

CHAPTER 21

**INSPECTIONS, VIOLATIONS, EMERGENCY ORDERS,
FINES AND PENALTIES, AND SEVERABILITY**

Section 21-1 Entry and inspection of property, records and equipment

- a. Under the authority of Section 12 (c) of the "Local Health Administration Law" (16 P.S. '12012 c), and subject to the limitations of the Constitutions of the United States and of the Commonwealth of Pennsylvania, the Director, or his deputy, upon showing proper identification of office, may enter and inspect any property, records, and equipment, at all reasonable times and in an emergency at any time.
- b. The owner, operator, employee, or any other person in custody or control of such property, records, or equipment shall give the Director, or his deputy, free access for the purpose of such inspection.

Section 21-2 Violations which constitute nuisances, notice and orders

- a. Notice - Whenever the Director determines there has been a violation of any provision of this Health Code so as to cause a nuisance detrimental to the public health, he shall give notice of the alleged violation in the manner provided herein, to the person responsible for compliance under this Health Code, and shall order statement of the nuisance as part of the notice. The notice shall:
 - i. Be in writing;
 - ii. Specify the violation which exists, with reference to the applicable provision of this Health Code, together with a brief statement of the remedial action required; and
 - iii. Provide a reasonable time for the correction of any violation alleged.
- b. Service - A notice of violation shall be served upon the owner, operator, occupant, or any other party in interest, as the case may require. Service of the notice of violation shall be made in the following manner:
 - i. By handing the notice to the person to be served;

- ii. By handing the notice to those persons designated for receipt of service of original process under the Rules of Civil Procedure promulgated by the Supreme Court of Pennsylvania;
 - iii. By mailing the notice to the last known address of the person to be served, by registered mail, postage prepaid, accompanied with a request for a return receipt; or if service cannot be accomplished pursuant to i, ii, or iii of this subsection, then:
 - iv. By posting the notice of violation in a conspicuous place on the property.
- c. Repeated violations - The notice requirements of this section pertain only to first violations of any specified section. Upon a second and each successive violation, no notice to the alleged violator is required under this section.

Section 21-3 Emergency orders

- a. The Director, when he determines that an emergency exists which necessitates immediate action to protect the public health, shall, without prior notice, issue a written order reciting the existence of the emergency and requiring corrective action necessary to resolve the emergency.
- b. Notwithstanding any other provisions of this Chapter, such emergency order shall be effective upon posting the notice of violation in a conspicuous place on the property, and it shall be complied with immediately.

Section 21-4 Non-compliance with orders

- a. In the event of the failure to comply with an order issued pursuant to any provision of this Health Code, the Director may take any action which is authorized by Section 12 (d), of the "Local Health Administration Law" (16 P.S. '12012 (d)), including but not limited to, abatement of the nuisance, with the cost of said abatement being recoverable from the owner of the premises where the nuisance or the cause was located, or from any other person who may have caused the nuisance, in the same manner as debts of like character are now collected by law, or in the manner provided by law for the collection of municipal claims.

- b. In accordance with Section 21-4 (a) immediately above, the Director may institute appropriate actions or proceedings at law or in equity to restrain, correct, or abate the violation of the order, or he may cause the order to be carried out at the expense of the County.
- c. Any legal action necessary to recover the expenses may be instituted by the Montgomery County Commissioners.
- d. In lieu of, or in addition to the above procedures, the Montgomery County Commissioners may, upon the advice of the Director seek relief from a nuisance or threatened nuisance detrimental to the public health by instituting proceedings in a court of equity, in accordance with Section 12 (d) of the "Local Health Administration Law" (16 P.S. '12012 (d)).

Section 21-5 Penalties

- a. Summary Offenses- Any person who violates any provisions of the "Local Health Administration Law" or any rule or regulation of this Health Code, or who interferes with the Director or any other agent of the Montgomery County Health Department in the discharge of his official duties, shall, for the first offense, upon conviction thereof in a summary proceeding before any District Justice of Montgomery County, be sentenced to pay the costs of prosecution and a fine of not less than thirty dollars (\$30) nor more than three hundred dollars (\$300), and, in default thereof, undergo imprisonment of not less than ten (10) days nor more than thirty (30) days.
- b. Misdemeanors- Any person who violates any provision of the Local Health Administration Law or any rule or regulation of this Health Code, or who interferes with the Director or any other agent of the Montgomery County Health Department in the discharge of his official duties, convicted of a second or subsequent offense, shall be guilty of a misdemeanor and shall, upon conviction thereof, be sentenced to pay a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or to undergo imprisonment not exceeding one (1) year, or both.

Section 21-6 Severability

- a. If any provision of this Health Code is held invalid, or if the application of any provision of this Health Code to particular circumstances is held invalid, the remainder of the provisions of this Health Code, or the application of such provision to other circumstances, shall not be affected.
- b. The Health Code is to be liberally construed by the Department and applied to promote its underlying purpose of protecting public health.