

GENERAL PROVISIONS, BOARD OF HEALTH

Westfield Town Code

Chapter 2 Administration

Article III. Town Board and Commissions

Division 3. Board of Health

- § 2-29 Establishment of the Board of Health.
- § 2-30 Appointment of members; terms of office and procedures.
- § 2-31 Vacancies.
- § 2-32 Adoption of rules and regulations for government; officers.
- § 2-33 Appointment of certain officials; designation of special inspector.
- § 2-34 Limitation on contracting debts.
- § 2-53 Same – Debts contracted by the Board of Health.
- § 2-73. Nondepartmental boards, commissions, officers and staffs.

Sec. 2-29. Establishment of the Board of Health.

In accordance with section 26:3-1 et seq. of the Statutes of New Jersey there is hereby established in and for the Town of Westfield a board of health consisting of seven regular members and two alternate members. (G.O. No. 76, § 1; G.O. No. 1642, § I.)

Sec. 2-30. Appointment of members, terms of office and procedures.

Regular members of the Board of Health shall be appointed by the mayor with the approval of the town council for a term of four years. The mayor with the approval of the town council may also appoint two alternate members who shall be designated at the time of appointment as “Alternate 1” and “Alternate 2.” The terms of alternate members shall be for two years except that the term of the alternate members first appointed shall be two years for Alternate Number 1 and one year for Alternate Number 2, so that the term of not more than one alternate member shall expire in any one year. A regular member or an alternate member shall not be permitted to act on any matter in which he/she has either, directly or indirectly, a personal or financial interest. A regular or alternate member may, after public hearing, if such member requests one, be removed by the town council for cause. An alternate member may participate in discussion of the proceeding before the board but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate Number 1 shall vote first. (G.O. No. 76 §§ 2,3; G.O. No. 1642, § II.)

Sec. 2-31. Vacancies.

In the event of any vacancies on the Board of Health of regular or alternate members, the mayor, may, with the approval of the town council, fill such vacancies for the unexpired portion of the term only. (G.O. No 76, § 4; Ord. No. 1642, § III.)

Sec. 2-32. Adoption of rules and regulations for government; officers.

The Board of Health shall adopt rules and regulations for its own government and shall elect a president or chairman from amongst its members. (G.O. No. 76, § 5.)

Sec. 2-33. Appointment of certain officials; designation of special inspector.

The Board of Health shall appoint a registrar of vital statistics, a clerk, an inspector, a health officer and such other officers or assistants as the board may deem necessary from time to time. All such appointments shall be for such terms as may be designated and for such compensation as may be fixed by the board. All members of the police department and the town

engineer and his assistants are hereby-designated special inspectors, and they shall promptly report to the board every violation of the health office, which comes to their knowledge or attention (G.O. No. 76, § 6).

Sec. 2-34. Limitation on contracting of debts.

The Board of Health shall not contract any debts of any kind beyond the amount of the appropriations made available to the board each year by the town council. (G.O. No. 76, § 7.)

Sec. 2-53. Same – Debts contracted by the Board of Health.

In the case of debts contracted by the Board of Health and all claims against the town for work, labor, services, materials, or other matters properly within the jurisdiction and authority of such board, bills and claims shall be prepared and presented in the form and manner prescribed by the board and shall be paid upon a warrant on the town treasurer for the amount thereof, after the approval thereof by the board and by the mayor and town council. (1932 Revision, tit. 2, § 7; G.O. No. 1235, § 1.)

Sec. 2-73. Nondepartmental boards, commissions, officers and staffs.

(a) The following nondepartmental boards, commissions, and officers and their staffs are continue as heretofore established:

- (1) Planning board.
 - (2) Board of adjustment.
 - (3) Recreation commission.
 - (4) Board of Health.
 - (5) Local assistance board.
 - (6) Board of trustees of the public library.
 - (7) Municipal magistrate's court and violation bureau.
- (G.O. No. 994, § 4; G.O. No. 1662, § 1.)

**Westfield Board of Health
Chapter 1 General Provisions, Board of Health**

Adoption of Code by Board of Health

- § 1-A Powers of Board
- § 1-1. Adoption of Code.
- § 1-2. When effective.
- § 1-3. Repeal of certain ordinances.
- § 1-4. Exceptions to general repeal.
- § 1-5. Copies of Code on file.
- § 1-6. Additions and amendments to Code.
- § 1-7. Availability of Code for public inspection.
- § 1-8. Severability of Code provisions.
- § 1-9. Severability of ordinance provisions.
- § 1-10. Effective date of this article.
- § 1-11. Amendments, revisions, changes, and deletions adopted upon adoption of Code.

GENERAL REFERENCES

Adoption of Code by Board of Health

- [Adopted December 6th, 2004 by Ordinance #BOH2-2004]**
- [Amended December 1st, 2008 by Ordinance #BOH2-2008]**
- [Amended December 5th, 2011 by Ordinance #BOH2-2011]**
- [Amended August 3, 2015 by Ordinance #BOH1-2015 & #BOH2-2015]**

Be it ordained by the Board of Health of the Town of Westfield, in the County of Union and State of New Jersey as follows:

§ 1-A. Powers of Board.

The Board shall exercise its powers in accordance with NJSA 26:3-31 et seq. and Title 8 of the New Jersey Administrative Code, which are hereby incorporated by reference.

§ 1-1. Adoption of Code.

All the ordinances of the Board of Health of the Town of Westfield of a general and permanent nature, as codified, are ordained as general ordinances and are adopted as part of the Code of the Town of Westfield, County of Union, State of New Jersey.

§ 1-2. When effective.

All the provisions of that part of the Code of the Town of Westfield, County of Union, State of New Jersey, adopted by the Board of Health shall be in force and effect on and after the effective date of this article.

§ 1-3. Repeal of certain ordinances.

All ordinances of a general and permanent nature adopted by the Board of Health of the Town of Westfield prior to December 5, 2011, and contained in this Code of the Westfield Board of Health, Town of Westfield, County of Union, State of New Jersey, are hereby repealed from and after the effective date of this article, except as hereinafter provided in § 1-4; and excepting all ordinances adopted by the Board of Health or Town Council affecting Public Health or environmental policy not included in this revised Code of the Westfield Board of Health, Town of Westfield, County of Union, State of New Jersey.

§ 1-4. Exceptions to general repeal.

The repeal provided for in § 1-3 of this article shall not affect:

- A. Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this article.
- B. Any prosecution, action, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of this article.
- C. Any provision of an ordinance or resolution of the Board of Health of the Town of Westfield creating employments, positions, or offices and fixing duties therefore which are not provided in the Code hereby adopted and which are not in conflict or inconsistent therewith.

§ 1-5. Copies of Code on file.

Sufficient copies of that part of the Code adopted by the Board of Health of the Town of Westfield, Union County, New Jersey, have been filed in the office of the Secretary of the Board of Health of the Town of Westfield and shall remain there for the use and examination of the public until final action is taken on this article.

§ 1-6. Additions and amendments to Code.

Any and all additions or amendments to said Code, when passed in such form as to indicate the intention of the Board of Health of the Town of Westfield to make the same a part hereof, shall be deemed to be incorporated in said Code so that reference to the Code of the Town of Westfield shall be understood and intended to include such additions and amendments.

§ 1-7. Availability of Code for public inspection.

One copy of that part of the Code adopted by the Board of Health of the Town of Westfield, Union County, New Jersey, shall be and remain on file in the office of the Secretary of the Board of Health of the Town of Westfield and made available to persons desiring to examine same if this article shall be adopted and while the same shall be in effect.

§ 1-8. Severability of Code provisions.

Every section of that part of the Code of the Town of Westfield adopted by the Board of Health and every part of each section is an independent section or part of a section, and the holding of any section or part thereof to be unconstitutional, void, or ineffective for any cause does not affect the validity or constitutionality of any other section or part thereof.

§ 1-9. Severability of ordinance provisions.

Each section of the ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void, or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or part thereof.

§ 1-10. Effective date of this article.

This article shall take effect immediately after final adoption and publication according to law.

§ 1-11. Amendments, revisions, changes, and deletions adopted upon adoption of Code.

In compiling and preparing the ordinances of the Board of Health of the Town of Westfield for adoption and revision as part of the Code of the Town of Westfield, County of Union, State of New Jersey, pursuant to N.J.S.A. 40:49-4, certain grammatical changes and other minor changes were made in one or more of said ordinances. It is the intention of the Board of Health of the Town of Westfield that all such changes be adopted as part of the Code of the Town of Westfield, County

of Union, State of New Jersey, as if the ordinances so changed had been previously formally amended to read as such.

§ 1-12. Interfering with persons.

No person shall hinder, obstruct or interfere with anyone authorized or empowered to perform any duties under this code.

§ 1-13. Violations and penalties.

Any person, firm or corporation who shall violate any of the provisions under this code shall, upon conviction, be punished by a fine of not less than \$50 nor more than \$2,000, and each day the same is violated shall be deemed and taken to be a separate and distinct offense.

**Westfield Board of Health
Chapter 2 ANIMALS**

ARTICLE I

Rabies Control

- § 2-1. Inoculation required; exemptions.**
- § 2-2. Annual inoculation.**
- § 2-3. Purpose and intent.**
- § 2-4. Definitions.**
- § 2-5. Rabies vaccination.**
- § 2-6. Licensing requirements.**
- § 2-7. Impoundment and recovery of cats.**
- § 2-8. Violations and penalties.**

§ 2-1. Inoculation required; exemptions.

No person shall own, harbor or keep any dog or cat within the municipal limits of the Town of Westfield which is not inoculated against rabies; provided, however, that dogs or cats which have not attained the age of six months shall not be required to be inoculated, and further provided that any dog or cat may be exempt from the requirements of such inoculation for a specified period of time by the Board of Health upon the presentation of a certificate from a veterinarian stating that, because of infirmity or other physical condition, the inoculation of such dog or cat for said specified period of time shall be deemed inadvisable by said veterinarian.

§ 2-2. Annual inoculation.

The inoculation against rabies shall be performed each year and shall be performed prior to the procurement of the dog or cat license required by Ordinance of the Town of Westfield, or evidence shall be presented at the time of procurement of the dog or cat license by the dog or cat owner that a three-year inoculation has been performed and that the inoculation has not expired.

§ 2-3. Purpose and intent.

- A. It is imperative that the public is protected from the effects of rabies epizootic to the greatest extent technically and economically possible. Wildlife rabies cannot be controlled, but spill over into our domestic animal population is preventable. This article is intended to serve as a means to develop a long-term solution to the rabies problem, as well as implementation of appropriate measures to reduce the problem before demands for solutions and protection overwhelm available resources and capabilities to effectively respond to those demands.
- B. An effective barrier can only be established if both dogs and cats are required to have rabies vaccination. By instituting and maintaining mandatory dog and cat licensing and vaccination, the Board of Health will be able to assess the level of immunity in these species within the Town and provide needed resources to meet the rabies challenge.

§ 2-4. Definitions.

As used in this article, the following terms shall have the meanings indicated:

CONTROL AUTHORITY - Any person or agency designated or certified by the State of New Jersey to enforce provisions relating to licensing and vaccination of dogs and cats.

BOARD OF HEALTH - The agency of the Town of Westfield ("Town") charged with enforcing the requirements of Title 26 of the New Jersey Statutes and created pursuant to Chapter 17 of the Town Code.

CAT - Any member of the domestic feline species: male, female or neutered.

CAT OR DOG OF LICENSING AGE - Any cat or dog which has attained the age of seven months, or which possesses a set of permanent teeth.

CATTERY - Any room or group of rooms, cage or exhibition pen, not part of a kennel, where cats for sale are kept or displayed.

FOSTER PLACEMENT—A temporary placement of less than six (6) months that a domestic animal resides in while attempting to find a permanent placement.

LICENSING AUTHORITY - The licensing authority is hereby designated as the Town Clerk.

LICENSING YEAR - The period from January 1 to December 31 of the following year during which time the license required by this article shall be in effect.

NEUTERED - Rendered permanently incapable of reproduction as certified by a licensed veterinarian.

OWNER - Every person having custody of a dog or cat and every person who has such dog or cat in his or her keeping or who harbors or maintains a dog or cat or knowingly permits a dog or cat to remain on or about any premises occupied by that person. The owner of a dog or cat shall be considered the initial owner of its puppies or kittens. A person who continually feeds a stray dog or cat shall also be considered its owner.

PERSON - Any individual, corporation, partnership, organization or institution.

QUARANTINE—A physical separation and confinement of an animal or groups of animals who are or who may have been exposed to a contagious or possibly contagious disease and who do not show symptoms of a contagious disease, from non-quarantined animals or humans, to prevent or limit the transmission of the disease to non-quarantined animals or humans.

RESIDENCE, MULTI UNIT—A dwelling which is occupied, as a rule, for permanent residence purposes and which is either sold, rented, leased, let or hired out, to be occupied as the residence or home with two or more separate independent units, each of which usually contains sanitary, sleeping, kitchen and dining facilities, fixed or portable.

RESIDENCE, SINGLE UNIT—One or more rooms comprising living accommodations designed and used for occupancy with one (1) single housekeeping unit and usually containing sanitary, sleeping, and kitchen and dining facilities, fixed or portable, for one such unit.

§ 2-5. Rabies vaccination.

- A. Vaccination requirements. No person shall own, keep, harbor or maintain any dog or cat over seven months old unless it is vaccinated and in compliance with the provisions of this article. This section shall not apply to cats held in a cattery, a state or federal research facility, a veterinary establishment where dogs or cats are kept for diagnostic, medical, surgical or other treatments or licensed animal shelters, pounds, kennels or pet shops.
- B. Vaccination. Except as provided in Subsection D, all dogs or cats shall be vaccinated against rabies by a licensed veterinarian in accordance with the latest Compendium of Animal Rabies Vaccines and Recommendations for Immunization published by the National Association of State Public Health Veterinarians, and with a rabies vaccine of a type approved by and administered in accordance with the recommendations of the United States Department of Agriculture and the United States Department of Health and Human Services.
- C. Vaccination certificate. The owner of each dog or cat must, as evidence of such vaccination, produce a certificate of vaccination, which shall be in a form recommended by the state and, if no form is so recommended by the state, in a form approved by the Board of Health. Said vaccination must be current through at least October 31 of the following licensing year.
- D. Exemptions. Any dog or cat may be exempted from the vaccination requirements for a specified period of time by the Board of Health upon presentation of a veterinarian's

certificate stating that, because of an infirmity of other physical condition, regimen or therapy, the inoculation of such dog or cat is deemed inadvisable.

§ 2-6. Licensing requirements.

A. License requirements. No person shall own, keep, harbor or maintain any dog or cat over seven months old unless a license is procured from the licensing authority through the Town Clerk, and in compliance with the provisions of this article. This section shall not apply to cats or dogs held in a cattery, a foster placement, a state or federal research facility, a veterinary establishment where dogs or cats are kept for diagnostic, medical, surgical or other treatments or licensed animal shelters, pounds, kennels or pet shops.

(1) License number displayed. Any person who owns, keeps or harbors a dog or cat of licensing age shall annually apply for and procure from the licensing authority through the Town Clerk, upon payment of the prescribed fee, a license and official registration tag with license number for each dog or cat so owned, kept or harbored and shall place upon such dog or cat a collar or other device with the license number securely fastened or displayed. Acceptable methods of displaying a license number shall include, but are not limited to, breakaway or elastic collars. License tags are not transferable.

B. Time for applying for license.

(1) The owner of any dog or cat in the Town shall make application for a license or renewal thereof on or before January 31 of each year. Only one license and registration tag shall be required in the licensing year for any dog or cat in the Town of Westfield.

(2) In the case of dogs or cats that become licensing age after January 31 but before December 31 of the same year, the owner shall make application for a license tag for such dog or cat within 10 days after acquisition of age attainment. If a dog or cat becomes licensing age during the month of January, the owner need only make application for a license tag for such dog or cat prior to January 31 for the new licensing year.

C. Dogs or Cats brought into jurisdiction.

(1) Any person who brings into or causes to be brought into the Town any dog or cat currently licensed in another municipality in this state or any other state through, at least, December 31 of the current licensing year and providing evidence to the licensing authority through the Town Clerk of the registration tag shall be permitted to keep said dog or cat within the Town through the current licensing year ending December 31 so long as said dog or cat is vaccinated against rabies through October 31.

(2) Except as provided in Subsection C (1) above, any person who brings into or causes to be brought into the Town any unlicensed dog or cat, shall not be permitted to keep the same within the Town for a period of more than 10 days unless such person shall have applied for a license and registration tag for each such dog or cat within that time period.

D. Application, contents, preservation of information. The application for a dog or cat license or renewal thereof shall state the breed, sex, age, color and markings of the dog or cat, also the name, street and post office address of the owner and the person who shall keep or harbor such dog or cat. The information on said application and the registration number

issued for the dog or cat shall be preserved for a period of three years by the licensing authority.

- E. License forms and tags. License forms and official tags shall be furnished by the licensing authority through the Town Clerk and shall be numbered serially, and shall bear the year of issuance and the name of the municipality.
- F. Evidence of inoculation. The licensing authority shall not grant a license and official registration tag for any dog or cat unless the owner provides a vaccination certificate pursuant to § 2-5C above or the dog or cat has been certified exempt as provided in § 2-5D above. The rabies inoculation shall be administered by a duly licensed veterinarian permitted by law to do it.
- G. License fee schedule. Effective January 1, 2009, and for each successive licensing year or portion thereof a payment of \$19.00 for each unneutered dog and \$13.00 for each unneutered cat and \$16.00 for each neutered dog and \$10.00 for each neutered cat. Persons who fail to obtain a license as required within the time period specified herein shall be subject to a delinquent fee as specified by the licensing agent.
- H. Fees, renewals; expiration date of license. The fee for the renewal of license and registration tag shall be the same as for an original license. Each original license and registration tag and renewal thereof shall expire on the 31st day of December, in the following year.
- I. Loss of license. If a license tag is misplaced or lost, the licensing authority through the Town Clerk may issue a duplicate license and/or registration tag, effective January 1, 2009, at a fee of \$5.00.
- J. Proof of license. Proof of licensing shall be produced by any person owning, keeping, maintaining or harboring a dog or cat, upon request of any health official, police officer, animal control officer or other authorized person.
- K. Examination of animals during quarantine. The owner or the person in charge of a dog, cat or other animal which has attacked or bitten a person or animal shall allow the examination of that animal at any time. Quarantine shall be necessary to determine whether the animal shows signs of rabies.
- L. Disposition of fees collected.
 - (1) License fees and other moneys collected or received under the provisions of this article shall be forwarded to the Treasurer of the Town of Westfield, and shall be placed in a trust account of the Town of Westfield and shall be used for the following purposes only:
 - (a) Collecting, keeping and disposing of dogs or cats liable to seizure.
 - (b) For local prevention and control of rabies.
 - (c) Providing anti-rabies treatment under the direction of the Board of Health for any person known or suspected to have been exposed to rabies.
 - (d) For administering the provisions of this article.
 - (2) Such money shall be used to help defray the costs incurred by residents of the Town to pick up injured, deceased or wild animals that do not belong to them.

- M. Limit on number of dogs and cats. No more than eight (8) dogs and/or cats are permitted to be harbored or kept in any single family residence. No more than four (4) dogs and/or cats are permitted to be harbored or kept in an individual unit of a multi-family residence. All dogs and cats must be in compliance with the provisions of this article.

§ 2-7. Impoundment and recovery of dogs or cats.

- A. An agent designated by the licensing authority may take dogs or cats into custody and impound and later destroy them, release them to the owner, or offer them for adoption, as provided in this Section, in the following situations:
- (1) The owner does not produce a current license or registration tag for a dog or cat required to be licensed.
 - (2) A dog or cat is suspected to be a stray, abandoned, diseased, or to have bitten a person or other animal, pursuant to N.J.S.A. 26:4-82.
- B. If any dog or cat is taken into custody whose owner is known or which is wearing a registration tag, an authorized agent shall attempt to contact the owner. If the dog or cat is not claimed by the owner or contact cannot be made with the owner within 48 hours of seizure, a notice in writing will be sent to the owner stating that the dog or cat has been seized and is subject to being offered for adoption or destroyed if not claimed within 14 days after the service of the notice.
- C. Notice under this section shall be deemed to be effective if served personally, or by leaving it at the person's usual last known place of abode or at the address given in the license application or by mailing to any such address by United States mail, postage prepaid.
- D. An authorized agent of the licensing authority may cause a dog or cat to be offered for adoption or destroyed in a manner causing as little pain as possible and consistent with the provisions of N.J.S.A. 4:22-19, 14 days after seizure, provided that:
- (1) The dog or cat was not wearing a valid registration tag at the time of seizure and the owner is unknown;
 - (2) A notice was served as provided and the dog or cat was not claimed; or
 - (3) The owner or person keeping or harboring a dog or cat, which was unlicensed at the time of seizure, does not, within seven days, produce a valid license and registration tag for the dog or cat.
- E. Whether or not the dog or cat is claimed, the owner is responsible for:
- (1) All maintenance charges for the dog or cat.
 - (2) All expenses involved in preparing the dog or cat for submission to appropriate authorities.
- F. No impounded dog or cat shall be sold or otherwise made available for the purpose of experimentation.
- G. After observation, any impounded dog or cat shall be reported immediately to the Health Officer of the Town.

- H. If an owner requests pickup of a dog or cat to be disposed, including any puppies or kittens born to the parent dog or cat, the owner shall be responsible for all expenses in connection with disposal of the unwanted animal(s).

§ 2-8. Violations and penalties.

Any person who violates any portion of this article shall, upon conviction, be fined not less than \$50.00 nor more than \$2,000 for each offense. Each day the violation continues shall constitute a separate and distinct offense.

**Westfield Board of Health
Chapter 3 FOOD AND BEVERAGE VENDING MACHINES**

ARTICLE I

Adoption of Standards

§ 3-1. Adoption of standards.

§ 3-2. Title.

ARTICLE II

Licensing

§ 3-3. Licenses required.

§ 3-4 License fees; expiration of licenses.

§ 3-5 Application for and issuance of licenses.

§ 3-6 Suspension, revocation or reinstatement of licenses.

§ 3-7 Interstate commerce.

§ 3-8 Nuisances declared.

§ 3-9 Recovery of costs.

§ 3-10 Violations and penalties.

ARTICLE I

Adoption of Standards

§ 3-1. Adoption of standards.

A code regulating the use, operation and maintenance of food and beverage vending machines and licensure thereof, prohibiting the sale or possession with intent to sell through vending machines of adulterated or misbranded foods or drinks, authorizing inspection of vending machines and operations connected therewith and fixing penalties for violations is hereby established pursuant to N.J.S.A. 26:3-69 to 3-69.6. A copy of said code is annexed hereto and made part hereof without the inclusion of the text thereof herein.

§ 3-2. Title.

The code established and adopted by this article is described and commonly known as the “Sanitary Requirements for the Vending of Food and Beverages” NJAC 8:24-4.12 et seq.

ARTICLE II

Licensing

§ 3-3. Licenses required.

It shall be unlawful for any person, whether as principal or agent, clerk or employee, either for himself or for any other person or for any body corporate or as an officer of any corporation, or otherwise, to maintain or permit to be maintained on or in any location in this municipality one or more machines or devices offered for public use which, upon insertion of a coin, coins or token or by other means, dispenses unit servings of food or beverages, either in bulk or package, without first having applied for and procured a license for each such machine or device from the Board of Health of this municipality or without complying with any and all of the provisions of the Food and Beverage Vending Machine Code of New Jersey (1961), as adopted and/or amended by this Board.

§ 3-4. License fees; expiration of licenses.

- A. The fees for licenses as required by § 3-3 above for the purpose of raising revenue for regulation and control to be paid annually to this municipality are hereby fixed as follows: a license fee of \$50.00 per machine, per year, for all food and beverage vending machines, except for those as noted in § 3-3, which shall be exempt from the payment of any fee.
- B. All licenses issued under the authority of this article shall expire on the 31st day of December each year.
- C. License fees shall be paid to the Board of Health.

§ 3-5. Application for and issuance of licenses.

Application for and issuance of the licenses referred to in § 314-3 above shall be made in conformity with the provisions of the Food and Beverage Vending Machine Code of New Jersey (1961), as adopted or amended by the Board of Health of this municipality. Such licenses are not transferable.

§ 3-6. Suspension, revocation or reinstatement of licenses.

Licenses issued under the authority of this article may be suspended, revoked or reinstated by the Board of Health of this municipality pursuant to the provisions of the Food and Beverage Vending Machine Code of New Jersey (1961), as adopted or amended by said Board of Health.

§ 3-7. Interstate commerce.

No provision of this article shall be applied so as to impose any unlawful burden on either interstate commerce or any activity of the state or federal government.

§ 3-8. Nuisances declared.

Premises on which food and beverage vending machines or devices are operated and maintained in violation of the provisions of this article are hereby declared to be nuisances and detrimental to the public health.

§ 3-9. Recovery of costs.

The Board of Health may institute an action at law to recover costs incurred by it in the removal or abatement of any nuisance, as declared in § 3-8 of this article, from any person who shall have caused or allowed such nuisance to exist or from any owner, tenant or occupant of premises who, after notice in writing, fails to abate said nuisance within such time as shall be specified therein, but not less than five days from the date of service thereof. A duplicate of the notice shall be left with one or more of the tenants or occupants of the premises. If the owner resides out of the state or cannot be so notified speedily, such notice shall be left at that place or premises with a tenant or occupant thereof or posted on the premises, and such action shall be considered proper notification to the owner, tenant or occupant thereof.

§ 3-10. Violations and penalties.

Any person, firm or corporation who shall violate any of the provisions of this article shall, upon conviction, be punished by a fine of not less than \$50 nor more than \$2,000, and each day the same is violated shall be deemed and taken to be a separate and distinct offense.

**Westfield Board of Health
Chapter 4 GARBAGE AND REFUSE**

§ 4-1. Definitions.

§ 4-2. Refuse receptacles.

§ 4-3. Preparation of refuse for collection.

§ 4-4. Frequency of collection.

§ 4-5. Refuse disposal.

§ 4-6. Licensing, rates and collection.

§ 4-7. Violation and penalties.

§ 4-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

OFFAL, REFUSE, RUBBISH, GARBAGE and COMBUSTIBLE AND NONCOMBUSTIBLE WASTE - Shall be interchangeable and shall mean and include the following:

- A. Refuse, garbage and combustible and/or noncombustible waste solids.
- B. Animal and/or vegetable waste solids resulting from the handling, preparation, cooking and consumption of food.
- C. Combustible waste, yard trimmings, rags, wood, cardboard and waste solids of a nonvolatile or non-explosive nature. This section shall not apply to building materials, trees, branches, earth, stones or industrial wastes.
- D. Non-putrescible solid wastes of both combustible and noncombustible wastes.
- E. Putrescible and non-putrescible solid wastes (except body wastes), including garbage, rubbish, ashes and solid market and industrial wastes.

§ 4-2. Refuse receptacles.

- A. The owner, agent, lessee, tenant or occupant of every dwelling house or other premises where waste accumulates shall provide and keep on such premises sufficient and suitable receptacles with tight-fitting covers for receiving and holding the waste.
- B. "Sufficient" is defined for the purpose of this section to be at least one receptacle for each family unit or other occupant of a premises and at least one receptacle for each commercial or business establishment where refuse shall accumulate; but each occupant of a premises shall provide sufficient receptacles to store all waste which may be accumulated between the times when such refuse is disposed of as hereinafter provided.
- C. "Suitable" is defined to be a watertight metal, rubber or plastic receptacle with a tight-fitting cover so constructed as to prevent spilling or leakage of its contents.
- D. Receptacles shall be conveniently located on premises for the storage of refuse and maintained in such a manner with the cover in place as to prevent creation of a nuisance or menace to public health.

§ 4-3. Preparation of refuse for collection.

- A. Garbage shall be thoroughly and completely drained of all liquids and placed in a suitable container.
- B. Combustible or noncombustible waste of such a nature that it cannot be deposited in a receptacle shall be securely and properly tied into bundles or packages to prevent spilling or scattering.

§ 4-4. Frequency of collection.

- A. The person occupying any premises whereon a business or industry is conducted shall arrange for the removal of refuse from such premises each day unless sufficient and suitable facilities are provided and used for the storage of such refuse within a building on such premises until the refuse is removed.
- B. The person occupying any premises shall be required to arrange for the pickup or collection of refuse from the premises at least twice a week when the premises is being occupied and used by such person.

§ 4-5. Refuse disposal.

- A. Every person, whether he is the owner, tenant or occupant of any dwelling house, and every owner, lessor or agent of an apartment house or tenement house shall cause all garbage and refuse to be removed from the premises of which he is the owner, tenant or occupant thereof at least twice each week.
- B. No garbage or refuse shall be burned, buried or otherwise disposed of by any person on any property not licensed by the State of New Jersey for such disposal.

§ 4-6. Licensing, rates and collection.

The licensing of refuse collection, the setting of rates for residential service and the appropriate rules and regulations covering the same are now under the jurisdiction of New Jersey Department of Environmental Protection.

§ 4-7. Violation and penalties.

Any person violating any provision of this chapter shall be subject to a fine of not less than \$50 nor more than \$2,000 each day the same is violated shall be deemed and taken to be a separate and distinct offense.

**Westfield Board of Health
Chapter 5 SANITARY REGULATIONS**

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ARTICLE I

General Provisions

§ 5-1. Title.

This chapter shall be known and designated as the "Sanitary Code of the Board of Health of the Town of Westfield, Revision of 2011.

§ 5-2. Definitions.

For the purpose of this chapter, the following words and terms shall have the meanings herein given them:

AGENT - The authorized agent or authorized agents of the Board of Health of the Town of Westfield.

BOARD - The Board of Health of the Town of Westfield, or its official representative, except where otherwise specified, when the Board is not in session.

TOWN - The Town of Westfield, New Jersey.

LICENSE - A written authorization which may be granted at its discretion by the Board or its agent, upon payment of the required fee, permitting the conduct of a designated business or the performance of specified acts for the period stipulated and in strict accordance with the provisions of this chapter and the Sanitary Code and laws of the State of New Jersey.

PERMIT - A temporary authorization to do a single act or acts of short duration, but in all other respects shall be the same as a license.

PERSON - Any person or persons, corporation or association of persons; and "he", "his", or "him" shall include those of the female sex.

§ 5-3. Enforcement.

- A. Any member of this Board or any of the agent(s) of the Board of Health shall make inspections and examinations required to be enforced by the Board, for any provision of this chapter, or any ordinance, regulation, resolution, or order of this Board upon exhibiting official identification. In making said inspection and examination, it shall be lawful for said person to enter in or upon any premises, public or private, for the purpose of health protection to the extent permitted by NJSA 26:3-45 et seq.

- B. Any person who shall prevent, obstruct or resist any member agent(s) of this Board, acting under and by the authority of this Board in the performance of his duty shall be subject to a fine of not less than \$50 nor more than \$2,000 in the discretion of the court, upon conviction thereof. In the event a property owner or occupant fails to abate any nuisance as directed by the Board, the Board may in a summary manner abate such nuisance and may recover the expenses relative to same through a civil action. Further, the Board may institute and action for injunctive relief in the Superior Court and may recover costs attendant to the same.
- C. Every notice or order required to be served by this Board may be served personally by any member of this Board or any of its agent(s) or by any member of the Police Department of the Town. Notice may be served by mail, addressed to the last known place of residence, or by posting it in a conspicuous place on the premises.

§ 5-4. Violations and penalties.

- A. Any person who shall violate or fail to comply with the provisions of any section of this chapter, or any part thereof, or with any order of this Board or of its agents made in pursuance thereof shall be subject, unless otherwise specifically provided, to a fine for each offense of not less than \$50 nor more than \$2000 in the discretion of the court, upon conviction thereof in the Municipal Court of the Town.
- B. In addition to the penalty above set forth, each day that such violation of this chapter, or refusal or neglect to comply with a written order of this Board or of its agents made in pursuance thereof, shall continue may be considered a separate offense with a like penalty therefore.

ARTICLE II

Nuisances

§ 5-5. Definitions.

For the purposes of this article, the terms used herein are defined as follows:

NUISANCE - Anything which is detrimental or damaging to health, or which is potentially detrimental or damaging to health, or impacts the general well being of the public's health as determined by this Board.

§ 5-6. Specific nuisances.

- A. The following specific acts; conditions and things are each and all of them declared to constitute public health nuisances and are prohibited:
 - (1) Garbage.
 - (a) Depositing, maintaining, or permitting to be deposited or maintained, or accumulating in or upon any public or private street or thoroughfare or place; or in or upon any property or building any wastewater, sewage, garbage, offal, excrement; any dead animal or part thereof; any decaying or putrescible matter; any oyster or clam shells; or any foul, putrid or decaying liquid or substance.
 - (b) Allowing any garbage, excrement, leaves, branches, vegetative matter or any other offensive or decomposed solid or fluid matter or substance to leak or escape from any cart, wagon, vehicle or other container in which the same may be conveyed or contained.

- (2) Excrement. Permitting any human excrement or material containing human excrement to remain or flow upon the surface of the ground or to remain or flow in any open ditch or stream; burying, plowing under or otherwise disposing of such excrement or permitting the same to be done within 100 feet of any stream, well, lake, spring or other source of water used for drinking or other domestic purposes; or depositing or permitting to be deposited any such material in any place where it is likely to gain access to such water or to appear again above the surface of the ground.
- (3) Use of any Privy vault(s) and cesspool(s).
- (4) Toilet accommodations. Any premises that are not provided with suitable toilets in good working order.
- (5) Buildings.
 - (a) Permitting any building or portion thereof occupied or intended to be occupied by human beings to be or remain in a state of uncleanness detrimental to the health of the occupants or of the public.
 - (b) Permitting any building which is inhabited by human beings or which is occupied by human beings for any purpose to be without an adequate supply of running water at any time while being occupied.
 - (c) Permitting any filthy or unhealthful plumbing fixtures of or in a building used or occupied by human beings for any purpose, regardless of whether such condition shall be the result of leakage, stoppage or any other cause.
- (6) Stables or kennels. Any stable or kennel that is not provided with watertight floors properly graded, trapped and drained to a sewer or septic system if no sewer is available.
- (7) Insects, larvae, pupae, rodents and vermin.
 - (a) Maintaining or permitting to be maintained any pool, pond, ditch, stream or other body of water or any cistern, privy vault, cesspool, rain barrel or other receptacle containing liquid in which mosquito larvae or pupae may or do exist.
 - (b) Maintaining or allowing to be maintained any condition, which causes or engenders the breeding of flies, mosquitoes, termites, carpenter ants, roaches or other insects of public health significance.
 - (c) Maintaining or allowing to be maintained any condition, which causes or engenders the breeding of rodents (rats or mice) or other vermin of public health significance.
 - (d) Failure to provide for written proof of inspection and treatment, as appropriate, by a State licensed pest control service for insects, rodents or other vermin upon notice of violation from any agent of the Board of Health for all public or private property.
- (8) Vermin or insect exterminators. The regulations covering this item are covered in N.J.A.C. 7:30-1.
- (9) Smoke. Emission from any premises of any smoke, gases, soot, stench or other substance in quantity or strength sufficient to cause potential injury or damage to health.

- (10) Slaughtering. Killing, skinning or dressing of any animal intended for food, to be sold for human consumption, without permission from this Board.
- (11) Animals. The keeping of horses, cows, goats, rabbits, guinea pigs, dogs, cats or other animals under unsanitary conditions.
- (12) Spitting. Spitting upon the floor, steps, platform or upon the interior of any street or railway car, bus or other public conveyance or upon the floors, staircases or any part of any building or upon the sidewalks or crosswalks of any street, alley, lane or public place.
- (13) Obnoxious trades. The carrying on of any trade or business in such a manner as to be obnoxious or offensive or which may be attended with unhealthful odors or which may be attended by such conditions or noises as may be potentially detrimental to health.
- (14) Common towels. The supplying or furnishing of any roller towel (except such roller towel which can be mechanically adjusted for individual use or except individual paper towels) or of any towel for use by more than one person without intermediate laundering, in any hotel, schoolhouse, restaurant, boardinghouse, bakery, clubhouse, washroom or public lavatory or in any place where a number of people congregate.
- (15) Food. Refer to Chapter 24 Sanitation in Retail Food Establishments and Food and Beverage Vending Machines of the State Sanitary Code.
- (16) Plants. Permitting poison ivy, ragweed or any other poisonous plant, to exist or to grow upon any public or private property within 50 feet of any public sidewalk, public street, party line or building or permitting any ragweed or other noxious or harmful weed to grow upon any property, either public or private.
- (17) Animal Feeding. The keeping, maintenance, and/or feeding of stray or feral cats or wild animals is prohibited. The maintenance and/or feeding of privately owned cats and/or dogs in such a manner as to create unsanitary conditions, attract vermin, or be potentially detrimental to health or create a public nuisance is hereby prohibited.

B. In addition to the preceding subsections, whatever is detrimental to health or whatever is potentially injurious or dangerous to health is hereby declared to be a health nuisance.

ARTICLE III

Dairy Products

§ 5-7. Definitions.

For the purposes of this article, the terms used herein are defined as follows:

FLUID MILK PRODUCTS - Cream, sour cream, vitaminized milk, butternut skimmed milk, homogenized milk, reconstituted or recombined milk, milk beverages, cream beverages and all other beverages containing, in whole or in part, milk or cream.

MILK - The lacteal secretion obtained by the complete milking of one or more healthy mammals properly fed and kept, excluding that obtained within 15 days before and five days after calving, kidding or giving birth or such other period as may be necessary to render the milk practically colostrum free.

MILK PRODUCTS - Cream, ice cream, ice cream mix, sherbets, cream cheese or other food for human consumption made from milk or cream, or both.

§ 5-8. Licensing; fees.

- A. No person shall sell or deliver or have in possession for sale or delivery in the Town any milk, milk products or fluid milk products without first obtaining from this Board a license for such sale or delivery. Each license issued under the provisions of this article shall expire on the 31st of December following the issuing of the same.
- B. A fee of \$5 shall be paid before any license required by this article shall be issued.

§ 5-9. Ice cream, sherbets and ices.

The requirements concerning the sale, production and handling of ice cream, sherbets and ices shall be governed by the Law and Regulations Governing the Manufacture, Handling, Sale and Distribution of Ice Cream, Sherbet and Ices of the State of New Jersey, as set forth in Title 24, Chapter 2, Article I of the Revised Statutes, Title 24, Chapter 10, Article 7 of the Revised Statutes and Title 24, Chapter 17, Article 1 of the Revised Statutes, its amendments and supplements, which are made a part of this article as though incorporated in it and set out at length.

**ARTICLE IV
Water and Ice**

§ 5-10. Licensing.

See Article V, Food and Drink.

§ 5-11. Water.

- A. Construction of wells. This is part of N.J.A.C. 7:9D-1. et seq. and shall be governed thereby.
- B. No person shall construct or maintain any well or other supply of water used for drinking or household purposes which is polluted in any manner that may render such water injurious to health or which is so situated, constructed or maintained that it may become so polluted. This Board or its agent shall be permitted to enter the premises at any time for the purpose of taking samples of water for analysis.
- C. All water dispensers, coolers, containers or devices used in connection with the sale or distribution of drinking water shall meet the approval of the Board and be in compliance with N.J.A.C. 8:21-5 et seq.

**ARTICLE V
Food and Drink**

§ 5-12. Definitions.

For the purposes of this article, the terms used herein are defined as follows:

APPROVED - Any article of food or drink, a source of food or drink, a method, a device or a piece of equipment, which meets the requirements of this Board or the State Department of Health.

EMPLOYEE - Any person who handles food or drink during preparation or serving or who comes in contact with any eating or cooking utensil or who is employed in a room in which food or drink is prepared or served, including the term "person" as further defined.

ENFORCING OFFICIAL - The Health Officer or other official possessing a license issued by the State Department of Health under the provisions of N.J.S.A. 26:1A-41 who is designated by the Board of Health to enforce this chapter, except plumbing inspectors and public health laboratory technicians.

FOOD - All confectionery and every article used as food or as drink for human consumption, and all articles used for components of any such article.

PERSON - An individual, firm, corporation, association, society or partnership and its agents or employees.

RETAIL FOOD-HANDLING ESTABLISHMENTS - Restaurants, taverns, box-lunch establishments, bakeries, meat markets, delicatessens, luncheonettes, caterers, soda fountains, food vending vehicles, grocery stores and any other place in which food or drink is prepared or stored for public consumption, distribution or sale at retail, including vehicles used in connection therewith and all places where water for drinking or culinary purposes is available for public use.

SALE - Every delivery of food, whether the same is by direct sale or the solicitation or acceptance of an order for food, including the exchange, barter, traffic in, keeping and exposing for sale, displaying for sale, serving with meals, delivering for value, peddling, possessing with intent to sell and the gratuitous delivery or gift of any food by any licensee or person to whom a food certificate has been issued or by any other person.

SANITIZE - The process of rendering eating or drinking utensils free from disease producing bacteria so that they have been cleansed and disinfected as to have a total bacterial count of not more than 100 per utensil when sampled in accordance with approved methods in an approved laboratory.

UTENSILS - Any kitchenware, tableware, glassware, cutlery, containers or other equipment with which food or drink comes in contact.

§ 5-13. Licensing; fees.

1. Every retail food establishment must post the most current Evaluation Placard in one of the following prominent locations clearly visible to the patron:
 - a. The main entrance door from four (4) to six (6) feet off the ground or floor;
 - b. A front window within five (5) feet of the main entrance;
 - c. A display case mounted on the outside wall within five (5) feet of the main entrance;
 - d. If there is no direct entrance to the street, the Health Department shall determine an appropriate posting location in prominent public view.
- A. No person shall conduct, maintain or operate a food establishment without first obtaining from this Board a license, certificate, permit, or license so to do.
- B. Fees in accordance with the following schedule shall be paid before any license required in this article shall be issued, except that payment of a fee may be waived by the Board of Health at its discretion for any municipal facility, church, school or building which does not receive any remuneration for the dispensing of food or drink, or holds a 501 (c)(3) classification, upon receipt of a written application for fee waiver from the person conducting, maintaining or operating such an establishment. All organizations that meet the criteria to have a licensing fee waived must also meet all other licensing requirements prior to the license being approved.

License Type:	Fee:
Retail food establishments (Risk Type 1)	\$100.00
Retail food establishment (Risk Type 2)	\$200.00
Retail food establishment (Risk Type 3)	\$300.00
Retail food establishment (Risk Type 4)	\$400.00
Milk license (set by State Statute)	\$ 5.00
Mobile food license	\$100.00
Food vending machines	\$ 50.00
Temporary retail food operations	
temporary license (up to 24 hours)	\$75.00
temporary license (annual permit for all events)	\$125.00
Farmer'	

Other fees:

Plan Review (per plan)

Retail food establishments (food stores less than 9,999 square feet)	\$125.00
Retail food establishments (food stores over 10,000 square feet)	\$300.00
Restaurants, 1 to 49 seats	\$100.00
Restaurants, 50 or more seats	\$150.00
Limited Pre-existing Establishment Alteration	\$75.00

Misc. fees:

Food handler training course	\$40.00
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Non-profit organizations must obtain a license annually. The fee may be waived on application to the Board for a waiver of the licensing fee based on non-profit status.

- C. There is hereby established a fee for re-inspection of any retail food establishment receiving a posting of Conditionally Satisfactory or Unsatisfactory in the amount of \$100.00 (first Conditionally Satisfactory or unsatisfactory posting); \$250.00 (second consecutive initial inspection rating in a Conditionally Satisfactory or Unsatisfactory posting); \$500 and mandatory Board Hearing (third consecutive initial inspection resulting in a Conditionally Satisfactory or Unsatisfactory posting). Any three consecutive inspections resulting in a Conditionally Satisfactory or Unsatisfactory posting or any three consecutive initial inspections that result in a posting of Conditionally Satisfactory or Unsatisfactory posting or any three consecutive initial inspections that result in a posting of Conditionally Satisfactory or Unsatisfactory shall also result in a mandatory Board hearing. Anytime the retail food establishment receives a Conditionally Satisfactory or Unsatisfactory posting based on the re-inspection, there shall be an additional fee of \$200.

This is in recognition of the fact that repeated, “Conditionally Satisfactory, and “Unsatisfactory” ratings represent a hazard to the public health and repeat inspections are costly. The repeat inspections and cost reimbursement fees shall not in any way preclude, preempt, interfere with or be a substitute for legal action in the courts or before the Board of Health to assure correction of the violations. Such fees are in addition to the annual license fee and shall not be considered penalties, but such fees shall be charged and shall be paid to offset the costs and expenses of such reinspection by the Board of Health. The Board of Health or its designated agent shall retain the right to close, in its discretion, any establishment that has maintained a Conditionally Satisfactory posting for (30) thirty or more consecutive days.

- D. The cost of laboratory tests required because of a complaint or suspect food illness or a retest required because of unsatisfactory results on the prior test shall be assessed to the Retail Food Establishment or added onto the annual license fee. This is in recognition that the food establishment license fees established by this code are not adequate to cover additional costs incurred by the regulatory agency as a result of such tests.
- E. Licenses issued under the provisions of this article, unless sooner forfeited or revoked by this Board, shall expire annually on the 31st day of December of each year. A late fee of \$50.00 per month shall be assessed for each month or portion thereof a license is renewed after January 31st.
- F. New food establishments licensed on or after July 1st through December 31st, shall pay one half of the annual fee for a license to operate.
- G. A license may be suspended or revoked for a violation by the holder of any provisions of this article or chapter after an opportunity for a hearing by this Board or its authorized representative.
- H. No license is transferable by sale or otherwise.
- I. Every retail food establishment must post the most current Evaluation Placard in one of the following prominent locations clearly visible to the patron:
 - a. The main entrance door from four (4) to six (6) feet off the ground or floor;
 - b. A front window within five (5) feet of the main entrance;
 - c. A display case mounted on the outside wall within five (5) feet of the main entrance;
 - d. If there is no direct entrance to the street, the Health Department shall determine an appropriate posting location in prominent public view.
- J. All fees for licenses shall be paid to the Board of Health.
- K. Food vendors shall apply and pay for a retail food license no later than ten (10) business days prior to the event where they are selling food and/or beverages. If the Registered Environmental Health Specialist grants the licensure after review of the application, observance of the Chapter 24 New Jersey State Sanitary Code, N.J.A.C. 8:24, shall be strictly upheld and enforced. The operation shall be subject to inspection at any time.
- L. At any time during a temporary event that a vendor is found to be in violation of a local or state ordinance the Local Board of Health, or its authorized agent has the authority to enforce the vendor to leave the premises.

M. All licensed retail food establishments and vendors must abide by the regulations set forth in the New Jersey State Sanitary Code, N.J.A.C 8:24.

§ 5-13A. Other (non food) Licensing; fees.

Body Art License	\$200.00
Public Swimming Pools:	
Swimming Pools/Recreation Bathing (Non-residential)	
Construct	\$175.00
Alter	\$175.00
Operate	\$175.00
Pet Shops/Kennels:	
Pet shop	\$ 50.00
Dog Kennel	\$ 50.00
Food handler training course	\$ 40.00
Septics:	
Plan review/Approval	\$175.00
Permit to install septic system	\$175.00
Permit to conduct business of cleaning tanks	\$175.00
Wells:	
Permit to install well (alter or construct)	\$175.00
Lead-Based Paint:	
Permit to remove exterior paint (per structure)	\$15.00
Vital Statistics:	
Certified Copies of Birth & Marriage	\$ 15.00 each
Certified Copies of Death	\$ 15.00 each
Certified Copies of Domestic Partnership	\$ 15.00 each
Burial/Disinterment/Transit Permit	\$ 5.00 each
Marriage License	\$ 28.00
(Set by State Statute 37:1-12,12.1 et seq.)	
Domestic Partnership Fee	\$ 28.00
(Set by State Statute 37:1-12,12.1 et seq.)	
Fee to correct a vital record	\$30.00
Misc. Permits:	
Boarding Homes for Children	\$100.00
Incinerators	\$100.00

All existing ordinances of the Town of Westfield Board of Health imposing or establishing fees for licenses, permits and other charges are hereby amended to the extent necessary and applicable to effect the foregoing changes in fees.

In the event that any section, sentence or clause of this ordinance or code shall be declared unconstitutional by a court of competent jurisdiction such declaration shall not in any manner prejudice the enforcement of the remaining provisions.

These revised fees shall take effect as of January 1, 2012 after final adoption and publication in accordance with law.

§ 5-14. Examination and condemnation of unwholesome food and drink.

The enforcing official may take and examine samples of food, drink and other substances in accordance with Chapter XXIV, Regulation 8.4, of the New Jersey State Sanitary Code.

§ 5-15. Inspection of retail food-handling establishments.

The enforcing official shall inspect every retail food-handling establishment in accordance with Chapter XXIV, Regulation 8.2, of the New Jersey State Sanitary Code.

§ 5-16. Sanitary requirements.

Retail food-handling establishments shall comply with the rules and regulations as set forth in Chapter 24 of the New Jersey State Sanitary Code, Construction, Operation and Maintenance of Retail Food Establishments.

§ 5-17. Closure for infection.

Refer to Regulation 8.8 in Chapter 24 of the New Jersey State Sanitary Code.

§ 5-18. Condemnation.

Refer to Regulation 8.4 in Chapter 24 of the New Jersey State Sanitary Code.

§ 5-19. Food handler's certification.

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

FOOD - Includes any substance used or intended to be used as food or drink for human consumption.

FOOD HANDLER'S CERTIFICATION - A certificate issued by the Board of Health of Westfield or any other agency recognized by the Board of Health of Westfield.

PERSON IN CHARGE - Any person charged with the responsibility of overseeing the operations, including the supervision of employees engaged in the preparing, processing and sale of food or drink intended for human consumption, be it for on- or off-premises consumption.

B. Certificate required.

- (1) No establishment shall be open for business in the preparing, processing and sale of food or drink intended for human consumption without having a person in charge on the premises who has a current food handler's certificate.

- (2) At least one person on each shift shall have a current food handler's certificate.
- (3) The food handler's certificate shall not be issued or granted to any person unless the person seeking such food handler's certificate shall have first completed an approved course of general instruction in health education, sanitation, personal hygiene, food protection, dishwashing procedures and other related health matters.

C. Application for certificate; course.

- (1) No establishment shall operate for more than 30 days without the person in charge employed in that establishment applying for a food handler's certificate.
- (2) No establishment shall operate for more than three months without the person in charge employed in that establishment completing an approved course of instruction in food-handling techniques.

D. No person to whom a food handler's certificate is issued or granted shall give, loan, transfer or permit the same to be used by any other person, for any purpose whatsoever.

§ 5-20. Common drinking cup.

No person in charge of or in control of any park, playground, railroad station, theater, hotel, boardinghouse, factory or any other public place shall furnish or permit any common drinking cup or utensil to be used.

**ARTICLE VI
Communicable Diseases**

§ 5-21. Definitions.

For the purposes of this article, the terms used herein are defined as follows:

CLEANSING - The thorough removal of dust and other contaminating material in such a way as to prevent the entry thereof, as far as may be possible, into other rooms or dwellings; washing with soap and hot water; and scouring, airing and exposure to sunlight.

DISINFECTION - The application of disinfecting substances to infected materials in sufficient concentration and for a sufficient length of time to destroy bacteria, viruses or other harmful pathogens. When gaseous disinfectants are used, all cracks, crevices and openings shall first be closed.

ISOLATION - The placing apart of infected persons for the purpose of preventing contact with other persons and the establishment of restrictions directly surrounding such persons.

QUARANTINE - The physical separation and confinement of an individual or groups of individuals who are or may have been exposed to a contagious or possibly contagious disease and who do not show symptoms of a contagious disease, from non-quarantined individuals or animals, to prevent or limit the transmission of the disease to non-quarantined individuals.

§ 5-22. List of communicable diseases.

A. The diseases as set forth and revised in Title 26 of the State Sanitary Code shall be reportable in the manner prescribed.

B. The following cases are also reportable by state law: all animal bites.

§ 5-23. Reports.

All reports of cases or suspected cases of reportable diseases shall be governed by the rules and regulations as set forth in N.J.S.A. 26:4-15 to 4-26.

§ 5-24. Quarantine and isolation.

A. Whenever a report of a communicable disease is received, the person infected shall, at the discretion of this Board, be isolated or quarantined as this Board may order or direct.

B. In establishing isolation or quarantine, the Board shall define the place and the limits of the area within which the infected person is to be isolated. No person except the attending physician or nurse shall enter or leave the area of isolation without the permission of this Board. Isolation or quarantine shall be continued until it is determined by examination that the person no longer has the disease in an infectious state.

C. After the isolation or quarantine of any person infected with or exposed to a communicable disease shall have been established, such person shall not leave the apartment or premises where he is isolated or quarantined, nor shall any other person remove such person or permit him to be removed, unless permission for such removal shall have been issued first by this Board.

§ 5-25. Illegal exposure to disease.

A. No person shall expose or permit the exposure of anyone to any communicable disease or its causative agent.

B. No person suffering from a communicable disease or harboring the causative organism of any communicable disease and no articles, which may tend to propagate or spread such disease shall be brought into the Town without permission from the Health Officer. Whenever it shall come to the knowledge of any person that such persons or articles have been brought into this Town without the permission of the Board, he shall immediately give notice thereof to this Board. No person shall remove any such diseased person or infected article from any house or place without approval of the Board.

§ 5-26. Attendance at schools.

The regulations covering this are covered in N.J.S.A. 26:4-6 and are governed thereby.

§ 5-27. Examination of carriers.

This Board may, if it shall be deemed necessary, require a person believed to be a carrier of disease pathogens to furnish specimens for examination. It shall be the duty of such person to furnish the necessary specimens for examination or to permit the Board or its representative to collect such specimens.

§ 5-28. Examination for diagnosis.

Whenever this Board shall deem it necessary to establish the true character of any disease which, in its opinion, may be communicable, a medical examination of the person infected may be required, and such specimens of secretions or other material for examination shall be taken from such person, and it shall be the duty of such person to submit to such examination and furnish such necessary specimens. No person shall interfere with or prevent the securing of such specimens. The Board may cause any person suspected to be infected with a communicable disease to be isolated or quarantined until medical or laboratory examinations show that the person is free of the causative organisms of disease.

§35-29. Animal diseases.

- A. Every veterinarian who shall attend any animal within this Town having or suspected of having rabies, glanders, anthrax or any other communicable disease transmittable to humans shall, within 12 hours thereafter, report in writing to this Board the location of such diseased animal, the type and character of the disease and the name and address of the owner.
- B. It shall be the duty of any person having knowledge of any dog, cat or other animal infected with rabies or suspected of being infected with rabies within this Town to forthwith notify the Board and, if possible, give a description of the animal, the location where it may be found and the name and address of the owner or the person having custody thereof.
- C. Whenever a dog, cat or other animal shall have bitten any person, the owner or person in charge thereof shall securely confine such animal for the purpose of observation in such a manner and for such a period as may be designated by this Board.

§ 5-30. Industrial and occupational diseases.

This is covered under the rules and regulations of the Occupational Safety and Health Administration and is governed thereby.

§ 5-31. Deaths and burials.

Whenever death has been caused by any communicable disease, the transportation, care, disposal and burial of the body shall be in accordance with the regulations regarding same as required by the State Sanitary Code and in accordance with such further regulations as this Board may direct.

ARTICLE VII

Barbershops, Beauty Shops and Massaging Establishments

§ 5-32. Regulations and licensing.

- A. Barbershops. The regulation and licensing of barbers and barbershops is now vested in the State Board of Barber Examiners.
- B. Beauty shops. The regulation and licensing of beauty shops is now governed by the State Beauty Culture Control Board.

ARTICLE VIII

Sanitation of Buildings in General

§ 5-33. Quarters unfit for human habitation.

Whenever it shall be decided by this Board that any building or part thereof in this Town is unfit for human habitation by reason of its being in a condition dangerous to health or life or likely to cause sickness among the occupants or not in a proper state of cleanliness, and written notice of such decision shall have been personally served upon the owner, occupant or lessee if the same can be found in this state, or otherwise affixed conspicuously on the building or any part thereof so decided to be unfit for human habitation, such building or part thereof shall, within 10 days, be vacated or, in case of special emergency, within such shorter time as in said notice may be specified.

§ 5-34. Plumbing facilities for habitable buildings.

No person shall construct or maintain any building intended or permitted to be occupied as human living quarters or any building intended or permitted to be used as a store or office, which shall not be equipped with adequate and operative plumbing.

§ 5-35. Heating.

- A. Heating of residences. Every owner of a building or buildings, lessor or agent of a building constructed to be occupied as residences with two or more family units, and where such owner has agreed to supply heat, shall provide heat from October 1 of each year to the next succeeding May 1. Every unit of dwelling space and habitable room therein shall be maintained at a temperature of at least 68 degrees Fahrenheit between the hours of 6:00 A.M. and 11:00 P.M. and at least 65 degrees Fahrenheit between the hours of 11:00 P.M. and 6:00 A.M.; provided, however, that the owner shall not be responsible for heat loss and the consequent drop in interior temperatures arising out of action by the occupants in leaving window(s) and/or door(s) open to the exterior of the building.

- B. Heating of business buildings. Every person, whether he is the owner, lessor or agent of a building to be used for offices or business purposes who shall have agreed to supply heat to the tenant, shall provide heat from October 1 of each year to the next succeeding May 1 so that the temperature of said office or place of business shall always be kept at 68 degrees F. or above while occupied; provided, however, that this section shall not apply to buildings or portions thereof used and occupied for trades, businesses or occupations where high or low temperatures are essential or unavoidable.

**ARTICLE IX
Boarding Homes**

§ 5-36. Operation of boarding homes for children.

Boarding homes for children shall be operated in accordance with Chapter 6 of the State Sanitary Code.

§ 5-37. Licensing; fee.

Application for a license shall be accompanied by a fee of \$100.00 and shall be issued for a period of one year.

**Westfield Board of Health
Chapter 6 SEWAGE DISPOSAL; SCAVENGERS**

§ 6-1. Septic tanks, cesspools, laterals and evaporation beds.

§ 6-2. Drains.

§ 6-3. Correction of defective systems.

§ 6-4. Cleaning cesspools.

§ 6-5. Privies.

§ 6-6. Sewer connections.

§ 6-7. Scavengers.

§ 6-8. Violations and penalties.

§ 6-1. Septic tanks, cesspools, laterals and evaporation beds.

No person shall construct, alter or aid in the construction or alteration of any individual subsurface sewage disposal system or part thereof without first meeting prescribed standards of N.J.A.C. 7:9A-1 et seq., as current and including future revisions.

§ 6-2. Drains.

These regulations are now under the jurisdiction of the Construction Official of the Town.

§ 6-3. Correction of defective systems.

No person shall construct or maintain or permit to be maintained any sewage disposal system, which discharges directly or indirectly on the surface of the ground, or any such system, which emits objectionable odors. Should this condition be found to exist on any premises in this Town, the owner, occupant or lessee of said premises shall forthwith have the cesspool, septic tank or privy cleaned and immediately thereafter have such changes made in construction so that the system functions properly and without offense. Should said owner, occupant or lessee fail within the time specified to comply with a notice from this Board or its agent that the sewage disposal system on the premises owned, occupied or leased by him violates this section, this Board or its agent shall have said cesspool, septic tank or privy cleaned as often as it may deem necessary. The expense of such cleaning shall be charged against said premises and collected as prescribed by law.

§ 6-4. Cleaning cesspools.

These regulations are covered under N.J.A.C. 7:9-2.1 et seq.

§ 6-5. Privies.

These regulations are covered under N.J.A.C. 7:9-2.1 et seq.

§ 6-6. Sewer connections.

The owners of property along the line of any sanitary sewer are hereby required to connect their houses and other buildings with such sewers by means of connections that shall be constructed in strict conformity with the provisions of the Uniform Construction Code.

§ 6-7. Scavengers.

- A. Licensing.
 - (1) No person shall clean or empty any cesspool, septic tank, privy vault or other receptacle constructed for human excrement without first obtaining a scavenger's license from this Board.
 - (2) Each license issued under the provisions of this section shall expire on the 31st day of December following the issuance of the same.
- B. Fees. A \$175.00 shall be paid for each license.
- C. Equipment. All apparatus, means, appliances, vehicles or conveyances to be used in the cleaning or emptying of any cesspool, septic tank, privy vault or other receptacle constructed for human excrement shall be approved by this Board before being used and shall at all times thereafter be subject to inspection of this Board.
- D. Cleansing. Any scavenger who shall commence to clean or empty any cesspool, septic tank, privy vault or other receptacle constructed for human excrement shall, without interruption or delay, proceed with the work until it is completed and the material removed from the premises, and such material shall be disposed of in such manner and place as shall first be approved by this Board.

§ 6-8. Violations and penalties.

- A. Any person who shall violate or fail to comply with the provisions of any section of this chapter, or any part thereof, or with any order of this Board or of its agents made in pursuance thereof shall be subject, unless otherwise specifically provided, to a fine for each offense of not more than not less than \$50 nor more than \$2,000, in the discretion of the court, upon conviction thereof in the Municipal Court of the Town.
- B. In addition to the penalty above set forth, each day that such violation of this chapter or refusal or neglect to comply with any of the provisions of this chapter or refusal or neglect to comply with a written order of this Board or of its agents made in pursuance thereof shall continue may be considered a separate offense with a like penalty therefore.

**Westfield Board of Health
Chapter 7 EXTERIOR LEAD PAINT REMOVAL**

§ 7-1. Definitions

§ 7-2. Prohibitions and Requirements

§ 7-3. Enforcement

§ 7-4. Penalties

§ 7-5. Severability

GENERAL REFERENCES

[HISTORY: Adopted by the Board of Health of the Town of Westfield April 6, 1998]

§ 7-1. Definitions

LEAD BASED PAINT – means paint that contains more than 0.5% by dry weight of lead as determined by a laboratory certified by the State of New Jersey or that contains more than one milligram of lead per square centimeter of paint surface when measured by an x-ray fluorescence (XRF) analyzer.

PERSON – shall mean any individual, corporation, employee, company, association, firm or partnership.

CONFINED POWER SANDING – shall mean the use for the removal of lead paint of electric or hydraulic powered sanding tools that have attachments that while sanding paint simultaneously vacuums dust and chips into a HEPA filtered vacuum device or otherwise contain and control chips and dusts from being released into the environment.

UNCONFINED POWER SANDING – shall mean the use for the removal of paint of electric or hydraulic powered sanding tools that do not have attachments that while sanding paint simultaneously vacuums dust and chips into a HEPA filtered vacuum device or otherwise contain and control chips and dust from being released into the environment.

HEPA VACUUM – means a high efficient filter that filters out fine particles of dust at 99.7% of fine particles at 0.3 microns in size.

PERMIT – shall mean a permit obtained through the Health Department for the removal of exterior lead paint, or paint suspected of containing lead at a fee of \$15.00 per structure.

§ 7-2. Prohibitions and Requirements

- A. No person shall remove lead base paint, or paint suspected of containing lead on the exterior surfaces of a house or other structure without obtaining a permit through the Health Department and prominently displaying same at the proposed work site.
- B. No person shall remove lead base paint, or paint suspected of containing lead on the exterior surfaces of a house or other structure by the method of Unconfined Power Sanding.
- C. When exterior lead base paint is removed by Confined Power Sanding or other methods such as scraping, manual sanding or power washing, drop cloths or other ground cover shall be used to catch chips and dust from the process of paint removal. Chips and dust that fall onto the ground shall be cleaned to sight.
- D. Prior to removal of exterior lead base paint, windows of the structures being painted shall be closed and sealed with tape or other barrier to prevent entry of chips and dust into the interior of the house.

- E. Following paint removal, cleanup of dust and chips on window surfaces, driveways, sidewalks and other ground surfaces shall be done. Paint dust and chips shall not be dispersed by blowers or hose water. Paint chips and dust collected shall be place in double plastic bags of not less than 3 mils each of thickness and not weighing more than twenty (20) pounds.
- F. Collected paint chips and dust may be left with the owner or resident and shall be disposed of in accordance with local regulations covering regular municipal household garbage collection.
- G. Hoses to vacuums shall not be longer than fifty (50) feet or more than recommended by the vacuum manufacturer, whichever is less. If the vacuum is attached to a “Y” connector each hose shall not be more than twenty-five (25) feet in length.
- H. HEPA filters shall be replaced as necessary in order to keep the vacuum system operating properly. Excessive amounts of dust shall not be allowed to escape during power sanding operations.
- I. Contractors shall give written notification to property owners and occupants as to the nature of the job being performed, the hazards of lead and the procedures being employed for lead paint cleaning.
- J. Contractors involved in lead paint removal will provide their workers with disposable overalls, which must be worn during the removal of lead paint and discarded daily.

§ 7-3. Enforcement

- A. This Ordinance shall be enforceable by the Health Officer, Registered Environmental Health Specialist(s), or other designated official(s) or person(s) as appointed by the Health Officer.
- B. This Ordinance shall take effect after final passage and publication according to law.

§ 7-4. Penalties

- A. Any person who violates any provision of this Ordinance shall be subject to a penalty of not less than \$50 and not more than \$2,000. Each day that the violation continues shall constitute a separate offense.
- B. In lieu of issuing a summons or complaint in Municipal Court, an order to immediately cease unconfined power sanding, and to clean and remove leaded paint chips/dust within a reasonable time period may be issued by the enforcement official.

§ 7-5. Severability

- A. If any section, paragraph, subparagraph, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the specific section, paragraph, subparagraph, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

**Westfield Board of Health
Chapter 8**

SECTION 1. There is hereby created a new Chapter, Chapter 8, Sale and Manufacture of Electronic Smoking Devices, as follows:

BOH 8-1. Purpose.

The purpose of this article is to protect the public's health and general welfare by licensing and regulating establishments that sell electronic smoking devices.

BOH 8-2. Definitions.

As used in this article, the following words shall mean:

Business shall mean any sole proprietorship, partnership, joint venture, corporation, association, or other entity formed for profit-making purposes.

Characterizing Flavor shall mean a distinguishable flavor, taste, or aroma, including but not limited to, any fruit, candy, chocolate, vanilla, honey, cocoa, wintergreen, dessert, alcoholic beverage, herb or spice flavoring, that is imparted prior to or during consumption by an electronic smoking device, tobacco product, or other related product, including electronic liquid, or any smoke, aerosol, or vapor emanating from that device or product. An electronic smoking device, any cartridge, or other component of the device or other related product, including liquid nicotine, shall be deemed to have a characterizing flavor if the device, cartridge, component, or related product is advertised or marketed as having or producing any such distinguishable flavor, taste or aroma. No tobacco product shall be determined to have a characterizing flavor solely because of the use of additives or flavorings or the provision of ingredient information.

Component or Part shall mean any software or assembly of materials intended or reasonably expected to alter or affect the electronic smoking device's performance, composition, characteristics, and ingredients.

Distinguishable shall mean perceivable by either the sense of smell or taste.

Electronic liquid shall mean ingredients, liquids, gels, waxes and powders, including but not limited to those which may contain nicotine and which may be aerosolized or vaporized when using an electronic smoking device.

Electronic Smoking Device shall mean a device that can be used to deliver aerosolized or vaporized nicotine to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. Electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

Employee shall mean any person who is employed or retained as an independent contractor by any employer in consideration for direct or indirect monetary wages or profit, or any person who volunteers his or her services for an employer.

Employer shall mean any business or nonprofit entity that retains the service of one or more Employees or of the owner.

Health Officer shall mean the Town of Westfield Health Officer or his/her authorized designee.

Itinerant Establishment means a temporary or permanent business operated from a truck, a cart, other vehicle, hand-carried portable container or device, or mobile platform or unit.

License Year shall mean a calendar year commencing on January 1 and ending on December 31.

Liquid Nicotine shall mean any solution containing nicotine, which is designed or sold for use with an electronic smoking device.

Liquid Nicotine Container shall mean a bottle or other container of a liquid, wax or gel, or other substance containing nicotine, where the liquid or other contained substance is sold, marketed, or intended for use in an electronic smoking device. Liquid nicotine container does not include a liquid or other substance containing nicotine in a cartridge that is sold, marketed or intended for use in an electronic smoking device, provided that such cartridge is prefilled and sealed by the manufacturer, with the seal remaining permanently intact through retail purchase and use; is only disposable and is not refillable; and is not intended to be opened by the consumer.

Nonprofit Entity shall mean any entity that meets Internal Revenue Service (IRS) Internal Revenue Code section 501(c)(3) as well as any other entity created for charitable, religious, philanthropic, educational, political, social or similar purposes, the net proceeds of which are committed to the promotion of the objectives or purposes of the entity and not to private gain.

Manufacturer shall mean any person, including any repacker and/or relabeler, who compounds, modifies, mixes, manufactures, fabricates, assembles, processes, labels, repacks, relabels or imports electronic smoking devices or electronic liquid.

Person shall mean an individual, partnership, cooperative, association, corporation, personal representative, receiver, trustee, assignee or any other legal entity.

Retail Electronic Smoking Device Establishment shall mean any establishment that solely sells, distributes, gives, offers or manufactures electronic smoking devices, components or parts, electronic liquid, and/or liquid nicotine.

Sale shall mean every delivery of electronic smoking devices, whether the same is by direct sale or the solicitation or acceptance of an order, including the exchange, barter, keeping and exposing for sale, delivering for value, peddling and possession with intent to sell, distribute, or give.

Smoking shall mean inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco, nicotine, or plant product intended for inhalation, including hookah and marijuana, whether natural or synthetic. Smoking also includes the use of an electronic smoking device.

Tobacco Product shall mean any product that is made from or derived from tobacco, or that contains nicotine, that is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. Tobacco product also means electronic smoking devices and any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, and substances used in electronic smoking devices, whether or not they contain nicotine. Tobacco product does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration and defined in the Federal Food, Drug and Cosmetic Act.

BOH 8-3. Prohibition on sales and manufacture.

- A. Only retail electronic smoking device establishments licensed by the Town of Westfield Board of Health shall sell electronic smoking devices, components or parts, electronic liquid, and/or liquid nicotine.
- B. It shall be unlawful for any business within the Town of Westfield to manufacture electronic smoking devices, components or parts, electronic liquid, and or liquid nicotine.
- C. Except for those businesses which expressly prohibit entry into its premises for anyone under age eighteen (18), it shall be unlawful for a business which holds a retail food establishment license issued by the Town of Westfield Board of Health, a license for the retail sale of motor fuel issued by the State of New Jersey, and/or a liquor license issued by the State of New Jersey to sell electronic smoking devices, components or parts, electronic liquid, and/or liquid nicotine.
- D. A business which holds a retail food establishment license issued by the Town of Westfield Board of Health, a license for the retail sale of motor fuel issued by the State of New Jersey, and/or a liquor license issued by the State of New Jersey and which sells and/or manufactures electronic smoking devices, components or parts, electronic liquid, and/or liquid nicotine shall comply with this section within sixty (60) days of the passage of this chapter.

BOH 8-4. Entry and employment of persons under the age of twenty-one (21) prohibited.

- A. The entry of individuals under the age of twenty-one (21) into any portion of a retail electronic smoking device establishment is prohibited, unless the establishment has received prior authorization from the Health Department via an approved application, and the establishment expressly prohibits entry to those under the age of eighteen (18), and has a policy approved by the Health Department to check for identification at the point of sale to ensure ESD products are only sold to those twenty-one (21) and older.
- B. It shall be the duty of a retail electronic smoking device establishment licensee and his/her employees to verify that any individual entering any portion of the establishment is aged twenty-one (21) years and older, or eighteen (18) years or older if approved by the Health Department, by requesting and examining government-issued photographic identification immediately upon entry of such individual.
- C. No individual under the age of twenty-one (21) shall be employed by a retail electronic smoking device establishment.

BOH 8-5. Sale, distribution, or provision to person under the age of twenty-one (21) prohibited.

No person shall sell, distribute or give electronic smoking devices, components or parts, electronic liquid, and/or liquid nicotine to any person under the age of 21 years. Each retailer selling or distributing electronic smoking devices shall verify the age of the purchaser by means of valid government-issued photographic identification that contains date of birth.

BOH 8-6. Location of retail electronic smoking device establishment.

No retail electronic smoking device establishment, not presently in operation at the time of the adoption of the chapter, shall be located within five hundred (500) feet of any public recreational field or park, public or private elementary or secondary school.

BOH 8-7. Operational requirements.

- A. No person shall sell, distribute or give electronic smoking devices, components or parts, electronic liquid, and/or liquid nicotine in the Town of Westfield unless an employee of the establishment controls the sale of such product through direct, face-to-face exchange between the retailer and the consumer. Self-service displays and vending machines for the sale of electronic smoking devices, components or parts, electronic liquid, and/or liquid nicotine shall be prohibited.
- B. No retail electronic smoking device establishment shall allow an employee to sell, distribute or give electronic smoking devices, components or parts, electronic liquid, and/or liquid nicotine until the employee has confirmed he/she has read this article and state laws pertaining to the sale of electronic smoking devices by signing a form promulgated by the Health Department, confirming the same. Forms shall be submitted to the Health Department and a copy of the form shall be kept on file at the retail electronic smoking device establishment and made immediately available at the request of the Health Officer. All retail electronic smoking device establishments shall comply with this provision sixty (60) days after adoption of this article. It shall be the duty of the licensee to ensure that all new employees comply with this section within one (1) week of hire.
- C. No retail electronic smoking device establishment shall distribute, or cause to be distributed, any samples or permit sampling of electronic smoking devices, components or parts, electronic liquid, and/or liquid nicotine.
- D. No retail electronic smoking device establishment shall use any device within its establishment to mask or conceal any characterizing flavor or smell of any electronic liquid and/or tobacco product.
- E. A retailer of electronic liquid containers must comply with provisions of N.J.S.A 2A:170-51.9 et. seq., governing child resistant containers, as may from time to time be amended or supplemented.

BOH 8-8. Signage.

- A. Signage shall be conspicuously posted on entry doors to the establishments which state:
“Entry of persons under the age of twenty-one (21) is prohibited. Government-issued photographic identification must be presented immediately upon entry.”
- B. If an application for concurrent licenses is approved, then signage shall be conspicuously posted on entry doors to the establishment which state: “Entry of persons under the age of eighteen (18) is prohibited. Government-issued identification must be presented immediately upon entry.”
- C. Signage must be conspicuously posted at the point of display and at the point of sale which states:
 - 1. “A person who sells or offers to sell tobacco products or electronic smoking or vapor devices, components, cartridges or related products to a person less than 21 years of age shall pay a penalty up to \$2,000 and may be subject to a license suspension or revocation. Proof of age may be required for purchase. Those persons or establishments in violation are subject to prosecution.”
 - 2. “Smoking, sampling or using tobacco products or electronic smoking or vapor devices inside this place of business is prohibited by NJ State Law. Those establishments or individuals in violation are subject to prosecution.”

BOH 8.9. License, application, fees, display and transferability.

- A. No person shall conduct, maintain, or operate a retail electronic smoking device establishment without first submitting an application for licensure on forms promulgated by the Town of Westfield Health Department.
- B. Fees in accordance with the following schedule shall be paid annually:
Retail Electronic Smoking Device Establishment License \$1,000.00
- C. Licenses issued under the provisions of this article shall expire annually on December 31 of the year in which the license was issued.
- D. Applications for license renewal shall be submitted to the Town of Westfield Health Department no less than sixty (60) days prior to expiration.
- E. At the time of the initial application and any subsequent renewals, the applicant or the licensee shall:
 - 1. Disclose if they are also a manufacturer or distributor of electronic smoking devices and if that part of their business is conducted or takes place at the retail electronic smoking device establishment or another location(s).
 - 2. Provide contact information for the manufacturer or distributor or other business(es) from which the electronic smoking devices, components or parts, electronic liquid, and/or liquid nicotine are purchased.
- F. Each license shall be posted in a conspicuous location where it may be readily observed at eye level by all patrons before or immediately upon entering the establishment. No portion of the license shall be obstructed from view during display.

- G. It shall be unlawful for any person to erase, cancel, deface, or alter a license once it has been issued by the Town of Westfield Health Department.
- H. The owner or person in charge of an establishment shall permit any Town official, inspector or police officer who has presented proper identification to fully examine any license issued under this Chapter.
- I. No licenses shall be issued to itinerant establishments, transient merchants, or peddlers.
- J. Licenses and/or permits are not transferable and are not prorated. Any establishment that changes ownership must submit a new application and receive a new license and/or permit prior to the opening of the establishment.

BOH 8.10. Inspection and access to premises.

- A. The Health Officer or his/her authorized agent shall have the right to inspect any retail electronic smoking device establishment as often as he/she deems it necessary.
- B. Any duly appointed Town Police Officer shall be permitted to enter and inspect the premises for compliance with this subchapter.
- C. All parts of the establishment shall be made accessible to the Health Officer or his/her designee and any duly appointed Town Police Officer.
- D. It shall be unlawful for any licensee or his/her employee to hinder, impede, or fail to allow the Health Officer or his/her designee or any duly appointed Town Police Officer needing to perform an inspection, access to all areas of the establishment.

BOH 8.11. Revocation or suspension of license; hearing.

- A. Licenses issued under this Section may be revoked or suspended by the Health Officer or his/her designee, pending a formal hearing before the Town of Westfield Board of Health, for the following causes:
 - 1. Fraud, misrepresentation or false statement in the application for the establishment license.
 - 2. Fraud, misrepresentation or false statement made while operating the licensed business in the Town.
 - 3. Conducting the licensed business within the Town in an unlawful manner or in such a manner as to constitute a menace to the health, safety, or general welfare of the public.
 - 4. An existing or threatened menace to the public health as determined by the Health Officer.
 - 5. The owner and/or operator or any employee refuses to permit, hinders, or obstructs, the Health Officer or his/her designee or any duly authorized Town Police Officer to inspect the premises or the operations therein.

- B. A person, firm, corporation, or other entity whose license has been revoked shall close the establishment and request all patrons to vacate the premises.
- C. The licensee shall be entitled to a hearing before the Town of Westfield Board of Health within a reasonable time, which is not to exceed fifteen (15) days, for the purpose of seeking reinstatement of a suspended or revoked license. Written notice of the time and place of such a hearing shall be served upon the licensee by the Health Officer at least three (3) days prior to the date set for such hearing. Such notice shall contain a brief statement of the grounds to be relied upon for revoking, cancelling, or suspending such license. Notice may be given either by personal delivery thereof to the person to be notified or be deposited in the United States Post Office in a sealed envelope, postage prepaid, addressed to such person to be notified at the business address appearing upon such license by simultaneous regular mail and certified mail, return receipt requested.
- D. At the hearing before the Town of Westfield Board of Health, the licensee shall have an opportunity to answer and may thereafter be heard, and upon due consideration and deliberation by the Board, the complaint may be dismissed, or if the Board concludes that the charges have been sustained and substantiated, it may deny reinstatement of the license and stipulate the conditions required for reinstatement of the license.
- E. If any such license shall have been revoked, neither the holder thereof nor any person acting for him, directly or indirectly, shall be entitled to another license to carry on the same business within the Town, unless the application for such license shall be approved by the Board of Health.

BOH 8.12. Enforcement.

This article shall be enforced by the Town of Westfield Board of Health and any duly appointed Town Police Officer.

BOH 8.13. Violations and penalties.

- A. Unless otherwise provided by law, statute, or ordinance, any person(s) who is found to be in violation of the provisions of this section shall, upon conviction thereof, pay a fine of \$1,000 for the first violation, \$1,500 for the second violation, and \$2,000 for the third violation and each subsequent violation. Each violation, and every day in which a violation occurs, shall constitute a separate violation. No fines shall be issued for sixty (60) days after publication of this ordinance.
- B. These penalties are in addition to any penalties that may be imposed, including but not limited to penalties imposed by N.J.S.A. 2C33-13.1 et seq.

SECTION 2. BOH Ordinance #1-2014, an ordinance “Setting Licensing Fees for Electronic Smoking Device Establishments,” is hereby repealed in its entirety.

SECTION 3. All ordinances or parts of ordinances inconsistent herewith are repealed to the extent of such inconsistency.

SECTION 4. If any word, phrase, clause, section, or provision of this ordinance shall be found by any Court of competent jurisdiction to be unenforceable, illegal or unconstitutional, such word,

phrase, clause, section, or provision shall be severable from the balance of the ordinance and the remainder of the ordinance shall remain in full force and effect.

SECTION 5. This ordinance shall take effect immediately after final passage and publication in the manner provided by law.

**Westfield Board of Health
Chapter 9 NOISE CONTROL ORDINANCE**

§ 9-1. I Definitions

§ 9-2. II Applicability

§ 9-3. III Declaration of Findings and Policy

§ 9-4. IV Noise Control Officers

§ 9-5. V Maximum Permissible Sound Levels

§ 9-6. TABLE 1. Maximum Permissible A-Weighted Sound Levels

§ 9-7. TABLE II. Maximum Permissible Octave Band Sound Pressure Levels in Decibels

§ 9-8. VI Restricted Uses and Activities

§ 9-9. VII. Enforcement

§ 9-10. VIII. Severability and Repealer

GENERAL REFERENCES

[HISTORY: Adopted by the Board of Health of the Town of Westfield June 7, 1999]

An Ordinance by the Board of Health of the Town of Westfield entitled "A Model Ordinance as approved by the Department of Environmental Protection, State of New Jersey Regulating Noise."

§ 9-1. I. Definitions

The following words and terms, when used in this ordinance, shall have the following meanings, unless the context clearly indicates otherwise. Terms not defined in this ordinance have the same meaning as those defined in N.J.A.C. 7:29.

CONSTRUCTION means any site preparation, assembly, erection, repair, alteration or similar action, including demolition of buildings or structures.

CONTINUOUS AIRBORNE SOUND means sound that is measured by the slow response setting of a sound level meter in accordance with the provisions of N.J.A.C. 7:29-2, and which lasts one second or longer. Impulsive sounds that are rapidly repetitive and have a duration of one second or longer shall be measured as continuous airborne sound.

DEMOLITION means any dismantling, destruction or removal of buildings, structures, or roadways.

DEPARTMENT means the New Jersey Department of Environmental Protection.

EMERGENCY WORK means any work or action necessary to deliver essential public services including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging navigational waterways, or abating life-threatening conditions.

IMPULSIVE SOUND means either a single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than one second.

MOTOR VEHICLE means any vehicle that is propelled other than by human or animal power on land.

MUFFLER means a properly functioning sound dissipative device or system for abating the sound of escaping gasses on equipment where such a device is part of the normal configuration of the equipment.

MULTI-DWELLING UNIT BUILDING— means any building comprising two or more dwelling units, including, but not limited to, apartments, condominiums, co-ops, multiple family houses, townhouses, and attached residences.

MULTI-USE PROPERTY means any distinct parcel of land that is used for more than one category of activity. Examples include, but are not limited to:

1. A commercial, residential, industrial or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions. or health and recreational facilities,, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or
2. A building, which is both commercial (usually on the ground floor) and residential property, located above, behind, below or adjacent.

NOISE CONTROL OFFICERS means an employee of. (1) a local, county or regional health agency which is certified pursuant to the County Environmental Health Act (N.J.S.A. 26:3A2-21 et. seq.) to perform noise enforcement activities; or (2) a municipality with a Department approved noise control ordinance and the employee has received noise enforcement training and is currently certified in noise enforcement. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons in order to be considered a noise control officer.

PLAINLY AUDIBLE means any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The noise control officer need not determine the title, specific words, or the artist performing the song.

PRIVATE RIGHT-OF-WAY means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a nongovernmental entity.

PUBLIC RIGHT-OF-WAY means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

PUBLIC SPACE means any real property or structures thereon that are owned, leased, or controlled by a governmental entity.

REAL PROPERTY LINES means either (a) the imaginary line including its vertical extension that separates one parcel of real property from another; (b) the vertical and horizontal boundaries of a dwelling unit that is part of a multidwelling unit building; or (c) on a multi-use property, the interface between the two portions of the property on which different categories of activity are being performed (e.g., if the multi-use property is a building which is residential upstairs and commercial downstairs, then the real property line would be the interface between the residential area and the commercial area).

WEEKDAY means any day that is not a federal holiday, and beginning on Monday at 7:00 A.M. and ending on the following Friday at 6:00 P.M.

WEEKENDS means beginning on Friday at 6:00 P.M. and ending on the following Monday at 7:00 A.M.

§ 9-2. II Applicability

A. This noise ordinance applies to sound from the following property categories:

1. Industrial facilities;
2. Commercial facilities;
3. Public service facilities;
4. Community service facilities
5. Residential properties;
6. Multi-use properties;
7. Public and private right-of-ways;

8. Public spaces; and
 9. Multi-dwelling unit buildings.
- B. This noise ordinance applies to sound received at the following property categories:
1. Commercial facilities;
 2. Public service facilities;
 3. Community service facilities;
 4. Residential properties;
 5. Multi-use properties; and
 6. Multi-dwelling unit buildings.
- C. Sound from stationary emergency signaling devices shall be regulated in accordance with N.J.A.C. 7:29-1.4, except that the testing of the electromechanical functioning of a stationary emergency signaling device shall not meet or exceed 10 seconds.

§ 9-3. III. Declaration of Findings and Policy

Whereas excessive sound is a serious hazard to the public health, welfare, safety, and the quality of life; and Whereas a substantial body of science and technology exists by which excessive sound may be substantially abated; and, Whereas the people have a right to, and should be ensured of, an environment free from excessive sound,

Now, therefore, it is the policy of the Town of Westfield to prevent excessive sound that may jeopardize the health, welfare, or safety of the citizens or degrade the quality of life.

This ordinance shall apply to the control of sound originating from sources within the Town of Westfield.

§ 9-4. IV Noise Control Officers

- A. The provisions of this ordinance shall be enforced by noise control officers. A person shall be qualified to be a noise control officer if the person meets the criteria set forth in the definition above and completes, at a frequency specified by the Department in N.J.A.C. 7:29-2.11, a noise certification and re-certification course which are offered by the Department of Environmental Sciences of Cook College, Rutgers, the State University of New Jersey or any other noise certification or re-certification course, which is offered by an accredited university and approved by the Department.
- B. Sound measurements made by a noise control officer shall conform to the procedures set forth at N.J.A.C. 7:29-2, except that the interior sound level measurements shall also conform with the procedures set forth in sections V (B) and V(C) of this regulation and with the definition of "real property line" as contained herein.
- C. Noise control officers shall have the power to:

1. Coordinate the noise control activities of all departments in the Town of Westfield and cooperate with all other public bodies and agencies to the extent practicable;
2. Review the actions of the Town of Westfield and advise of the effect, if any, of such actions on noise control;
3. Review public and private projects, subject to mandatory review or approval by other departments or boards, for compliance with this ordinance; and
4. Investigate and pursue possible violations of this ordinance for sound levels which equal or exceed the sound levels set forth in Tables I and II, when measured at a receiving property located within the designated jurisdiction of the noise control officer, in accordance with Section VII below.
5. Cooperate with noise control officers of adjacent municipalities in enforcing one another's municipal noise ordinances.

§ 9-5. V. Maximum Permissible Sound Levels

- A. No person shall cause, suffer, allow, or permit the operation of any source of sound on any source property listed in II (A) above in such a manner as to create a sound level that equals or exceeds the sound level limits set forth in Tables I and II when measured at or within the real property line of any of the receiving properties listed in Tables I and II, except as specified in (B) below.
- B. When measuring total sound or residual sound within a multi-use property, or within a residential unit when the property line between it and the source property is a common wall, all exterior doors and windows shall be closed and the measurements shall be taken in the center of the room most affected by the noise. Residual sound shall be measured in accordance with N.J.A.C. 7:292.9 (b) 2. When measuring total sound or residual sound, all sound sources within the dwelling unit must be shut off (e.g. television, stereo). Measurements shall not be taken in areas, which receive only casual use such as hallways, closets, and bathrooms.
- C. Indoor measurements shall only be taken if the sound source is on or within the same property as the receiving property, as in the case of a multi-use property (e.g. sound generated within a commercial unit of a multi-use property building and received within a residential unit of the same building) or multi-dwelling unit building. In addition, indoor measurements shall be taken if the property line between the receiving property and the source property is a common wall, such as in a multi-dwelling unit building. The allowable sound level standards for indoors are as shown in Tables I and II.
- D. Impulsive Sound
 Between 7:00 A.M and 10:00 P.M., impulsive sound shall not equal or exceed 80 decibels. Between 10:00 P.M. and 7:00 A.M., impulsive sound, which occurs less than four times in any hour shall not equal or exceed 80 decibels. Impulsive Sound, which repeats four or more times in any hour shall be measured as a continuous airborne sound and shall meet the requirements as shown in Table I

§ 9-6. TABLE 1. Maximum Permissible A-Weighted Sound Levels

A. No person shall cause, suffer, allow, or permit the operation of any source of Sound on any source property listed in II (A) above in such a manner as to create a sound level that equals or exceeds the sound levels listed below.

A. Outdoors

Receiving Property Category	Residential property, or residential portion of a multi-use property		Commercial facility, public service facility, non-residential portion of a multi-use property, or community service facility
	7 AM- 10 PM	10 PM-7 AM	24 hours
Maximum A-Weighted sound Level standard dB	65	50	65

B. Indoors

Receiving residential Property Category	Residential property, or residential portion of a multi-use property		Commercial facility, *or non-portion of a multi-use property
	7 AM-10 PM	10 PM-7 AM	24 hours
Maximum A-Weighted sound Level standard dB	55	40	55

*In those instances when a commercial facility shares a common wall/ceiling/floor with another commercial facility that is producing the sound.

§ 9-7. TABLE II. Maximum Permissible Octave Band Sound Pressure Levels in Decibels

1. No person shall cause, suffer, allow, or permit the operation of any source of sound on any source property listed in 11 (A) above in such a manner as to create a sound pressure level that equals or exceeds the sound levels listed below in one or more octave bands.
2. When octave measurements are made, the sound from the source must be constant in level and character. If octave band sound pressure level variations exceed plus or minus 2 dB in the bands containing the principal source frequencies, discontinue the measurement.

Receiving Property	Residential property, or residential portion of a multi-use property		Residential property, or residential portion of a multi-use property		Commercial facility, public service facility, non-residential portion of a multi-use property, or community service facility	Commercial facility*, or non-residential portion of a multi-use property
	OUTDOORS		INDOORS		OUTDOORS	INDOORS
Octave Band Center	Octave Band Sound Pressure Level,		Octave Band Sound Pressure Level,		Octave Band Sound Pressure Level,	Octave Band Sound Pressure Level,
Frequency, HZ.	dB		dB		dB	dB
Time	7 AM-10 PM	10 PM-7 AM	7 AM-10 PM	10 PM-7 AM	24 Hours	24 Hours
31.5	96	86	86	76	96	86
63	82	71	72	61	82	72
125	74	61	64	51	74	64
250	67	53	57	43	67	57
500	63	48	53	38	63	53
1,000	6	45	50	35	6	50
2,000	57	42	47	32	57	47
4,000	55	40	45	30	55	45
8,000	53	38	43	28	53	43

*In those instances when a commercial facility shares a common wall/ceiling/floor with another commercial facility that is producing the sound.

§ 9-8. VI. Restricted Uses and Activities

- A. 1. Except as provided in (B) below, the provisions of this ordinance shall not apply to the exceptions listed at NJ.A.C. 7:29-1.5.
- 2. Construction and demolition activities are exempt from the sound level limits set forth in Tables I and II, except as provided for in (B) below.

Notwithstanding the provisions of Tables I and II, the following standards shall apply to the activities or sources of sound set forth below:

- B. Non-commercial or non-industrial power tools and landscaping and yard maintenance equipment shall not be operated between the hours of 8:00 PM and 8:00 AM, unless such activities can meet the applicable limits set forth in Tables I and II. All motorized equipment used in these activities shall be operated with a muffler. At all other times, the limits set forth in Tables I and II do not apply to non-commercial or non-industrial power tools and landscaping and yard maintenance equipment;
- C. Commercial or industrial power tools and landscaping and yard maintenance equipment, excluding emergency work, shall not be operated on a residential property or within 250 feet of a residential property line when operated on commercial or industrial property, between the hours of 6:00 PM and 7:00 AM on weekdays, or between the hours of 6:00 PM and 9:00

AM on weekends or federal holidays, unless such activities can meet the limits set forth in Tables I and II.

In addition, commercial or industrial power tools and landscaping and yard maintenance equipment, excluding emergency work, utilized on commercial or industrial property shall meet the limits set forth in Tables I and II between the hours of 10 PM and 7 AM. All motorized equipment used in these activities shall be operated with a muffler. At all other times, the limits set forth in Tables I and II do not apply to commercial or industrial power tools and landscaping and yard maintenance equipment;

- D. Construction and demolition activity, excluding emergency work, shall not be performed between the hours of 6:00 PM and 7:00 AM on weekdays, or between the hours of 6:00 PM and 9:00 AM on weekends and federal holidays, unless such activities can meet the limits set forth in Tables I and II. All motorized equipment used in construction and demolition activity shall be operated with a muffler. At all other times, the limits set forth in Tables I and II do not apply to construction and demolition activities;
- E. Motorized snowblowers, snow throwers, and lawn equipment with attached snowplows shall be operated at all times with a muffler. At all times, the limits set forth in Tables I and II do not apply;
- F. An exterior burglar alarm of a building or motor vehicle must be activated in such a manner that the burglar alarm terminates its operation within five (5) minutes for continuous airborne sound and fifteen (15) minutes for impulsive sound after it has been activated. At all times, the limits set forth at Tables I and II do not apply;
- G. Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner that it is plainly audible at a residential property line between the hours of 10:00 PM and 8:00 AM;
- H. Personal vehicular music amplification equipment shall not be operated in such a manner as to be plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 AM and 10:00 PM;
- I. Self-contained, portable, hand-held music or sound amplification or reproduction equipment shall not be operated on a public space or public right-of-way in such a manner as to be plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 AM and 10:00 PM. Between the hours of 10:00 PM and 8:00 AM, sound from such equipment shall not be plainly audible by any person other than the operator;
- J. Sound levels exceeding the limits set forth in Table I, and Table II shall be prohibited between residential units within the same multi-dwelling unit building. Measurements shall be taken indoors as per Section V (B) and V(C).

§ 9-9. VII. Enforcement

- A. Violation of any provision of this ordinance shall be cause for an enforcement document to be issued to the violator by the noise control officer according to procedures set forth at N.J.A.C. 7:29-1.7. The recipient of an enforcement document shall be entitled to a hearing in municipal court having jurisdiction to contest such action.

- B. Any person who violates any provision of this ordinance shall be subject to a civil penalty for each offense of not more than \$3,000. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate, and distinct offense.
- C. No provision of this ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy, from any person for injury or damage arising from any violation of this ordinance or from other law.

§ 9-10. VIII. Severability and Repealer

- A. If any provision or portion of a provision of this Ordinance is held to be unconstitutional, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the Ordinance shall not be invalidated.
- B. All Ordinances or parts of Ordinances, which are inconsistent with any provisions of this Ordinance, are hereby repealed as to the extent of such inconsistencies.