



Part 15 – Health Code

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01/02/09

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**CHAPTER 1521
HOUSING****§1521.01 GENERAL DEFINITIONS**

The following definitions shall apply in the interpretation and enforcement any and all provisions of Part 15 – Health Code, unless a different definition is specifically designated in another section of Part 15 – Health Code.

Basement: shall mean a portion of a building located partly underground, but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.

Bed and Breakfast: shall mean a transient lodging establishment generally in a single-family dwelling providing overnight or otherwise temporary lodging for the general public and may provide meals for compensation.

Cellar: shall mean a portion of a building located partly or wholly underground, and having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

Dwelling: shall mean any building which is wholly or partly used or intended to be used for living, or sleeping, cooking and/or eating by human occupants; provided, that, temporary housing as hereinafter defined shall not be regarded as a dwelling.

Dwelling Unit: shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities, which are used or intended to be used for living, sleeping, cooking and eating.

Extermination: shall mean the control and 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.

Garbage: shall mean all putrescible wastes except sewage and body waste, including the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food, vegetable and animal offal and carcasses of small animals but excluding recognizable industrial by-products.

Habitable Room: shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers or connecting corridors, closets and storage spaces.

Health Commissioner : shall mean the legally designated health authority of the Upper Arlington City Health District or his/her authorized representative.

Infestation: shall mean the presence within or around a dwelling or accessory structure of any insects, rats, rodents or other pests.

Multiple Dwelling: shall mean any dwelling containing more than two (2) dwelling units.

Occupant: shall mean any person, over one (1) year of age, living, sleeping, cooking or eating in, or having actual possession of a dwelling unit or rooming unit.

Operator: shall mean any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let or offered for occupancy.

Ordinary Minimum Winter Conditions: shall mean the temperature 15 degrees Fahrenheit above the lowest recorded temperature for the previous ten (10) year period.

Owner: shall mean any person who, alone or jointly or severally with others:

(a) Shall have legal title to any premises, dwelling or dwelling unit, with or without accompanying actual possession thereof; or

(b) Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, administrator, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with any and all provisions of Part 15 – Health Code, and of rules and regulations adopted pursuant thereto, to the same extent as if he/she were the owner.

Person: shall mean and include the state, any political subdivision, any individual, firm, public or private corporation, association, or partnership, or other entity.

Plumbing: shall mean and include all of the following supplied facilities and equipment: gas pipe, gas-burning equipment, water pipes, garbage-disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

Plumbing includes the practice, materials and fixtures used in the installation, maintenance, extension and alteration of all piping, fixtures, appliances and appurtenances in connection with any of the following: drainage systems, the vent systems, and the water-supply systems, within or adjacent to any building, structure or conveyance; also the practice and materials used in the installation, maintenance, extension or alteration of the stormwater, liquid waste or drainage and water-supply systems of any premises (Franklin County Board of Health 710).

Premises: shall mean a lot, plot or parcel of land including any structure thereon.

Rooming House: shall mean any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator.

Rooming Unit: shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

Rubbish: shall mean nonputrescible, nonliquid, combustible and noncombustible waste materials, except garbage; and the term shall include the residue from the burning of wood, coal, coke and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

Supplied: shall mean paid for, furnished or provided by or under the control of the owner or operator.

Temporary Housing: shall mean any tent, trailer or other structure used for human shelter, which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than thirty (30) consecutive days.

§1521.02 MEANING OF CERTAIN WORDS

Whenever the words *dwelling*, *dwelling unit*, *rooming house*, *rooming unit* or *premises* are used in Part 15 – Health Code, they shall be construed as though they were followed by the words *or any part thereof*.

**CHAPTER 1527
ROOMING HOUSES/HOTELS/BED AND BREAKFASTS**

§1527.01 GENERAL PROVISION, COMPLIANCE

No person shall operate a rooming house, or shall occupy or let to another for occupancy any rooming unit in any rooming house, except in compliance with any and all provisions of Part 15 – Health Code and any and all provisions of the Unified Development Code.

§1527.02 CERTIFICATE OF ZONING COMPLIANCE PERMIT REGULATIONS

No person shall operate a rooming house unless he/she holds a valid Certificate of Zoning Compliance permit issued by the City's Development Department in the name of the operator and for the specific dwelling or dwelling unit. A Certificate of Zoning Compliance permit shall be displayed in a conspicuous place within the rooming house at all times.

Every person holding such a Certificate of Zoning Compliance permit shall give notice in writing to the City's Development Department within seventy-two (72) hours after having sold, transferred, given away, or otherwise disposed of ownership of, interest in, or control of any rooming house. Such notice shall include the name and address of the person succeeding to the ownership or control of such rooming house.

§1527.03 PERMIT DENIAL, HEARING

Any person whose application for a Certificate of Zoning Compliance permit to operate a rooming house has been denied may request and shall be granted a hearing on the matter before the Upper Arlington Board of Zoning and Planning.

§1527.04 VIOLATIONS, NOTICE, SUSPENSION

Whenever upon inspection of any rooming house the Health Commissioner finds that conditions or practices exist which are in violation of any provisions of Part 15 - Health Code or of any rule or regulation adopted pursuant thereto, the Health Commissioner shall give notice in writing to the operator of such rooming house that unless such conditions or practices are corrected within a reasonable period, to be determined by the Health Commissioner, the operator's Certificate of Zoning Compliance permit will be suspended or revoked. At the end of such period the Health Commissioner shall reinspect such rooming house, and if he/she finds that such conditions or practices have not been corrected, he/she shall give notice of a hearing in writing to the operator that the Certificate of Zoning Compliance permit may be suspended and/or revoked at the next hearing of the Board of Health.

§1527.05 LAVATORY AND BATH REQUIREMENTS

At least one (1) flush water closet, lavatory basin and bath tub or shower, properly connected

to a water and sewer system approved by the Health Commissioner and in good working condition, shall be supplied for each eight (8) persons or fraction thereof residing within a rooming house, including members of the operator's family wherever they share the use of the facilities; provided that, in a rooming house where rooms are let only to males, flush urinals may be substituted for not more than one-half (1/2) the required number of water closets. All such facilities shall be so located within the dwelling as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot water at all times. No such facilities shall be located in a basement except by written approval of the Health Commissioner.

§1527.06 BED LINENS AND TOWELS

The operator of every rooming house shall change supplied bed linen and towels therein at least once each week, and prior to the letting of any room to any occupant. The operator shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner.

§1527.07 FLOOR AREA

Every room occupied for sleeping purposes by one (1) person shall contain at least seventy (70) square feet of floor space, and every room occupied for sleeping purposes by more than one person shall contain at least fifty (50) square feet of floor space for each occupant thereof.

§1527.08 MEANS OF EGRESS

Every rooming unit shall have safe, unobstructed means of egress leading to safe and open space at ground level, as required by the laws of this State and this City.

§1527.09 SANITATION

The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for maintenance of a sanitary condition in every other part of the rooming house. The operator shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building is leased or occupied by the operator.

§1527.10 APPLICATION TO HOTELS AND BED AND BREAKFASTS

Every provision of Part 15 – Health Code, which applies to rooming houses shall also apply to hotels and Bed and Breakfasts, except to the extent that any such provisions may be found in conflict with the laws of this State or with the lawful regulations of any State board or-agency.

**CHAPTER 1571
ANIMAL CONTROL REGULATIONS**

§1571.01 DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of any and all provisions of Chapter 1571:

Board of Health: means the Board of Health of the Upper Arlington City Health District. District Board of Health and Board of Health shall have the same meaning. In the event the City contracts with another City or General Health District for public health services, the Upper Arlington Board of Health shall act in an advisory capacity to the contracted entity.

Contact: means any susceptible animal that directly or indirectly has come in contact with a rabid or suspected rabid animal.

Dangerous Animal: means any animal, not including dangerous or vicious dogs as defined in C.O. § 519.01, which in the opinion of the Health Commissioner represents a danger to the health, welfare and safety of the public and presents a risk of serious physical harm to persons or property as measured by infectious disease status, viciousness, or poisonous status, or presents a risk of serious physical harm to persons, animals, or to property.

Domestic Animal: means animals that through long association with humans have been bred to a degree resulting in genetic changes affecting the temperament, color, conformation, or other attributes of the species to an extent that makes them different from nondomestic animals of their kind.

Endemic: means the constant presence of a disease or infectious agent within a given geographic area.

Epidemic or Outbreak: means the occurrence of cases of disease in numbers greater than expected in a particular population or for a particular period of time.

Exotic Animal : means other wild animal not indigenous to Ohio, capable of transmitting rabies.

Feral Animal: means any susceptible domestic animal living in the wild state, including but not limited to, any dog or cat without a rabies tag or other acceptable identification as approved by the Board of Health.

Health Commissioner: means the Health Commissioner of the City of Upper Arlington, or their authorized representative or designee. In the event the City of Upper Arlington contracts with a Board of Health for health services pursuant to Chapter 3709. of the Ohio Revised Code, the Health Commissioner of the contracted Board of Health shall serve as the Health Commissioner.

Human Exposure: means all incidents involving persons having contact with a susceptible animal, including bites.

Immunization: means the administration of a biological product recommended in the U.S. Public Health Service Center for Disease Control Animal Rabies Vaccine Compendium and licensed by the U.S. Department of Agriculture and deemed adequate to provide protection to the animal so vaccinated against rabies.

Incidence: means the number of new cases of a disease occurring during a specified interval of time in a defined population.

Infected Individual: means a person whose body harbors a specific microorganism capable of producing disease, whether or not the person is experiencing signs or symptoms of the disease.

Isolation: means the separation of an infected individual from others during the period of disease communicability in such a way that prevents, as far as possible, the direct or indirect conveyance of an infectious agent to those who are susceptible to infection or who may spread the agent to others.

Owner: means any person owning, keeping, possessing, harboring, maintaining or having the care, custody or control of an animal.

Period of Communicability: means the interval during which an infected individual or animal is shedding the specific microorganism of a communicable disease in such a manner that those who are susceptible could acquire the infection.

Person: means individual, company, partnership, firm, municipal corporation, corporation or association, or any combination of individuals, or any employee, agent, or officer thereof.

Pocket Pets: means small pets kept in cages such as, but not limited to, hamsters, gerbils, guinea pigs, chinchillas, domestic rabbits, white rats and white mice.

Prohibited Animals: means any poisonous and/or venomous insects, amphibians, or reptiles, including those whose fangs or poison sacs have been removed or neutralized; constrictor reptiles; and any wild animal as defined in section 1531.01 of the Ohio Revised Code.

Quarantine: means the restriction of the movements or activities of a well individual or animal who has been exposed to a communicable disease during the period of communicability of that disease and in such a manner that transmission of the disease may have occurred. The duration of the quarantine ordered shall be equivalent to the usual incubation period of the disease to which the susceptible person or animal was exposed.

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.

Stray: means any susceptible animal whose owner cannot be determined or one that cannot be apprehended and isolated for observation.

Susceptible Animal: means any animal to which rabies can be transmitted.

Susceptible Person: means a person that, when exposed to an infectious microorganism, may not possess sufficient resistance to prevent contracting the infection or disease.

Suspected Rabid Animal: means a susceptible animal showing, to a limited degree, 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.

Veterinarian: means a veterinarian duly licensed under the laws of the State of Ohio.

Wild Animal: means hares or rabbits, gray squirrels, black squirrels, fox squirrels, red squirrels, groundhogs or woodchucks, deer, wild boar, bears, minks, weasels, raccoons, skunks, opossums, muskrats, fox, beavers, badgers, otters, coyotes, bobcats or any other warm blooded non-domestic animal which is indigenous to the State of Ohio and capable of transmitting rabies; an offspring born to wild animals bred with a domestic animal, or offspring born to domestic animals bred with wild animals; and any animal for which there has been no rabies vaccine in which the efficacy has been demonstrated, or which the quarantine period has not been scientifically researched and defined.

(A) *Mustela Putorius Furo* (Domestic Ferret) shall be considered wild unless all of the following conditions are met:

(1) shall be under the regular care of a licensed veterinarian but not necessarily in the veterinarian's possession, and

(2) shall be currently immunized for rabies by a licensed veterinarian, and

(3) the ferret must be a product of three generations of breeding, in captivity; to live a life intimately associated with man in a tame or tamable condition.

§1571.02 QUARANTINE

(A) Any law enforcement officer, animal control officer or other person authorized by the Health Commissioner, the City Manager or their designee may order quarantined any animal pursuant to this section, whenever it is reported that a dog, cat, ferret or any susceptible animal has bitten a person. The dog, cat or susceptible animal shall be quarantined under order issued by the Health Commissioner by its owner or by a harbinger in cases approved by the Health Commissioner.

- (B) Home quarantine by the owner is acceptable provided that the following criterion is met:
- (1) The owner assumes all risk related to the animal during home quarantine.
 - (2) Animals confined indoors must be confined to a house, building or other enclosure in such a way that prevents human contact, other than contacts with the owner(s).
 - (3) Animals confined outdoors must be on a leash, not to exceed a six (6) foot length, and under direct supervision of an adult capable of controlling and handling the animal or confined in a kennel with a six (6) foot high fence with an enclosed top and a secured bottom, or other enclosure suitable to the Board of Health.
- (C) Confinement may be obtained at the Franklin County Animal Shelter for a ten (10) day period, at a daily charge to the owner.
- (D) If any law enforcement officer, animal control officer or other person designated by the Upper Arlington City Manager captures, confines or impounds any animal running-at-large or not under owner control, the animal, may be quarantined by the Health Commissioner or any other person authorized to issue quarantine pursuant to paragraph (A). If quarantined during impoundment, the animal will not be released until the quarantine period is over and the daily confinement cost is paid by the owner.
- (E) If the animal does not have a current rabies vaccination, the owner must take the animal to a veterinarian within twenty-four (24) hours after the tenth (10th) day of the bite for examination and rabies vaccination, before the animal is released from quarantine.
- (F) No person shall remove an animal that has bitten a person within the jurisdiction of the Board of Health from this jurisdiction until a quarantine period, as determined by the Health Commissioner, has been completed.
- (G) No person shall kill an animal that has bitten any person until a quarantine period, as specified in C.O. § 1571.02, has been completed unless the owner of the animal elects to sacrifice the animal for immediate laboratory analysis.
- (H) No animal shall be immunized against rabies, as specified in C.O. § 1571.04, during the period of quarantine as specified by the Health Commissioner and/or their authorized representative.
- (I) No animal shall be released from quarantine until the quarantine period has expired and the animal has been immunized, by a licensed veterinarian, against rabies.
- (J) Whoever fails to obey any order of the Health Commissioner issued in the enforcement of this section shall be in violation of this section.
- (K) Strict liability is intended to be imposed for a violation of this section.

(L)(1) Whoever violates this section is guilty of a misdemeanor of the fourth degree and is subject to a fine of not more than two hundred fifty dollars (\$250.00) and/or a jail term of not more than thirty (30) days.

(2) Each day the violation is committed or permitted to continue constitutes a separate offense for which the offender is strictly liable.

§1571.03 CONTROL REPORTS, OBSERVATIONS, EXAMINATIONS AND DISPOSITION

(A) Veterinarians, owners or persons caring for an animal shall report to the Health Commissioner all cases of rabid or suspected rabid animals. If no veterinarian is in attendance of a rabid or suspected animal, the owner or person caring for the animal shall immediately make the report to the Health Commissioner.

(B) If there is any doubt as to the diagnosis, the attending veterinarian, owner or person caring for the animal, shall, after the death of the animal, deliver to the laboratory of the Ohio Department of Health or other recognized laboratory, the head of the suspected rabid animal for examination and laboratory diagnosis.

(C) The veterinarian, owner or person caring for the rabid or suspected rabid animal or contact shall give the Health Commissioner all data pertaining to the animal. This data shall include the name and addresses of all persons having been bitten or having contact with the animals; names and addresses of the owners or persons caring for animals bitten by or having contact with the rabid or suspected rabid animal; any information regarding the possibility of infection; and any other pertinent information.

(D) All rabid animals shall be destroyed by an acceptable humane method.

(E) All suspected rabid animals, with the exception of stray, wild, exotic and feral animals, shall be held in isolation under observation in a place suitable to the Health Commissioner for a period of not less than ten (10) days or more than one hundred eighty (180) days, in order to determine the development of observable clinical signs of rabies. Whenever the Health Commissioner requires a veterinarian to observe or examine a suspected rabid animal for symptoms of rabies, the veterinarian shall report the result(s) of the observation, and conclusions reached, to the Health Commissioner within twenty-four (24) hours. The examination by a veterinarian shall be at the expense of the owner.

(F) If any animal dies before the quarantine period expires, the veterinarian, owner, or person caring for the animal shall make arrangements with the Health Commissioner to remove the head by an approved agency or individual and to submit the head of the suspected rabid animal, for examination and laboratory diagnosis, to the Ohio Department of Health Laboratory or other recognized laboratory.

(G) All animal contacts shall be destroyed by some suitable and acceptable humane method or shall be held in quarantine for at least one hundred eighty (180) days, under

observation, until observable clinical signs of rabies develop. This quarantine shall be held in some place authorized by the Health Commissioner, where no persons or susceptible animals can come in contact with the possible rabid animal.

(H) Any stray, wild, exotic, or feral animal, involved in an animal bite, must be sacrificed immediately and the head submitted to the Ohio Department of Health Laboratory for analysis, except for the following:

(1) For *Mustela putorius furo* (domestic ferret), shall be ten (10) days from the bite.

(a) The animal shall meet all conditions, as specified in C.O. § 1571.01, of this regulation.

(I) All suspected rabid animals may be sacrificed if showing, to a limited degree, observable clinical signs of rabies. The Health Commissioner shall determine if the suspected rabid animal or animal contact should be destroyed and may require all such animals to be examined by a licensed veterinarian at the expense of the owner. The veterinarian shall report to the Health Commissioner the results of the examination and conclusions reached within twenty-four (24) hours.

(J) The place of keeping and the premises where a rabid animal has been quartered shall be cleaned and disinfected to the satisfaction of the Health Commissioner.

(K) Whenever a person is bitten by a susceptible animal, prompt report of such bite shall be made to the Health Commissioner. The report herein required shall be made by the physician attending the person bitten, or, if such person is received at a hospital or other health care facility for treatment, the report herein required shall be made by the person in charge of the hospital or health care facility. This report shall include name, age and address of the person bitten, the part of the body where the bite was inflicted, and if known, the name and address of the owner or person caring for the animal inflicting the bite. When a physician was not consulted or the person bitten was not taken to a hospital or other health care facility, the report shall be made by the person bitten or any other person who has knowledge of the facts.

(L) Whenever a veterinarian is called upon to observe a susceptible animal that has bitten a person, they shall promptly report the result of their observation to the Health Commissioner. Any susceptible animal inflicting a bite on a person shall be placed in isolation on the owner's premises or in a place deemed suitable by the Health Commissioner until it is determined to the satisfaction of the Health Commissioner that the animal is not affected with rabies. The isolation period shall not be less than ten (10) days from the day the person was bitten, and there shall be at least two (2) observations made by a veterinarian or health department representative. A veterinarian or health department representative shall make the final observation on the tenth (10th) day of the isolation period whenever possible, except where the animal does not have a current rabies vaccination. If the animal does not have a current rabies vaccination, a licensed veterinarian must examine and vaccinate the animal as specified in C.O. § 1571.02(E).

(M) When a report is made to the Health Commissioner of a person bitten by a susceptible animal, the Health Commissioner shall notify the owner or a person caring for the animal inflicting the bite that this animal shall be held in quarantine for at least ten (10) days from the date of the bite and that at least two (2) observations shall be made by a veterinarian or a health department representative. The quarantine shall remain in effect until final observation is made by a veterinarian or health department representative. The place of quarantine may be, if suitable, the premises of the owner or the person caring for the animal, a veterinary hospital, or an animal shelter approved by the Health Commissioner. All susceptible animals held under such quarantine shall be boarded and cared for at the expense of the owner or person caring for the animal.

(N) Any anti-rabies treatment given in Upper Arlington must be administered in accordance with the recommendations of the U.S. Department of Health, Education and Welfare Center for Disease Control.

(O) Whoever fails to obey any order of the Health Commissioner issued in the enforcement of this section shall be in violation of this section.

(P) Strict liability is intended to be imposed for a violation of this section.

(Q)(1) Whoever violates this section is guilty of a misdemeanor of the fourth degree and is subject to a fine of not more than two hundred fifty dollars (\$250.00) and/or a jail term of not more than thirty (30) days.

(2) Each day the violation is committed or permitted to continue constitutes a separate offense for which the offender is strictly liable.

§1571.04 IMMUNIZATION

(A) Any person who keeps or harbors dogs, ferrets or cats, within the jurisdiction of the Board of Health, shall have such dogs, ferrets or cats immunized or re-immunized, by a licensed veterinarian, against rabies by a method listed in the U.S. Department of Health, Education and Welfare Center for Disease Control Animal Rabies Vaccine Compendium or any other method approved by the Health Commissioner, provided that dogs, ferrets or cats need not be immunized before reaching the age of three (3) months. Dogs, ferrets or cats entering this jurisdiction temporarily for shows, exhibitions and/or breeding purposes shall not be allowed out of the owner's, keeper's or handler's control unless properly immunized. All dogs, ferrets or cats entering this jurisdiction for field trials, or any other purpose, shall be properly immunized. Immunized dogs, ferrets and cats shall be accompanied by an immunization certificate or certified acknowledgement by a veterinarian that the dog or cat has been properly immunized.

(B) All veterinarians immunizing or re-immunizing dogs or cats against rabies shall keep a record of such immunization or re-immunization and shall, without delay, give to the owner or keeper of the dog or cat immunized or re-immunized a certificate of immunization which shall include a number identifying the individual record, a complete description of the dog or cat,

place where the dog or cat is kept or harbored, name of owner, keeper, or harborer of the dog or cat and his/her address, date and type of immunization or re-immunization and such other pertinent information as is needed, including the name and address of the veterinarian. The veterinarian shall also, without delay, forward the information required on the certificate described in this section to the Health Commissioner or any agency authorized by the Health Commissioner.

(C) The certificate described in C.O. § 1571.04(B) shall be made on forms provided and approved by the Health Commissioner or an agency authorized by the Board of Health.

(D) Nothing in this regulation shall be interpreted to mean that dogs, ferrets or cats immunized or re-immunized shall be allowed to run at-large in violation of any law, ordinance, regulation or rabies quarantine.

(E) All veterinarians who immunize or re-immunize a dog, ferret or cat against rabies shall provide a rabies tag approved by the Health Commissioner which shall have thereon permanently affixed the year of immunization or re-immunization and the number indicating the record prescribed in C.O. § 1571.04(B). Such rabies tag shall be securely fastened to the collar and/or harness worn by the dog or cat. Ferrets, however, are not required to wear or display a rabies tag. Animals that do not wear collars or harnesses shall have a microchip implant or other approved method of permanent identification and the identification number included on the rabies vaccination certificate.

(F) The rabies tags, described in Paragraph (E), shall be provided to the veterinarians by the Health Commissioner, the veterinarians shall purchase such tags at a cost determined by the Board of Health. A veterinarian may choose to charge and/or pass through such costs to the person requesting the vaccination. Any tags purchased by a veterinarian and not distributed by said veterinarian may be returned to the Health Commissioner and such fee shall be reimbursed to the veterinarian.

(G) The owner of a *Mustela Putorius Furo* (domesticated ferret) shall have such animal vaccinated against rabies by a method and vaccine approved by the United States Department of Health, Education and Welfare, Center for Disease Control and maintain a certificate of immunization signed by a licensed veterinarian. This certificate shall be made on forms provided and approved by the Health Commissioner or an agency authorized by the Board of Health. All licensed veterinarians immunizing or re-immunizing *Mustela Putorius Furo* against rabies shall keep a record of such immunization and shall, without delay, give the owner of the *Mustela Putorius Furo* immunized a certificate of immunization which shall include the rabies tag number, a statement certifying that the domestic ferret meets the requirement of the definition for *Wild Animal* as contained in C.O. § 1571.01, and any other pertinent information deemed necessary by the Health Commissioner. The veterinarian shall, also without delay, forward the information required on the certificate described in this section to the Health Commissioner or any agency authorized by the Health Commissioner.

(H) Whoever fails to obey any order of the Health Commissioner issued in the enforcement of this section shall be in violation of this section.

(I) Strict liability is intended to be imposed for a violation of this section.

(J)(1) Whoever violates this section is guilty of a misdemeanor of the fourth degree and is subject to a fine of not more than two hundred fifty dollars (\$250.00) and/or a jail term of not more than thirty (30) days.

(2) Each day the violation is committed or permitted to continue constitutes a separate offense for which the offender is strictly liable.

§1571.05 WILD, EXOTIC, PROHIBITED, DANGEROUS AND FERAL ANIMALS

(A) No person, regardless of intent, shall:

(1) harbor, feed or sell wild, exotic, prohibited, dangerous or feral animals within the jurisdiction of the Board of Health;

(2) import into the jurisdiction of the Board of Health any such wild, exotic, prohibited, dangerous or feral animals;

(3) perform surgery or other techniques on a wild, exotic, prohibited, dangerous or feral animal for the purpose of domesticating it, such as but not limited to, neutering, spaying, removing scent glands, or venom sacs. *Mustela Putorius Furo* may be neutered, spayed or descented if all conditions are met as specified in C.O. § 1571.01; and

(4) immunize wild animals against rabies.

(B) This section does not apply to the following exemptions and special provisions:

(1) The term *wild and exotic animal* does not include *pocket pets*.

(2) *Wild and exotic animals* held for exhibit or use by person, research institutions, or governmental agencies having legal authority to possess wild animals, publicly supported zoos, circuses or extensions thereof.

(C) Disposition of Animals: In the event of a human exposure with any *wild, exotic, prohibited, dangerous or feral animal*, the animal shall be impounded for sacrifice as soon as possible, to permit laboratory examination for rabies.

(D) Whoever fails to obey any order of the Health Commissioner issued in the enforcement of this section shall be in violation of this section.

(E) Strict liability is intended to be imposed for a violation of this section.

(F)(1) Whoever violates this section is guilty a misdemeanor of the fourth degree and is subject to a fine of not more than two hundred fifty dollars (\$250.00) and/or a jail term of not more than

thirty (30) days.

(2) Each day the violation is committed or permitted to continue constitutes a separate offense for which the offender is strictly liable.

§1571.06 UNCONSTITUTIONALITY CLAUSE

Should any section, paragraph, sentence, clause, or phrase of this Chapter be declared unconstitutional or invalid for any reason, the remainder of said Chapter shall not be affected thereby.

**CHAPTER 1580
SMOKING PROHIBITIONS**

§1580.01 DEFINITIONS

(A) **Area Immediately Adjacent:** means the area that is a distance of less than ten (10) feet from the ingress and egress of any enclosed area and is owned, leased, managed, or otherwise controlled by the proprietor of the enclosed area.

(B) **Ashtray:** means any receptacle that is used for disposing of smoking materials including but not limited to ash and filters.

(C) **Business:** means a sole proprietorship, partnership, association, joint venture, corporation, or any limited liability form of any of the foregoing, or any other entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations or other entities where legal, medical, dental, engineering, architectural, financial, counseling or other professional or consumer services are provided.

(D) **Club:** means a corporation or association of individuals organized in good faith for social, recreational, benevolent, charitable, fraternal, political, patriotic, or athletic purposes, which is the owner, lessor, or occupant of a permanent building or part of a permanent building operated solely for the purposes, membership in which entails the prepayment of regular dues, and includes the place so operated

(E) **Department:** means the Ohio department of health or its authorized designee, unless otherwise specified

(F) **Directly or indirectly under the control:** means the ability to exercise authority over an area based upon property rights set forth under a real estate lease, title, or deed.

(G) **Director:** means the director of the Ohio department of health or the director's authorized representative.

(H) **Employee:** means a person who is employed by an employer, or who contracts with an employer or who contracts with a third person to perform services for an employer, or who otherwise performs services for an employer in consideration for direct or indirect monetary wages or profit, or any person who volunteers his or her services to such employer for no monetary compensation.

(I) **Employer:** means the state or any individual person, business, partnership, association, political subdivision, corporation, including a municipal corporation, trust, or other public or private entity, including a non-profit entity that employs or contracts for or accepts the provision of services from one or more employees.

(J) **Enclosed Area:** means an area with a roof or other overhead covering of any kind and walls or other side coverings of any kind, regardless of the presence of openings for ingress and egress, on all sides or on all sides but one.

(K) **Enter:** as used in this Chapter means any physical movement of tobacco smoke into any area in which smoking is prohibited under Chapter 1580 through entrances, windows, ventilation systems, or other means.

(L) **Entrance:** means a doorway through which pedestrians, including the public or employees, enter a public place or place of employment. Entrance does not mean doorways through which vehicles pass or through which the loading or unloading of materials including but not limited to cargo or goods takes place.

(M) **Hotel or motel:** for the purposes of the exemption in 1580.03(B) shall have the same meaning as set forth in § 2.02 of the Unified Development Code.

(N) **Migrate or migration:** means the transit or movement of tobacco smoke from one place to another, regardless of cause, including but not limited to, movement of tobacco smoke induced or caused by changes in air flow.

(O) **Outdoor Patio:** means an outdoor area, open to the air at all times, that is either:

- (1) enclosed by a roof or other overhead covering and not more than two walls or other side coverings; or
- (2) has no roof or other overhead covering at all regardless of the number of walls or other side coverings.

(P) **Place of Employment:** means:

- (1) an enclosed area under the direct or indirect control of a public or private employer that the employer's employees use for work or any other purpose, including but not limited to, private offices, work areas, employee lounges, restrooms, conference rooms, meeting rooms, sales, production and storage areas, classrooms, employee cafeterias, employee gymnasiums, auditoriums, libraries, file rooms, mailrooms, employee medical facilities, rooms or areas containing photocopying or other office equipment used in common by employees, elevators, stairways, hallways, factories, warehouses, garages, laboratories, taxis, limousines, and company-owned vehicles used for a business purpose.
- (2) An enclosed area as described herein is a "Place of Employment" without regard to time of day or actual presence of employees.
- (3) "Place of Employment" only includes private residences, whether single or multifamily, if used as a child care, adult day care, or health care facility, or if a person uses a private residence in any way otherwise qualifying that person as an employer with respect to the use

of the private residence; provided, however, that private residences are exempt from this Chapter to the extent that the person providing the services is providing housecleaning, home maintenance or personal care services in the private residence.

(Q) **Private Residence:** means, except as otherwise provided by 1580.03(A), a dwelling or area of a dwelling where there is a reasonable expectation of privacy and used as an individual's residence, including employer-provided housing.

(R) **Private Club:** means a club as that term is defined in R.C. 4301.01(B)(13) and that is organized as not for profit.

(S) **Proprietor:** means the employer owner, manager, operator, liquor permit holder, or other person in charge or control of a public place or place of employment.

(T) **Public Place:** means an enclosed area to which the public is invited or in which the public is permitted and that is not a private residence and includes service lines. A private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility.

(U) **Retail Tobacco Store:** means a retail establishment that derives more than eighty percent of its gross revenue from the sale of cigars, cigarettes, pipes, or other smoking devices for burning tobacco and related smoking accessories and in which the sale of other products is incidental. "Retail tobacco store" does not include a tobacco department or section of a larger commercial establishment such as a department store, discount store, or bar or of any establishment with a liquor permit or any restaurant.

(V) **Service Line:** means an indoor line in which one or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.

(W) **Smoking:** means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, weed, plant, or other lighted smoking device for burning tobacco or any other plant in any manner or in any form. "Smoking" does not include the burning of incense in a religious ceremony.

(X) **Smoking Materials or Devices:** means any lighted cigar, cigarette, pipe, weed, plant or other material or device designed for burning tobacco or any plant for the purpose of inhaling smoke. Smoking materials or devices does not mean devices designed and primarily used for the burning of any plant for cooking, heating, or illumination purposes and specifically excludes wood-fired ovens, smokers, grills, fireplaces, wood-burning stoves and candles.

(Y) **Vehicle:** means an enclosed motor vehicle registered by the Ohio bureau of motor vehicles when it is occupied by one or more non-smoking persons at the same time and while used for business purposes; a motor vehicle registered by the Ohio bureau of motor vehicles that is part of a motor pool and shared by non-smoking employees; a motor vehicle

registered by the Ohio bureau of motor vehicles that is used for public mass transit; or tourist or scenic railcars operated exclusively in Ohio

(Z) **Work Area:** means any room, desk, station or other area normally occupied by an employee while carrying out his or her primary work functions.

§1580.02 PROHIBITIONS

(A) No proprietor of a public place, business, or place of employment shall permit smoking in said public place, the enclosed area of said business or said place of employment within the City of Upper Arlington, or in the areas directly or indirectly under the control of the proprietor immediately adjacent to locations of ingress or egress to the public place or place of employment, except as provided in section 1580.03 of this Chapter.

(B) All enclosed areas, including buildings and vehicles owned, leased, or operated by the City of Upper Arlington, shall be subject to the provisions of this Chapter.

(C) In addition to the requirements of paragraph (a) of this rule, a proprietor of a public place or place of employment shall take reasonable steps including, but not limited to, requesting individuals to cease smoking, to ensure that tobacco smoke, in an area directly or indirectly under the control of the proprietor, does not enter any area in which smoking is prohibited under this Chapter through entrances, windows, ventilation systems, or other means.

(D) A proprietor shall not be deemed in violation of this Chapter if any smoke inadvertently enters the public place or place of employment, including entry through entrances, windows, ventilation systems, or other means, from an area otherwise exempted by this Chapter as a private residence.

(E) A proprietor shall post signs pursuant to the requirements of this Chapter.

(F) A proprietor shall identify himself or herself upon the request of the department of health.

(G) No person or employer shall discharge, refuse to hire, or in any manner retaliate against an individual for exercising any right, including reporting a violation, or performing any obligation under this Chapter.

(H) No person shall refuse to immediately discontinue smoking in a public place, place of employment, or the areas directly or indirectly under the control of the proprietor or in an establishment, facility or outdoor area declared nonsmoking under of this Chapter when requested to do so by the proprietor or any employee of an employer of the public place, place of employment or establishment, facility or outdoor area.

(I) Lack of intent to violate a provision of this Chapter shall not be a defense to a violation.

§1580.03 AREAS WHERE SMOKING IS NOT REGULATED BY THIS CHAPTER

Notwithstanding any other provision of this Chapter to the contrary, the following areas shall be exempt from the prohibitions in Section 1580.02:

- (A) Private residences, except during the hours of operation as a child care or adult care facility or health care facility for compensation, during the hours of operation as a business by a person other than a person residing in the private residence, or during the hours of operation as a business, when employees of the business, who are not residents of the private residence or are not related to the owner, are present.

A private residence in which an individual is employed only on an intermittent basis is not subject to this Chapter. This includes, but is not limited to, situations where individuals perform services for the owner of the residence or individuals residing in the residence such as those services performed by plumbers, electricians, remodelers, and housekeepers.

A private residence or portion of a private residence that is licensed or certified by the state or federal government to provide overnight accommodations and supervision or personal care services to unrelated individuals is not subject to this Chapter. Notwithstanding this paragraph, smoking may be prohibited by other applicable laws or rules.

- (B) Rooms for sleeping in hotels, motels or other lodging facilities that are rented to guests and are designated as smoking rooms; provided, however, that not more than 20% of rooms rented to guests in a hotel or motel may be so designated.

- (C) The enclosed areas of family-owned and operated businesses in which all employees are related to the owner, and offices of self-employed persons in which all employees are related to the self-employed person, but only if the enclosed areas these businesses and offices occupy are not open to the public, are not in the same building with other enclosed areas subject to this regulation, and smoke from these businesses and offices does not migrate or enter enclosed areas where smoking is prohibited under the provisions of this Chapter.

A family-owned place of employment, in which contractors or third parties not under the direction and control of the family-owned place of employment are intermittently present, is not subject to this Chapter.

- (D) An institution, residence or facility that provides for a period of more than twenty-four hours, whether for profit or not, accommodations to three or more unrelated individuals who are dependent upon the services of others, including any nursing home, as defined in Section 3721.10(A) of the Ohio Revised Code, residential care facility, the Ohio veteran's home, any facility or part of a facility that is defined as a skilled nursing facility as defined in Section 5111.20 of the Revised Code, and a country home or district home operated pursuant to Chapter 5155 of the Revised Code, but only to the extent necessary to comply with R.C. 3721.13(A)(18) and rules promulgated according to that section.

- (1) If an indoor smoking area is provided by the herein referenced facilities, the designated indoor smoking area shall be separately enclosed and separately ventilated so that tobacco smoke does not enter, through entrances, windows, ventilation systems, or other means, any areas where smoking is otherwise prohibited under this Chapter. Only residents of the facility may utilize the designated indoor smoking area for smoking. The herein referenced facilities may designate specific times when the indoor smoking area may be used for such purpose. No employee of said facilities shall be required to accompany a resident into a designated indoor smoking area or perform services in such area when used for smoking, unless they have volunteered to do so.
 - (2) If portions of an institution, residence, or facility are private residences, such as apartments, those private residential portions are governed by rules in this Chapter applicable to private residences, unless otherwise prohibited by applicable laws or rules.
 - (3) Outdoor smoking by residents of institutions, residences or facilities specified in paragraph (d) of this rule is permitted to the extent necessary to comply with division (A)(18) of section 3721.13 of the Revised Code.
- (E)(1) Retail tobacco stores as defined in Section 1580.01 (U) of this Chapter in operation prior to July 6, 2004, provided that each retail tobacco store claiming the exemption meets the following:
- (a) The retail tobacco store shall annually file with the department of health, postmarked by January thirty-first of each year, an affidavit stating the percentage of its gross income during the prior calendar year that was derived from the sale of cigars, cigarettes, pipes, or other smoking devices for smoking tobacco and related smoking accessories;
 - (b) The affidavit shall be in the form approved by the director and attached as appendix A to this rule;
 - (c) Upon request of the department of health, the retail tobacco store shall provide additional information to assist the department in the determination of whether the exemption is properly applicable to a retail tobacco store; and
- (2) Any retail tobacco store that begins operation after December 7, 2006 or any existing retail tobacco store that relocates to another location after July 6, 2004 may only qualify for this exemption if it meets the requirements set forth in paragraph (E)(1) of this section and:
 - (a) is located in a freestanding structure occupied solely by the retail tobacco store; and
 - (b) smoke from the business does not enter or migrate into an enclosed area where smoking is prohibited under the provisions of this Chapter.
 - (3) Within sixty days after receiving an affidavit and, if requested, any additional information, the department of health shall provide each retail tobacco store that meets the requirements of this rule with written documentation that the

retail tobacco store is exempt from the regulations of this Chapter.

(F) Outdoor patios as defined in Section 1580.01 (O) of this Chapter, except for the area of any outdoor patio that is within ten (10) feet of a window, door, or other opening of an enclosed area that is open when employees are present. Outdoor patios may be located immediately adjacent to locations of ingress or egress to the public place or place of employment, but shall be physically separated from any enclosed area. If windows or doors form any part of the partition between an enclosed area and the outdoor patio, the openings shall be closed to prevent the migration of smoke into the enclosed area. If windows or doors do not prevent the migration of smoke into the enclosed area, the outdoor patio shall be considered an extension of the enclosed area and subject to the prohibitions of this Chapter.

- (1) When smoking is permitted, the outdoor patio shall be open to the air. "Open to the air" shall mean the patio has thorough, unobstructed circulation of outside air to all parts of the outdoor patio.
- (2) Any outdoor patio that has a structure capable of being enclosed, regardless of the materials or removable nature of the walls or side coverings, shall be regarded as an enclosed area when the walls or coverings are in place. An outdoor patio shall be presumed to be open to the air when not more than fifty per cent of the combined surface area of an outdoor patio's sides is covered by walls or side coverings.
- (3) For purposes of this paragraph (F), a "roof or other overhead covering" shall include any structure or arrangement above the outdoor patio, including substantial coverage by umbrellas or awnings, that may impede the flow of air into the patio, regardless of the type or nature of roof or other overhead covering. For the purposes of this rule, roof or other overhead covering does not include materials provided by a proprietor to ensure security in a confined residential setting when the outdoor patio is otherwise open to the air.

(G) Private clubs as defined in Section 1580.01(R) of this Chapter provided that all of the following apply:

- (1) Only members of the club are present in the club's building; and
- (2) That the private club is the holder of a valid D-4 liquor permit pursuant to R.C. 4303.17 if alcoholic beverages are to be served; and
- (3) The club has no employees. For purposes of this exemption, the term employees does not include members of the private club who provide services to the private club; and
- (4) The club is organized as a not for profit entity; and
- (5) No persons under the age of eighteen are present in the club's building; and
- (6) The club is located in a freestanding structure occupied solely by the club; and
- (7) Smoke from the club does not enter or migrate into an enclosed area where smoking is prohibited under the provisions of this Chapter.

§1580.04 CONSTRUCTION; OTHER APPLICABLE LAWS

This Chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws, and shall be liberally construed so as to further its

purposes.

§1580.05 DECLARATION OF ESTABLISHMENT AS NONSMOKING

Notwithstanding any other provision of this Chapter, the owner, manager, operator, liquor permit holder, or other person in charge or control of an establishment, facility, or outdoor area which does not otherwise qualify as a public place or place of employment may declare such establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Section 1580.06 is posted.

§1580.06 POSTING OF SIGNS; PROHIBITION OF ASHTRAYS; RESPONSIBILITIES OF PROPRIETORS

In addition to the prohibitions contained in Section 1580.02 of this Chapter, the proprietor of a public place, business or place of employment shall comply with the following requirements:

(A) *No Smoking* signs or the international No Smoking symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this Chapter. The sign shall be of sufficient size to be clearly legible to one of normal vision throughout the areas it is intended to mark. All signs required by this Chapter shall contain the telephone number 1-866-559-OHIO (6446) for reporting violations and may also contain a designee's telephone number for reporting violations .

(B) Every public place, business and place of employment where smoking is prohibited by this Chapter shall have posted at every entrance a conspicuous sign, at a height and location easily seen by a person entering the public place, business, or place of employment, clearly stating that smoking is prohibited.

(C) Unless otherwise specified in this Chapter, signs shall be posted at all pedestrian points of transition from areas where smoking is not regulated by this Chapter to all areas that are regulated. Nothing in this rule shall prohibit public places and places of employment from posting signs in addition to those required to comply with this Chapter.

(D) Signs posted in vehicles shall be firmly affixed to the vehicle dashboard, or firmly affixed to each passenger door window, or firmly affixed to other areas visible to all passengers.

(E) All ashtrays and other receptacles used for disposing of smoking materials shall be removed from any area where smoking is prohibited by this Chapter unless such ashtrays or receptacles are of historic or architectural value and were affixed to real property prior to July 6, 2004, or are for ornamental purposes only and are displayed in such manner so as to preclude their use as receptacles for the disposal of smoking materials. This rule shall not apply to ashtrays and other receptacles within vehicles if they are not used for the disposal of smoking materials.

- (1) A proprietor may provide ashtrays and other receptacles used for disposing of smoking materials in areas where smoking is not prohibited under this Chapter.
- (2) A proprietor may provide ashtrays and other receptacles used for disposing of smoking materials solely for the purpose of disposing smoking materials prior to entering a place of employment or public place.
- (3) A proprietor may store ashtrays and other receptacles used for disposing of smoking materials in a location within an area where smoking is prohibited if the location has no public access, the location is used primarily for storage purposes, and the ashtrays or other receptacles are used solely in accordance with this Chapter.

(F) The owner, manager, operator or other person in charge or control of an establishment, facility, or outdoor area which does not otherwise qualify as a public place or place of employment regulated by this Chapter, may voluntarily declare such establishment, facility, or outdoor area as a nonsmoking place by conspicuously posting "No Smoking" signs that conform with the requirements of this Chapter.

(G) This Section shall not be construed to permit smoking in any area in which smoking is prohibited pursuant to Section 1580.02.

§1580.07 ENFORCEMENT

This Chapter shall be enforced by the Upper Arlington Board of Health and its designee(s). The Health Commissioner and his or her designee(s), and the City Manager and his or her designee(s), shall have concurrent jurisdiction to enforce all provisions of this Chapter.

§1580.08 SEVERABILITY

If any provision, clause, sentence, or paragraph of this Chapter or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Chapter that can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared to be severable.

§1580.09 SMOKING PROHIBITED IN PROHIBITED AREAS

(A) No person shall smoke in a public place, the enclosed area of a business, or a place of employment, within the City of Upper Arlington, except as provided in section 1580.03 of this Chapter.

(B) No person shall smoke in any establishment, facility, or outdoor area that has been declared a nonsmoking area by the owner, manager, operator, liquor permit holder, or other person in charge or control of the establishment, facility, or outdoor area.

(C) No person shall smoke in the areas immediately adjacent to public place, the enclosed area of a business, or a place of employment within the City of Upper Arlington, except as provided in section 1580.03 of this Chapter.

(D) It is an affirmative defense to a charge under this section that the proprietor of the public place, business, or place of employment failed to comply with the requirements of Section 1580.06(A) or (B).

(E) Whoever violates this section is guilty of smoking in a prohibited place, a minor misdemeanor, punishable by a maximum fine of \$150.

§1580.99 PENALTIES

(A) Upon the receipt of a first report that a proprietor of a public place, business or place of employment has violated any provision of this Chapter, the Upper Arlington Board of Health shall issue a warning letter to that proprietor. A copy of such letter shall be forwarded to the City Manager. The proprietor shall have available upon request the warning letter issued by the Upper Arlington Board of Health. Thereafter, the penalties contained in division (B) of this Section shall apply.

(B) Whoever violates any provision of this Chapter is guilty of the offense of permitting smoking in public places or places of employment. Such offense is a minor misdemeanor, punishable by a maximum fine of \$150.

(C) Strict liability is intended for a violation of this Chapter.

APPENDIX A

AFFIDAVIT IN SUPPORT OF RETAIL TOBACCO STORE EXEMPTION UNDER U.A.C.O. CHAPTER 1580

STATE OF OHIO)
) SS
COUNTY OF FRANKLIN)

_____, being first duly cautioned and sworn, says as follows:

- 1. Affiant is proprietor of _____, located at _____ with a telephone number of _____.
2. Affiant is authorized to make this Affidavit and has personal knowledge of the facts in support of this affidavit.
3. This Affidavit is provided to comply with the requirements of U.A.C.O. Chapter 1580, R.C. Chapter 3794 and Chapter 3701-52 of the Ohio Administrative Code prohibiting smoking in public places and places of employment.
4. That the establishment as set forth above derived _____% of its gross income during the prior calendar year from the sale of cigars, cigarettes, pipes, or other smoking devices for smoking tobacco and related smoking accessories.

FURTHER, Affiant sayeth not.

Sworn to and subscribed before me this _____ day of _____, 20__.

Notary Public

**CHAPTER 1581
WATER SUPPLIES****§1581.01 CONNECTION TO PUBLIC WATER MAINS, RESTRICTIONS ON USE OF WELL WATER**

Every dwelling house, business building and other establishment supplying water for drinking purposes to residents, customers, invitees, licensees, tenants or lessees, construction of which was commenced after October 1, 1963, and which at the time of construction was reasonably accessible to a public water main, shall be connected with such public water main and shall obtain its water supply therefrom. Every such building or structure except private residences occupied by the owners, supplying water for drinking purposes to customers, invitees or licensees, tenants, or lessees, which is or becomes reasonably accessible to a public water main shall be connected with such public water main and shall obtain its water supply therefrom, regardless of the date such building was erected or such establishment was put in operation. Provided that water from private wells may be used for laundry and air conditioning purposes, and for watering lawns and other uses outside the residence or other building not involving its use for human consumption.

§1581.02 TREATMENT OF WATER

Every occupied dwelling house which is supplied with water by a private well or any source other than the public water supply system of this City shall be provided with a suitable water treatment system so designed, maintained and operated as to continuously supply water free from coliform organisms. If the dwelling unit is occupied by other than the owner, failure of the owner or his/her representative to maintain and operate such water treatment system so as to provide coliform free water at all times shall be a violation of this C.O. Chapter 1581, punishable as hereinafter provided.

Each water supply system serving any business building or other establishment, except the private dwelling houses covered above, which is not reasonably accessible to a public water main and which supplies water for drinking purposes to customers, invitees or licensees from any source other than the public water supply system of this City, shall be equipped with a suitable water treatment system so designed, maintained and operated as to continuously supply water, free from coliform organisms. Failure of the owner or the owner's representative to maintain and operate such water treatment system so as to provide coliform free water at all times shall be a violation of C.O. Chapter 1581 punishable as hereinafter provided. Water treatment shall not be required for water used only for laundry or air conditioning purposes or for watering lawns or other uses outside the residence or other buildings not involving human consumption provided that no cross connections shall be permitted between pipe-supplying water for the purposes enumerated above and those supplying water for uses for which treatment is required.

§1581.03 CROSS-CONNECTIONS PROHIBITED

No cross-connections shall be permitted between the piping system for the water supplied from public mains and that supplied by private wells.

§1581.04 RESPONSIBILITY FOR COMPLIANCE, EXISTING DWELLINGS, ETC.

It shall be the responsibility and duty of the owner of every building or establishment above referred to, and of every person in charge of the rental or management thereof, to comply with the provisions of C.O. Chapter 1581, and failure of any such person to comply therewith shall constitute a violation of this section. Provided that, as to dwelling houses and business buildings presently occupied and other establishments now in operation, compliance with the provisions of C.O. Chapter 1581 may be effected before December 1, 1963, and no violation shall be deemed to exist as to such buildings or establishments until on or after such date.

**CHAPTER 1582
POLLUTION OF WATER RESOURCES**

§1582.01 POLLUTION OF WATER RESOURCES

(A) No person being the owner, tenant or prime occupant of any structure serviced by an Household Sewage Disposal System shall allow such system to pollute with coliform organisms any well, stream, watercourse or watershed.

(B) The Board of Health, upon consideration of local conditions, shall prescribe rules and regulations designed to prevent the pollution of water resources. Such rules shall provide for, but without limitation to, the following:

(1) The inspection of Household Sewage Disposal Systems to include standards therefore, which standards shall be state-of-the-art standards of general acceptance within the industry and other public jurisdictions.

(2) The certification of Individual Sewage Disposal Systems.

(3) The inspection of Individual Water Supply Systems.

(4) The treatment of Individual Water Supply Systems.

(5) The keeping of records of all Individual Water Supply Systems and Individual Sewage Disposal Systems within the City.

**CHAPTER 1583
ENFORCEMENT, PENALTY****§1583.01 AUTHORITY OF BOARD OF HEALTH**

The Health Commissioner, or his/her authorized deputies or agents, shall be authorized to enforce this Chapter and any health regulations adopted by City Council. Any reference to this Chapter shall incorporate any health regulation adopted by City Council. The Board of Health has primary authority to enforce the provisions of section 3707.04 to 3707.32 of the Revised Code regarding quarantine and isolation. In accordance with section 3707.34 of the Revised Code, the Health Commissioner shall act on behalf of the Board of Health in administering the provisions of section 3707.04 to 3707.32 of the Revised Code regarding quarantine and isolation when circumstances have rendered a meeting of the Board of Health to be impractical or impossible or delaying the action until a meeting of the Board of Health would compromise the public health. This Policy shall be adopted by the Board of Health pursuant to section 3707.34 of the Ohio Revised Code.

§1583.024 ENFORCEMENT

Part 15 – Health Code shall be enforced by the Health Commissioner, his or her deputies or representatives, the City Manager and Police Division of the City. No person shall violate any provisions of Part 15 – Health Code or refuse to obey any lawful order of the Health Commissioner, his or her deputies or representatives, or the City Manager.

The City Attorney shall be responsible for the prosecution of all misdemeanor offenses or civil actions arising under this Part 15 – Health Code.

§1583.03 RELATIONSHIP TO OTHER REGULATIONS

Part 15 – Health Code shall not be construed to prevent the enforcement of other ordinances or regulations that prescribe standards other than are provided in this Part. This Part establishes minimum standards relative to health, sanitation and safety for all premises and does not replace or modify requirements otherwise established by regulations that may be additional or more stringent. This Code shall not be construed or interpreted to impair or limit in any way the authority of the Health Commissioner or the Commissioner's authorized representative(s) to cause the removal or abatement of public nuisances or hazards that may threaten the health, safety or welfare of any person.

§1583.04 INSPECTIONS; RIGHT OF ENTRY**(A) Inspection, Right of Entry, Evidence**

(1) The Health Commissioner or his/her authorized deputies or agents in enforcing the provisions of Part 15 are hereby authorized and directed to make inspections pursuant to any procedures of inspection by the Board of Health; or in response to a complaint that an alleged violation of the provision of this Part or of applicable rules or orders pursuant thereto

may exist; or when the Health Commissioner has valid reason to believe a violation of this Part or any rules and orders pursuant thereto has been or is being committed.

(2) Upon presentation of proper credentials, the Health Commissioner or his/her authorized deputies or agents is authorized, where permission is granted, to enter any dwelling, dwelling unit, multiple dwelling, business building or premises in the City of Upper Arlington at reasonable times to perform any duty imposed on him/her by this Part. If any owner or person having charge of a building or premises subject to the provisions of this Part fails or refuses to permit free access and entry to the dwelling, dwelling unit, multiple dwelling, business building or premises under his or her control or any Part thereof, the Health Commissioner may apply to a judge of a court record, pursuant to Ohio Revised Code 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 Revised Code 2933.22.

(3) Every occupant of a premises or structure shall give the owner or operator thereof, or keeper, agent or employee, access to any part of such structure or its premises at all reasonable times for the purposes of making such inspection, maintenance, repairs or alterations as are necessary to comply with the requirements of this Part.

(4) The Health Commissioner or his/her authorized deputies or agents may obtain samples of evidence during inspections.

§1583.05 NOTICE OF VIOLATION

(A) Issuance of Notice of Violation

Whenever the Health Commissioner or his/her authorized deputies or agents determines, or has reasonable grounds to believe, that there exists a condition that violates any provisions or requirements set forth in the Ohio Statutes, the Ohio Administrative Code, or Part 15 – Health Code, the Health Commissioner or his/her authorized deputies or agents may issue a notice setting forth the alleged violations and advising the owner or person having charge that such violations must be corrected.

(B) Content of Notice of Violation

(1) All notices of violation, except emergency orders, shall be in writing and shall be served on the person from whom action, forbearance or compliance is required.

(2) All notices of violation shall identify the sections of Part 15 – Health Code and/or any Health Regulation adopted by City Council to which the order applies.

(3) All notices of violation shall provide a description of the dwelling, dwelling unit, multiple dwelling, business building or premises where the violations are alleged to exist or to have been committed; and/or a description of the public nuisance and the premises where the said public nuisance is alleged to exist.

(4) All notices of violation shall specify a reasonable time for compliance with the order.

(5) All notices of violation shall advise the owner or person having charge of the right to appeal to the Board of Health.

(6) All notices of violation shall advise the owner or person having charge that if the order is not complied with by the specified date of compliance, the Board of Health may initiate a civil and/or criminal complaint against the owner or person having charge; and/or the Board of Health may, by city personnel or private contractor, cause the violations to be corrected with the cost of such correction to be charged as a lien upon the real estate.

(C) Service of Notice of Violation

A notice of violation shall be served upon the owner or any person from whom action, forbearance or compliance is required. Such notice shall be served by any one (1) of the following methods:

(1) Personal service; or

(2) Certified mail; or

(3) Residence service; or

(4) Publication in a newspaper of general circulation in the county; or

(5) Regular mail service to an address that is reasonably believed to be:

(a) A place of residence of the owner, or

(b) A location at which the owner regularly receives mail; or

(6) Posting the notice of violation on the property, except that if a structure or premise is vacant, then the notice shall be posted on the structure or premise and one (1) of the above methods of service shall also be used.

(D) When the notice of violation has been properly serviced, the order shall be effective as to anyone having any interest in the premises whether recorded or not at the time the order was issued, and shall be effective against any subsequent owner of the premises as long as the violation exists and there remains a city record of the order in a public file maintained by the Board of Health.

(E) Written or oral acknowledgment by the owner of receipt of a notice of violation shall be evidence that the owner received the notice of violation. An appeal of the notice of violation by the owner shall constitute evidence of written acknowledgment by the owner of service of notice of violation.

§1583.06 EMERGENCIES

(A) Whenever the Health Commissioner finds that an emergency exists which requires immediate action to protect the health and safety of any person, he or she may issue an oral or written order reciting the existence of such an emergency and requiring that such action as he or she deems necessary be taken to meet the emergency. Notwithstanding the other provisions of this code, such order shall be effective immediately and complied with immediately.

(B) If necessary to protect the health and safety of any person where an emergency exists in an occupied building, the Health Commissioner shall order that the premises be vacated forthwith and further that it shall not be reoccupied until the conditions causing the emergency to exist have been abated and approved by the Health Commissioner.

(C) In cases where it reasonably appears that there is imminent danger to the health and safety of any person unless the emergency condition is immediately corrected and if after reasonable attempts to notify the owner it appears that the owner will not or cannot immediately correct the condition, the Board of Health may cause the immediate abatement, including building demolition, of such emergency condition. The Board of Health shall further cause the cost of such abatement to be charged against the land on which the building exists as a municipal lien or to be recovered in a civil suit against the owner.

(D) The owner or person having charge shall be granted a hearing before the Board of Health on the matter.

§1583.07 APPEALS OF NOTICE OF VIOLATIONS

Appeals of any notice of violation for an alleged violation of Part 15 – Health Code issued by the Health Commissioner and/or his/her authorized deputies or agents shall be made in writing within fifteen (15) days of the date of service of the notice of violation. Any person affected by a notice of violation may request and shall be granted a hearing before the Board of Health on all matters set forth in such notice of violation.

§1583.08 PROHIBITION AGAINST FAILURE TO COMPLY WITH NOTICE OF VIOLATION

(A) No owner or person having charge or authority over a violation of Part 15 – Health Code shall fail to comply with any notice of violation of the Board of Health, Health Commissioner and/or his/her authorized deputies or agents for a violation, obstruct or interfere with the execution of such order, or omit to obey such notice of violation.

(B) No person shall fail to comply within the time specified in a notice of violation after

receiving notification of being in violation of Part 15 – Health Code.

§1583.09 PROCEDURE UPON FAILURE TO COMPLY WITH NOTICE OF VIOLATION

Whenever, upon inspection the Health Commissioner and/or his/her authorized deputies or agents determines that there are reasonable grounds to believe that there is a violation of Part 15 – Health Code resulting in the existence of an actual or potential public nuisance, or whenever there exist conditions that adversely affect the health, safety or welfare of any person, or when notices issued pursuant to this Part do not alleviate such a public nuisance or condition, the Board of Health may:

- (A) Cause solid waste to be removed from any premises and may employ the necessary labor to perform the task;
- (B) Cause weeds, noxious weeds or rank growth to be cut or destroyed and removed from any premises and may employ the necessary labor to perform the task;
- (C) Cause the correction or abatement of any condition, which violates any section of Part 15 – Health Code in, regards to the sanitary maintenance of premises, the sanitary maintenance of animals, the control and abatement of rodents, insects, vermin or other pests, and the control and abatement of public nuisances and may employ the necessary labor to perform the task;
- (D) Upon performance of the labor mentioned in divisions (A), (B) and (C) with respect to abatement of the above-mentioned public nuisances, the Board of Health shall with respect to each parcel of land report to City Council a statement of the charge for the services, the amount paid for performing the labor, and the fees of the officers who made the service of the notice and return;
- (E) Upon receipt of the statement and approval thereof by Council, the City Clerk shall make a return in writing to the auditor of the applicable county of such statement, which shall be entered upon the tax duplicate of the county, all in accordance with Ohio Revised Code, Sections 731.51-731.54;
- (F) Cause to be filed a civil complaint for injunctive relief seeking abatement of the public nuisance in a court of jurisdiction. The procedures to be followed will be pursuant to the Ohio Rules of Civil Procedure; or
- (G) Cause to be filed a criminal complaint in a court of jurisdiction.

§1583.99 PENALTY

(A) Unless otherwise provided for in a Chapter, whoever violates any provision of Part 15 – Health Code is guilty of a misdemeanor of the fourth degree and is subject to a fine of not more than two-hundred and fifty dollars (\$250.00) or imprisonment of not more than thirty (30) days or both. An organization convicted of a violation of Part 15 – Health Code, a misdemeanor of the fourth degree, shall be fined not more than two thousand dollars (\$2,000.00).

(B) Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

(C) Unless otherwise provided for in a Chapter, strict liability is intended to be imposed for violation(s) of Part 15 – Health Code.