



Hampshire County Public Health and Sanitation Ordinance

Section 1. Short Title and Purpose

This Ordinance shall be known as the “Hampshire County Public Health and Sanitation Ordinance.” Its purpose is to protect public health and safety by eliminating hazards and nuisances, and by ensuring that certain facilities and activities comply with minimum health and sanitation standards. This Ordinance is enacted under the authority of West Virginia Code § 7-1-3kk, which authorizes county commissions to enact ordinances to eliminate hazards to public health and safety and provide misdemeanor penalties for violations.

Section 2. Authority

Pursuant to W. Va. Code § 7-1-3kk, the Hampshire County Commission hereby establishes the following health and sanitation requirements. This Ordinance is intended to complement and enforce state public health laws and regulations, including Chapter 16 of the West Virginia Code and Title 64 of the West Virginia Code of State Rules, within Hampshire County.

Section 3. Definitions

For the purposes of this Ordinance, the following terms have the meanings given below:

- i. **Campground:** A tract of land established, maintained, and offered to the public for payment for the location or placement of two or more camping units. This definition includes both temporary camping areas and permanent or commercial campgrounds.
- ii. **Campground Operator:** Any person or legal entity that owns, manages, or is in control of a campground’s operations.
- iii. **Child Care Center:** Any facility where child care services are offered to children (other than those of the owner/operator) on a regular basis for compensation. This term includes day care centers and family day care facilities as defined in state law or regulation, and it encompasses any child care facility that is required to obtain a health permit under state rules (W. Va. Code R. 64-21).
- iv. **Food Establishment:** Any operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption on or off the premises. This includes restaurants, cafes, grocery stores, food trucks, and similar facilities, as defined in W. Va. Code R. 64-17 (“Food Establishments”).
- v. **Health Code Officer:** The local health officer, sanitarian, or other official designated by the Hampshire County Board of Health who is charged with enforcing public health laws. “Health Code Officer” includes any authorized representative of the Hampshire County Health Department responsible for inspections and enforcement of health regulations.
- vi. **Knowingly:** With actual knowledge and understanding of the facts or circumstances that constitute a violation. For purposes of this Ordinance, a person “knowingly” commits an act if they are aware of what they are doing and that such act is prohibited or in violation of a legal requirement.

Unless otherwise specified, any term not defined herein shall have the meaning given to it by applicable West Virginia state law or regulation.

Section 4. Campground Health and Sanitation

(a) **Applicability:** This section applies to all campgrounds in Hampshire County, whether temporary or permanent, including but not limited to: commercial campgrounds, tent and travel trailer parks, RV parks, recreational camps, and any organized camp sites open to the public for a fee. Campgrounds are subject to the West Virginia General Sanitation Rule (64 CSR 18) which sets minimum public health sanitation requirements.

(b) **Permit Requirement:** No person shall operate or allow the operation of any campground without first obtaining a Permit to Operate a campground from the Hampshire County Health Department. All campground operators must apply for and maintain a valid permit in accordance with state law (W. Va. Code R. 64-18 and W. Va. Code R. 64-30). The permit shall be renewed as required by law (annual expiration on June 30, or as specified by state rule). Payment of any applicable permit fees, as established by the West Virginia "Fees for Permits" rule (64 CSR 30), is required as part of obtaining or renewing the permit. Operating a campground without this permit is expressly prohibited.

(c) **Minimum Sanitation Standards:** Every campground operator shall ensure the campground meets or exceeds the following minimum sanitation standards at all times, consistent with state health regulations:

- i. **Potable Water:** A safe and adequate supply of potable (drinkable) water must be provided for campers. This provision may be waived by the health officer for campgrounds or campsites which don't meet WV Title 64 series 18 definition as a public water source.
- ii. **Sewage and Wastewater Disposal:** All sewage and wastewater from the campground (including waste from toilets, sinks, showers, and RV dump stations) must be properly collected and disposed of in an approved sewage disposal system. There shall be no discharge of untreated or inadequately treated sewage onto the ground or into surface waters. All on-site septic systems or sewer connections must be installed and operated pursuant to applicable permits and design standards (e.g. W. Va. Code R. 64-9 and 64-47).
- iii. **Toilet and Handwashing Facilities:** Campgrounds shall provide an adequate number of sanitary toilet facilities (e.g. flush toilets or well-maintained latrines) accessible to all campers, in accordance with state rules. Handwashing stations with soap and water must be available near restrooms. Facilities shall be maintained in clean and functional condition.
- iv. **Solid Waste (Trash) Control:** Adequate garbage receptacles (trash cans or dumpsters with lids) must be strategically placed throughout the campground for campers' use. All solid waste shall be collected and removed on a regular schedule to prevent overflow, offensive odors, or pest infestations. The campground operator is responsible for ensuring the grounds are kept free of accumulated trash or debris at all times.
- v. **Other Health Requirements:** Campgrounds must comply with any additional health and safety requirements set by state law or the Hampshire County Health Department. This includes proper spacing of campsites, control of insects or rodents, maintenance of roads to prevent dust, and any specific measures required for organized camps or mass gatherings if those are applicable (see W. Va. Code R. 64-18 for any further campground standards). The campground shall be operated in a manner that does not create a public health nuisance or hazard (e.g. no open sewage, no uncontrolled burning of trash, etc.).

(d) **Prohibited Acts:** It is unlawful for any campground operator (or person in charge of a campground) to:
(1) operate a campground without the required health department permit; or (2) knowingly fail to provide

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or maintain the minimum sanitation facilities and standards outlined in subsection (c) above (or as otherwise required by law). Each day that a campground operates without a permit or in knowing violation of required health standards constitutes a separate offense.

(e) Misdemeanor Offense and Penalty: Any campground operator who knowingly violates any provision of this section is guilty of a misdemeanor offense under the authority of W. Va. Code § 7-1-3kk. Specifically, "Operating an Unsafe or Unpermitted Campground" in violation of this Ordinance is declared a misdemeanor. Upon conviction, the offender shall be subject to the penalties outlined in Section 9 of this Ordinance. Operating a campground in compliance with this section and state law is the legal responsibility of the campground operator; failure to do so knowingly will invoke enforcement action as described herein.

Section 5. Child Care Center Sanitation

(a) Applicability: This section applies to all child care facilities in Hampshire County that are subject to health and sanitation regulation. This includes any Child Care Center as defined in Section 3 (such as day care centers and family day care facilities). Child care facilities must comply with all applicable public health requirements, including the West Virginia Child Care Centers Sanitation Rule (64 CSR 21) and any health standards set by the West Virginia Department of Health and Human Resources for child care licensing.

(b) Permit and Approval Requirement: No person shall operate a child care center without first obtaining the necessary health permit or approval from the Hampshire County Health Department. Before opening or operating, the owner or operator of the child care center must secure a permit to operate (or other health department certification) as required by W. Va. Code R. 64-21 and the "Fees for Permits" rule 64 CSR 30. The Health Department's permit ensures the facility has been inspected and meets minimum health standards (including sanitation, water supply, sewage disposal, food service, etc.). The permit must be kept current, and the facility shall allow inspections by the Health Department as needed.

(c) Sanitation and Safety Standards: Every child care center shall be maintained in a clean, safe, and sanitary condition to protect the health of the children and staff. The operator is responsible for meeting at least the following standards at all times:

- i. **Safe Water Supply:** The center must have a source of potable water, from either a public water system or a properly constructed and tested well. If a private water supply is used, it shall be tested for bacteriological safety at least as often as required by health regulations (and in any case, not less than annually).
- ii. **Sewage Disposal:** The facility must be connected to a public sewer system where available, or otherwise use an approved on-site sewage disposal system (septic system) that is properly designed, permitted, and functioning. No sewage or graywater shall be discharged on the ground's surface or in a manner that creates a health hazard. Any septic tank or drainage field issues must be promptly repaired upon notice.
- iii. **Restroom and Diapering Facilities:** Adequate restroom facilities (toilets and handwashing sinks) must be provided in ratio to the number of children, as required by state rules. Diaper changing areas (if infants/toddlers are served) shall have impermeable changing surfaces and be sanitized after each use. Handwashing sinks with soap, warm running water, and disposable towels must be readily accessible to each diapering area and restroom.
- iv. **Cleanliness and Hygiene:** All areas of the child care center, including play areas, kitchens, and sleeping areas, shall be kept clean and free of accumulations of dirt, mold, trash, or pest infestations. Food preparation areas must comply with food sanitation standards (if the center

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provides meals or snacks) similar to a food establishment. Toys and equipment shall be cleaned and sanitized regularly.

- v. Ventilation and Lighting: The facility shall have adequate ventilation (e.g. operable windows or HVAC systems) and natural and/or artificial lighting to maintain a healthy environment. Smoking is prohibited on the premises during child care operations, and the facility must be free of environmental tobacco smoke and other air pollutants (consistent with indoor air regulations).
- vi. Compliance with Regulations: The center must meet any additional health and safety requirements as set forth in W. Va. Code R. 64-21 or other applicable rules, such as requirements for kitchens (if meals are served), immunizations of children, safe sleeping practices, and exclusion of sick children to prevent disease spread. The operator shall cooperate with the Health Department during inspections and correct any noted violations within the time frame ordered.

(d) Prohibited Acts: It is unlawful for any owner, operator, or person responsible for a child care center to: (1) operate the facility without the required health permit/approval from the Health Department; or (2) knowingly operate or maintain the facility in violation of the minimum sanitation or safety standards listed in subsection (c) or required by law. Each day that an unpermitted operation or a knowing health/safety violation continues is a separate offense. The legal duty to maintain safe and sanitary conditions falls upon the facility's owner/operator or any person in charge of managing the center.

(e) Misdemeanor Offense and Penalty: Any owner or operator who knowingly violates this section is guilty of a misdemeanor ("Unlawful Unsanitary Child Care Center Operation") under the authority of W. Va. Code § 7-1-3kk. Upon conviction, the offender shall be subject to the penalties provided in Section 9 of this Ordinance. Knowingly endangering children by failing to meet basic health standards or failing to obtain required permits will not be tolerated, and such violations will be prosecuted in accordance with this Ordinance.

Section 6. Sewage and Wastewater Sanitation

(a) Applicability: This section addresses public health hazards arising from improper sewage or wastewater disposal on any premises in Hampshire County. It applies to all property owners, occupants, or other persons responsible for managing sewage disposal, including individual homes, businesses, or any facility not connected to a public sewer. All sewage disposal systems in the County must comply with applicable state health laws, including W. Va. Code § 16-1-9 and the West Virginia Bureau for Public Health rules on sewage (e.g. Sewage Systems rule, 64 CSR 9).

(b) Permit Requirement for Sewage Systems: No person shall install, construct, or modify any sewage disposal system (including but not limited to septic tanks, absorption fields, pit privies, or other on-site wastewater treatment systems) without first obtaining a written permit from the appropriate health authority. In accordance with W. Va. Code § 16-1-9 and W. Va. Code R. 64-9-4.1, it is unlawful to install or establish any sewer system without a permit from the health department. The property owner (or contractor, with owner's consent) must submit plans or an application to the Hampshire County Health Department and receive approval before any installation or significant alteration of a sewage system. All such systems must be designed and constructed per the standards of W. Va. Code R. 64-47 (Sewage Treatment and Collection System Design Standards) and any applicable local regulations. A final inspection and approval by the Health Department is required prior to use of the system. Operating or using a sewage system that was installed without the required permit (or that has been ordered out of service due to non-compliance) is prohibited.

(c) Prohibition of Sewage Nuisances: It is unlawful for any person to knowingly allow or cause the discharge or escape of sewage in a manner that creates a public health hazard or nuisance. Specifically:

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- i. **No Surface Discharge:** Sewage, septage, or graywater shall not be discharged or dumped upon the surface of the ground, into sinkholes, or into any ditch, stream, river, or other waters of the state without proper treatment and a permit from the WV Department of Environmental Protection (as may be required under W. Va. Code § 22-11-8 for water pollution control). All sewage must be properly contained and treated via a functioning septic system, sewage treatment plant, or approved alternative system.
- ii. **Elimination of Failing Systems:** The owner or occupant of any premises on which a failing sewage system is present (e.g. a septic system that is overflowing, backing up into the structure, or otherwise leaking to the surface) must take prompt action to mitigate and repair the condition. Knowingly allowing a failing septic system to persist – such that sewage is exposed or accessible to people or vectors (flies, rodents) – is a violation of this Ordinance.
- iii. **Connection to Public Sewer:** If a public/community sewer system is available and legally accessible to a property, the property owner may be required by state law or local regulation to connect to that system rather than use an individual septic system. Failure to connect when required, and thereby causing continued use of an inadequate on-site system, can be deemed a violation if it results in public health risk (e.g. repeated sewage seepage).
- iv. **Sewage Hauling and Disposal:** Any person who engages in cleaning or pumping out septic tanks or sewage systems (a septic hauler or sewage tank cleaner) must be properly permitted (per W. Va. Code R. 64-9-4.11). All collected septage must be disposed of at an approved site (e.g. sewage treatment plant) in a sanitary manner. It shall be unlawful to dump or spread septage on land or waterways in the county without explicit approval under state regulations.

(d) **Responsibility:** The owner of the property on which a sewage system is located, as well as any tenant or person in control of the property, is responsible for ensuring compliance with this section. In the case of rental property, both landlord and tenant bear responsibility: the landlord must provide a lawful means of sewage disposal, and the tenant must use the system properly (only biodegradable toilet paper, no illegal chemicals, etc.) and report any malfunctions. No person shall willfully damage or tamper with a sewage disposal system in a manner that causes it to fail or discharge improperly.

(e) **Misdemeanor Offense and Penalty:** Any person (property owner, tenant, or other responsible party) who knowingly violates the provisions of this section is guilty of a misdemeanor under W. Va. Code § 7-1-3kk. This offense may be referred to as “Unlawful Sewage Disposal” under this Ordinance. Upon conviction, the offender shall be subject to the penalties in Section 9. Each day that a knowing violation (such as an unpermitted system installation or an ongoing raw sewage discharge) continues shall constitute a separate misdemeanor offense. In prosecuting such offenses, evidence of willful or knowing failure to correct a sewage nuisance after notice by the Health Department may be used to establish the mens rea (“knowingly”) element.

Section 7. Food Establishment Sanitation

(a) **Applicability:** This section governs the sanitation of food establishments in Hampshire County. It applies to any Food Establishment as defined in Section 3, including restaurants, delicatessens, grocery and convenience stores (with food preparation areas), school and institutional kitchens, mobile food units, temporary food vendors, and similar operations where food is prepared or served to the public. All such establishments must comply with the West Virginia Food Establishments Rule (64 CSR 17), which incorporates the FDA Food Code, as well as applicable provisions of West Virginia Code Chapter 16 (e.g. food service sanitation laws); provided that properly permitted facilities and food under West Virginia’s “Cottage Food” and farmers’ markets laws found in Chapter 19, Article 35 of the WV Code related regulations shall not be subject to this ordinance except as provided in W. Va. Code §19-35-3b.

(b) Permit Requirement: No person shall operate a food establishment in Hampshire County without a valid Food Establishment Permit issued by the Hampshire County Health Department. Prior to commencing operation (and annually thereafter, by the state's fixed expiration date), every food establishment must obtain this permit and pay the required fee, as set forth by W. Va. Code R. 64-30 (Fee Schedule for Permits). The permit is evidence that the establishment's plans have been approved and that it meets minimum design and safety standards for food service. Operating a food establishment without a current permit (or after a permit has been suspended or revoked) is strictly prohibited. The permit must be posted in a conspicuous place at the establishment. Changes of ownership or significant menu/operation changes require notifying the Health Department and possibly obtaining a new permit or approval.

(c) Food Safety and Sanitation Standards: All food establishments must be constructed, equipped, and operated in full compliance with the West Virginia Food Establishments Rule (64 CSR 17) and the 2013 FDA Food Code (as adopted by the state). Key requirements include, but are not limited to:

- i. Safe Food Sources: All food and drink served to the public must come from approved or permitted sources. No ingredients or finished products shall be obtained from uninspected or unapproved sources (e.g. uninspected home-canned goods, wild harvested game etc.). Water used for food preparation and ice must be from a potable water supply.
- ii. Facility Sanitation: The establishment's physical facilities (floors, walls, ceilings) must be kept clean and in good repair. Adequate lighting and ventilation must be provided. There must be properly functioning restrooms for employees (and for patrons, if required by building code), supplied with soap and hot water for handwashing. Handwashing sinks must be accessible in food prep areas and kept stocked (employees are required to wash hands at appropriate times). Equipment and utensils must be commercial-grade (NSF approved or equivalent) and maintained clean; food-contact surfaces must be washed, rinsed, and sanitized regularly to prevent contamination.
- iii. Temperature Control: Potentially hazardous foods must be kept at safe temperatures: refrigeration units must hold foods at 41°F or below; hot holding units must maintain foods at 135°F or above. Cooking, cooling, and reheating of foods must meet Food Code temperature and time requirements (e.g. cook poultry to 165°F, reheat leftovers to at least 165°F within 2 hours, etc.). Thermometers must be available and used to monitor food and equipment temperatures. Foods must cool rapidly (e.g. from 135°F to 70°F within 2 hours, and 70°F to 41°F within 4 more hours) using approved methods.
- iv. Employee Hygiene and Training: No person who is ill with a communicable disease (especially symptoms like vomiting, diarrhea, or fever with sore throat) or who has infected cuts/lesions may handle food. Employees must maintain high personal hygiene, including wearing clean outer garments and effectively restraining hair. Frequent and thorough handwashing is required, especially after using the restroom or handling raw meats. At least one Certified Food Protection Manager (CFPM) is required per establishment, as mandated by state rule, and that person (or a trained alternate Person-in-Charge) must be on duty during all operating hours. All other food workers should possess a valid Food Handler card as required by local or state policy.
- v. Cross-Contamination Prevention: Raw animal foods (meat, poultry, seafood, eggs) must be stored in a manner to prevent their juices or drippings from contaminating ready-to-eat foods. Separate cutting boards/utensils for raw vs. cooked foods, or proper washing and sanitizing between uses, are required. Chemicals (cleaners, pesticides) must be stored away from food and clearly labeled to avoid chemical contamination. All toxic substances must be used according to label instructions and kept out of food areas unless in use.
- vi. Waste and Pest Control: Garbage and refuse must be stored in covered, durable containers and removed frequently to avoid odors and pests. Grease traps (if present) must be properly maintained. The establishment must have measures to exclude pests: e.g. screened windows,

closed doors, routine pest control service. Any infestation of rodents or insects must be promptly addressed.

- vii. Compliance and Inspection: The establishment shall allow the Health Department to conduct inspections. The operator must correct any cited violations within the timeframe given on an inspection report. Priority items that pose an imminent health risk (such as operating with no water, severe pest infestation, sewage backup, etc.) may result in immediate permit suspension until corrected. The establishment must not continue operating in the face of an order to cease operations from the Health Officer due to critical public health threats. Posting of the most recent inspection grade or notice, if required by local policy, shall be done conspicuously.

(The above list is a summary; operators are expected to be familiar with all requirements of 64 CSR 17 and the Food Code).

(d) Prohibited Acts: It is unlawful for any person to:

- i. operate a food establishment without a valid Health Department permit;
- ii. operate a food establishment that the person knows does not meet the minimum sanitary standards required by law (for example, knowingly using unsafe food, or keeping foods at improper temperatures, or operating with a contaminated water supply); or
- iii. fail to comply with a lawful order of the Health Code Officer to correct serious health violations or cease operations due to immediate public danger.
- iv. The owner and the operator (permit holder) of the food establishment are jointly responsible for compliance. "Knowingly" engaging in the above prohibited acts – such as intentionally avoiding obtaining a permit, or willfully ignoring food safety requirements – shall constitute an offense under this Ordinance. Each day of operating without a permit or in willful violation of food safety laws is a separate offense.

(e) Misdemeanor Offense and Penalty: Any owner or operator of a food establishment who knowingly violates this section is guilty of a misdemeanor. This offense may be referred to as "Unlawful Unsanitary Food Establishment Operation" under the authority of W. Va. Code § 7-1-3kk. Upon conviction, the offender shall be subject to the penalties in Section 9 of this Ordinance. In addition, a knowing violation that results in adulterated or contaminated food being served to the public may be subject to enhanced penalties under state law (e.g. West Virginia Dairy Products and Food Act, W. Va. Code § 16-7-1 et seq., or other applicable laws), but such is separate from the local misdemeanor charge herein. The intent of this section is to ensure that local food businesses operate safely – those who willfully jeopardize public health by ignoring food safety rules will face enforcement action.

Section 8. Tattoo and Body Piercing Establishments

(a) Applicability: This section applies to any establishment located within Hampshire County that engages in tattooing, body piercing, or other forms of body art. These establishments are subject to the West Virginia Department of Health and Human Resources' Tattoo Studio Rule (64 CSR 80), the General Sanitation Rule (64 CSR 18), and W. Va. Code § 16-38-3 (Tattoo Studio Act), which govern the health and safety standards for such businesses.

(b) Permit Requirement: No person shall operate a tattoo or body piercing establishment without first obtaining a valid health permit from the Hampshire County Health Department, consistent with W. Va. Code § 16-1-4 and W. Va. Code R. 64-80. The permit shall be issued annually and is non-transferable. The operator must pay the applicable permit fee established by W. Va. Code R. 64-30.

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(c) Sanitation and Safety Standards: Tattoo and piercing establishments shall comply with all applicable sanitation requirements set forth in 64 CSR 80, including:

- i. Use of single-use needles, inks, and razors for each procedure;
- ii. Sterilization of all reusable instruments using an autoclave or other approved method;
- iii. Maintenance of clean workspaces and handwashing facilities with hot and cold running water;
- iv. Use of disposable gloves by practitioners during all procedures;
- v. Prohibition on tattooing or piercing minors without parental consent, as required by state law;
- vi. Retention of customer records and consent forms for the period required by state regulation.

(d) Prohibited Acts: It is unlawful for any operator or practitioner to knowingly:

- i. Operate without a valid permit;
- ii. Reuse single-use instruments;
- iii. Fail to maintain required sterilization practices;
- iv. Tattoo or pierce any person under age 18 without appropriate consent;
- v. Refuse to allow inspection by the Health Code Officer.

Each day that such violation continues shall constitute a separate offense.

(e) Misdemeanor Offense and Penalty: Any person who knowingly violates this section is guilty of a misdemeanor under W. Va. Code § 7-1-3kk. The offense shall be titled "Unlawful Operation or Sanitation of Tattoo/Body Piercing Establishment." Upon conviction, the violator shall be subject to the penalties described in Section 9 of this Ordinance. The Health Code Officer is authorized to inspect these establishments and bring enforcement actions in Magistrate Court.

Section 9. Manufactured Home Communities, Recreational Water Facilities, and Labor Camps

(a) Manufactured Home Communities

- i. **Applicability:** This subsection applies to all manufactured home communities in Hampshire County. A manufactured home community is defined as a tract of land under common ownership or management where four or more manufactured homes are used for dwelling purposes.
- ii. **Permit Requirement:** Pursuant to W. Va. Code R. 64-46-1 et seq., no person shall operate a manufactured home community without a valid permit issued by the Hampshire County Health Department. Permits shall be renewed annually and are not transferable. Application must be submitted in accordance with W. Va. Code R. 64-30 and comply with associated fees.
- iii. **Sanitation and Safety Standards:** The operator shall ensure:
 - a. A potable water supply that meets all applicable drinking water standards.
 - b. Proper sewage disposal through a public sewer or permitted onsite sewage system.
 - c. Adequate refuse disposal facilities, including garbage containers and removal systems.

- d. Maintenance of all community areas free from vector harborage and other public health nuisances.
 - e. Roads and drainage systems that prevent standing water and dust.
- iv. Misdemeanor Offense and Penalty: Any operator who knowingly violates this subsection is guilty of a misdemeanor (“Unlawful Operation of a Manufactured Home Community”) under W. Va. Code § 7-1-3kk. Each day of operation without a valid permit or in violation of health standards constitutes a separate offense.

(b) Recreational Water Facilities

- i. Applicability: This subsection applies to all public swimming pools, spas, hot tubs, and bathing beaches as defined by W. Va. Code R. 64-16.
- ii. Permit Requirement: No person shall construct, operate, or maintain a recreational water facility without a valid permit from the Hampshire County Health Department. All facilities must comply with W. Va. Code R. 64-16 and W. Va. Code R. 64-30 regarding application procedures and permit fees.
- iii. Sanitation and Safety Standards:
 - a. Water quality shall be tested and maintained per bacteriological and chemical standards.
 - b. Circulation and filtration systems must be functioning and inspected.
 - c. Lifesaving equipment must be available and operational where applicable.
 - d. Dressing rooms, showers, and toilets must be provided, maintained, and cleaned regularly.
 - e. Proper signage and supervision must be maintained to ensure user safety.
- iv. Misdemeanor Offense and Penalty: Any person who knowingly operates a recreational water facility without a valid permit or fails to meet the applicable safety and sanitation standards is guilty of a misdemeanor under W. Va. Code § 7-1-3kk. The offense may be prosecuted as “Unlawful Operation of a Recreational Water Facility.”

(c) Labor Camps

- i. Applicability: This subsection applies to all labor camps as defined under W. Va. Code R. 64-18-2.9, including any premises used to house workers seasonally or temporarily.
- ii. Permit Requirement: No person shall establish or operate a labor camp without a valid permit from the Hampshire County Health Department. All camps must comply with W. Va. Code R. 64-18 and W. Va. Code R. 64-30.
- iii. Sanitation and Safety Standards:
 - a. Drinking water from an approved source shall be available at all times.
 - b. Adequate toilet, shower, and laundry facilities shall be provided per occupant ratios.
 - c. Sewage must be properly disposed of through a permitted system.
 - d. Solid waste must be removed frequently and contained in rodent-proof containers.
 - e. Living quarters shall be maintained free of pests, with proper ventilation and lighting.

- iv. Misdemeanor Offense and Penalty: Any owner or operator who knowingly violates this subsection is guilty of a misdemeanor offense titled "Unlawful Operation or Sanitation of a Labor Camp." Each day a violation continues may be charged as a separate offense. This section is enacted under W. Va. Code § 7-1-3kk, with enforcement as described in Section 10 of this Ordinance.

Section 10. Enforcement Authority

(a) Health Code Officer Enforcement: The Hampshire County Health Code Officer is hereby authorized to enforce the provisions of this Ordinance. The Health Code Officer (or any duly authorized sanitarian or local health official) has the authority to investigate potential violations, conduct inspections, and issue notices or orders to abate any conditions that violate this Ordinance. If a violation is not corrected in a timely manner or is of a serious nature, the Health Code Officer is authorized to initiate criminal proceedings by filing a misdemeanor complaint in the Hampshire County Magistrate Court against the responsible person(s). Magistrate Court jurisdiction is proper for enforcement of these misdemeanor offenses under W. Va. Code § 7-1-3kk and § 16-2-15. The Health Code Officer may coordinate with the Hampshire County Prosecuting Attorney and other law enforcement as necessary in the preparation and prosecution of such cases.

(b) Enforcement of State Health Laws: In addition to enforcing this Ordinance, the Health Code Officer (and the Hampshire County Health Department generally) is empowered to enforce any applicable state public health laws and regulations within the County. This includes, but is not limited to, the rules cited or referenced in this Ordinance (e.g. 64 CSR 18, 64 CSR 21, 64 CSR 17, 64 CSR 9, 64 CSR 30, etc.) and relevant provisions of Chapter 16 of the West Virginia Code. The Health Code Officer may, when authorized by state law, issue citations or seek prosecution under state statutes or rules. For example, willful violations of public health laws or lawful orders of the Health Officer can be prosecuted under W. Va. Code § 16-2-15, which provides misdemeanor penalties for such violations. Nothing in this Ordinance shall be construed to limit the Health Department's ability to pursue state-level enforcement or to refer matters to state authorities (such as the West Virginia Bureau for Public Health or the Department of Environmental Protection) when appropriate.

(c) Orders to Correct or Cease Operations: The Health Code Officer may issue written orders or notices to any person in violation of this Ordinance, directing them to take specific actions to come into compliance. Such an order might require obtaining the proper permit, repairing a sewage system by a certain date, ceasing an illegal discharge immediately, cleaning an unsanitary facility, or even temporarily closing an establishment until critical violations are remedied. It is unlawful to knowingly disobey a lawful order of the Health Code Officer issued pursuant to this Ordinance or state public health law. Failure to comply with a correction order can itself be cited as a separate misdemeanor offense (and may also be enforced through injunctive proceedings as described in Section 9).

(d) Documentation and Right of Entry: The Health Code Officer shall maintain documentation of all inspections, notices, and enforcement actions. In carrying out duties under this Ordinance, the Officer (or designee) has the right to enter and inspect any public place or facility covered by Sections 4-7 at reasonable times, in accordance with law. For private homes or non-public areas, consent of the occupant or an administrative search warrant may be obtained if required by law. Refusal to allow a lawful inspection or obstruction of the Health Officer in enforcing public health laws is a misdemeanor under state law and may also constitute a violation of this Ordinance.

Section 11. Penalties and Legal Remedies

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(a) Criminal Penalties: Unless a different punishment is specifically provided herein or by state law for a particular offense, any person convicted of a misdemeanor under this Ordinance shall be punished by a fine of not less than \$50 and not more than \$500 for each offense. A civil monetary penalty may, at the discretion of the Health Code Officer, be issued in lieu of immediate prosecution, up to the amount of the fines described herein. Civil penalties assessed under this Ordinance may be paid directly to the Hampshire County Health Department within the period stated in the citation or notice, all fines derived from criminal penalties must follow the magistrate court process. If the cited person fails to pay the civil penalty within the designated time, or contests the charge, the violation may be brought as a misdemeanor complaint before the Magistrate Court of Hampshire County. Each day's continuing violation of any section of this Ordinance shall constitute a separate offense subject to additional charges and penalties. The court may also order the violator to correct the violation (e.g., to obtain a permit or abate a hazardous condition) as part of sentencing. Comment: The penalties stated above align with W. Va. Code § 16-2-15, which specifies fines for willful violations of public health laws. In no case shall penalties exceed the limits set by state law for misdemeanors of this nature (currently up to \$1,000 fine for general public health violations under state code which this Ordinance does not exceed).

(b) Civil Remedies and Injunctions: In addition to criminal enforcement, the County or the Board of Health may seek civil relief to enforce this Ordinance. The Health Code Officer, through the Hampshire County Prosecuting Attorney or other appropriate legal counsel, may initiate a civil action in the Circuit Court of Hampshire County for an injunction, mandamus, or other appropriate order to correct or abate violations of this Ordinance. Injunctive relief may include, but is not limited to: a court order to cease operation of an establishment posing a public health hazard, to compel the cleanup of sewage or trash, or to mandate any other action necessary to remove a public health nuisance. As expressly authorized by W. Va. Code § 16-2-15 and general principles of equity, the circuit court is empowered to issue temporary or permanent injunctions to enforce public health laws. Seeking an injunction or other civil remedy does not preclude criminal prosecution; the two may be pursued concurrently if circumstances warrant.

(c) Additional Civil Penalties or Fees: The Hampshire County Commission may, by separate resolution or regulation, establish administrative civil penalties (fines) or cost-recovery fees for particular violations or for the cost of enforcement actions (for example, charging the violator for the cost of abating a nuisance if the County must step in to clean up a property). Any such civil penalties would be in addition to, not in lieu of, the criminal penalties set forth above.

(d) Cumulative Remedies: The remedies and penalties provided in this Ordinance are cumulative. Pursuing one remedy (such as a criminal charge) does not bar the County from pursuing another (such as an injunction or vice versa) to achieve compliance. The County may also employ any other enforcement mechanism available under law, including the remedies provided in W. Va. Code § 16-2-15 (for obstruction or willful violation of health laws) and any applicable local board of health rules. The election of remedy shall be based on the nature of the violation and the urgency of protecting public health.

Section 12. Injunctive Relief and Nuisance Abatement

(Notwithstanding the provisions of Section 9(b), which already addresses injunctive relief, the following emphasizes the County's right to abate public health nuisances.) Any condition or activity in violation of this Ordinance is hereby declared to be a public health nuisance or hazard to public health and safety. The Hampshire County Commission or the Hampshire County Board of Health, acting through the Prosecuting Attorney or other counsel, may apply to the Circuit Court for an injunction, abatement order, or any other appropriate order to restrain, prevent, or abate the continuation of such nuisance. In any such action, irreparable harm to the public shall be presumed from the existence of a violation of a public health law or ordinance, and it shall not be necessary for the County to prove that an adequate remedy at

law does not exist. This section is enacted pursuant to W. Va. Code § 7-1-3kk (authorizing nuisance abatement) and the general equitable powers of the court. The costs of any court proceedings, and the reasonable costs of abatement or remediation, may be sought from the violator as allowed by law.

Illustration: If an illegal campground continues to operate without facilities, or a property owner refuses to repair a failing septic system that is contaminating a stream, the County can ask the court for an order to stop usage of the campground or property until compliance is achieved. The court can also order the violator to take specific actions (e.g. pump out and fix the septic system) or face contempt. This injunctive authority is designed to swiftly address serious threats to public health, beyond the slower process of criminal prosecution.

Section 13. Administrative Warrants

(a) The Health Code Officer may apply to the Hampshire County Magistrate Court for an administrative warrant to enter and inspect any premises or structure subject to regulation under this Ordinance when:

- i. Entry has been denied or is reasonably expected to be denied;
- ii. Entry is necessary to investigate known or suspected violations of public health laws; and
- iii. Entry is necessary to perform duties required by law under this Ordinance or applicable state code.

(b) The Magistrate may issue the administrative warrant upon a showing of probable cause, supported by affidavit or sworn testimony, that reasonable grounds exist to believe a violation of public health law has occurred or is occurring, or that an inspection is necessary to enforce applicable health requirements.

(c) The warrant shall specify the premises to be entered, the purpose of the inspection, and the legal authority under which it is issued. Execution of the warrant shall be conducted in a reasonable manner, with due respect for the rights of the property owner or occupant. Nothing in this section shall be construed to limit the right of entry by consent or in emergency situations.

(d) This section is enacted under the authority of W. Va. Code § 16-2-11, § 7-1-3kk, and general principles of administrative law recognized in West Virginia courts.

Section 14. Severability

The provisions of this Ordinance are severable. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions. The Hampshire County Commission hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more parts be declared invalid.

Section 15. Effective Date

This Ordinance shall be in full force and effect immediately upon its adoption by the Hampshire County Commission, following the public readings and publication as required by law. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict. The Clerk of the County Commission is directed to cause this Ordinance to be published and recorded as required by law.

Adopted by the Hampshire County Commission on _____ (Date).

November 13, 2025 *Mary H. Sae*

Hampshire County Health Department
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