

Applicable regulations from the New Jersey Permanent Statutes Database

<http://goo.gl/7YPP8> - link functional as of May 5, 2011

<http://www.njleg.state.nj.us/> - main web site, click on Statutes

**26:3-45. Power to define nuisance**

The local board may pass, alter or amend ordinances and make rules and regulations to declare and define what shall constitute a nuisance in lots, streets, docks, wharves, vessels and piers, and all public or private places within its jurisdiction.

**26:3-46. Abatement of nuisances**

The local board, within its jurisdiction, shall examine into and prohibit any nuisance, offensive matter, foul or noxious odors, gases or vapors, water in which mosquito larvae breed, and all causes of disease which may be known to the board or brought to its attention, which, in its opinion, are injurious to the health of the inhabitants therein, and shall cause the same to be removed and abated at the expense of the owner.

**26:3-47. Abatement without ordinance**

The power given to the local board to remove and abate nuisances, sources of foulness, or causes of sickness hazardous to the public health, shall not depend upon whether the board has exercised its power to pass, alter, or amend ordinances in relation to the public health.

**26:3-48. Nuisance on public property; notice**

Whenever a nuisance, noxious odors, gases or vapors, water in which mosquito larvae breed, or cause of ill health or disease is found on public property or on a highway, notice shall be given by the local board to the person officially in charge thereof to remove and abate the same within such time as the board may specify. If he fails to comply with the notice, the mode of procedure shall be the same as is hereinafter provided in case of a like condition existing on private property.

**26:3-49. Nuisance on private property; notice**

Whenever any nuisance, noxious gases or vapors, water in which mosquito larvae breed, or cause of ill health or disease is found on private property, the local board shall notify the owner to remove and abate the same, at his own expense, within such time as the board may specify. A duplicate of the notice shall be left with one or more of the tenants or occupants.

If the owner resides out of the state or cannot be so notified speedily, a notice left at the house or premises with the tenant or occupant, or posted on the premises, shall suffice.

### **26:3-50. Failure to comply with notice; abatement**

If the owner when notified, as provided in section 26:3-49 of this title, shall not comply with the notice or order of the local board within the time specified, the board shall proceed to abate the nuisance and remove the cause of such foul or noxious odors, gases or vapors, water in which mosquito larvae breed, or other thing detrimental to the public health.

### **26:3-51. Restraining proceedings of board**

No injunction shall issue out of any of the courts of this state to stay, stop, or enjoin proceedings, or to prevent any local board from proceeding with the removal and abatement of any alleged nuisance, source of foulness, or cause of sickness, hazardous to the public health, until the board has been duly notified to appear and be present at the hearing of the application, and has had an opportunity to be heard thereon.

### **26:3-52. Suits against board for damages**

No suit shall be maintained in any of the courts of this state to recover damages against any local board, its officers or agents, on proceedings instituted to remove and abate such nuisances and cause of disease, unless it shall be shown in the suit that the alleged nuisance and cause of disease did not exist, or was not hazardous and prejudicial to the public health, and unless it be shown that the board acted without reasonable and probable cause to believe that such nuisance did exist and that such foul or noxious odors, gases, vapors or other cause was in fact prejudicial and hazardous to the public health.

### **26:3-53 Notice to remove, abate nuisance.**

26:3-53. A notice by any health officer or registered environmental health specialist to remove and abate any nuisance shall be taken as a notice from the board. If the owner or persons notified fails to remove and abate the nuisance complained of, the board may cause it to be removed and abated in a summary manner, giving written directions to its representative in relation thereto, and he shall proceed according to the directions so given.

Amended 1997, c.416, s.18.

### **26:3-54. Expenses of abatement; recovery**

The local board may recover, by a civil action, the expenses incurred in such removal and abatement from any person who shall have caused or allowed such nuisance, source of foulness, water in which mosquito larvae breed, or cause of sickness, hazardous to the public health to exist, or from any owner, tenant, or occupant of premises who, after notice as herein provided, shall fail to remove and abate the same within the time specified in the notice.

Amended by L.1953, c. 26, p. 468, s. 14.

### **26:3-55. Payment of expenses by local authorities**

In case the local board fails to recover an amount sufficient to defray such expenses or shall deem it inexpedient to bring action, it may present a bill, certified by the board, or by a majority thereof, for such expenses or for such part thereof as may not have been recovered, to the proper disbursing officer of the municipality, and it shall be audited and paid by the municipality in and for which the local board is organized, in the same manner as the bills for the ordinary current expenses of the municipality are paid.

### **26:3-56. Action for injunctive relief**

The local board, instead of proceeding in a summary way to abate a nuisance hazardous to the public health, may institute an action in the Superior Court, in the name of the State, on relation of the board, for injunctive relief to prohibit the continuance of such nuisance.

Amended by L.1953, c. 26, p. 468, s. 15.

### **26:3-57. Injunctive relief; costs**

The court may charge the costs of the action upon the property whereon the nuisance is found, and enforce the payment of the same by sale of the property, or any part of it; or the court may order the person who caused the nuisance, or allowed it to continue, to pay the costs.

Amended by L.1953, c. 26, p. 469, s. 16.

### **26:3-58. Liability of local board for costs**

In case no such nuisance shall be found to exist, costs shall be awarded against the local board which caused the action to be brought, but only in case it shall appear to the court that no probable cause existed for bringing the action.

Amended by L.1953, c. 26, p. 469, s. 17.

### **26:3-59. Search warrants**

26:3-59. The Superior Court or any municipal court may issue a warrant to search for any nuisance affecting health. Such warrant may be issued according to the practice of the court, upon the information and belief of any officer or agent of the State Department of Health, or of any local board of health that there is in any dwelling house, store, stable or any building of any kind whatsoever any nuisance affecting health or any person sick of any contagious or infectious disease, or any condition of contagion or infection which may have been caused by anyone recently sick of any such disease in any such dwelling house or other place. The warrant shall be directed to the sheriff of the county within which the search is to be made, or to any constable, marshal, police officer, or officer or agent of the local board having jurisdiction within the place where such search is to be made.

Amended 1953, c.26, s.18; 1991,c.91,s.290.

**26:3-60. Cause for issuance of warrant**

A warrant as described in section 26:3-59 of this title shall direct the officer to search in such dwelling house, store, stable, or other building for such nuisance affecting health, or for any person affected with any contagious or infectious disease, or for any condition of contagion or infection which may have been caused by anyone recently sick of any such disease in such dwelling house or other place.

**26:3-61. Abatement under warrant**

If a nuisance is found, the officer shall remove and abate it; and if a person affected with a contagious or infectious disease is found, the officer shall deal with him according to law, and the ordinances of the local board; and if a condition of contagion or infection is found to exist, the officer shall destroy the same by means of proper disinfection.

**26:3-62. Return of warrant**

The officer to whom the search warrant shall be directed shall make return of his proceedings thereunder to the court issuing the warrant.

Amended by L.1953, c. 26, p. 469, s. 19.

**26:3-63. Officers required to assist in execution of warrant**

The sheriff of the county and any constable, marshal, or police officer of any county or municipality shall, if required by any officer to whom the search warrant may be directed, be present and assist in the execution of the warrant.