

**BOROUGH OF NORTH EAST
ORDINANCE NO. 937**

**AN ORDINANCE OF THE BOROUGH OF NORTH
EAST AMENDING AND RESTATING ORDINANCE 856
CONCERNING MAINTENANCE OF COMMON
NUISANCES WITHIN THE BOROUGH OF NORTH
EAST**

PREAMBLE

WHEREAS, the Borough of North East adopted a code regulating the maintenance of common nuisances pursuant to Ordinance 856; and

WHEREAS, the Borough has determined that Ordinance 856 needs to be amended and restated in order to update various provisions related to inspection, issuance of notice of violation, the enforcement and appeal process and penalties.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY the corporate authorities of the Borough of North East, County of Erie, and Commonwealth of Pennsylvania and it is hereby enacted by the authority of the same as follows:

Section 1. Preamble: The caption and Preamble of this Ordinance set forth above are incorporated herein by reference.

Section 2. Amendment and Restatement. Ordinance 856 is hereby amended and restated as set forth below.

Section 3. Definitions

Abatement: removal or other termination of a nuisance.

Borough: Borough of North East

Borough Council: the duly elected and appointed Council of the Borough.

Borough Manager: The duly appointed Borough Manager of the Borough of North East.

Code Enforcement Officer: an officer specifically appointed by the Borough Council of the Borough to enforce identified ordinances as well as the Zoning Administrator and Borough Manager.

Common Nuisance: any condition which constitutes a threat or potential threat to the health, welfare, and safety of residents, property owners, and visitors of the Borough, the abatement of which does not require physical alteration of buildings or other structures.

Garbage: the animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of foods. It shall not include sanitary sewage and industrial wastes.

Household Refuse: containers commonly abandoned from households such as cereal boxes, soup cans, glass jars, grocery cartons, plastic bottles, paper, clothing, discarded household goods, and similar items.

Imminent Danger. A condition that could cause serious or life-threatening injury or death at any time.

Maintenance of a Nuisance: the allowance of a nuisance to exist upon premises whether by intention, negligence, or otherwise.

Motor Vehicle: any type of mechanical device propelled by a motor in which persons or property may be transported upon public streets or highways and including trailers and semitrailers pulled thereby.

Occupant: a person who occupies and exercises control of real estate in the Borough of North East as an owner, tenant, trespasser, or otherwise.

Open Fire: an outdoor fire that is not contained within a fireplace, stove, grill, incinerator, fire ring, chiminea, or similar device.

Owner: a person who holds legal or equitable title to real estate in the Borough of North East.

Person: a natural person, firm, partnership, association, corporation, or other legal entity.

Premises: a parcel of real estate in the Borough.

Recurring Intermittent Common Nuisances: a nuisance that is maintained on an intermittent but recurring basis so that the nuisance exists more than one day out of any continuous twelve month period.

Section 3. Identification of Common Nuisances. The following conditions existing within the Borough of North East are hereby declared to be common nuisances and prohibited.

3.1 Vegetative Growth.

3.1.1 Any grass or weeds or any vegetation whatsoever, not edible or planted for some useful or ornamental purpose, to grow or remain upon such premises so as to exceed a height of six inches; nor shall the following be permitted to grow within the North East Borough: sumac, hogweed, burdock, goldenrod, ragweed.

3.1.2 Any vegetation whatsoever that is planted or allowed to grow or remain upon such premises for edible or ornamental purposes that is not trimmed or otherwise maintained to avoid (1) encroachment upon public rights of way or adjacent properties; (2) the risk of injury to person or property from falling limbs or other debris; or (3) obstruction of visibility at

intersections as provided under Section 27-503 (4) of the North East Borough Zoning Ordinance and related provisions.

3.2 Refuse Accumulation. Accumulations of garbage and household refuse that are not contained in water tight metal or plastic containers and/or have been held for a period in excess of two weeks.

3.3 Accumulation of Junk: Accumulation of storage of appliances, machinery, equipment, construction materials, scrap metal, and salvage materials in the open unless in a junkyard, salvage facility, or recycling center which is in compliance with the provisions of the zoning ordinance.

3.4 Early Placement for Refuse Collection. Placement of garbage and household refuse, whether or not in containers at the curb for pickup prior to 6:00 p.m., on the day prior to the next scheduled collection.

3.5 Junk Car. Maintenance or storage of a unlicensed motor vehicle or a motor vehicle which is unable to move under its own power in the open on private property except in: a junkyard or salvage facility; or new or used car dealership; or automotive repair facility which is in compliance with the zoning ordinance.

3.6 Open Fire. Maintenance of an open fire.

3.7 Disposal by Burning. Burning of junk, trash, construction debris, or any recyclable materials for the purpose of disposal of same.

3.8 Improper Placement of Vegetative Material for Collection. Deposit of grass clippings, tree clippings, brush, and other vegetative material for collection by the municipality within the right of way of any public highway in areas other than berms located between the sidewalk and the paved portion of the street.

3.9 Snow Removal Deposited on Sidewalks and Streets. Deposit of snow and ice removed from private property by any means whatsoever upon the sidewalks and streets of the Borough located within the public right-of-way.

3.10 Failure to Remove Snow and Ice from Sidewalks. The failure to remove accumulations of snow and ice by the owner or occupant of premises abutting sidewalks from the sidewalk within twelve hours of the deposit of said snow or ice upon the sidewalk by artificial or natural means.

Section 4. Duties & Powers of the Code Enforcement Officer.

4.1. General. The Code Enforcement Officer is hereby authorized and directed to enforce the provisions of this Ordinance. The Code Enforcement Officer shall have the authority to render interpretations of this Ordinance and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this Ordinance. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this Ordinance.

4.2. Inspections. The Code Enforcement Officer shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Code Enforcement Officer is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

4.3. Right of entry. Where it is necessary to make an inspection to enforce the provisions of this Ordinance, or whenever the Code Enforcement Officer has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this Ordinance, the Code Enforcement Officer is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this Ordinance, provided that if such structure or premises is occupied the Code Enforcement Officer shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the Code Enforcement Officer shall first make a reasonable effort to locate the owner, owner's authorized agent or other person having charge or control of the structure or premises and request entry. If entry is refused, the Code Enforcement Officer shall have recourse to the remedies provided by law to secure entry.

4.4. The Code Enforcement Officer shall appear at all hearings conducted by the Borough Council upon the request of council and testify as to the condition of a property that is in violation of this Ordinance.

Section 5. Violations.

5.1. Violations. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this Ordinance.

5.2. Notice of Violation. Upon the determination by the Code Enforcement Officer that a violation of this Ordinance has occurred or has grounds to believe that a violation has occurred, written notice shall be given in the manner set forth in this Section to the owner, occupant, or the owner's authorized agent, for the violation as specified in this Ordinance.

5.3. Form of Notice. Such notice shall be in accordance with all of the following:

- A. Be in writing.
- B. Include a description of the real estate sufficient for identification.
- C. Include a statement of the violation or violations and why the notice is being issued.
- D. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the property and/or structure into compliance with the provisions of this Ordinance.
- E. Inform the occupant, property owner and/or owner's authorized agent of the right to appeal.
- F. Include a statement of the right to file a lien in accordance with Section 1202(4) of the Borough Code, 8 Pa. C.S.A. § 1202(4) and Section 308-5 of this Ordinance.

5.4. Method of Service. Notice shall be deemed to be properly served where a copy thereof is served in accordance with one of the following methods:

- A. A copy is delivered personally.
- B. A copy is sent by certified or registered mail addressed to the owner at the last known address with the return receipt requested.
- C. A copy is delivered in any other manner as prescribed by local law.

If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing matter upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

5.4. Compliance. The owner and/or occupant shall correct any and all noted deficiencies within such period of time as may be specified in the notice. Extension of such specified period of time may be granted by the Code Enforcement Officer, in their sole discretion upon good cause shown.

5.5. Unauthorized Tampering. Signs, tags or seals posted or affixed by the Code Enforcement Officer shall not be mutilated, destroyed or tampered with, or removed without authorization of the Code Enforcement Officer.

5.6. Abatement of violation. The imposition of fines for violation shall not preclude the Borough from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of a building, structure or premises. The Borough of North East may collect the cost of such abatement, repair, vacation, or demolition together with a penalty of ten percent (10%) of such cost, in the manner provided by law. Any action taken by the Borough on such premises and after notice shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

5.7. Placarding. As relates to a building, premises or equipment deemed to be dangerous structures by the Code Enforcement Officer, upon failure of the owner, owner's authorized agent or person responsible to comply with the notice provisions within the time given, the code enforcement officer shall post on the premises or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

5.8. Placard removal. The Code Enforcement Officer shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the Code Enforcement Officer shall be subject to the penalties provided by this Ordinance.

5.9. Prohibited occupancy. Any occupied structure condemned and placarded by the Code Enforcement Officer shall be vacated as ordered by the Code Enforcement Officer. Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner, owner's authorized agent or person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this Ordinance.

Section 6. Emergency Measures.

6.1. Imminent danger. When, in the opinion of the Code Enforcement Officer, there is imminent danger of failure or collapse of a building or structure that endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the Code Enforcement Officer is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The Code Enforcement Officer shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Enforcement Officer." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

6.2. Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the Code Enforcement Officer, there is imminent danger due to an unsafe condition, the Code Enforcement Officer shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the Code Enforcement Officer deems necessary to meet such emergency.

6.3. Emergency repairs. For the purposes of this section, the Code Enforcement Officer shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

6.4. Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The Borough of North East may collect the cost of such repair, vacation, or demolition together with a penalty of ten percent (10%) of such cost, in the manner provided by law. Such costs shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

6.5. Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this Ordinance.

Section 7. Appeals.

7.1. Application for appeal. Any person directly affected by a decision of the Code Enforcement Officer or a notice or order issued under this Ordinance shall have the right to appeal to the Borough Council, provided that a written application for appeal, is filed within 10 days after the day the decision, notice or order was served. All appeal applications shall be filed with the Borough Manager and shall set forth a brief statement of the grounds for appeal.

7.2. Scheduling Hearing. Upon receipt of such petition, the Borough Manager shall set a time and place for such hearing and shall give the petitioner written notice thereof.

The hearing shall be commenced not later than 30 days after the day on which the petition was filed.

7.3. Hearings. At such hearing, the petitioner shall be given the opportunity to be heard and to show why such notice should be modified or withdrawn.

7.4. Decision. After such hearing, the Borough Council shall sustain, modify or reverse the notice. The Borough Council shall issue a written decision within thirty (30) days of the hearing. Copies shall be furnished to the appellant and to the Code Enforcement Officer.

7.5. Court review. All appeals from all decisions rendered pursuant to this Section shall be taken to the Court of Common Pleas of Erie County and shall be filed within 30 days after entry of the decision as provided in 42 Pa.C.S.A. § 5572 (relating to time of entry of order).

7.6. Stay of Enforcement. Appeals of notices and orders, other than Imminent Danger/Emergency notices, shall stay the enforcement of the notice and order until the appeal is heard by the Borough Council.

7.7. Conflict of Interest. A Borough Council member with any personal, professional or financial interest in any matter before the Council shall declare such interest and refrain from participating in discussions, deliberations and voting on such matters.

Section 8. Enforcement - Vegetative Growth.

8.1. Upon failure to comply with the notice of violation, any duly authorized employee or contractor of the Borough shall be authorized to enter upon the property in violation and cut and destroy the vegetative growth growing thereon, and the costs of such removal plus ten percent (10%) of all costs shall be paid by the owner or agent responsible for the property.

8.2. Only one (1) enforcement notice will be issued to a violator per calendar year. Thereafter, a citation will be issued directly and without any warning being required. Any person, entity or corporation which shall violate this Section, upon conviction thereof, shall be subject to a fine of not more than \$1,000, plus court costs and reasonable attorneys' fees incurred by the Borough in the enforcement proceedings.

Section 9. Remedies not mutually exclusive.

9.1. The remedies provided herein for the enforcement of this Ordinance, or any remedy provided by law or any other ordinance of the Borough, shall not be deemed mutually exclusive; rather they may be employed simultaneously or consecutively, at the option of the governing body.

9.2. In addition to the remedies provided by this Ordinance, the Borough may institute appropriate actions or proceedings at law or in equity to prevent or restrain nuisance violations. Such actions may include instituting a civil action in the Erie County Court of Common Pleas to correct or abate the violation(s) of this Ordinance. Such

complaint(s) shall name as party defendant all persons or entities determined to have committed a violation, and shall seek judgment against multiple defendants, as is applicable, both jointly and severally.

Section 10. Responsibilities of Owners and Occupants.

10.1. Owner (s) of premises shall comply with the provisions of this Ordinance, as well as operators and occupants, regardless of any agreements between owners and operators or occupants as to which party shall assume such responsibility.

10.2. Where an this Ordinance imposes duties upon owners or occupants of property or the violation otherwise pertains to the act or omission of two or more persons or entities, all persons or entities found to have violated this Ordinance shall be cited for the violation and be subject to enforcement proceedings. In all cases involving acts or omissions upon or about a property for which owners and/or occupants are responsible for proper conduct, all co-owners and, as applicable, co-occupants of the property shall be cited in all notices and proceedings, it being the express intention of the Borough Council that all such persons be jointly and severally liable for the violation, fine and all costs, fees and other charges due as a consequence of such violation and all proceedings related thereto.

Section 11. Penalties & Prosecution.

11.1. Penalties. Any person who violates or permits a violation of this Ordinance shall, upon conviction in a summary proceeding under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus court costs and reasonable attorneys' fees incurred by the Borough in the enforcement proceedings. Each violation of Ordinance shall constitute a separate offense. Each day that such violation exists shall constitute a separate offense, and each section of this Ordinance that is violated shall also constitute a separate offense. In addition to or in lieu of enforcement under this section, the Borough may enforce this Ordinance in equity in the Court of Common Pleas of Erie County.

11.2. Prosecution of violation. Any person violating any provision of the Ordinance or failing to comply with a notice of violation or order served in accordance with Section 10.4 shall be deemed guilty of a summary criminal offense as determined by Section 3321(b)(2) of the Borough Code. If a notice of violation is not complied with, the Code Enforcement Officer shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of an unlawful occupancy of the structure in violation of the provisions of this Ordinance or of the order or direction made pursuant thereto. Any action taken by the Borough on such premises and after notice shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate. The Code Enforcement Officer may seek the imposition of fines even if the violator complies with the notice of violation.

Section 12. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person(s) or circumstances is for any reason held to be invalid or unconstitutional by any court, such holding(s) shall not be construed to affect the validity of any of the remaining provisions of the Ordinance. It is hereby declared the legislative intent that this Ordinance

would have been adopted had such invalid or unconstitutional provision or its application not be included herein.

Section 12. Repealer. Any other Ordinance or parts thereof inconsistent with this Ordinance shall be and are hereby expressly repealed.

ENACTED INTO AN ORDINANCE THIS ____ DAY OF OCTOBER 2025.

BOROUGH OF NORTH EAST

Amber Belson
President of Borough Council

ATTEST:

PATRICK J. GEHRLEIN
Borough Manager

APPROVED THIS ____ DAY OF OCTOBER 2025

Bobbi Jo Morey
Mayor