

ORDINANCE NO. HO 14-02

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 BOROUGH BOARD OF HEALTH, MOST NOTABLY CHAPTER
XXVI, "BOARD OF HEALTH"

ARTICLE 1. BOARD OF HEALTH.

26-1.1 Establishment.

There shall be in and for the Borough of North Plainfield ("Borough") a Board of Health, to be called and designated the "Board of Health of the Borough of North Plainfield" ("Board of Health").

26-1.2 Composition; appointment; terms.

The Board of Health shall be composed of seven (7) members and shall also be a member of the Borough Council. They shall hold their offices for the same term they serve as members of the Borough Council.

26-1.3 Rules and regulations; election of President and Secretary.

The Board of Health shall adopt rules and regulations for its own governance and every two years shall elect a President from its own members and appoint the Borough Clerk to serve as Board Secretary.

26-1.4 Appointment of officers.

- A. The Board of Health shall have the power to appoint a Registrar of Vital Statistics, a Clerk, a Health Officer and/or a Sanitary Inspector, and may also appoint such other officers or assistants as the Board may deem necessary. The Board of Health shall have the power to contract with the Somerset County Board of Health for health services, and such County health officer shall serve the Borough in the same manner as if the Board's appointed Health Officer and/or Sanitary Inspector. References in this Code to "Health Officer" or "Sanitary Inspector" shall be deemed to include the County health officer contracted by the Board.
- B. The Board of Health shall have the power to appoint an Animal Control Officer and/or to contract for the services of an Animal Control Officer. References in this Code to "Animal Control Officer" shall be deemed to include the contracted and/or appointed officer.
- C. All appointees of the Board shall be governed by the rules of the Board, and they may be removed for cause by the Board and/or by the Borough.

26-1.5 Debts.

The Board of Health shall not contract any debt of any kind beyond the amount of the annual appropriation made for its use by the Borough Council.

ARTICLE 2. ADOPTION OF HEALTH CODE OF THE BOROUGH OF
NORTH PLAINFIELD.

26-2.1 Codification.

Pursuant to *N.J.S.A. 40:49-4*, the "Health Code of the Borough of North Plainfield (the "Health Code"), consisting of the ordinances of the Board of Health of a general and permanent nature, as revised, codified and consolidated into this Chapter 26-1 *et seq.*, are hereby approved, adopted, ordained and enacted as Chapter 26 of the "Code of the Borough of North Plainfield" ("the Code").

26-2.2 When effective.

All provisions of Health Code shall take effect thirty (30) calendar days after the date of publication according to law.

26-2.3 Code book to be kept up-to-date.

It shall be the duty of the Secretary to the Board of Health, or someone authorized and directed by the Board, to keep an up-to-date certified copy of this Health Code available for the use of the public. All changes in the Health Code and all ordinances adopted subsequent to the effective date of this codification, which shall be adopted specifically as part of the Health Code, shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to the Borough Code Book, at which time such supplements shall be inserted therein.

26-2.4 Severability of Health Code provisions.

Each section of the Health 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.

26-2.5 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.

26-2.6 Code supersedes prior ordinances.

This Ordinance and the Health Code shall supersede and repeal 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.

26-2.7 Ordinances saved from repeal.

The adoption of this Health Code and the repeal of ordinances provided for in the above section 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 the adoption of this Ordinance;
- B. Any rights or liabilities established, accrued and/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 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;
- D. Any provisions of an ordinance or resolution of the Board of Health creating employments, positions or offices and fixing salaries and duties therefor which are not provided in the Health Code hereby adopted and which are not in conflict or inconsistent therewith, or any ordinance pertaining to the salaries and compensation of Board of Health officers and employees.

26-2.8 Construing provisions.

- A. The provisions of this Chapter shall be deemed to be supplemental to the provisions of the New Jersey State statutes with respect to Health and Vital Statistics (*N.J.S.A. 26:3-31 et seq.*) and the New Jersey State Sanitary Code, *N.J.A.C. 8:1-1 et seq.*, and any other applicable State law which addresses the topics herein. Such laws and rules and regulations are incorporated herein as if set forth in their entirety.
- B. Whenever, in this Chapter, any provisions or whenever any subsequently issued regulation of the Board of Health shall be found to be contrary to or inconsistent with New Jersey State Statutes (including but not limited to *N.J.S.A. 26:1A-15 et seq.* and *N.J.S.A. 26:3-1 et seq.*), the New Jersey State Sanitary Code, *N.J.A.C. 8:1-1 et seq.*, or regulations or rules of the New Jersey State

Department of Health in effect now or as may hereafter be adopted, then the provisions of the New Jersey State laws and regulations shall govern. This supercession shall not be applicable when this Chapter and the State law or rule can be read in conjunction with each other or in a case where this Chapter establishes a higher standard of care than that of the State law or rule.

ARTICLE 3. GENERAL APPLICABILITY, PERMITS, JURISDICTION, CONDITIONS, DUTIES.

26-3.1 Permit required.

Whereas certain commercial services or enterprises conducted in the Borough are considered to involve potential hazard to the health, safety and welfare of the Borough, its residents and citizens the Board of Health hereby designates particular types of commercial and/or business enterprises over which it considers it essential to exercise some measure of sanitary control and directs that the person responsible for the conduct of such enterprises in the Borough shall apply for, obtain and display a Board of Health permit as set forth in this Article.

26-3.2 Businesses required to obtain permits.

A Board of Health permit shall be obtained and displayed by every business or enterprise licensed by the State of New Jersey and for which the New Jersey Administrative Code provides for jurisdiction by a local Board of Health. These include, but are not limited to:

- A. Child-care centers;
- B. Adult care centers;
- C. Nursing homes, assisted-care centers, and facilities for the disabled;
- D. Bakeries and bake shops;
- E. Confectioneries;
- F. Delicatessen stores;
- G. Meat and fish markets;
- H. Food establishments (see Article 9 of this Chapter);
- I. Food and beverage vending machines (see Article 9 of this Chapter);
- J. Grocery stores;
- K. Convenience stores;
- L. Hotels, motels, boarding houses, and rooming houses;
- M. Animal hospitals, kennels, pounds and shelters;
- N. Petting zoos, zoos, carnivals, traveling circuses, or other places where animals are gathered for entertainment, whether at a temporary location or not;
- O. Pet shops and other places where animals, birds, fowl or reptiles are raised and/or for sale;
- P. Massage and body therapy centers (see Article 10 of this Chapter),
- Q. Tanning facilities, body art and piercing facilities, tattoo shops, and permanent cosmetics facilities;

- R. Such other types of businesses or facilities which shall be added to the State laws and regulations over which the local Board of Health has jurisdiction, or as added by the Board of Health.

26-3.3 Application; conditions.

Every person engaged in or desiring to engage in the operation of a commercial service or enterprise above specified shall apply for a Board of Health permit, which, if granted, will indicate satisfactory compliance with sanitary requirements as of the date of issuance of such permit and will authorize continued operation at the named location and under the same ownership during continued observance of sanitary standards satisfactory to the Board of Health and during continued compliance with all applicable health codes or regulations and laws of the State that are enforceable by this Board.

26-3.4 Expiration, renewal and non-transferability.

- A. All Board of Health permits granted under this Article shall automatically expire upon removal of the business to a different address than that specified in the permit, or upon a change of ownership, or upon cessation of active operations and, in any event, on December 31 of each year.
- B. Renewal permits and licenses shall be issued upon application and compliance with requirements of this Chapter and regulations of the Board of Health. All permit holders shall make application no later than November 15 of each year, to renew the permit as of January 15th of the new year, retroactive to January of the new year.
- C. No permit or license may be transferred.

26-3.5 Revocation.

- A. If any person or entity that is granted a Board of Health permit or if any employee, servant, officer, official representative and/or agent of such permit holder shall violate any ordinance, code, regulation or special order of the Board of Health or regulation or law of the State in the conduct of the service or business for which the permit was granted, such permit may be revoked or renewal refused at the discretion of the Board; and, after the date of such revocation, such service or business shall not operate in the Borough until the conditions that cause revocation are rectified; and, the owner or persons in charge of such commercial service and any offending employees of such establishment may be prosecuted for such violation or code or law as shall have occurred.
- B. The permit holder shall be extended notice, hearing and appeal rights, in accordance with due process under the law, for any revocation or non-renewal proceeding. Such notice shall be in writing and served personally or by regular and certified mail return receipt requested and the person receiving such notice shall have the right to be heard either in person or by attorney. The granting of a hearing is not intended to waive any right of the Board to demand penalties, fines, reimbursement of costs and/or restitution nor to delay the Borough Health Officer and/or Borough Sanitary Inspector in requiring immediate compliance with any provision of this Chapter.

26-3.6 Fees.

A fee of Fifty (\$50.00) Dollars shall be charged for the issuance of a Board of Health permit to a qualified commercial service or business establishment or enterprise having a fixed address in the Borough and engaged in business or activities of the kind or type specified as being required to have such permits, unless a specified fee amount is set forth elsewhere in this Chapter.

26-3.7 Compliance with other standards.

The owners, managers and employees of all commercial services and business enterprises required under this Chapter to obtain a Board of Health permit are hereby notified that the premises in which they conduct operation, the equipment they employ, the methods followed and the quality and wholesomeness of materials used shall in all respects conform to the detailed specifications set forth in the New Jersey State Sanitary Code or in other State laws or regulations or codes applicable to the given type of business or service in which they are engaged, and, further, they shall conform to the requirements of this Chapter.

26-3.8 Inspections.

- A. All places or premises shall be subject to inspection at least once a year, at a reasonable hour, by the Borough Sanitary Inspector or Borough Health Officer or both, and at other times if necessary and/or reasonable, when he or she has reason to believe that any section of this Chapter or of the New Jersey State Sanitary Code is being violated, or that emergent circumstances exist.
- B. It shall be unlawful for any person to hinder, obstruct, delay, resist or prevent the Borough Sanitary Inspector or Borough Health Officer from having full access to any place or premises or part thereof as to which an inspection is being made or requested.

26-3.9 Recovery.

All penalties, fines, reimbursement of costs and/or restitution may be sued for and recovered by and in the name of the Board of Health in the manner prescribed and in accordance with the applicable procedures detailed in Chapter 17 of Title 24 of the Revised Statutes of New Jersey, as amended and supplemented, or Chapter 3 of Title 26 of the Revised Statutes of New Jersey, as amended and supplemented, or in accordance with any other applicable law, ordinance, regulation, or code.

26-3.10 Disposition of recovered penalties.

All penalties, fines, reimbursement of costs and/or restitution recovered in any prosecution for a violation of this Chapter shall be collected by the Board and delivered to the Chief Financial Officer of the Borough or may be made payable to the Borough's Chief Financial Officer by order of any court imposing such penalties, fines, reimbursement of costs and/or restitution.

26-3.11 Order to abate.

Whenever any person shall violate any provision of this Chapter or of the New Jersey State Sanitary Code or any other State law or regulation which the Board is required to enforce, the Board, in its discretion and within its power, instead of immediately prosecuting such person for such violation, may direct an order to such person commanding him or her to discontinue or abate such violation within such reasonable time as may be fixed by the Board and stated in the order. Such order shall be in writing and served personally or by regular and certified mail return receipt requested and the person receiving such order shall have the right to be heard either in person or by attorney. The granting of a hearing is not intended to waive any right of the Board to demand penalties, fines, reimbursement of costs and/or restitution for infractions nor to delay the Borough Health Officer and/or Borough Sanitary Inspector in requiring immediate compliance with any provision of this Chapter.

26-3.12 Order to dispose of unfit food.

In instances where the Borough Health Officer and/or Sanitary Inspector finds food of any kind on sale or display in a condition or of a quality which he or she deems unfit for human consumption, he or she may order the owner to cease immediately its continued sale or display and forthwith to dispose of such food or foodstuffs in a manner provided by law as he or she may specifically direct. Neither the Borough Health Officer and/or Borough Sanitary Inspector nor the Board shall be liable for the value of any food or foodstuffs that shall have been thus condemned and ordered destroyed; and the person responsible for having sold or offered for sale such unfit food or foodstuffs shall be held, at the discretion of the Board, for such penalties, fines, reimbursement of costs and/or restitution as may be provided by law.

ARTICLE 4. KEEPING ANIMALS.

26-4.1 Large animals; permit; duration; fee.

- A. No person shall keep swine, tigers, lions, chimps, gorillas, large monkeys, or any other large non-domesticated and/or wild animals within the Borough.
- B. All persons desiring to keep one or more horses, cattle, sheep, goats or other large animals within the Borough shall, before keeping the same, apply to the Board of Health, in writing, stating the type and number of animals to be kept and the size and location of facilities for housing and pasturing any such animals. The Board shall have authority to limit or prohibit animal population on any premises in keeping with environmental concerns and the health, safety and welfare of persons and property.

- C. No person shall keep any such animals until such application is approved by the Board and a written permit is issued to the applicant by the Board.
- D. Permits, when issued, shall be for one (1) calendar year (January 1 to December 31) or any portion thereof.
- E. The annual fee for such permit shall be Twenty Five (\$25.00) Dollars for each animal per calendar year.
- F. All premises wherein animals are kept may be subject to inspection by the Sanitary Inspector.

G. Special conditions for keeping of horses.

No permit shall be issued for the keeping of one or more horses, nor shall one or more horses be kept on any property in the Borough, unless the premises on which the horse or horses are kept comply with the following conditions:

- 1. No stable, building, storage space, lean-to or other facility used for the housing of such horse or horses shall be closer than fifty (50) feet to any dwelling house, including the dwelling house on the premises on which the horse is kept; and
- 2. No manure or urine shall be stored within twenty (20) feet of the property line of the premises on which the horse or horses are stored nor within fifty (50) feet of any building on property either adjoining or in the approximate vicinity of the property on which the horse or horses are housed.

26-4.2 Rabbits and fowl; permit; duration; fee.

- A. All persons desiring to keep more than two rabbits, guinea pigs, hamsters, chinchillas or other domesticated animals or pigeons, ducks, geese, poultry or other fowl shall provide a suitable cage, house or coop and shall, before keeping the same, apply to the Board of Health, in writing, stating the type and number of animals to be kept and the size and location of facilities for housing and pasturing any such animals. The Board shall have authority to limit or prohibit animal populations on any premises in keeping with environmental concerns and the health, safety and welfare of persons and property.
- B. No person shall keep any of the foregoing unless and until the application is approved by the Board and a written permit issued.
- C. Permits, when issued, shall be for one (1) calendar year (January 1 to December 31) or any portion thereof.
- D. The annual fee for such permits shall be Twenty Five (\$25.00) Dollars per calendar year.
- E. All premises wherein animals are kept shall be subject to inspection by the Sanitary Inspector or other Board designated officials.
- F. Dogs and cats are excluded from this Article (see Chapter V of the Borough Code, entitled Animal Control).

26-4.3 Maintenance of premises.

All persons keeping one or more animal, pigeon or fowl, and including dogs, cats and birds, shall keep the premises clean and free from the accumulation of solid or liquid excrement or other filth, free from any condition where noxious or offensive odors may be present, and free from any condition which may breed flies, insects, rodents or other vermin.

26-4.4 Noise from animals.

No person owning, occupying or having charge of any house, stable, coop or other building or premises shall keep or allow therein or thereon any animal, fowl or pigeon, including dogs, cats, and birds which shall, by noise or otherwise, disturb the quiet and repose of any person therein or in the vicinity thereof to such an extent as to affect the health and comfort of such person.

26-4.5 Running at large.

No person owning or keeping any animal or fowl shall permit it to run at large.

26-4.6 Watering, feeding and housing.

All persons owning or keeping animals, fowl or pigeons shall maintain adequate facilities to provide sanitary water, proper feeding equipment and sanitary housing.

26-4.7 Removal of uneaten food; cleaning of troughs.

All food not eaten at the end of each day shall be removed and feeding vessels and troughs shall be thoroughly cleaned.

26-4.8 Removal of animals detrimental to public health.

No person shall continue to keep animals, fowl, or birds of any kind in any building or upon any premises in the Borough when the Board of Health may deem such keeping of animals, fowl or birds to be detrimental to the public health, safety and welfare, or the environment. In cases where conditions warrant the issuance of an order to discontinue the keeping of animals, fowl or birds at particular premises or portion thereof, such order shall be issued in writing and posted upon the premises. The owner or person in charge of the animals, fowl or birds shall remove or cause the animals, fowl or birds, as the case may be, to be removed from such premises or portion thereof within such time as the Board may provide in the order. In cases where immediate removal is deemed essential to public welfare, safety and welfare; or to protect the environment, the Borough or Borough Sanitary Inspector may require immediate compliance without the issuance of any order.

26-4.9 Noncompliance; removal by enforcing official.

In any case of noncompliance with any order of the Board with respect to removal of animals, fowl or birds, the Borough Sanitary Inspector or Borough Health Officer is authorized to arrange for the removal, maintenance or destruction of the offending animals, fowl or birds in such manner as he deems appropriate and to issue such other violation notices or summonses as permitted by the Code or other applicable laws or rules or regulations.

26-4.10 Disposal of dead animals.

The owner or person in charge of any animal, fowl or bird which may die shall forthwith cause the carcass to be disposed of within twenty four (24) hours in a manner that is not detrimental to the public health, safety and welfare of the community or to the environment.

26-4.11 Rabies; biting; confinement of animals; release from isolation.

- A. Procedure when person has been bitten by animal. Any person owning or being in charge of any animal which has bitten or attacked any person shall immediately and closely confine such animal so that it may not approach or be approached by any other animal or any unfamiliar person until it has been inspected by the Health Inspector or Borough Health Officer or any other office of the Borough on behalf of the Board of Health; and as soon as it is reasonably possible, but no longer than twelve (12) hours after such bite or attack, the owner or person in charge of such animal shall report to the Board of Health the principal facts of the incident, or, if no Board of Health official can be reached, the report shall be made to the Borough Police Department.
- B. Examination and isolation of animal. Upon receipt of such notification, the Borough Health Officer shall order the examination of the animal by a licensed veterinarian. The Borough Health Officer shall also serve formal notice, as required under State law, that the animal must be confined for at least ten (10) days after the date of the bite or attack, except that, if, upon evaluation, the Borough Health Officer believes that other immediate or special action is necessary, he is empowered to take such action and shall immediately advise the Board of such action. The veterinarian report must be sent to the Borough Health Officer within five (5) days of a bite.
- C. Release from isolation. At the end of the isolation period, if, in the opinion of the Borough Health Officer, the animal is found to be normally healthy, it may be released from isolation. No such animal shall be destroyed during the isolation period, except by permission of the Board of Health.
- D. Procedure for animals bitten by rabid animals. Any person knowing or suspecting that any animal in his possession has been bitten or attacked by an animal known to have or suspected of having rabies shall

immediately confine such animal and notify the Board of Health or, if no official can be reached, the Borough Police Department. Upon receipt of such notification, the Borough Health Officer shall direct what further steps shall be taken with respect to such animal.

- E. Confinement and report of animals suspected of having rabies. It shall be the duty of every person who detects in any animal the symptoms of rabies to confine the animal and immediately notify the Board of Health of his suspicions and of the whereabouts of the confinement.
- F. Report of dead animals suspected of being rabid. It shall be the duty of any person who suspects or has reason to suspect that a dead animal within his knowledge or possession has been rabid or has been bitten by an animal known to have been rabid to immediately report these suspicions to the Board of Health, who may take or direct such action as is reasonably necessary to protect the public health, safety and welfare, and the environment.
- G. Report by person bitten or treating physician. Any person who has been bitten or attacked by any animal in the Borough and any physician or other such person who has been consulted by or has treated any person who has been bitten or attacked by any animal shall, within twelve (12) hours of becoming aware of such incident, report the circumstances to the Board of Health or the Borough Police Department.

ARTICLE 5. DISPOSAL OF PET SOLID WASTE.

26-5.1 Title.

This Article shall be known as the "Disposal of Pet Solid Waste".

26-5.2 Purpose.

The purpose of this Article is to establish requirements for the proper disposal of pet solid waste in the Borough so as to protect public health, safety and welfare of the community and the environment, and to prescribe penalties, fines, reimbursement of costs and/or restitution for failure to comply.

26-5.3 Definitions; word usage.

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

IMMEDIATE - That the pet solid waste is removed at once, without delay.

OWNER/KEEPER - Any person who shall possess, maintain, house or harbor any pet or otherwise have custody of any pet, whether or not the owner of such pet.

PERSON - Any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

PET - A domesticated animal (other than a disability-assistance animal) kept for amusement or companionship.

PET SOLID WASTE - Waste matter expelled from the bowels of the pet; excrement.

PROPER DISPOSAL - Placement in a designated waste receptacle, or other suitable container, and discarded in a refuse container which is regularly emptied by the municipality or some other refuse collector; or disposal into a system designed to convey domestic sewage for proper treatment and disposal.

26-5.4 Requirement for disposal.

All pet owners and keepers are required to immediately and properly dispose of their pet's solid waste deposited on any property, public or private, not owned or possessed by that person.

26-5.5 Exemptions.

Any owner or keeper who requires the use of a disability-assistance animal shall be exempt from the provisions of this Article while such animal is being used for that purpose.

26-5.6 Enforcement.

The provisions of this Article shall be enforced by the Borough Police Department.

26-5.7 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 Two Thousand Dollars (\$2,000.00) 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.

ARTICLE 6. FEEDING AND PLAYING WITH STRAY DOGS AND CATS.

26-6.1 Purpose.

The feeding of or playing with stray dogs and cats which may be unvaccinated poses public health risks to persons coming into contact with such animals.

26-6.2 Definitions.

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

STRAY DOG OR CAT - One that does not wear a metal license issued by the Borough and/or the Board of Health.

26-6.3 Feeding of or playing with stray dog or cat prohibited.

No person shall feed or play with a stray dog or cat. Residents who observe stray dogs or cats should notify the Board of Health.

26-6.4 Enforcement.

- A. The Health Officer, Animal Control Officers and/or all police officers of the Borough are hereby given full power and authority to enforce this Article.
- B. No person shall hinder, molest or interfere with anyone authorized or empowered to perform any duty under this Article.

26-6.5 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 Two Thousand Dollars (\$2,000.00) 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.

ARTICLE 7. FEEDING OF WILDLIFE AND WATERFOWL.

26-7.1 Findings.

It has been well established that the feeding of wild animals and waterfowl is both detrimental to the animal and causes a public health nuisance and safety hazard that is detrimental to the health, safety and welfare of the public and the environment.

26-7.2 Definitions.

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

WILD ANIMAL - Includes any animal, which is not normally domesticated in this State, including but not limited to bears, coyotes, deer, foxes, groundhogs, opossums, raccoons, skunks and waterfowl.

WATERFOWL - Any bird that frequents the water, or lives about rivers, lakes, etc., on or near the sea; an aquatic fowl, including but not limited to ducks, geese, swans, heron and egrets.

26-7.3 Feeding of wild animals and waterfowl prohibited.

- A. No person shall purposely or knowingly (as those terms are defined in Title 2C of the New Jersey Revised Statutes), feed, bait or in any manner provide access to food to any wild animal or waterfowl in the Borough on lands either publicly or privately owned. This Article shall not apply to the feeding of farm animals.
- B. No person shall purposely or knowingly leave or store any refuse, garbage, food product, pet food, forage product or supplement, salt, seed or birdseed, fruit or grain in a manner that would constitute an attractant to any wild animal or waterfowl.
- C. No person shall fail to take remedial action to avoid contact or conflict with wild animals, which may include the securing or removal of outdoor trash, cooking grills, pet food, bird feeders or any other similar food source or attractant after being advised by the Borough to undertake such remedial action. Further, after an initial contact or conflict with a wild animal, no person shall continue to provide, or otherwise fail to secure or remove, any likely food sources, or attractants, including but not limited to outdoor grills, pet food or bird feeders.
- D. Nothing in this Article shall apply to:
 - (1) Any agent of the Borough authorized to implement an alternative control method set forth in any approved community-based deer management plan and possessing a special deer management permit issued by the New Jersey Division of Fish and Wildlife in accordance with the provisions of *N.J.S.A. 23:4-42.6*; or,
 - (2) Any hunter engaging in baiting for the purpose of hunting pursuant to a valid hunting license issued in accordance with the provisions of Title 23 of the New Jersey Revised Statutes.

26-7.4 Feeding of other songbirds and backyard birds permitted.

Feeding of other songbirds and other backyard birds shall be permitted outdoors at such times and in such numbers that:

- A. Such feeding does not create an unreasonable disturbance that affects the rights of surrounding property owners and renders other persons insecure in the use of their property; and,
- B. Such feeding does not create an accumulation of droppings on the property and surrounding properties; and,
- C. Such feeding does not become an attractant to rodents or other wild animals; and
- D. Bird feeders are placed at least five (5) feet above the ground.

26-7.5 Enforcement.

- A. Each property owner shall have the duty to remove any above-named materials or devices placed on the owner's property in violation of this Article.
- B. Failure to remove such materials or devices or to make such modifications within twenty-four (24) hours after notice from the Borough shall constitute a separate violation of this Article.
- C. Board of Health personnel, Animal Control Officers and/or all police officers of the Borough of North Plainfield are hereby given full power and authority to enforce this Article.
- D. No person shall hinder, molest or interfere with anyone authorized or empowered to perform any duty under this Article.

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 Two Thousand Dollars (\$2,000.00) 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.

ARTICLE 8. RESERVED.

ARTICLE 9. RETAIL FOOD ESTABLISHMENTS AND FOOD AND BEVERAGE VENDING MACHINES.

26-9.1 Adoption of standards.

Article 7 shall be entitled "Retail Food Establishments and Food and Beverage Vending Machines," and is hereby adopted pursuant to the *N.J.S.A. 26:1A-1 et seq.*, and *N.J.A.C. 8:24-1.1 et seq.*, and the supplements and additions thereto.

26-9.2 License required.

No person shall operate a retail food establishment, as defined in *N.J.A.C. 8:24*, or vending machine, as defined below, unless a license to operate the same shall have been issued by the Board of Health. Such license shall be posted in a conspicuous place in such establishments.

26-9.3 Definitions

FOOD - Every article used as food or drink for human consumption and every ingredient of such article, and shall include milk and ice cream, preparations of milk and cream, confectionery and condiments.

FOOD ESTABLISHMENT and RETAIL FOOD-HANDLING ESTABLISHMENT - Any bakery, bar or cocktail lounge, cannery, confectionery, creamery, convenience store, dairy, delicatessen, grocery, hotel, lunchroom or luncheonette, meat market, fish market, restaurant, soda fountain, vending machine or other place used in the production, preparation, manufacture, packing, storing, transportation, selling, serving, processing or handling of food for human consumption, intended for sale or distribution or use.

26-9.4 Fees

Fees for a license or license approval issued pursuant to this Article are hereby established as follows:

- A. Risk Type 1 food establishment.
 - (1) Definition: any retail food establishment that:
 - (a) Serves or sells only prepackaged, non-potentially hazardous foods;
 - (b) Prepares only non-potentially hazardous foods; or,
 - (c) Heats only commercially processed potentially hazardous foods for hot holding and does not cool potentially hazardous foods. Such retail establishments may include, but are not limited to, convenience store operations, hot dog carts, and coffee shops.
 - (2) Annual fee: \$100.00.
- B. Risk Type 2 food establishment.
 - (1) Definition: any retail food establishment that has a limited menu; and,
 - (a) Prepares, cooks, and serves most products immediately;
 - (b) Exercises hot and cold holding of potentially hazardous foods after preparation or cooking; or,

- (c) Limits the complex preparation of potentially hazardous foods, including the cooking, cooling, and reheating for hot holding, to two or fewer items. Such retail establishments may include, but are not limited to, retail food store operations, schools that do not serve a highly susceptible population, and quick service operations, depending on the menu and preparation procedures.
- (2) Annual fee: \$200.00.
- C. Risk Type 3 food establishment.
 - (1) Definition: any retail food establishment that:
 - (a) Has an extensive menu which requires the handling of raw ingredients; and is involved in the complex preparation of menu items that includes the cooking, cooling, and reheating of at least three or more potentially hazardous foods; or,
 - (b) Prepares and serves potentially hazardous foods, including the extensive handling of raw ingredients; and whose primary service population is a highly susceptible population. Such establishments may include, but are not limited to, full-service restaurants, diners, commissaries, and catering operations; or hospitals, nursing homes, and preschools preparing and serving potentially hazardous foods.
 - (2) Annual fee: \$400.00.
- D. Risk Type 4 food establishment.
 - (1) Definition: a retail food establishment that conducts specialized processes such as smoking, curing, canning, bottling, acidification designed to control pathogen proliferation, or any reduced oxygen packaging intended for extended shelf life where such activities may require the assistance of a trained food technologist. Such establishments include those establishments conducting specialized processing at retail.
 - (2) Annual fee: \$400.00.
- E. Mobile food and drink.
 - (1) Definition: any motor vehicle or any vehicle cart, or bicycle of any kind including hand-carried portable containers, in which food or drink is transported, stored or prepared at temporary locations.
 - (2) Annual fee: \$100.00.
- F. Temporary retail food establishment.
 - (1) Definition: any food establishment which operates at a fixed location for a temporary period of time not to exceed seven days in connection with a fair, carnival, circus, public exhibition or similar organizational meetings, mobile retail food establishments as well as agricultural markets.
 - (2) Fee: \$50.00 per event.
- G. Vending machine.
 - (1) Definition: any self-service device which, upon insertion of a coin, paper currency, token, card, key or by any other means, dispenses unit servings of food, either in bulk or in packages without the necessity of replenishing the device between each vending operation.
 - (2) Annual fee:
 - (a) Prepackaged only: \$20.00.

- (b) Gumball: \$5.00.
- (c) All others: \$40.00.
- H. Late fee (all food licenses): fifty (50%) percent of the license fee shall be added to the stated license fee.
- I. Food establishment plan review fee. A permit applicant or operator shall submit to the health authority properly prepared plans and specifications for review and approval before construction and shall pay one of the following the prescribed fees, in addition to any licensing fees:
 - (1) The construction of a retail food establishment: \$300.00;
 - (2) The conversion of an existing structure for use as a retail food establishment: \$300.00; or,
 - (3) The remodeling of a retail food establishment or a change of type of retail food establishment or food operation if the health authority determines that plans and specifications are necessary to ensure compliance with these rules: \$150.00.
- J. No fee will be charged to any Borough municipal department or affiliation.
- K. A waiver of fee for temporary food licenses only shall be granted to those applicants that provide proof of State or Federal nonprofit status.

26-9.5 License expiration and renewal.

Licenses issued pursuant to this Article shall expire annually on December 31 of each year, and the fee therefor shall not be prorated from the date of issuance. Applications for renewal thereof shall be submitted, together with the required fee, prior to November 15 of each year. Late fees shall become effective after January 5. Seasonal vendors must secure their licenses at least seven (7) calendar days prior to opening. Mobile retail food trucks shall be subject to inspection prior to operation.

26-9.6 Transferability of license.

Licenses issued pursuant to this Article shall not be transferable nor shall they be construed as authorizing the licensee or licensees to carry on the business at any place other than that specified in the license itself.

26-9.7 Revocation of license.

Licenses issued pursuant to this Article may be revoked by the Board of Health for any good or sufficient reason, provided that due notice thereof shall be given to the licensee, and a hearing held before the Board of Health, at which time an opportunity shall be afforded the licensee to show cause why the license should not be revoked.

26-9.8 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 Two Thousand Dollars (\$2,000.00) 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.

ARTICLE 10. MASSAGE, BODYWORK AND SOMATIC THERAPY ESTABLISHMENTS.

26-10.1 Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Article, except where the context clearly indicates a difference meaning:

MASSAGE, BODYWORK AND SOMATIC THERAPIES - Any systems of activity of structured touch which include, but are not limited to, holding, applying pressure, positioning and mobilizing soft tissue of the body by

manual technique and use of visual, kinesthetic, auditory and palpating skills to assess the body for purposes of applying therapeutic massage, bodywork or somatic principles. Such applications may include, but are not limited to, the use of therapies such as heliotherapy or hydrotherapy, the use of moist hot and cold external applications, external application of herbal or topical preparations not classified as prescription drugs, movement and neuromyofacial education and education in self-care and stress management. Massage, bodywork and somatic therapies do not include the diagnosis or treatment of illness, disease, impairment or disability.

MASSAGE, BODYWORK AND SOMATIC THERAPY ESTABLISHMENT - Any establishment wherein massage, bodywork and/or somatic therapies are administered or are permitted to be administered when such therapies are administered for any form of consideration. However, practicing therapies in one's residence or in any adjacent building or structure located on the same property is strictly prohibited unless the residence location meets all of the requirements as defined in Chapter 22, Land Use and Development of the Borough Code.

MASSAGE, BODYWORK AND SOMATIC THERAPIST - Any person certified pursuant to the provisions of the Massage, Bodywork and Somatic Therapist Certification Act, *N.J.S.A. 45:11-53 et seq.*

26-10.2 Permit and license required.

- A. Massage, bodywork and somatic therapy establishment permit required. No person, firm or corporation shall operate any establishment or utilize any premises in the Borough as or for a massage, bodywork and somatic therapy establishment unless or until there has been obtained a permit for such establishment or premises from the Borough in accordance with the terms and provisions of this Article.
- B. Massage, bodywork and somatic therapist's certification. No person shall practice massage or related therapies as a massage, bodywork or somatic therapist, employee or otherwise, unless he or she has a valid and subsisting massage, bodywork and somatic therapist's certification issued to him or her by the State of New Jersey pursuant to the Massage, Bodywork and Somatic Therapist Certification Act, *N.J.S.A. 45:11-53 et seq.*

26-10.3 Application for permit; requirements.

- A. Any person desiring a massage, bodywork and somatic therapy establishment permit shall file a written application with the Board of Health upon a form to be furnished by the Board.
- B. All applicants must file copies of any plans for construction, conversion, or renovation of an establishment, together with the application form
- C. The application form shall contain the following information:
 - (1) The type of ownership of the business i.e., whether individual, partnership, corporation or otherwise.
 - (2) The name, style and designation under which the business is to be conducted.
 - (3) The business address and all telephone numbers, including facsimile, where business is to be conducted.
 - (4) A complete list of the names and residence addresses of all massage, bodywork and somatic therapists and employees of the business and the name and residence address of the manager or other person principally in charge of the operation of the business.
 - (5) A sworn statement indicating that all massage, bodywork and somatic therapists employed or to be employed by the establishment or otherwise permitted to work at the establishment have been certified by the State of New Jersey pursuant to the Massage, Bodywork and Somatic Therapist Certification, *N.J.S.A. 45:11-53 et seq.*
 - (6) The following personal information concerning the applicant, if an individual; concerning each stockholder holding more than ten (10%) percent of the stock of the corporation, each officer and each director, if the applicant is a corporation; concerning the partners, including limited partners, if the applicant is a

partnership; and concerning the manager or other person principally in charge of the operation of the business shall be provided:

- (a) The name, complete residence address and residence telephone number.
 - (b) The two (2) previous addresses immediately prior to the present address of the applicant.
 - (c) Written proof of age.
 - (d) Height, weight, sex, and color of hair and eyes.
 - (e) Two (2) front-face portrait photographs taken within thirty (30) calendar days of the date of the application and at least two inches by two inches in size.
 - (f) The massage therapy or similar business history and experience, including, but not limited to, whether or not such person has previously operated in this or another municipality or state under a license or permit or has had such license or permit denied, revoked or suspended, and the reason therefor, and the business activities or occupations subsequent to such action or denial, suspension or revocation.
 - (g) All criminal convictions other than misdemeanor traffic violations, fully disclosing the jurisdiction in which convicted and the offense for which convicted and circumstances thereof.
- (1) The applicant shall execute a waiver and consent to allow a fingerprint and criminal background check by the Borough Police Department. Failure to execute such a waiver and consent shall result in a denial of a permit.
 - (2) An establishment permit shall be denied to any person who has been convicted of any crime or disorderly persons offense, other than traffic violations.
 - (3) The names and addresses of three (3) adult residents of the country, who will serve as character references. These references must be persons other than relatives and business associates.

26-10.4 Fees.

- A. Every applicant for a permit to maintain, operate or conduct a massage, bodywork and somatic therapy establishment shall file an application with the Board of Health, upon a form to be furnished by the Board, and pay an annual fee of Two Hundred Fifty (\$250.00) Dollars which permit fee shall become due on the first (1st) day of January of each year. The Borough Health Officer shall issue a permit upon demonstration of compliance with requirements of this Article.
- B. Massage, bodywork and somatic therapy establishment plan review fees:
 - (1) For the construction of a massage, bodywork and somatic therapy establishment: \$300.00;
 - (2) For the conversion of an existing structure for use as a massage, bodywork and somatic therapy establishment: \$300.00; or,
 - (3) For the remodeling of a massage, bodywork and somatic therapy establishment if the health authority determines that plans and specifications are necessary to ensure compliance with these rules: \$150.00.

26-10.5 Building requirements; inspections.

- A. The Board of Health, upon receiving an application for a massage, bodywork and somatic therapy establishment permit, shall refer the application to the Health Officer and/or Sanitary Officer, Building Department, Fire Department, Police Department and Zoning Officer, shall inspect the premises proposed to be operated as such an establishment and shall make written recommendations to the New Jersey State Division of Licensing and Permits concerning compliance with the codes that they administer.

B. No massage, bodywork and somatic therapy establishment shall be issued a permit or be operated, established or maintained in the Borough unless the inspections referenced above reveal that the establishment complies with the minimum requirements of the Building and Health Codes for businesses operating in the Borough. In addition, the establishment must comply with each of the following minimum requirements:

- (1) All massage tables, bathtubs, shower stalls, steam or bath areas and floors shall have surfaces which may be readily disinfected and shall be maintained in a sanitary condition and regularly cleaned and disinfected.
- (2) Adequate bathing, dressing and locker facilities shall be provided for the patrons to be served at any given time. In the event that male and female patrons are to be served simultaneously, separate bathing, dressing, locker and massage room facilities shall be provided.
- (3) The premises shall have adequate equipment for disinfecting and sterilizing nondisposable instruments and materials used in administering massages. Such nondisposable instruments and materials shall be disinfected after use on each patron.
- (4) Adequate hand-washing facilities shall be provided at convenient locations as necessary to maintain clean hands and arms of all employees during hours of operation.

26-10.6 Suspension or revocation of permit; enforcement.

A. Permits issued under this Article may be revoked by the Borough Health Officer, after notice and a hearing, for any of the following causes:

- (1) Fraud, misrepresentation or false statement in the application for the permit.
- (2) Fraud, misrepresentation or false statement made in the course of carrying on the permitted business in the Borough.
- (3) Any violation of this Article.
- (4) Conviction of a crime involving moral turpitude, a felony, an offense involving sexual misconduct, keeping or residing in a house of prostitution, and any crime involving dishonesty.
- (5) Conducting the permitted business in the Borough in an unlawful manner or in such a manner as to constitute a menace to the health, safety or general welfare of the public.

B. Notice of the hearing for the revocation of a permit shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be given personally or mailed to the permittee at his/her last known address at least five (5) calendar days prior to the date set for the hearing.

C. Such permit may, pending revocation proceedings, be suspended for not more than ten (10) calendar days by the Borough Health Officer if, in his/her opinion, the conduct of the permittee is detrimental to the health, safety and general welfare of the Borough.

D. The Board of Health shall conduct any hearing pursuant to this Article.

E. In addition to license suspension or revocation, the Borough Health Officer, or his designated agent, is authorized to enforce violations in Municipal Court upon written notice providing a reasonable period to cure based on the nature of the violation and circumstances involved.

26-10.7 Display of permit.

The massage, bodywork and somatic therapy establishment shall display its permit as well as the certification of each and every massage, bodywork and somatic therapist employed in the establishment in an open and conspicuous place on the premises of the establishment.

26-10.8 Operating requirements.

Every massage, bodywork, and somatic therapy establishment shall comply with the following:

- A. Every portion of the massage, bodywork and somatic therapy establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.
- B. Price rates for all services shall be prominently posted in the reception areas in a location available to all prospective customers.
- C. All employees, including massage, bodywork and somatic therapists, shall be clean and shall wear clean, nontransparent outer garments. Dressing rooms must be available on the premises. Doors to such dressing rooms shall open inward and shall be self-closing.
- D. All massage, bodywork and somatic therapy establishments shall be provided with clean laundered sheets and towels in sufficient quantity, which shall be laundered after each use thereof and stored in a sanitary manner.
- E. The sexual or genital area of patrons must be covered by towels, cloths or undergarments when in the presence of an employee or massage, bodywork or somatic therapist.
- F. It shall be unlawful for any person knowingly, in a massage, bodywork and somatic therapy establishment, to place his or her hand upon or touch with any part of his or her body, to fondle in any manner or to massage a sexual or genital area of any other person. No massage, bodywork and somatic therapist, employee or operator shall perform or offer to perform any act which would require the touching of the patron's sexual or genital area.
- G. All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other physical facilities and surfaces shall be in good repair and maintained in a clean and sanitary condition. Wet- and dry-heat rooms, steam or vapor rooms or steam or vapor cabinets and shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs and showers shall be kept dry, clean and sanitary.
- H. Oils, creams, lotions and other preparations used in administering massage, bodywork and somatic therapies shall be kept in clean, closed containers or cabinets.
- I. Animals, except for Seeing Eye dogs, shall not be permitted in the massage work area.
- J. Each massage, bodywork and somatic therapist shall wash his or her hands in hot running water, using a proper soap or disinfectant before administering a massage, bodywork or somatic therapy to a patron.

26-10.9 Inspections.

The Board of Health, the Borough Police Department and/or the Borough Building Department shall, from time to time, but no less than twice a year, make an inspection of each massage, bodywork and somatic therapy establishment granted a permit under the provisions of this Article for the purpose of determining whether the provisions of this Article are being complied with. Such inspection shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any permittee to fail to allow such inspection officer access to the premises or to hinder such officer in any manner.

26-10.10 Use as sleeping quarters.

No part of any quarters of any massage, bodywork and somatic therapy establishment shall be used for or connected with any bedroom or sleeping quarters nor shall any person sleep in such massage, bodywork and somatic therapy establishment, except for limited periods incidental to and directly related to a massage, bodywork or somatic

therapy treatment or bath. This provision shall not preclude the location of massage, bodywork and somatic therapy establishment in separate quarters of a building housing a hotel or other separate businesses or clubs.

26-10.11 Prohibited acts.

- A. No owner or manager of a massage, bodywork and somatic therapy establishment shall tolerate in his or her establishment any activity or behavior prohibited by the State of New Jersey, particularly, but not limited to, laws proscribing prostitution, indecency and obscenity, including the sale, uttering or exposing and public communication of obscene material and laws which relate to the commission of sodomy and adultery and proscribing fornication; nor shall any owner or manager tolerate in his or her establishment any activity or behavior which violates this Article.
- B. Any conviction of any employee of a massage, bodywork and somatic therapy establishment of a violation of the aforementioned statutes and codes shall devolve upon the owner or manager of such establishment, it being specifically declared that, following such conviction of an employee, the owner or manager of the establishment shall be prosecuted as an accessory to such violation, and the permits which have been issued shall be automatically revoked.

26-10.12 Exceptions.

The provisions of this Article shall not apply to massage, bodywork or somatic therapies given:

- A. In the office of a licensed physician, chiropractor or physical therapist; or
- B. By a regularly established medical center, hospital or sanatorium having a staff which includes licensed physicians, chiropractors and/or physical therapists; or
- C. By any licensed physician, chiropractor or physical therapist in the residence of his or her patient; or
- D. By a licensed barber or cosmetologist/hairstylist limited to the areas of the face, neck, scalp or upper part of the body as set forth in the Cosmetology and Hairstyling Act of 1984, *N.J.S.A. 45:5B-1 et seq.*

26-10.13 Violations and penalties.

In addition to the revocation or suspension of the permit granted under this Article, 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 Two Thousand Dollars (\$2,000.00) 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.

ARTICLE 11. RESERVED.

ARTICLE 12. COMMUNICABLE DISEASES.

26-12.1 Definitions.

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

DISEASE, CONTAGIOUS DISEASE and COMMUNICABLE DISEASE - Those diseases specified in the list enumerated in the New Jersey State Sanitary Code or by declaration of this Board.

26-12.2 Report by physicians.

It shall be the duty of every medical provider treating an individual who resides in the Borough to report diseases in accordance with the New Jersey State Sanitary Code.

26-12.3 Report of certain diseases required.

It shall be the duty of each individual or his or her parent or guardian or other responsible person to report to the Borough Board of Health, the County Board of Health, and the State Department of Health, all diseases in accordance with the New Jersey State Sanitary Code.

26-12-4 Hospitalization or isolation.

Hospitalization or isolation shall be carried out as provided by the New Jersey State Sanitary Code.

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 Two Thousand Dollars (\$2,000.00) 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.

ARTICLE 13. HAZARDOUS OR TOXIC SUBSTANCE DISCHARGE.

26-13.1 Title.

This Article shall be known as the "Removal and Clean-up of Hazardous or Toxic Substance Discharge Ordinance of the Borough of North Plainfield."

26-13.2 Purpose and intent.

The purpose and intent of this Article is to authorize and direct the removal, cleanup, containment and abatement of any hazardous and/or toxic substance discharge or spill within the Borough and to provide for the reimbursement and recovery of all associated costs from the responsible persons.

26-13.3 Administration enforcement.

It shall be the responsibility of the Borough Administrator, in cooperation with other Borough department heads, to authorize and direct the activities necessary to effect the containment, abatement, removal and cleanup of any such discharge or spill within the Borough; the Borough Administrator shall also be authorized to seek full reimbursement for the recovery of all costs related to any removal and cleanup activities performed by Borough forces. The removal and cleanup of discharges of hazardous substances by the Borough shall be consistent with the regulations established by the New Jersey Department of Environmental Protection and the United States Environmental Protection Agency.

26-13.4 Definitions.

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

BOROUGH - Includes the Fire Department, First Aid Squad, Borough Road Department, Department of Public Works, Police Department, Sewerage Authority and the Office of the Administrator.

DISCHARGE - Any action, intentional or unintentional, or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous or toxic substances into the waters, onto the lands or into the air, which threatens or does cause damage to Borough property or Borough residents and threatens the environment.

EMERGENCY APPARATUS AND PERSONNEL - Includes any apparatus, equipment, materials and personnel within the Borough and allocated to or controlled by the Borough Police, Health and Public Works Departments, Office of the Administrator, Fire Department and First Aid Squad.

HAZARDOUS SUBSTANCES - Those elements, gases, compounds and petroleum products which are defined as such by the New Jersey Department of Environmental Protection, or as defined in the National Fire Protection Association Guide of Hazardous Materials, or as are set forth in the list of hazardous substances adopted by the United States Environmental Protection Agency (EPA), or as are defined on the list of toxic pollutants designated by the United States Congress or the Federal Environmental Protection Agency. For the purpose of this Article, sewage and sewage sludge shall also be considered as "hazardous substances."

PERSON - Any public or private corporations, associations, societies, firms, agencies, partnerships, joint-stock companies, individuals, not-for-profit service organizations or any other entity, private, public or commercial.

PETROLEUM - Includes oil or petroleum of any kind and in any form, including but not limited to oil, petroleum, gasoline, kerosene, fuel oil, oil sludge, oil refuse, oil mixed with other wastes, crude oils and substantives or additives utilized in the refining or blending of crude, petroleum or petroleum stock.

REMOVAL AND CLEANUP COSTS - All costs incurred by the Borough as a result of a discharge of hazardous or toxic substance as follows:

- a. In the removal or attempted removal of hazardous or toxic substances; or,
- b. In performing reasonable measures to prevent, contain or mitigate damage to the health, safety or welfare of the public, including but not limited to public, semipublic and private property, surface waters, subsurface waters, water columns and bottom sediments, soils and other affected property, including wetlands, wildlife and other natural resources within the environment.

VEHICLE - Any motorized equipment, registered or unregistered, including but not limited to passenger cars, motorcycles, trucks, tractor trailers, construction equipment, farm machinery and military vehicles and equipment.

26-13.5 Responsibility and liability.

- A. Any person who, through an intentional or unintentional act or omission and/or is otherwise responsible for the discharge of hazardous substances which requires containment, abatement or removal, shall be liable and responsible for the reimbursement and payment of all costs incurred by the Borough or any of its departments or agents or contracted employees as a result of such cleanup activity. The remedy provided by this Article shall be in addition to any other remedies provided by law.
- B. Any person who owns or operates any vehicle or equipment which causes a leak, spill or fire of hazardous material on any public, semipublic or private property within the Borough shall be responsible and liable for the reimbursement to the Borough in full for all costs incurred by the Borough in the rendering of the necessary services, containment and abatement or removal of said hazardous condition.

26-13.6 Calculation of costs.

- A. For the purposes of this Article, costs incurred by the Borough shall include but shall not necessarily be limited to the following: actual labor costs of personnel, including workers' compensation benefits, fringe benefits, administrative overhead, cost of equipment and equipment operation, fire-fighting foam, chemical extinguishing agents, absorbent material, sand and sand recovery drums, booms and specialized protective equipment and clothing, including but not limited to acid suits, acid gloves, goggles and protective clothing, costs of materials, goods and supplies and the cost for the contracting for services and materials not provided by the Borough but supplied at its direction and authorization.
- B. Within ten (10) calendar days from the date of a cleanup, all persons having participated in the cleanup and being responsible for the expenditure of funds, private or public, shall present to the Borough Administrator a specific itemization of all costs associated with containment, abatement, removal and cleanup. Upon receipt, the Borough Administrator shall send the person(s) responsible for the discharge of the hazardous substance or material a letter directing payment(s) to either the Borough or such other person who has a legal claim to payment or reimbursement. Such person(s) shall be advised that full payment(s) is expected within thirty (30) calendar days after receipt of the statement of charges.

26-13.7 Violations and penalties.

- A. 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 exceeding the sum of Two Thousand (\$2,000.00) Dollars 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.

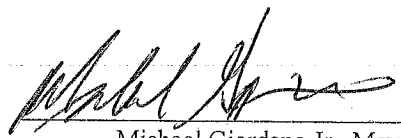
- B. The imposition of any penalties through the Borough's Municipal Court shall not in any way relieve the person found guilty from making full reimbursement to the Borough.
- C. In the event that said cleanup is on private property or emanates from private property and that property owner is proven 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.

NOW, THEREFORE, BE ORDAINED that:

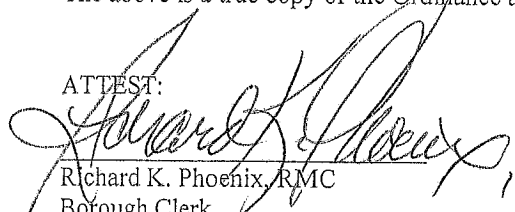
- (1) This Ordinance sets forth provisions for repeal of existing Ordinances.
- (2) If any provision or paragraph of this Ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions of this Ordinance, except so far as the provisions or paragraphs so declared invalid shall be separable from the remainder or any portion thereof.
- (3) This Ordinance shall take effect thirty (30) days after final passage according to law.

Date of Introduction: November 10, 2014
 Date of Passage: November 10, 2014
 Date of Publication: November 14, 2014
 Date of Adoption: December 8, 2014

Roll Call: AYES: Forbes, La Ronde, Merrill, Righetti, Stabile, Singleterry
 NAYS: None
 ABSTAIN: None
 ABSENT: Miller

APPROVED BY THE MAYOR: Yes No 
 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.

ATTEST:

 Richard K. Phoenix, RMC
 Borough Clerk
 Borough of North Plainfield
 Date signed: 8 December 2014

BOROUGH OF NORTH PLAINFIELD

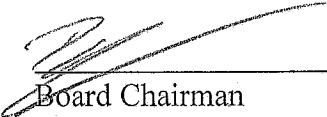
 Douglas Singleterry, Esq., Council President
 Chairman, Board of Health
 Date signed: 8 December 2014

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RESOLUTION NO. BH-11-10-14-01

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

BE IT RESOLVED by the Board of Health of the Borough of North Plainfield that an ordinance numbered BH14-02 be read by its title by the Secretary and be passed on its first reading and advertised as required by statute, fixing November 24, 2014 at 7:30 p.m. or as soon thereafter as the matter can be heard, as the time and the North Plainfield Borough Council Chambers, 263 Somerset Street, North Plainfield, New Jersey as the place for hearing and final adoption.



Board Chairman



Board Member

Introduced: November 10, 2014

Adopted: November 10, 2014


RESOLUTION NO. BH12-08-01

BOROUGH OF NORTH PLAINFIELD
COUNTY OF SOMERSET
STATE OF NEW JERSEY

BE IT RESOLVED by the Board of Health of the Borough of North Plainfield that an ordinance numbered HO-14-02 be adopted and advertised as required by statute.



Board Chairman



Board Member

Introduced: December 8, 2014

Adopted: December 8, 2014