

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
KEN HECHLER  
**ADMINISTRATIVE LAW DIVISION**

Form #8

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OFFICE OF THE SECRETARY OF STATE  
STATE OF WEST VIRGINIA

**NOTICE OF AN EMERGENCY AMENDMENT TO AN EMERGENCY RULE**

AGENCY: Board of Health TITLE NUMBER: 64

DATE EMERGENCY RULE WAS ORIGINALLY FILED: July 23, 1990

IS THIS THE FIRST EMERGENCY AMENDMENT TO THE ORIGINALLY FILED EMERGENCY RULE:

Yes

IS THIS THE SECOND EMERGENCY AMENDMENT TO THE ORIGINALLY FILED EMERGENCY RULE:

\_\_\_\_\_

DATE OF FIRST EMERGENCY AMENDMENT: \_\_\_\_\_

SERIES NUMBER OF RULE: 30 TITLE OF RULE Fees for Permits

THE ATTACHED IS AN EMERGENCY AMENDMENT TO AN EXISTING EMERGENCY RULE. THIS EMERGENCY AMENDMENT BECOMES EFFECTIVE UPON FILING.

Tanja Willis Miller  
Taunja Willis Miller, Secretary  
Dept. of Health and Human Resources

[EMERGENCY - AMENDED]

TITLE 64

WEST VIRGINIA LEGISLATIVE RULES  
BOARD OF HEALTH

Fees for Permits

Series 30

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[EMERGENCY - AMENDED]

WEST VIRGINIA LEGISLATIVE RULES  
BOARD OF HEALTH

Fees for Permits

64 CSR 30

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[EMERGENCY - AMENDED]  
TITLE 64  
WEST VIRGINIA LEGISLATIVE RULES  
BOARD OF HEALTH

SERIES 30  
FEES FOR PERMITS

§64-30-1. General

1.1. Scope - These legislative rules establish the fees for permits issued by a county, municipal or combined board of health.

1.2. Authority - W. Va. Code §16-2A-6

1.3. Filing Date - September 5, 1990

1.4. Effective Date - September 5, 1990

1.5. Public Hearing - May 23, 1990.

1.6. Approval - These rules were approved by the West Virginia Board of Health on July 20, 1990.

1.7. Supersession and Repeal of Former Regulations - These rules supercede and repeal West Virginia Board of Health Legislative Rules, Fees for Permits, 64 CSR 30, 1983.

§64-30-2. Application and Enforcement

2.1. Application - These legislative rules apply to any county, municipal or combined board of health which charges a fee for the issuance of such permits as covered by these legislative rules.

2.2. Enforcement - The enforcement of these legislative rules is vested with the director of the West Virginia department division of health or his lawful designee.

§64-30-3. Definitions

3.1. Bathing Beach - A public bathing place located on a natural stream, pond or lake or on an artificial pond or lake which is formed by impounding a natural waterway.

3.2. Child Care Center - A facility caring for seven or more children for all or part of a day.

~~3-1-~~ 3.3. Developed Site - A location for placement and hookup of a mobile home.

~~3-2-~~ 3.4. 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 are derived from the state code or the rule which authorizes the issuance of the particular permit.

3-3- 3.5. 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 nonprofit 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.

3.6. Food Service Manager - The individual in a food service establishment who is the supervisor responsible for the day-to-day operations of the establishment.

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

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

3.9. 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 board of health interpretive rules, Sewage Treatment and Collection System Design Standards, 64 CSR 47, as an innovative or alternative system.

3-4- 3.10. Mobile Food Unit - A vehicle-mounted food service establishment designed to be readily moveable.

3.11. Mobile Home Park - Any site, area, tract, or parcel of land upon which two (2) or more mobile homes, used or occupied for dwelling purposes, are parked, either free of charge or for a consideration.

3-5- 3.12. 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.

3-6- 3.13. 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 in-

redients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic micro-organisms. The term does not include clean, whole, uncracked, odorfree shell eggs or foods which have a pH level of 4.6 or below or a water activity (aw) value of 0.85 or less.

3.14. 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 pre-packed, non-potentially-hazardous foods; roadside markets that offer only fresh fruits or fresh vegetables; or the delicatessen operation of a retail food store.

3.15. Sewage Tank Cleaning Truck - A truck used for the removal, collection or transportation of sewage.

3.16. Subdivision - Land which has been partitioned or divided into two (2) or more lots, tracts, parcels, plats, sites, areas, units, interests or other division, any of which are less than two (2) acres in size with an average frontage of less than one hundred fifty (150) feet, for the purpose of dwelling or other development.

3.17. Swimming Pool - Any artificial basin, chamber, or tank used or intended to be used by the public for swimming, diving, or recreational type bathing.

3-7- 3.18. Temporary Food Service Establishment - A food service establishment that operates at a fixed location for a period of time of not more than fourteen (14) consecutive days in conjunction with a single event or celebration and required by law W. Va. Code §16-6-3 to have a permit.

3-8- 3.19. Tent and Travel Trailer Campground - A tract or parcel of land maintained, offered, or used for camping and parking of recreational house trailers. Wilderness camping areas are not included in this definition.

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

3.21. 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 site(s).

§64-30-4. ~~Options-to-Charges-for-Permits~~ Option to Charge for Permits; Public Hearing Required; Record of Hearing

4.1. Any county, municipal or combined board of health may charge a fee for the issuance of a permit covered by these rules.

4.2. Any county, municipal or combined board of health may charge for ~~whichever-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 shall be charged. Any county, municipal or combined board of health may charge any dollar amount up to the maximum: Provided, That a county, municipal or combined board of health shall not change the formulas utilized in Sections 5 and 6 of this rule.

4.3. Any county, municipal or combined board of health which elects to change or add fees based on this rule shall conduct a public hearing to inform the public of its county of the purpose and use of the fees and provide opportunity for the public to comment on the fees.

4.4. Except as provided in Section 4.6 of this rule, the board shall publish notice of the hearing in a newspaper with wide circulation in its county and may also otherwise provide notice to the public living in its county of its intent to change or add fees. Such notice shall be provided at least fourteen (14) days and no more than sixty (60) days prior to the implementation of such changed or additional fees.

4.5. The board shall prepare a report of the public hearing and shall file a copy of the report, all written comments and the proposed and final fee schedules with the division of health no less than sixty (60) days subsequent to the hearing. The record of the hearing shall be kept on file by the board and the division for one (1) year.

4.6. Any board which implemented changed or additional fees prior to the effective date of this rule, based on the previous emergency rule, Fees for Permits, 64 CSR 30, which was effective from July 23, 1990 to the effective date of this rule, shall conduct a public hearing on such changed or additional fees prior to October 1, 1990. Notice of the public hearing shall be given at least fourteen (14) days prior to the hearing in the manner prescribed in Section 4.4 of this rule.

\$64-30-5. Permits and Fees

~~5-5-~~ 5.1. Bathing Beach and Swimming Pool Permit - \$50 per permit. The fixed expiration date is December 31.

~~5-1-~~ 5.2. Child Care Center Permit - \$35 ~~\$25~~ per permit. The fixed expiration date is December 31.

~~5-12-~~ 5.3. Food Service Establishment - See Table 64-30A found at the end of this regulation.

5.4. Food Service Manager Certification (annual) - \$50.

~~5-13-~~ 5.5. Hotel Permit - See Table 64-30B found at the end of this regulation.

5-8- 5.6. Individual On-Site Sewage Disposal Systems and Innovative Alternative Type Sewage Systems (excluding pit-privies) - \$50-per-permit-for-new-systems. See Table 64-30C found at the end of this regulation.

5-4- 5.7. Mobile Food Unit Permit - Potentially hazardous food only, \$20 \$50 per unit. The fixed expiration date is June 30.

5-2- 5.8. Mobile Home Park Permit - Two-(2)-to-ten-(10)-developed-sites--\$30-\$1.00-per-developed-site-above-ten-(10)-Fixed-expiration-date--December-31--See Table 64-30D found at the end of this regulation.

5-10- Milk-Transfer-Station-Permit---\$50-per-permit---Fixed expiration-date---June-30-

5-6- 5.9. Organized Camp Permit - \$75 per permit. The fixed expiration date is January 1.

5.10. Retail Food Store Permit (annual) - \$25 per check-out station, maximum \$150.

5-9- 5.11. Sewage Tank Cleaning Truck Permit - \$25-per-truck---Fixed-expiration-date--December-31- \$50 per truck. The fixed expiration date is five (5) years from the date of issuance.

5.12. Subdivisions - See Table 64-30E found at the end of this regulation.

5-11- 5.13. Temporary Food Service Establishment Permit - \$10 \$25 per unit. The fixed expiration date is June 30.

5-7- 5.14. Tent and Travel Trailer Campground - \$35-per-permit---Fixed-expiration-date---March-31- See Table 64-30F found at the end of this regulation.

5-3- 5.15. Vending Machine Permit - Potentially hazardous food only, \$15 \$25 per machine. The fixed expiration date is June 30.

5.16. Water Well Permit (new or repair) - \$50 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 following formula:--(See Table 64-30E formula shown in Table 64-30G found at the end of this regulation.

\$64-30-7. Severability - If any provision of these rules or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or the application of the rules which can be given effect without the

invalid provisions or application, and to this end the provisions of these rules are declared to be severable.

§64-30-8. Administrative Due Process - Those persons adversely affected by the enforcement of these legislative rules desiring a contested case hearing to determine any rights, duties, interests or privileges shall do so in a manner prescribed in the Rules of Procedure for Protested Case Hearings and Declaratory Rulings, West Virginia Board of Health Procedural Rules, Series-17-1983 64 CSR 1. ~~The aforementioned procedural rules are incorporated herein by reference.~~

Table 64-30A. Food Service Establishment Permit Fees

<u>Seating Capacity</u>	<u>Fee for Permit</u>
0-35	\$ 50
36-75	\$-75 <u>\$100</u>
76 and over	\$100 <u>\$150</u>

The fixed expiration date is June 30.

Table 64-30B Hotel Permit Fees

<u>Number of Rooms</u>	<u>Fee for Permit</u>
0-35	\$ 50
36-75	\$-75 <u>\$100</u>
76 and over	\$100 <u>\$150</u>

The fixed expiration date is June 30.

Table 64-30C. Individual On-Site and Innovative Alternative Type Sewage System Permit Fees

<u>Type of System</u>	<u>Fee for Permit</u>
<u>Class I (New or Modified)</u>	<u>\$150</u>
<u>Class II (New or Modified)</u>	<u>\$150</u>
<u>Home Aeration Unit</u>	<u>\$150</u>

Table 64-30D. Mobile Home Park Permit Fees

<u>Number of Developed Sites</u>	<u>Fee for Permit</u>
<u>0-35</u>	<u>\$ 50</u>
<u>36-75</u>	<u>\$100</u>
<u>76 and over</u>	<u>\$150</u>

The fixed expiration date is December 31.

Table 64-30E. Subdivision Permit Fees

<u>Number of Lots</u>	<u>Fee for Approval</u>
<u>1-5</u>	<u>\$ 50</u>
<u>6-10</u>	<u>\$100</u>
<u>11-14</u>	<u>\$150</u>

Table 64-30F. Tent and Travel Trailer Campground Permit Fees

<u>Number of Developed Sites</u>	<u>Fee for Permit</u>
<u>0-35</u>	<u>\$ 50</u>
<u>36-75</u>	<u>\$100</u>
<u>76 and over</u>	<u>\$150</u>

The fixed expiration date is March 31

Table 64-30G. Prorated Fixed Expiration Date Permit Fees Formula

less than 3 months	3 months to less than 6 months	6 months to less than 9 months	9 months to less than 12 months
25% of annual fee	50% of annual fee	75% of annual fee	100% of annual fee