes more than one hour to complete, the employee shall receive compensation for the actual number of hours worked.
  - (d) No employee may accrue more than forty-eight (48) hours of compensatory time unless they receive specific approval from the Health Commissioner. Upon termination of employment, employees with unused compensatory time shall be paid at a rate not less than their final regular rate of pay, whichever is higher.
  - (e) Employees may use accrued compensatory time with the approval of their immediate supervisor considering the scheduling needs of the Department at no less than 15-minute increments.
  - (f) All employees are subject to being called to work during emergency situations as determined by the Health Commissioner. When an emergency requires more work time than an assigned work shift by an employee, such overtime shall be compensated in accordance with subsection (c).

- (g) When an employee is required by the Health Commissioner to travel out of the Canton City Health District jurisdiction, such employee may be credited for the travel time necessary for the employee to travel from the employee's normal place of employment to the place of assignment and return to the normal place of employment. If such travel time results in the employee working more than their assigned work shift, then subsection (c) shall apply.

(Resolution 2019-05; passed 03-25-19)

#### **207.11 LEAVE OF ABSENCE; ATTENDANCE.**

- (a) **FAMILY MEDICAL LEAVE** Employees who have worked for the Board for at least 12 months and a minimum of 1250 hours during the 12 months prior to the start of the leave, are eligible for up to twelve (12) weeks in a single 12-month period of unpaid Family Medical Leave (FMLA). FMLA leave may be used for a serious health condition of an employee, his or her spouse, parent or child, to care for a newborn child or a child placed with the employee for adoption or foster care, as well as designated military FMLA. To qualify for FMLA, an employee's health care provider must complete the appropriate certification. Any accrued paid leave shall be used concurrently with FMLA. Forms for FMLA leave may be obtained from the Canton City Public Health Fiscal Officer. Questions about FMLA should be directed to the City of Canton Human Resource Department.
- (b) Medical Leave. In cases where an employee's FMLA and/or sick leave has been exhausted, or an employee is not eligible for FMLA, the Board of Health may grant an unpaid leave of absence for a period not to exceed six months for reasons which include a serious health condition of an employee, his or her spouse, parent or child, or to care for a newborn child, or a child placed with the employee for adoption or foster care. Substantiating medical documentation must be provided at least 30 days prior to the Medical Leave of Absence being granted when foreseeable, or as soon as practical under emergency circumstances. All accrued compensated leave, such as sick leave and vacation must be used by an employee before an unpaid leave of absence can commence. While on a designated Medical Leave of Absence, an employee shall not receive compensation, accrue sick leave, vacation, longevity, seniority, or years of service for any purpose. However an employee retains all vacation, longevity and seniority benefits, and the employee's anniversary date will not be altered. An employee on a Medical Leave of Absence may continue hospitalization, life insurance and other health and welfare benefits by making arrangements to pay the required employees' cost of monthly premiums.
- (c) Personal Leave. The Board of Health may grant a personal leave of absence for good cause for a period not to exceed six months. During a personal leave of absence, an employee shall not receive compensation, accrue sick leave, vacation, longevity, seniority, or years of service for any purpose. An employee on a personal leave of absence may continue hospitalization, life insurance and other health and welfare benefits by making arrangements to pay the required employees' cost of monthly premiums. An employee shall use all vacation days or other type of compensated leave (e.g. Compensatory Time) prior to utilizing the unpaid Personal Leave of Absence.
- (d) Attendance Required. Attendance during regular scheduled hours of work, reporting to work on time and continuing to work to the end of the work period shall be required of every employee. Failure to do so is neglect of duty and may result in disciplinary action

(Resolution 2019-06; passed 03-25-19)

**207.12 ABSENCE WITHOUT LEAVE; REINSTATEMENT.**

Absence from duty without leave for any time shall be considered neglect of duty and cause for dismissal. Absence from duty for any reason shall be reported by an employee to his immediate supervisor at least thirty minutes prior to the scheduled starting time of such employee. Absence from duty without leave for three consecutive days shall be deemed an involuntary resignation upon report of such absence by the Board to the Canton Civil Service Commission, subject to reinstatement by the Commission upon satisfactory explanation by the absentee within thirty days of such report. Failure to report after a leave has expired or has been lawfully disapproved, revoked or cancelled shall be considered neglect of duty and cause for dismissal subject to reinstatement by the Commission after satisfactory explanation that such failure to report was excusable.

**207.13 OCCUPATIONAL IMPROVEMENT LEAVE AND CONTINUING EDUCATION INCENTIVE.**

- (a) Employees may be granted leaves of absence up to one year for educational training. If the Board pays any portion of the education and/or training, the Board may contract with the individual wherein the employee agrees to return after such education and training to the employment of the Board and shall agree to remain in the service and employment of the Board for a period of at least two years. Such contract may contain an agreement between the Board and the employee concerning compensation and duties of the parties as they may agree.
- (b) The Board shall reimburse full-time employees who attend an accredited degree-granting college or university four hundred dollars (\$400) per quarter/semester not to exceed eight hundred dollars (\$800) per consecutive twelve-month period subject to the following criteria:
  - (1) Identification of the course for which reimbursement is requested.
  - (2) The course of study must be related to the employee's current Board job, duty or function.
  - (3) A minimum grade of "B" or its equivalent must be achieved, or a certificate of completion granted.
- (c) An employee must be employed by the Board on a full-time basis for at least 24 consecutive months prior to being eligible for this continuing education incentive.
- (d) In the event that the employee leaves Board employment (except for layoffs, disability or death) within twelve months of completing the aforementioned reimbursed course work, the amount must be repaid to the Board by the employee through payroll deductions(s) from the employee's final pay checks. (Res. 5-2001. Passed 9-24-01.)

**207.14 MILITARY SERVICE RESTORATION RIGHTS.**

All full-time employees inducted into the armed forces of the United States shall be entitled to such re-employment rights as are provided under the laws of the United States and Ohio. Such full-time employees shall be restored to their former position or a position of like seniority, status and pay.

**207.15 PAYMENT FOR TEMPORARY MILITARY SERVICE.**

The Board shall pay to any full-time employee who is authorized to participate in any temporary military service his regular full wage for a period of temporary military duty not to exceed thirty-one days in any one calendar year, provided that the Board shall deduct from his regular full wage any military compensation received from the military authority.

**207.16 PAYMENT FOR JURY DUTY OR WITNESS TESTIMONY.**

Any full-time employee while serving as a grand or petit juror, or who is subpoenaed to testify before a court of competent jurisdiction or before an administrative agency of the Federal, State or City government, shall receive his regular compensation, provided such employee surrenders to the City Auditor all compensation received while serving as a juror or acting as a subpoenaed witness.

**207.17 SICK LEAVE**

- (a) Each Health Department employee shall be entitled for each completed eighty hours of service to sick leave of four and six-tenths (4.6) hours with pay. Employees may use sick leave, upon the approval of the Health Commissioner, for absence due to personal illness, pregnancy, injury, exposure to contagious disease which could be communicated to other employees, and to illness, injury or death in the employee's immediate family. Unused sick leave shall be cumulative without limit.
- (b) The previously accumulated sick leave of an employee who has separated from other public service shall be placed to his credit upon his employment with the Health Department, provided that such employment takes place within ten years of the date on which the employee was last terminated from public service. However, transferred accumulated leave will not be used to determine terminal pay provided for in Section 207.24.
- (c) Each employee using sick leave shall furnish a satisfactory, written, signed statement to justify the use of sick leave. Four consecutive work days absence due to illness shall be substantiated with a licensed physician's certificate stating the nature of the illness. Falsification of either a written, signed statement or a physician's certificate shall be grounds for disciplinary action including dismissal. (Res. 2-89. Passed 7-17-89.)
- (d) If the accrued sick leave of a full-time employee expires, the Board shall pay for hospitalization and term life insurance for the duration of the authorized leave of absence. In the event an employee experiences a serious illness and/or hospitalization, all accrued compensated leave such as sick leave, compensatory time, and all but five of the remaining vacation days must be used by an employee before an unpaid leave of absence can commence upon prior approval by the Board of Health.
- (e) "Immediate family" as used herein means spouse, parent, child, brother, sister, in-laws, step-child, grandparent or grandchild as defined in Section 207.01(m). Res. 5-2001. Passed 9-24-01.)

**207.18 VACATIONS.**

- (a) All full-time employees are entitled to vacations according to the following schedule:

<u>Current Anniversary Date</u>	<u>Period of Vacation (Days)</u>
Following completion of 90-day probationary period	One day for each full month following the completion of the probationary period until the end of the calendar year not to exceed a total of 5 days.
1-5	10
6-10	15
11-15	20
16-20	25

## 21 and Over

## 30

- (b) Notwithstanding anything contained in the foregoing schedule, all Board of Health employees who are entitled to more than thirty days' vacation per year according to personnel policies effective as of the adoption of this section shall be entitled to continue to receive such current amount of vacations per year. (Resolution 2-1989; passed 7-17-89)
- (c) The immediate supervisor subject to approval of the Health Commissioner shall schedule vacations to conform to operating requirements and meet the employees' desires where practicable.
- (d) If the Health Commissioner instructs an employee not to report to work for any reason, such as inclement weather or lack of work, resulting in the loss of a scheduled work day, an employee may utilize that day as a vacation day, may use any accumulated compensatory time or may take the day without pay. (Resolution 2-1993; passed 6-28-93)
- (e) Vacation time should be used within the calendar year in which it was earned. However, up to 5 vacation days (40 hours) may be carried over into the next calendar year subject to approval by the Board of Health for extenuating circumstances. Vacation hours carried forward must be used by March 31. At no time may the vacation credit exceed the vacation time in subsection (a) plus 5 days. Vacation time in excess of this total will be forfeited. (Resolution 2016-21; passed 11-28-16)
- (f) There shall be no payments for vacations in lieu of time off.
- (g) Full-time employees with previous full-time or part-time Health Department service, except those receiving benefits from the Ohio Public Employees Retirement System, may, with the approval of the Board of Health, receive vacation credit for such previous work. Employees with other service in a political subdivision in the State of Ohio may receive vacation credit for previous work subject to Board approval. Full-time employees hiring into the Board of Health who have retired from service from other political subdivisions within the State of Ohio may not transfer any accumulated vacation credit and may not obtain credit for their years of service prior to retirement for purposes of computing vacation, longevity or seniority for any purpose. (Resolution 2016-21; passed 11-28-16)
- (h) Layoff, involving full-time employees for a continuous period exceeding three years, constitutes a break in service and loss of credit for all previous work. If any employee is injured while on duty, he may retain credit for previous work until termination of the period for which statutory compensation is payable.
- (i) In the case of the death of an employee entitled to vacation, the unused vacation leave shall be paid in accordance with the Ohio R. C. 2113.04 or to his estate. (Res. 2-89. Passed 7-17-89.)  
(Amended Res. 2018-06. Passed 07-23-18.)

**207.19 HOLIDAYS.**

- (a) The official paid holidays of the Health Department are as follows:
  - (1) New Year's Day (January 1<sup>st</sup>)
  - (2) Martin Luther King Junior's Birthday (3<sup>rd</sup> Monday in January)
  - (3) President's Day (3<sup>rd</sup> Monday in February)
  - (4) Good Friday
  - (5) Memorial Day (Last Monday in May)
  - (6) Independence Day (July 4<sup>th</sup>)
  - (7) Labor Day (1<sup>st</sup> Monday in September)

- (8) Veterans' Day (November 11)
- (9) Thanksgiving Day (4<sup>th</sup> Thursday in November)
- (10) Day after Thanksgiving (4<sup>th</sup> Friday in November)
- (11) Christmas Day (December 25)
- (12) Personal Holiday

- (b) Paid holidays shall commence at 12:01 a.m. and end at 12:00 midnight. If any paid holiday falls on Saturday, it shall be celebrated by employees on the immediate preceding Friday, and if it falls on a Sunday, it shall be celebrated on the immediate subsequent Monday. Any employee absence without authorized leave on the day preceding and/or the day following a holiday shall not receive compensation for the legal holiday.
- (c) The personal holiday may be taken with the approval of the immediate supervisor or the Health Commissioner after being employed at least sixty days. The personal holiday may not, under any circumstances, be carried over into a new calendar year.
- (d) A holiday which falls on a working day within a vacation time-off period shall not be considered as part of the vacation period and an additional working day of vacation with regular pay shall be granted for such holiday. Such additional work day shall be assigned by the immediate supervisor and meet the employee's desires where practicable. (Res. 1-86. Passed 3-24-86.)

#### **207.20 LONGEVITY PAY. (REPEALED)**

(NOTE: Former Section 207.20 was repealed by Resolution 13/2013, passed 12-16-13)

#### **207.21 HEALTH CARE AND LIFE INSURANCE COVERAGE; EYE AND DENTAL BENEFITS.**

- (a) The Board shall provide health insurance coverage, including a co-payment prescription plan for all full-time employees who have been in the employ of the Board for ninety days.
- (b) The Board shall provide for a minimum of twenty thousand dollars (\$20,000) term life insurance including accidental death and dismemberment for all full-time employees who have been in the employ of the Board for ninety days.
- (c) The Board shall provide eye and dental benefits for all full-time employees who have been in the employ of the Board for ninety days.
- (d) The foregoing benefits shall be subject to the terms and conditions of the City of Canton self-insurance program and/or insuring agreements between the City of Canton and insurance carriers, where applicable. (Res. 01-2002. Passed 11-25-02.)
- (e) The foregoing benefits shall be provided to each eligible employee with the employee's deduction for premium contributions not to exceed the amount established by the City of Canton health care plan administrator. (Res. 5/2009. Passed 12-14-09.)

(Re-adopted. Res. 2017-12. Passed 06-26-17.)

#### **207.22 UNIFORM ALLOWANCE AND SPECIAL PURPOSE CLOTHING PURCHASES.**

- (a) The Board shall provide special purpose equipment and clothing for the employees to conduct their normal job functions. For the purpose of this policy, individually fitted equipment or clothing such as shoes, shall not be provided by the Board more frequently than every two years. (Res. 1-2005. Passed 1-24-05.)

**207.23 TRAVEL AND MEETING EXPENSES; CITY VEHICLE USE.**

- (a) The Board of Health hereby adopts policy 800-012-P\_TRAVEL AUTHORIZATION along with the referenced forms in this policy. (Resolution 2016-08; passed 03-28-16)
- (b) All travel for official business outside the jurisdiction, as defined in policy 800-012-P\_Travel Authorization, of the Canton City Health District shall be approved by the Health Commissioner prior to the trip. Approval for routine travel related to programs and services provided by the Canton City Health Department outside the Canton City Health District may be approved on a per trip basis or on a program basis by the Health Commissioner. If any such travel requires expense reimbursement the travel shall be approved by the Board of Health prior to the travel except as provided in subsection (c). (Resolution 2016-08; passed 03-28-16)
- (c) Whenever an emergency necessitates travel for official business outside the City Health District jurisdiction and expense reimbursement cannot be authorized without calling a special meeting of the Board, such travel may be authorized by the Health Commissioner and reported to the Board at the next meeting, provided the total amount of such emergency travel shall not exceed one thousand dollars (\$1,000.00) in any one calendar year.
- (d) No City vehicle shall be driven except on official business and no person shall be transported in a City vehicle except for official business. Board employees shall report to the Health Commissioner all citations for moving violations involving City vehicles and are responsible for payment of all citations including parking violations.

(Amended Res. 2017-18. Passed 10-30-17.)

**207.24 TERMINAL PAY**

- (a) The Board of Health shall pay to each employee, upon retirement a sum of money which shall be based on their unused sick leave, according to the schedule set forth in subsection (b) hereof, at the rate of their most recent classification. (Resolution 2019-12; passed 07-24-19)
- (b) The schedule for terminal pay benefits shall be as follows:

<b><u>Percent (%) of Reimbursement</u></b>	<b><u>For Unused Sick Hours Between These Limits (Hrs.)</u></b>
50%	1 – 1200 Hours
75%	1201 – 1800 Hours
100%	1800 - 2400 Hours

All unused sick hours in excess of 2400 shall be forfeited.

- (c) Only sick leave accumulated while employed by the Canton City Board of Health shall be used for calculating the terminal pay under subsection (b) hereof. (Res. 2-89. Passed 7-17-89.)
- (d) Vacation Pay. At the time of separation from the Health Department, a full-time employee may choose to receive a one-time payment for any unused vacation to which they accrued in the year of separation. This pay-out will be calculated based upon the employee's wage at the time of separation. To qualify for this vacation pay out benefit, the employee must have completed twenty (20) years of continuous service with the Health Department as determined by the Health Commissioner and the Board of Health. The pay-out shall be capped at the maximum allowable accrual of vacation of 240 hours. Approval of the cash pay-out is within the sole discretion of the Board of Health and subject to the availability of sufficient funds. (Resolution 2014-08; passed 04-28-14)



**207.25 RESIGNATION AND REINSTATEMENT. (REPEALED)**

(NOTE: Former Section 207.25 was repealed by Resolution 2017-14, passed 10-30-17).

**207.26 MANDATORY RETIREMENT. (REPEALED)**

(NOTE: Former Section 207.26 was repealed by Resolution 2019-08, passed 02-25-19).

**207.27 TENURE OF OFFICE; REDUCTION, SUSPENSION, AND REMOVAL; APPEAL.**

- (a) The tenure of every employee in the classified service of the Board shall be during good behavior and efficient service and no such employee shall be reduced in pay or position, suspended or removed, except lawful layoffs, and for incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of Ohio R. C. Chapter 124 or the rules of the Canton Civil Service Commission, or any other failure of good behavior, or any other acts of misfeasance, malfeasance or nonfeasance in office.

In any case of reduction, suspension or more than three working days, or removal, the Board shall furnish such employee with a copy of the order of reduction, suspension or removal, which order shall state the reasons therefore. Such order shall be filed with the Canton Civil Service Commission.

Within ten days following the filing of such order, the employee may file an appeal, in writing, with the Civil Service Commission. In the event such an appeal is riled, the Commission shall forthwith notify the Board and shall hear, or appoint a trial board to hear, such appeal within thirty days from and after its filing with the Commission, and it may affirm, disaffirm or modify the judgment of the Board.

In cases of removal or reduction in pay for disciplinary reasons, either the Board or the employee may appeal from the decision of the Civil Service Commission to the Court of Common Pleas in accordance with the procedure provided by Ohio R. C. 119.12.

- (b) Any disciplinary action against an employee, other than provided in subsection (a) hereof, shall be handled administratively by the Board filing written charges against an employee, hearing the matter and rendering a decision, without right of appeal by such employee. The Board shall document and sign such disciplinary action.

**207.28 PROFESSIONAL LICENSE FEES.**

The Board shall pay the annual registration fee or license fee required by the appropriate State of Ohio agency for each salaried employee when such license or registration is required by the employee's job description or by State law. (Res. 1/2007. Passed 1-22-07.)

**207.29 SMOKING POLICY.**

- (a) Smoke Free Environment. For the health, comfort and safety of those persons doing business with the Canton City Board of Health and the employees of the Board, the facilities of the Canton City Health Department are hereby declared to be a "smoke-free environment."
- (b) Smoking Not Permitted. Smoking is not permitted in any facility owned, operated or under the control of the Board. Areas in which tobacco is not permitted include, but are not limited to: work areas, private offices, waiting rooms, meeting rooms, restrooms, public areas, lobbies, stairways and Board owned or operated vehicles.
- (c) Signs. Signs shall be posted at each entrance to a Board facility indicating that you are entering a smoke free environment and that smoking is not permitted in this facility. Signs shall be posted in

public areas such as waiting areas, meeting rooms and lobbies stating that the area is a smoke free environment and that smoking is not permitted in the area. Signs may be placed in an individual work area indicating that smoking is not permitted. Signs shall be placed in Board-owned or operated vehicles indicating that smoking is not permitted in the vehicle.

- (d) Ashtrays. Ashtrays shall be removed from all Board facilities except that an ashtray may be placed at the entrance to each facility.
- (e) Assistance for Smokers. Employees are encouraged to contact the Lung Association for information about smoking cessation programs. Should the employee take a cessation program and quit smoking the employee shall be reimbursed for one-half the cost of the program if he or she remains a nonsmoker for at least six months. Should the employee remain a nonsmoker for at least one year then the remaining cost of the program shall be reimbursed to the employee. The total reimbursement shall not exceed fifty dollars (\$50).
- (f) Enforcement. All new employees shall be given a written copy of this policy at the time of employment. Patrons of Board facilities found smoking in a no smoking area shall be informed of this policy and asked to extinguish their smoking materials. If the patron refuses to extinguish their smoking materials, he or she shall be asked to leave the no smoking area without receiving services. Supervisors shall enforce this policy with their employees in the same manner as other Board policies.
- (g) Conflict Procedure. Conflicts with this policy shall be resolved by the established grievance procedure. (Res. 1-87. Passed 5-18-87.)

### **207.30 FUNERAL LEAVE.**

- (a) A full-time Board of Health employee may use up to three consecutive scheduled work days, with pay, for the purpose of attending the funeral of an immediate family member as defined in Section 207.02(m). Employees may use other available compensatory time, sick leave or take time off without pay with the approval of the Health Commissioner.
- (b) The employee shall furnish proof of death and relationship of the deceased upon application for the foregoing leave authorization. (Res. 5-2001. Passed 9-24-01.)

### **207.31 TARDINESS POLICY.**

- (a) Preamble. Each Board of Health employee shall be required to report to work on time and continue to work to the end of the work period. The employee's attendance is required to be monitored by the immediate supervisor and any variation of the work period requires the supervisor's prior approval. Failure to abide by this long-standing policy has always been considered neglect of duty and could result in disciplinary action. Because there has been concern that this policy is not uniformly enforced by each supervisor, the following policy has been drafted after input from each supervisor.
- (b) Policy. All supervisors shall familiarize themselves with Health Code Sections 207.10 and 207.11 and provide the Health Commissioner with a list containing each employee and their assigned starting and stopping times. This list shall be updated each time a permanent change is made in any of the assigned times. The supervisor shall develop a system that will allow the monitoring of these assigned times. Each occurrence of tardiness is to be recorded in writing by the supervisor with a copy given to the tardy employee. The tardiness record should clearly define the nature of and reason for the occurrence. The record shall be retained by the supervisor until the annual evaluations and shall be used in evaluating the employee's tardiness criteria. However, if the employee believes the tardiness incident is excusable, he may immediately request that the Health

Commissioner review the incident and determine whether or not the incident is to be used for annual evaluation purposes. All tardiness records not excused by the Health Commissioner shall be retained by the supervisor until the annual evaluations and are to be used in evaluating the employee's tardiness criteria. The records shall then be discarded unless the employee disagrees with the evaluation rating and appeals to the Health Commissioner. The records shall be delivered to the Health Commissioner when such appeal is filed by the employee. The Health Commissioner shall promptly notify the employee and the supervisor of his decision.

- (c) Comment. The Health Department has never had a major problem with tardiness of its employees because they are a staff of dedicated, professional people. Therefore, this policy is not intended to be an instrument to be used in a vindictive or harassing manner. It is suggested that each employee arrive at least five minutes early at the worksite in order to get organized and able to report to his workstation, ready to begin work at the assigned starting time. In order to prevent rare and unusual occurrences from affecting an employee's evaluation in a manner that would result in a poor evaluation, the Health Commissioner may excuse any tardiness for due cause if it is brought to his attention immediately after the occurrence. Because tardiness incidents may be excused for due cause, it is recommended that the criteria for annual evaluations be changed to the following schedule:

Excellent	0
Very Good	1 – 4
Good	5 – 8
Improvement Needed	9 – 12
Unsatisfactory	13+

(Adopted effective 2-1-91.)

### **207.32 DRUG-FREE WORKPLACE ACT POLICY STATEMENT.**

- (a) Purpose. This statement is provided pursuant to the Drug-Free Workplace Act of 1988.
- (b) Statement of Intent. The Board of Health of the Canton City Health District seeks to have a drug-free workplace. In accord with the Drug-Free Workplace Act of 1988 and to promote drug free awareness among employees, the Board through posting of notices and discussions with employees regarding this policy has informed and will inform employees that:
- (1) Drug abuse in the workplace creates a dangerous environment in the workplace for the employee engaged in the drug abuse and endangers the health, safety and welfare of all employees, the public and other persons in the workplace.
  - (2) It is the policy of the Board to maintain a drug-free workplace. The illegal manufacture, distribution, possession or use of drugs, or acting under the influence of drugs, in this workplace is strictly prohibited.
  - (3) Information will be available on a confidential basis on public and private drug counseling, rehabilitation, and employee assistance programs, upon the request of any employee.
  - (4) Progressive discipline may be imposed upon employees for drug abuse violations, up to and including termination of employment.
- (c) Policy and Procedures. The unlawful manufacture, distribution, dispensation possession, or use of a controlled substance is prohibited on any premises occupied or controlled by the Board. Appropriate disciplinary actions, which may include termination, will be taken against Board employees for violation of this prohibition.

“Controlled substance” for purposes of this statement means a controlled substance as defined by Chapter 3719 of the Ohio Revised Code, and/or listed in schedules I through V of Section 202 of the Controlled Substances Act (21 USC 812), and as further defined by federal regulations (21 USC 812), and as further defined by federal regulations (21 CFR 1300.11-.15). This list includes, but is not limited to, marijuana, heroin, PCP, cocaine and amphetamines.

A condition of employment for work under any grant received or maintained by the Board from the Federal Government, is that each employee directly engaged in the performance of work funded by such a grant will:

- (1) Abide by the terms of this Statement.
- (2) A. Notify the Board of his/her criminal drug statute or ordinance conviction for any violation occurring in the workplace no later than five days after such conviction.
  1. “Conviction” means a finding of guilt (including a plea of no contest) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal, state or local criminal drug statutes or ordinances.
  2. “Criminal drug statute” means a federal or nonfederal criminal statute or ordinance involving manufacture, distribution, dispensation, use or possession of any controlled substance.
- B. If the criminal drug statute violation occurred during the employee’s working hours with the Board, a sanction will be imposed on the employee so convicted. Within 30 days after receiving notice of the conviction:
  1. The Board will take appropriate disciplinary action against such employee, up to and including termination; or
  2. The Board will require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purpose by a federal, state or local health, law enforcement or other appropriate agency, subject to the Board’s health insurance limits.
- (3) The Board will notify the grantor of the federal fund of the conviction. This notice supplements, and does not replace, existing rules and regulations of the Board. (Res. 6-95. Passed 4-17-95.)

### **207.33 HARASSMENT POLICY.**

- (a) Purpose. The purpose of this policy is to maintain a work environment free from illegal harassment and to provide procedures for reporting and resolving complaints of harassment.
- (b) Statement of Intent. It is the policy of the Board of Health of the Canton City Health District (Board) that all employees should be able to work in an environment free from illegal harassment. This policy refers not only to supervisor-subordinate actions but also to actions between co-workers. There will be no intimidation, discrimination, or retaliation against any employee who makes a report of harassment.
- (c) Harassment. Harassment is a violation of Title VII of the 1964 Civil Rights Act, the Americans with Disabilities Act, and as such:

- (1) No employee shall either explicitly or implicitly ridicule, mock, deride, or belittle any person as proscribed below.
  - (2) Employees shall not make offensive or derogatory comments based on race, color, sex, religion, national origin or disability either directly or indirectly to another person. Such harassment could constitute a prohibited form of discrimination under state and federal law and could be considered misconduct subject to disciplinary action by this department.
  - (3) Conduct based on one of the protected classes as stated in Section 207.33(c)(2) of the Canton City Health Code which has the purpose or effect of unreasonable interfering with an employee's work performance or creating an intimidating, hostile, or offensive working environment and will be considered harassment and subject to disciplinary action.
- (d) Sexual Harassment. Sexual harassment is the attempt to control, influence, or affect the career, salary or job of an individual by sexual coercion. Sexual harassment may also be conduct which creates a hostile or offensive work environment or unreasonably interferes with a person's ability to perform his or her job. Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
- (1) Submission to such conduct is made either explicitly or implicitly a term of an individual's employment; or
  - (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
  - (3) Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive environment.
  - (4) The following specific conduct, which is prohibited, includes, but is not limited to:
    - A. Threats or insinuations, implicit or explicit, that any employee's refusal to submit to sexual advances will adversely affect the employee's retention, evaluation, wages, promotion, duties or any other condition of employment;
    - B. Unwelcome sexual flirtations, advances, contact or propositions;
    - C. Verbal or written abuse of a sexual nature;
    - D. Graphic verbal comments about an individual's body;
    - E. Sexual comments of a provocative or suggestive nature;
    - F. Sexually degrading words used to describe an individual;
    - G. Sexually oriented jokes or innuendos intended for and/or directed to another employee;
    - H. The display in the workplace of sexually inappropriate photos or jokes.
- (e) Responsibilities.
- (1) Each supervisor shall be responsible for preventing acts of harassment. This responsibility includes:
    - A. Monitoring the work environment on a daily basis for signs that harassment may be occurring
      1. Counseling all employees on the types of behavior prohibited, and the agency procedures for reporting and resolving complaints of harassment;

2. Stopping any observed acts that may be considered harassment and taking appropriate steps to intervene.
  - B. Taking immediate action to limit the work contact between two employees where there has been a complaint of harassment, pending investigation.
  - C. Each supervisor has the responsibility to assist any employee of the Board who comes to that supervisor with a complaint of harassment in documenting and filing a complaint.
- (2) Each employee of the Board is responsible for assisting in the prevention of harassment through the following acts:
- A. Refraining from participation in, or encouragement of, actions that could be perceived as harassment.
  - B. Reporting acts of harassment to a supervisor.
  - C. Encouraging any employee who confides that he or she is being harassed to report these acts to a supervisor.
- (f) Reporting. Any employee who believes he or she has been the subject of harassment should respond to the alleged act immediately in a fair, serious and progressive manner. Steps to take and how to report include:
- (1) Be sure that the person who is harassing you knows that you do not welcome that person's advances, comments or actions. Put them on notice and tell them to stop. If the harassment is of a serious or physical nature, the employee should report this immediately.
  - (2) Inform your supervisor or any one of the following authorities you are comfortable with, including your division supervisor, Director of Administration, Health Commissioner, any Board member, or the City of Canton's Equal Employment Opportunity Compliance Officer of the harassment.
  - (3) All complaints shall be in writing on a form specified by the department.
- (g) Investigation. An investigation shall be conducted pursuant to Section 207.07 of the Canton City Health Code.
- (h) Discipline for Violation. Any employee who is found, after appropriate investigation and due process, to have engaged in harassment, will be subject to discipline, up to and including discharge, pursuant to the terms of this policy, local, state or federal law. (Res. 5/2007. Passed 6-25-07.)
- (Amended Res. 2017-20. Passed 10-30-17.)

#### **207.34 USE OF COMPUTER SERVICES AND ELECTRONIC DATA.**

Computer services provided by the Canton City Health Department, including the Internet, electronic mail, or online services, are the property of the Department. There is no expectation of privacy in the use of any of these services. The Department reserves the right to monitor and log all network activity without notice to the employee.

The Internet, electronic mail, and online services are intended to be used for business purposes only. Use that interferes with normal business activities, involves solicitation, is associated with any for-profit business activities, political partisan activity, political fund-raising, or could potentially embarrass the Department, is strictly forbidden.

The Health Commissioner is authorized to make policies from time to time to clarify the use of computer services and electronic data provided by the Department. The Health Commissioner may

require the user of any computer service provided by the Department to sign a form acknowledging the acceptance and understanding of the policies and procedures that guide the use of the department's resources. (Res. 2-98. Passed 2-23-98.)

### **207.35 CONFIDENTIALITY AND PRIVILEGED INFORMATION.**

Employees of the Board of Health and persons contracted to provide services on behalf of the Health Department shall conduct themselves in a professional manner at all times guarding the confidentiality of clients and persons in the community with whom the employee or contractor has official contact and shall sign the Canton City Board of Health Statement of Confidentiality and Release of Liability. The original shall be kept in the employee's personnel file or contractor file and a copy given to the employee or contractor. Employees who hold professional license or certification shall be held to the professional standards of the licensing or certifying entity. All employees shall conduct themselves in such a way as to prevent the unintentional disclosure of confidential or privileged information including the discussions of cases in an environment where the discussion can be overheard. Employees shall release information only in accordance with Sections 203.15, 205.06 or 205.09 of the Health Code. (Res. 4-98. Passed 12-21-98.)

### **207.36 EMPLOYEE LIABILITY PROTECTION.**

- (a) Any employee who is named as a party to any lawsuit or any other type of litigation as a result of appropriate discharge of duties as an employee of the Board of Health, shall be indemnified by the Board of Health to the extent allowed by law.  
(Amended Res. 2017-20. Passed 10-30-17.)

### **207.37 SAFETY POLICY.**

The following responsibilities and guidelines establish the Board of Health's Safety policy:

- (a) The Health Commissioner shall work with division directors and supervisors to develop policies, provide educational resources, schedule safety meetings and address safety concerns.
- (b) Division directors and supervisors shall make the safety of employees an integral part of their regular management function. Supervisors are responsible for reporting any and all work conditions that may be unsafe and act accordingly. If medical attention is required, it is the supervisor's responsibility to ensure that the employee is transported to a medical facility. They are responsible for thoroughly investigating incidents and documenting their findings. They shall supply employees with the necessary personal protective equipment.
- (c) Employees shall be properly and thoroughly trained in safe work practices. If at any time an employee is in doubt about how to do a job/task safely, it is his/her duty to ask a qualified person for assistance. Employees shall assist their co-workers as needed. Each employee shall accept and follow established safety regulations and procedures. Any violation of, or disregard of, safety rules or safety practices; carelessness, endangering the life or safety of another person shall subject the employee to disciplinary action according to Board of Health policies. Employees are expected to assist management in injury prevention activities. Unsafe conditions must be reported immediately. It is the employees' responsibility to use personal protective equipment. (Res. 02-2004. Passed 9-27-04.)

### **207.38 LACTATION ACCOMMODATION.**

The Canton City Health Department will provide a location and a reasonable amount of time to accommodate employees who are nursing mothers to express breast milk for up to one year after the child's birth pursuant to state and federal laws. (Res. 2/2007. Passed 1-24-11.)





## **CHAPTER 209**

### **Enforcement, Inspection and Penalty**

<b>209.01 Enforcement by Health Commissioner.</b>	<b>209.05 Administrative appeal hearing; appeal to Board.</b>
<b>209.02 Inspection; right of entry; evidence.</b>	<b>209.06 Emergencies.</b>
<b>209.03 Notice of violation.</b>	<b>209.07 Suspension of a Retail Food Establishment License or Food Service Operation License</b>
<b>209.04 Retention of potential health hazards and condemnation.</b>	<b>209.99 General penalty</b>

#### **CROSS REFERENCES**

Orders and regulations – see Ohio R.C. 3707.48, 3709.20

Emergencies – see Ohio R.C. 3709.20, 3709.99

Penalties – see Ohio R.C. 3707.99(C), 3709.99

Prosecution and legal action – see Ohio R.C. 3707.02, 3709.99; HLTH. 203.10

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#### **209.01 ENFORCEMENT BY HEALTH COMMISSIONER.**

The Health Commissioner shall have the power and duty to enforce the provisions of this Health Code.

#### **209.02 INSPECTION; RIGHT OF ENTRY; EVIDENCE.**

- (a) The Health Commissioner in enforcing the provisions of this Health Code is hereby authorized and directed to make inspections pursuant to procedures of inspection by the Health Department; or in response to a complaint that an alleged violation of the provisions of this Health Code or of applicable rules or orders pursuant thereto may exist or when the Health Commissioner has valid reason to believe a violation of this Health Code or any rules and orders pursuant thereto has been or is being committed.
- (b) The Health Commissioner is hereby authorized to enter upon and inspect all business buildings, multiple dwellings, dwellings, dwelling units or premises at any reasonable time subject to the provisions of this Health Code for the purpose of determining whether there is compliance with its provisions. Upon presentation of proper credentials, the Health Commissioner may, where permission is granted, enter at reasonable times any business building, multiple dwelling, structure, or premises in the City to perform any duty imposed on him by this Health Code. If any owner, occupant or other person in charge of a building or premises subject to the provisions of this Health Code, fails or refuses to permit free access and entry to the business building, multiple dwelling, dwelling, structure or premises under his control or any part thereof, the Health Commissioner may apply to a judge of a court of record, pursuant to Ohio R.C. 2933.21(F) for a warrant of search to conduct an inspection. A warrant of search to conduct an inspection shall not be issued except upon probable cause as provided in Ohio R.C. 2933.22.
- (c) The Health Commissioner shall keep confidential all evidence, exclusive of the inspection record, which is discovered or obtained in the course of an inspection made pursuant to this section and such evidence shall be considered privileged unless determined otherwise

pursuant to law. The Health Commissioner may obtain samples of evidence during inspections for the purpose of presenting this evidence in court.

### **209.03 NOTICE OF VIOLATION.**

- (a) Whenever the Health Commissioner determines that any business building, multiple dwelling, dwelling, dwelling unit or any premises, fails to meet the requirements set forth in Ohio statutes, the Ohio Administrative Code, Canton ordinances, or this Health Code, the Health Commissioner may issued a notice setting forth the alleged failures and advising the owner, occupant, operator or agency that such failures must be corrected. This notice shall:
  - (1) Be in writing and shall be served on the person from whom action, forbearance or compliance is required, except such order may be oral if the Health Commissioner finds an emergency endangering the public health requiring immediate corrective action.
  - (2) Set forth the alleged violation of law or of applicable orders issued pursuant thereto.
  - (3) Describe the business building, multiple dwelling, dwelling, dwelling unit or premises where the violations are alleged to exist or to have been committed. Such written notice shall specify an appropriate or acceptable method of correction.
  - (4) Be served by personal service, residence service or by certified mail. If service by the above cannot be made, such notice may be served by posting notice in a conspicuous place in or about the premises.
  - (5) Specify a specific date of correction of any violation alleged.
- (b) At the end of the period of time allowed for the correction of any violation alleged, the Health Commissioner shall reinspect the conditions and violations described in the notice.

### **209.04 RETENTION OF POTENTIAL HEALTH HAZARDS AND CONDEMNATION.**

- (a) Where any structure, installation, utensil, equipment, food, drink, feed, chemical or biological preparation, device or article of any kind, in the opinion of the Health Commissioner may be a health hazard, the Health Commissioner shall affix a tag or label bearing the words, "Canton Board of Health - Notice of Embargo", and no person shall use, sell or dispose of, in any manner, that structure, installation, utensil, equipment, food, drink, feed, chemical or biological preparation, device or article until, after further examination is made thereof and the tag or label is removed by the Health Commissioner. The Health Commissioner may seize and hold the thing so tagged or labeled in any place so designated by him. No person except the Health Commissioner shall remove the tag or label. When the tag or label is affixed to any structure, installation, utensil, equipment, food, drink, feed, chemical or biological preparation, device or article, the Health Commissioner shall give, if possible, the owner, occupant, operator or agency thereof an order stating that the thing so tagged or labeled shall not be used in any manner and shall not be moved until the tag or label is removed by the Health Commissioner.
- (b) The Health Commissioner shall forbid the use of, condemn and dispose of as he deems necessary, any structure, installation, utensil, equipment, food, drink, feed, chemical or biological preparation, device or article of any kind, which, in his opinion, is a health hazard.

- (c) Any person to whom such an order is directed or from whom any action, forbearance or compliance is in any way required shall comply with such order within such period of time as the Health Commissioner may prescribe therein.

#### **209.05 ADMINISTRATIVE APPEAL HEARING; APPEAL TO BOARD.**

- (a) Any person who is aggrieved by an order directing or requiring any action, forbearance or compliance may, prior to taking an appeal to the Board of Health, request and receive a prompt hearing before the Health Commissioner or any representative specifically designated by him, provided that such request for administrative hearing is made in writing within five days from receipt of such order. If the Health Commissioner holds an administrative hearing for reconsideration of the notice or order, the Health Commissioner shall prepare a summary of the hearing and shall state the decision reached. Such summary and statement shall become part of the public record.
- (b) Any person who is aggrieved by an order directing or requiring any action, forbearance or compliance from him may appeal to the Board of Health in accordance with the procedures prescribed by the Board. This appeal shall be filed with the Board within fifteen days of the receipt of such order as provided in Section 203.12.

#### **209.06 EMERGENCIES.**

- (a) Whenever, in the judgment of the Health Commissioner, an emergency exists which requires immediate action to protect the public health, safety or welfare, an order may be issued, without a hearing or appeal, directing or requiring the owner, occupant, operator or agent to take such action as is appropriate to correct or abate the emergency condition. If circumstances warrant, the Health Commissioner may act to correct or abate the emergency condition.
- (b) If necessary to protect the public health and safety or the health and safety of any person, the Health Commissioner shall order that the premises be vacated forthwith and not be reoccupied until compliance with the order is achieved.
- (c) In cases where it reasonably appears that there is imminent danger to the public health and safety of any person unless the emergency condition is immediately corrected by the owner, the Health Commissioner may cause the immediate repair of such emergency condition. The Health Commissioner shall further cause the costs of such emergency repair to be charged against the land on which the emergency exists as a municipal lien or to be recovered in a civil suit against the owner.
- (d) No owner or person having control of any structure or premises regulated by this Health Code shall institute any action to recover possession of the premises or otherwise willfully cause a tenant to quit habitation involuntarily, demand an increase in rent from a tenant, decrease services to which a tenant has been entitled, or increase the obligations of a tenant, in retaliation against a tenant's good faith complaint or report of conditions in, or affecting his dwelling unit which might reasonably be believed to constitute a violation of a housing, building, health or other lawful provision made to a governmental authority or to the owner.

However, this section shall not apply:

- (1) Where it is established that the tenant has complained to a governmental authority or to the owner subsequent to the receipt of a written notice to leave the premises; or
- (2) Where the rent is increased to reflect the cost of improvements installed in or about the premises other than by occupant or other costs of operation of the premises.
- (e) The owner, occupant, operator or agent shall be granted a hearing before the Board of Health on the matter upon his request, as soon as practicable, but such appeal shall in no case stay the abatement or correction of such emergency.

#### **209.07 SUSPENSION OF A RETAIL FOOD ESTABLISHMENT LICENSE OR FOOD SERVICE OPERATION LICENSE .**

Pursuant to section 3717.29 (D)(1) [Retail Food Establishment] or section 3717.49 (C)(1) [Food Service Operation] of the Ohio Revised Code, the Health Commissioner is authorized to suspend a license to operate a retail food establishment or food service operation if the health commissioner has determined that there is an immediate danger to public health. The health commissioner shall notify the Board of Health of any suspension taken under this section at the next regular meeting of the Board. Upon determining that there is no longer an immediate danger to the public health, the health commissioner may lift the suspension without consulting the Board of Health. This authority may not be delegated by the health commissioner to any other person.

(Resolution 2019-18; passed 11-25-19)

#### **209.99 GENERAL PENALTY.**

Except as otherwise specifically provided for by law, whoever violates any provision of this Health Code or any order issued pursuant thereto shall be subject to a penalty as provided in Ohio R.C. 3709.99. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

## **CHAPTER 211**

### **Disposition of the Dead**

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|---|---|
| <b>211.01 Certificate of death; responsibility of undertaker.</b> | <b>211.05 Reporting unburied bodies.</b>                          |
| <b>211.02 Burial permits; responsibility of sexton.</b>           | <b>211.06 Exposure of dead body.</b>                              |
| <b>211.03 Unembalmed bodies.</b>                                  | <b>211.07 Burial of persons dying from communicable diseases.</b> |
| <b>211.04 Burial without a permit.</b>                            | <b>211.08 Opening of graves.</b>                                  |

#### **CROSS REFERENCES**

Burials may be prohibited – see Ohio R.C. 759.05  
Offenses against human corpse – see Ohio R.C. 2927.01  
Burial permits – see Ohio R.C. 3705.24 et seq.; OAC Ch. 3701-5  
Burial of indigent persons – see Ohio R.C. 5101.521

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#### **211.01 CERTIFICATE OF DEATH; RESPONSIBILITY OF UNDERTAKER.**

Every undertaker or other person having charge of the burial, cremation or deposit of a dead body in a tomb or vault, or the removal of a dead body, shall, within twenty-four hours after taking charge of such body, file with the Health Department a certificate of death, as required by law, completely filled out.

#### **211.02 BURIAL PERMITS; RESPONSIBILITY OF SEXTON.**

Upon the filing of such certificate with the Health Department, the Health Commissioner shall issue a burial permit which shall be presented to the sexton, superintendent or other person having charge of any cemetery, crematory or other place for the disposition of the dead. No sexton, superintendent or other person having charge of any cemetery, crematory or other place for the disposition of the dead shall bury, cremate or otherwise dispose of any such body unless he has received from the person presenting such body for burial, cremation or other disposal, a burial permit as provided by this section.

#### **211.03 UNEMBALMED BODIES.**

No undertaker or other person, without a permit from the Health Commissioner, shall permit any unembalmed body to remain unburied or uncremated for more than forty-eight hours, unless such body is in a public morgue.

#### **211.04 BURIAL WITHOUT A PERMIT.**

No undertaker or other person shall permit any body to be buried, cremated or deposited in a tomb or vault other than a cemetery, burying ground or crematory duly registered according to law, without a permit from the Health Commissioner.

**211.05 REPORTING UNBURIED BODIES.**

No person, having knowledge of any unburied body the existence of which has not been reported to the Health Department, shall fail to report the existence of such unburied body to such Department.

**211.06 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.

**211.07 BURIAL OF PERSONS DYING FROM COMMUNICABLE DISEASES.**

- (a) Every undertaker receiving notice of being called upon to prepare for burial the body of any person who has died from smallpox, scarlet fever, diphtheria, membranous croup, influenza, influenzal pneumonia, infantile paralysis or cerebro-spinal meningitis shall, before the time for burial and not later than twelve hours after receiving such notice or call, notify the Health Department of the time of burial of such body.
- (b) Every undertaker, immediately upon taking charge of the body of any person who has died of acute poliomyelitis (infantile paralysis), cerebro-spinal meningitis, cholera, diphtheria, membranous croup, epidemic dysentery, influenza, influenzal pneumonia, plague, scarlet fever or smallpox shall cause the body to be placed in a tight casket and shall cause such casket to be tightly closed, and no person shall thereafter open such casket.

**211.08 OPENING OF GRAVES.**

No grave shall be opened or permitted to be opened for any purpose without a permit from the Health Commissioner.

### **TITLE THREE – Environmental Health**

- Chap. 221. Health Hazards.
  - Chap. 223. Private Water Systems.
  - Chap. 225. Household Sewage Disposal Systems.
  - Chap. 227. Swimming Pools.
  - Chap. 229. Barber Shops, Massage Parlors and Beauty Salons. (Rescinded)
  - Chap. 230. Tattoo and Body Piercing Establishments.
  - Chap. 231. Nursing Homes and Rest Homes. (Rescinded)
  - Chap. 233. Child Day-Care Centers. (Rescinded)
  - Chap. 235. Schools.
  - Chap. 237. Rooming Houses and Residential Social Service Facilities. (Rescinded)
  - Chap. 239. Recreational Vehicle Parks; Recreation Camps. (Rescinded)
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#### **CHAPTER 221 Health Hazards**

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| <b>221.01 Responsibility of owners and occupants.</b>                   | <b>221.07 Toilet facilities for entertainment patrons.</b> |
| <b>221.02 Safe and sanitary maintenance of structures and premises.</b> | <b>221.08 Sanitation in toilet rooms.</b>                  |
| <b>221.03 Mosquito and other insect control.</b>                        | <b>221.09 Tattooing prohibited.</b>                        |
| <b>221.04 Standards relative to waste materials.</b>                    | <b>221.10 Lead paint.</b>                                  |
| <b>221.05 Standards relative to animals and fowl.</b>                   | <b>221.11 Rabies control standards.</b>                    |
| <b>221.06 Transfer of secondhand articles of bedding.</b>               |  |

#### **CROSS REFERENCES**

- Injunction – see Ohio R.C. 3707.021  
Nuisance abatement - see Ohio R.C. 3707.01, 3707.03, 3707.48
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#### **221.01 RESPONSIBILITIES OF OWNERS AND OCCUPANTS.**

- (a) No owner or other persons shall occupy or let to another person a business building, multiple dwelling, dwelling, or dwelling unit unless it and the premises are clean, sanitary, fit for human occupancy and comply with all applicable legal requirements of the State of Ohio and the City of Canton.
- (b) Every owner of a business building or a dwelling containing two or more dwelling units shall maintain in a clean and sanitary condition the shared or public area of the business building, dwelling and premise thereof.

- (c) Every occupant of a business building, multiple dwelling, dwelling or dwelling unit shall maintain in a clean and sanitary condition that part or those parts of the business building, multiple dwelling, dwelling, dwelling unit and premises thereof that he occupies and controls.
- (d) Every occupant of a business building, multiple dwelling, dwelling or dwelling unit shall store and dispose of all his rubbish in a clean, sanitary and safe manner.
- (e) Every occupant of a business building, multiple dwelling, dwelling or dwelling unit shall store and dispose of all his garbage, refuse, and any other organic waste which might provide food for vermin and/or rodents in a clean, sanitary, safe manner. All garbage cans and refuse containers shall be rodent-proof, insect-proof, water-tight, structurally strong to withstand handling stress, easily filled, emptied and cleaned; shall be provided with tight-fitting covers or similar closures; and shall be maintained at all times in a clean sanitary condition. Plastic bags may be used as garbage and refuse container liners but shall not be used without the container for on-site storage of garbage or refuse.
- (f) Bulk containers, garbage and refuse cans which are used for storage of garbage, refuse, and/or other putrescible wastes shall be placed in a suitable manner approved by the Health Commissioner as to not create a health hazard. The bulk containers shall comply with regulations adopted by the Federal Consumer Product Safety Commission relative to construction, installation and design.
- (g) It shall be the responsibility of the owner of any garbage, refuse, or bulk containers to clean and maintain the container in a nuisance-free condition. An undue accumulation of material on the sides or bottom of the container will constitute a violation of this section.
- (h) The total capacity of all provided garbage and/or refuse cans and bulk storage containers shall be sufficient to meet the needs of the occupants of the business building, multiple dwelling, dwelling or dwelling unit.
- (i) Every owner of a business building or every owner of a dwelling, containing three or more dwelling units shall provide and maintain adequate garbage disposal and rubbish storage receptacles for the sanitary and safe storage and/or disposal of rubbish and garbage. In the case of single or two-family dwellings, it shall be the responsibility of each occupant to provide and maintain adequate garbage disposal and rubbish storage receptacles.
- (j) Every occupant of a dwelling containing a single dwelling unit shall be responsible for the examination of insects, vermin, and/or rodents on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent-proof, vermin-proof or reasonable insect-proof condition, extermination shall be the responsibility of the owner. Whenever the infestation exists in a business building or in two or more dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.
- (k) No occupant of a business building, multiple dwelling, dwelling or dwelling unit shall accumulate rubbish, boxes, scrap metal or any other materials in such a manner that may provide a rodent haborage or insect haborage in or about any business building, multiple dwelling, dwelling unit or its premises.



- (l) No owner of a business building or dwelling containing three or more dwelling units shall accumulate or permit in such a manner that may provide a rodent harborage or insect harborage in or about the shared or public areas of a business building, dwelling or its premises.
- (m) No owner or occupant of a business building, multiple dwelling, dwelling, dwelling unit or its premises shall store, place, or allow to accumulate any materials which may serve as food for rodents in a site accessible to rodents.
- (n) The owner or agent of any business building, multiple dwelling, dwelling or dwelling unit shall not allow any sewer, water closet or drain to leak, to be out of repair, to be inoperable, or to remain clogged or stopped; nor allow sewage or waste or stagnant water or other fluid to remain in any building or upon any land. When the building is leased with the provision that maintenance of this kind is the responsibility of the lessee, then the lessee is responsible for this kind of maintenance. Every plumbing fixture and all water and waste pipes shall be installed and maintained in good sanitary working condition.

#### **221.02 SAFE AND SANITARY MAINTENANCE OF STRUCTURES AND PREMISES.**

All owners and occupants of business buildings, multiple dwellings, dwellings, dwelling units or premises shall comply with the following requirements of subsections (a) to (e) hereof.

- (a) Every premise shall be graded, drained, free of standing water and maintained in a clean, sanitary, safe and rodent-free condition.
- (b) Unless other provisions are made, gutters, leaders or down-spouts shall be provided and maintained in good working condition in good working condition as to provide proper drainage of storm water.
- (c) Every business building, dwelling, multiple dwelling, dwelling unit, or accessory structure and premise on which located shall be maintained in a rodent-free, insect-free and rodent-proof condition.
  - (1) All openings in the exterior walls, foundations, basements, ground or first floors and roofs which have a half-inch diameter or more opening shall be rodent-proofed in an approved manner if they are within forty-eight inches of the existing exterior ground level immediately below such openings, or if they may be reached by rodents from the ground by climbing unguarded pipes, wires, cornices, stairs, roofs, and other such items, such as trees or vines or by burrowing.
  - (2) All windows located at or near ground level used or intended to be used for ventilation, all other openings located at or near ground level, and all other exterior doorways which might provide an entry for rodents or other vermin shall be supplied with adequate screens or such other devices as will effectively prevent the entrance of rodents and other vermin into the structure.
  - (3) All sewers, pipes, drains or conduits and openings around such pipes and conduits shall be constructed to prevent the ingress and egress of rodents and insects to and from a building.
  - (4) Interior floors of basements, cellars and other areas in contact with the soil shall be rodent-proofed or insect-proofed in a manner approved by the Health Commissioner.

- (5) Materials used for rodent-proofing must comply with standards established by the Health Commissioner. The list of acceptable materials may be obtained from the Health Commissioner.
- (d) All fences shall be constructed of approved fencing material, shall be maintained in good condition and shall not create a harborage for rodents.
- (e) Accessory structures present or provided by the owner, agent, tenant or occupant on the premises of a dwelling shall be structurally sound, and be maintained in good repair, rodent-proofed, and free of insects and rodents, or such structures shall be removed from the premises.
- (f) No owner or occupant of business buildings, multiple dwellings and dwellings shall allow grass, weeds, noxious weeds, brush or similar vegetation to remain on the premises at such a height and density as to constitute harborage, real or potential, for rats. A height of twelve inches or more is presumed for the purpose of this requirement to constitute a potential hazard. The foregoing shall not apply to a premises part thereof on which such growth may be reasonably demonstrated to be for agricultural or horticultural use.
- (g) No person shall permit to accumulate on any premise, alley, street or sidewalk in the City, any of the following materials including but not limited to lumber, bricks, stones, boxes, barrels, scrap metal, bottles, cans, motor vehicles, bodies or parts, containers or similar materials that may be permitted to remain thereon unless same are placed on open racks that are elevated not less than twelve inches above the ground and evenly stacked so that these materials will not afford harborage for rodents or insects.
- (h) No person shall place, leave, dump, or permit to accumulate any garbage or rubbish in any business building, multiple dwelling, dwelling, structure or any premise, alley, street or sidewalk in the city so that same shall or may afford food or harborage for rodents or insects.
- (i) Every public hall and stairway in any business building, multiple dwelling or dwelling shall be adequately lighted by natural or artificial light at all times, so as to provide in all parts thereof at least ten foot candles of light at the tread or floor level. Every public hall and stairway in structures containing not more than two dwelling units may be supplied with conveniently located light switches controlling an adequate lighting system which may be turned on when needed instead of fulltime lighting.
- (j) The owner or agent of any business building, multiple dwelling or dwelling shall be responsible for the installation of equipment for adequate ventilation, either natural and/or artificial, in all rooms, enclosures and halls therein.
- (k) The owner or agent of any business building, multiple dwelling or dwelling shall not allow that building to be without a potable water supply installed according to City ordinances and maintained in an operable manner, if the building is occupied. When the building is leased with the provision that the lessee is responsible for providing the water supply, then the lessee is responsible for this provision.
- (l) No owner of any public or private premises or land, developed or undeveloped, shall permit the existence of an open abandoned well, pit, septic tank, cistern or similar health and safety hazard; this includes a pit privy not in use; unless such a hazard is either filled or securely sealed in a manner approved by the Health Commissioner to prevent easy access or enclosed within a steel wire fence or equivalent not less than six feet in height with any gate or similar opening fastened and locked.

- (m) No person shall place food in the open for feeding of any birds, animals or domesticated fowl except in such containers as will prevent the scattering of such food upon the ground. After such feeding, such food shall not be allowed to remain where it is accessible to rodents. Food for birds, animals and domesticated fowl shall be stored in such manner as to not be accessible to rodents. Feed for animals, pets and fowl shall not be left in feed pans, troughs and other feeder containers overnight unless such feeder equipment is made inaccessible to rodents or insects.
- (n) No person shall burn garbage or rubbish in any manner without a permit from the Ohio Environmental Protection Agency, except in an approved incinerator.
- (o) No owner or other person, except a public utility company or private supplier for nonpayment of a utility bill, shall remove, shut off, discontinue, interrupt or cause the removal, shutoff, discontinuance or interruption of any service utility which is required under this Health Code from any occupied dwelling or occupied business building except for such temporary interruption as may be necessary while actual repairs or alterations are in process or during emergencies when discontinuance is approved by the Health Commissioner. Failure or neglect by an owner who has responsibility for payment of a utility bill for any unit he does not occupied to pay such bill with a resulting shut-off of the utility shall be construed as causing the shut-off.
- (p) The owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or common areas of the dwelling and the premises thereof.
- (q) Every occupant of a dwelling or dwelling unit and the premises thereof which he occupies and controls shall keep the same in a clean and sanitary condition. In two family and row unites, the yard area extending from the structure to the front and the rear which is adjacent and contiguous to each unit shall be construed to be the responsibility of the occupant of that unit. Clean and sanitary maintenance shall include, but not be limited to, keeping all floors and walking surfaces free of dirt, filth, garbage, human and animal waste, litter, refuse and other unsanitary matter and keeping all walls, ceilings, windows and doorways clean and free of dirt, greasy film, soot and other unsanitary matter. Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish, garbage and ashes in the receptacles provided. Discarded or abandoned articles of such bulk as to preclude disposal in such receptacles shall be conveyed by the occupant to an appropriate municipal or approved private disposal area.
- (r) The Health Department shall be responsible for inspecting and investigating abandoned junk motor vehicles as provided in Chapter 355 of the Canton Codified Ordinances to the extent of any health hazards that may be involved.

### **221.03 MOSQUITO AND OTHER INSECT CONTROL.**

- (a) No owner, person, occupant, tenant, lessee or developer of any public or private premises shall permit the accumulation upon his premises of water in puddles, ponds, depressions, ditches, containers for periods of time long enough to afford mosquito breeding or other insect breeding.
- (b) The Health Commissioner shall make inspections of premises, public or private, to ascertain whether there is mosquito breeding (larva) or other insect breeding. When such conditions are found to exist, notice shall be given and the party or parties concerned shall proceed to

eliminate such conditions by draining and/or filling or in some manner eliminating the stagnant water or apply such other methods as necessary to eliminate, prevent and control mosquito breeding or other insect breeding.

#### **221.04 STANDARDS RELATIVE TO WASTE MATERIALS.**

- (a) No person shall deposit or allow to accumulate in any building, premise, yard, court, lot, street, alley, sidewalk or any other place, except in authorized receptacles, any substance, solid, semi-solid or liquid, or animal, vegetable or mineral origin, that by its decay, decomposition, chemical action or by becoming a harbor for animal or insect pests, would become an insanitary condition or a health hazards.
- (b) No person shall carry or convey in any vehicle or device, any earth, sand, gravel, dirt, rubbish, garbage, ashes or any substance, solid, semi-solid or liquid, or any article or matter of any kind whatsoever, so that the same shall be scattered, dropped, or spilled therefrom; and all vehicles or devices conveying foul, dusty, or offensive matter of any kind shall have a tight body and shall be closely and securely covered.
- (c) No person shall, without the consent of the owner or person in charge thereof, disturb, scatter, remove or pilfer any waste materials, refuse or rubbish placed in containers or containing structures.
- (d) No person shall carry or convey in any vehicle or device through the streets, or alleys, any soap, grease, offal, butcher or meat dealer refuse, except in a vehicle or device with a tight body and tight cover, or in a vehicle or device in which are containers with tight-fitting covers, so that the substances placed therein will not become offensive, attract animal or insect pests or become an insanitary condition or a health hazard, except when special permission is granted by the Health Commissioner if he deems this permission is not detrimental to the public health. No person shall park a garbage truck or similar vehicle on any street, vacant lot, alley or driveway so as to create an odor, spillage problem or health hazard.
- (e) No person shall allow any slaughter house, rendering establishment, factory, fertilizer plant, a business of any kind, or any premises thereof, by reason of being foul, nauseous or offensive, to create an insanitary condition or become a health hazard.
- (f) No raw rendering material shall be conveyance and the raw or such other method approved by the Ohio Department of Agriculture or the Commissioner, at least once each day of its use for the conveyance of raw rendering material.

#### **221.05 STANDARDS RELATIVE TO ANIMALS AND FOWL.**

- (a) All manure and liquid wastes resulting from the keeping, maintaining, sheltering or caring of animals and fowl within the City shall be stored so as not to contaminate surface or ground water, and shall be removed from the premises before it becomes offensive.
- (b) The structure used for housing animals and fowl, the animals and fowl, the premises they have access to and all supportive buildings shall be maintained in a sanitary manner so as to avoid unsightly conditions, offensive odors or harbor rodents, vermin and insect pests. Rabbits and poultry shall be housed no closer than fifty feet from a residence; cattle and horses no closer than seventy-five feet and goats no closer than one hundred feet.

- (c) No person owning or responsible for animals and fowl suffering from a communicable disease shall allow them to come in contact, either directly or indirectly, with any other animal, fowl, or person except the owner or the person responsible for such animal or fowl, members of such person's household, a licensed veterinarian, or other persons trained in handling diseased animals or fowl.
- (d) The common pigeon is hereby declared to be a nuisance and a threat to public health and not entitled to the protection afforded nongame birds by Ohio R.C. 1533.07. Nesting locations shall be prohibited. (Res. 1-81. Passed 6-30-81.)
- (e) Sections 3701-3-28, 3701-3-29 and 3701-3-30 of the Ohio Administrative Code and Ohio R.C. 955.26 are hereby approved by the Board of Health as the minimum compliance standards for enforcement by the Health Department in cases of animal bites and suspected rabid animals subject to amendments contained in Section 221.11. (Res. 1-83. Passed 8-30-83.)
- (f) No person shall keep or harbor any animal or fowl so as to create noxious or offensive odors or insanitary conditions which are a menace to the health, comfort or safety of the public.

#### **221.06 TRANSFER OF SECONDHAND ARTICLES OF BEDDING.**

No persons shall sell by casual sale or give away any secondhand articles of bedding or filling materials that are unsanitary or which are not sterilized by method and process approved by the Division of Bedding, Ohio Department of Industrial Relations, as prescribed under Ohio Administrative Code 4101-6-1-24.

#### **221.07 TOILET FACILITIES FOR ENTERTAINMENT PATRONS.**

- (a) No person shall conduct any public or private entertainment exhibition or show in the City without providing for the patrons thereof adequate toilet and hand washing facilities conveniently located on the premises as required by the Ohio Administrative Code and/or as approved by the Health Department.
- (b) Any violation of this section shall be considered a nuisance and the Board shall initiate immediate legal action to prevent, abate and suppress such violation in addition to any penalty involved. (Res. 5-2004. Passed 1-24-05.)

#### **221.08 SANITATION IN TOILET ROOMS.**

- (a) The provisions of this section shall apply to restrooms used by the public and to tenants, employees or occupants using shared restroom facilities in any structure.
- (b) Every toilet room and all the facilities provided therein shall, at all times, be kept in good repair, in a clean and sanitary condition, free from filth and accumulation of waste, and shall be provided with an adequate supply of toilet tissue and adequate handwashing and drying facilities.
- (c) The floor beneath and the wall surface around or adjacent to any water closet, sink or similar fixture shall be maintained in good order and repair and shall be nonabsorbent.
- (d) Doors on all toilet rooms shall be self-closing and tight-fitting.

- (e) Every water closet and every urinal shall be provided with a sufficient supply of water for flushing to keep in a clean condition and to carry away the wastes contained therein when flushed.
- (f) Every water closet, urinal and sink shall be maintained at all times in good repair and in a clean condition.

#### **221.09 TATTOOING PROHIBITED.**

No person shall tattoo another person or permit himself to be tattooed. (EDITOR'S NOTE: Section 221.09 was repealed by implication by the adopting of Chapter 230 – Tattoo and Body Piercing Establishments.)

#### **221.10 LEAD PAINT.**

- (a) No person shall possess, sell, hold for sale, give away or leave in any place a paint containing more than six-hundredths of one percent (.06%) of metallic lead, based upon total nonvolatile content of the paint, unless, in addition to the matter required by State or Federal law, the labeling bears the following statement:

“Contains lead. Harmful if eaten. Do not apply on toys, furniture or interior surfaces which might be chewed by children.”

This subsection does not apply to marine paints, roof cements and coatings, automotive interior surfaces which might be chewed by children, which are sold, for purposes other than resale, to the City, State or Federal Government, or to a manufacturer, an industrial plant, a public utility or metal structural contractor.

- (b) No person shall manufacture children's toys or children's furniture which have a paint containing more than six-hundredths of one percent (.06%) of metallic lead based on the total nonvolatile content of the paint.
- (c) No person shall sell or hold for sale children's toys or children's furniture which have a paint containing more than six-hundredths of one percent (.06%) of metallic lead based on the total nonvolatile content of the paint.
- (d) No person shall use a paint containing more than six-hundredths of one percent (.06%) of metallic lead on the total nonvolatile content of the paint, on the interior walls, ceilings, baseboards, doors or window sills of any dwelling unit.
- (e) When the Health Commissioner or an authorized City housing or health inspector finds that there is a paint containing more than six-hundredths of one percent (.06%) of metallic lead based on the total nonvolatile content of the paint on the interior walls, ceilings, baseboards, doors or window sills of any dwelling unit, or if there is an x-ray fluorescent lead analyzer reading greater than 1 mg/cm<sup>2</sup>, such person shall notify the Health Commissioner who shall order the removal of such paint and the refinishing of removed paint areas with a safe and suitable finish.

**221.11 RABIES CONTROL STANDARDS.**

(a) Definitions. As used in this section, certain terms are defined as follows:

- (1) “Advisory Board” means a board composed of all Health Commissioners in Stark County, the animal control officer, a representative from the Stark County Veterinarian Association and a representative from the Stark County Medical Society.
- (2) “Cat” means any animal of the species *Felis Catus* or *Felis Domesticus*, male or female, sexually intact or neutered.
- (3) “Contact” means any susceptible animal that directly or indirectly has come in contact with a rabid animal.
- (4) “Dog” means any domestic animal of the species *Canis Familliaris*, male or female, sexually intact or neutered.
- (5) “Health Commissioner” means the Health Commissioner of the City of Canton Health District or his authorized representative.
- (6) “Has been bitten” means has been seized with the teeth or jaws so that the skin of the person or animal seized has been nipped, or gripped, or has been wounded or pierced, including scratches, and includes probably contact of saliva with a break or abrasion of the skin as determined by a licensed physician. The term “has been bitten” shall also include contact of saliva with any mucous membrane.
- (7) “Human exposure” means all persons having been bitten by or having contact with a susceptible animal.
- (8) “Isolation” means the placing or keeping of a rabid animal or suspected rabid animal or a contact separate and apart from the other susceptible animals or persons so that transmission of rabies is impossible.
- (9) “Own” or “ownership” means to keep, possess, harbor or have control, change, or custody of a dog or cat obtained by way of purchase, gift or otherwise. The term shall not apply to dogs or cats owned by others which are temporarily maintained on the premises of a veterinarian or kennel operator.
- (10) “Owner” means any person who keeps, possesses, harbors, or has charge or control of, or permits any dog or cat to habitually be or remain on, or be lodged or fed within such person’s house, yard or premises. This term shall not apply to veterinarians or kennel operators temporarily maintaining on their premises dogs or cats owned by others.
- (11) “Person” means an individual, business trust, estate, trust, partnership, corporation, association, organization, two or more individuals having a joint or common interest, or any other legal commercial entity.
- (12) “Quarantine” means the procedure affecting both the rabid or suspected rabid animal or contact and his environment which is intended to prevent the spread of the disease. Quarantine includes the isolation of the biting animals, the control of contacts and any other action reasonably necessary to prevent the spread of the rabies virus.

- (13) “Rabid animal” means any animal showing observable clinical signs of rabies or which has been confirmed as having rabies by a laboratory acceptable to the Health Commissioner.
  - (14) “Rabies control authority” means duly authorized person or persons responsible for enforcement of this regulation as designated by the Canton City Board of Health.
  - (15) “NASPHV” means National Association of State Public Health Veterinarians, Inc.
  - (16) “Sacrifice” means euthanasia in a humane manner under the direction of a veterinarian for the purpose of laboratory examination for rabies.
  - (17) “Stray” means any susceptible animal not owned or whose owner cannot be determined or located or an animal that cannot be apprehended and isolated for observation.
  - (18) “Susceptible animal” means any animal to which rabies can be transmitted.
  - (19) “Suspected rabid animal” means a susceptible animal showing observable clinical signs of rabies or a susceptible animal that has bitten a person or has come in contact with a person in such manner that rabies could be transmitted to that person.
  - (20) “Transient animal” means any dog or cat three months of age or older which is owned by any person not a permanent resident of the City but brought into the City temporarily for any purpose.
  - (21) “Vaccination against rabies” means the inoculation of a dog or cat with a rabies vaccine licensed for the species by the United States Department of Agriculture and recommended in the current compendium of animal rabies vaccines prepared by the National Association of State Public Health Veterinarians, Inc. Such vaccination must be performed by a veterinarian duly licensed to practice veterinary medicine in the United States.
  - (22) “Veterinarian” means a veterinarian duly licensed under the laws of any state.
- (b) Rabies Vaccination Required.
- (1) In the City, every dog or cat three months of age and older shall be vaccinated against rabies. Further, newly acquired dogs or cats by way of purchase, gift, or arrival into the City, which dogs or cats are three months of age or older, shall be vaccinated against rabies within thirty days after purchase, ownership is obtained or arrival into the City has occurred.
  - (2) Every dog or cat vaccinated against rabies for the first time shall be revaccinated one year later and shall be revaccinated at intervals within every thirty-six month period and no later throughout the duration of ownership unless, however, earlier revaccination against rabies is required based on the type of vaccine being used, the nature of rabies in the community and the recommendation of the current compendium of animal rabies vaccines prepared by the National Association of State Public Health Veterinarians, Inc.
  - (3) All vaccinations against rabies shall be administered by a licensed veterinarian and the cost thereof shall be borne by the owner of the dog or cat.
  - (4) Any dog or cat determined and certified by a licensed veterinarian to have a condition which is contraindicated for rabies vaccination shall be exempt from these requirements.



- (c) Duties of Veterinarians. Each veterinarian, when vaccinating any dog or cat, against rabies, shall complete a certificate of rabies vaccination for each animal vaccinated. The certificate shall be approved by the Advisory Board and shall include the following information:

- (1) Owner's name and address,
- (2) Description of animal,
- (3) Date of vaccination and duration of vaccine,
- (4) Date revaccination is required,
- (5) Rabies vaccination tag number for dogs only,
- (6) Type of rabies vaccine administered and its expiration date,
- (7) Manufacturer's serial number of vaccine, and
- (8) Veterinarians' address.

Distribution of copies of the certificate for a dog shall be as follows: The original shall be forwarded to the rabies control authority; the first copy shall be given to the owner, and the second shall be retained by the issuing veterinarian. Distribution of copies of the certificate for a cat shall be as follows: the original shall be retained by the owner of the cat, and one copy shall be retained by the veterinarian. The veterinarian and the owner shall retain their copies for the interval between vaccinations specified in subsection (b) hereof. A durable metal or plastic tag, serially numbered, shall be securely attached to the collar or harness of a dog. Whenever the dog is out of doors, whether on or off the owner's premises, the collar or harness with the vaccination tag must be worn.

- (d) Transient Animals. The provisions of this regulation with respect to vaccination against rabies shall apply to transient animals. Such animals shall be kept under strict supervision of the owner. No person shall bring any animal into the City which does not comply with the animal health laws and import regulations of the State.
- (e) Handling of Dogs, Cats or other Animals Bitten by Rabid Animals. In the case of animals known to have been bitten by a rabid animal, the following shall apply;

(1) Unvaccinated animals.

- A. In the case of animals which are not vaccinated against rabies and which have been bitten by a known rabid animal, such bitten animal shall be immediately sacrificed by a humane method and tested for rabies unless the owner of such animal is unwilling to sacrifice such animal.
- B. In the event that the owner of such animal is unwilling to sacrifice the bitten animal, strict isolation of the animal in a kennel, clinic or other housing facility under veterinary supervision for a minimum of six months shall be required. The animal shall be vaccinated against rabies one month prior to release from the quarantine.
- C. In all other cases of animals unvaccinated against rabies, which have been bitten by a rabid animal, their care shall be handled on an individual basis as defined by the Health Commissioner.

- (2) Vaccinated dogs and cats. If the bitten dog or cat has been properly vaccinated against rabies, the dog or cat shall be handled as follows:

- A. The dog or cat shall be revaccinated against rabies and quarantined for a minimum period of ninety days following revaccination,
  - B. If the dog or cat is not revaccinated against rabies, the dog or cat shall be quarantined for six months under the supervision of a veterinarian,
  - C. The dog or cat shall be destroyed and tested for rabies if the owner agrees or does not comply with subsection (e)(2) hereof.
- (3) Other vaccinated animals. Other animals vaccinated against rabies, having been bitten by a rabid animal, shall be handled on an individual basis as determined by the Health Commissioner.
- (f) Administration.
- (1) The Board of Health may appoint and authorize any agency for the purpose of administration and enforcement of the provisions of this section concerning the vaccination of dogs or cats against rabies.
  - (2) Whenever in the judgment of the Board of Health or persons performing the duties of a Board of Health, rabies prevalent, such Board or persons performing the duties of such Board, shall declare a quarantine of all dogs and cats in the health district, or part thereof. During such quarantine, the owner of any dog or cat shall keep said dog or cat confined to the premises of the owner or in a suitable pound or kennel, provided, a dog or cat may be permitted to leave the premises of the owner if under leash or under the physical control of a responsible person. The quarantine order shall be considered an emergency and need not be published.
  - (3) When a quarantine of dogs and cats has been declared in the Canton City Health District, or part thereof, the animal control office and all persons having the authority of police officers shall assist the health authorities in enforcing the quarantine order.
  - (4) No person shall violate a rabies quarantine order issued under Ohio R.C. 95526 (as provided in Ohio R.C. 955.39), Ohio Administrative Code 3701-3-29-30, or under this section.
- (g) Enforcement. The provisions of this chapter shall be enforced by the Health Commissioner in accordance with Ohio R.C. 3707.48 and 3707.99(C).

**CHAPTER 223**  
**Private Water Systems**

**223.01 Approval of State regulations.      223.02 Application and permit fees.**

**CROSS REFERENCES**

Ohio Health Department rules – see OAC Ch. 3701-28

Laboratory service fees – see HLTH. 205.04

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**223.01 APPROVAL OF STATE REGULATIONS.**

Chapter 3701-28 of the Ohio Administrative Code is hereby approved by the Board of health as the minimum compliance standard for enforcement by the Health Department in the City.

**223.02 APPLICATION AND PERMIT FEES.**

- (a) Permit fees for the purpose of administering and enforcing the requirements of Chapter 3701-28 of the Ohio Administrative Code shall be charged according to the following schedule:

<b><u>Fee Category</u></b>	<b><u>Fee</u></b>
The installation of a new private water system for a single family dwelling	\$65.00
The installation of a new private water system for a nonsingle family dwelling	80.00
The alteration of a private water system for a single family dwelling	30.00
The alteration of a private water system for a nonsingle family dwelling	40.00
The inspection of a water hauling vehicle conducted under Section 3701-28-18(C) of the Ohio Administrative Code	30.00

- (b) If the installation or alteration of a private water system has commenced prior to the issuance of a permit for such installation or alteration, a penalty fee of twenty-five percent (25%) of the permit fee shall be imposed and paid. A penalty fee shall not be charged for an emergency alteration performed in compliance with paragraph (B)(1) of Rule 3701-28-03 of the Ohio Administrative Code. (Res. 2-90. Passed 11-30-90.)



**CHAPTER 225**  
**Household Sewage Disposal Systems**

**225.01 Approval of State regulations.      225.02 Amendments.**

**CROSS REFERENCES**

Ohio Health Department rules – see OAC Ch. 3701-29

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**225.01 APPROVAL OF STATE REGULATIONS.**

Chapter 3701-29 of the Ohio Administrative Code is hereby approved by the Board of health as the minimum compliance standard for enforcement by the Health Department in the City, subject to amendments contained in Section 225.02

**225.02 AMENDMENTS.**

Chapter 3701.29 of the Ohio Administrative Code is hereby amended and changed in the following respects:

OAC 3701-29-02 Sewage disposal requirements. (Amended)

(L) No household sewage disposal system shall be installed, maintained or operated on property within the City provided a public sanitary sewer is within 200 feet of such property.

OAC 3701-29-05 Registration of installers of household sewage disposal systems or parts thereof. (Amended)

(C) Each registration issued hereunder shall continue indefinitely unless suspended or revoked by the Board of Health.

(D) The Board shall recognize registration by the Stark County General Health District or by any other approved registration agency.

OAC 3701-29-06 Registration of sewage tank cleaners. (Amended)

(D) Each registration issued hereunder shall continue indefinitely unless suspended or revoked by the Board of Health.

(E) The Board shall recognize registration by the Stark County General Health District or by any other approved registration agency.

OAC 3701-29-22 Maintenance. (Added)

(A) Sewage tanks shall be cleaned before too much effluent accumulates and seriously reduces the settling depth.

(B) Sewage tanks shall be inspected at least annually and shall be cleaned when the bottom of the effluent mat is within three inches of the bottom of the outlet device or the effluent has reduced the liquid capacity by fifty percent (50%).

(C) Sewage tanks shall not be washed or disinfected after pumping and a small residual of effluent shall be left in the tank for seeding purposes.



**CHAPTER 227**  
**Swimming Pools**

**225.01 Approval of State regulations.      225.02 License fees.**

**CROSS REFERENCES**

Ohio Health Department rules – see OAC Ch. 3701-31

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**227.01 APPROVAL OF STATE REGULATIONS.**

Chapter 3701-31 of the Ohio Administrative Code is hereby approved by the Board of Health as the minimum compliance standard for enforcement by the Health Department in the City. (Res. 4-87. Passed 2-22-87.)

**227.02 LICENSE FEES.**

- (a) Except as provided in paragraph (b) and (c) of this rule, the license fee for the operation of an individual public swimming pool, individual public spa and individual special use pool as described in Section 3749.01 of the Ohio Revised Code shall be three hundred thirty dollars (\$330.00), plus any additional state fee as required by Section 3749.04 of the Ohio Revised Code. (Res. 8-2007. Passed 11-19-07.)
- (b) The license fee for the operation of any additional individual public swimming pools, individual public spas, and individual special use pools as described in Section 3749.01 of the Ohio Revised Code at the same location shall be one hundred fifty dollars (\$150.00), plus any additional state fees required by Section 3749.04 of the Ohio Revised Code.
- (c) The license fees for pools, spas and special use pools as described by Section 3749.01 of the Ohio Revised Code which are operated by the Federal Government, State Government, or a county, city, township, village or tax supported primary or secondary public school shall be one hundred dollars (\$100.00) plus any additional state fee as required by Section 3749.04 of the Ohio Revised Code. (Res. 6-2003. Passed 1-26-04.)





**CHAPTER 229**  
**Barber Shops, Massage Parlors and Beauty Salons**

EDITOR'S NOTE: Former Chapter 229 was repealed by Resolution 2019-04, passed March 25, 2019.



**CHAPTER 230**  
**Tattoo and Body Piercing Establishments**

**230.01 Approval of State Regulations.    230.02 Fees.**

**CROSS REFERENCES**

Tattoo and body piercing establishments – see Ohio R.C. Ch. 3730; OAC Ch. 3701-09

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**230.01 APPROVAL OF STATE REGULATIONS.**

Chapter 3730 of the Ohio Revised Code and Chapter 3701-9 of the Ohio Administrative Code are hereby approved by the Board of Health as the minimum compliance standards for businesses offering tattooing and body piercing services as defined in Sections 3701-9-01 of the Ohio Administrative Code. (Res. 3-98. Passed 6-29-98.)

**230.02 FEES.**

The application and approval fee, and the annual renewal fee, for a business offering tattooing and body piercing services shall be paid to the Board of Health as follows:

- (a) For business offering tattooing services:

\$160.00

- (b) For business offering body piercing services:

\$160.00

- (c) For business offering tattooing and body piercing services:

\$160.00

- (d) For business offering tattooing and body piercing services on a time limited basis: \$80.00

(Resolution 04-2012; passed 06-29-12)



**CHAPTER 231**  
**Nursing Homes and Rest Homes**

EDITOR'S NOTE: Former Chapter 231 was repealed by Resolution 2019-04, passed March 25, 2019.



**CHAPTER 233**  
**Child Day-Care Centers**

EDITOR'S NOTE: Former Chapter 233 was repealed by Resolution 2019-04, passed March 25, 2019.





**CHAPTER 235**  
**Schools**

**235.01 Approval of State booklets.**

**CROSS REFERENCES**

Inspectors – see Ohio R.C. 3707.03

Power to inspect – Ohio R.C. 3707.26

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**235.01 APPROVAL OF STATE BOOKLETS.**

Booklets published by the Ohio Department of Health entitled “Sanitation in the School Environment” and “Guideline for the Evaluation of School Programs” are hereby approved by the Board of Health as the minimum compliance standard for enforcement by the Health Department in the City.



**CHAPTER 237**  
**Rooming Houses and Residential Social Service Facilities**

EDITOR'S NOTE: Former Chapter 237 was repealed by Resolution 2019-04, passed March 25, 2019.



**CHAPTER 239**  
**Recreational Vehicle Parks; Recreation Camps**

EDITOR'S NOTE: Former Chapter 239 was repealed by Resolution 2019-04, passed March 25, 2019.



## **TITLE FIVE – Food and Food Products**

**Chap. 251. Food Service Operations.**

**Chap. 253. Milk and Milk Products.**

**Chap. 255. Food Establishments. (Repealed)**

**Chap. 257. Frozen Desserts. (Rescinded)**

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### **CHAPTER 251 Food Service Operations**

**251.01 Approval of State regulations.      251.03 Penalty fee.**  
**251.02 License fees.**

#### **CROSS REFERENCES**

Food service operations – see Ohio R.C. Ch. 3731

Ohio Health Department rules – see OAC Ch. 3701-21

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#### **251.01 APPROVAL OF STATE REGULATIONS.**

Chapter 3717 of the Ohio Revised Code, along with Chapters 3701-21, 901:3-4, and 3717-1 of the Ohio Administrative Code are hereby approved and adopted by the Board of Health as the minimum compliance standard for enforcement by the Health Department in the City. (Res. 1-2001. Passed 3-26-01.)

#### **251.02 LICENSE FEES.**

(a) The license fee for a food service operation or a retail food establishment as described in chapter 3717 of the Ohio Revised Code shall be charged as follows, plus any additional fee as required by chapter 3717 of the Ohio Revised Code:

<b>License Category</b>	<b>Fee</b>
Food Service Operation/Retail Food Establishment Commercial Operation with floor area from 0 to 24,999 square feet	
Risk Level 1	\$300.00
Risk Level 2	\$350.00
Risk Level 3	\$675.00
Risk Level 4	\$875.00

Food Service Operation/Retail Food Establishment Commercial Operation with floor area equal to or greater than 25,000 square feet.	
Risk Level 1	\$450.00
Risk Level 2	\$475.00
Risk Level 3	\$1210.00
Risk Level 4	\$1650.00

- (b) The license fee for a noncommercial food service operation or a noncommercial retail food establishment as described in Chapter 3717 of the Ohio Revised Code shall be 50% of the commercial fee specified in Section 241.02(a) of the Canton City Health Code, plus any additional fee as required by Chapter 3717 of the Ohio Revised Code.
- (c) The license fee for a vending food service operation as described in Chapter 3717 of the Ohio Revised Code shall be \$25.00, plus any additional fee as required by Chapter 3717 of the Ohio Revised Code.
- (d) The license fee for a mobile food service operation or a mobile retail food establishment as described in Chapter 3717 of the Ohio Revised Code shall be \$120.00, plus any additional fee as required by Chapter 3717 of the Ohio Revised Code.
- (e) The license fee for a temporary food service operation or a temporary retail food establishment as described in Chapter 3717 of the Ohio Revised Code shall be \$47.00 per single event up to five (5) consecutive days of operation at one location as required by law, plus any additional fee as required by Chapter 3717 of the Ohio Revised Code.
- (f) Pursuant to Section 3717.25 of the Ohio Revised Code, the fee for a plan review of a new or existing commercial risk based operation shall be ninety (90%) percent of the risk level licensing fee assigned to the operation. The plan review fee for a non-commercial risk based operation shall be fifty percent (50%) of the commercial risk based plan review fee. The plan review fee shall be paid at the time of plan submission and is non-refundable. (Res. 2018-04. Passed 03-26-18.)

### **251.03 PENALTY FEE.**

If a license fee prescribed is not received by the Board on or before the date it is due, a penalty fee of twenty-five percent (25%) of such fee shall be imposed and paid.  
(Res. 8/2011. Passed 12-19-11.)



**CHAPTER 253**  
**Milk and Milk Products**

- |  |   |
|--|---|
| <b>253.01 Approval of State regulations.</b>                       | <b>253.04 License fees.</b>                     |
| <b>253.02 Enforcement in Stark County General Health District.</b> | <b>253.05 License suspension or revocation.</b> |
| <b>253.03 License required.</b>                                    |   |

**CROSS REFERENCES**

Food and dairy inspection – see Ohio R.C. 3707.33 et seq.  
Milk production, processing and transportation – see Ohio R.C. 3707.371 et seq.  
Dairy products – see Ohio R.C. Ch. 3717  
Department of Agriculture rules – see OAC Ch. 901:3-9 et seq.  
Ohio Health Department rules – see OAC Ch. 3701-23

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**253.01 APPROVAL OF STATE REGULATIONS.**

Chapter 3701-23 of the Ohio Administrative Code is hereby approved by the Board of Health as the minimum compliance standard for enforcement by the Health Department in the City.

**253.02 ENFORCEMENT IN STARK COUNTY GENERAL HEALTH DISTRICT.**

The Board of Health hereby accepts the designation as the licensor by the Ohio Director of Health pursuant to Ohio R.C. 3707.373(C) and as the approved health district to enforce Ohio R.C. 3707.373(B) in the Stark County General Health District.

**253.03 LICENSE REQUIRED.**

Any milk plant or producer located outside the City who sells milk to a handler for distribution in the City shall be required to obtain a Canton City license or submit evidence of licensing by another approved district.

**253.04 LICENSE FEES.**

Pursuant to Ohio R.C. 3707.375, the Board of Health authorizes the Health Department as of January 1, 1971 to charge a fee of two cents (2¢) as described in “The Canton City Health Department Milk Program Cost Study prepared by the Ohio Department of Health, December, 1970”. The Board accepts this study as an accurate and fair cost study of the Grade A milk program.

**253.05 LICENSE SUSPENSION OR REVOCATION.**

The Board of Health reserves the right to suspend or revoke the milk license of any plant, producer or hauler who is under suspension or revocation by another approved health district. The authority to suspend a license of a producer, pursuant to the procedure provided by Ohio R.C. 3707.374 is hereby delegated to the Health Commissioner or his duly authorized representative.



**CHAPTER 255**  
**Food Establishments**

EDITOR'S NOTE: Former Chapter 255 was repealed by Resolution 2-2000, passed December 18, 2000.



**CHAPTER 257**  
**Frozen Desserts**

EDITOR'S NOTE: Former Chapter 257 was repealed by Resolution 2019-12, passed June 24, 2019.



**TITLE SEVEN – Air Pollution**  
**Chap. 271. Abatement and Control Standards.**

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**CHAPTER 271**  
**Abatement and Control Standards**

**271.01 Approval of State regulations.**      **271.03 Open burning approval for fire**  
**271.02 Board as State agency.**                      **training purposes.**

**CROSS REFERENCES**

State law provisions – see Ohio R.C. Ch. 3704

Authority to adopt local regulations – see Ohio R.C. 3704.11

EPA rules – see OAC Ch. 3745-15 to 3745-25, 3745-31, 3745-35, 3745-45

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**271.01 APPROVAL OF STATE REGULATIONS.**

Chapters 3745-15 to 3745-25, 3745-31, 3745-35 and 3745-45 of the Ohio Administrative Code are hereby approved by the Board of Health as the minimum compliance standard for enforcement by the Health Department in the City.

**271.02 BOARD AS STATE AGENCY.**

The Board of Health shall be the agency with the City that is authorized to receive a delegation of authority from the Ohio Environmental Protection Agency or its Director.

**271.03 OPEN BURNING APPROVAL FOR FIRE TRAINING PURPOSES.**

The Health Commissioner is hereby authorized to approve open burning for fire department training purposes provided that each approval shall be reported to the Board at the next regular Board meeting following such approval





## CANTON HEALTH CODE INDEX

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