

# **BOROUGH OF FANWOOD, UNION COUNTY, NEW JERSEY**

**ORDINANCE: 2022-12-R**

## **AN ORDINANCE OF THE BOROUGH OF FANWOOD, COUNTY OF UNION, AND STATE OF NEW JERSEY AMENDING CHAPTER 224 OF THE BOROUGH PROPERTY MAINTENANCE CODE**

**WHEREAS**, the Borough desires to amend its property maintenance code within the jurisdiction of the Borough of Fanwood, New Jersey;

**NOW THEREFORE BE IT ORDAINED** by the Mayor and Council of the Borough of Fanwood, County of Union, State of New Jersey as follows:

### **ARTICLE 1 STANDARDS**

#### **EXISTING:**

##### **REFUSE (See also "garbage.")**

All nonputrescible solid wastes, including but not limited to ashes, street cleanings, abandoned vehicles or portions of vehicles, abandoned toys or recreational means or devices, abandoned shopping carts, solid market and industrial wastes, household furnishings, including bedding and crockery; such combustible materials as paper, wrappings, cigarettes, cardboard, leaves and wood; tin cans, glass and other litter; grass and yard clippings and such putrescible materials as human or animal wastes, dead animals and other organic materials not classified as garbage.

#### **PROPOSED:**

##### **REFUSE (See also "garbage.")**

All nonputrescible solid wastes, including but not limited to ashes, street cleanings, abandoned vehicles or portions of vehicles, abandoned toys or recreational means or devices, abandoned shopping carts, solid market and industrial wastes, household furnishings, including bedding and crockery; such combustible materials as paper, wrappings, cigarettes, cardboard, leaves and wood; tin cans, glass and other litter; grass and yard clippings, fallen branches, leaves, other vegetative waste and such putrescible materials as human or animal wastes, dead animals and other organic materials not classified as garbage.

**EXISTING:**

224-8 Duties and responsibilities of owners and operators.

(2)

Landscaping. Premises shall be kept from becoming overgrown and/or unsightly. For the purposes of this subsection, "overgrown and/or unsightly" shall be deemed to exist if and when grass, weeds or plant growth (e.g., poison ivy, ragweed or overgrown weeds) rises above the height of six inches. Vegetation rising above the height of six inches and located along the public right-of-way shall be kept from becoming a hazard to pedestrians and motorists. Fallen leaves, branches and other vegetative waste shall be removed from the property.

**PROPOSED:**

224-8 Duties and responsibilities of owners and operators.

(2)

Landscaping. Premises shall be kept from becoming overgrown and/or unsightly. For the purposes of this subsection, "overgrown and/or unsightly" shall be deemed to exist if and when grass, weeds or plant growth (e.g., poison ivy, ragweed or overgrown weeds) rises above the height of six inches. Vegetation rising above the height of six inches and located along the public right-of-way shall be kept from becoming a hazard to pedestrians and motorists. Fallen leaves, branches and other vegetative waste shall be removed from the property.

**EXISTING SECTION 11:**

Chapter 224-11

A. The Mayor shall appoint a public officer with the consent of the Borough Council, and all inspections, regulations, enforcement and/or hearings on violations of the provisions of this article, unless expressly stated to the contrary, shall be under the direction and supervision of the Public Officer. The Public Officer may, with the consent of the Mayor and Council, appoint such Deputy Public Officers or employees to perform duties as may be necessary to the enforcement of this article, including the making of inspections and appearances at hearings.

B. The Public Officer shall serve a one-year term commencing on January 1 and ending on December 31, or upon the appointment of a successor, whichever occurs later.

C. The Public Officer shall also serve in that same capacity pursuant to § 137-3 of the Borough Code.

**PROPOSED SECTION 11:**

Chapter 224-11 is hereby amended as follows:

Appointment of a Public Officer; Deputy Public Officer.

**A.**

The Mayor shall appoint a public officer and a deputy public officer with the consent of the Borough Council, and all inspections, regulations, enforcement and/or hearings on violations of the provisions of this article, unless expressly stated to the contrary, shall be under the direction and supervision of the Public Officer. The Public Officer, along with the Deputy Public Officer may, with the consent of the Mayor and Council appoint such employees to perform duties as may be necessary to the enforcement of this article, including the making of inspections and appearances at hearings.

**B.**

The Public Officer and Deputy Public Officer shall each serve a one-year term commencing on January 1 and ending on December 31, or upon the appointment of a successor, whichever occurs later.

**C.**

The Public Officer and Deputy Public Officer shall also serve in that same capacity pursuant to Chapter **137-3** of the Borough Code.

**EXISTING SECTION 11:**

A. The Mayor shall appoint a public officer with the consent of the Borough Council, and all inspections, regulations, enforcement and/or hearings on violations of the provisions of this article, unless expressly stated to the contrary, shall be under the direction and supervision of the Public Officer. The Public Officer may, with the consent of the Mayor and Council, appoint such Deputy Public Officers or employees to perform duties as may be necessary to the enforcement of this article, including the making of inspections and appearances at hearings.

B. The Public Officer shall serve a one-year term commencing on January 1 and ending on December 31, or upon the appointment of a successor, whichever occurs later.

C. The Public Officer shall also serve in that same capacity pursuant to § 137-3 of the Borough Code.

**EXISTING SECTION 12:**

**Chapter 224-12**

The Public Officer shall, at his/her own determination and/or upon receipt of two written or verbal requests/complaints, inspect the condition of the premises cited or the alleged violation area ("cited premises") to determine whether the cited premises are in compliance with this article. In cases where noncompliance relates to §§ 224-8A(2) and/or 224-8B(2), the Public Officer shall make an inspection upon receipt of one or more written or verbal requests/ complaints and/or upon the Public Officer's own determination of a possible violation.

**PROPOSED SECTION 12:**

Chapter 224-12 is hereby amended as follows:

**Inspections**

The Public Officer shall, or the Deputy in the absence of the Public Officer, at his/her own determination and/or upon receipt of two written or verbal requests/complaints, inspect the condition of the premises cited or the alleged violation area ("cited premises") to determine whether the cited premises are in compliance with this article. In cases where noncompliance relates to Chapters **224-8A(2)** and/or **224-8B(2)**, the Public Officer shall make an inspection upon receipt of one or more written or verbal requests/ complaints and/or upon the Public Officer's own determination of a possible violation.

**NOTE: 224-8A(2) relates to natural growth AND 224-8B(2) relates to landscaping**

**EXISTING SECTION 13:**

**Chapter 224-13**

A. If, after the inspection provided for in § 224-12, the Public Officer determines that the premises are not in compliance with this article, the Public Officer shall issue and cause to be served upon the owner, occupant, and/or operator of the premises, as the case may be, a written notification stating the nature of the violation, the required correction, and the number of days that the owner, occupant, and/or operator has (have) to correct the condition ("initial notice") in accordance with the following schedule:

(1) Violations of §§ 224-8A(2) and/or 224-8B(2):

(a) First offense: no less than seven days to correct the violation.

(b) Second offense within one year of first offense: no less than five days to correct the violation.

(c) Third or more offenses within two years of second offense: no further notice is required to be given regarding correction of the violation.

(2) All other violations:

(a) First offense: no less than 10 days to correct the violation.

(b) Second offense within one year of first offense: no less than 10 days to correct the violation.

(c) Third or more offenses within two years of second offense: no further notice is required to be given regarding correction of the violation.

B. In cases where the violation presents a clear and present danger to the public health and/or safety as determined by the Chief of Police, the Board of Health, the Construction Official and/or the Public Officer, the owner, operator, and/or occupant of the premises shall be given the initial notice stating the nature of the violation and the correction required, and allowing no less than 24 hours for completion of the correction or the complaint shall be turned over to the Police Department, the Mayor, and/or the Board of Health, as applicable, for prompt action within their respective jurisdictions. In the event that the Borough police officer in charge at the premises determines that the danger must be abated immediately, such action shall be so taken so long as written notification of such action having been taken is given to the owner, operator and/or occupant of said premises within 48 hours of such determination and the time within which the owner, operator and/or occupant has to correct the condition shall be deemed immediate without a twenty-four-hour notice.

C. Notifications as provided for in this section shall include a statement of the penalties which can be imposed for failure to comply.

D. In the event that the owner, occupant and/or operator changes from the time that the initial notice is given, and there is no clear and present danger as provided in Subsection B above, the Public Officer shall provide the new owner, occupant and/or operator, as the case may be, with a copy of the initial notice and shall require compliance from the new owner within five days of the date that the copy of the initial notice is sent.

**PROPOSED SECTION 13:**

Chapter 224-13 is hereby amended as follows:

Notice to owner upon noncompliance.

**A.**

If a non-compliant condition exists on a property, the Public Officer or the Deputy shall issue a notice to remedy the same. The notice shall be in writing and shall be served upon a resident owner, agent, corporate representative, lessee or occupant personally, by leaving the notice at the resident's usual place of abode or sent certified mailing to the address as shown by the tax records or the designated representative on file with the Borough within the definition of **Chapter 224-19**

**C.** Service upon a nonresident shall be by mail to his or her last known address as shown by the tax records or the address on file with the Borough. Such notice shall include the nature of the violation, the required correction, and the number of days that the owner, occupant, and/or operator has (have) to correct the condition in accordance with the following schedule:

**(1)**

Violations of Chapters **224-8A(2)** and/or **224-8B(2)**:

**(a)**

First offense: no less than seven days to correct the violation.

**(b)**

Second offense within one year of first offense: no less than five days to correct the violation.

**(c)**

Third or more offenses within two years of second offense: no further notice is required to be given regarding correction of the violation.

**(2)**

All other violations:

**(a)**

First offense: no less than 10 days to correct the violation.

**(b)**

Second offense within one year of first offense: no less than 10 days to correct the violation.

**(c)**

Third or more offenses within two years of second offense: no further notice is required to be given regarding correction of the violation.

**B.**

In cases where the violation presents a clear and present danger to the public health and/or safety as determined by the Public Officer, the owner, operator, and/or occupant of the premises shall be given the initial notice stating the nature of the violation and the correction required, and allowing no less than 24 hours for completion of the correction or the complaint shall be turned over to the Police Department, the Mayor, and/or the Board of Health, as applicable, for prompt action within their respective jurisdictions. In the event that the Borough police officer in charge at the premises determines that the danger must be abated immediately, such action shall be so taken so long as written notification of such action having been taken is given to the owner, operator and/or occupant of said premises within 48 hours of such determination and the time within which the owner, operator and/or occupant has to correct the condition shall be deemed immediate without a twenty-four-hour notice.

**C.**

Notifications as provided for in this section shall include a statement of the penalties which can be imposed for failure to comply.

**D.**

In the event that the owner, occupant and/or operator changes from the time that the initial notice is given, and there is no clear and present danger as provided in Subsection **B** above, the Public Officer shall provide the new owner, occupant and/or operator, as the case may be, with a copy of the initial notice and shall require compliance from the new owner within five days of the date that the copy of the initial notice is sent.

**NOTE: Chapter 224-19 C relates to A Creditor being responsible for vacant and/or abandoned properties in Article II which is informally referred to as the Borough's "Abandoned Property Ordinance" which is controlled by state law.**

**EXISTING SECTION 14:**

**Chapter 224-14**

Failure to take action. Summons issued. Recovery of abatement costs.

A. If the violation is not corrected within the time provided by § 224-13, notification of the violation and the failure to take action shall be transmitted to the Borough Clerk by the Public Officer for placement on the agenda of the Building and Zoning Committee's next regular or

special meeting or placement on the agenda of the next regularly scheduled public meeting or agenda session of the Mayor and Council (hereafter the applicable municipal body shall sometimes be referred to as the "reviewing agency"), whichever occurs first.

B. Where the violation and failure to take action relates to §§ 224-8A(2) and/or 224-8B(2), notification of the violation and the failure to take action shall be transmitted to the Borough Clerk by the Public Officer. If the Borough Clerk confirms that the violation continues despite the notice to correct and the failure to take action within the time prescribed in § 224-13, then the Borough Clerk may, without approval of the reviewing agency, direct the Public Officer to sign a complaint to be heard in the Fanwood Municipal Court, with a copy of the complaint being forwarded to the Chair of the Building and Zoning Committee and to the Mayor.

**NOTE: 224-13 relates to Notice to Owner for Noncompliance**

**PROPOSED SECTION 14:**

Chapter 224-14 is hereby amended as follows:

Failure to take action. Summons issued. Recovery of abatement costs.

A.

If the violation and/or non-compliant condition is not corrected within the time provided by the Public Officer in § 224-13, the Public Officer may enforce the provisions of this Chapter in the Fanwood Municipal Court where the matter shall be heard for proceedings to be held there by summons, a copy of which shall be provided to the owner, lessee or occupant as the case may be with a copy to the appropriate committee with jurisdiction over property maintenance and the Mayor.

B.

In addition to the penalties prescribed in 224-14 (A), when the owner, lessee or occupant fails to comply within the time prescribed by the Public Officer, the Public Officer shall in writing serve upon a resident owner, lessee or occupant personally or by leaving the notice at the resident's usual place of abode. In cases of a nonresident, service shall be upon their last known address as shown by the tax records. In the event that the owner, lessee or occupant of the subject property fails to correct the above-described conditions within the time prescribed by the Public Officer, the Public Officer may request the Borough Department of Public Works or an outside contractor to perform the necessary work. The Department of Public Works shall cause the cost of such work to be charged against and become a charge and lien upon the property. The fee schedule for mowing of residential properties is as follows:



<u>Square Footage</u>	<u>Cost</u>
0 to 5,0000	\$150.00
5,001 to 7,500	\$250.00
7,501 to 10,000	\$350.00
Greater than 10,000	\$450.00

Chapter 224-15 is hereby deleted.

Chapter 224-16 is hereby deleted.

Chapter 224-18 is hereby deleted.

**DELETIONS [these sections deal with the review of the Public Officer’s decisions by the PW committee & Council to streamline process. Deleted at the suggestion of Public Officer]**

Chapter 224-15 is hereby deleted. **This section covered Public Officer’s recommendations to Council which are removed to streamline the process.**

Chapter 224-18 is hereby deleted. **This section provided for reimbursement to the Borough for abatement costs which would be covered by the new Section 14 above.**

**BE IT FURTHER ORDAINED** this amended Chapter 224 shall take effect as provided by law.

Introduced: October 17, 2022  
 Adopted: November 21, 2022

\_\_\_\_\_  
 Colleen Mahr, Mayor

Attest: \_\_\_\_\_  
 Kathleen Holmes, Borough Clerk