

ORDINANCE #2012-05

**AN ORDINANCE ADOPTING A CODE AND CODIFICATION
OF THE ORDINANCES OF THE BOROUGH OF ALLENHURST
IN THE COUNTY OF MONMOUTH, NEW JERSEY**

WHEREAS, the Board of Commissioners of the Borough of Allenhurst in the County of Monmouth, New Jersey, has caused its ordinances of a general and permanent nature to be amended and supplemented and to be compiled and revised and embodied in a Code and codification known as the “Code of the Borough of Allenhurst, 2012.”

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE BOROUGH OF ALLENHURST IN THE COUNTY OF MONMOUTH, NEW JERSEY, AS FOLLOWS:

SECTION 1. The ordinances of the Borough of Allenhurst in the County of Monmouth, New Jersey, of a general and permanent nature, as codified, Chapters I to XXVI, are hereby ordained as the “Code of the Borough of Allenhurst, 2012.”

SECTION 2. All of the provisions of the “Code of the Borough of Allenhurst, 2012” shall be in force and in effect on and after the effective date of this ordinance.

SECTION 3. All ordinances or parts of ordinances of a general and permanent nature adopted and in force on March 13, 2012, which are inconsistent with the ordinances in the “Code of the Borough of Allenhurst, 2012” are hereby repealed to the extent of such inconsistency as of the effective date of this ordinance.

SECTION 4. The repeal provided for in Section 3 of this ordinance shall not affect:

- a. Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance;
- b. Any prosecution, action, suit or other proceeding pending or any judgment rendered on or prior to the effective date of this ordinance;
- c. Any right or franchise conferred by the Board of Commissioners;
- d. Any right, right-of-way or easement acquired or established in any street, road, highway or other public place within the Borough;
- e. Any ordinance of the Borough providing for laying out, opening, altering, widening, relocating, straightening, accepting or vacating of any street, road or highway within the Borough;
- f. Any ordinance or resolution of the Borough promising or guaranteeing the payment of money by or for the Borough or authorizing the issuing of bonds or other evidence of the Borough's indebtedness, or any contract or obligation assumed by the Borough;

- g. The annual budget appropriation ordinances or resolutions, and all ordinances and resolutions appropriating or transferring funds;
- h. The administrative ordinances or resolutions of the Board of Commissioners not in conflict or inconsistent with the provisions of this Code;
- i. Any ordinance or resolution of the Board of Commissioners fixing compensation or salaries of the Borough officials and employees or the pay and compensation of positions and clerical employments which are not provided for in this Code and which are not in conflict or inconsistent therewith;
- j. Any ordinance or resolution of the Board of Commissioners creating employments, positions or offices and fixing duties therefor which are not provided for in this Code and which are not in conflict or inconsistent therewith;
- k. Concerning the Traffic Chapter, any other provision of this ordinance to the contrary notwithstanding, the repeal provided for in Section 3 of this ordinance shall not become effective with respect to any ordinance regulating traffic or parking on the public streets or highways of the Borough;
- l. Concerning Personnel Policies, any other provision of this ordinance to the contrary notwithstanding, the repeal provided for in Section 3 of this ordinance shall not become effective with respect to any ordinance containing personnel policies;
- m. Any ordinances adopted by the Board of Health of the Borough of Allenhurst;
- n. Any ordinances of the Borough Board of Commissioners adopted upon final passage after the 13th day of March, 2012.

SECTION 5. The effect of the proposed changes contained in the Code are listed below:

The ordinances of the Borough have been codified into chapters on a topical basis. Revisions have been made throughout the chapters to reflect statutory revisions, fee updates, changes in Borough procedures and current Borough policy.

CHAPTER I GENERAL PROVISIONS

Chapter I is new. Section 1-1, Short Title, provides the official title of the Code. Section 1-2, Definitions, includes definitions for use with the entire Code or when drafting future ordinances of the Borough. Section 1-3, Construction, provides rules of construction and interpretation of general terms throughout this Code as well as for all ordinances adopted by the Borough of Allenhurst.

Section 1-5, General Penalty, contains the penalty provisions as provided by N.J.S.A. 40:49-5. The general penalty clause is applicable to the entire Code or any other ordinance adopted by the Board of Commissioners. In paragraph a. of subsection 1-5.1, Maximum Penalty, a maximum penalty of a fine not exceeding two thousand (\$2,000.00) dollars and/or imprisonment for a term not to exceed ninety (90) days and/or a period of community service not to exceed ninety (90) days is established in accordance with the New Jersey State Statutes.

Subsection 1-5.1 eliminates the need to restate the maximum penalty clause each time a new regulatory ordinance is adopted. Subsection 1-5.2, Minimum Penalty, permits the Board of Commissioners to establish a minimum penalty for a violation of a particular ordinance, which may be a fine that does not exceed one hundred (\$100.00) dollars. Subsection 1-5.4, Additional Fine for Repeat Offenders, provides that additional fines may be imposed on any person who is convicted of the same violation within one (1) year of the date of conviction of the previous violation. Subsection 1-5.5, Default of Payment of Fine, provides that any person who defaults on payment of a fine may be imprisoned in the County Jail or be required to perform community service. Subsection 1-5.6 contains penalties for violations of housing or zoning codes and provides that if a municipality wishes to impose a fine greater than one thousand two hundred fifty (\$1,250.00) dollars for violations of a housing or zoning code, a thirty (30) day period shall be allowed for the owner to cure or abate the condition. Subsection 1-5.7, Separate Violations, provides that when provided by ordinance, each and every day a violation exists shall constitute a separate violation. Throughout the Code, many of the penalty provisions have been revised to refer to Section 1-5, General Penalty, wherever appropriate.

Section 1-6, Maintenance and Sale of Code, provides that newly-adopted ordinances shall be prepared as supplements to the Code and the Borough Clerk is required to keep the Code current. The Code may be sold upon payment of the fee established by the Board of Commissioners.

Subsection 1-6.4, Altering or Tampering with Code, states that it is unlawful for any person to tamper with or change the Code.

CHAPTER II ADMINISTRATION

The Administrative Chapter has been organized into seven (7) articles as follows:

Article I	Board of Commissioners
Article II	Officers and Employees
Article III	Departments Established
Article IV	Municipal Court
Article V	Boards, Committees and Commissions
Article VI	Policies and Procedures
Article VII	Municipal Fees

Article I, Board of Commissioners, is new and provides for the statutory organization, powers and procedures of the Board of Commissioners under N.J.S.A. 40:70-1 et seq. Meetings of the Board of Commissioners is included in this Article and complies with the statutory requirements of N.J.S.A. 10:4-6 et seq., the Open Public Meetings Act... Procedures and duties of the Mayor are established in Section 2-2 and comply with the requirements of N.J.S.A. 40:72-10 and -11. The administrative organization of the Borough departments and their respective Commissioner assignments is provided pursuant to N.J.S.A. 40:72-4, -5 and -6.

Article II, Officers and Employees, contains various Borough offices. The Office of the Borough Clerk and Deputy Borough Clerk have been revised to add the statutory duties, powers and term of office pursuant to N.J.S.A. 40A:9-133 et seq.

Section 2-7, Borough Engineer, is new and contains the statutory requirements of N.J.S.A. 40A:9-140 for the appointment of a Borough Engineer.

Section 2-8, Borough Attorney, is new and requires the provisions of N.J.S.A. 40A:9-139 for the appointment and duties of the Borough Attorney. Section 2-10 adds the Municipal Prosecutor as required by law.

Section 2-11, Office of Emergency Management, is new and contains the provisions of N.J.S.A. App. A:9-40.1.

Subsection 2-19.1, Sewer Collector, has been revised to include the term and duties of the Sewer Collector.

Section 2-22, Department of Police, has been amended to include organizational provisions and adoption of the Police Department Rules and Regulations by the Board of Commissioners.

Section 2-28, Department of Revenue and Finance, contains new materials including the appointment of the Director, the Borough Treasurer and the Deputy Treasurer. The Tax Collector and the Tax Assessor contain new provisions as required by statute.

Section 2-31, Department of Public Works, Parks and Public Property, contains the language required for the appointment of a Principal Public Works Manager as required by law.

Subsection 2-35.3, Municipal Court Administrator, contains the statutory provisions of N.J.S.A. 2B:12-11.

Section 2-38, Shade Tree Commission, has been amended to include the statutory provisions of N.J.S.A. 40:64-1 et seq.

Subsection 2-51.1, Payment of Claims, is new and provides for administrative procedures for approval and payment of claims against the Borough.

CHAPTER III POLICE REGULATIONS

Section 3-2, Failure to Obey Police Officer, is new.

CHAPTER IV LICENSING AND BUSINESS REGULATIONS

Chapter IV, contains the provisions for the licensing of businesses, license fees and garage sales.

CHAPTER V ANIMAL CONTROL

This chapter contains regulations for dogs including licensing and control of dogs and the feeding of wildlife. Provisions of this chapter have been revised to comply with the statutory provisions regarding rabies vaccinations and potentially dangerous dogs.

CHAPTER VI ALCOHOLIC BEVERAGE CONTROL

This chapter has been formatted according to the guidelines of the State of New Jersey for alcoholic beverage control.

CHAPTER VII TRAFFIC

The Borough's traffic ordinances have been codified and formatted in accordance with the State recommendations.

CHAPTER VIII RESERVED

CHAPTER IX BUILDING AND HOUSING

Chapter IX contains the provisions for the State Uniform Construction Code, the adoption of a property maintenance code, rental licenses and bond requirements for certain rental properties.

CHAPTER X BEACH REGULATIONS

Regulations including bathing, fishing, dogs, sports and fees for the Allenhurst Beach Club are included in this chapter.

Subsection 10-2.4, Bathing, has been amended to add that bathing in the ocean may be restricted when conditions are dangerous.

CHAPTER XI FIRE PROTECTION AND PREVENTION

Chapter XI provides for local enforcement of the Uniform Fire Safety Act and certain inspection fees.

CHAPTER XII STORMWATER SYSTEM

This chapter contains the regulations promulgated by the State to prohibit the discharge of illegal substances into the municipal stormwater system and prohibit illegal connections.

CHAPTER XIII SEWERS

Chapter XIII contains the provisions for the Borough's sanitary sewer system including tapping into mains, maintenance, sewer service charges, unpaid charges and unauthorized connections.

CHAPTER XIV FLOOD DAMAGE PREVENTION

This chapter contains the provisions mandated by the State for flood damage prevention.

CHAPTER XV CABLE COMMUNICATIONS

The franchise agreement for cable television service is included in this chapter.

CHAPTER XVI SOLID WASTE MANAGEMENT

This chapter contains refuse and recycling requirements.

CHAPTER XVII PERSONNEL POLICIES

Chapter XVII contains longevity compensation, vacations, sick leave, retirement, loss control/risk management policy and the defined contribution retirement plan.

CHAPTER XVIII STREETS AND SIDEWALKS

This chapter includes street and sidewalk excavations,

CHAPTER XIX ENVIRONMENTAL REGULATIONS

Reimbursement of costs for hazardous materials spills is included in this chapter.

CHAPTER XX PARKS AND RECREATIONAL FACILITIES

This chapter contains regulations for the use of public recreational facilities.

CHAPTERS XXI – XXIV RESERVED

CHAPTERS XXV LAND USE PROCEDURES

This chapter contains the establishment and membership of the Planning Board. Also contained in this chapter are the administrative procedures under Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

CHAPTER XXVI DEVELOPMENT REGULATIONS

Chapter XXVI contains the Borough's zoning and development regulations.

SECTION 6. A copy of the Code of the Borough of Allenhurst, 2012, County of Monmouth and State of New Jersey, has been filed in the office of the Municipal Clerk of the Borough of Allenhurst and shall remain there for the use and examination of the public until final action is taken on this ordinance; and if this ordinance shall be adopted, such copy shall be certified by the Clerk in the Borough of Allenhurst by impressing thereon the seal of the Borough of Allenhurst, as provided by law, and such certified copy shall remain on file in the office of the Municipal Clerk of the Borough of Allenhurst to be made available to persons desiring to examine the same during all times while the Code is in effect.

SECTION 7. Amendments to the Code. Any and all additions, amendments and supplements to the Code when passed and adopted in such form as to indicate the intent of the Board of Commissioners to make them a part thereof shall be deemed to be incorporated into such Code so that reference to the "Code of the Borough of Allenhurst, 2012" shall be understood and intended to include such additions and amendments. Whenever such additions, amendments and supplements to the Code shall be adopted, they shall thereafter be printed and,

as provided hereunder, inserted in the book containing the Code as amended and supplemented thereto.

SECTION 8. It shall be the duty of the Municipal Clerk or someone authorized and directed by the Clerk to keep up-to-date the certified copy of the book containing the “Code of the Borough of Allenhurst, 2012” required to be filed in his or her office for the use of the public. All changes in the Code and all ordinances adopted subsequent to the effective date of this codification shall be adopted specifically as part of the Code and shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to the Code, at which time such supplements shall be inserted therein.

SECTION 9. The Municipal Clerk of the Borough of Allenhurst, pursuant to law, shall cause to be published in the manner required a copy of this adopting ordinance in a newspaper of general circulation in the Borough of Allenhurst. Sufficient copies of the Code of the Borough of Allenhurst, 2012” shall be maintained in the office of the Municipal Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this adopting ordinance coupled with availability of copies of the Code for inspection by the public shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

SECTION 10. Each section of the “Code of the Borough of Allenhurst, 2012” and every part of each section is an independent section or part of a section and the holding of any section or part thereof deemed to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

SECTION 11. This ordinance shall take effect immediately upon final passage and publication thereof according to law.

CERTIFICATION

I hereby certify the above to be a true and exact copy
of an ordinance which was introduced by the Board of
Commissioners of the Borough of Allenhurst at a meeting
held June 12, 2012, and adopted, after public hearing on
June 26, 2012.

Lori L. Osborn, RMC
Clerk-Administrator