

**BOROUGH OF WESTWOOD
BOARD OF HEALTH
NOTICE**

NOTICE IS HEREBY GIVEN that the following proposed Ordinance was introduced and passed on first reading at a meeting of the Board of Health of the Borough of Westwood in the County of Bergen, New Jersey held on the 8th day of July, 2015 and that said Ordinance will be further considered on second and final reading at a meeting thereof to be held on August 12, 2015 at 7:30 PM, or as soon thereafter as said matter can be reached, at which time and place all persons who may be interested therein will be given an opportunity to be heard concerning the same.

ORDINANCE 15-01

AN ORDINANCE TO LICENSE ESTABLISHMENTS THAT SELL ELECTRONIC SMOKING DEVICES IN THE BOROUGH OF WESTWOOD.

Be it ordained by the Board of Health of the Borough of Westwood in the County of Bergen.

SECTION 1. Purpose

The purpose of this Ordinance is to license establishments that sell electronic smoking devices. The funds collected by licensing of such establishments shall be used to fund the development and maintenance of a Tobacco Age of Sale Enforcement Program and other smoking cessations, prevention or control programs as may be established and/or administered by the Board.

SECTION 2. Definitions

For the purpose of this section, the following terms, phrases, words and their derivations shall have the meaning stated herein unless their use in the text of this section clearly demonstrates different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number shall include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

"Board" shall mean the Borough of Westwood Board of Health.

"Electronic Smoking Device" shall mean an electronic or other powered device that can be used to deliver nicotine or other substances to the person inhaling from the device, including but not limited to, an electronic cigarette, cigar, cigarillo or pipe.

“License Year” shall mean the time period covering January 1st through December 31st of the year for which a license is issued pursuant to this Ordinance.

“Retail Electronic Smoking Device Establishment” shall mean any establishment that sells or offers for sale electronic smoking device products designed for consumption through inhalation.

“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, traffic in, keeping and exposing for sale, displaying for sale, delivering for value, peddling and possession with intent to sell.

SECTION 3. Licensing Fees

- A. No person shall conduct, maintain or operate an establishment that sells electronic smoking devices without first obtaining from this Board a license to do so.
- B. Fees in accordance with the following schedule shall be paid before any license required in this article shall be issued:

Electronic Smoking Device Establishment License \$1,200.00

- C. Licenses issued under the provisions of this article, unless forfeited or revoked by this Board, shall expire annually on the 31st day of December of each year.
- D. The fees for all initial licenses issued to a licensee pursuant to this section shall be an amount proportionate to the number of months remaining in the License Year including the month in which the license is issued (for example, a License issued to a new licensee in September shall be one third of \$1,200.00 (\$400.00)).
- E. No license is transferrable by sale or otherwise.
- F. Such license shall be posted in a conspicuous place in such establishment or, if an itinerant establishment, shall be readily available for display.

SECTION 4. Enforcement

This section shall be enforced by the Board of Health and/or other municipal officials of the Borough of Westwood.

Any person found to be in violation of this section shall be ordered to cease the sale of electronic smoking devices immediately.

SECTION 5. Violations and Penalties

Any person(s) who is found to be in violation of the provisions of this section shall be subject to the following penalties. For any and every violation of any of the provisions of this Ordinance, the violator of said provision will be subject to a fine of not less than twelve hundred (\$1,200.00) dollars and not more than twenty five hundred (\$2,500.00) dollars. No fines shall be issued for sixty (60) days after publication of this ordinance.

SECTION 6. Severability

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase. If any portion of this Ordinance, or its application to any person or circumstances, shall be adjudged or otherwise determined to be invalid, unconstitutional, void, or ineffective for any clause or reason, such determination shall not affect the remaining provisions of this Ordinance, and the application of such remaining provisions shall not be affected thereby and shall remain in full force and effect, and to this end, the provisions of this Ordinance are severable.

SECTION 7. Repealer

All ordinances or parts of ordinances contrary to or inconsistent with the provisions of this chapter are hereby repealed to the extent of such conflict or inconsistency.

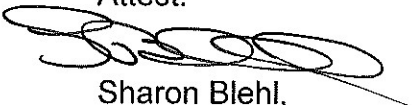
SECTION 8. Effective Date

This Ordinance shall take effect after publication at the time and in the manner directed by law.

Approved:

Betsy Beckman
Westwood Board of Health
President

Attest:



Sharon Blehl,
Secretary