

North Plainfield Citizens for Community Rights

Ordinance

Posted on [August 16, 2007](#) by [KW](#) | [Leave a comment](#)

Committee of Petitioners: Frank D'Amore Sr., Christine Holman, Antoinette Rinehart, Francine Gargano and Katherine Watt.

Borough of North Plainfield, Somerset County, New Jersey

Ordinance No. 2007-

AN ORDINANCE OF THE BOROUGH OF NORTH PLAINFIELD, SOMERSET COUNTY, NEW JERSEY, PROHIBITING PERSONS FROM USING CERTAIN CORPORATIONS OR SYNDICATES FOR LAND DEVELOPMENT; PROVIDING FOR CERTAIN LIMITED EXCEPTIONS TO THE PROHIBITION ON PERSONS USING CERTAIN CORPORATIONS OR SYNDICATES FOR LAND DEVELOPMENT; AND PROVIDING FOR ENFORCEMENT AND PENALTIES FOR VIOLATION OF THE ORDINANCE.

Section 1. Name.

The name of this Ordinance shall be the "Borough of North Plainfield Corporate Land Development and Local Self-Government Ordinance."

Section 2. Authority.

This Ordinance is enacted pursuant to the inherent, inalienable, and fundamental right of the citizens of the Borough of North Plainfield to self-government, and by authority granted to the municipal government of the Borough of North Plainfield by all relevant Federal and State laws and their corresponding regulations, including, without limitation, the following:

§ The Declaration of Independence, which declares that the people of the Borough of North Plainfield are born with "certain unalienable rights" and that governments are instituted among people to secure those rights;

§ The New Jersey Constitution, Article I, Section 2 a, which declares that "All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right at all times to alter or reform the same, whenever the public good may require it."

§ The New Jersey Constitution, Article I, Section 5, which declares that "No person shall be denied the enjoyment of any civil or military right, nor be discriminated against in the exercise of any civil or military right, nor be segregated in the militia or in the public schools, because of religious principles, race, color, ancestry or national origin;"

§ The New Jersey Constitution, Article IV, Section VII, Paragraphs 9(13), 10 and 11, setting forth restrictions on the Legislature's right to regulate the internal affairs of municipalities, outlining the procedure for such external regulation, including the provision that "such law shall become operative only if it is adopted by ordinance of the governing body of the municipality or county or by vote of the legally qualified voters thereof," and noting that "the provisions of this Constitution and of any law concerning municipal corporations formed for local government, or concerning counties, shall be liberally construed in their favor. The powers of counties and such municipal corporations shall include not only those granted in express terms but also those of necessary or fair implication, or incident to the powers expressly conferred, or essential thereto, and not inconsistent with or prohibited by this Constitution or by law."

Section 3. Purpose.

The general purpose of this Ordinance is to acknowledge that the use of certain corporations for land development within the Borough of North Plainfield is unsustainable, due to the ability of certain development corporations to create market pressures that favor sprawling land development projects and damage to the natural environment. Those pressures, resulting from the accumulated capital within those corporations, then preclude other development entities from fostering sustainable land use in the Borough. It is a specific finding of this Ordinance that the people of the Borough recognize that certain development corporations, due to their size and capitalization, have less reason to cooperate with the Borough community to achieve its vision of sustainable land use within the Borough.

The people of the Borough also recognize that the existence and viability of family-owned and controlled development entities are incompatible with land development corporations owned and promoted by a small number of persons. The people of the Borough recognize that state preemptions of local land use decisions have been masked by a system of regulations and permits, and that zoning and the provisions of the New Jersey Municipal Land Use Law (NJSA 40:55 D-1 et. seq.) create the illusion of community self determination while extending privileges to certain development corporations, thus violating the rights of people, communities and ecosystems.

The people of the Borough further recognize that ownership and control of land development by families and individuals who are members of the community will promote community cohesion and public accountability, and that allowing absentee control over land development will do the opposite. The people of the Borough recognize their local government has a responsibility to promote the health, safety and welfare of the community and its residents, and they find certain types of corporate land development to be antithetical to these ends.

The purpose of this Ordinance is to eliminate corporate land development, which benefits the few, and replace it with land development pursued by individual and family-owned and controlled businesses, which will benefit the many who are residents of the Borough of North Plainfield. This Ordinance furthers that goal by preventing persons from using non-family owned corporations to engage in land development within the Borough.

Section 4. Interpretation.

Anyone interpreting, implementing, or applying this Ordinance, shall give priority to the findings and purposes stated in §3 of this Ordinance over such accounting and business terms characterized as "economy," "efficiency," and "scheduling factors."

Section 5. Statements of Law.

Section 5.1: It shall be unlawful for any person, corporation, or other entity to use a corporation or syndicate to engage in land development within the Borough.

Section 5.2: It shall be unlawful for any person to assist a corporation to engage in land development within the Borough. Section

5.3: It shall be unlawful for any director, officer, owner, or manager of a corporation to use a corporation to engage in land development within the Borough.

Section 5.4: No corporation doing business within Borough of North Plainfield shall be recognized as a “person” under the United States or New Jersey Constitutions, or laws of the United States or New Jersey; and no corporation shall be afforded the protections of the Contracts Clause or Commerce Clause of the United States Constitution, or similar provisions found within the New Jersey Constitution, within the Borough of North Plainfield nor shall those corporations possess the authority to enforce State or federal preemptive law against the people of North Plainfield Borough. Within the Borough of North Plainfield, corporate claims to “future lost profits” shall not be considered property interests under the law, and thus, shall not be recoverable by corporations seeking those damages.

Section 5.5: The Borough of North Plainfield shall be the governing authority responsible to and governed by the residents of the Borough. Use of the “Borough of North Plainfield” municipal corporation by the sovereign people within the Borough’s boundaries to make law shall not be construed to limit or surrender the sovereign authority or immunities of the people to a municipal corporation that is subordinate to them in all respects at all times. The people at all times enjoy and retain an inalienable and inalienable right to self-governance in the community where they reside.

Section 5.6: Natural communities and ecosystems possess inalienable and fundamental rights to exist and flourish within the Borough of North Plainfield. It shall be unlawful for any corporation or its directors, officers, owners, or managers to interfere with the existence and flourishing of natural communities or ecosystems, or to cause damage to those natural communities and ecosystems. The Borough of North Plainfield, along with any resident of the Borough, shall have standing to seek declaratory, injunctive, and compensatory relief for damages caused to natural communities and ecosystems within the Borough, regardless of the relation of those natural communities and ecosystems to Borough residents or the Borough itself. Borough residents, natural communities, and ecosystems shall be considered to be “persons” for purposes of the enforcement of the civil rights of those residents, natural communities, and ecosystems.

Section 5.7: All residents of North Plainfield Borough possess a fundamental and inalienable right to a healthy environment, which includes the right to unpolluted air, water, soils, flora, and fauna. All residents of the Borough possess a fundamental and inalienable right to the integrity of their bodies, and thus have a right to be free from unwanted invasions of their bodies by pollutants.

Section 5.8: Persons violating §5 or any of its subsections in this Ordinance shall be personally liable for damages resulting from that violation, and for penalties assessed for that violation. Any corporation engaging in land development in violation of §5 or any of its subsections in this Ordinance shall not possess limited liability within the Borough of North Plainfield for the purposes of the enforcement of this Ordinance.

Section 5.9: Persons using corporations to engage in land development in a neighboring municipality shall be strictly liable for all harms caused to the health, safety, and welfare of the residents of Borough of North Plainfield from those activities, and for all harms caused to the natural environment within North Plainfield Borough.

Section 5.10: No permit, license, privilege or charter issued by any Regulatory Agency, Commission or Board to any person or any corporation operating under a State charter, or any director, officer, owner, or manager of a corporation operating under a State charter, which would violate the provisions of this Ordinance or deprive any Borough resident, natural community, or ecosystem of any rights, privileges, or immunities secured by this Ordinance, the New Jersey Constitution, the United States Constitution, or other laws, shall be recognized as valid. Additionally, any employee, agent or representative of any Regulatory Agency, Commission or Board who issues a permit, license, privilege or charter to any person or any corporation operating under a State charter, or any director, officer, owner, or manager of a corporation operating under a State charter, which would violate the provisions of this Ordinance or deprive any Borough resident, natural community, or ecosystem of any rights, privileges, or immunities secured by this Ordinance, the New Jersey Constitution, the United States Constitution, or other laws shall be liable to the party injured and shall be responsible for payment of compensatory and punitive damages and all costs of litigation, including, without limitation, expert and attorney's fees. Compensatory and punitive damages paid to remedy the violation of the rights of natural communities and ecosystems shall be paid to the Borough of North Plainfield for restoration of those natural communities and ecosystems.

Section 6. Definitions.

The following terms shall have the meanings defined in this section wherever they are used in this Ordinance:

“Borough” – The governing authority of the Borough of North Plainfield in Somerset County, New Jersey, which is responsible to and governed by sovereign authority of the people living there, who at all times enjoy and retain an inalienable and infeasible right to self-governance through their use of the municipal corporation known as the “Borough of North Plainfield,” to make law that benefits the sovereign people.

“Corporation” – any corporation organized under the laws of any state of the United States or any country, and any organization recognized under state law as possessing limited liability attributes. The Borough is not included under this definition.

“Engage in Land development” – any actions taken to construct a group of two or more residential buildings, whether proposed initially or cumulatively; or any actions taken to construct a single nonresidential building on a lot or lots regardless of the number of occupants or tenure. “Engaging in land development” also includes non-resident alien corporations contracting with or otherwise compensating a local, family-owned corporation or other individual or business to engage in development on behalf of the corporation.

“Family Land Development Corporation or Syndicate” – a corporation or syndicate engaged in land development, in which ninety-five percent (95%) of the partnership interests, shares, stock, or other ownership interests are held by members of a family or a trust created for the benefit of a member of that family.

“Family” – natural persons related to one another within the fourth degree of kinship according to civil law, or their spouses.

“Local” – occurring within the borders of the Borough of North Plainfield.

“Ordinance” – Borough of North Plainfield Corporate Land Development and Local Self-Government Ordinance.

“Person” – a natural person.

“Regulatory Agency, Commission or Board” – for purposes of enforcement of this Ordinance, any licensing or permitting body created by federal, state or municipal governments.

“Syndicate” – any limited partnership, limited liability partnership, business trust, or limited liability company organized under the laws of any state of the United States or any country. A syndicate does not include general partnerships, except general partnerships in which non-family syndicates or non-family corporations are partners.

Section 7. Exceptions. The restrictions in §5.1, §5.2 and §5.3 of this Ordinance do not apply to:

Persons using a family land development corporation or syndicates to engage in land development. In order to qualify for this exception, at least one of the family members in a family land development corporation or syndicate shall have been a permanent Borough resident for at least 2 years, actively engaged in the day-to-day labor and management of land development within the Borough of North Plainfield. Day-to-day labor and management shall require both daily and routine substantial physical exertion and administration. None of the corporation’s or syndicate’s partners, members, or stockholders may be nonresident aliens, or other corporations or syndicates, unless all of the stockholders, members, or partners of such entities are persons related within the fourth degree of kinship to the majority of partners, members, or stockholders in the family land development corporation or syndicate.

Section 8. Disqualification.

If a family development corporation or family land development syndicate that has qualified under all the requirements of a family land development corporation or family land development syndicate ceases to meet the defined criteria, it has three (3) months (if the ownership of the majority of the stock of such corporation, or the majority of the ownership interest of such a syndicate, continues to be held by persons related to one another within the fourth degree of kinship or their spouses), to either requalify as a family land development corporation or family land development syndicate, or dissolve and return to non-corporate ownership. If a corporation no longer qualifies as a family land development corporation, or family land development syndicate, it shall be prohibited from engaging in land development within the Borough, unless it requalifies as a family land development corporation or family land development syndicate.

Section 9. Enforcement.

Section 9.1: Any corporation or syndicate that engages in land development is required to report information necessary for the enforcement of this Ordinance to either the Borough’s Code Enforcement Officer or to the Borough Council, on a monthly basis, on forms provided by the Borough pursuant to this Ordinance. The Borough shall monitor such reports and notify the Code Enforcement Officer of any possible violations, and any resident of the Borough may also notify the Borough of any possible violations. Any violation of this Ordinance shall be considered a criminal summary offense. The Borough Council authorizes a fine of up to \$1,000.00 per violation. Each day of non-compliance shall be considered a separate violation of this Ordinance. The Borough may also file an action in equity in the General Equity Part of the Superior Court, Chancery Division of Somerset County, New Jersey, or any other Court of competent jurisdiction to abate any violation defined in Section 5 of this Ordinance. If the Borough fails to bring an action to enforce this Ordinance, any resident of the Borough has standing in those Courts to enforce this Ordinance.

Section 9.2: Any person, corporation, or other entity that violates, or is convicted of violating this Ordinance, two or more times shall be permanently prohibited from engaging in land development in North Plainfield Borough. This

prohibition applies to that person's, corporation's, or other entity's parent, sister, and successor companies, subsidiaries, and alter egos, and to any person, corporation, or other entity substantially owned or controlled by the person, corporation, or other entity (including its officers, directors, or owners) that twice violates this Ordinance, and to any person, corporation, or other entity that substantially owns or controls the person, corporation, or other entity that twice violates this Ordinance.

Section 9.3: North Plainfield Borough shall enforce this Ordinance by an action brought before a district justice in the same manner provided for the enforcement of summary offenses under the New Jersey Rules of Criminal Procedure.

Section 9.4: Any person, corporation, or other entity that violates any provision of this Ordinance shall be guilty of a summary offense and, upon conviction thereof by a district justice, shall be sentenced to pay a fine of \$750 for first-time violations, \$1000 for second-time violations, and \$1000 for each subsequent violation, and shall be imprisoned to the extent allowed by law for the punishment of summary offenses.

Section 9.5: A separate offense shall arise for each day or portion thereof in which a violation occurs and for each section of this Ordinance that is found to be violated.

Section 9.6: North Plainfield Borough may also enforce this Ordinance through an action in equity brought in the General Equity Part of the Superior Court, Chancery Division of Somerset County, New Jersey. In such an action, North Plainfield Borough shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees.

Section 9.7: All monies collected for violation of this Ordinance shall be paid to the Treasurer of North Plainfield Borough. Section

9.8: Any Borough resident shall have the authority to enforce this Ordinance through an action in equity brought in the General Equity Part of the Superior Court, Chancery Division of Somerset County, New Jersey. In such an action, the resident shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees.

Section 10. Civil Rights Enforcement

Section 10.1: Any person acting under the authority of a permit issued by the Department of Environmental Protection, any corporation operating under a State charter, or any director, officer, owner, or manager of a corporation operating under a State charter, who deprives any Borough resident, natural community, or ecosystem of any rights, privileges, or immunities secured by this Ordinance, the New Jersey Constitution, the United States Constitution, or other laws, shall be liable to the party injured and shall be responsible for payment of compensatory and punitive damages and all costs of litigation, including, without limitation, expert and attorney's fees. Compensatory and punitive damages paid to remedy the violation of the rights of natural communities and ecosystems shall be paid to North Plainfield Borough for restoration of those natural communities and ecosystems.

Section 10.2: Any Borough resident shall have standing and authority to bring an action under this Ordinance's civil rights provisions, or under state and federal civil rights laws, for violations of the rights of natural communities, ecosystems, and Borough residents, as recognized by Section 5 of this Ordinance.

Section 11. People's Right to Self-Government

The foundation for the making and adoption of this law is the people's fundamental and inalienable right to govern themselves, and thereby secure their rights to life, liberty, and pursuit of happiness. Any attempts to use other units and levels of government to preempt, amend, alter, or overturn this Ordinance, or parts of this Ordinance, shall require the Borough Council to hold public meetings that explore the adoption of other measures that expand local control and the ability of residents to protect their fundamental and inalienable right to self-government. It is declared that those other measures may legitimately include the partial or complete separation of the Borough from the other units and levels of government that attempt to preempt, amend, alter, or overturn this Ordinance.

Section 12. Severability.

The provisions of this Ordinance are severable. If any court of competent jurisdiction decides that any section, clause, sentence, part, or provision of this Ordinance is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences, parts, or provisions of the Ordinance. The Borough Council, on behalf of the people of North Plainfield, hereby declares that in the event of such a decision, and the determination that the court's ruling is legitimate, it would have enacted this Ordinance even without the section, clause, sentence, part, or provision that the court decides is illegal, invalid, or unconstitutional.

Section 13. Effect.

This Ordinance shall be effective immediately upon its enactment.

SHARE THIS:



Be the first to like this.

RELATED

[Self-Governance Ordinance](#)
July 23, 2007

[Avoiding Lawsuits](#)
October 12, 2007

[NP Citizens for Community Rights](#)
July 2, 2007

This entry was posted in [Uncategorized](#). Bookmark the [permalink](#).

Blog at WordPress.com.