

ORDINANCE NO. HO16-02

**BOROUGH OF NORTH PLAINFIELD BOARD OF HEALTH
COUNTY OF SOMERSET
STATE OF NEW JERSEY**

AN ORDINANCE TO AMEND, REVISE AND SUPPLEMENT THE BOROUGH CODE OF THE BOROUGH OF NORTH PLAINFIELD DEPARTMENT OF HEALTH, MOST NOTABLY CHAPTER XXVI, "BOARD OF HEALTH."

WHEREAS, N.J.S.A. 26:3-64 provides the Borough of North Plainfield Board of Health with the authority to enact and amend health ordinances, and make and alter necessary rules and regulations to abate nuisances; and,

WHEREAS, Article XXVI, Section 26-1.1 of the Borough Code establishes the Borough's Board of Health consisting of the seven (7) members of the Borough Council; and,

WHEREAS, N.J.S.A. 26:3-66 provides the procedure for enactment of ordinances by the Borough's Board of Health; and,

WHEREAS, N.J.S.A. 26:3-70, et seq. and N.J.A.C. 8:1-1, et seq. set minimum and maximum penalties for violations of the Borough's Health Code; and,

WHEREAS, certain amendments, revisions and supplements to the current North Plainfield Borough Code are necessary in order to adhere to and be consistent with N.J.S.A. 26:3-70, et seq. and N.J.A.C. 8:1-1, et seq.; and,

WHEREAS, two (2) Sections of the Borough Code, specifically, Chapter IV, Section 4-15, "Massage, Bodywork and Somatic Therapy" and Chapter V, Section 5-4 "Animal Waste Deposited on Private Property Prohibited; Cleanup Required," are duplicative of the Borough's Health Code and therefore no longer necessary, and are to be removed by separate ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of Health of the Borough of North Plainfield, County of Somerset, State of New Jersey that the Borough Code of the

Borough of North Plainfield, Chapter XXVI, entitled "Board of Health," is hereby amended, revised and/or supplemented as to the following sections:

1. Add Section 26-2.9 as follows:

26-2.9 Board of Health Violations and Penalties.

- a. Penalty for Violation.
1. Violations of Board of Health Code. Unless otherwise specified, any person violating any of the provisions of any chapter of this Health Code or ordinance adopted by the Board of Health of the Borough shall, upon conviction thereof, pay a penalty of not less than Five (\$5.00) Dollars, nor more than Five Hundred (\$500.00) dollars for each offense. Complaint shall be made in the Municipal Court of the Borough or before such other judicial officer having authority under the laws of the State of New Jersey. In addition, the Court shall have the power to impose other penalties provided by N.J.S.A. 26:3-77 and N.J.S.A. 26:3-78.
 2. For any and every violation of the provisions of this Health Code, the owner, general agent or contractor of a building or premises where such violation has been committed or shall exist and the lessee or tenant of any part of a building or premises in which part such violation has been committed or shall exist and every person who violates, commits, takes part or assists in the violation of this Health Code shall, upon conviction, be liable for the penalty stated above.
 3. Violations of the State Sanitary Code. Unless otherwise specified, each violation of any provision of the State Sanitary Code shall constitute a separate offense and shall be punishable by a penalty of not less than Fifty (\$50.00) Dollars nor more than One Thousand (\$1,000.00) Dollars.
- b. Separate Violations. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.
- c. Refusal to Pay Fines or Judgment. The Judge of the Municipal Court may cause a defendant who refuses or neglects to pay the amount of a judgment rendered against him and all costs and charges incident thereto to be committed to the County Jail for a period not exceeding ninety (90) days. In case a defendant shall have been twice convicted within the space of six (6) months of the violation of the same ordinance, or the same provisions of the Health Code, and due proof of such fact is made, the Court may, in addition to the imposition of the penalty prescribed by this section, cause the defendant to be imprisoned in the County Jail for any number of days not exceeding one for each dollar of the penalty.
- d. Disposition of Penalties. All penalties recovered in any prosecution for a violation of a health ordinance or the Borough Health Code shall be paid by the Board into the treasury of the Borough of North Plainfield.

2. Add Section 26-2.10, Right of Entry, as follows:

26-2.10 Right of Entry.

The Board of Health and any inspector, officer or official so designated to act on behalf of the Board of Health shall have the right to enter in or upon any building or premises to determine whether the provisions of the Health Code are being followed or obeyed. It shall be unlawful for any person to interfere with any inspection being made by the Board of Health or any inspector thereof.

3. Add Section 26-2.11, Enforcement; Recovery of Costs, as follows:

26-2.11 Enforcement; Recovery of Costs.

a. Enforcement.

1. The Health Code shall be enforced by the members of the Board of Health and the Board of Health officers, employees or such other persons or officers as shall be designated by the Board of Health.
2. All licensed employees, officers and agents of the Board of Health shall be vested with the power and authority to make the inspections and examinations required to be enforced by the Board, any provision of the Health Code, or any ordinance, regulation, resolution, or order of the Board. In making the inspection and examination, it shall be lawful for the person to enter in or upon any premises for the purpose of health protection.
3. Any person who shall prevent, obstruct, or resist any member of the Board, its officers, or agents acting under and by the authority of the Board in the performance of his duty shall, upon conviction, be liable to the penalties stated in Subsection 26-2.9 of the Borough Code.
4. Every notice or order required to be served by the Board may be served personally by any member of the Board or any of its employees, agents, or by any member of the Borough Police Department or other authorized employee, inspector, officer or official. Notice may be served by mail, addressed to the last known place of residence, or by posting it in a conspicuous place on the premises.

b. Nuisances; Recovery of Costs. The Board of Health may institute a civil action to recover costs incurred by it in the removal or abatement of any nuisance 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 in writing, fails to abate the nuisance within such time as shall be specified therein, but not less than five (5) calendar days from the date of service thereof. A duplicate of the notice shall be left with one (1) or more of the tenants or occupants of the premises. If the owner resides out of State or cannot be so notified speedily, such notice shall be left at that place or premises with a tenant or occupant thereof, or posted on the premises, and such action shall be considered proper notification to the owner, tenant, or occupant thereof.

4. Delete Section 26-5.7 of the current Borough Code, entitled "Violations and Penalties," and replace as follows:

26-5.7 Violations and penalties.

Unless another specific penalty is provided by law, any person, firm or corporation who is found to be in violation of the provisions of this Article shall, upon conviction, be subject to a minimum fine of Fifty Dollars (\$50.00) up to a fine not to exceed the maximum penalty stated in Subsection 26-2.9 of the Borough Code, entitled Board of Health Violations and Penalties, per each offense or incident together with the costs of prosecution plus any reasonable additional charges incurred by the Borough. A separate offense or incident shall be deemed committed on each day during which a violation occurs or continues.

5. Delete Section 26-6.5 of the current Borough Code, entitled “Violations and Penalties,” and replace as follows:

26-6.5 Violations and penalties.

Unless another specific penalty is provided by law, any person, firm or corporation who is found to be in violation of the provisions of this Article shall be subject to a minimum fine of Fifty Dollars (\$50.00) up to a fine not to exceed the maximum penalty stated in Subsection 26-2.9 of the Borough Code, entitled Board of Health Violations and Penalties, per each offense or incident together with the costs of prosecution plus any reasonable additional charges incurred by the Borough. A separate offense or incident shall be deemed committed on each day during which a violation occurs or continues.

6. Delete Section 26-7.6 of the current Borough Code, entitled “Violations and Penalties,” and replace as follows:

26-7.6 Violations and penalties.

Any person, firm or corporation who is found to be in violation of the provisions of this Article shall be subject to a minimum fine of Fifty Dollars (\$50.00) up to a fine not to exceed the maximum penalty stated in Subsection 26-2.9 of the Borough Code, entitled Board of Health Violations and Penalties, per each offense or incident together with the costs of prosecution plus any reasonable additional charges incurred by the Borough. A separate offense or incident shall be deemed committed on each day during which a violation occurs or continues.

7. Delete Section 26-9.8 of the current Borough Code, “Violations and Penalties,” and replace as follows:

26-9.8 Violations and Penalties.

Unless another specific penalty is provided by law, any person, firm or corporation who is found to be in violation of the provisions of this Article shall be subject to a minimum fine of Fifty Dollars (\$50.00) up to a fine not to exceed the maximum penalty stated in Subsection 26-2.9 of the Borough Code, entitled Board of Health Violations and Penalties, per each offense or incident together with the costs of prosecution plus any reasonable additional charges incurred by the Borough. A separate offense or incident shall be deemed committed on each day during which a violation occurs or continues.

8. Delete Section 26-10.13 of the current Borough Code, entitled “Violations and Penalties,” and replace as follows.

26-10.13 Violations and penalties.

In addition to the revocation or suspension of the permit granted under this Article, any person, firm or corporation who is found to be in violation of the provisions of this Article shall be subject to a minimum fine of Fifty Dollars (\$50.00) up to a fine not to exceed the maximum penalty stated in Subsection 26-2.9 of the Borough Code, entitled Board of Health Violations and Penalties, per each offense or incident together with the costs of prosecution plus any reasonable additional charges incurred by the Borough, or face imprisonment for a term not exceeding ninety (90) days, or both, in the discretion of the court. A separate offense or incident shall be deemed committed on each day during which a violation occurs or continues.

9. Delete Section 26-12.5 of the current Borough Code, entitled “Violations and Penalties,” and replace as follows:

26-12.5 Violations and penalties.

Any person, firm or corporation who is found to be in violation of the provisions of this Article or for refusing or neglecting to comply with any of the provisions of this Article shall be subject to a minimum fine of Fifty Dollars (\$50.00) up to a fine not to exceed the maximum penalty stated in Subsection 26-2.9 of the Borough Code, entitled Board of Health Violations and Penalties, per each offense or incident together with the costs of prosecution plus any reasonable additional charges incurred by the Borough. A separate offense or incident shall be deemed committed on each day during which a violation occurs or continues.

10. Delete Section 26-13.7 of the current Borough Code, entitled “Violations and Penalties,” and replace as follows:

26-13.7 Violations and penalties.

a. Unless another specific penalty is provided by law, any person, firm or entity responsible for the discharge of a hazardous or toxic substance and who fails to reimburse the Borough or its directed payee in full within the time frame prescribed under this Article shall be subject, upon conviction in the Municipal Court, to a fine not to exceed the maximum penalty stated in Subsection 26-2.9 of the Borough Code, entitled Board of Health Violations and Penalties, per each offense or incident together with the costs of prosecution plus any reasonable additional charges incurred by the Borough and/or imprisonment for a period not exceeding ninety (90) days, or both. A separate offense or incident shall be deemed committed on each day during which a violation occurs or continues. The penalties imposed hereunder shall be in addition to any other penalties prescribed and levied by the State of New Jersey and/or the Federal government.

b. The imposition of any penalties through the Borough’s Municipal Court shall not in any way relieve the person found guilty from making full reimbursement to the Borough.

c. In the event that said cleanup is on private property or emanates from private property and that property owner is proven responsible, any such unpaid moneys owed by that property owner shall become a lien on said property, subject to collection by the Borough as provided for by law, with costs, interest and attorney's fees.

11. Delete Section 26-14.5 of the current Borough Code, entitled "Violations and Penalties" and replace as follows:

26-14.5 Violations and Penalties.

Any person who violates any provision of this Article shall be subject to a fine of not less than Two Hundred Fifty Dollars (\$250.00) for the first (1st) offense; Five Hundred Dollars (\$500.00) for the second (2nd) offense and Five Hundred Dollars (\$500.00) for each and every subsequent offense. In addition, any municipal employee found in violation of this Article may also be subject to disciplinary action, up to and including termination from employment, in accordance with the Borough's Policies and Procedures.

12. Delete Chapter IV, Section 4-15 of the current Code, entitled "Massage, Bodywork and Somatic Therapy."

13. Delete Chapter V, Section 5-4 of the current Code, entitled "Animal Waste Deposited on Private Property Prohibited; Cleanup Required."

NOW, THEREFORE, BE IT FURTHER ORDAINED that:

1. All ordinances or portions of ordinances which are inconsistent with this Ordinance shall be repealed as to their inconsistencies only.

2. If any provision or paragraph of this Ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions or paragraphs of this Ordinance, except so far as the provision or paragraph so declared invalid shall be separable from the remainder or any portion thereof.

3. This Ordinance shall take effect, after final passage, twenty (20) days following action or inaction by the Mayor as provided by law or an override of a mayoral veto by the Board, whichever is applicable and publication in accordance with law, unless a resolution is adopted, pursuant to N.J.S.A. 40:69A-181(b), declaring an emergency and providing that this Ordinance shall take effect at an earlier date.

Date of Introduction: September 12, 2016
Date of Passage: September 12, 2016
Date of Publication: September 17, 2016

Date of Adoption:

Roll Call

Ayes:

Nays:

Abstain:

Absent:

BOARD OF HEALTH OF THE
BOROUGH OF NORTH PLAINFIELD

Richard K. Phoenix, RMC
Secretary, Board of Health
Borough of North Plainfield

Lawrence La Ronde
Chairman, Board of Health

Approved by the Mayor:

Yes _____ No _____

Hon. Michael Giordano, Jr., Mayor

The above is a true copy of the Ordinance adopted by the Board of Health of the Borough of North Plainfield adopted at a regular meeting on _____, 2016.

BOARD OF HEALTH OF THE
BOROUGH OF NORTH PLAINFIELD

By: _____
Richard K. Phoenix, RMC
Board of Health Secretary