

**AN ORDINANCE - # 856**  
**PROHIBITING THE**  
**MAINTENANCE OF**  
**COMMON NUISANCES**  
**IN THE BOROUGH OF**  
**NORTH EAST**

**WHEREAS** the Borough of North East has a number of ordinances prohibiting the maintenance of nuisances in the Borough and;

**WHEREAS** the Borough has determined that a comprehensive ordinance for the prohibition of common nuisances to supplement existing ordinances and to prohibit common nuisances not regulated in existing ordinances is in the best interest of the Borough.

**NOW, THEREFORE**, be it ordered and enacted by the Borough Council of the Borough of North East as follows:

**Section 1. 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.

**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 semi-trailers 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 2. Identification of Common Nuisances**

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

### **2.1 Vegetative Growth.**

**2.1.1** 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.

**2.1.2** 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.

**2.2 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.

**2.3 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.

**2.4 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.

**2.5 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.

**2.6 Open Fire.** Maintenance of an open fire.

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

**2.8 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.

**2.9 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.

**2.10 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 3: Inspection of Premises**

The Code Enforcement Officer is hereby authorized to inspect private and public premises in the Borough to determine if a common nuisance is maintained thereat.

### **SECTION 4: Enforcement**

**4.1** Upon the determination by the Code Enforcement Officer that a common nuisance is maintained upon a premises, the Code Enforcement Officer shall, serve the owner and occupant of the premises with an initial written notice that a nuisance is maintained at the premises and requiring abatement of said nuisance within seventy-two hours. Said notice shall be served upon

the owners and occupants of the premises by regular mail. In the event that the nuisance is not abated within the seventy-two hour period provided for under the initial notice, the Code Enforcement Officer shall send a second final notice by certified and regular mail requiring the abatement of the nuisance within forty-eight hours and an "order to abate" notice posted in a conspicuous site at the premises. The Code Enforcement Officer may extend the period for abatement in his discretion to a period not in excess of ten days. No notice of abatement is required if the Code Enforcement Officer has issued a notice with respect to the maintenance of the same type of nuisance within twelve months of the date of the final notice with respect to the same premises if the nuisance is maintained on a continuous or recurring, intermittent basis during twelve months following the initial notice.

**4.2 Hearing** – A person who considers himself to be aggrieved by the decision of the Code Enforcement Officer may within the period established for abatement file an appeal requesting relief from the Notice of Abatement which appeal shall be heard by the Borough Council at its next regularly scheduled meeting after the appeal is filed. Enforcement of the notice of abatement shall be stayed until council acts upon the appeal. In the event that the notice is sustained by Borough Council, the maintenance of the ordinance during the appeal period shall be subject to the penalties provided hereafter.

**4.3** Upon the failure of an owner or occupant to abate a nuisance with the required period after notice as required above, or the resumption of an intermittent recurring nuisance after notice within the preceding twelve months, said owner or occupant shall be subject to a fine of \$25.00 per day for each day in which the nuisance remains unabated or is resumed during the twelve month period following the notice of abatement.

## **SECTION 5: Authority to Remedy Noncompliance.**

**5.1** If the owner does not comply with the notice to abate the conditions, within the time limit prescribed or resumes a nuisance on an intermittent recurring basis, the Borough shall have the authority to take measures to correct the conditions and collect the cost of such corrections plus ten percent (10%) of all costs. The Borough, in such event and pursuant to its statutory or otherwise authorized police powers, shall have the right and power to enter upon the offending premises to accomplish the foregoing.

## **SECTION 6: Owners Severally Responsible.**

**6.1** If the premises are owned by more than one (1) owner, each owner shall severally be subject to prosecution for the violation of this ordinance.

**SECTION 7: Remedies not Mutually Exclusive.**

7.1 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.

**SECTION 8:**

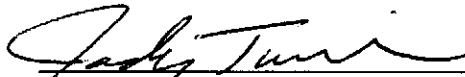
8.1 No ordinances or portions of ordinances are repealed hereby.

**SECTION 9:**

9.1 The within ordinance shall be effective immediately.

ENACTED INTO AN ORDINANCE THIS 1st DAY OF November,  
2010.

**BOROUGH OF NORTH EAST**



**JODY TIMER**

**President**

**Borough Council**

ATTEST.

  
**ROBERT L. BRAYMAN**  
**Borough Manager**

APPROVED THIS 5th DAY OF November, 2010.



**STEVEN L. GREGORY**

**Mayor**