

ORDINANCE NO. 2026-1552

**BOROUGH OF TINTON FALLS
COUNTY OF MONMOUTH, NEW JERSEY**

**AN ORDINANCE AMENDING THE GENERAL PENALTY PROVISIONS OF THE
BOROUGH CODE OF THE BOROUGH OF TINTON FALLS TO AUTHORIZE
PER-DAY FINES FOR CONTINUING ORDINANCE VIOLATIONS**

WHEREAS, the Borough Council of the Borough of Tinton Falls is authorized to enact ordinances and prescribe penalties for violations thereof pursuant to N.J.S.A. 40:49-5 and other applicable provisions of law; and

WHEREAS, N.J.S.A. 40:49-5 authorizes a governing body to prescribe penalties for the violation of ordinances it has authority to pass, including a fine not exceeding \$2,000 for any single violation, and to prescribe that a minimum fine of up to \$100 for a violation of any particular ordinance; and

WHEREAS, prior case law had called into question whether municipalities could impose per-day fines for continuing ordinance violations where the cumulative total of those fines exceeded the \$2,000 ceiling set forth in N.J.S.A. 40:49-5, with some courts interpreting that statutory ceiling as a cap on aggregate fines rather than a limit on any single fine; and

WHEREAS, recently, the New Jersey Appellate Division, in *State v. Springfield Urban Renewal Center Corp.*, App. Div. Docket No. A-1876-24 (May 19, 2026), expressly held that N.J.S.A. 40:49-5 “limits the amount of a singular fine but does not prevent a defendant from incurring per day fines that cumulatively exceed \$2,000,” thereby confirming that a municipality may authorize separate per-day fines for each day an ordinance violation remains uncured following notice and an opportunity to cure, without regard to whether the aggregate of those fines exceeds the single-fine statutory maximum; and

WHEREAS, the Borough’s existing general penalty provision in the Borough Code provides that each day a violation of any Borough ordinance exists shall constitute a separate violation, and the Borough Council wishes to make clear that per-day fines imposed are not limited in the aggregate by the \$2,000 single-fine ceiling in N.J.S.A. 40:49-5; and

WHEREAS, the Borough Council finds that amending these sections of the code to expressly authorize per-day fines for continuing violations, consistent with *Springfield Urban Renewal Center Corp.* and N.J.S.A. 40:49-5, will promote compliance with Borough ordinances, protect the public health, safety, and welfare, and ensure that the Borough’s enforcement authority is not rendered ineffective by a violator’s ability to cap total exposure at a single \$2,000 fine; and

WHEREAS, the Borough Council further finds that nothing in these amendments is intended to deprive the Municipal Court of its sentencing discretion, impose mandatory minimum fines in a manner inconsistent with applicable law, or affect the disposition of any pending enforcement action;

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Tinton Falls, County of Monmouth, State of New Jersey, as follows:

SECTION 1. Chapter 1, Article II, § 1-5 (General Penalty) is hereby amended (underlined to be added; ~~striketroughs~~ to be removed) as follows:

§ 1-5. GENERAL PENALTY.

§ 1-5.1. Maximum Penalty.

For violation of any provision of this Code or other ordinance of the Borough of Tinton Falls, unless a specific penalty is otherwise provided in connection with the provisions violated, the maximum penalty upon conviction of the violation shall be one or more of the following: imprisonment in the County Jail or in any place provided by the municipality for the detention of prisoners, for any term not to exceed 90 days; or by a fine not exceeding \$2,000; or by a period of community service not exceeding 90 days, or any combination thereof in the discretion of the Municipal Court Judge.

Whenever a fine is to be imposed in an amount greater than \$1,250 for violations of housing or zoning codes the owner shall be provided a 30 day period during which the owner shall be afforded the opportunity to cure or abate the condition and shall be afforded the opportunity for a hearing before the Court for an independent determination concerning the violation. Subsequent to the expiration of the thirty-day period, a fine greater than \$1,250 may be imposed if the Court has determined that the abatement has not been substantially completed.

§ 1-5.2. Minimum Penalty.

The Borough Council may prescribe that for the violation of any particular provision of the Code or of any particular ordinance at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding \$100. The court before which any person is convicted of violating any ordinance or Code provision shall have power to impose any fine, term of punishment, or period of community service not less than the minimum and not exceeding the maximum fixed in the Code or such ordinance.

§ 1-5.3. Additional Fine for Repeat Offenders.

Any person who is convicted of violating this Code or an ordinance within one year of the date of a previous violation of the same provision of this Code or of the same ordinance and who was fined for the previous violation, shall be sentenced by a court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the ordinance or Code provision, but shall be calculated separately from the fine imposed for the violation of the ordinance or Code provision.

If the Borough Council chooses not to impose an additional fine upon a person for a repeated violation of any municipal ordinance, the Council may waive the additional fine by ordinance or resolution.

§ 1-5.4. Default of Payment of Fine.

Any person convicted of the violation of any provision of this Code or any ordinance may, in the discretion of the court by which he was convicted, and in default of the payment of any fine imposed therefor, be imprisoned in the County Jail or place of detention provided by the Borough for any term not exceeding 90 days, or be required to perform community service for a period not exceeding 90 days.

§ 1-5.5. Separate Violations.

Except as otherwise provided, each and every day in which a violation of any provision of this Code or any other ordinance of the Borough exists shall constitute a separate violation. When a violation is of a continuing nature, each day the violation remains uncured following the issuance of a summons or such other written notice of violation as the applicable ordinance may require, regardless of whether a cure period was afforded prior to the issuance of such summons or notice, shall constitute a separate offense for which a separate fine not exceeding \$2,000 may impose. The imposition of per-day fines for continuing violations does not constitute the imposition of a single fine in excess of the \$2,000 statutory maximum set forth in N.J.S.A. 40:49-5; rather, each day's fine is a separate and distinct penalty. In case of a fine imposed on a corporation, the fine and costs may be collected in a civil action or in such manner as may be provided by law.

§ 1-5.6. Application.

The maximum penalty stated, in this section is not intended to state an appropriate penalty for each and every violation. At the discretion of the Judge of the Municipal Court, any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation. Nothing in this section shall be construed to require the imposition of a per-day fine, to deprive the Municipal Court of its discretion to impose any fine within the range authorized by this section and N.J.S.A. 40:49-5, or to impose a mandatory minimum fine for any single day's violation beyond the minimum prescribed by the applicable ordinance.

SECTION 2. Repealer.

All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are, to the extent of such inconsistency, hereby repealed.

SECTION 3. Severability.

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void or ineffective for any cause or reason shall not affect any other portion of this Ordinance.

SECTION 4. Effective Date.

This Ordinance shall take effect upon final passage, adoption and publication in the manner prescribed by law.