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Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: Department of Health and Human Resources TITLE NUMBER: 64

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 30

TITLE OF RULE BEING AMENDED: Title 64 - Bureau for Public Health
Department of Health and Human Resources
Series 30 - Fees for Permits

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 30

TITLE OF RULE BEING PROPOSED: Fees for Permits

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) 350

SECTION 64-5-1 (A), PASSED ON 3/9/2006

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: 5/8/2006

Martha Yeager Walker
Authorized Signature

TITLE 64
LEGISLATIVE RULE
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BUREAU FOR PUBLIC HEALTH

FILED
2005 JUL -27 1:27
OFFICE OF THE CLERK
WEST VIRGINIA
STATE

SERIES 30
FEES FOR PERMITS

§64-30-1. General.

1.1. Scope - This rule establishes the fees for permits issued by county, municipal or combined boards of health.

1.2. Authority - WV Code §§16-1-4(h), 16-1-11 and 16-2-11(b)(3).

1.3. Filing Date - December 22, 2005.

1.4. Effective Date - May , 2006.

§64-30-2. Application and Enforcement.

2.1. Application - This rule applies to any county, municipal or combined board of health which charges a fee for the issuance of permits that are covered by this rule.

2.2. Enforcement - The enforcement of this rule is vested with the commissioner of the West Virginia bureau for public health or his or her designee.

§64-30-3. Definitions.

3.1. Bed and Breakfast - An establishment providing sleeping accommodations and at a minimum, a breakfast for a fee.

3.2. Bureau - The bureau for public health in the state department of health and human resources.

3.3. Campground - A tract or parcel of land maintained, offered or used for camping, tent camping and/or parking of recreational vehicles. Wilderness camping areas are not included in this definition.

3.4. Care Facility - Facilities included, but not limited to, public or private halfway houses, adult day care facilities, residential care facilities (such as juvenile group homes and work release centers), and non-disaster emergency shelters (such

as homeless shelters an family violence protection centers). The term does not include health care facilities licensed by the bureau.

3.5. Child Care Center - A facility where care is provided for seven or more children in a twenty-four hour period.

3.6. Developed Site - A location for placement and hookup of a mobile home.

3.7. Fixed Expiration Date - An annual date at which time all permits of the same type expire. The fixed expiration date for each of the permits covered by this rule is derived from the state code or the rule which authorizes the issuance of the particular permit.

3.8. Food Service Establishment - Any fixed or mobile restaurant; coffee shop; cafeteria; short-order cafe; soda fountain; tavern; bar; cocktail lounge; delicatessen; nightclub; roadside stand; industrial feeding establishment; private, public, or non-profit organization or institution routinely serving food; catering kitchen; commissary or similar place in which food or drink is prepared for sale or service on the premises or elsewhere; and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

3.9. Hotel/Motel - Any temporary or permanent buildings or structures which are maintained, offered, or used for dwelling or sleeping quarters for pay.

3.10. Individual Sewage Disposal System - A system for the collection, treatment and disposal of sewage which serves a single dwelling or establishment.

3.11. Innovative Alternative Type Sewage System - A method of sewage disposal for a single family dwelling or establishment for which design standards have been prepared and listed in the West Virginia Bureau for Public Health rule, Sewage Treatment and Collection System Design Standards, 64CSR47, as an innovative or alternative system.

3.12. Mass Gathering - Any group of five hundred (500) or more persons assembled together for a meeting, festival, social gathering, concert or other similar purpose. The term shall not include assembly in any permanent buildings or permanent structures designed, equipped and intended for use by large numbers of people. The term shall not include assembly in any

outdoor venue ordinarily used and equipped for such events. For the purposes of this rule, "equipped" means supplied with adequate sanitary facilities for the intended use.

3.13. Mobile Food Unit - A vehicle-mounted food service establishment designed to be readily moveable.

3.14. Mobile Home Park - Any site, area, tract, or parcel of land upon which two or more mobile homes, used or occupied for dwelling purposes, are parked, either free of charge or for a consideration.

3.15. Motel - same as subsection 3.9. of this section.

3.16. Organized Camp - Any area, place, parcel, or tract of land on which facilities are established or maintained to provide an outdoor group living experience for children or adults, or where one or more permanent or semi-permanent structures are established or maintained as living or sleeping quarters for children or adults, and operated for educational, social, recreational, religious instruction or activity, physical education or health, or vacation purposes either gratuitously or for compensation, provided, that this definition shall not be construed to include a hunting, fishing, or other camp privately owned and used exclusively for the personal pleasure of the owner.

3.17. Potentially Hazardous Food or Drink - Any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic micro-organisms.

3.18. Recreational Water Facility - A body of water, under the control of a person, which has been modified, improved, constructed or installed for the purpose of public swimming or bathing. It includes, but is not limited to, bathing beaches; swimming, wading, and diving pools; water slides, spray pools, lazy rivers, and wave pools; spas, hot tubs, therapeutic pools, hydrotherapy pools and whirlpools. A recreational water facility does not include a private residential swimming pool defined in subsection 2.9 of the bureau's Recreational Water Facilities Rule, 64CSR16.

3.19. Retail Food Store - Any place, structure, premise, vehicle, or any part thereof in which food is sold retail, offered for retail sale, or served not to be consumed on the premises. For the purpose of this rule, the term "retail food

store" does not include establishments which handle only prepacked, non-potentially-hazardous foods; roadside markets that offer only fresh fruits or fresh vegetables; or the delicatessen operation of a retail food store.

3.20. School - a public or private organization that provides instruction for the teaching of children. The term includes early childhood/primary education centers, middle school/junior high education centers, adolescent/high school education centers and vocational education centers. The term does not include child care centers as defined in the Bureau's Child Care Centers rule, 64CSR21.

3.21. Subdivision - Land which has been partitioned or divided into two or more lots, tracts, parcels, plats, sites, areas, units, interests or other division, any of which are less than two acres in size with an average frontage of less than one hundred fifty feet, for the purpose of dwelling or other development.

3.22. Temporary Food Service Establishment - A food service establishment that operates at a fixed location for a period of time of not more than fourteen consecutive days in conjunction with a single event or celebration and required by law, WV Code §16-6-3, to have a permit.

3.23. Vending Machine - A machine designed for the dispensing of potentially hazardous food or drink to the public by a self-service method.

3.24. Water Well - Any excavation or penetration in the ground, whether drilled, bored, cored, driven, or jetted for a water supply, for the exploration for water, or for removal of water to dewater construction sites.

§64-30-4. Option to Charge for Permits; Basis for Fees; accounting; proposed schedule and public comment period required.

4.1. Any county, municipal or combined board of health may charge a fee for the issuance of permits covered by this rule.

4.2. Any county, municipal or combined board of health may charge for any permits listed in this rule and are not required to charge for all permits listed. The amount of each fee listed represents the maximum amount which may be charged. Any county, municipal or combined board of health may charge any dollar amount up to the maximum. A county, municipal or combined board

of health may not change the formula in section 6 of this rule.

4.3. Local board of health maximum fees may be based on the actual cost of service delivery plus administrative overhead. Administrative overhead may include but is not limited to: 1) salaries and wages; 2) utilities and other direct costs; and 3) that portion of the general and administrative costs, to include the administrator, secretaries, clerks, financial management and other overhead expenses, which contribute to the delivery of the service.

4.4. Fee Proposals By Local Boards of Health - A local board of health proposing to charge fees under this rule shall submit to the bureau an annual program plan and budget for the current fiscal year which includes:

4.4.a. An accounting of fee collections in the previous fiscal year and in the current fiscal year, and projected fee collections in the remainder of the current fiscal year and during the next fiscal year; and

4.4.b. A proposed schedule of fees.

4.5. After a local board of health's adoption of a proposed schedule of fees, the board shall post, publish or otherwise inform the public living in the area served by the board of the proposal and allow for a thirty day comment period.

4.6. A local board of health proposing to charge fees shall submit to the commissioner of the bureau for public health:

4.6.a. A budget and program plan including the information required in subsection 4.3 of this rule;

4.6.b. A copy of the posted notice of the proposed fees and a description of the public notice process;

4.6.c. A copy of comments received on the proposed fees; and

4.6.d. A response to the comments.

4.7. The establishment of fees other than in accordance with subsections 4.4 through 4.6 of this rule may be accomplished only upon petition by the local board of health to the commissioner in response to an emergency.

4.8. The commissioner shall approve or reject a local board of health's proposed budget and program plan and fee schedule. If

there is a rejection, the local board of health may propose a revision. The Commissioner may not approve any fees that exceed an increase of twenty-five percent per year of the Local Boards current fees, up to the maximum amount permitted. In the event the Local Board is requesting a fee for a service for which they do not currently impose a fee, the Commissioner may approve a fee that is no greater than twenty-five percent of the maximum amount. Upon approval by the commissioner of the proposed fees, the local board of health shall file the approved fee schedule with the clerk of all the county commissions or municipalities of which the board is a part, or in the case of a combined board of health, the filings shall be with the clerks or recorders of all the participating county commissions and municipalities. After the local board of health has made all the required filings, it may charge the approved fees.

§64-30-5. Permits and Fees.

5.1. Bed and Breakfast Permit - \$50 per permit. The fixed expiration date is June 30.

5.2. Campground - Fee set forth in Table 64-30A, of this rule.

5.3. Care Facility Permit - \$50 per permit. The fixed expiration date is June 30.

5.4. Child Care Center Permit - Fee set forth in Table 64-30B, of this rule.

5.5. Food Service Establishment - Fee set forth in Table 64-30C, of this rule.

5.6. Hotel/Motel Permit - Fee set forth in Table 64-30D, of this rule.

5.7. Individual Sewage Disposal Systems and Innovative Alternative Type Sewage Systems - Fee set forth in Table 64-30E, of this rule.

5.8. Mass Gathering Permit - \$50 per event. The fixed expiration date is the end of the event.

5.9. Mobile Food Unit Permit - Potentially hazardous food only, \$100 per unit. The fixed expiration date is June 30.

5.10. Mobile Home Park Permit - Fee set forth in Table 64-30F, of this rule.

5.11. Organized Camp Permit - \$75 per permit. The fixed expiration date is June 30.

5.12. Recreational Water Facility Permit - \$100 per facility. The fixed expiration date is December 31.

5.13. Retail Food Store Permit (annual) - \$50 per check-out station, maximum \$300. The fixed expiration date is June 30.

5.14. Schools - \$50 per site. The fixed expiration date is June 30.

5.15. Subdivisions - Fee set forth in Table 64-30G, of this rule.

5.16. Temporary Food Service Establishment Permit - \$50 per unit. The fixed expiration date is as noted on the permit.

5.17. Vending Machine Permit - Potentially hazardous food only, \$50 per machine, per site, maximum of \$300 per site. The fixed expiration date is June 30.

5.18. Water Well Permit (new or repair) - \$100 per well.

§64-30-6. Prorating of Fixed Expiration Date Permit Fees.

The fee charged for an annual permit with a fixed expiration date shall be prorated according to the formula shown in Table 64-30H, of this rule.

§64-30-7. Administrative Due Process.

Any person adversely affected by the enforcement of this rule desiring a contested case hearing to determine any rights, duties, interests or privileges shall do so in the manner prescribed in the Bureau's Rules of Procedure for Contested Case Hearings and Declaratory Rulings, 64CSR1.

Table 64-30A Campground Permit Fees

Fee for Permit

\$5 per site, \$50 minimum fee.

The fixed expiration date is June 30.

Table 64-30B Child Care Centers Permit Fees

Number of Children	Fee for Permit
Family Day Care Facility (7 - 12)	\$ 50
Day Care Center (13 - 25)	\$100
Day Care Center (26 and over)	\$150

The fixed expiration date is December 31.

Table 64-30C Food Service Establishment* Permit Fees

Seating Capacity Fee for Permit

0 - 20	\$100
21 - 50	\$200
51 - 80	\$300
81 and over	\$400

* If the facility has a liquor license from the West Virginia Alcoholic Beverage Control Administration - an additional \$100 fee shall be added to each seating capacity amount.

The fixed expiration date is June 30.

Table 64-30D Hotel/Motel Permit Fees

Number of Rooms	Fee for Permit
0 - 20	\$100
21 - 50	\$200
51 - 80	\$300
81 and over	\$400

The fixed expiration date is June 30.

Table 64-30E Individual and Innovative Alternative Type Sewage System Permit Fees

Conventional Single Family Dwelling	\$150
All other types of systems	\$300

Table 64-30F Mobile Home Park Permit Fees

Fee for Permit

\$5 per site, \$100 minimum fee

The fixed expiration date is December 31.

Table 64-30G Subdivision Permit Fees

Fee for Permit

\$10 per lot, \$100 minimum fee

No expiration date.

Table 64-30H Prorated Fixed Expiration Date Permit Fees Formula

# of Months from Fixed Expiration Date	% Annual Fee to be Paid
< 3 months	25% of annual fee
3 months to < 6 months	50% of annual fee
6 months to < 9 months	75% of annual fee
9 months to < 12 months	100% of annual fee

Table 64-30I Late Fee for Expired Permits

A late fee of 25% for all expired permits listed in this rule will be applied to the permit fee schedule. Payment must be received within 10 days of the expiration date to avoid the late fee assessment.