

**BOROUGH OF NORTH EAST
ORDINANCE NO. 938**

**AN ORDINANCE OF THE BOROUGH OF NORTH
EAST AMENDING AND RESTATING ORDINANCE
908 CONCERNING PROPERTY MAINTENANCE
STANDARDS FOR REAL PROPERTY WITHIN THE
BOROUGH OF NORTH EAST**

PREAMBLE

WHEREAS, the Borough of North East adopted a property maintenance code pursuant to Ordinance 908; and

WHEREAS, the Borough has determined that Ordinance 908 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 908 is hereby amended and restated as set forth below.

Section 3. Definitions. In the interpretation of this Ordinance, the present tense includes the future; the singular number includes the plural and the plural includes the singular; and the word person includes natural person, property owner, company, trust, individual, partnership, firm, association, corporation, or entity of any kind. The following terms shall have the definitions assigned:

BOROUGH — Shall mean the Borough of North East, Erie County, Pennsylvania

BUILDING — a roofed structure, enclosed by one (1) or more walls, for the shelter, housing, storage or enclosure of persons, goods, materials, equipment or animals.

COURT — an open and unoccupied space on a lot enclosed on at least three (3) sides by the walls of a building.

GARBAGE — putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

INFESTATION — the presence of insects, rodents, vermin and/or other pests.

IMMINENT DANGER — A condition that could cause serious or life-threatening injury or death at any time.

LOT — plot, tract, premises or parcel of land, with or without improvements thereto.

OWNER — any person or persons, jointly or severally, firm, corporation or other entity which, either by conveyance or inheritance or otherwise, is vested with the title to a lot and/or improvements thereto in his capacity as a legal representative, such as an administrator, trustee, executor, etc.

REFUSE — all putrescible and non-putrescible solid wastes, including garbage, rubbish, ashes, dead animals and commercial and industrial wastes.

UNOCCUPIED HAZARD — any building, or part thereof, or manmade structure, which remains unoccupied for a period of more than six (6) months, with either doors, windows or other openings broken, removed, boarded or sealed up, or any building under construction upon which little or no construction work has been performed for a period of more than six (6) months.

YARD — any open space on the same lot with a building and, for the most part, unobstructed from the ground up.

Section 4. Application. The provisions of this Ordinance shall supplement local laws, ordinances or regulations existing in the Borough or those of the Commonwealth of Pennsylvania. Where a provision of this Ordinance is found to be in conflict with any provision of a local law, ordinance, code or regulation or those of the Commonwealth of Pennsylvania, the provision which is more restrictive or which establishes the higher standard shall prevail.

Section 5. Buildings and Structures.

- 5.1 No owner of any building or structure shall fail to take such steps and perform such maintenance with respect thereto, as may be required from time to time, to ensure that the property is safe, sound, sanitary and secure and does not present a health and/or safety hazard to surrounding properties or to the general populace.
- 5.2 No owner of any unoccupied building or structure shall fail to take such steps as may be required to insure that the same are securely closed so as to prohibit and deter entry thereto and to insure that no health and/or safety hazard, or threat thereof, is precipitated due to a lack of maintenance or due to neglect.
- 5.3 Owners of any and all unoccupied buildings and/or structures which, through neglect, have deteriorated to the point of being classified as unoccupied hazards, and therefore constitute a severe health and/or safety hazard, upon direction of the North East Borough Council, the Borough Code Enforcement Officer, or other authorized official or body, remove, or cause the removal of, the building and/or structure.
- 5.4 All structural members shall be maintained free from deterioration and shall be capable of safely supporting the imposed dead and live loads.

- 5.5 All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.
- 5.6 All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration. Exterior walls shall be comprised of materials having the same or similar color and quality.
- 5.7 The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.
- 4.8 All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.
- 5.9 All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- 5.10 Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.
- 5.11 All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.
- 5.12 Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
- 5.13 Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.
- 5.14 All glazing materials shall be maintained free from cracks and holes.
- 5.15 All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units shall tightly secure the door.
- 5.16 Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

Section 6. Yards, Open Lots, Parking Areas.

- 6.1 Fences and/or minor structures shall not be constructed and maintained so as to present a safety or health hazard to persons and/or property.
- 6.2 No person shall permit the development or accumulation of hazards, rodent harborage and/or infestation upon yards, courts, lots.
- 6.3 With the exception of approved storm water retention areas, all lots and yards shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.
- 5.4 No person shall permit the accumulation of heavy undergrowth and/or vegetation which would impair the health and/or safety of the neighborhood; nor shall they permit any trees, plants or shrubbery, or any portion thereof, to grow on their property and which constitute a safety hazard to pedestrian and/or vehicular traffic. All vegetation shall comply with Ordinance 903 Zoning Ordinance standards for line-of-sight visibility.
- 5.5 All premises and exterior property shall be maintained free from weeds or plant growth in excess of six (6) inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Section 7 - Infestation, Prevention and Correction:

- 7.1 All structures, lots and yards shall be kept free from rodents and other wild and feral animal harborage and infestation. Where rodents or wild or feral animals are found, they shall be promptly exterminated or removed by processes which will not be injurious to human health. After extermination or removal, proper precautions shall be taken to eliminate such harborage and prevent re-infestation.
- 7.2 Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage and refuse in accordance with the Borough Solid Waste Ordinance.
- 7.3 Where there exists rodent and vermin infestation, corrective measures shall be undertaken by the property owner and/or occupant to alleviate the existing problem(s), to include screening, extermination and/or garbage and refuse control. Methods employed for extermination shall conform with generally accepted practices.

Section 8 - Miscellaneous Provisions. No person shall permit:

- 8.1 Roof, surface and/or sanitary drainage to create a safety and/or health hazard to persons and/or property by reason of inadequate and/or improper construction, or maintenance or manner of discharge.
- 8.2 Roof gutters, drains or any other system designed and constructed to transport storm

water, to be discharged into any sanitary sewage system and/or any part thereof.

- 8.3 Any refrigerator, freezer and/or other similar storage chest to be discarded, abandoned or stored in any place or location which is accessible to the general public without first completely removing any and all locking devices and/or doors; provided, that nothing herein shall be construed so as to permit any act or practice otherwise prohibited by the Borough of North East.
- 8.4 The maintenance or storage by an owner or lessee of a motor vehicle which is unable to move under its own power and• which motor vehicle has rusted, broken or sharp edges; missing tires or other components resulting in unsafe suspension of the motor vehicle; ripped upholstery or other conditions which could permit vermin harborage; has leaking or damaged oil pan, gas tank or other fluid container; or such other defects which the Borough Code Enforcement Officer may upon investigation determine threaten the health, safety and welfare of the citizens of the Borough of North East.

Section 9. Duties & Powers of the Code Enforcement Officer

9.1. 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.

9.2. 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.

9.3. 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.

9.4. 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 10. Violations.

10.1. 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.

10.2. 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.

10.3. 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.

10.4. 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.

10.4. 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.

10.5. 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.

10.6. 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.

10.7. 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.

10.8. 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.

10.9. 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 11. Emergency Measures.

11.1. 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.

11.2. 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.

11.3. 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.

11.4. 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.

11.5. 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 12. Appeals.

12.1. 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.

12.2. 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.

12.3. 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.

12.4. 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.

12.5. 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).

12.6. 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.

12.7. 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 13. Enforcement - Vegetative Growth.

13.1. 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.

13.2. 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 14. Remedies not mutually exclusive.

14.1. 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.

14.2. 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 15. Responsibilities of Owners and Occupants.

15.1. 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.

15.2. 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 16. Penalties & Prosecution.

16.1. 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.

16.2. 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 17. 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 18. 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