

MNB050

ORDINANCE 815-A

AN ORDINANCE OF THE BOROUGH OF NORTH EAST DEFINING AND PROHIBITING DANGEROUS STRUCTURES AND BUILDINGS WHICH CONSTITUTE PUBLIC NUISANCES; ESTABLISHING STANDARDS FOR REPAIR, VACATION AND DEMOLITION THEREOF; DETERMINING THE DUTIES OF THE BOROUGH CODE ENFORCEMENT OFFICER OR IN HIS ABSENCE, THE BOROUGH MANAGER; AUTHORIZING HEARINGS BY THE BOROUGH COUNCIL; PROVIDING FOR ABATEMENT PROCEDURES IN EMERGENCY AND NORMAL CIRCUMSTANCES; PROHIBITING THE REMOVAL OF NOTICES; AND PRESCRIBING PENALTIES FOR VIOLATION.

BE IT ORDAINED AND ENACTED by the Borough Council and **IT IS HEREBY ORDAINED AND ENACTED** by Authority of the same.

**CHAPTER 10
PART 3**

Section 3-101. Definitions. As used in this Ordinance, the following terms shall have the meaning indicated, unless a different meaning clearly appears from the context:

BUILDING - an independent structure having a roof supported by columns or walls resting on its own foundation and includes dwelling, garage, barn stable, shed, greenhouse, mobile home, plant, factory, warehouse, school, or similar structure.

DANGEROUS BUILDING - all buildings or structures which have any or all of the following defects shall be deemed dangerous buildings:

1. Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base;
2. Those which, exclusive of the foundation, show damage or deterioration to thirty-three percent (33%) of the supporting member or members, or damage or deterioration to fifty percent (50%) of the non-supporting enclosing or outside walls or covering;
3. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used;
4. Those which have been damaged by fire, wind or other causes so as to be dangerous to life, safety, or the general health and welfare of the occupants or the public;
5. Those which are so damaged, dilapidated, decayed, unsafe, unsanitary, vermin infested or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, safety or general welfare of those living therein;

6. Those which have parts thereof which are so attached that they may fall and injure property or members of the public;
7. Those which lack illumination, ventilation or sanitation facilities or because of another condition are unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the occupants or the public;
8. Those existing in violation of any provision of the building code, fire prevention code, or other ordinances of the Borough of North East.

DWELLING - any building which is wholly or partly used or intended to be used for living or sleeping by human occupants.

DWELLING UNIT - any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living or sleeping by human occupants.

EXTERMINATION - control and elimination of insects, rodents or other pests by eliminating their harborage places, removing or making inaccessible, materials that may serve as their food, poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods.

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

INFESTATION - presence, within or around a dwelling, of any insects, rodents or other pests.

OWNER - person who, alone or jointly or severally with others:

1. shall have legal title to any dwelling, or dwelling unit, with or without accompanying actual possession thereof; or
2. shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this ordinance and with rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

PERSON - any individual, firm, corporation, association, or partnership, or other legal entity.

PROPERTY - a piece, parcel, lot or tract of land.

RUBBISH - combustible waste materials, except garbage, including residue from the burning wood, coal, coke, and other combustible material, paper, rags, carton, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust.

STRUCTURE - anything constructed or erected with a fixed or ascertainable location on the ground or in water, whether or not affixed to the ground or anchored in the water, including buildings, walls, fences, platforms, docks, wharves, billboards, signs, and walks.

Whenever the words "dwelling", "dwelling unit", or "premises", are used in this ordinance, they shall be construed as though they were followed by the words "or any part thereof".

Section 3-201. Dangerous Buildings Nuisances. All dangerous buildings within the terms of section 1 of this ordinance are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as herein provided.

Section 3-301. Standards for Repair, Vacation, or Demolition. The following standards shall be followed in substance by the Borough Code Enforcement Officer, or in his absence, by the Borough Manager of the Borough of North East in ordering repair, vacation, or demolition:

- 3-301.1. If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this ordinance, it shall be ordered to be repaired.
- 3-301.2. If the dangerous building is in such condition as to make it dangerous to the health, safety, or general welfare of its occupants, or the public and is so placarded, it shall be ordered to be vacated within such length of time, not exceeding thirty (30) days, as it is reasonable.
- 3-301.3. No dwelling or dwelling unit which has been placarded as a unit for unfit for human habitation until written approval is secured from, and such placard is removed, by the Borough Code Enforcement Officer, or in his absence, by the Borough Manager. The Borough Code Enforcement Officer, or in his absence, the Borough Manager shall remove such placard whenever the defect or defects upon which the placarding action were based have been eliminated.
- 3-301.4. If a dangerous building is fifty percent (50%) or more damaged or decayed, or deteriorated from its original condition; if a dangerous building cannot be repaired, so that it will no longer exist in violation of the terms of this ordinance; or if a dangerous building is a fire hazard existing or erected in violation of the terms of this ordinance or any ordinance of the Borough of North East or statute of the Commonwealth of Pennsylvania, it shall be ordered to be demolished; provided, the cost of repairs to rectify or remove the conditions constituting the nuisance exceed fifty percent (50%) of the market value of the building at the time demolition is proposed.

Section 3-400. Duties of Borough Code Enforcement Officer

- 3-401. The Borough Code Enforcement Officer, or in his absence, the Borough Manager, shall inspect on a regular basis dwellings, buildings, and structures to determine whether any conditions exist which render such premises dangerous buildings within the terms of section 1 above.

3-402. Whenever an inspection discloses that a dwelling, building, or structure has become a public nuisance, the Borough Code Enforcement Officer, or in his absence, the Borough Manager, shall issue a written notice to the person or persons responsible therefor. The notice:

1. shall be in writing;
2. shall include a statement of the reasons it is being used;
3. shall state a reasonable time to rectify the conditions constituting the nuisance or to remove and demolish the dwelling, building, or structure;
4. shall be served upon the owner, or his agent, or the occupant, as the case may require.

(1) Except in emergency cases and where the owner, occupant, lessee, or mortgagee is absent from the Borough of North East, all notices shall be deemed to be properly served upon the owner, occupant or other person having an interest in the dangerous building, if a copy thereof is served upon him personally, or if a copy thereof is posted in a conspicuous place in or about the structure affected by the notice; or if he is served with such notice by any other method authorized or required under the laws of the Commonwealth.

(2) Except emergency cases, in all other cases where the owner, occupant, lessee, or mortgagee is absent from the Borough of North East all notices or orders provided for herein shall be sent by registered mail to the owner, occupant, and all other persons having an interest in said building, as shown by the records of the County Recorder of Deeds, to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the dangerous building to which it relates. Such mailing and posting shall be deemed adequate service.

5. may contain an outline of remedial action which, if taken will effect compliance with the provisions of this ordinance and with the rules and regulations adopted pursuant thereto.

3-403 The Borough 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 dangerous buildings.

Section 500. Hearings.

3-501. Any person affected by any notice which has been issued in connection with the enforcement of any provision of this ordinance, may request and shall be granted a hearing on the matter before the Borough Council provided, that such person shall file with the Borough Manager a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within ten (10) days after the day the notice was served. 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. At such hearing the petitioner shall be given the opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than thirty (30) days after the day on which the petition was filed.

3-502. After such hearing the Borough Council shall sustain, modify or withdraw the notice. If the Borough Council sustains or modifies such notice, it shall be deemed to be an order. Any notice served pursuant to this ordinance shall automatically become an order if a written petition for a hearing is not filed with the Borough manager within ten (10) days after such notice is served.

3-503. Any aggrieved party may appeal the final order to the Court of Common Pleas in accordance with the provisions of the Judicial Code.

Section 3-601. Removal of Notice Prohibited. No person shall remove or deface the notice of dangerous building, except as provided in section 3(3).

Section 3-701. Emergency Cases. Whenever the Borough Code Enforcement Officer, or in his absence, the Borough Manager finds that an emergency exists which requires immediate action to protect the public health, he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as is necessary to meet the emergency. Notwithstanding the other provisions of this ordinance, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the Borough Code Enforcement Officer, or in his absence, the Borough Manager, shall be afforded a hearing as soon as possible. After such hearing, depending upon the findings as to whether the provisions of this ordinance have been complied with, the Borough Code Enforcement Officer, or in his absence, the Borough Manager, shall continue such order in effect, or modify, or revoke it. The costs of such emergency repair, vacation, or demolition of such dangerous building shall be collected in the same manner as provided herein for other cases.

Section 3-801. Abatement by the Borough of North East. If the owner, occupant, mortgagee, or lessee fails to comply with the order of the Borough Code Enforcement Officer, or in his absence, the Borough Manager, within the time specified in the notice issued by him and no petition for a hearing is filed within ten (10) days thereafter, or following a hearing by the Borough Council where the order is sustained thereby, the Borough Code Enforcement Officer, or in his absence, the Borough Manager, shall cause such building or structure to be repaired, vacated, or demolished, as determined by the Borough Council in accordance with the standards hereinbefore provided. 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. In the alternative, upon the determination of the Borough Solicitor and in all cases in which the estimated cost of remediation in excess of \$1,000.00, excepting only emergency situations, the Borough of North East may seek equitable relief in a court of competent jurisdiction pursuant to the rules of civil procedure.

Section 3-901. Penalties. Any person who shall violate any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of one hundred dollars (\$100.00). Each day that a violation continues beyond the date fixed for compliance shall constitute a separate offense.

Section 3-1001. Repealer. All ordinances or parts of ordinances, which are inconsistent herewith, are hereby repealed. The following ordinances or parts thereof are specifically repealed:

Section 3-1101. Severability. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such as unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Borough Council that this ordinance would have been adopted had such unconstitutional illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 3-1201. Effective Date. This ordinance shall become effective immediately.

Section 3-1301. The within Ordinance has been numbered to conform to the codified ordinances of the Borough of North East and is hereby codified as Chapter 10, Part 3 thereof.

ENACTED INTO AN ORDINANCE THIS 4th DAY OF August, 2003.

BOROUGH OF NORTH EAST
BY: Jerry Weinheimer (Signed)
JERRY WEINHEIMER, President
Borough Council

ATTEST:
Benjamin Breniman (Signed)
BENJAMIN BRENIMAN
Borough Manager

APPROVED THIS 4th DAY OF August, 2003

Noreen Tuttle (Signed)
NOREEN TUTTLE
Mayor