

COMMON COUNCIL ORDINANCE COMMITTEE

REGULAR MEETING

May 21, 2019
7:00 p.m. – Room 231
Norwalk City Hall-125 East Avenue
Norwalk, CT

AGENDA

- 1. ROLL CALL**
- 2. PUBLIC HEARING (possible action on):**
 - Discuss and vote on Code of Ethics Section 32-12(E)(1)(a) - Review of complaint
 - Discuss and vote on Code of Ethics Section 32-12(E)(1)(b) – Appointment of Investigating Panel
 - Discuss and vote on Code of Ethics Section 32-12(E)(2)(c) - Investigation of Probable Cause; Confidentiality of Initial Proceedings
- 3. PUBLIC HEARING DISCUSSION:**
- 4. PUBLIC COMMENT**
- 5. ACCEPTANCE OF MINUTES:**
 - April 16, 2019 - ordinance committee meeting
- 6. OLD BUSINESS:**
 - Discuss Code of Ethics Section 32-1 – Title; administration
 - Discuss Code of Ethics Section 32-2 – Declaration of policy
 - Discuss Code of Ethics Section 32-3 – Definitions
- 7. NEW BUSINESS:**
 - Discuss Chapter 42A – Inspections by Fire Marshal – Abatement of Fire Hazards
 - Discuss Use of Single-Use Plastic Straws and Stirrers by Food or Beverage Establishments
- 8. DISCUSSION ITEM:**
- 9. ADJOURNMENT**

Code of Ethics – Public Hearing

Section 32-12(E)(1)(a) – Review of Complaint

Section 32-2(E)(1)(b) – Appointment of Investigating Panel

Section 32-3(E)(2)(c) – Investigation of Probable Cause; Confidentiality of Initial Proceedings

B.

- B. No ~~a~~Agency shall employ any ~~i~~Individual who has served as an ~~officer~~Officer of the ~~a~~Agency during the preceding 18 months or any ~~immediate family~~Immediate Family member of an ~~i~~Individual who has served as an ~~officer~~Officer of the ~~a~~Agency during the preceding 18 months. No ~~officer~~Officer of an ~~a~~Agency or any ~~immediate family~~Immediate Family member of an ~~officer~~Officer of an ~~a~~Agency shall apply for or accept employment by that ~~a~~Agency during the time that said ~~officer~~Officer is serving for the ~~a~~Agency and for a period of 18 months after said ~~officer~~Officer ceases to serve in the ~~a~~Agency.

§ 32-12. Board of Ethics.

A.

- A. Appointment of members. The Board of Ethics shall be comprised of five full members and two alternate members, each of whom shall be electors of the City of Norwalk. No more than two of the members of the Board and one of the alternates shall be registered members of the same political party, and no member of the Board of Ethics shall be an ~~employee~~Employee or ~~officer~~Officer of the City. Except for the original appointments, replacement members shall be appointed each year after the effective date of the enactment of this chapter to serve for terms of three years. ~~At the origination of the Board of Ethics after the first effective date of this amendment to Chapter 32, the Common Council shall appoint: two members and one alternate for three-year terms, two members for two-year terms and one member and one alternate for one-year terms. All council appointments to the Board of Ethics shall require the affirmative vote of 11 members of the Common Council.~~^[KM14]

B.

- B. Organization. The Board of Ethics shall elect a Chairperson. The Board shall keep minutes of its meetings, which shall be filed in the office of the City Clerk, and the Board shall hold meetings at the call of one member of the Board and at such times as a majority of the Board may determine. Four members present, including sitting alternates, shall constitute a quorum in order for the Board of Ethics to conduct official business. An alternate serving in place of an absent member of the Board shall have all of the powers and responsibilities as a full member during the meeting at which such alternate member shall sit.

C.

- C. Powers and duties. ~~The powers and duties of the Board of Ethics shall include rendering advisory opinions, investigation of complaints, hearings on complaints, notification of- to the Mayor, City Clerk, Corporation Counsel and any other public Officer as it deems appropriate of its memorandum of decision on any complaint, annual reports to the Mayor, Common Council, and Corporation Counsel on its activities and recommendations, and annual educational programs on the Code of Ethics for municipal Officers, Employees, and agencies on the Code of Ethics.~~^[KM15] Further, the Board of Ethics shall promote a public culture and operating environment of high ethical standards throughout the City of Norwalk, by education, and informing and encouraging City officials, Employees, residents and vendors of the City of Norwalk to become aware of the Code of Ethics, and to ensure that their public actions and activities are in compliance with the Norwalk Code of Ethics. ~~and high ethical standards.~~^[KM16]

~~Further, the Board of Ethics shall promote a public culture and operating environment of high ethical standards throughout the City of Norwalk, by education, and informing and encouraging City officials, Employees, residents and vendors of the City of Norwalk to become aware of the Code of Ethics, and to ensure that their public actions and activities are in compliance with the Norwalk Code of Ethics, and high ethical standards.~~ [KM17]

~~D. (1)~~ [KM18]

D. Advisory opinions. The Board, when requested to do so in writing by any ~~officer~~Officer, ~~employee~~Employee, ~~a~~Agency, or member of the public, or upon its own motion, may render advisory opinions concerning ~~officer~~Officers and ~~employee~~Employees and other issues with respect to this Code of Ethics. Such advisory opinion shall be binding on the Board, until amended or revoked, and reliance on a controlling advisory opinion in good faith is an absolute defense in any action or proceedings brought under the provisions of this Code of Ethics. Within 120 days of valid receipt of the request, the Board shall render its advisory opinion, or act not to consider such request, and shall file such opinion or action ~~The Board shall file said advisory opinion~~ with the office of the City Clerk, and such advisory opinions shall be available to the public. The advisory opinion so filed may contain such deletions as may be necessary to prevent disclosure of the identity of the ~~officer~~Officer or ~~employee~~Employee involved, if agreed to by both the ~~i~~Individual involved and the Board.

~~E. (2)~~ [KM19]

E. Probable cause hearings and subsequent procedures.

~~— (1) (a)~~ [KM20]

(1) Filing of the complaint; notification and amendment.

~~— (a) (1)~~ [KM21]

—Any ~~p~~Person, including a member of the Board of Ethics, may submit a written complaint, in a form prescribed by the Board of Ethics and signed under penalty of false statement, alleging a violation of this Code of Ethics by an ~~officer~~Officer or ~~employee~~Employee or an ~~i~~Individual who was an ~~officer~~Officer or ~~employee~~Employee within the preceding year. The complaint shall contain the specific act or acts which allegedly constitute the violation.

(a) Review of complaint

Upon receipt of a complaint, the Board of Ethics shall review the complaint and determine whether it warrants acceptance. If the Board of Ethics determines that acceptance is not warranted by a majority of the members present at the meeting, then it shall notify the complainant that it has refused to accept the complaint without establishing an Investigating Panel. If the Board of Ethics refuses to accept a complaint, it shall issue a written explanation of the reasons for such rejection.

The Board of Ethics may refuse to accept a complaint. The conduct which the Board of Ethics relies on to make such a decision shall include, but not be limited to: (a) the number of complaints filed and the total number of pending complaints; (b) the scope of the complaint; (c) the nature, content, language or subject matter of the complaint; (d) the nature, content, language or subject matter of other oral and written communications to the Board of Ethics from the complainant; and (e) a pattern of

conduct that amounts to an abuse of the ethics complaint process or an interference with the operation of the Board of Ethics.

Upon the rejection of a complaint, if the Board of Ethics makes a finding that the complaint was vexatious and brought in bad faith it may provide appropriate relief commensurate with the conduct, including but not limited to, an order that the Board of Ethics need not accept future complaints from the filer for a specified period of time.

(b) Appointment of Investigating Panel

~~— [2] (b) [KM22]~~

~~— Upon receipt of said complaint by the Board of Ethics members and subject to 32-12(e)(1)(a), an Investigating Panel investigating panel will be appointed, within 21 days, after the next regularly scheduled Board of Ethics meeting. consisting of three individuals who are electors of the City of Norwalk. The members of the Investigating Panel [KM23] investigating panel shall not be officer Officers or employee Employees from the a Agency at which the i Individual(s) alleged to be involved in the facts of the complaint currently serves or formally served within one year as officer Officers or employee Employees. The Investigating Panel investigating panel members may delete, defer or reject any part of a complaint that does not conform to the requirements specified by the Board of Ethics. If any member of the Board of Ethics initiates or is involved in a complaint, he or she will recuse himself or herself from the Board of Ethics for the purposes of that complaint, including the appointment of the Investigating Panel investigating panel and any- hearing board Hearing Board, and an alternate of the Board shall serve in his or her place as to all further proceedings on that complaint.~~

(c)

~~[3] (2) [KM24]~~ Investigation of Complaint, Notification of Parties, Investigating Panel

(2)

(a) ~~(a)~~ Notification of Parties. The Board of Ethics shall notify, by registered or certified mail, or by personal service by a ~~State~~ State Marshal sheriff, constable or indifferent p Person, any Respondent(s) respondent against whom a complaint is filed not later than 10 business days after the Investigating Panel investigating panel is formed. A copy of such complaint, the name of the Complainant(s) complainant(s) and any subsequent changes to the complaint shall accompany such notice. The Board shall also notify the complainant in writing of its receipt of such complaint not later than 10 business days after the Investigating Panel investigating panel is formed.

~~— [4] [KM25]~~

(b) ~~(b)~~ Supplementation Expansion of Complaint by Investigating Panel. Subsequent to the filing of the original complaint, the Investigating Panel investigating panel or the Board of Ethics may, at its discretion, supplement expand any complaint filed with the Board of Ethics to include other violations which it reasonably suspects to have occurred, based on allegations in the original complaint. Any such supplementation expansion shall be in writing, and a copy shall be sent by registered or certified mail, or by personal service by a ~~State~~ State Marshal sheriff, constable or indifferent p Person to the respondent Respondent(s) and Complainant(s) complainant within seven days of such amendment.

~~— (b) (c) [KM26]~~

(c) Investigation of pProbable eCause; Confidentiality of Initial Proceedings. The Investigating Panel ~~investigating panel~~ members shall investigate the complaint and any expansion ~~supplement~~ thereto. For this purpose, hearings and meetings may be held to determine whether or not there is pProbable eCause to believe that the respondent has violated the Code of Ethics. Any investigation and pProbable eCause hearing, if held, shall be confidential and shall not be open to the public unless the Respondent ~~respondent~~ requests that such investigation and hearing be open. Request by the Respondent for a public hearing shall waive the confidentiality requirement of the investigation and hearing. Pending the outcome of the pProbable eCause hearing, no member of the Board of Ethics or Investigating Panel ~~investigating panel~~ shall disclose his or her knowledge of the pProbable eCause investigation to a third party. By filing a complaint with the Board of Ethics, the Complainant shall be bound by the requirement of confidentiality. A violation of the requirement of confidentiality by the Complainant, whether direct or indirect, shall be grounds, at the discretion of the Board of Ethics, to dismiss the complaint and may be grounds to ban the Complainant from filing complaints in the future. The Respondent ~~respondent~~ shall have the right to appear and be heard and to offer any information by way of answer or denial of the allegations. The Respondent ~~respondent~~ may be represented by counsel of his or her choice in the pProbable eCause hearings before the Investigating Panel ~~investigating panel~~. The Investigating Panel ~~investigating panel~~ may, in its discretion, hear testimony or take written statements from the Complainant ~~complainant~~ and any other witnesses it deems necessary to its investigation. The Investigating Panel ~~investigating panel~~ may retain counsel or investigators to assist it in the pProbable eCause hearing process.

— Finding of Probable Cause, Written Report, Hearing Before

(d)

— (i) Finding of Probable Cause. ~~(c)~~ [KM27]

— ~~Finding of probable cause and hearings before an ethics hearing board.~~

— (d) [1] Finding of Probable Cause, Written Report, Hearing Before

(i)

— (i) Finding of Probable Cause. A decision regarding pProbable eCause shall be made by the Investigating Panel ~~investigating panel~~ within 60 days after the date that the Board of Ethics served notice of the formation of the Investigating Panel ~~investigating panel~~ to the Respondent ~~respondent~~ and ~~Complainant~~ ~~complainant~~. A finding that pProbable eCause to believe that the Respondent ~~respondent~~ has violated the Code of Ethics exists shall require two concurring votes from the members of the Investigating Panel ~~investigating panel~~.

(ii)

(iii) ~~(ii)~~ Written Report of Investigating Panel; Public Hearing Before Hearing Board. If the ~~Investigating Panel~~ determines that there is pProbable eCause that the Respondent ~~respondent~~ has violated the Code of Ethics, it shall submit a written report to the Board of Ethics stating the basis for the finding of pProbable eCause. Upon receipt of the report of the Investigating Panel ~~finding probable cause~~, the Board of Ethics shall appoint a Hearing Board, which shall initiate a public hearing process within 30 days, to determine whether the Respondent(s) ~~respondent(s)~~ committed a violation of the Code of Ethics. In any public hearing held to determine a violation of the Code of Ethics, the Investigating Panel members shall have the responsibility of gathering and presenting evidence to the Hearing Board. [KM28]

**Draft Meeting Minutes from
the 4/16/2019 Ordinance
Committee Meeting**

**CITY OF NORWALK
ORDINANCE COMMITTEE
REGULAR MEETING
APRIL 16, 2019**

ATTENDANCE: Eloisa Melendez, Chair; Tom Livingston; Chris Yerinides; Beth Siegelbaum; Colin Hosten; Darlene Young; Michael Corsello ; Doug Hempstead (arrived at 7:30PM)

STAFF: Attorney Brian Candela, Corporation Counsel

OTHERS: Michael Church; Kara Murphy; Nora Niedzielski-Eichner; Herald Williams

1. ROLL CALL

Ms. Melendez called the meeting to order at 7:02PM.

2. PUBLIC HEARING (possible action on):

Ms. Melendez opened the public hearing at 7:03PM.

- Discuss and vote on Chapter 68- Noise Ordinance

Tracey Dinkin- 327 Flax Hill Road

Ms. Dinkin stated that the noise over the past 5 to 6 years has become almost unbearable and recently her husband began working from home and there are times that he receives a business phone call and can't hear on the phone. She said a lot of the noise comes from Fodor Farm which has gotten better over the past year because they have been calling and complaining and people have finally been paying attention. She said the noise level has

gotten out of control and it's not just volume or decibels but its duration and it interferes with the quality of life.

John Ryan- 327 Flax Hill Road

Mr. Ryan stated that he has read over the draft ordinance and asked how it will be enforceable and their biggest problem is the endless landscaping that goes on. He gave an example of leaf blowers running from 8:00AM until 1:00PM in the afternoon and there is nothing in the ordinance that refers to that kind of noise. It is the intensity and duration of the noise and he could deal with it if it were every once in awhile but they live in an area where everyone has a landscaping service which is creating an incredible amount of noise for 14 hours a day, and as far as he can see is not regulated by the ordinance. A lot of communities have outlawed the use of leaf blowers and this is a quality of life issue for them and don't know how much longer they will be able to stay in Norwalk if this is what they will have to deal with for 14 hours a day 7 days a week.

Vernon Howard- 110 Washington Street

Mr. Howard stated if he had known that he would have had to learn about decibels, noise ordinances or any of that kind of thing he would not be here today and would not have purchased his home. No one should have to purchase a home and find out later that it is not conducive to living and that you would be subject to 60-80 decibels 24 hours a day 7 days a week and it shouldn't be allowed. We did not expect to have to wear earplugs to bed or would have to wear headphones to listen to their television. He said that it has gotten better over the last couple of years but when they had first moved in the noise was horrible. He asked that this ordinance gets pushed forward to the Common Council for approval.

Dana Laird- 214 Highland Avenue

Ms. Laird stated that she had gotten used to the rock crusher on Rockland Road and the endless leaf blowers but when they began using the hoe ram on the ledge that hers and two other homes were built on and went on for over a year. There is a large amount of suffering for so little that had gotten accomplished and was terrible for the whole neighborhood.

Lynn Stephens Massey- 36 Meeker Court

Ms. Massey read the mission statement of the noise ordinance as it currently exists and said it states the hours are Monday through Friday from 7:00AM to 8:00PM that noise may be run. She said the noise around her home is intolerable and beyond the quality of life and is not healthy. She said when she goes to the beach which is two miles away and

she can still hear the hoe ram. There are problems with the mission statement of the ordinance because thirteen hours of noise is intolerable and there should be no construction noise or leaf blowing allowed on the weekends. She said her street is now a rock quarry and there is no natural life, ecology or environment and is within the Planning and Zoning of Norwalk.

John Flynn

Mr. Flynn stated that he lives three blocks from the stone crusher on Meadow Street and he has kept a running log for the past two years and the noise has been at 68 decibels inside his home and outside is over 90 decibels. He said that nine noise complainants were received within three hours and there was never a police report made and there are over 12 noise complaints made on average every Saturday for over a year with no police report ever made.

Elizabeth Greenwood- 71 Osborne Avenue

Ms. Greenwood she lives a half mile from East Norwalk Railroad Station where the Walk Bridge construction work is currently taking place and the noise begins at 6:00AM and is extremely annoying. She also stated that City Carting picks up the garbage at 2:00AM and there should be something included in the ordinance.

Matt Mayida- 118 Washington Street

Mr. Mayida stated that he had moved to Norwalk from Florida and did his entire search online to find an apartment and was very much misled by his landlord regarding the sound levels on Washington Street, and is so frustrated that he is now moving out of Norwalk because of the ignorance of the bar owners on Washington Street. He said he has chosen if he goes out at night he will not go out in Norwalk and he will spend his economic dollars elsewhere because of it.

Diane Lauricella

Ms. Lauricella stated that she was disappointed that a decision was made that the Health Department or the Zoning Enforcement people have been pulled out of the investigation part of the ordinance. She still thinks that the Health Director the resources they need in order to assist and get them the training and staff they need to properly enforce the ordinance during the day during the week and rely on the police department mainly on nights and weekends. There is a special appropriation that will be needed to begin training immediately and to purchase the needed equipment. There needs to be a concerted effort of public outreach with citizens and business's and made specific suggestions in the ordinance which including adding recycling, food and textile pickup

under the restricted uses and activities; nothing before 7:00AM; under the prohibited activities to add additional restrictions including nothing until on Sunday until noon and also suggested a meeting be held regarding the landscape industry; and to look at designating noise sensitive zones. Reach out to specific industry like dumpster companies for demolition, and solid waste and landscape crews and that in the past the zoning and planning commissions create a lot of the problems without the mindfulness they need for subdivision assignment and the Building Department must get involved before they give out certificate of occupancy because the point of the noise ordinance is to keep it in your own home and to yourself. She requested that an emergency meeting take place where the current noise enforcement laws are discussed with the police and the Economic Development Chief is included and ask the police why they are not writing up the noise complaints.

Ms. Melendez closed the public hearing at 7:33PM

3. PUBLIC HEARING DISCUSSION

Mr. Livingston said that he agreed with Ms. Massey about the noise from Meeker Court, which both said could be heard at Bayley Beach and that it is unbearable and there is no excuse for it, it shouldn't be allowed to happen, and he thinks we understand that construction has to go on in the city but I think that there's a balance of health and safety issues with the need for construction. He suggested amending section 78-6 to include after the appropriate permits have been obtained site work in a residential zone, noise sensitive zone or mixed use shall be limited to the week days other than state or federal holidays from 8:00AM to 5:00PM. Mr. Hempstead questioned the efficacy of allowing residents but not contractors to work on their lawns on weekends because residents can also buy loud equipment. Mr. Hosten said that quieter leaf blowers are available. Mr. Hempstead also asked about emergency work and what the methodology is for exempting it. Attorney Candela suggested contacting the Health Director. Mr. Hosten asked if landscaping work would be included. Mr. Hempstead said it is mainly for heavy duty construction work. Mr. Hosten said that he agrees in principal that heavy commercial equipment that it is fair and not onerous to restrict the hours on Monday through Fridays from 8:00AM to 5:00PM with the exception of holidays. Mr. Corsello said that he is concerned about stifling the city's growth and that all development is going to be more costly. Mr. Hosten said the question ultimately asks what the price tag is that we place on people's health. Mr. Corsello said that he recognizes the problem but the solutions are just very complicated. Mr. Hempstead requested getting the opinion of some commercial businesses and how it will affect their business. There was discussion regarding the

construction of The SoNo Collection mall on West Avenue and that is happening outside of the hours allowed by the present ordinance. There were concerns by the committee regarding residential areas abutting light industrial zones need to be dealt with later. Mr. Livingston suggested moving the ordinance forward to include residential and special zones. Ms. Young said that she disagrees and that the folks in South Norwalk have been dealing with this issue for quite a long time and she thinks it's a good thing that the council is at this point of really addressing the issue, and thinks it should just be in there somehow. Ms. Melendez said after the ordinance is approved by the Common Council it will need to be sent to the DEEP to be approved before it can go into effect and she does not know how long that will take. Mr. Hempstead said that it can also be tweaked once it is moved forward and suggested in the meantime the committee meet with the zoning officials to fine tune it.

**** MR. LIVINGSTON MOVED TO APPROVE AFTER THE APPROPRIATE PERMITS HAVE BEEN OBTAINED SITE WORK IN RESIDENTIAL AREAS AND NOISE SENSITIVE ZONES THAT INCLUDE ANY ACTIVITIES INVOLVING THE USE OF HEAVY EQUIPMENT BUT NOT LIMITED TO HYDRAULIC POINT BREAKING OF ROCK, PAVEMENT BREAKING, JACK HAMMERING, PILE DRIVING, EXCAVATION AND ACTIVITIES RELATED TO THE PROCESSING OF EARTH AND ROCK SUCH AS SCREENING SPLITTING AND CRUSHING, REMOVAL OF MATERIALS AND FILLING. SHALL BE LIMITED TO THE WEEKDAYS MONDAY THROUGH FRIDAY OTHER THAN STATE OR FEDERAL HOLIDAYS BETWEEN THE HOURS OF 8:00AM. TO 5:00PM. DURING THE PERMITTED HOURS SITE WORK ACTIVITIES ARE EXEMPT FROM THE LIMITS IN SECTION 68-5 SUBSECTION A CITY WORK EXCLUDED.**

**** THE MOTION PASSED UNANIMOUSLY**

There was a discussion regarding the use of leaf blowers and Ms. Melendez said that Greenwich has banned leaf blowers. Mr. Corsello said he would like to hear public input on the restricted uses and activities for not being able to hire a landscaper on the weekends. Mr. Hosten said it is the same as the noise level on Washington Street and that they are not outlawing music just telling people to sound proof and we are not telling people they can't use a leaf blower but some of them are very loud. Mr. Corsello said he is not in favor of eliminating the use of leaf blowers on Sundays and it seems very drastic and objected that lawnmowers wouldn't qualify under the noise limits and if you want to be drastic, tell people they can't mow their lawns anymore which will also become a blight issue. Mr. Hempstead said he agrees but would be in support of more restrictive hours on Sundays. Mr. Livingston said he thinks there should be different rules for residents and commercial usage. Mr. Hempstead requested to fact check with Public

Works. Mr. Hosten said the ordinance is not perfect but it's an improvement and it's a way to move it forward

**** MR. LIVINGSTON MOVED TO APPROVE AN AMENDMENT EXCLUDING EMERGENCY WORK POWER TOOLS, LANDSCAPING AND OR YARD MAINTENANCE EQUIPMENT USED BY NON-RESIDENTIAL OPERATORS SHALL NOT BE OPERATED ON A RESIDENTIAL COMMERCIAL OR INDUSTRIAL PROPERTY BETWEEN THE HOURS AT 6:00PM AND 8:00AM ON WEEKDAYS AND THE HOURS OF 6:00PM AND 9:00AM ON WEEKENDS OR FEDERAL HOLIDAYS UNLESS SUCH ACTIVITIES CAN MEET THE LIMITS SET FORTH IN TABLES TWO OR THREE AND AT ALL OTHER TIMES THE LIMITS SET FORTH IN TABLES TWO OR THREE DO NOT APPLY. ALL MOTORIZED EQUIPMENT USED IN THESE ACTIVITIES SHALL BE OPERATED WITH A MUFFLER AND OR SOUND REDUCTION DEVICE.**

**** THE MOTION PASSED UNANIMOUSLY.**

**** MR. LIVINGSTON MOVED TO APPROVE THE FOLLOWING CHANGES:**

On footnote number two on table three change the wording to for the purposes of applying table three with regard to WSSD only daytime hours are extended up to: A 10:00PM on Sunday- Wednesday; B. 11:00PM on Thursday; and C. 1:00AM on Friday and Saturdays before Federal and State holidays.

68-10 civil penalty has been changed to fine. In section 68-10D instead of "and" in section one and two it has been changed to "or".

68-10C-1 Change to Upon the initial violation written warning notice that a violation has occurred shall be issued and no fine shall be imposed for the initial violation

68-10C-2 Second offense by a fine of \$100

68-10-3 Third offense and subsequent offenses by a fine of \$250

68-10-4 Each day that a violation exists shall constitute a separate violation of this chapter and no more than one fine shall be imposed in one 24 hour period.

Mr. Corsello asked if there is a provision if somebody wants to contest. Attorney Candela said "no" but they do have the due process right to contest or go to court.

68-15- Change to ten days from the approval of Common Council.

Attorney Candela said that Mr. Zwerling had emailed him a recommended change under impulse sound and to change it from fast impulse or peak to fast and impulse and remove or peak.

**** THE MOTION PASSED UNANIMOUSLY.**

****MS. HOSTEN MOVED TO APPROVE A CHANGE IN SECTION 68-9B FROM CHIEF OF POLICE TO NOISE CONTROL ADMINISTRATOR/OR HIS OR HER DESIGNEE, INSERT PROBABLE CAUSE AND CHANGE TO GENDER NEUTRAL THROUGHOUT THE NOISE ORDINANCE.**

**** THE MOTION PASSED UNANIMOUSLY**

****MR. LIVINGSTON MOVED TO REMOVE THE WORD PRESSURE UNDER THE IMPULSIVE SOUND SECTION OF THE NOISE ORDINANCE.**

**** THE MOTION PASSED UNANIMOUSLY.**

**** MR. LIVINGSTON MOVED TO APPROVE FORWARDING THE NOISE ORDINANCE AS AMENDED TO THE NEXT COMMON COUNCIL MEETING FOR APPROVAL.**

**** THE MOTION PASSED UNANIMOUSLY.**

4. PUBLIC COMMENT

Diane Lauricella

Ms. Lauricella thanked the committee for their thoughtful responses to the noise ordinance. She said over the years there has been a lot of good effort to amend the structure and process of Code of Ethics and she urged that there be a robust public outreach done.

John Flynn

Mr. Flynn stated that he has filed 13 ethics complaints since October 24th and that his son was strangled in his driveway and a police report was never filed and it is obvious to

him that the changes that are being proposed that he is a vexatious and he is opposed the Attorney Candela making the changes.

Ann Frimmet- 30 Dock Road

Ms. Frimmet stated that she has lived in Norwalk for 26 years and the noise has been a problem. Residents and the city have to work together to make things right.

Elizabeth Greenwood- 71 Osborne Avenue

Ms. Greenwood stated as a disabled person it is not easy to obtain an ethics document to file and there should be more simplicity for people who are or who not disabled.

Emma Susacky- FD Rich Co.

Ms. Susacky stated that they are deeply invested in Norwalk and based on their experience out of control noise in any neighborhood does not work and most people think of SONO as a retail/restaurant/ entertainment district and that it is but what doesn't seem to be highlighted is that it has become home to a community of over 600 residents who have the right for a peaceful night's sleep and the allowable decibels level that is included in the proposed ordinance is widely accepted in cities all over the country and will not put anyone out of business but give law enforcement the tools it needs. She urged the committee to forward the ordinance to the Common Council for a swift approval.

5. ACCEPTANCE OF MINUTES

**** MS. YERINIDES MOVED TO APPROVE THE MINUTES.**

**** THE MOTION PASSED UNANIMOUSLY.**

6. OLD BUSINESS

- Discuss Code of Ethics Section 32-12 (E) (1)(a)- Review of complaining; vexatious filer

Ms. Murphy said in section 32-12E there was language added to deal with Vexatious filers favors and the purpose is to give the committee the opportunity to all of the complaints for when there is a frequent flier before they decide whether they will accept them or not and they think it is necessary based on past experience. Mr. Church said all complaints will also be reviewed but the change is so there is no abuse to the system. Mr. Church said they take that seriously and he thinks sometimes in the political arena, people don't take that as serious and think, and use the Ethics Board as a weapon, which wastes time and impedes work on legitimate complaints. Mr. Church said years ago, in a different town, people would announce that they were going to file an ethics complaint and then not do it or do it after an election. The proposed changes were modeled largely after the state's ethics statute, and the Board also studied ethics ordinances in other towns, including Stamford and Danbury. Mr. Williams said It's not like we're receiving an overwhelming amount of complaints, but we are trying to prevent having individuals submit so many complaints that when we do have valid complaints. He said we can't address them because we have a queue of junk.

Mr. Corsello said there are others reason other than a vexatious that the committees can decide not to form an investigatory panel and suggested removing the word vexatious and just call it review of complaint. Mr. Church said ethics complaints should be accompanied by supporting documentation, and if they aren't, the Board would like the discretion not to form an investigative panel, which takes time and prevents consideration of legitimate complaints. We just want to make sure that they don't abuse the system. Ms. Murphy said if it's a legitimate complaint that person should be able to come up with that documentation, as opposed to if somebody using the complaint as a sword to hurt someone without evidence.

**** MR. CORSELLO MOVED TO AMEND SECTION 32-12E1A TO CHANGE THE TITLE FORM REVIEW OF COMPLAINT; VEXATIOUS FILER AND ELIMINATE THE VEXATIOUS FILER AND UNDER PARAGRAPH TWO TO REMOVE FILED BY VEXATIOUS FILER.**

**** THE MOTION PASSED UNANIMOUSLY.**

**** MR. CORSELLO MOVED TO AMEND SECTION 32-12E2B UPON THE REJECTION OF A COMPLAINT IF THE BOARD OF ETHICS MAKES A FINDING THAT THE COMPLAINT WAS VEXATIOUS AND BROUGHT FORWARD IN BAD FAITH MAY PROVIDE APPROPRIATE RELIEF COMMENSURATE WITH THE CONDUCT INCLUDING BUT NOT LIMITED TO, AN ORDER THAT THE BOARD OF ETHICS NEED NOT ACCEPT FUTURE COMPLAINTS FROM THE VEXATIOUS FILER FOR A SPECIFIED AMOUNT OF TIME.**

**** THE MOTION PASSED UNANIMOUSLY.**

- Discuss Code of Ethics Section 32-12(E)(1)(b)- Appointment of Investigating Panel

Ms. Murphy said the changes are: section 32-12(E)(1)(b)- that the consisting of three individual who are electors of the City of Norwalk was removed because it was redundant; the language was changed to an investigating panel will be appointed, within 21 days after the next regularly scheduled Board of Ethics meeting. Attorney Candela said there was a change to the first line to: subject to 32-12(E)(1)(a), an investigating panel will be appointed, within 21 days after the next regularly scheduled Board of Ethics meeting.

- Discuss Code of Ethics Section 32-12(E)(2)(c)-Investigation of Probable Cause; Confidentiality of Initial Proceedings

Ms. Murphy said the existing rules require that complaints be kept confidential and under the planned changes, violation of confidentiality would be grounds to dismiss the complaint and perhaps ban the complainant. The complaints have always been confidential, but as you are all well aware, sometimes these things wind up on the front page of the Norwalk Hour and they are not supposed to so, we put more teeth into the language so there was actual consequence to breaking confidentiality. Mr. Church said if you are serious about making a genuine complaint, you make it, it's confidential but if you are using it as a weapon for public consumption, then it is not intended for us to review and we want to have teeth, that somebody doesn't take it lightly. Mr. Livingston suggested taking out the language that would permanently ban someone from filing a complaint, and leave it at the panel's discretion. Mr. Church said he is comfortable with the discretion and the purpose of the permanent ban is so that people take it seriously. Ms. Murphy said when you file an ethics complaint you are questioning someone's integrity and if someone throws an ethics complaint out there in the public eye and they don't follow through on it, it's going to be hard for that public official sometimes to recover on their reputation. Mr. Hempstead suggested included a not to exceed amount of time. Mr. Livingston said that the board has impressed him throughout this, with their diligence and thoughtfulness and he is comfortable to give them that discretion.

**** MR. LIVINGSTON MOVED TO AMEND SECTION 32-12(E)(2)(c) TO MAY BE GROUNDS TO BAN THE COMPLAINANT FROM FILING COMPLAINTS IN THE FUTURE.**

**** THE MOTION PASSED UNANIMOUSLY.**

**** MR. YERINIDES MOVED TO APPROVE SCHEDULING A PUBLIC HEARING FOR THE NEXT SCHEDULED ORDINANCE MEETING**

**** THE MOTION PASSED UNANIMOUSLY.**

7. NEW BUSINESS

There was no new business discussed this evening.

8. DISCUSSION ITEM

There was no discussion this evening.

9. ADJOURNMENT

**** MR. YERINIDES MOVED TO ADJOURN**

**** THE MOTION PASSED UNANIMOUSLY**

The meeting adjourned at 9:55PM

Respectfully submitted,

Dilene Byrd
Telesco Secretarial Services

Code of Ethics

Section 32-1 – Title; administration

Section 32-2 – Declaration of Policy

Section 32-3 - Definitions

Board-Code of Ethics Revisions through 4-16-19 5/2/2017

Chapter 32. Code of Ethics

[HISTORY: Adopted by the City of Norwalk Common Council 6-26-2007.[1] Amendments noted where applicable.]

GENERAL REFERENCES

Administration — See Ch. 9.

[1] Editor's Note: This ordinance also superseded former Ch. 32, Code of Ethics, adopted 9-12-1967, effective 9-30-1967.

§ 32-1. Title; administration.

This chapter shall be known and referred to as "the Norwalk Code of Ethics." The Common Council of the City of Norwalk shall be charged with the administration of the Norwalk Code of Ethics. Accordingly, there shall be established an independent committee of five members and two alternates to be known as the "Board of Ethics." The Board of Ethics (the Board) shall be appointed by the Common Council and comprised as provided for in § 32-12 of this chapter.

§ 32-2. Declaration of policy.

- A. Public service is a public trust, and the proper operation of the City of Norwalk requires that all City Officers ~~officers-and-~~ Employees ~~employees~~, whether elected or appointed, paid or unpaid, be impartial and responsible to the public. Public office and employment must not be used for unfair personal or financial advantage. The public needs and deserves to have confidence in the integrity of the municipal government of our City.
- B. Officers and Employees ~~employees~~ of the City of Norwalk must refrain from personal, business, and financial activities that adversely affect the individual's fidelity and impartiality, having regard for the nature and scope of their official responsibilities.
- C. In recognition of the aforementioned principles, there is hereby established a Code of Ethics which shall apply for all City Officers ~~officers-and employees~~ Employees.

§ 32-3. Definitions.

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

AGENCY

A board, agency, commission, department or other entity of the City, including but not limited to the Common Council, Board of Education and the Norwalk Public School System.

CLEAR AND CONVINCING EVIDENCE

Sufficient evidence to support the allegation that the Respondent ~~respondent~~ has violated the Code of Ethics, when such evidence is considered fairly and impartially, and induces a reasonable belief in the minds of the ethics- ~~hearing board~~ Hearing Board -members that the allegations are true. Such evidence must indicate to the ethics ~~hearing board~~ Hearing Board -members that the probability that the Respondent ~~respondent~~ has committed the alleged violation is substantially greater than the probability he or she has not.

EMPLOYEE

An individual employed by the City or any of its agencies, whether as a classified ~~employee~~ Employee, unclassified, permanent or temporary, full-time or part-time ~~employee~~ Employee or individual employed by contract on a continuing basis, and all ~~employee~~ Employees of the Norwalk Public School System.

FINANCIAL BENEFIT

Shall mean the receipt of an improper ~~financial benefit~~ compensation, which may include ~~including but is not limited to~~, financial compensation, tangible and intangible Employee benefits, or ~~the award of a municipal contract or grant to a third party or independent contractor, who is an Immediate Family member~~ benefits and/or compensation to an Employee's or Officer's Immediate Family.

HEARING BOARD

Shall be comprised of three members of the Board of Ethics or, in the event of a conflict or vacancy, one or more of the alternates to the Board of Ethics who shall be appointed by a majority vote of the Board of Ethics. In the event the Board of Ethics members have a conflict or an interest in the complaint at issue, the Common Council, by majority vote, may appoint one or more City officials, who are electors of the City of Norwalk, to serve on a ~~hearing board~~ Hearing Board -for that particular complaint. Once impaneled, the ~~hearing board~~ Hearing Board -shall continue to serve until it completes the hearing process specified in this Code of Ethics. No more than two members of a ~~hearing board~~ Hearing Board -shall be registered members of the same political party. The ~~hearing board~~ Hearing Board -shall be permitted to hold a public hearing(s) and to determine whether there is ~~eClear a~~ And ~~eConvincing e~~ Evidence that the Respondent ~~respondent~~ has violated the Code of Ethics.

IMMEDIATE FAMILY

~~Includes, but is not limited to~~, A ~~p~~Person having legal residence or living in an Officer's or Employee's place of residence ("household member") or, in addition to any other definition, any ~~p~~Person who is related to an Officer or Employee, whether by blood, marriage or adoption, including but not limited to, a spouse, child, grandchild, brother, sister, in-law, parent or grandparent, stepparents and stepchildren, or ~~p~~Persons who reside in the same household. ^[(KM1]

INDIVIDUAL

A natural person.

INVESTIGATING PANEL

Shall consist of three individual electors^[KM2], from the City of Norwalk, each of who shall be appointed by the Board of Ethics to investigate an ethics complaint and to determine whether there is a Probable Cause to proceed to a public hearing on such a complaint. No two members of an Investigating Panel ~~investigating panel~~ shall be registered members of the same political party, and at least one member of the Investigating Panel ~~investigating panel~~ shall include an unaffiliated voter.

OFFICER

An individual elected, or appointed to a City office by the Mayor and/or Common Council, including, but not limited to, ad hoc committee members and members of the Board of Education.

ORDINANCE LIST EMPLOYEE

~~_____~~ [Corporation Counsel's office to provide definition]^[HW3] Non-union Employees, including management and confidential Employees.

PERSON

Includes associations, firms, partnerships and bodies politic and corporate, as well as individuals.

PROBABLE CAUSE

A state of facts, which constitutes ~~constituting~~ more than a mere suspicion and establishing that a state of facts is more likely than not to have occurred. To establish a Probable Cause there must be facts and circumstances within the ~~investigating panel~~ Investigating Panel members' knowledge, based upon trustworthy information, sufficient to justify the belief of a reasonable person that a violation of the Code of Ethics has occurred. The Investigating Panel ~~investigating panel~~ shall be guided by established law in the State of Connecticut in making a determination of what constitutes a Probable Cause.

YEAR

Year shall mean the municipal fiscal year as established by the Connecticut General Statutes.^[KM4]

§ 32-4. Conflicts of interests; interference with duties; prohibited interests; exceptions.

A. ~~A.~~ Prohibited Actions and Transactions

A Municipal Employee or Officer shall:

—:

~~A Municipal Employee or Officer shall:~~

Chapter 42A

Inspections by Fire Marshal

Abatement of Fire Hazards

Chapter 42A. Inspections by Fire Marshal

§ 42A-____. Approval of rates and fees.

The Fire Marshal, with the concurrence of the Fire Commission, and subject to the approval of the Common Council, shall establish and amend a schedule of fees for permits and licenses, issued by and services performed by the Office of the Fire Marshal. The Fire Commission shall submit the proposed fee schedule to the Common Council. A committee of the Common Council shall hold a public hearing on the proposed fee schedule not less than seven nor more than 14 days from the date of the notice of the time and place of such hearing, published in the form of a legal advertisement appearing in a newspaper having a substantial circulation in the City of Norwalk. Within 90 days of receipt by the City Clerk of notice of the action taken by the committee subsequent to the public hearing, the Common Council shall approve, modify and approve, or disapprove the proposed fee schedule. If the Council takes no action within such 90 days, the rates and fees shall be deemed disapproved, and the City Clerk shall issue a notice so stating, which notice shall be maintained with the records of the Common Council. Copies of the approved fee schedule shall be maintained in the records of the Common Council and the Office of the Fire Marshal. All fees collected by the Office of the Fire Marshal shall be deposited in the general fund.

§ 42A-____. Inspections by Fire Marshal

A. Purpose

Pursuant to the Fire Safety Code and Connecticut General Statutes § 29-305, as amended from time to time, the Fire Marshal is required to conduct inspections for a variety of occupancy classifications to ensure that the requirements specified in said code or statute have been satisfied. Depending on the type of occupancy, these inspections are mandated to occur as often as annually, or up to every four years.

The purpose of this ordinance is to streamline the Fire Marshal's inspection process for all occupancy classifications that are regulated by the Fire Safety Code and the Connecticut General Statutes § 29-305, as amended from time to time. These inspections are conducted to ensure that the occupants are safe and that the requirements specified in said code or statute have been satisfied.

B. Inspections

Pursuant to the Fire Safety Code and Connecticut General Statutes § 29-305, as amended from time to time, all occupancy classifications are required to undergo annual inspections by the Fire Marshal. The Fire Marshal shall be provided with access, by the owner, designee or legal occupant, to the structures subject to the occupancy classifications to complete the inspection to ensure that the requirements specified in the Fire Safety Code and Connecticut General Statutes § 29-305, as amended from time to time, have been satisfied.

The owner and/or designee must schedule an inspection with the Fire Marshal within the time period mandated by the Fire Safety Code and Connecticut General Statutes § 29-305, as amended from time to time. If the owner and/or designee schedules and completes an inspection prior to the expiration date as prescribed in the Fire Safety Code and Connecticut General Statutes § 29-305, as amended from time to time, then the Fire Marshal shall not charge the owner and/or designee a fee. However, if the owner and/or designee fails to schedule and complete the inspection prior to the expiration date, as prescribed in the Fire Safety Code and Connecticut General Statutes § 29-305, as amended from time to time, then the Fire Marshal shall send a letter to the owner and/or designee advising that the inspection is delinquent. The owner and/or designee shall have thirty (30) days from the date of the initial letter to schedule and complete the inspection. If a delinquent inspection occurs, the Fire Marshal shall charge the owner and/or designee an amount as established in the Office of the Fire Marshal's schedule of fees for permits and licenses.

C. Duration of Inspection

The duration of an inspection is based upon the occupancy classification as identified in the Fire Safety Code. Depending on the type of occupancy, these inspections are mandated to occur as often as annually, or up to every four years.

D. Penalty for Offenses

Any person violating this ordinance shall be punished as follows:

- (1) an owner and/or designee that fails to complete an inspection in a timely manner, as prescribed in the Fire Safety Code and Connecticut General Statutes § 29-305, as amended from time to time, shall be subject to an initial fine of \$250.00;
- (2) each day that the violation exists shall constitute a separate violation; and
- (3) following the initial violation, each subsequent day that the violation exists shall be subject to a \$100.00 fine.

Chapter 42A. Inspections by Fire Marshal

§ 42A-___. Abatement of Fire Hazards: Order to remove or remedy; penalties; notifications of officials; order to vacate; review by State Fire Marshal

- (a) When the Fire Marshal ascertains that there exists in any building, or upon any premises, (1) combustible or explosive matter, dangerous accumulation of rubbish or any flammable material especially liable to fire, that is so situated as to endanger life or property, (2) obstructions or conditions that present a fire hazard to the occupants or interfere with their egress in case of fire, or (3) a condition in violation of the statutes relating to fire prevention or safety, or any regulation made pursuant thereto, the remedy of which requires construction or a change in structure, the Fire Marshal shall order such materials to be immediately removed or the conditions remedied by the owner or occupant of such building or premises. Any such removal or remedy shall be in conformance with all building codes, ordinances, rules and regulations of the municipality involved. Any person, firm or corporation which violates any provision of this subsection shall be fined not more than one hundred dollars or be imprisoned not more than three months, or both, and, in addition, may be fined fifty dollars a day for each day's continuance of each violation, to be recovered in a proper action in the name of the City of Norwalk.
- (b) Upon failure of an owner, designee or occupant to abate a hazard or remedy a condition pursuant to subsection (a) of this section within a reasonable period of time as specified by the Fire Marshal, such Fire Marshal shall promptly notify in writing the prosecuting attorney having jurisdiction in the municipality in which such hazard exists of all the facts pertaining thereto, and such official shall promptly take such action as the facts may require, and a copy of such notification shall be forwarded promptly to the State Fire Marshal. The Fire Marshal may request the chief executive officer or any official of the municipality authorized to institute actions on behalf of the municipality in which the hazard exists, or the State Fire Marshal, for the purpose of closing or restricting from public service or use such place or premises until such hazard has been remedied, to apply to any court of equitable jurisdiction for an injunction against such owner, designee or occupant; or the State Fire Marshal, on his/her own initiative, may apply to such court for such injunction. When such hazard is found to exist upon premises supervised or licensed by a state department or agency, the Fire Marshal shall promptly notify the administrator of such department or agency of his findings and shall issue orders for the elimination of such hazard.
- (c) If the Fire Marshal, the Fire Department, or the Norwalk Police Department determines that there exists in a building a risk of death or injury from (1) blocked, insufficient or impeded egress, (2) failure to maintain or the shutting off of any fire protection or fire warning system required by the Fire Safety Code (Connecticut State Agency Regulations § 29-292-1e, et seq.) or State Fire Prevention Code (Connecticut General Statutes § 29-291 et seq.), (3) the storage of any flammable or explosive material without a permit or in quantities in excess of any allowable limits pursuant to a permit, (4) the use of any firework or pyrotechnic device without a permit, or (5)

exceeding the occupancy limit established by the State Fire Marshal or the Fire Marshal, such Fire Marshal, Fire ____, or Police Officer may issue a verbal or written order to immediately vacate the building. Such Fire Marshal, Fire ____, or Police Officer shall notify or submit a copy of such order to the State Fire Marshal if such marshal, ____ or officer anticipates that any of the conditions specified in subdivisions (1) to (5), inclusive, of this subsection cannot be abated in four hours or less from the time of such order. Upon receipt of any such notification or copy, the State Fire Marshal shall review such order to vacate, and after consultation with the Fire Marshal, Fire ____, or Police Officer, determine whether to uphold, modify or reverse such order, with any further conditions the State Fire Marshal deems appropriate to protect any person from injury.

- (d) Any person, firm or corporation who violates subsection (c) of this ordinance shall be subject to penalties and/or fines in the manner authorized in Section 29-295 of the General Statutes, as amended.

**Use of Single-Use Plastic Straws
and Stirrers by Food or Beverage
Establishments Ordinance**

USE OF SINGLE-USE PLASTIC STRAWS AND STIRRERS BY FOOD OR BEVERAGE ESTABLISHMENTS

§____-1. – Purpose.

The purpose of this article is to preserve and protect the environment in the City of Norwalk by prohibiting the sale, provision, or distribution of Single-Use Plastic Straws and Single-Use Plastic Stirrers by Food or Beverage Establishments.

§____-2. – Definitions.

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

FOOD OR BEVERAGE ESTABLISHMENT

A place where food or beverages of any kind are provided directly to a consumer, whether such food is provided free of charge or sold and whether consumption occurs on or off the premises. The term includes, by way of example and not limitation, any restaurant, bar, liquor store, delicatessen, coffee shop, movie theater, convenience store, food truck, take-out restaurant, delivery service, or caterer. The term shall not include hospitals, nursing homes, long-term care facilities, or other medical or dental facilities.

SINGLE-USE

A product that is intended to be only used one time in its same form.

SINGLE-USE PLASTIC STRAW

A Single-Use tube made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, used to transfer a beverage from a container to the mouth of the person drinking the beverage. “Single-Use Plastic Straw” does not include a straw made from non-plastic materials, including, but not limited to, paper, metal, pasta, sugar cane, wood, or bamboo.

SINGLE-USE PLASTIC STIRRER

A Single-Use device, implement, or utensil made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, designed solely for the purpose of mixing liquids intended for internal human consumption. “Single-Use Plastic Stirrer” does not include a stirrer made from non-plastic materials, including, but not limited to, paper, metal, pasta, sugar cane, wood, or bamboo.

§ ____-3. – **Prohibition on Straws and Stirrers.**

- A. No Food or Beverage Establishment shall sell, provide, or distribute a Single-Use Plastic Straw or Single-Use Plastic Stirrer in the City of Norwalk.

§ ____-4. – **Exceptions.**

- A. The prohibition set forth in Section 3 of this article shall not apply to:
1. The sale, provision, or distribution of Single-Use Plastic Straws to persons who may require use of same due to a disability or medical condition; and
 2. The sale, provision, or distribution of beverages packaged and sealed prior to receipt by the Food or Beverage Establishment.
- B. The prohibition set forth in Section 3 of this article shall not apply to the extent it would violate the laws of the United States or the State of Connecticut.

§ ____-5. – **Enforcement and penalties for violation.**

- A. This article shall be enforced by the Code Enforcement Office or its designee.
- B. Upon determination that a violation has occurred, the Food or Beverage Establishment shall be liable for the following:
1. Upon the initial violation, written warning notice that a violation has occurred shall be issued to the Food or Beverage Establishment. No penalty shall be imposed for the initial violation;
 2. For the second violation, a penalty of one hundred fifty dollars (\$150.00); and
 3. For the third and each subsequent violation, a penalty of two hundred fifty dollars (\$250.00).
- C. No more than one penalty shall be imposed upon a Food or Beverage Establishment in one 24 hour period.

§ ____-6. – **Severability.**

If any section, clause, sentence or provision of this article shall be adjudged by a court of competent jurisdiction to be invalid or unenforceable, such adjudication shall not affect the validity or enforceability of any other provision hereof, and the applicability thereof to other persons or circumstances shall not be affected thereby.

§ ____-7. – **Effective date.**

This article shall become effective three months following its adoption by the Common Council.