

AMENDMENT TO:
NEW ALBANY BOROUGH
PROPERTY MAINTENANCE ORDINANCE 2004-3

AN ORDINANCE OF THE BOROUGH OF NEW ALBANY, BRADFORD COUNTY, PENNSYLVANIA, REQUIRING ALL EXISTING RESIDENTIAL AND NONRESIDENTIAL STRUCTURES AND ALL EXISTING PREMISES MEET MINIMUM STANDARDS FOR PREMISES, STRUCTURES, SANITATION, LIFE SAFETY AND FOR SAFE AND SANITARY MAINTENANCE.

SECTION 1. PURPOSE

- A. **Scope.** The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum standards for premises, structures, sanitation, life safety and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; and for administration, enforcement and penalties.
- B. **Intent.** This ordinance shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered to provide a minimum level of health and safety as required herein.

SECTION 2. ADMINISTRATION

- A. **Enforcement.** The Borough Code Enforcement Official shall be an appointed Borough Code Enforcement Officer or any authorized Borough Official and will be responsible for enforcing the provisions of this ordinance.
- B. **Inspection.** The Borough Code Enforcement Official shall make all of the required inspections. The Borough Code Enforcement Official is authorized to enter the property at any time to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused, the official is authorized to pursue recourse as provided by law.
- C. **Records.** The Borough Code Enforcement Official shall keep official records of all business and activities. These records shall be maintained in the office of the Borough Secretary.

SECTION 3. VIOLATIONS

- A. **Unlawful Acts.** 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 code.
- B. **Notice of Violation.** Whenever the Borough Code Enforcement Official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given to the owner of the premises or persons responsible in writing. The notice must be in writing, include a description of the real estate sufficient for identification, include a statement of the violation or violations and why the notice is being issued, include a correction order allowing a reasonable time of no less than one (1) day and no more than thirty (30) days to make the repairs and improvements required to bring the property into compliance with the provisions of this ordinance. The length

of time allowed to abate the violation will depend on the urgency of the violation and the complexity of corrective action necessary. The notice must be delivered personally or sent by certified mail addressed to the last known address. If a mailed notice is returned showing it was not delivered, a copy of thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

- C. **Violation Penalties.** Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof shall be prosecuted within the limits provided by state or local laws. Each day that a violation occurs after due notice and expiration of correction order shall be deemed a separate offense.
- a. **Fines.** The fine for a violation of this ordinance shall be set at \$50 per day assessed each day until the violation is corrected. A second nonconsecutive notice for the same violation within the same one year period shall be assessed a fine of \$100 per day. A third nonconsecutive notice for the same violation within the same one year period shall be assessed a fine of \$150 per day.
- D. **Abatement of Violation.** The imposition of penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation.

SECTION 4. DEFINITIONS

- A. **Scope.** Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this section.
- B. **Interchangeability.** Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular.
- C. **Terms Not Defined.** Where terms are not defined, through the methods authorized in this section, such terms shall have ordinarily accepted meanings such as the context implies.
- D. **General Definitions**
- a.. **Borough Code Enforcement Official.** The official who is charged with the administration and enforcement of this ordinance, or any duly authorized representative.
- b. **Condemn.** To adjudge unfit for occupancy.
- c. **Dwelling Unit.** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- d. **Exterior Property.** The open space on the premises and on adjoining property under the control of owners or operators of such premises.
- e. **Extermination.** The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.
- f. **Garbage.** The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.
- g. **Imminent Hazard.** A condition which could cause serious or life threatening injury or death at any time.
- h. **Infestation.** The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.
- i. **Occupant.** Any individual living or sleeping in a building; or having possession of a space within a building.
- j. **Operator.** Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

- k. **Owner.** Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.
- l. **Person.** An individual, corporation, partnership or any other group acting as a unit.
- m. **Premises.** A lot, plot or parcel of land including any structures thereon.
- n. **Rubbish.** Combustible and noncombustible waste materials except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.
- o. **Structure.** That which is built or constructed or a portion thereof p. **Tenant.** A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

SECTION 5. EXTERIOR PROPERTY AREAS

- A. **Sanitation.** All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.
- B. **Grading and Drainage.** All premises 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.
- C. **Sidewalks and Driveways.** All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.
- D. **Weeds.** All structures shall be maintained free from weeds or plant growth in excess of 10 inches for an area of 100 feet on all sides or to the property line; exceptions being stream banks or wetlands. 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.
- E. **Rodent Harborage.** All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by baits and traps that will not be injurious to human health. The residents shall be responsible for placement and checking of baits or traps in a timely manner and disposal of rodents. The tenant shall be responsible for elimination of rodent problem for a period of three days, if infestation is not being addressed, the owner will be deemed responsible. If the owner has not addressed the infestation within 3 days, the Borough has the authority to call a professional exterminator and the owner will be responsible for all costs incurred. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.
- F. **Rubbish and Garbage.** All exterior property and premises shall be free from any accumulation of rubbish or garbage.
 - a. **Disposal of Rubbish.** Every occupant of a property shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in covered containers. The residents and tenant of rentals, shall supply covered containers for rubbish, and shall be responsible for the removal of rubbish no less than once a week by a Pennsylvania Department of Environmental Protection Registered trash hauler.

- b. Owner. The owner of any structure or property shall be responsible for extermination within the structure of property prior to renting or leasing the property.
- c. Single Occupant. The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for extermination on the premises.
- d. Multiple Occupancy. The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for extermination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupants shall be responsible for extermination.
- e. Occupant. The occupant of any structure shall be responsible for the continued rodent and pest-free condition of the structure. Exception: Where the infestations are caused by defects in the structure, the owner shall be responsible for extermination.

SECTION 6. UNSAFE STRUCTURES AND EQUIPMENT

- A. **General.** When a structure or equipment is found by the enforcement official to be unsafe, such structure shall be condemned pursuant to the provisions of this code.
- B. **Unsafe Structures.** An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or because such structure or equipment is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation, that partial or complete collapse is possible.
- C. **Unsafe Equipment.** Unsafe equipment is any equipment on the property which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the property.
- D. **Structure unfit for human occupancy.** A structure is unfit for human occupancy whenever the Borough Code Enforcement Official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance is unsanitary vermin or rat infested, contains filth and contamination, or because the location of the structure constitutes a hazard to the occupants of the structure of the public.
- E. **Closing of Vacant Structures.** If the structure is vacant and unfit for human occupancy, and is not in danger of structural collapse, the official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the Borough Code Enforcement Official shall cause the premises to be closed through any available public agency or by contact or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.
- F. **Notice.** Whenever the Borough Code Enforcement Official has condemned a structure or equipment under the provisions of this ordinance, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the persons or persons responsible for the structure or equipment.
- G. **Placarding.** Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the official 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.
- H. **Prohibited Occupancy.** Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner or any 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 the ordinance.

- I. **Removal of Placard.** The official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. My person who defaces or removes a condemnation placard without the approval of the official shall be subject to the penalties provided by this code.
- J. **Emergency Procedures**
- a. **Imminent Danger.** When, in the opinion of the Borough Code Enforcement Official, there is imminent danger of failure or collapse of a building or structure which 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 Borough Code Enforcement Official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The Borough Code Enforcement Official shall cause to be posted at each entrance to such a structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Borough Code Enforcement Official." 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.
 - b. **Temporary Safeguards.** Notwithstanding other provisions of this code, whenever, in the opinion of the Borough Code Enforcement Official, there is imminent danger due to an unsafe condition, the Borough Code Enforcement Official 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 Borough Code Enforcement Official deems necessary to meet such emergency.
 - c. **Closing Street.** When necessary for the public safety, the Borough Code Enforcement Official shall temporarily close structures and close, or order the authority having jurisdiction to close sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.
 - d. **Emergency Repairs.** For the purposes of this section, the Borough Code Enforcement Official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.
 - e. **Costs of Emergency Repairs.** Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for recovery of such costs.
 - f. **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 code.
- K. **Demolition**
- a. **General.** The Borough Code Enforcement Official shall order the owner of any premises upon which is located any structure, which in the Borough Code Enforcement Official's judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being

- made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two (2) years, to demolish and remove such structure.
- b. **Notices and Orders.** All notices and orders shall comply with Section B under Violations of this ordinance.
 - c. **Failure to comply.** If the owner of a premises fails to comply with a demolition order within the time prescribed, the Borough Code Enforcement Official shall cause the structure to be demolished and removed, either through an available public agency or by contract arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.
 - d. **Salvage Materials.** When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

SECTION 7. APPEAL

- A. **Application for appeal.** Any person directly affected by a decision of the Borough Code Enforcement Official or a notice or order issued under this code shall have the right of appeal to the board of appeals provided that a written application for appeal is filed with the Borough Secretary within 20 days after the day the decision, notice or order was served. An applicant for appeal shall be based on a claim that the true intent of this ordinance or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.
- B. **Membership of the Board.** The board of appeals shall consist of members of the Borough Council. The Borough Code Enforcement Official shall be an ex-officio member but shall have no vote on any matter before the board.
 - a. **Chairman.** The board shall annually select one of its members to serve as chairman.
 - b. **Disqualification of Member.** A member shall not hear an appeal in which that member has a personal, professional or financial interest.
 - c. **Secretary.** The Borough Secretary shall serve as secretary to the board.
 - d. **Notice of Meeting.** The board shall meet to hear appeals immediately prior to any regularly scheduled Borough Council meeting or upon notice from the Chairman.
 - e. **Open Hearing.** All hearings before the board shall be open to the public. The appellant, the appellant's representative, the Borough Code Enforcement Official, and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds of the board membership.
 - f. **Procedure.** The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures

shall not require compliance with the strict rules of evidence, but shall mandate that only relevant information be received.

- g. **Postponed Hearing.** When the full board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.
- h. **Board Decision.** The board shall modify or reverse the decision of the Borough Code Enforcement Official only by a concurring vote of a majority of the total number of appointed board members.
- i. **Records and Copies.** The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the Borough Code Enforcement Official.
- j. **Administration.** The Borough Code Enforcement Official shall take immediate action in accordance with the decision of the board.
- k. **Court Review.** Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.
- l. **Stays of Enforcement.** Appeals of notice and orders (other than Imminent Danger notices) shall stay enforcement of the notice and order until the appeal is heard by the appeals board.

SECTION 8. SEVERABILITY

- A. If a section, subsection, sentence, clause or phrase of this code is for any reason, is held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 9. REPEALER

- A. My ordinances or portions of thereof inconsistent with this ordinance are hereby repealed except as noted below.
 - a. Provisions of the Borough Ordinance for enforcement of the Pennsylvania Uniform Construction Code shall take precedence over provisions of this ordinance if they are in conflict.

ENACTED AND ORDAINED into law this 7th day of July, 2008 By the New Albany Borough Council, New Albany, Bradford County, Pennsylvania.