

ORDINANCE NO. O-23-10

**AN ORDINANCE CODIFYING LICENSING AND FEES
FOR RETAIL FOOD ESTABLISHMENTS AND VENDING
MACHINES IN THE BOROUGH OF WEST LONG BRANCH**

WHEREAS, the Borough of West Long Branch has been requiring applications and permits for food establishments in the Borough, whether they be fixed or mobile entities and what the requirements should be for such establishments; and

WHEREAS, the State statutes and County Board of Health have established rules and regulations as well on these issues; and

WHEREAS, the governing body has determined that it should have a more defined ordinance as to what is required and what the fees should be for same;

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of West Long Branch as follows:

SECTION 1. ESTABLISHMENT OF CODE

A code to regulate retail food establishments and fix penalties for violations thereof is hereby established, all pursuant to N.J.S.A. 26:3-69.1 to 69.6 and 26:3-92 and 93, a copy of which code may be obtained through the Monmouth County Board of Health and the West Long Branch Borough Clerk's office. All of those provisions are incorporated herein.

SECTION 2. RIGHT OF ENTRY

The Monmouth County Board of Health, pursuant to an agreement entered into between the Borough of West Long Branch and the Monmouth County Board of Health, its agents or employees, including, but not limited to, its Health Officer, shall have the right of entry, at any reasonable hour, into and upon any public or private building or premises to enforce the provisions of such Code and this chapter, or determining whether such provisions or the rules and regulations of the Monmouth County Board of Health and the Borough of West Long Branch are being complied with and obeyed. No person shall oppose such entry or hinder or interfere with the Monmouth County Board of Health or any of its agents, employees, or Health Officers, all as aforesaid, in performing their duties.

SECTION 3. LICENSE FOR FOOD OR BEVERAGE VENDING MACHINES

It shall be unlawful for any person, firm, or corporation to conduct or engage in the operation of a food or beverage vending machine without first having obtained a health license. All food and beverage vending machine licenses shall commence as of January 1 and expire on December 31 of each year. All food and beverage vending machines shall be operated and maintained in compliance with the provisions of borough ordinance 24 and in compliance with the laws of the State of New Jersey.

SECTION 4.

Applications for all food licenses under this ordinance shall be made by the applicant completing the form provided by the Borough and submitting it to the Borough with the required fee. Applications for licenses shall be made to the Borough of West Long Branch Board of Health in the accordance with the provisions of N.J.S.A 26:3-69.1 to 69.6, 26:3-92 and 93.

SECTION 5. FEES

The fees to be charged by the Borough are as follows:

- A. Minimum fees for licensing of Retail Food Establishments are:
 - 1. Mobile vehicles: \$75 per year.
 - 2. Special events lasting one week in duration or less: \$50 per event.
 - 3. Establishments other than licensed restaurants:
 - (a) Minimum fee for all establishments: \$150 per year.
 - (b) Between 4,000 and 10,000 square feet: \$400 per year.
 - (c) Over 10,000 square feet: \$700 per year.
 - 4. Restaurants:
 - (a) Seating capacity up to 50: \$150 per year.
 - (b) Seating capacity from 51 to 100: \$250 per year.
 - (c) Seating capacity over 100: \$400 per year

SECTION 6. LATE FEES

A. There will be a late fee charge on those food establishment owners and/or operators who do not renew their licenses on the anniversary date. The late fee charge will be in addition to the cost of the establishment's annual food licensing fee.

B. The late fee charge is 20% of the food establishment's annual licensing fee, but not less than \$20.

SECTION 7. FEES FOR LICENSING OF FOOD AND BEVERAGE VENDING MACHINES

The fee for food and beverage vending machines shall be \$50 per machine, per year.

SECTION 8. OPERATION BY APPLICANT

Prior to any applicant or operator beginning a retail food and/or beverage vending machine shall have submitted an application on the Borough form and have obtained a permit.

SECTION 9. COMPLIANCE

All retail food establishments shall be operated in compliance with this ordinance, as well as the New Jersey state statutes and Administrative Code.

SECTION 10. ENFORCEMENT

This chapter may be enforced by any persons so designated by the Borough of West Long Branch or by the Monmouth County Health Department, including, but not limited to, the Borough Code Enforcement Officers and Sanitary Inspectors.

SECTION 11. VIOLATIONS AND PENALTIES

A. Any person who violates any provisions of this chapter or code established herein shall, upon conviction, be liable to a penalty of not less than \$100 nor more than \$2,000 for each violation.

B. Each day a particular violation continues shall constitute a separate offense.

C. Upon refusal or neglect, upon and after conviction, to pay the amount of said penalty or fine, the person so convicted shall be subject to being jailed for a period not exceeding 90 days, or a period of community service not exceeding 90 days, or any combination thereof, all in the discretion of the Municipal Judge or other officer before whom such complaint shall be brought.

D. Any license issued under this chapter may be suspended or revoked by the Monmouth County Health Department or the Borough of West Long Branch in accordance with the provisions of Chapter 24 – Sanitation in Retail Food Establishments and Food and Beverage Vending Machines and Title 26 of the New Jersey statutes.

E. Any violation of this code shall also be a violation of New Jersey state law, for which a greater penalty may be provided than that contained in this aforesaid code and this ordinance. The Municipal Judge before whom the complaint is brought, based upon such violation, shall in his/her discretion, have the right to impose, in the place and in lieu of any penalty provided for herein, whatever penalty is allowed by state law.

SECTION 12. LICENSE NOT TRANSFERRABLE

The license of any retail food establishment or food and beverage vending machine covered under this chapter is not transferrable upon the sale of such retail food establishment or vending machine. The new owner of any such retail food establishment or vending machine must apply for a new license and pay the required fee.

SECTION 13. REPEALER

All ordinances, codes, or parts of the same, which are inconsistent with any of the provisions of this chapter and the code established hereunder are hereby repealed to the extent of such inconsistency.

SECTION 14. EFFECTIVE DATE

This ordinance shall take effect immediately upon passage and publication according to law.

Introduced: April 26, 2023
Passed: May 10, 2023
Adopted: May 10, 2023

MAYOR

BOROUGH CLERK

