PART III

BOARD OF HEALTH LEGISLATION

Chapter 178

GENERAL PROVISIONS, BOARD OF HEALTH

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[HISTORY: Adopted by the Board of Health of the Borough of Demarest: Art. I, 4-18-83 as Ord. No. 563. Amendments noted where applicable.]

ARTICLE I
Adoption of Code by Board of Health
[Adopted 4-18-83 as Ord. No. 563]

Be it ordained by the Board of Health of the Borough of Demarest, in the County of Bergen, State of New Jersey, as follows:

§ 178-1. Adoption of Code.

Pursuant to N.J.S.A. 40:49-4, the ordinances of the Board of Health of the Borough of Demarest of a general and permanent nature, as revised, codified and consolidated into chapters and sections by General Code Publishers Corp. and consisting of Chapters 178 through 194, are hereby approved, adopted, ordained and enacted as the Code of the Borough of Demarest, hereinafter known and referred to as the "Code."

§ 178-2. Code supersedes prior ordinances.

This ordinance and the Code shall supersede all other general and permanent ordinances of the Board of Health enacted prior to the enactment of this Code, except such ordinances as are expressly saved from repeal or continued in force and effect hereinafter.

§ 178-3. When effective.

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

§ 178-4. Copy of Code on file.

A copy of the Code in loose-leaf form has been filed in the office of the Secretary of the Board of Health and shall remain there for use and examination by the public until final action is taken on this ordinance; and, if this ordinance shall be adopted, such copy shall be certified to as provided by law, and such certi-

fied copy shall remain on file in the office of the Secretary of the Board of Health, to be made available to persons desiring to examine the same during all times while said Code is in effect.

§ 178-5. Amendments to Code.

Any and all additions, amendments or supplements to Code, when passed and adopted in such form as to indicate the intent of the Board of Health to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Code of the Borough of Demarest" shall be understood and intended to include such additions and amendments. Whenever such additions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing the said Code, as amendments and supplements thereto.

§ 178-6. Publication; filing.

The Secretary of the Board of Health, pursuant to law, shall cause to be published, in the manner required, a copy of this Adopting Ordinance in a newspaper of general circulation in the borough. Sufficient copies of the Code shall be maintained in the office of the Secretary for inspection by the public at all times during regular office hours. The enactment and publication of this Adopting Ordinance, coupled with availability of copies of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 178-7. Code book to be kept up-to-date.

It shall be the duty of the Secretary, or someone authorized and directed by him, to keep up-to-date the certified copy of the book containing the Code required to be filed in his office for the use of the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification, which shall be adopted specifically as part of the Code, shall,

when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 178-8. Altering or tampering with Code; penalties for violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Board of Health to be misrepresented thereby. Anyone violating this section of this ordinance shall be subject, upon conviction, to a fine of not less than five dollars ($5.) nor more than five hundred dollars ($500.).

§ 178-9. Severability of Code provisions.

Each section of the Code, and every part of each section, is an independent section or part of a section, and the holding of any section or a 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 parts thereof.

§ 178-10. Severability of ordinance provisions.

Each section of this 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 parts thereof.

§ 178-11. Repeal of ordinances.

All ordinances of a general and permanent nature adopted by the Board of Health and in force on the date of the adoption of this ordinance and not contained in the Code are hereby repealed as of the effective date of this Adopting Ordinance, except as hereinafter provided.

§ 178-12. Ordinances saved from repeal.

The adoption of this Code and the repeal of ordinances provided for in § 178-11 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

A. Any ordinance of the Board of Health adopted subsequent to June 1, 1980.

B. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance, or any action or proceeding brought for the enforcement of such right or liability.

C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision, or any penalty, punishment or forfeiture which may result therefrom.

D. Any prosecution, indictment, action, suit or other proceeding pending, or any judgment rendered, prior to the effective date of this ordinance, brought pursuant to any legislative provision.

E. Any franchise, license, right, easement or privilege heretofore granted or conferred.

F. Ordinances authorizing the purchase, sale, lease or transfer of property, or any lawful contract or obligation.

G. Any provisions of an ordinance or resolution of the Board of Health creating employments, positions or offices and fixing duties therefor which are not provided for in the Code hereby adopted and which are not in conflict or inconsistent therewith.

H. Any ordinance regulating animals.

I. Any ordinance concerning garbage, rubbish and refuse.

§ 178-13. Changes in previously adopted ordinances.

In compiling and preparing the ordinances of the Board of Health for adoption and revision as part of the Code pursuant to

N.J.S.A. 40:49-4, certain grammatical changes and other minor changes were made in one (1) or more of said ordinances. It is the intention of the Board of Health that all such changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such.

Chapter 186

NUISANCES, PUBLIC HEALTH

§ 186-1. Adoption of standards by reference.

§ 186-2. Title.

§ 186-3. Copies on file.

§ 186-4. Violations and penalties.

[HISTORY: Adopted by the Board of Health of the Borough of Demarest 5-4-66 as Ord. No. 66-1. Amendments noted where applicable.]

GENERAL REFERENCES

Housing standards — See Ch. 107.
Noise — See Ch. 122.

§ 186-1. Adoption of standards by reference.

A code defining and prohibiting certain matters, things, conditions or acts, and each of them, as a nuisance; prohibiting certain noises or sounds; requiring the proper heating of apartments; prohibiting lease or rental of certain buildings; prohibiting spitting in or upon public buildings, conveyances or sidewalks; authorizing the inspection of premises by the Sanitary Inspector; providing for the removal or abatement of certain nuisances and recovery of expenses incurred by the Board of Health in removing or abating such nuisances; and prescribing penalties for violations, is hereby established pursuant to Chapter 188, Laws of 1950.[1]

§ 186-2. Title.

The code established and adopted by this chapter is described and commonly known as the "Public Health Nuisance Code of New Jersey (1953)."

[1] Editor's Note: See N.J.S.A. 26:3-69.1 et seq.

§ 186-3. Copies on file.

Three (3) copies of said Public Health Nuisance Code of New Jersey (1953) have been placed on file in the office of the Secretary of this local Board of Health upon the introduction of this chapter and will remain on file there for use and examination by the public.

§ 186-4. Violations and penalties.

Any person who violates or neglects to comply with any provision of this chapter or code established herein or notice issued pursuant thereto shall, upon conviction thereof, be liable to a penalty of not less than two dollars ($2.) nor more than one hundred dollars ($100.) for each violation.

Chapter 189

SANITARY CODE

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[HISTORY: Adopted by the Board of Health of the Borough of Demarest 6-23-82 as Ord. No. 82-1. Amendments noted where applicable.]

ARTICLE I
Adoption of Code

§ 189-1. Code adopted.

A. Pursuant to N.J.S.A. 40:49-4, the Sanitary Code of the Borough of Demarest of a general and permanent nature, adopted by the Board of Health of the Borough of Demarest, as revised, codified and consolidated into chapters and sections by General Code Publishers Corp., and consisting of Articles I through XXV, together with an Appendix, are hereby approved, adopted, ordained and enacted as the "Sanitary Code of the Borough of Demarest," and shall hereinafter be known and referred to as the "Sanitary Code."

B. Insofar as the provisions contained in this Sanitary Code are basically the same as provisions contained in the Sanitary Code of the Borough of Demarest, this revision, codification and consolidation shall be deemed a recodification of said Sanitary Code and is intended as a continuation of the provisions contained therein.

§ 189-2. Effect on prior ordinances.

This chapter and the code shall supersede all other general and permanent Sanitary Codes enacted prior to the enactment of this code, except such ordinances as are hereinafter expressly saved from repeal or continued in force.

§ 189-3. Copy kept on file.

A copy of the Sanitary Code in loose-leaf form has been filed in the office of the Secretary to the Board of Health and shall remain there for use and examination by the public until final action is taken on this Sanitary Code, and, upon adoption of this Sanitary Code, such copy shall be certified to by the Secretary to the Board of Health of the Borough of Demarest by impressing thereon the seal of the Board of Health, as provided by law; and such certified copy shall remain on file in the office of the Secretary of the Board of Health of the Borough of Demarest, to be made available to persons desiring to examine the same during all times.

§ 189-4. Publication; filing.

The Secretary of the Board of Health of the Borough of Demarest, pursuant to law, shall cause to be published, in the manner required, a copy of this adopting Sanitary Code in a newspaper of general circulation in the Borough of Demarest. Sufficient copies of the code shall be maintained in the office of the Secretary of the Board of Health for inspection by the public at all times

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during regular office hours. The enactment and publication of this adopting Sanitary Code, coupled with availability of copies of the code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the code for all purposes.

§ 189-5. Amendments to code.

Any and all additions, amendments or supplements to the Sanitary Code, when passed and adopted in such form as to indicate the intent of the Board of Health to make them a part thereof, shall be deemed to be incorporated into such code so that reference to the Sanitary Code of the Borough of Demarest shall be understood and intended to include such additions and amendments. Whenever such additions, amendments or supplements to the Sanitary Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Sanitary Code, as amendments and supplements thereto.

§ 189-6. Legislation included prior to adoption of code.

All ordinances of a general and permanent nature adopted prior to the date of adoption of this chapter are hereby deemed to be a part of the code and shall, upon being printed, be included therein. Attested copies of all such legislation shall be temporarily placed in the Sanitary Code until printed supplements are included.

§ 189-7. Code to be kept up-to-date.

It shall be the duty of the Secretary or someone authorized and directed by him or her to keep up to date the certified copy of the book containing the Sanitary Code required to be filed in his or her office for the use of the public. All changes in said Sanitary Code and all ordinances adopted subsequent to the effective date of this codification which shall be adopted specifically as part of the Sanitary Code shall, when finally adopted, be in-

cluded therein by reference until such changes or new ordinances are printed as supplements to said Sanitary Code book, at which time such supplements shall be inserted therein.

§ 189-8. Title.

This chapter and all ordinances supplementary hereto and amendatory hereof may be cited as the "Sanitary Code."

ARTICLE II
Definitions

§ 189-9. Terms defined.

The following definitions shall apply in the interpretation and enforcement of this chapter:

AIR POLLUTION — The presence in the outdoor atmosphere of one (1) or more added substances in such quantities and of such duration as to be injurious to human, animal or plant life or property or which unreasonably interferes with the comfortable enjoyment of life and property.

BOARD — The Board of Health of the Borough of Demarest.

CODE — This chapter as herein designated, unless some other code is expressly indicated.

DIRECT HEAT EXCHANGER — Equipment in which heat from the combustion of fuel is transferred to a substance being heated so that the latter is contacted by the products of combustion and may contribute to the total effluent.

FOGGING — Spraying in the form of a cloud for the control of insects within a prescribed area.

FUEL-BURNING EQUIPMENT — Any furnace, boiler, water heater, device, mechanism, stoker, burner, stack, oven, stove, kiln, still or other appratus or a group or collections of such units in the process of fuel burning for the

generation of heat or power. Refuse-burning equipment shall be considered incinerators as herein defined and not as "fuel-burning equipment" under this definition. Ovens, stoves or ranges used exclusively for domestic cooking purposes are not included herein.

HEALTH OFFICER — The individual duly appointed or designated by the Board to enforce this code or supervise work on behalf of the Board. The Health Officer shall possess a license as such issued by the State Department of Health.

INCINERATOR — Any device, apparatus, equipment or structure used for destroying, reducing or salvaging by fire any material or substance, including but not limited to refuse, rubbish, garbage, debris or scrap or facilities for cremating human or animal remains.

INDIRECT HEATING EXCHANGER — Equipment in which heat from the combustion of fuel is transferred by conduction through a heat-conducting material to a substance being heated, so that the latter is not contacted by and adds nothing to the products of combustion.

MEMBER — One (1) of the persons who shall constitute the Board of Health.

MILK — The lacteal secretion obtained from one (1) or more cows or goats.

MILK PRODUCTS — Includes ice cream, ice milk, sherbets, butter, butter oil, the various types of cheeses, dried milk, dried skim milk and any other food for human consumption made from milk and designated as a "milk product" by the State Department of Health.

NUISANCE — Any condition which is dangerous to human life or health or that which renders air, water, soil or any type of food hazardous or injurious to human life or health, and as otherwise herein defined.

NON-PUBLIC SCHOOL — A private or institution-related school which may be attended in place of a public school.

NURSE — A person licensed as such under the laws of the State of New Jersey.

OPACITY — The property of a substance which renders it partially or wholly obstructive to the transmission of visible light expressed as the percentage to which the light is obstructed.

OPEN BURNING — Any fire wherein the products of combustion are emitted into the open air and are not directed thereto through a stack or chimney.

PERSON — Any person, association, partnership, trust or corporation or any one (1) or more of them or a combination of any of them.

POLLUTED — Dirty or defiled, unfit for human consumption or detrimental to health.

REGISTRAR — A person appointed by the Registrar of the State of New Jersey for a period of three (3) years.

RINGELMANN SMOKE CHART — The Ringlemann Scale for Grading and Density of Smoke, as published by the United States Bureau of Mines or any chart, recorder, indicator or device which is approved by the New Jersey Department of Environmental Protection as the equivalent of said Ringlemann Scale or for the measurement of smoke density.

SANITARIAN — A first class sanitary inspector, possessing a license as such from the State Department of Health, appointed by the Board to aid in the enforcement of the rules, regulations and ordinances of the Board of Health.

SANITARY SEWER — A sewer which carries sewage and to which storm- , surface and ground water are not admitted.

SMOKE — Gas- or airborne small particles by combustion or other heat release or heat-application processes in a concentration sufficient to be observable.

SPRAYING — Mechanical application of insecticides to bushes, trees or plants.

STACK or CHIMNEY — A flue, conduit or opening designed and constructed for the purpose of emitting air contaminants into the outdoor air.

STATE BOARD or STATE DEPARTMENT — The New Jersey Public Health Council or State Department of Health or any successor agency thereto.

TENANT — Any person occupying any house, building or portion thereof, which is rented, leased, let or hired out to be occupied as a house, residence or a business establishment.

VISIBLE SMOKE — Smoke which obscures light to a degree readily discernible by visual observation.

ARTICLE III
Board of Health

§ 189-10. Continuance of establishment.

An establishment entitled the "Board of Health" for the borough as heretofore established is hereby continued.

§ 189-11. Annual organization.

The Board shall organize annually on the first day of January in each year or as soon thereafter as may be feasible, at which time it shall elect, by a majority vote of all the members of the Board and from its members, a President and a Vice President.

§ 189-12. Quorum; meetings; powers.

A majority of the whole number of members of the Board shall constitute a quorum for the transaction of business. Its regular meetings shall be held each and every month in the Borough Hall, Demarest, New Jersey, at a time and date to be set at the first meeting of the year in January. The Board shall determine and establish the rules of its own proceedings and shall pass, promulgate or adopt such rules, regulations, orders, ordinances,

bylaws and resolutions pertaining to the purposes and objectives of the Board as may be necessary to properly carry out the provisions of applicable state laws governing the powers and duties of local Board of Health. The President shall have the power to call special meetings of the Board when necessary, and, in case of his neglect or refusal to do so, it shall be lawful for any three (3) members of such Board to call any special meeting by written or printed notice to each member, served personally or left at their places of residence at least twenty-four (24) hours previous to the time appointed for such meeting.

§ 189-13. Appointments.

A majority of the full Board shall appoint a Health Officer, a Sanitarian, a Registrar of Vital Statistics, a Public Health Nurse, a Secretary and such other officers and employees as they may, from time to time, deem necessary, all of whom shall hold their respective offices until December 31 of the calendar year of their appointment and until their respective successors are appointed and shall qualify, except that the Registrar of Vital Statistics shall be appointed in accordance with the provisions of N.J.S.A. 26:8-13 (1948).

§ 189-14. Salaries and compensation.

The salaries or other forms of compensation of the aforesaid officers and employees shall be such as is recommended to the Mayor and Council, fixed at the time of their appointment and annually passed by a majority of all the members of the Board.

§ 189-15. President.

The President shall be the Chief Executive Officer of the Board. He/she shall preside at all meetings of the Board and shall appoint all committees and have all such other powers as may, by law or by the provisions of this code, be vested in him/her. During the intervals between regular meetings, the President shall represent the Board in all executive and judicial matters. He/she

shall have the power to appoint committees from among the members of the Board, and, with the consent of the Board, such other officers as may, from time to time, be required to be appointed and provision for whose appointment is not otherwise made in this code.

§ 189-16. Vice President.

The Vice President, in the absence, disability or disqualification of the President, shall serve in the place of said President, with all of his/her powers and duties.

§ 189-17. Secretary.

The Secretary shall keep the minutes of all the proceedings of the Board, shall conduct all the official correspondence of the Board, maintain proper copies of the same, tabulate and complete all reports required by any superior authority, local, state or national and make such other reports as may be required or directed by the Board. He/she shall procure all books, stationery and other supplies as may be required by the Board and shall keep adequate records of all applications for permits and the action of the Board, if any, thereon and all such other pertinent information as may be necessary for a complete record of such matter.

§ 189-18. Registrar of Vital Statistics.

The Registrar of Vital Statistics shall keep all such records of that office, as required by the Bureau of Vital Statistics of the State of New Jersey, and he/she shall perform such other duties as may be required.

§ 189-19. Counsel.

The Counsel, if appointed, shall be the legal adviser of the Board, and shall, when required, attend its meetings. He/she

shall, when ordered to do so by the Board, represent it in all litigation to which it may be a party and perform all such other legal services as may, from time to time, be required of him/her by the Board.

§ 189-20. Sanitarian.

The Sanitarian, if appointed, shall assist the Health Officer perform the duties of the Health Officer in his/her absence or at his/her direction and perform such other and further duties as may, from time to time, be delegated by the Board.

§ 189-21. Required reports.

The Public Health Nurse and Sanitarian shall submit a written or verbal report at each regular meeting. The Health Officer shall submit periodic or verbal reports and an annual written report to the Board. All of the above-named appointees shall perform such duties as may be directed by the statutes of the State of New Jersey, the provisions of this code or as they may, from time to time, be directed by the Board.

§ 189-22. Right to make inspections.

Every member of the Board and employees thereof shall, by virtue of their respective appointments, be vested with the power and authority to make any and all inspections or examinations that are under the statutes of this state required to be made by local Boards of Health or that are required by any code, ordinance, regulation or order of the Board. They shall report, to the Board or the Health Officer, any violations occurring in the interim between meetings of the Board, and all persons are hereby forbidden to interfere with or obstruct such inspections or examinations.

§ 189-23. Reports of police officers.

Members of the Police Department shall report to the Board every violation of any health ordinance which comes within their observation and knowledge.

ARTICLE IV
Nuisances

§ 189-24. Adoption of code; copies kept on file.

The Board, by Ordinance No. 66-1, adopted the Public Health Nuisance Code of New Jersey (1953) on May 4, 1966.[1] Three (3) copies are on file in the office of the Secretary of the Board.

§ 189-25. Nuisances enumerated.

In addition, the following specific acts or omissions or the maintenance or allowance of any of the following conditions are hereby prohibited and are declared to be or to constitute nuisances:

A. Any matter, thing, condition or act which is or may become detrimental or a menace to the health or general well-being of the inhabitants of this borough.

B. Polluting or permitting to be polluted or maintaining any polluted spring, well, cistern or other source of water supply which is used for domestic or potable purposes or is on the watershed which is the source of drinking water.

C. Pollution or existence of a condition or conditions which cause or threaten pollution of any waters in this borough in such manner as to cause or threaten injury to any of the inhabitants of this borough, either in their health, comfort or property, including surface overflow or discharge of sewage.

D. The growth, existence or presence of ragweed on any plot of land, lot, highway, right-of-way or any other public place.

[1] Editor's Note: See Ch. 186, Public Health Nuisances.

E. The growth, existence or presence of poison ivy within twenty (20) feet of any property line.

F. The existence or presence of any water or other liquid in which mosquito larvae breed or exist.

G. The existence or presence, depositing, accumulating or maintaining any accumulation of garbage, refuse, manure or animal or vegetable matter which may attract insects or rodents and to which the aforementioned may have access or in which they may breed or exist.

H. Overflowing of portable toilets upon any public or private property.

I. Maintaining any chimney, smokestack, pipe or flue or any part thereof that is out of repair and so defective as to allow coal gas or noxious fumes to escape into the building where it is situated or into any adjacent building.

J. Allowing to exist any unclean or unsanitary conditions in any building or any imperfect plumbing or sewer appliances or connection from which any foul or noxious odors or liquids may escape.

K. Permitting the emission of dust, gases, cinders, lint or other particles or dense smoke in sufficient quantities to cause discomfort or injury to health.

L. Depositing, maintaining or causing the maintenance or existence of any offensive matter, foul or noxious odors, gases or vapors or any cause of disease or other injury to the health of the inhabitants of the borough.

M. Maintaining or permitting to exist any manure pile or manure pit which is not enclosed and covered.

N. Maintaining any premises which is infested with rats, mice or other rodents.

O. Emitting or permitting the emission of unnecessary noises and vibrations of a constancy of magnitude capable of causing discomfort or injury to health.

P. Maintaining stationary lights in residential areas, other than public streetlighting, of sufficient illumination to cause discomfort or injury to health.

Q. Fogging or spraying for insect control using any solution not meeting federal or State of New Jersey standards.

§ 189-26. Noise.

It shall be unlawful for any person to make, cause or suffer or permit to be made or caused upon any premises owned, occupied or controlled by him/her upon a public place, street, alley or thoroughfare in this borough any unnecessary noise or sounds, by means of voice or by any other means or methods which are physically annoying to persons or which are so harsh or so prolonged or unnatural or unusual in their use, time and place as to occasion physical discomfort or which are injurious to the lives, health, peace and comfort of any person. These acts are included in, but not limited to those indicated in N.S.A.C. 7:29-1.2-.5.

§ 189-27. Stagnant water.

All sunken lots or marshlands or lots below grade where stagnant waters gather or are collected are declared nuisances and any owner, agent or tenant of any such lot shall, on written notice from the Department of Health, correct and abate such nuisance in the manner prescribed by the Department in the notice. No owner, tenant or agent shall fail to comply with such notice within the period named in such notice.

§ 189-28. Notice to abate.

Whenever a nuisance as declared by § 189-25 of this chapter is found on any plot of land, lot, right-of-way or any other private premises or place, notice, in writing, shall be given to the owner thereof to remove or abate the same within such time as shall be specified, but not more than five (5) days from the date of service thereof, except in an emergency situation as determined by the Health Officer where immediate abatement is required. A dupli-

cate of the notice shall be left with one (1) or more of the tenants or occupants of the premises or place or posted on 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 the tenant or occupant thereof or posted on the premises and such action shall be considered proper notification to the owner, tenant or occupant thereof.

§ 189-29. Abatement on public property.

Whenever a nuisance as declared by § 189-25 of this chapter is found on any public property or on any highway or any other public premises or place, notice, in writing, shall be given to the person in charge thereof to remove or abate the same within such time as shall be specified therein. If such person fails to comply with such notice within the time specified therein, the Board of Health may remove or abate such nuisance in the manner as hereinafter provided in the case of a like condition existing on a private premises or place.

§ 189-30. Noncompliance; abatement by Board of Health.

If the owner, tenant or occupant upon being notified as provided by this Article shall not comply with such notice within the time specified therein and fails to remove or abate such nuisance, the Board of Health shall proceed to abate the nuisance or may cause it to be removed or abated in a summary manner by such means as the Board shall deem proper.

§ 189-31. 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 by § 189-25 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 and notification as herein provided, shall fail to remove and abate the same within the time specified in such notice.

§ 189-34. Cat licensing; vaccination.

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

CAT — Any member of the domestic feline species, male, female or altered.

LICENSING AGE — The age of seven (7) months.

OWNER — When applied to the proprietorship of a cat, shall include every person having a right of property or custody in such cat and every person who has such cat in his keeping or who harbors or maintains a cat or knowingly permits a cat to remain on or about any premises occupied by that person.

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

B. Provisions relating to rabies vaccination of cats.

(1) Vaccination and license requirements. No person shall own, keep, harbor or maintain any cat over seven (7) months of age within the Borough of Demarest unless such cat is vaccinated and licensed.

(2) Vaccination. All 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, except as provided for in Subsection B(3). All persons whose cats have a vaccination from a licensed veterinarian shall have a certificate or other identification evidencing said vaccination.

(3) Any cat may be exempted from the requirements of such vaccination for a specified period of time by the local Board of Health upon presentation of a veterinarian's certificate stating that because of

§ 189-32. Notice.

No owner, agent, lessor, lessee or other person in charge or control of any building shall permit such building or part thereof to be occupied or inhabited if the same is unfit for human habitation by reason of its harboring disease or by reason of its being infested with vermin or by reason of its being in a condition dangerous to health or otherwise likely to cause disease among its inhabitants. Whenever it shall be decided by the Board that any building or part thereof is unfit for human occupation for one (1) of such reasons or by reason of leaky roofs or walls, missing plaster or wall and ceiling coverings or plumbing in an unsafe and dilapidated condition or floors in such warped and uneven condition that furniture or equipment cannot maintain a reasonable level condition, lack of heat, running water or electricity, notice of such decision shall be affixed conspicuously on the building or any part thereof and served personally or by mail upon the owner, agent, lessor or lessee, if the same can be found in the state, requiring all persons therein to vacate from such building or part thereof for such reason. Such building or part thereof shall, within ten (10) days thereafter, be vacated or, in case of a special emergency, within such shorter time as in said notice may be specified. Every such notice shall be void if, within the time limited by said notice or before the premises are so vacated, the cause for the giving of such notice shall be so cured so that the conditions theretofore existing and upon which said notice is based shall no longer exist.

ARTICLE V
Dog and Cat Control
[Amended 11-28-1990 by Ord. No. 1]

§ 189-33. Adoption of standards.

The Board hereby adopts Chapter 89 of the Code of the Borough of Demarest, titled "Dogs and Other Animals."

an infirmity or other physical condition the inoculation of such cat shall be deemed inadvisable.

C. Licensing requirements.

(1) Any person who shall own, keep or harbor a cat of licensing age shall, in the month of January of each year, procure a license and registration tag for each cat so owned, kept or harbored. It is strongly recommended that such person shall place upon such cat a collar or other device with the license number securely fastened or displayed thereto. Acceptable methods of displaying the license number shall include but are not limited to breakaway or elastic collars. License tags are not transferable and shall be obtained upon payment of the proper fees as set forth in Subsection C(6) below.

(2) The owner of any newly acquired cat of licensing age or of any cat which attains licensing age shall make application to the borough for a license tag for such cat within ten (10) days after such acquisition or age attainment.

(3) Any valid New Jersey license tag issued by a New Jersey municipality shall be accepted by this municipality as evidence of compliance. Any person who shall bring into the Borough of Demarest any cat licensed in another state for the current year and bearing a registration tag and who shall keep the same within the borough for a period of more than ninety (90) days shall immediately apply for a license and registration for each such cat. Any person who shall bring into this borough any unlicensed cat and who shall keep the same within the borough for a period of more than ten (10) days shall immediately apply for a license.

(4) License forms and official tags shall be furnished by the borough and shall be numbered serially. Copies

of the license form shall be preserved for a period of three (3) years.

(5) The Borough Clerk or other official designated by the borough to license cats shall not grant any license and official registration tag unless the owner provides evidence that the cat to be licensed has been inoculated with a rabies vaccine administered by a duly licensed veterinarian.

(6) A license shall be issued after payment of a fee of five dollars ($5.) for each cat. The fee for the renewal of license shall be the same as for the original. All licenses shall expire on December 31 in the year in which they were issued regardless of the date upon which they were issued.

(7) If a license tag is misplaced or lost, a duplicate license and tag may be issued for that particular cat at a fee of two dollars ($2.). Said duplicate shall also expire on December 31 of the year in which is was issued.

(8) Proof of licensing shall be produced by any person owning, keeping, maintaining or harboring a cat upon the request of any health official, police officer, animal control officer or other authorized person.

(9) No person shall hinder, molest or interfere with anyone authorized or empowered to perform any duty under this Article.

D. Disposition of fees collected. License fees and other moneys collected or received under the provisions of this Article shall be placed in a special account separate from any of the other accounts of the borough and shall be used for the following purposes only: collecting, keeping and disposing of cats liable to seizure; local prevention and control of rabies; and administering the provisions of this Article. Any unexpected balance remaining in such special account shall be retained until

the end of the third fiscal year following and may be used for any of the purposes set forth in this subsection. At the end of said third fiscal year following and at the end of each fiscal year thereafter, there shall be transferred from such special account to the general funds of the municipality any amount then in such account which is in excess of the total amount paid unto the special account during the last two (2) fiscal years next preceding.

ARTICLE VI
Retail Food Establishments

§ 189-35. License requirements.

It shall be unlawful for any person to conduct a retail food establishment or deliver milk or milk products without first having obtained from the Board a license. Only a person who complies with the provisions of the Retail Food Establishment Code of New Jersey (1965), which code and exhibits annexed thereto are pursuant to the provisions of N.J.S.A. 26:3-69.1 to 26:3-69.6, incorporated by reference herein as if set forth in full herein, three (3) copies of which code are on file with and available for inspection at the office of the Board in the custody of the Secretary of said Board, shall be entitled to hold a license. Licenses shall not be transferable from one person or place to another person or place. A valid license shall be posted in every retail food service establishment.

§ 189-36. Inspection required.

Upon receipt of an application pursuant to this Article, the Health Officer shall make an inspection of the retail food service establishment to determine the compliance with the provisions of this code and Chapter 12 of the New Jersey Sanitary Code. When an inspection reveals that the applicable requirements of this code and the State Sanitary Code have

been met, a license shall be issued to the applicant by the Board.

(Cont'd on page 18925)

§ 189-37. Public health hazard; corrective action.

Notwithstanding the other provisions of this code, whenever the Health Officer finds unsanitary or other conditions in the operation of a retail food service establishment which, in the Health Officer's judgment, constitute a substantial hazard to the public health, the Health Officer may, without warning, notice or hearing, issue a written notice to the license holder or operator, citing such condition, specifying the corrective action to be taken and specifying a time period within which such action shall be taken; and, if deemed necessary, such order shall state that the license is immediately suspended, and all food service operations are to be immediately discontinued. Any person to whom such an order is issued shall comply immediately therewith, but, upon written petition to the Health Officer, shall be afforded a hearing pursuant to Article XXI of this code.

§ 189-38. Plan review required.

Whenever a retail food service establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a retail food service establishment, properly prepared plans and specifications for such construction, remodeling or conversion shall be submitted to the Board of Health for review and approval before construction, remodeling or conversion is begun. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans and construction materials of work areas and the type or model of proposed fixed equipment facilities, including but not limited to floor, wall and ceiling finishes, plumbing fixtures, hot-water generating equipment, garbage and refuse disposal, lighting, ventilation and storage facilities. The Board of Health shall approve the plans and specifications if they meet the requirements of all applicable state and local health codes and regulations. No retail food service establishment shall be constructed, extensively remodeled or converted except in accordance with plans and specifications approved by the Board of Health.

§ 189-39. Inspection required.

Whenever plans and specifications are required by this article to be submitted to the Board of Health, the Health Officer shall inspect the retail food service establishment prior to the start of operations to determine compliance with the approved plans and specifications and with the requirements of this code. If approved, the license will be issued.

§ 189-40. Peddlers of food. [Amended 6-14-2001 by Ord. No. 01-1]

No person shall sell or peddle any article of food from any wagon, pushcart, truck or other vehicle or from house to house or in or at any public place, with the exception of trucks licensed by the Board of Health to sell prepackaged frozen desserts. The annual license fee shall be $25.

§ 189-41. Food handler's certificate required.

No supervisory personnel of a retail food establishment shall engage in or be employed in the business of or service of preparing and processing food without first having obtained a food handler's certificate, upon written application therefor from the Department of Health of the Borough of Demarest.

§ 189-42. Requirements for food handler's certificate.

The food handler's certificate required by § 189-42 of this chapter shall not be issued or granted to any person unless the person seeking such food handler's certificate shall have first completed a course of instruction generally in health, education, sanitation, personal hygiene, food poisoning, dishwashing procedures and other related health matters. The course of instruction shall be under the supervision or direction of the Department of Health of the Borough of Demarest.

§ 189-43. Certificate to be nontransferable.

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.

(Cont'd on page 18927)

§ 189-44. Suspension and revocation of certificate.

The food handler's certificate, when granted, shall be non-transferable, nonassignable and valid for two (2) years from date of issue. For good cause shown and on written notice to any person holding a food handler's certificate, the Department of Health of the Borough of Demarest expressly reserves the right to suspend or revoke any food handler's certificate issued or granted pursuant to this chapter. Said notice shall provide that the holder of said certificate shall be entitled to a hearing with reference to said suspension or revocation by requesting the same in writing. Said hearing shall be conducted by the Board of Health within twenty (20) days after the request for same. The notice of suspension or revocation shall also state the reasons therefor.

ARTICLE VII
Apartment Houses and Business Establishments

§ 189-45. Heating requirements.

It shall be the duty of every person who shall have contracted or shall be otherwise bound or legally obligated to heat or furnish heat for any building, part of any building, apartment or space occupied as an apartment house or business establishment to heat or to so furnish heat to every occupied portion of such apartment house or business establishment so that a minimum temperature of sixty-eight degrees Fahrenheit (68° F.) is maintained therein at all times; provided, however, that the provisions of this section shall not apply to a business establishment or part thereof used and occupied for a trade, business or occupation where low temperatures are essential and unavoidable. With respect to the obligation or duty to furnish heat to or in an apartment house, the term "at all times" shall mean the time between the hours of 6:00 a.m. and 10:00 p.m. With respect to the obligation or duty to furnish heat to a business establishment, the term "at all times" shall mean the usual working hours of said business establishment. At no time, however, shall the temperature be permitted to fall below fifty-five degrees Fahrenheit (55° F.) in any apartment house or business establishment.

§ 189-46. Obligation to heat facilities.

For the purposes of this Article, wherever any apartment house or business establishment is heated by means of furnace, boiler or other apparatus under control of the owner, agent or lessor, said owner, agent or lessor shall have been deemed to have contracted, undertaken or bound himself to furnish heat in accordance with the provisions of this Article. The term "contracted" shall be taken to mean and include an obligation arising by a written, verbal or implied contract; and the presence of heating outlets, radiators, risers or returns in any hall or apartment or subdivision of an apartment house or business establishment shall be prima facie evidence of an implied contract.

§ 189-47. Refrigeration facilities.

When the owner, agent or lessor of any apartment house or business establishment shall have agreed to supply refrigeration facilities, he shall and is hereby required to supply and maintain said refrigeration facilities at all times and in such manner as may be necessary for the proper and wholesome preservation of foodstuffs.

§ 189-48. Hot water supply.

When the owner, agent or lessor of any apartment house or business establishment shall have agreed to supply hot water, sufficient water heated to at least one hundred forty degrees Fahrenheit (140° F.) shall at all times be supplied.

§ 189-49. Vault, cellar or underground dwelling requirements.

No person shall let or occupy or suffer to be occupied separately as a dwelling any vault, cellar or underground room whatsoever, unless every part thereof shall be at least seven (7) feet in height, measured from the floor to the ceiling thereof, and unless the same be for at least three (3) feet of its height above the surface of the street or ground adjoining or nearest to the same,

and unless there is an air space of not less than one (1) foot below the level of the floor, and unless the same have external window openings of at least nine (9) square feet clear at all points in elevation of the sash frame, which shall be so constructed that it or they may be opened for the purpose of ventilation.

§ 189-50. Sanitary facilities.

No person, having the right or power to prevent the same, shall knowingly cause or permit any person to sleep or remain in any cellar or in any place dangerous or prejudicial to health by reason of a want of ventilation or drainage or the presence of any poisonous, noxious or offensive substance or a lack of suitable sanitary facilities.

§ 189-51. Requirements for occupancy.

No owner, agent, tenant or lessee of any building or any part thereof shall lease, let or hire out the same or any portion thereof to be occupied by any person or allow the same to be occupied as a dwelling or lodging place, unless such building or parts thereof, so occupied, are sufficiently lighted and ventilated and have available suitable sanitary facilities and are, in all respects, in that condition of cleanliness and wholesomeness required by this code and all applicable laws of this state.

§ 189-52. Garbage and refuse storage.

The owner, agent or other person in charge and control of any apartment house shall provide watertight and covered receptacles for receiving garbage and other refuse matter.

ARTICLE VIII
Barbershops; Beauty Parlors; Tattoo Parlors; Tanning Spas

§ 189-53. License required.

No barbershop or beauty parlor shall be operated without a license first having been obtained from the Board.

§ 189-54. Compliance with standards.

Every person operating or conducting a barbershop or beauty parlor in the borough and every person employed therein shall at all times comply with laws and regulations governing sanitary conditions in barbershops, barber schools, barber colleges, beauty parlors and beauty schools.

A. The premises in which said barbershop or beauty parlor is maintained shall be kept in a clean condition;

B. All mugs, brushes, scissors, razors, combs, tweezers and clippers shall be sterilized or disinfected before being used and after each use upon any customer;

C. All nondisposable, nonelectric razors used for shaving must be heat sterilized before each use;

D. Every such shop or parlor shall be provided with running hot and cold water;

E. Clean towels and fresh neckbands shall be provided for each customer; and

F. Every operator, employee or any person actually engaged in waiting or servicing a customer shall thoroughly cleanse his or her hands immediately before serving such customer.

§ 189-55. Infected persons not to be served.

No person shall be served in any barbershop or beauty parlor if such person shows visible evidence that he is infected with ringworm of the scalp or any other communicable disease.

§ 189-56. Stypic pencils.

The use of previously used styptic pencils is prohibited.

§ 189-57. Sponges.

The use of powder puffs or sponges except for individual use is prohibited.

§ 189-58. Tattoo parlors prohibited.

No person, firm or corporation shall operate for commercial or noncommercial purposes a facility for body tattooing or body piercing, exclusive of ear piercing.

§ 189-59. Tanning spas prohibited.

No person, firm or corporation shall operate for commercial purposes a facility employing ultraviolet lamps for the express purpose of producing a tan.

ARTICLE IX
Massage Operator; Physiotherapist; Electrolysist

§ 189-60. License required.

No person shall be engaged or employed as a massage operator, physiotherapist or electolysist in the borough without first having obtained a license from the Board to do so. The license, when issued, is personal and shall not be construed to grant a certificate of occupancy or approval for the use of any premises or location.

§ 189-61. Definitions.

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

> MASSAGE THERAPIST or MASSAGE TECHNICIAN — Any person who practices or administers as to all or any of the following named subjects and who has made a study of the underlying principles of anatomy and physiology as generally included in a regular course of study at a school of massage, recognized and approved by the American Massage and Therapy Association: the art of body massage either by hands or with a mechanical or vibratory

apparatus for the purpose of body massaging, reducing or contouring; the use of oil rubs, heat lamps, salt glows, hot and cold packs, tub, shower or cabinet baths. Variations of the following procedures may be employed: touch, stroking, friction, kneading, vibration, percussion and medical gymnastics. "Massage therapists or massage technicians" shall not diagnose or treat classified diseases nor practice spinal or other joint manipulations nor prescribe medicines or drugs.

§ 189-62. License requirements.

No such license shall be issued to any person unless the applicant therefor shall furnish to the Board a written statement that he is properly certified or licensed by the State of New Jersey as a massage operator, physiotherapist or electrolysist and is competent and trained in that profession and information regarding the location and hours of operation.

ARTICLE X
Swimming Pools

§ 189-63. Adoption of standards.

The Board hereby adopts all provisions of the New Jersey State Swimming Pool Code 1970, regulating the maintenance and operation of a public swimming pool. As herein used, the term "public swimming pool" shall include any swimming pool except one constructed on private residential property and not operated as a business or for profit.

§ 189-64. License required.

No person shall maintain or operate a public swimming pool without having first obtained a license therefor from the Board of Health.

§ 189-65. Sanitation requirements.

All swimming pools, as well as all bathhouses, dressing rooms, locker rooms, shower rooms and toilets used in connection with public swimming pools, shall be operated and maintained in a clean and sanitary manner.

§ 189-66. Disinfection of facilities.

The pool and the water therein shall be disinfected at such intervals and in such manner as in the opinion of the Health Officer shall be necessary to protect the health of the users of the pool.

§ 189-67. Chemical testing and analyses.

All chemical and bacteriological analyses of swimming pool waters shall be made in accordance with the procedures set forth in the current edition of Standard Methods for the Examination of Water and Sewage, published jointly by the American Public Health Association and the American Waterworks Association. The standard test for the coliform group shall consist of the presumptive and confirmed test, the latter being required when presumptive evidence of coliform organisms is indicated. The standard test for total bacteria shall consist of thirty-seven-degree standard agar plate count.

§ 189-68. Reports of analyses.

Swimming pool operators shall have pool water samples analyzed at least once weekly by a laboratory approved by the Board. Copies of reports of all analyses shall be forwarded to the Board within forty-eight (48) hours after completion.

ARTICLE XI
Farm Animals; Wild Animals; Fowl

§ 189-69. Keeping of farm animals and wild animals.

No person shall raise, keep, harbor or slaughter any farm or wild animal, including but not limited to cattle, horses, goats,

sheep, pigs, lions, tigers, bears, alligators, monkeys or poisonous snakes within the borough.

§ 189-70. Keeping of fowl.

No person shall raise, keep, harbor or slaughter more than two (2) adult fowl, including but not limited to chickens, ducks, geese, pigeons or turkeys within the borough.

§ 189-71. Premises to be kept sanitary.

All premises on which animals or fowl are kept must be maintained in a sanitary condition. A public nuisance shall be deemed to exist in the following circumstances:

A. The keeping of animals or fowl above in a manner that may foster the breeding of insects and rodents and germination of bacteria and other infectious microbes, all of which may cause disease.

B. The keeping of animals or fowl in a manner that may create foul and noxious odors as well as disturbing noises.

§ 189-72. Preexisting uses.

Any use existing on the date of adoption and not in compliance with provisions of §§ 189-69 and 189-70 herein may be continued as a preexisting use, subject, however, to the provisions of § 189-71. A preexisting use may not be extended.

ARTICLE XII
Small Animals

§ 189-73. Number of domestic pets restricted.

No household may keep or maintain more than five (5) adult small animals at one (1) time which are commonly recognized as domestic or household pets.

§ 189-74. Premises to be kept sanitary.

All premises on which animals are kept must be maintained in a sanitary condition. A public nuisance shall be deemed to exist in the following circumstances:

A. The keeping of animals above in a manner that may foster the breeding of insects and rodents and germination of bacteria and other infectious microbes, all of which may cause disease.

B. The keeping of animals in a manner that may create foul and noxious odors as well as disturbing noises.

§ 189-75. Diseased animals.

No person shall keep any small animal infected with a disease contagious to other animals or human beings without being under the treatment of a veterinarian. Animals or fowl infected with diseases threatening the life of other animals or human beings, not under the treatment of a veterinarian, must be immediately destroyed, and the carcass cremated forthwith. Any such hutch, pen, coop or enclosure wherein such animal or fowl is found shall be destroyed or thoroughly disinfected in an approved fashion.

§ 189-76. Preexisting uses.

Any use existing on the date of adoption and not in compliance with provisions of §§ 189-73 and 189-74 herein may be continued as a preexisting use, subject, however, to the provisions of §§ 189-75. A preexisting use may not be extended.

ARTICLE XIII
Garbage, Ashes, Rubbish and Solid Waste

§ 189-77. Adoption of standards.

The code described and commonly known as the "Solid Waste Code of New Jersey (1959)," regulating the manner in which ref-

use shall be stored, collected and disposed of; declaring and defining certain conditions as nuisances; fixing responsibilities and duties of persons storing, collecting and/or disposing of refuse; providing for issuance of permits to collect refuse; and providing penalties for violation thereof, is hereby adopted and established and annexed hereto and made a part of this code without the inclusion of the text thereof in this chapter.

§ 189-78. Restricted activities.

No person shall dump, bury or allow to accumulate any garbage, ashes, rubbish and solid waste, condemned or spoiled animal or vegetable substances, swill or any offensive or putrescible material on any land or premises in the borough, except as may be specifically authorized from time to time, by the borough or as in a properly maintained compost pile.

§ 189-79. Vehicle requirements.

All vehicles used in the collecting, transporting or disposing of such materials or substances shall have a closed, watertight metal body and shall at all times be maintained and operated in a cleanly and sanitary manner. Such vehicles shall be kept closed at all times, except while actually being filled or emptied.

§ 189-80. Home receptacles.

The owner, tenant, lessee and occupant of every house, store or other building or of any part thereof or of any other premises in the borough shall be obligated to place or cause to be placed in a metal watertight box or boxes, barrel or barrels or other receptacles, which shall have a tight cover and be kept tightly closed at all times, all refuse, including decaying vegetable and animal substances upon his or their premises. All such receptacles shall be kept in a place accessible for emptying by licensed collectors and shall be maintained in a sanitary condition.

§ 189-81. Inspection of vehicles and receptacles.

All vehicles and receptacles mentioned in this Article shall be available for inspection by the Health Officer at all reasonable hours.

§ 189-82. Used motor oil.

Used motor oils are to be disposed of in containers provided by a local service station.

§ 189-83. Toxic and explosive substances.

Toxic and explosive substances must be disposed of in accordance with federal and State of New Jersey regulations.

ARTICLE XIV
Public Lavatories and Toilets

§ 189-84. Facilities to be kept sanitary.

Persons maintaining, operating or in charge or control of any public place shall at all times keep and maintain every such public place and all parts thereof in a clean and sanitary condition and open to inspection by the Board, its officers or any employee of said Board.

§ 189-85. Public facility requirements.

Every public place shall contain the following:

A. Proper lavatory facilities.

B. A wash room, comfort station or other place of a like nature.

C. A mechanical dispenser for liquid or powdered soap.

D. A sufficient quantity of toilet tissue.

E. Individual towels or forced air hand drying device.

F. A sanitary waste receptacle for towels customarily discarded after usage.

G. Provisions for the thorough cleansing, boiling and sterilizing of cloth towels, if used.

§ 189-86. Public facility prohibitions.

In all public places, there is prohibited:

A. The use of cake soap in common;

B. The use of any drinking cup in common; and

C. The use of towels in common.

§ 189-87. Abandoned or dangerous septic tanks, cesspools or privies.

Whenever any premise contains a septic tank, cesspool or privy which is abandoned or which the Board determines is in a dangerous condition, the same shall, upon notification to the owner thereof, be promptly pumped out and filled with clean earth by the owner or agent at the owner's expense.

§ 189-88. Human waste receptacles.

No person shall maintain, use or permit to be used any receptacle for human waste, including portable toilets, unless such receptacle is so constructed and maintained that flies cannot gain access to the excremental matter contained therein and unless such wastes shall, at all times, be prevented from flowing over or upon the surface of the ground.

§ 189-89. Location restrictions.

No portable toilet shall be located within two hundred (200) feet of any commercial food service operation or any surface waterway.

ARTICLE XV
Cemeteries and Burials

§ 189-90. Adoption of standards.

The Board hereby adopts all provisions of the State of New Jersey laws covering cemeteries and burials as set forth in N.J.S.A. 26:6-1, et seq.

ARTICLE XVI
Marriages, Births and Deaths

§ 189-91. Adoption of standards.

The Board hereby adopts all provisions of the State of New Jersey laws covering vital statistics, births, deaths and marriages as set forth in N.J.S.A. 26:8-1, et seq.

ARTICLE XVII
Vending Machines

§ 189-92. Adoption of standards.

The operation and maintenance of food and beverage vending machines within the Borough of Demarest must comply with the provisions of the Food and Beverage Vending Machine Code of New Jersey (1961), which code and exhibits annexed hereto pursuant to the provisions of N.J.S.A. 26:3-69.1 to 3-69.6, are incorporated by reference herein, as if set forth in full herein, three (3) copies of which code are on file with and available for inspection at the office of the Board in the custody of the Secretary of said Board.

§ 189-93. License required.

No mechanical device for vending any food, beverage or ice shall be installed, operated or maintained within the Borough of Demarest, unless a license for the operation of such device has previously been issued by the Board.

§ 189-94. Inspection.

The Health Officer or Sanitarian shall inspect each device for approval thereof and from time to time thereafter to ensure full compliance herewith.

§ 189-95. Device identification.

Every such device shall be identified on the outside, plainly visible, with the name and address of the owner and the number of the license issued to such owner.

§ 189-96. Maintenance.

Every such device shall be maintained in a sanitary manner at all times and in condition satisfactory to the Health Officer or Sanitarian, who shall access thereto and the interior thereof at all times.

ARTICLE XVIII
Air Pollution

§ 189-97. Adoption of standards.

The Board hereby adopts all provisions of the State of New Jersey code covering air pollution as set forth in N.J.S.A. 26:2C-1, et seq., and N.J.A.C. 7:27-1.1, et seq.

§ 189-98. Air pollution prohibited.

No person or owner of property or person or persons having possession or control thereof shall cause, suffer, allow or permit to be emitted into the open air substances in such quantities as shall result in air pollution. The provisions of this section shall not apply to the use of economic poisons which are regulated by the federal government or the State of New Jersey.

§ 189-99. Open burning prohibited.

A. No person shall cause, suffer, allow or permit a salvage operation by open burning.

B. No person shall cause, suffer, allow or permit the disposal of rubbish, garbage or trade waste or buildings or structures by open burning.

C. No person shall cause, suffer, allow or permit the disposal of any type of plant life by open burning.

D. The provisions of this section shall not apply to:

(1) Variances approved and issued by the New Jersey Department of Environmental Protection in accordance with Subchapter 2.5 of the New Jersey Administrative Code.

(2) Open burning of refuse for training or research exercises when conducted at a permanent facility or training center designed to be used solely for such purposes on a continuing basis.

§ 189-100. Visible pollution prohibited.

A. No person shall cause, suffer, allow or permit visible smoke to be emitted into the outdoor air from combustion of fuel in any stationary indirect heat exchanger except as provided in this section.

B. No person shall cause, suffer, allow or permit smoke the shade or appearance of which is darker than No. 1 on the Ringlemann Smoke Chart or greater than twenty-percent opacity, exclusive of water vapor, to be emitted into the outdoor air from the combustion of fuel in any stationary indirect heat exchanger, having a rated hourly capacity of two hundred million (200,000,000) Btu or greater gross heat input, and discharging through a stack or chimney having all internal cross-sectional dimensions of sixty (60) inches or greater.

C. The provisions of this section shall not apply to smoke which is visible for a period of not longer than three (3) minutes in any consecutive thirty-minute period.

D. The provisions of this section shall not apply to direct heat exchangers or manufacturing processes or any motor vehicle while operating on the public highway.

E. Any person responsible for the construction, installation, alteration or use of an indirect heat exchanger shall, when requested by the Director, provide the facilities and necessary equipment for determining the density and opacity of smoke being discharged into the open air.

§ 189-101. Solid emission standards.

A. No person shall cause, suffer, allow or permit particles to be emitted from any stack or chimney into the outdoor air the shade or appearance of which is greater than twenty-percent opacity, exclusive of water vapor.

B. The provisions of this section shall not apply:

(1) To particles the shade or appearance of which is greater than twenty-percent opacity, exclusive of water vapor, for a period of not longer than three (3) minutes in any consecutive thirty-minute period.

(2) To source operations issued a variance by the New Jersey Department of Environmental Protection in accordance with N.J.A.C. 7:27-6.5.

(3) To indirect heat exchangers.

(4) To incinerators.

§ 189-102. Stack and chimney regulations.

A. Except as herein provided, persons burning solid or liquid fuel whose products of combustion are discharged into the open air from a stack or chimney shall submit to the

Health Officer information for each stack or chimney relating to place, type of fuel burned, heat content in fuel burned, quantity of fuel burned per hour and year or per hour or per year, description of combustion equipment, usual period of operation, height and size of outlet and description of air pollution control equipment and such other pertinent information as may be requested on forms provided for that purpose by the Health Officer. The application forms shall also require submission of name, address and telephone number of the person or persons responsible for day-to-day operation and also of the person or persons responsible for maintenance of any such equipment. Any change in the name, address or telephone number of such person or persons shall be reported within ten (10) days of the occurrence of such change to the Health Officer.

B. Such information shall be submitted to the Health Officer within ninety (90) days after either new installations are placed into service or existing installations are altered. Nothing herein shall be construed as relieving any person from the requirements of the Building Code of the Borough of Demarest.[3] Additional reports concerning these items may be requested by the Health Officer.

C. The provisions of this section shall not apply to equipment designed or used for heat input rate of not more than one million (1,000,000) British thermal units (Btu) per hour unless the equipment is designed for or actually using No. 4, 5 or 6 fuel oil or coal.

§ 189-103. Regulation of incinerators.

A. No person shall operate or permit the operation of an incinerator in the Borough of Demarest without securing the necessary permits and operating certificates from the State Department of Environmental Protection.

B. No person shall operate or permit the operation of an incinerator in the Borough of Demarest before 9:00 a.m. or

[3] Editor's Note: See Ch. 84, Uniform Construction Codes.

after 5:00 p.m., and all operation shall be completely terminated by 5:00 p.m., including complete extinction of the fire and removal of materials from the firebox to a noncombustible container and in a safe manner, provided, however, that the Health Officer may, by special permit because of exceptional circumstances, permit different hours of operation under such conditions as he shall deem necessary for the health, safety and welfare of the public or of persons in the vicinity.

C. Where the operation of an incinerator constitutes an immediate and substantial menace to public health and safety or is a substantial source of air pollution causing irritation and discomfort to persons in the vicinity, and the owner or operator fails upon written or oral notice to take immediate corrective measures, the Health Officer may take all necessary measures to abate the condition, including but not limited to ordering the cessation of use of the equipment and sealing the same, pending a hearing in the Municipal Court.

D. No person shall cause, suffer, allow or permit smoke from any incinerator the shade or appearance of which is darker than No. 1 of the Ringlemann Smoke Chart to be emitted into the open air; or emissions of such opacity within a stack or chimney or, exclusive of water vapor, of such opacity leaving a stack or chimney to a degree greater than the emission designated as No. 1 of the Ringlemann Smoke Chart.

E. The provisions of § 189-103D shall not apply to smoke emitted during the building of a new fire, the shade or appearance of which is not greater than No. 2 of the Ringlemann Smoke Chart for a period of three (3) consecutive minutes or emissions of such opacity within a stack or chimney to a degree greater than the emission designated as No. 2 of the Ringlemann Smoke Chart, for a period no greater than three (3) consecutive minutes.

F. No person shall cause, suffer, allow or permit the emission from any incinerator of particles of unburned waste or ash

which are individually large enough to be visible while suspended in the atmosphere.

G. No person shall construct, install, use or cause to be used any incinerator which will result in odors being detectable by sense of smell in any area of human use or occupancy.

ARTICLE XIX
Communicable Diseases

§ 189-104. Adoption of standards.

The Board hereby adopts all provisions of the New Jersey State statutes covering communicable diseases as set forth in N.J.S.A. 26:4 et seq.

ARTICLE XX
Nonpublic Schools

§ 189-105. School physician and school nurse.

Any school, other than a school operated by the Demarest Board of Education, operating in Demarest for the education and training of children, under the age of eighteen (18) years, must have a school physician and a school nurse available to them and shall maintain pupil and personnel health records.

§ 189-106. Immunization of students.

No pupil shall be admitted to any such school until he shall furnish evidence of preventive treatments and proper immunizations as required by State of New Jersey laws, together with a certificate from a physician that a physical examination was made within ninety (90) days prior to such admission, specifying any hearing, mental, sight or body deficiencies or abnormalities that may have been found or observed.

§ 189-107. Tuberculosis test.

For the purpose of locating cases of tuberculosis, each pupil attending such school shall be Tine tested at regular intervals as required by State of New Jersey laws and any positive reactors shall be promptly X-rayed or tested further; all adult personnel shall be examined for tuberculosis at regular intervals as required by State of New Jersey laws.

§ 189-108. Report of medical attention.

The physician or nurse serving any such school shall report to a parent or guardian any medical condition requiring treatment, shall check to ascertain that the condition has been appropriately treated and shall report to the Board of Health any failure or refusal to appropriately treat any such condition.

§ 189-109. Inspection of facilities.

Each such school shall be periodically inspected by Board of Health personnel to ensure that it complies with not only the provisions of this Article but with all of the other applicable provisions of this code.

ARTICLE XXI
Issuance, Suspension or Revocation of Licenses, Permits or Certificates

§ 189-110. License application.

Each application for a license shall be made at the office of the Board during regular office hours, on forms supplied by the Board, and any fee shall be paid in advance at the time of making such application. An application for the renewal of a license shall be marked "renewal."

§ 189-111. Prior inspection.

The granting of a license may be withheld at the discretion of the Board or the Health Officer pending examination, investigation or inspection of the person who or the premises which may be the subject matter of the license under consideration.

§ 189-112. Validity.

Each license issued under any Article of this code shall be valid only for the balance of the calendar year in which it is issued, unless otherwise herein provided. No such license shall be transferable or assignable. All yearly license renewals must be applied for not later than January 31 of any given year.

§ 189-113. Evidence of license.

The Board shall evidence the granting of any license issued by furnishing to the licensee, permittee or certificate holder a suitable card, sign, placard, disc, plate or other writing, which shall convey information concerning the nature of such license, the serial number of the same, name of the person to whom the same has been issued, the year in which the same is so issued, the premises or vehicle so licensed, if that be material or required, and such other information as the Board may deem pertinent.

§ 189-114. Display of license.

Every license issued by the Board for any premises or vehicle shall be displayed in a conspicuous place.

§ 189-115. Inspection of premises.

The Health Officer and/or the Sanitarian or police officer or designated agent of the Board may inspect any licensed premises or vehicle at any and all reasonable times and may require any

person engaged in any activity regulated by this code to produce or display any license required to engage in such activity.

§ 189-116. Suspension.

Every license, with the exception of those licenses and permits issued by the Registrar of Vital Statistics pertaining to vital statistics, may be suspended by the Board or by its Health Officer pending a hearing to be granted the holder thereof pursuant to a notice to show cause to the Board why said license should not be suspended further or revoked.

§ 189-117. Filing of complaint.

No such license shall be suspended unless the Health Officer or Sanitarian shall file with the Board a complaint or charges listing one (1) or more violations of this code.

§ 189-118. Termination of suspension.

Every suspension ordered under this Article shall automatically terminate two (2) weeks from the date thereof, unless the continuance of such suspension shall be ordered by the Board, and then such suspension shall continue only during the period of any such continuance so ordered by the Board.

§ 189-119. Effect on license during suspension.

During the period of any such suspension or ordered continuance thereof, every license so suspended shall be ineffective, and the holder thereof shall, during the entire period of such suspension, cease the operation of any business or activity thereunder.

§ 189-120. Revocation of licenses.

Any license issued under the provisions of this code may be revoked at any time by the Board for just cause, including viola-

tion by the licensee or any employee, agent or servant of said licensee of any provision of this code or of the Sanitary Code of the Department of Health of the State of New Jersey.

§ 189-121. Hearing on revocation.

Before any license is revoked, the holder thereof shall be given a hearing and an opportunity to be heard on the complaint made or violation charged.

§ 189-122. Scheduling of hearing.

The time and place for such hearing shall be fixed at the discretion of the Board; provided, however, that an unreasonable time shall not be permitted to elapse between the date of any suspension of license and the date fixed for the hearing.

§ 189-123. Notice of hearing.

Notice of the time and place of any such hearing shall be given by the Board to the holder of the license so involved, in writing, and served either personally or sent to him by registered mail addressed to him at the address stated in the license.

§ 189-124. Failure to appear.

A licensee who fails to appear at the time and place fixed for such hearing shall not be entitled to any further hearing and his license may be forthwith revoked.

§ 189-125. Restoration of conditional license.

The Board of Health, after a formal hearing, may order the license restored, issue a conditional license or revoke the license pending full compliance with all applicable codes and statutes.

§ 189-126. Informal hearings.

The Health Officer, as a result of any conditional or unsatisfactory inspection report or other field inspection documenting serious code violations, may ask the holder of a license or permit to attend an informal hearing with the Health Officer and one (1) or more sanitary inspectors. At the informal hearing, the parties shall discuss the health-related problems in the establishment, actions necessary to correct said problems and a reasonable time schedule for completion. The Health Officer shall make a narrative record of the hearing which shall be the basis for a proposed consent agreement listing the deficiencies, corrections needed and time schedule for completion. Refusal to attend an informal hearing or sign a consent agreement may result in a notice to show cause pursuant to § 189-116 of this code.

§ 189-127. Formal hearings.

Upon notice of suspension or revocation and a request by the license holder, the Board shall schedule a formal hearing. The Board as a whole shall function as the hearing officer. Testimony shall be offered by the Health Officer and Sanitary Inspector and by the license holder and any employee. An attorney may be present to represent the license holder. A verbal record shall be taken on tape.

§ 189-128. Conditional licenses.

The Board may issue a conditional license after a formal hearing or at the time a new license or renewal is sought. The conditional license shall be for a specified time period during which the license holder shall meet the conditions set forth by the Board in a manner satisfactory to the Health Officer. Upon expiration of the conditional license, the license holder shall cease operations, unless the Board has extended the conditional license or granted a regular license or permit.

ARTICLE XXII
Fees

§ 189-129. Fees to be annual.

All of the fees are annual fees and when paid shall cover only the balance of the calendar year during which the same are so paid or payable, unless otherwise herein provided. There shall be no apportionment or abatement of the fee for any license granted after the first day of January in any year.

§ 189-130. Renewal.

All yearly license renewal fees shall be paid by January 31 of any given year.

§ 189-131. Certain fees enumerated. [Amended 11-28-2001 by Ord. No. 01-2]

The annual fees for the several licenses referred to in this code are hereby fixed as follows:

Type of License	Fee
Seasonal snack bar	$ 35
Bakery, grocery, delicatessen, meat market	35
Ice cream truck	75
Public swimming pool facility	140
Restaurants:	
Seating capacity of 150 or more	140
Seating capacity of 50 to 150	70
Seating capacity under 50	35

§ 189-132. Amount for unspecified fees. [Amended 11-28-2001 by Ord. No. 01-2]

Whenever pursuant to the provisions of this code a temporary license is required and no specific fee is established, the fee shall be $10.

§ 189-133. Exemption from fees.

No fee for any license issued pursuant to the provisions of this code shall be required of any person declared by state law to be exempt from the payment of any such fee.

§ 189-134. Vital statistics fees.

The Registrar will supply information concerning marriage licenses, births, deaths, burials and other matters related to vital statistics upon payment of the fees established by the State Registrar of Vital Statistics.

§ 189-135. Dog license fees.

Dog licenses shall be issued according to law, and the respective fees paid to the Borough of Demarest as prescribed by said law.

§ 189-136. Waiver; reduction of fees.

For good reason shown, the Board may waive or reduce the license fees.

ARTICLE XXIII
Inspections, Rights of Entry and Warrants

§ 189-137. Inspections.

A. Emergency inspections may be authorized without warrant if the Health Officer has reason to believe that a condition exists which poses an immediate threat to life, health or

(Cont'd on page 18953)

safety. Such procedure shall only take place where the time taken to apply for and secure the issuance of a warrant would render ineffective the immediate action necessary to abate the condition.

B. Emergency inspections may also be authorized by the Governor in times of air pollution emergencies in accordance with N.J.S.A. 26:2C-26 et seq.

§ 189-138. Right of entry.

Where the Health Officer or his agent is refused entry or access or is otherwise impeded or prevented by the owner, occupant or operator from conducting an inspection of the premises, such person shall be in violation of this code and subject to penalties hereunder.

§ 189-139. Search warrant.

The Health Officer may, upon affidavit, apply to the Judge of the Demarest Municipal Court for a search warrant, setting forth factually the actual conditions and circumstances that indicate that violations of the code may exist on the premises. If the Judge of the Demarest Municipal Court is satisfied as to the matter set forth in said affidavit, the Judge shall authorize the issuance of a search warrant permitting access to and inspection of that part of the premises on which the nuisance or violation may exist.

ARTICLE XXIV
Violations and Penalties

§ 189-140. Prohibited acts.

Except as otherwise provided in this Article, any person who shall commit any of the following shall, upon conviction thereof, be guilty of a violation:

A. To do or commit any act prohibited by the terms of this code;

B. To do or commit any act for which a license is required without having secured and being in possession of a valid license, permit or certificate at the time of the doing or commission thereof;

C. To omit to do or perform any act required by him to be so done or performed by this code;

D. To maintain any place, establishment, vehicle, conveyance, equipment or article in violation of any of the provisions thereof;

E. To violate any of the provisions of any of the several articles or sections thereof;

F. To fail to maintain any condition, equipment or facility required therein to be maintained; or

G. To fail to install any article of a particular type, kind, quality or specification, where such installation is required.

§ 189-141. Penalties.

A. Any person who shall violate any of the provisions of this code, or who shall fail to comply therewith or with any of the requirements, shall be punishable by a fine not to exceed five hundred dollars ($500.) or imprisonment for a term not to exceed seven (7) days, or both, for each violation. Each day that such violation shall continue shall constitute a separate offense.

B. The violation of any section or subsection of this code shall constitute a separate and distinct offense independent of the violation of any other section or subsection, or of any order issued pursuant to this code.

§ 189-142. Imposition of state penalties.

In the event that any violation of this code shall also be a violation of the New Jersey State law for which a greater penalty or

judgment is provided than that contained in this code, the Municipal Magistrate or Trial Judge, before whom any complaint is brought based upon such violation, shall, in his discretion, have the right to impose, in the place and in lieu of any penalty provided for herein, that so provided for in the New Jersey State law which has been so violated.

§ 189-143. Prohibition of unlawful acts.

Every act herein designated as being unlawful is hereby prohibited, and every act herein expressly prohibited is hereby designated as being unlawful.

ARTICLE XXV
General Provisions

§ 189-144. Adoption of additional rules and regulations.

The Board may, from time to time, adopt such rules and regulations as by law is permitted, authorized or empowered to so adopt and which shall, in its judgment, aid in the proper understanding and general enforcement of this code.

§ 189-145. Amendments to Sanitary Code.

The Board shall and may, from time to time, amend, supplement or implement this code by other provisions amendatory thereof or supplementary thereto.

§ 189-146. Suspension of provisions.

The Board may, from time to time, by general resolution, suspend or declare inoperative any provisions of this code, which, in its judgment, are not for the time being required for the protection of the health of the borough.

§ 189-147. Incorporation of other standards by reference.

In conjunction with the provisions of N.J.S.A. 26:3-69.2 et seq., the standard codes or regulations incorporated by reference in Articles V, XIII, and XVI of this chapter have been filed and will remain on file in triplicate in the office of the Board of Health of the Borough of Demarest along with copies of this chapter.

§ 189-148. Posting of premises.

Whenever the Health Officer determines that a retail food service establishment or other public or private premises contains a health hazard or is in violation of this code or of applicable state or federal statutes, codes or rules so that a public health hazard is present or a public health emergency may result, in addition to actual notice of the hazard or violation to the owner or operator, the Health Officer may post the premises with a notice to the public indicating the health hazard or violation and the date. The posted notice shall not be removed except by the Health Officer after an inspection has shown the hazard has been eliminated or the violation removed.

ARTICLE XXVI
Mandatory Recycling of Waste Materials
[Added 5-16-88 by Ord. No. 652]

§ 189-149. Purpose.

It is the purpose of this Article to comply with the mandatory statewide recycling program, P.L. 1987, c. 102, and the Clean Communities and Recycling Act, N.J.S.A. 13:1E-92.

§ 189-150. Definitions.

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

ALUMINUM — Recyclable aluminum cans.

judgment is provided than that contained in this code, the Municipal Magistrate or Trial Judge, before whom any complaint is brought based upon such violation, shall, in his discretion, have the right to impose, in the place and in lieu of any penalty provided for herein, that so provided for in the New Jersey State law which has been so violated.

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§ 189-150. Definitions.

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

ALUMINUM — Recyclable aluminum cans.

DESIGNATED RECYCLABLE MATERIALS — Those recyclable materials, including metal, glass, paper or plastic containers, food and waste, corrugated and other cardboard, newspaper, magazines or high-grade office paper designated in this Article to be source separated.

DISPOSITION or DISPOSITION OF DESIGNATED RECYCLABLE MATERIALS — The transportation, placement, reuse, sale, donation, transfer or temporary storage for a period not exceeding six (6) months of designated recyclable material for all possible uses, except for disposal of solid waste.

DWELLING UNIT — Includes a one-family home and a two-family home.

GLASS — All products made from silica or sand, soda ash and limestone which are transparent or translucent and used for packaging or bottling of various matter and all other materials commonly known as "glass"; excluding, however, blue and flat glass commonly known as "window glass."

MAGAZINES — Includes all magazines or periodicals printed on glossy stock or paper of heavier quality than that commonly recognized as "newsprint."

MUNICIPAL SOLID WASTE STREAM — All residential, commercial and institutional solid waste generated within the boundaries of the borough, as measured in tons.

NEWSPAPER — Paper of the type commonly referred to as "newsprint" and distributed at stated intervals, usually daily or weekly, having printed thereon news and opinions and containing advertisements and other matters of public interest, expressly included, however, are all magazines or similar periodicals, as well as all other paper periodicals of any nature whatsoever.

PAPER — Includes all newspaper, high-grade office paper, fine paper, bond paper, offset paper, xerographic paper, mimeo paper, duplicator paper and related types of

cellulosic material containing not more than ten percent (10%) by weight or volume of noncellulosic materials such as laminates, binders, coatings or saturants.

PAPER PRODUCT — Any paper items or commodities, including but not limited to paper napkins, towels, corrugated and other cardboard, construction material, toilet tissue, paper and related types of cellulosic materials containing not more than ten percent (10%) by weight or volume noncellulosic materials, such as laminates, binders, coatings or saturants.

PLASTIC CONTAINER — A container hermetically sealed or made airtight with a metal or plastic cap and with a minimum wall thickness of not less than ten-thousandths (0.010) inch, and composed of thermoplastic synthetic polymeric material.

RECYCLABLE MATERIAL — Those materials which would otherwise become municipal solid waste, which may be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

RECYCLABLE PAPERS — Paper having a total weight consisting of not less than fifty percent (50%) secondary wastepaper material.

RECYCLED PAPER PRODUCT — Any paper product consisting of not less than fifty percent (50%) secondary wastepaper material.

RECYCLING — Any process by which materials which would otherwise become solid waste are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

RECYCLING CENTER — Any facility designed and operated solely for receiving, storing, processing and transferring source-separated, nonputrescible or source-separated comingled nonputrescible metal, glass, paper, plastic containers, corrugated and other cardboard or other recyclable material approved by the Department of Environmental Protection.

RECYCLING SERVICES — The services provided by persons engaged in the business of recycling, including the collection, processing, storage, purchase, sale or disposition or any combination thereof of recyclable material.

REGULATIONS — Includes such rules, implementation dates, schedules of time and such other requirements promulgated by the Director of the Department of Solid Waste and approved by the Borough Council as may be necessary to carry out the purposes and objectives of this Article.

SOURCE-SEPARATED RECYCLABLE MATERIALS — Recyclable materials, including but not limited to paper, metal, glass, food waste, office paper and plastic, which are kept separate and apart from residential, commercial and institutional solid waste by the generator thereof for the purposes of collection, disposition and recycling.

YARD WASTE — Includes leaves, grass clippings and brush.

§ 189-151. Recycling Coordinator created.

There is hereby created the position of Demarest Recycling Coordinator.

§ 189-152. Designation of recyclable materials. [Amended 11-21-1988 by Ord. No. 661; 9-20-1993 by Ord. No. 735]

The following materials are designated as recyclable under the Demarest mandatory program:

A. Residential properties.

(1) Newspaper.

(2) Glass beverage containers.

(3) Aluminum cans.

(4) Ferrous scrap.

(5) Leaves.

(6) White goods.

(7) Tin cans.

(8) Grass.

(9) Household generated batteries. **[Added 2-21-1995 by Ord. No. 762]**

B. Commercial/institutional.

(1) Corrugated cardboard.

(2) High-grade paper.

(3) Glass beverage containers.

(4) Ferrous scrap.

(5) White goods.

(6) Aluminum cans.

(7) Mixed paper.

(8) Construction and demolition debris.

§ 189-153. Responsibility of property owners.

A. On or after the effective date of this Article, it shall be mandatory for all persons who are owners, lessees and occupants of property in the Borough of Demarest to separate the recyclable materials designated in § 189-152 above from all other solid waste and place them at a location designated by the Recycling Coordinator.

B. Leaves. **[Amended 6-18-1990 by Ord. No. 686]**

(1) From January 1 to December 31 of each year, the owner, lessee or occupant of every property within the Borough of Demarest shall source-separate leaves from solid waste generated at that property.

(2) Between October 1 and December 1, leaves shall be placed in the streets at curbside in front of the property; leaves may not be placed in plastic bags. The leaves so placed shall be collected by the borough and brought to the borough's leaf composting facility.

(3) Between December 1 and September 30, leaves shall be placed in bags at the curb for pickup by the borough. The leaves so collected shall be brought to the borough's leaf composting facility.

C. Newspapers shall be separated and secured in bundles not to exceed twelve (12) inches in height. Such bundles shall not be contained in plastic bags.

D. Aluminum shall be separated and secured in suitable and reusable containers supplied by the owner, lessee or occupant.

E. Glass shall be separated and contained in suitable, reusable containers supplied by the owner, lessee or occupant. Containers constructed of paper or cardboard materials shall be deemed not suitable for this purpose.

F. All other materials designated in § 189-152 shall be separated and secured in suitable, reusable containers supplied by the owner, lessee or occupant.

(Cont'd on page 18961)

§ 189-154. Authorization to sell materials.

The Recycling Coordinator may be authorized, from time to time by bid or by contract approved by the Mayor and Council, to sell and deliver recyclable material so collected in order to obtain the best possible price.

§ 189-155. Private disposal of recyclable materials.

Nothing in this Article shall be deemed to prohibit any owner, lessee or occupant of disposing recyclable materials privately through a sale or gift, provided that in no event shall such recyclable materials be left at the curb for any private pickup, and further provided that in no event shall any such recyclable materials be disposed of as part of the solid waste pickup by the Borough of Demarest in accordance with the normal pickup by the Borough of Demarest.

§ 189-156. Ownership after placement.

From the time recyclable materials are placed at a location designated by the Recycling Coordinator by the owner, lessee or occupant for collection by the Borough of Demarest, such recyclable materials shall become the property of the borough. It shall be a violation of this Article for any person unauthorized to collect or pick up or cause to be collected or picked up any such recyclable materials for any purpose whatsoever once the same have been placed at the location designated by the Recycling Coordinator. Any and each such collection in violation hereof from one (1) or more premises shall constitute a separate and distinct offense, punishable as hereinafter provided.

§ 189-157. Annual report required.

The Recycling Coordinator shall annually submit a recycling tonnage report to the New Jersey Office of Recycling.

§ 189-158. Notice to public.

A. The Recycling Coordinator shall, no later than July 1, 1988, notify all persons owning, leasing or occupying property within the Borough of Demarest of the borough's recycling opportunities and the source-separation requirements of this Article. This notice shall be done by placing an advertisement in a newspaper circulating in the Borough of Demarest and by posting a notice in public places where public notices are customarily posted by the borough and by a mailing to all residential taxpayers.

B. Every six (6) months after the initial notification, the Recycling Coordinator shall notify all persons occupying residential, commercial and institutional premises within the Borough of Demarest of local recycling opportunities and the souce-separation requirements of this Article. Said notification shall be done by placing an advertisement in a newspaper circulating in the Borough of Demarest and by posting a notice in public places where public notices are customarily posted by the borough.

C. The Recycling Coordinator shall use his best efforts to notify the public through newsletters and presentations in the schools.

§ 189-159. Referral to other offices.

This Article shall be referred to the Planning Board of the Borough of Demarest for a revision of the Master Plan in accordance with N.J.S.A. 13:1E-99.16(c), specifically, with regard to the collection, disposition and recycling of designated recyclable materials within any development proposal for the construction of fifty (50) or more units of single-family residential housing or twenty-five (25) or more units of multifamily residential housing and any commercial or industrial development proposal for the utilization of one thousand (1,000) square feet of land. The Planning Board shall also make recommendations to the Mayor and Council for the amendments to the Borough Zoning Ordinance and Subdivision and Site Plan Ordinances, in accordance with this section.

§ 189-160. Enforcement.

The Department of Public Works Superintendent or his designated assistant or the Recycling Coordinator is hereby authorized and directed to enforce this Article.

§ 189-161. Violations and penalties.

Any person, firm or corporation violating the provisions of this Article shall be liable to a maximum penalty at the discretion of the Judge of the Municipal Court of the Borough of Demarest of not more than twenty-five dollars ($25.) for the first offense and not more than one hundred dollars ($100.) or ten (10) days in jail for each subsequent offense, excepting that a person violating § 189-156 of this Article shall be liable to a maximum fine of five hundred dollars ($500.) or imprisonment in the county jail for a period not to exceed ninety (90) days, or both.

Chapter 192

WEED CONTROL

§ 192-1. Adoption of standards by reference.

§ 192-2. Title.

§ 192-3. Copies on file.

§ 192-4. Violations and penalties.

[HISTORY: Adopted by the Board of Health of the Borough of Demarest 4-5-67 as Ord. No. 67-2. Amendments noted where applicable.]

GENERAL REFERENCES

Obstructions at intersections — See Ch. 125.

§ 192-1. Adoption of standards by reference.

A code declaring ragweed and poison ivy to be a nuisance, providing for removal or abatement thereof and recovery of expenses incurred by the Board of Health in removing or abating such nuisance and prescribing penalties for violations is hereby established pursuant to Chapter 188, Laws of 1950.[1]

§ 192-2. Title.

The code established and adopted by this chapter is described and commonly known as the "Weed Control Code of New Jersey (1953)."

§ 192-3. Copies on file.

Three (3) copies of said Weed Control Code of New Jersey (1953) have been placed on file in the office of the Secretary of

[1] Editor's Note: See N.J.S.A. 26:3-69.1 et seq.

this local Board of Health upon the introduction of this chapter and will remain on file there for use and examination by the public so long as said chapter is in effect.

§ 192-4. Violations and penalties.

Any person who violates or fails or neglects to comply with any provision of this chapter or code established herein or notice issued pursuant thereto shall, upon conviciton thereof, be liable to a penalty of not less than two dollars ($2.) nor more than one hundred dollar ($100.) for each violation.

Chapter A195

CABLE TELEVISION FRANCHISE

§ A195-1. Definitions.
§ A195-2. Statement of findings.
§ A195-3. Purpose.
§ A195-4. Consent to renewal of franchise.
§ A195-5. Renewal term.
§ A195-6. Franchise territory.
§ A195-7. Franchise fee.
§ A195-8. Extension of service.
§ A195-9. Commitments by Cablevision.
§ A195-10. Construction requirements.
§ A195-11. Municipal complaint officer.
§ A195-12. Programming.
§ A195-13. Performance bond.
§ A195-14. Rates.
§ A195-15. Emergency uses.
§ A195-16. Liability insurance.
§ A195-17. Incorporation of application.
§ A195-18. Service to schools.
§ A195-19. System maintained as technologically current.
§ A195-20. Severability.

§ A195-21. Consistency with future federal and state statutes, regulations, rules and orders.

§ A195-22. Repealer.

§ A195-23. Expiration and subsequent renewal.

§ A195-24. Effective date of consent.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 5-1-2000 by Ord. No. 820.[1] Amendments noted where applicable.]

GENERAL REFERENCES

Shade Tree Commission — See Ch. 53.

§ A195-1. Definitions.

For the purpose of this ordinance, the terms defined above[2] shall have the meanings there indicated, and the following additional terms shall have the following meanings:

BOARD — The Board of Public Utilities of the State of New Jersey.

BOROUGH or DEMAREST — The Borough of Demarest, County of Bergen, in the State of New Jersey.

COMMITMENTS — The commitments, terms and undertakings on the part of Cablevision set forth in § A195-9 below.

FEDERAL ACT — That federal statute relating to cable communications, commonly known as the "Cable

1 Editor's Note: This ordinance also superseded former Ch. A195, Cable Television Franchise, adopted 10-17-1977 by Ord. No. 444, as renewed by Ord. No. 656.

2 Editor's Note: See the preamble to this ordinance, on file in the borough offices.

Communications Policy Act of 1984," 47 U.S.C. § 521 et seq., or as that statute may be amended.

FEDERAL REGULATIONS — Those federal regulations relating to cable television service, 47 C.F.R. § 76.1 et seq. and, to the extent applicable, any other federal rules and regulations relating to cable television, including, but not limited to, those described in 47 C.F.R. § 76.3, or as such regulations may be amended.

STATE ACT — That statute of the State of New Jersey relating to cable television, known as the "Cable Television Act," N.J.S.A. 48:5A-1 et seq., or as that statute may be amended.

STATE REGULATIONS — Those regulations relating to cable television, N.J.A.C. 14:17-1.1 et seq. and 14:18-1.1 et seq. or as such regulations may be amended.

§ A195-2. Statement of findings.

A. A public hearing concerning the consent herein granted to Cablevision was held on April 20, 1998, after proper public notice pursuant to the terms and conditions of the State Act. Said hearing having been held as above stated and said hearing having been fully open to the public, and the Borough of Demarest having received at said hearing all comments regarding the qualifications of Cablevision to receive this consent, the Borough of Demarest hereby finds that Cablevision possesses the necessary legal, technical, character, financial and other qualifications and that Cablevision's operating and construction arrangements are adequate and feasible.

B. The borough finds that Cablevision has substantially complied with its obligations under the franchise and applicable law and has provided generally satisfactory

service, and the Borough of Demarest has no reason to believe that in the future Cablevision will fail to comply with its obligations under a renewal of the franchise and under applicable law.

C. The borough finds that if Cablevision undertakes the commitments, and performs thereunder, such shall provide a reasonable assurance of meeting the borough's future cable-related needs.

§ A195-3. Purpose.

The borough hereby consents to a renewal of the franchise, subject to the terms and conditions of this ordinance and upon the condition that Cablevision accept the provisions of this ordinance and confirm in writing that it shall comply with all of the commitments.

§ A195-4. Consent to renewal of franchise.

At the time this municipal consent becomes effective, as provided in § A195-24 below, and for and throughout the renewal term, as defined in § A195-5 below, the Borough of Demarest shall renew and continue its consent for Cablevision to place in, upon, along, across, above, over and under the highways, streets, alleys, sidewalks, public ways and public places in the borough poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the Borough of Demarest of a cable television system.

§ A195-5. Renewal term.

The renewal term to which Demarest shall grant its consent shall be for a period of seven years, running from the date upon which the Office of Cable Television (OCT) issues the certificate of approval in accordance with N.J.A.C. 14:18-11.20 with an automatic renewal for an additional

three years in accordance with the provisions of N.J.A.C. 14:18-13.6.

§ A195-6. Franchise territory.

The consent granted under this ordinance to the renewal of the franchise shall apply to the entirety of the Borough of Demarest and any property hereafter annexed thereto.

§ A195-7. Franchise fee.

A. Cablevision shall, during each year of operation under the consent granted herein, pay to the Borough of Demarest 2% of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers to its cable television reception services in the Borough of Demarest or such other amount as may be fixed by law.

B. In the event that applicable law hereafter permits a larger franchise fee to be collected but does not fix the amount thereof, the Borough of Demarest and Cablevision shall negotiate in good faith with respect to the amount thereof.

C. Cablevision shall annually file reports as required by N.J.S.A. 48:5A-30 and regulations as promulgated from time to time by the OCT.

§ A195-8. Extension of service.

Cablevision's system in the borough is a residential full build. Cablevision shall serve all residents of the borough located in residentially zoned areas without application of a line extension policy, though Cablevision's rate tariffs for standard and nonstandard residential installations as set forth in its application for franchise shall continue to apply. If a request for service is made by a resident living in a

nonresidential zoned area, Cablevision shall apply OCT's line extension policy at 20 homes per mile.

§ A195-9. Commitments by Cablevision.

The borough's consent to the renewal of the franchise is subject to, and expressly contingent upon, Cablevision's written undertaking as to the following:

A. Facilities and equipment.

(1) In transmitting its television signals to subscribers in the borough, Cablevision shall provide a quality of signal that is at least as good as that customarily provided under prevailing industry standards, and Cablevision shall comply with any requirements imposed by the federal regulations, any federal pronouncements and, to the extent not preempted by federal law, any state pronouncements relating to technical standards for the transmission of television signals, transmission quality or facilities and equipment.

(2) Cablevision shall be responsible, as part of its ongoing maintenance obligations, to replace systems, parts or components thereof which are not properly functioning.

(3) Cablevision shall cause any and all construction plans relating to work on any extensions of plant or work which could have a significant impact on public works within the borough to be filed with the Borough Clerk. Nothing herein shall create any rights or obligations with respect to construction work which are inconsistent with any regulations or regulatory authority of the OCT or the Board of Public Utilities.

B. Customer service.

(1) Telephone accessibility.

(a) In order to maintain its level of telephone accessibility for calls relating to maintenance and repairs ("service"), and to improve it for calls relating to installation, addition or deletion of programming services and other customer inquiries ("Business"), Cablevision shall do the following:

[1] Cablevision shall comply with any and all requirements of the OCT or other regulatory bodies with respect to telephone accessibility, facilities and personnel, and shall use its best efforts to comply with any OCT guidelines relating to the foregoing.

[2] Cablevision shall submit to the borough, if requested, its written report on telephone accessibility.

(b) Nothing herein shall impair the right of any subscriber or the borough to express any comment or complaint with respect to telephone accessibility to the complaint officer, as designated in § A195-11 hereof, or impair the right of the complaint officer to take any action which is appropriate under law.

(2) During the renewal term, Cablevision shall maintain a local office or agent in or near the borough for the purposes of receiving, investigating and resolving all complaints regarding the quality of service, equipment malfunctions and similar matters. Such local business office shall be open during normal business hours and in no event less than 9.00 a.m. to 5:00 p.m., Monday through Friday.

(3) Before sending out any questionnaire which will go to subscribers in the borough with respect to subscriber experiences, preferences or views, Cablevision shall provide the borough reasonable

notice of its contemplation of doing so and shall provide the borough or its designee a reasonable opportunity to suggest revisions or matters for inclusion. After receiving the responses to such questionnaires, Cablevision shall, upon request, provide the borough or its designee with access to any summaries or compilations of or based upon such responses.

C. Local access and originating cable casting. Cablevision shall provide access time to noncommercial public, governmental and educational entities to the extent such access was promised to the borough during the application process.

D. Compliance with law. Notwithstanding any specific mention of applicable federal or state statutes or regulations above, Cablevision shall comply with all of the requirements of the Federal Act, the federal regulations, the State Act and state regulations (to the extent not preempted) and any other valid statute, regulation, rule or promulgation, specifically including, but without limitation, those relating to equal employment opportunity.

§ A195-10. Construction requirements.

A. Restoration. In the event that Cablevision or its agents shall disturb any pavement, street surfaces, sidewalks, driveways or other surfaces in the natural topography, Cablevision shall, at its sole expense, restore and replace such places or things so disturbed in as good condition as existed prior to the commencement of said work.

B. Relocation. If at any time during the period of this consent the borough shall alter or change the grade of any street, alley or other way or place, Cablevision, upon reasonable notice by the borough, shall, at

Cablevision's expense, remove, relay and relocate its equipment.

C. Temporary removal of cables. Cablevision shall, upon request of the borough, at the expense of Cablevision, temporarily raise, lower or remove its lines in order to facilitate the moving of buildings or machinery or in other like circumstances, subject to the prior approval of the Board. The expense shall be borne by the party requesting such action except when requested by the borough, in which latter event Cablevision shall bear the cost.

D. Removal or trimming of trees. During the exercise of its rights and privileges under this franchise, Cablevision shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the borough so as to prevent the branches of such trees from coming in contact with the wires and cables of Cablevision. Such trimming shall be performed only after approval by the Shade Tree Commission of the borough and only to the extent necessary to maintain proper clearance for the wires and cables. Notwithstanding the foregoing, in the event of an emergency, Cablevision need not obtain prior approval of the Shade Tree Commission but need only give notice as soon thereafter as reasonably possible of the emergency work performed.

E. Removal of facilities. Upon expiration, termination or revocation of the franchise and any subsequent renewal thereof, Cablevision, at its sole cost and expense and upon direction of the Board, shall remove the cables and appurtenant devices constructed or maintained in connection with the services authorized herein unless Cablevision, its affiliated entities or assignees should, within six months after such expiration, termination or revocation obtain certificates from the Federal Communications Commission (FCC) to operate an open video system or any other federal or state

certification to provide telecommunications services or the borough requests and Cablevision and the borough agree with OCT's approval upon terms for leaving the facilities or a portion thereof in place.

§ A195-11. Municipal complaint officer.

The OCT is hereby designated as the complaint officer pursuant to N.J.S A. 48:5A-26b. All complaints by local subscribers shall be received and processed in accordance with N.J.A.C. 14:17-6.5.

§ A195-12. Programming.

Although nothing herein shall require Cablevision to carry or transmit any particular television stations or programming source, Cablevision shall provide the subscribers in the Borough of Demarest with at least the same broad categories of programming, in approximately the same quantity, as are now provided, or to the extent which they are subsequently expanded and which appear in the application.

§ A195-13. Performance bond.

To secure its faithful performance of its obligations under a renewal of the franchise during the renewal term, Cablevision shall provide a performance bond in the penal sum of $25,000. Such bond shall specifically secure the faithful performance of all undertakings of Cablevision as represented in the application and in the commitments. The borough reserves the right by resolution to require a reasonable increase in the amount of said bond, subject to review by the OCT and approval by the Board of Public Utilities.

§ A195-14. Rates.

A. The borough will not regulate the rates that Cablevision may charge subscribers for its service, provided that in the event that the Federal Act and other applicable law hereafter is amended to permit the exercise of regulatory power over rates by municipalities, the borough reserves the right to exercise the maximum power permitted by law.

B. Cablevision shall continue to provide not less than the installation of one outlet in basic monthly service to each school (and/or library) in the borough free of charge. Each additional outlet installation shall be paid for by the institution on a materials plus labor basis. Monthly service on additional outlets shall be charged at the regular tariff rates for additional outlets.

§ A195-15. Emergency uses.

Cablevision shall be required to have the capability at the headend to override the audio portion of the system in order to permit the broadcasting of emergency messages by the borough. Cablevision shall in no way be held liable for any injury suffered by the borough or any other person during an emergency if for any reason the borough is unable to make full use of the cable television system as contemplated herein.

§ A195-16. Liability insurance.

Cablevision shall at all times maintain and keep in full force and effect at its sole expense sufficient comprehensive general liability insurance naming the Borough of Demarest as an insured and insuring against loss for any death, personal injury, property damages or other liability arising out of its construction or operation of the cable television system, in the minimum amounts of:

A. General liability: $1,000,000/$3,000,000.

B. Excess liability: $10,000,000/$10,000,000.

§ A195-17. Incorporation of application.

A. All of the statements and commitments contained in the application and any amendment thereto, or otherwise submitted in writing by Cablevision to the borough, except as modified herein, are binding upon Cablevision as terms and conditions of this consent. The application and any other relevant writings submitted by Cablevision shall be kept on file in the office of the Borough Clerk and shall by reference be made a part of this consent ordinance as long as they do not conflict with state or federal law.

B. In the event that the borough approves or permits a cable television system to operate in the Borough of Demarest on terms more favorable or less burdensome than those contained in this consent ordinance for Cablevision's franchise, such more or less burdensome terms shall be applicable in this franchise, pursuant to approval of a petition to OCT as provided for under N.J.S.A. 48:5A-15 and N.J.A.C. 14:17-6.7.

C. In the event that a nonfranchisable multichannel programmer provides service to subscribers of the borough, Cablevision shall have a right to petition the Board for franchise amendments that relieve Cablevision of regulating burdens that create a competitive disadvantage to Cablevision. Such petition shall identify the nonfranchised competitor; detail the provisions of its franchise that place it at a competitive disadvantage and the manner in which those provisions place Cablevision at a competitive disadvantage; and identify the regulations to be amended or repealed (and only the minimum amendments required to eliminate its competitive disadvantage without giving Cablevision a competitive advantage) in order to eliminate the competitive disadvantage. The borough shall review the

petition and shall determine whether it shall grant its consent to the petitions based upon the best interests of the borough and the subscribers in Demarest.

§ A195-18. Service to schools.

When and if Cablevision provides high-speed cable modem service, one cable modem with Internet access will be provided free of charge to each school in the borough.

§ A195-19. System maintained as technologically current.

Cablevision agrees that the capabilities of the system shall be maintained as technologically current throughout the duration of the franchise as compared with Cablevision's New Jersey systems of comparable size, measured by the number of subscribers in the system, and to the extent economically reasonable. Cablevision shall make Internet service available to residents of the borough to the extent that it is made commercially available by Cablevision, on other than a trial or test basis, elsewhere on the cable system. Notwithstanding the foregoing, nothing herein shall obligate Cablevision to perform a rebuild of the system.

§ A195-20. Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court or federal or state agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

§ A195-21. Consistency with future federal and state statutes, regulations, rules and orders.

Should any of the federal or state statutes, regulations or pronouncements applicable to the regulation of cable television be modified in any way, such modifications, to the extent they embody required terms and conditions and meaningfully can be incorporated into this ordinance, shall be so incorporated, consistent with any applicable effective dates specified in such modification. To the extent that any such modification places limits on permissible terms and conditions, and any provision of this ordinance becomes invalid by virtue of such modification, the preceding § A195-20 shall apply

§ A195-22. Repealer.

Any ordinance or part thereof inconsistent with this ordinance is repealed to the extent of the inconsistency.

§ A195-23. Expiration and subsequent renewal.

If Cablevision seeks a successive consent, it shall, prior to the expiration of this consent, apply for a municipal consent and certificate of approval in accordance with the Cable Television Act, N.J.S.A. 48:5A-11 and 48:5A-16 and applicable state and federal rules and regulations. Cablevision shall also petition the Board of Public Utilities, if required under OCT rules, for a certificate of approval authorizing continued operation during the period following expiration of the consent granted herein and until such a time that a decision is made by the Mayor and Council of the borough relative is to the renewal of said consent.

§ A195-24. Effective date of consent.

The municipal consent shall be effective as of the date upon which the OCT issues the certificate of approval in accordance with N.J.A.C. 14:18-11.20.

DISPOSITION LIST

DISPOSITION LIST

The following is a chronological listing of legislation of the Borough of Demarest adopted since January 1, 2004, indicating its inclusion in the Code or the reason for its exclusion. Consult municipal records for prior legislation.

Ord. No.	Adoption Date	Subject	Disposition
882	2-23-2004	Zoning amendment	Ch. 175
883	2-23-2004	Uniform fire code amendment	Ch. 98, Art. II
885	5-17-2004	Vehicles: residential permit parking	Ch. 167
889	11-22-2004	Defense and indemnification amendment	Ch. 14
900	11-22-2004	Fees for records amendment	Ch. 44
903	3-21-2005	Fire prevention: miscellaneous provisions amendment	Ch. 98, Art. I
916	7-25-2005	Vehicles and traffic amendment	Ch. 166
917	7-25-2005	Flood hazard control amendment	Ch. 100
919	12-19-2005	Police department amendment	Ch. 40
920	11-28-2005	Hazardous wastes	Ch. 98, Art. III
925	4-17-2006	Stormwater management	Ch. 149