

**HOUSING REGULATIONS
FOR
KENT COUNTY, MICHIGAN**



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**HOUSING REGULATIONS
FOR
KENT COUNTY, MICHIGAN ARTICLE I – TITLE, PURPOSE & SCOPE**

101. **Title.** These regulations shall be known as “The Housing Regulations of Kent County.
102. **Purpose.** These regulations are adopted to protect the health and safety of the occupants of dwellings and dwelling units, and of the general public; to provide minimum standards for the condition and maintenance of dwellings and dwelling units; to establish minimum requirements for the provision of utilities, facilities and conditions essential to make dwellings safe, sanitary and fit for human habitation; to fix the responsibilities of owners and occupants; to authorize the inspection of dwellings; to require the correction of violations; to prevent the occupancy of dwellings unfit for human habitation; to fix penalties for violations; and to provide for administration of the regulations.
103. **Scope.** These regulations shall apply to any person, firm, partnership, association or corporation owning, having control or management of, or occupying any dwelling or dwelling unit. Except as otherwise expressly provided, all dwellings and dwelling units, and all owners or occupants of dwellings or dwelling units, shall comply with the standards and requirements provided by these regulations.
104. **Exclusions.** These regulations shall not apply to hotels, motels and similar transient living establishments not designed and offered for use as seasonal or permanent domiciles; provided however, that if hotels, motels, or similar transient living establishments are, in fact, being occupied and utilized as seasonal or permanent domiciles, they shall be subject to the provisions of these regulations. In addition, dwellings or dwelling units providing temporary housing for farm workers, which are subject to minimum standards for occupation under state or federal laws, are hereby exempted from provisions of these regulations, provided that no nuisance or health hazard is allowed to exist.

ARTICLE II – DEFINITIONS

201. For purposes of these regulations, the definitions provided by this Article shall apply.
202. “Approved” means acceptable for an intended use as determined by the Health Officer under applicable public health laws, rules and regulations.
203. “Subcommittee” means the Appeal Subcommittee of the Legislative and Human Resources Committee of the Board of Commissioners.

204. “Dwelling” means any house, building, structure, tent, shelter, trailer, vehicle, residence, or living or sleeping place of one or more human beings, either permanently or transiently.
205. “Dwelling” Unit” means a room or group of adjoining rooms occupied or intended for occupancy as living quarters by one family, physically separated from other rooms or dwelling units which may be in the same structure, and provided with independent living, sleeping and sanitary facilities.
206. “Emergency” means a condition or situation which could reasonably be expected to cause death, disease, or serious physical harm immediately or before the imminence of the danger can be eliminated through enforcement procedures provided by these regulations.
207. “Family” means a person, living alone in a single dwelling unit, or two or more persons whose domestic relationship is of a continuing, non-transient character and who reside together as a single housekeeping unit in a single dwelling unit.
208. “Habitable” means potentially or actually utilized for purposes normally associated with a domicile, including cooking, eating, sleeping, bathing, entertaining, relaxing, and other typical living activities.
209. “Health Officer” means the legally designated Health Officer of Kent County, or that official’s authorized representative.
210. “Lead Poisoning hazard” means lead present in any form within, upon, or about a dwelling which, because of its location, condition, or concentration, may be injurious to the health and safety of occupants of the dwelling.
211. “Nuisance” means and includes, without limitation, a public nuisance as known at common law or in equity jurisprudence; whatever conditions are dangerous or detrimental to human life or health; a dwelling or dwelling unit which is overcrowded with occupants, which is not provided with adequate ingress and egress, or which is not sufficiently supported, ventilated, sewerred, drained, cleaned or lighted, with regard to its actual or intended use; or whatever conditions render the air or human food or drink unwholesome.
212. “Person” means any individual, firm, corporation, association or partnership.

ARTICLE III – MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES FOR DWELLINGS AND DWELLING UNITS

301. Each dwelling unit shall contain a kitchen sink in good working condition with hot and cold water. The sink shall be properly connected to a water supply and sewer system

approved by the Health Officer, and shall comply with all applicable local or state plumbing codes.

302. Each dwelling or dwelling unit shall contain a flush water closet in good working condition, located in an enclosed room which affords privacy. The water closet shall be properly connected to a water supply and sewer system, approved by the Health Officer, and shall comply with all applicable local or state plumbing codes.
303. Each dwelling or dwelling unit shall contain a lavatory basin and bathing facility (which affords privacy) in good working condition. The lavatory basin and bathing facility shall be properly connected with hot and cold water to a water and sewer system approved by the Health Officer and shall comply with all applicable local or state plumbing codes.
304. Each habitable room to which electric service is available shall contain at least two separate wall-type electric outlets, or one wall-type electric outlet and one ceiling-type electric light fixture. The outlets and fixtures, as applicable, shall be properly installed and maintained in a safe and good working condition.
305. Each dwelling or dwelling unit occupied between November 1 and the following April 1 shall have heating facilities which are properly installed and maintained in a safe and good working condition and capable of heating all habitable rooms within the dwelling under ordinary winter conditions to at least 70° Fahrenheit.
306. Each habitable room of a dwelling or dwelling unit shall have one or more windows with a minimum transparent or translucent area equal to at least 10% of the floor area of the room, with 45% of that minimum transparent or translucent area capable of being opened. The windows shall face directly to the outdoors.
307. Each dwelling or dwelling unit shall have two safe, unobstructed means of egress leading to a safe and open space at ground level.

**ARTICLE IV – MINIMUM STANDARDS OF MAINTENANCE;
OCCUPIED DWELLINGS OR DWELLING UNITS**

401. All foundations, floors, walls, windows, ceilings, and roofs shall be reasonably watertight, weather tight, and vermin proof; shall be capable of affording privacy; and shall be kept in good and safe repair. Screens shall be provided and kept in good repair from April 1 to the following November 1 on all openable doors and windows.
402. All water supply utilities, wastewater disposal utilities, fuel supply utilities, and electric power utilities, and all fixtures and equipment connected to such utilities, shall be located, connected, installed and maintained in a safe and properly functioning condition.

403. No person shall occupy, or offer for occupancy to any other person, any dwelling or dwelling unit which is unsanitary or vermin infested, or which presents unreasonable hazards to the health or safety of its inhabitants.

ARTICLE V – MINIMUM STANDARDS REGARDING DIMENSIONS, USE, AND LOCATION OF DWELLINGS AND DWELLING UNITS

501. No dwelling or dwelling unit shall be used or permitted to be used for residential purposes unless the dwelling or dwelling unit contains 100 square feet of habitable floor area for each occupant.
502. At least one-half of every habitable room shall have a ceiling height of at least seven feet. Floor space in a habitable room that does not have at least five feet of clear floor-to-ceiling height shall not be considered in determining compliance with the minimum habitable floor area requirements of these regulations.
503. No cellar or basement space located partially or wholly underground and having half or more than half of its clear floor-to-ceiling height below the average grade of adjoining ground shall be used as a dwelling or dwelling unit unless:
- A. The floors and walls located partially or wholly underground are impervious to leakage of underground and surface runoff water and are insulated against dampness.
 - B. The total window area in each partially or wholly underground room is equal to 10% of the habitable floor area of the room, with 45% of that minimum glass area capable of being opened. The total window area required by this section shall be located entirely above the grade of the adjoining ground outside the room.

ARTICLE VI – RESPONSIBILITIES OF OWNERS AND OCCUPANTS

601. If dwelling or dwelling unit becomes infested with rodents or insects due to the failure of the owner to maintain the dwelling or dwelling unit in a reasonably rodent-proof or insect-proof condition, extermination shall be the responsibility of the owner. In all other cases, extermination shall be the responsibility of the occupant of the dwelling or dwelling unit.
602. The occupants of a dwelling or dwelling unit shall keep the areas they occupy and control in a clean condition and shall cause no condition of filth, infestation by vermin, or condition hazardous to life or health. The owner of a dwelling or dwelling unit shall be responsible for maintenance and cleanliness of portions of the dwelling or dwelling unit not subject to the use and control of an occupant.

603. The occupants of a dwelling or dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operations of the plumbing fixtures. The owner shall be responsible for major repair of the plumbing and sewage facilities when the malfunction is not due to the neglect of the occupant.
604. The occupants of a dwelling or dwelling unit shall be responsible for providing adequate and safe means of storage and disposal of garbage and solid wastes in a manner that will not create a nuisance.
605. Major structural or equipment repairs necessary to maintain or restore any dwelling or dwelling unit in compliance with these regulations shall be the responsibility of the property owner.
606. It shall be the responsibility of the owner of any dwelling or dwelling unit to correct or eliminate existing or potential lead poisoning hazards as directed by the Health Officer.

ARTICLE VII – INSPECTION AND INVESTIGATIONS

701. The Health Officer is authorized to make any investigations and inspections as needed to determine the condition of dwellings, dwelling units, and premises covered by these regulations, or as otherwise required to protect the health, safety, and welfare of the occupants of the dwellings or and the general public, and to assure compliance with these regulations.

ARTICLE VIII – DESIGNATION OF DWELLING OR DWELLING UNITS UNFIT FOR HUMAN HABITATION

801. The Health Officer may condemn and declare unfit for human habitation any dwelling or dwelling unit which exhibits any of the following defects, conditions, or characteristics as determined by the Health Officer.
 - A. Dwellings or dwelling units which have been damaged by fire, wind, water, or other causes, or which are otherwise dilapidated, deteriorated, decayed, structurally unsound, likely to collapse, or have their interiors exposed to the elements, so as to be dangerous or detrimental to the life, safety or general health and welfare of the occupants or the general public.
 - B. Dwellings or dwelling units which fail to provide the basic amenities essential to healthful living, are unsanitary, are in a condition likely to cause sickness or disease among the occupants or other persons, or are otherwise manifestly unsafe for use for dwelling purposes.
802. If a dwelling or dwelling unit is declared by the Health Officer to be unfit for human habitation, the Health Officer shall post on the dwelling or dwelling unit, in a conspicuous

place, a placard bearing the following words: "CONDEMNED AS UNFIT FOR HUMAN HABITATION."

803. Any dwelling or dwelling unit condemned and placarded as provided by this Article shall be vacated by all persons within a reasonable time, as ordered by the Health Officer.
804. No person shall deface, cover or remove the placard, except the Health Officer who shall remove it after the defect or defects in the dwelling or dwelling unit have been corrected and the Health Officer has determined that the dwelling or dwelling unit is fit for human habitation.
805. No person shall occupy, or offer for occupancy to any other person, any dwelling or dwelling unit that has been condemned until written approval to do so has been obtained from the Health Officer, based on the Health Officer's determination that the dwelling or dwelling unit is again fit for human habitation, and the placard has been removed from the dwelling or dwelling unit by the Health Officer.
806. Upon declaring that a dwelling or dwelling unit is unfit for human habitation, the Health Officer may file an affidavit with the Kent County Register of Deeds disclosing the existence of a condemnation order affecting the property. The affidavit shall be recorded with the property title, and shall remain in effect until the condemnation order affecting the property. The affidavit shall be recorded with the property title, and shall remain in effect until the condemnation order is rescinded. Following rescission of the condemnation order, the Health Officer may then remove or amend the affidavit to reflect the rescission. Expenses associated with filing, removing or amending the affidavit shall be the responsibility of the person who requested that the condemnation order be rescinded.

ARTICLE IX – VARIANCES

901. The Health Officer may grant variances from the standards and requirements contained within these regulations if all of the following conditions are met, as determined by the Health Officer:
 - A. If the requested variance is granted, there will still be substantial compliance with all applicable standards and requirements;
 - B. The grant of the variance will not cause or perpetuate a nuisance or health or safety hazard; and
 - C. Prior to the grant of the variance, the municipal building official has provided written approval of the requested variance to the Health Officer.
 - D.

ARTICLE X – ADMINISTRATION AND ENFORCEMENT

1001. **Discretionary Enforcement Authority of Health Officer.** The Health Officer shall possess the authority to employ professional judgment in the application of these regulations to unusual or equivocal housing situations or conditions.
1002. **Notices of Violation.** If the Health Officer believes that a person has violated a provision of these regulations, or an order issued under these regulations, the Health Officer may issue a Notice of Violation to the alleged violator. The Notice of Violation shall be in writing and shall state with particularity:
- A. The nature of the violation, including reference to the section, standard or requirement under these regulations alleged to have been violated;
 - B. The terms of any order of the Health Officer, including any actions required to correct the violation.
 - C. The time within which the violation must be corrected as provided by the order.
 - D. The consequences for failure to correct the violation or to otherwise comply with the order, including applicable criminal and civil fines and penalties, if any.
 - E. The right to appeal the issuance of the Notice or the order.
 - F. The date and time the Notice and/or order was issued.
- The Notice of Violation and order shall be delivered to the alleged violator (the owner, the owner's agent, the occupant, or other responsible person, as determined appropriate by Health Officer) either personally, or by registered mail, to the alleged violator's last known address.
1003. **Orders – In General.** The Health Officer may issue orders to avoid, correct, or remove, at the owner's expense, a dwelling, dwelling unit or condition involving a dwelling or dwelling unit, which violates these regulations, or which the Health Officer reasonably believes to be a nuisance, unsanitary condition, or cause of illness. All violations of these regulations shall be ordered corrected within the shortest reasonable time appropriate under the circumstances, as determined by the Health Officer. If the owner or occupant does not comply with the order, the Kent County Health Department may cause the violation, nuisance, unsanitary condition, or cause of illness to be removed. The owner of the dwelling or dwelling unit shall pay the expenses incurred. If the owner refuses on demand to pay the expenses incurred, the sums paid shall be assessed against the property and shall be collected and treated in the same manner as taxes assessed under the general laws of this state. An occupant or other person who caused or permitted the

violation, nuisance, unsanitary condition, or cause of illness to exist is liable to the owner of the premises for the amount paid by the owner or assessed against the property.

1004. **Emergency Orders.** If the Health Officer determines that an emergency exists at a dwelling or dwelling unit, the Health Officer shall inform the individuals at the dwelling or dwelling unit affected by the emergency. The Health Officer shall also issue an order (without the necessity of prior notice or a hearing) stating the factors which support a finding that an emergency exists and requiring immediate action as necessary to avoid, correct, or remove the emergency. The order may specify action to be taken or prohibit the presence of individuals in locations or under conditions where the emergency exists. The order shall be personally delivered to a person authorized to avoid, correct, or remove the emergency, or shall be posted at or near the premises. Upon the failure of a person to immediately comply with an order issued under this Section (or to otherwise comply within the time specified by the order), the Health Official may petition a court of competent jurisdiction to restrain the cause of the emergency or to require appropriate action to avoid, correct, or remove the emergency.
1005. **Civil Citations; Monetary Civil Penalties.** If the Health Officer believes that a person has violated a provision of these regulations, or an order issued under these regulations, the Health Officer may issue a civil citation to the alleged violator and may assess a monetary civil penalty as provided by Section 1102 of these regulations. The citation shall be written and shall state with particularity the nature of the violation, including reference to the section, standard or requirement under these regulations alleged to have been violated; the civil penalty established for the violation, if any, and the right to appeal the citation. The citation shall be delivered to the alleged violator (the owner, the owner's agent, the occupant, or other responsible person, as determined appropriate by the Health Officer) either personally or by registered mail to the alleged violator's last known address.
1006. **Appearance Tickets.** The Health Officer is authorized to issue and serve appearance tickets for violations of these regulations as provided by Sections 9a to 9g of Chapter 4 of Act No. 175 of the Public Acts of 1927, as amended, being Sections 764.9a to 764.9g of the Michigan Compiled Laws.
1007. **Injunctions.** Notwithstanding the existence and pursuit of any other available remedy, the Health Officer, without posting bond, may maintain injunctive action to restrain, prevent, or correct a violation of these regulations, or of any order issued under these regulations, or to restrain, prevent or correct an activity or condition which the Health Officer believes adversely affects the public health.
1008. **Cumulative Remedies.** The imposition of a single penalty, fine, or order upon any person for a violation of these regulations, or of any order issued under these regulations, shall not preclude the imposition by the Health Officer or a court of competent jurisdiction of a combination of any or all of those penalties and remedies or additional

penalties and remedies with respect to the same violation. A criminal citation and prosecution of a criminal action against a person shall not be dependent upon or held in abeyance during any civil, judicial or administrative proceeding or hearing regarding the person.

1009. **Continuing Offense.** Each act of violation, and each day or portion of a day that a violation of these regulations, or of any order issued under these regulations, exists or continues shall constitute a separate punishable offense.
1010. **Additional Rights of Action and Remedies.** The enumeration by these regulations of various rights of action and remedies shall not limit or derogate rights of action or remedies available to the Health Officer or the Board of Health under any other applicable law or regulation, nor shall it preempt, preclude, or interfere with the authority of the County to protect the health, safety and welfare of the public through these regulations or by other means.

ARTICLE XI – PENALTIES FOR VIOLATIONS

1101. **Criminal Penalties.** Any person who violates a provision or requirement of this regulation, or who fails to comply with an order of the Health Officer issued pursuant to this regulation shall be guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$200.00, or both.
1102. **Monetary Civil Penalties; Schedule of Amounts.** Monetary Civil Penalties are hereby established for the following violations in the following amounts, to be assessed by the Health Officer pursuant to a civil citation as authorized by these regulations:
- A. Failure by a person to maintain a dwelling or dwelling unit in conformance with the requirements of this regulation:
 - 1. FIRST OFFENSE \$ 100.00
 - 2. SECOND OFFENSE 200.00
 - 3. SUBSEQUENT OFFENSES 300.00 (each)

 - B. Failure to comply with an order of the Health Officer issued under these regulations:
 - 1. FIRST OFFENSE \$ 100.00
 - 2. SECOND OFFENSE 200.00
 - 3. SUBSEQUENT OFFENSES 300.00 (each)

 - C. Unauthorized removal or defacement of a condemnation placard:

\$100.00 (each offense)

ARTICLE XII – APPEALS

1201. Any person wishing to appeal a notice of violation, order, citation, or decision issued or made by the Health Officer under these Regulations must petition the Health Department for a hearing within 20 days of the date of the decision. The petition shall be in writing and shall be filed with the Health Department.
1202. The hearing shall be held before the Health Officer within 30 days after receipt of the petition by the Health Department. After the hearing, the Health Officer may affirm, dismiss, modify, or reverse the notice, order, citation, or decision.
1203. The decision of the Health Officer shall be final unless, within 60 days of the date of said decision, a written petition for review is received by the Chair of the Legislative and Human Resources Committee of the Board of Commissioners and granted by the Appeal Subcommittee appointed by the Chair of the Legislative and Human Resources Committee. If the Appeal Subcommittee grants review, it shall hear the appeal, make further investigation if necessary, and affirm, dismiss, modify, or reverse the decision of the Health Officer. The Appeal Subcommittee shall conduct all appeals in accordance with Article X-A "Appeals Procedures" of the Kent County Health Department Sewage Disposal Regulations, as amended and attached hereto.
1204. A person aggrieved by a final decision of the Health Officer or the Subcommittee under this article may petition the Circuit Court of Kent County for relief, subject to any limitations provided under state law.
1205. Nothing in this article shall be construed to prohibit the Health Officer from taking appropriate action when an emergency exists, as provided by these Regulations.

ARTICLE XIII – SEVERABILITY CLAUSE

1301. The sections, clauses and provisions of these regulations shall be deemed severable. If any section, clause or provision is declared invalid by a court of competent jurisdiction, that shall not affect the validity of these regulations in whole or in part other than the part declared to be invalid.

ARTICLE XIV – AUTHORITY AND EFFECTIVE DATE

1401. These Regulations are adopted pursuant to the authority of Section 2441(1) of the Michigan Public Health Code, Act 368, P.A. 1978, as amended.
1402. These regulations were approved by the Kent County Board of Commissioners on February 9, 1995, and shall be effective on March 27, 1995.

APPEALS PROCEDURE

CONDUCTED IN ACCORDANCE WITH ARTICLE X-A "APPEALS PROCEDURES" OF THE KENT COUNTY HEALTH DEPARTMENT SEWAGE DISPOSAL REGULATIONS:

1051 – RIGHT TO HEARING

Any person wishing to appeal a notice of violation, order, citation, or decision issued or made by the Health Officer for an alleged violation of the Kent County Health Department Regulations has a right to an administrative hearing and review as provided by this Article.

1052 - REQUEST FOR HEARING

- a. To be entitled to a hearing, the appellant must file a written request for hearing with the Health Department, on a form provided by the Health Department, no later than 20 days after receipt of the notice of violation, order, citation, or decision. In computing this period, the day of receipt is not to be included. The last day of the period is to be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next Monday or non-holiday.
- b. A filing fee, as established by the Board of Commissioners, must accompany the written request for hearing. If the Health Department's notice of violation, order, citation, or decision is dismissed after the hearing, the Health Department may refund the filing fee.
- c. Upon receipt of a written request and filing fee, the Health Department shall give or send a copy of these procedures to the appellant or his/her designated representative.

1053 - TIME, PLACE AND NOTICE OF HEARING

- a. The Health Department shall schedule and hold a hearing within 30 days after receipt of the written request and filing fee.
- b. The Health Department shall serve notice of the time, date, and place of the hearing on the appellant or his/her designated representative by certified mail a minimum of 10 business days before the date of the hearing.
- c. The hearing may be adjourned to another specified time, date, or place if the Health Department gives written notice thereof, or if the appellant makes a written request for an adjournment at least 24 hours prior to the scheduled time of the hearing.

1054 - FAILURE TO APPEAR

- a. If the appellant fails to appear for the hearing at the scheduled or properly rescheduled date, time, or place after proper service of notice, and no further

adjournment has been granted, the hearing may continue and a decision may be made in the absence of the appellant.

1055 - PARTIES

- a. The Health Department shall appear at the hearing by its designated representative.
- b. The appellant may appear in person or by his or her representative designated in writing.

1056 - Hearing Officers

- a. Hearings shall be conducted in the manner set forth below by an impartial Hearing Officer designated by the Health Officer. The Hearing Officer shall not have been involved in the determination to issue the notice of violation, order, citation, or decision.
- b. If either party to the hearing believes the Hearing Officer is not qualified to hear the appeal because of personal bias or prejudice, that party may ask the Hearing Officer to disqualify himself/ herself. The request must be accompanied by a sworn written statement of facts showing that the Hearing Officer is biased or prejudiced. The request for disqualification and the accompanying statement of facts in support thereof must be filed no later than 4 business days before the scheduled hearing date. Untimeliness of filing shall be a factor in considering whether or not the motion should be granted. The matter shall be determined by the Health Officer, and his/her determination shall become part of the record and shall be subject to review by a court as provided below. When a Hearing Officer has been disqualified, the Health Officer shall assign another Hearing Officer to conduct the appeal.
- c. Whenever it becomes impracticable for the Hearing Officer to continue with the hearing, the Health Officer may assign another Hearing Officer to continue the hearing unless the change in Hearing Officer would substantially prejudice either party's case.

1057 - Powers of Hearing Officer

A Hearing Officer may:

- a. Administer oaths and affirmations
- b. Certify to official acts
- c. Provide for the taking of testimony by deposition
- d. Regulate the course of a hearing, set the time and place for continuation of a hearing, and fix the time for filing briefs and other documents

- e. Direct the parties to appear and confer to consider simplification of the issues by consent of the parties

1058 CONDUCT OF THE HEARING

During the hearing, and subject to reasonable regulation by the Hearing Officer:

- a. Each party shall have an opportunity to make an opening statement.
- b. The Health Department designated representative shall then present its evidence against the appellant. The appellant or his or her designated representative may cross-examine all witnesses presented by the Health Department.
- c. The appellant shall then present evidence on his or her behalf. The Health Department representative may cross-examine all witnesses presented by the appellant.
- d. Both parties may then present rebuttal evidence.
- e. At the close of evidence, each party shall have an opportunity to present a final argument or closing statement, either orally or in writing.

1059 - RULES OF EVIDENCE

- a. As far as practicable, the hearing shall be conducted in accordance with the rules of evidence that apply in a non-jury civil case in the Michigan Circuit Court. However, evidence may generally be admitted and given probative effect if it is of a type commonly relied upon by reasonable, prudent people in the conduct of their affairs. Irrelevant or unduly repetitious material may be excluded. Effect shall be given to the rules of privilege recognized by law (e.g., attorney/ client, doctor/ patient).
- b. If either party objects to any evidence offered by the other party, the objection must be stated when the evidence is offered. The Hearing Officer shall rule as to the admissibility of the evidence.
- c. Subject to the requirements stated in subsections a. and b., the Health Department, for purposes of efficiency and when the interest of the parties will not be substantially prejudiced, may provide for submission of all or a part of the evidence in written form.
- d. Writings, recordings, and photographs may be received as evidence in the form of a copy, if the original is not readily available, or may be incorporated by reference, if the material so incorporated is available for reexamination by the parties. Upon timely request, a party shall be given an opportunity to compare the copy with the original, if it is available.

e. The Hearing Officer may take official notice of a fact — that is, accept a fact as true without evidence — if the fact cannot be reasonably disputed because it is generally known throughout Kent County, is within the specialized knowledge of the Hearing Officer, or is capable of accurate and ready determination by resort to sources whose accuracy cannot be reasonably questioned.

f. The Hearing Officer may use his or her experience, technical competence, and specialized knowledge in evaluation of evidence presented to him or her.

1060 - Stipulation of Facts and Settlements

a. The parties, by a stipulation in writing filed with the Health Department, may agree upon any fact involved in the controversy. The stipulation shall be used as evidence at the hearing and shall be binding upon the parties.

b. Except as otherwise provided by law, the entire case may be settled by stipulation, consent to order, waiver, default, or other method agreed upon by the parties.

1061 - DECISION AND ORDER

a. After the administrative hearing, the Hearing Officer shall prepare a decision and order to affirm, dismiss, or modify the Health Department's notice of violation, order, citation, or decision, and shall report the reasons therefor, including findings of fact and conclusions of law. If a party submits proposed findings of fact that would control the decision or order, the decision or order shall include a ruling on each proposed finding.

b. The decision and order shall be based upon the entire record and shall be supported by competent, material, and substantial evidence. Findings of fact shall be based exclusively on the evidence of record on matters officially noticed pursuant to subsection 1059.e.

c. The parties shall be served with copies of the decision and order and shall be allowed to take exceptions thereto. Any exception must be in writing and filed at least 10 days after receipt of the decision and order.

1062 - Official Record of Hearing

a. The Health Department shall prepare an official record of the hearing, which shall include:

1. The written request for hearing, all notices, and any pleadings, briefs, or written arguments
2. Evidence presented

3. Matters officially noticed, except matters so obvious that a statement of them would serve no useful purpose
 4. Any decision, opinion, order, or report by the Hearing Officer
- b. Oral proceedings at which evidence is presented shall be recorded by tape recorder or stenographically, but need not be transcribed unless requested by a party who shall pay for the transcription of the portion requested, except as otherwise provided by law.

1063 - Rehearing

- a. The Health Department may order a rehearing on its own motion or on request of a party.
- b. Where, for justifiable reasons, the record of testimony made at the hearing is found by the Health Department to be inadequate for purposes of judicial review, the Health Department on its own motion or on the request of a party shall order a rehearing.
- c. A rehearing shall be noticed and conducted in the same manner as an original hearing. The evidence received at the rehearing shall be included in the record of agency reconsideration and for judicial review. A decision or order may be amended or vacated after the rehearing.

1064 - Administrative Review

- a. A party aggrieved by the decision and order of the Hearing Officer may, within 60 days after the date of the decision and order, petition the chair of the Legislative and Human Resources Committee of the Board of Commissioners for review of the Hearing Officer's decision. Petitions for review shall be made on a form provided by the Health Department.
- b. The grant of review and the scope and manner of review shall be within the discretion of an Appeal Subcommittee appointed by the Legislative and Human Resources Committee.
- c. If the review is not granted within 60 days after the date of the decision and order of the Hearing Officer, the decision and order shall be final and subject to judicial review as provided by law.
- d. If the review is granted, the Appeal Subcommittee may affirm, dismiss, modify, or reverse the decision of the Hearing Officer.
- e. A denial of review or a decision on the merits by the Appeal Subcommittee shall be final and subject to judicial review as provided by law.

