

**NEW BETHLEHEM BOROUGH, CLARION COUNTY,
PENNSYLVANIA**

Ordinance No. 884

AN ORDINANCE PROVIDING FOR THE VACATING, REMOVAL, REPAIR OR DEMOLITION OF ANY STRUCTURES, PREMISES, AND EQUIPMENT DANGEROUS TO THE BOROUGH OF NEW BETHLEHEM; AND FOR THE ASSESSMENT OF THE COST OF VACATION, REMOVAL, REPAIR OR DEMOLITION THEREOF AS A MUNICIPAL LIEN OR ASSESSMENT AGAINST SUCH PREMISES; PROVIDING FOR THE RECOVERY OF SUCH COSTS IN AN ACTION AT LAW; AND PRESCRIBING PENALTIES FOR THE VIOLATION THEREOF.

WHEREAS, in the Borough of New Bethlehem there are or may be in the future structures that are dilapidated, unsafe, dangerous or unsanitary, or equipment that is unsafe and/or dangerous.

WHEREAS, these aforementioned buildings, structures, or equipment constitute a menace to the health, morals, safety, and general welfare of the people of New Bethlehem Borough;

WHEREAS, these aforementioned buildings, structures, or equipment tend to constitute a public nuisance and may also constitute a fire menace;

WHEREAS, it is necessary and in the public interest to establish certain minimum health and safety requirements for buildings, structures and premises within the Borough of New Bethlehem for the protection of the general health, safety and welfare of the citizens;

BE IT ORDAINED BY THE COUNCIL OF NEW BETHLEHEM BOROUGH, CLARION COUNTY, PENNSYLVANIA:

SECTION 1. SHORT TITLE. This ordinance shall be known as and may be cited as “New Bethlehem Dangerous Structures Ordinance.”

SECTION 2. APPLICABILITY.

A. The provisions of this ordinance shall apply uniformly to all persons, business organizations, nonprofit organizations, and all other legal entities; and it shall apply uniformly to all property and property owners within the Borough.

B. Structures and premises which do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

C. Equipment, systems, devices and safeguards under which the structures or premises were constructed, altered, or repaired shall also be maintained in good working order.

D. The provisions of this ordinance shall not be mandatory for existing buildings or structures designated by the state or local jurisdiction as historic buildings when such buildings are judged by the Building Inspector to be safe and in the public interest of health and safety.

SECTION 3. DEFINITIONS.

A. Dangerous Structures. All buildings or structures which have any or all of the following defects:

1. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living and are likely to cause accidents, sickness, or disease, so as to work injury to the health, morals, safety, or general welfare of those living therein or other people of the Borough of New Bethlehem.
2. Those which have been damaged by fire, wind or other cause so as to fail utterly to provide the amenities essential to decent living and are unfit for human habitation.
3. Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the Borough.
4. Those which are found to have such an unstable foundation that partial or complete collapse is possible.
5. Those which have improperly distributed loads upon the floors, roofs, or walls as a result of settlement or decay in which any structural member is overloaded or has insufficient strength to be reasonably safe. Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of those living therein.
6. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of evacuation.
7. Those which have parts thereof which are so attached that they may fall and injure members of the public or cause damage to adjoining property.
9. Those which because of their general condition are or may be unsafe, unsanitary, or dangerous to the health, morals, safety or general welfare of the people of this Borough.
10. Those buildings existing in violation of any provision of the applicable Building Code or in violation of the Fire Prevention Code or other ordinances of this Borough.

B. Dangerous Equipment. Equipment is dangerous if it is in a condition that is hazardous to the life, health, property or safety of the occupants or members of the public.

C. Building Inspector. Shall refer to the persons or agents or their assistants appointed by the Borough Council to execute inspections in accordance with this ordinance, and to the Building Inspector specially designated thereto.

SECTION 4. PUBLIC NUISANCES. All dangerous or unsanitary structures, premises, or equipment classified as dangerous under Section 3 are hereby declared to be public nuisances and shall be repaired, vacated or demolished as provided in Section 8.

SECTION 5. PROHIBITION. It shall be unlawful to maintain or permit the existence of any dangerous or unsanitary structure, premises or equipment in the Borough; and it shall be unlawful for the owner, occupant or person in custody of any dangerous structure, premises or equipment to permit the same to remain in a dangerous condition, or to occupy such structure or premises or to permit it to be occupied while it remains in a dangerous condition.

SECTION 6. INSPECTION PROCEDURE. Whenever it shall be reported or come to the attention of any Borough official that any structure, completed or in the process of construction, or any portion thereof, any premises or any equipment is in a dangerous or unsanitary condition, such person shall report same to the Borough Council; and the Borough Council shall request the Building Inspector to make an investigation and examination of such structure.

A. The Building Inspector is authorized to enter the structures or premises at reasonable times to inspect, subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the Building Inspector is authorized to pursue recourse as provided by law.

B. The Building Inspector shall carry proper identification when inspecting structures, premises or equipment in the performance of his duties under this ordinance.

C. The Building Inspector shall make all of the required inspections, prepare a report to present to Borough Council and shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and certified by a responsible individual. The Building Inspector is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the Borough Council.

D. If such investigation or examination indicates such structure, premises, or equipment to be dangerous, a written report of such investigation shall be sent to the Borough Council, specifying the exact condition of such structure and setting forth whether or in what respect the structure is dangerous and whether the structure is capable of being properly repaired or whether it shall be removed as a “dangerous structure.”

E. The Building Inspector shall issue all necessary orders to ensure compliance with this ordinance.

F. The Building Inspector shall appear at all hearings with regards to properties in which a report has been filed with the Borough Council.

SECTION 7. HEARING PROCEDURE.

A. The Borough Council shall have authority as necessary in the interest of public health and safety to adopt or promulgate procedures; to interpret and implement the provisions of this ordinance; and to secure the intent thereof.

B. Upon receipt of a report of the Building Inspector as provided for in Section 6. C. and 6.D. hereof, give written notice to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building as shown by the land records of the deed registration files of the Borough and/or the Recorder of Deeds of Clarion County to appear before Borough Council on the date specified in the notice to show cause why the building, structure, or equipment reported to be dangerous should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the Building Inspector's notice provided for herein.

C. Within not less than ten (10) nor more than sixty (60) days from the date of such notice, the Borough Council shall hold a hearing and hear such testimony as the Building Inspector, or the owner, occupant, mortgagee, lessee or any other person having an interest in the building or equipment as shown by the land records of the deed registration file of the Borough and/or the Recorder of Deeds of the County of Clarion shall offer relative to the dangerous building, premises or equipment.

D. Within thirty (30) days of such hearing, the Borough Council shall make written findings of fact from the testimony offered pursuant to subsection B as to whether or not the building in question is a “dangerous structure” within the terms of Section 3.A. hereof.

E. Within not more than thirty (30) days following the hearing, the Borough Council shall issue an order based upon findings of fact made pursuant to subsection C. commanding the owner, occupant, mortgagee, lessee or any other person having an interest in the building as shown by the land records of the deed registration file of the Borough and/or the Recorder of Deeds of the County of Clarion to repair, vacate or demolish any building found to be a dangerous building within the terms of this chapter, provided that any person so notified shall have the privilege either of vacating or repairing said dangerous building, or any person having an interest in the building as shown by the land records of the deed registration files of the Borough and/ or the Recorder of Deeds of the County of Clarion may demolish said dangerous building at his own risk to prevent the acquiring of a lien by the Borough against the land upon which said dangerous building stands, as provided in Section 10 E. hereof.

SECTION 8. STANDARDS FOR REPAIR, VACATION, DEMOLITION. When a structure, premises or equipment is found by the Building Inspector and the Borough Council to be unsafe; such structure, premises or equipment shall be ordered to be repaired, vacated or demolished according to the following standards:

A. If a structure, premises or equipment is classified by the Building Inspector as dangerous as defined in Section 3, and it is determined that the structure, premises or equipment can reasonably be repaired so that it will no longer exist in violation of the terms of this ordinance, then it shall be ordered repaired.

B. If the structure, premises or equipment is in such condition to make it dangerous to the health, morals, safety, or general welfare to its occupants, it shall be ordered vacated by the Building Inspector.

C. If a structure or premises is vacant and determined to be dangerous, the Building Inspector is authorized to place a placard of condemnation on the structure or premises and order the structure to be secured so as not to be an attractive nuisance. Upon failure of the owner to secure the structure or premises within the time specified in the order, the Building Inspector shall cause the structure or premises to be secured through any available public agency or by contract or arrangement with private persons and the cost thereof shall be charged against the real estate upon which the structure is located and may be a lien upon such real estate.

D. The Building Inspector 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 Building Inspector shall be subject to penalties as provided in this ordinance.

E. If the structure, premises or equipment cannot be repaired so that it is no longer classified as dangerous under Section 3, the Building Inspector shall order the owner of any premises upon which is located any unsafe structure, to demolish and remove the structure or equipment.

F. If the owner fails to comply with a demolition order within the time prescribed, the Building Inspector shall cause the structure to be demolished and removed, and the cost of such demolition shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

SECTION 9. ENFORCEMENT PROCEDURES.

A. If any structure, premises or equipment is deemed to be dangerous or unsanitary pursuant to the standards of this ordinance, the Borough Council shall forthwith cause notice to be served upon the owner or owners of such dangerous or unsanitary structure, premises or equipment as shown by the land records of the deed registration file of the Borough and/or the Recorder of Deeds of the County of Clarion or failing to find any owner or owners, then such occupant, mortgagee, lessee, agent, or any other person with an interest in the dangerous structure who may be located.

B. The notice required by this section shall be served personally upon the owner or owners of the dangerous or unsanitary structure, premises, or equipment if such owner resides, or such owners resides, in the Borough or personally upon his agent if such agent resides within the Borough. If personal service required herein cannot be obtained, such notice shall be sent to the owner or owners of the dangerous or unsanitary structure, premises or equipment by certified mail at the last known address according to the records in the Tax Assessment Office in and for Clarion County.

- C. Such notice prescribed in Section 9.B shall further:
1. Be in writing;
 2. Include a description of the real estate sufficient for identification;
 3. Include a statement of the violation or violations and why the notice is being issued so as to identify the structure, premises or equipment deemed dangerous or unsanitary and contain a statement of the particulars which made it dangerous
 4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the structure or premises into compliance with the provisions of this ordinance, provided further in any case where the notice prescribes the repair of any structure, premises or equipment the owner thereof shall have the option to remove such structure in lieu of making the repairs thereto within the time period provided; and
 5. Inform the property owner, operator and/or occupant of the right to appeal.
- D. Such notice shall be deemed to be properly served if copy thereof is:
1. Delivered personally; or
 2. Sent by certified mail or first class mail addressed to the last known address; or
 3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure or premises affected by such notice.
- E. Such notice shall require any person notified to repair, vacate or demolish any structure, premises or equipment to commence the work or act required by the notice ten (10) days of such notice and to comply with such repair, vacation, or demolition within sixty (60) days from the receipt of such notice, or as otherwise provided by Council for good cause shown.
- F. The Council shall cause to be placed on all dangerous structures and equipment a notice reading substantially as follows:
- “This structure has been found to be a dangerous or unsanitary structure by the Council of New Bethlehem Borough, County of Clarion in the Commonwealth of Pennsylvania. This notice is to remain on this structure on the front door or in an easily visible location until the structure is repaired, vacated or demolished in accordance with the notice which has been given to the owner, occupant, lessee, mortgagee, or agent of the structure. It is unlawful to remove this notice until compliance is made under the terms contained in the notice served on the above named property.”
- G. Any person who wrongfully removes the notice provided for in Section 9.F. shall, upon conviction before a District Justice, be subject to a fine not exceeding two hundred (\$200.00) dollars; and, in default of payment of the fine and costs shall be subject to imprisonment for a period not exceeding fifteen (15) days.

SECTION 10. VIOLATIONS.

- A. It shall be unlawful for any person, firm or corporation to be in conflict with or in violation of any of the provisions of this ordinance.

B. The Building Inspector shall serve notice of violation or order in accordance with this ordinance.

C. If the notice of violation is not complied with, the Building Inspector 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 the unlawful occupancy of the structure or premises in violation of the provisions of this ordinance or of the order of direction made pursuant thereto.

D. Any person, firm or corporation or entity who violates, causes or permits the violation of any provision of this ordinance or who shall fail to maintain structures, premises or equipment as provided by this ordinance shall be guilty of a summary offense, punishable by a fine of not more than \$1,000, plus costs, and/or imprisonment for a period of not more than 90 days or by both such fine and imprisonment, to the extent imprisonment is permitted by law for the punishment of summary offenses. Each thirty (30) days that a violation continues after due notice has been served shall be deemed a separate offense.

E. Any person having an interest in any structure, premise or equipment who fails to comply with any notice or order to repair, vacate or demolish any dangerous or unsanitary structure within sixty (60) days of the receipt of such notice, by such failure, does empower the Borough Council to cause such structure, premise, or equipment to be repaired, vacated or demolished by the Borough and to cause the cost of such repair, vacation or demolition together with a penalty of ten (10%) percent to be charged upon the land upon which the structure, premise, or equipment exists as a municipal lien, or alternatively to recover such costs and penalty together with reasonable attorneys' fees incurred by the Borough, in a suit at law against the owner or owners, but, failing to recover same, the judgment therefore shall be charged upon the land as a municipal lien; and, this subsection is separate from and in addition to the fine, penalty, and costs which may be imposed by any other subsection of this ordinance.

F. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction 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 utilization of the building, structure or premises. Penalties stated herein shall not be exclusive of any other remedies provided by law.

SECTION 11. EMERGENCY MEASURES.

A. Whenever, in the opinion of the Building Inspector, there is imminent danger to the public due to the unsafe or unsanitary condition of a structure, premises or equipment, the Building Inspector may order the necessary work to be done, including the boarding up of openings, to render such structure, premises or equipment temporarily safe; and shall cause such other action to be taken as the Building Inspector deems necessary to meet such emergency.

B. Costs incurred in the performance of emergency work shall be paid initially by the Borough of New Bethlehem and appropriate action shall be instituted against the owner, operator or occupant of the premises where the unsafe or unsanitary structure or equipment was located,

and the costs of such repair shall then constitute a municipal lien against the real estate and/or shall be recoverable in a suit at law against the owner.

SECTION 12. SEVERABILITY. The provisions of this ordinance are severable. If any sentence, clause, or section of this ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, or sections of this ordinance. It is hereby declared to be the intent of the Council of New Bethlehem Borough that this ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, or section not been included herein.

SECTION 13. APPEALS. The owner, operator or occupant of a structure, premises or equipment that has been determined unsafe or unsanitary may appeal to the District Magistrate from a decision of the Borough Council in accordance with Section 7.C. regarding provisions of this ordinance within ten (10) days of the decision of the Borough Council.

SECTION 14. REPEALER. All ordinances or provisions of ordinances inconsistent with this chapter or any provisions of this chapter are hereby repealed.

ORDAINED and ENACTED as an Ordinance of the Borough of New Bethlehem, Clarion County, Pennsylvania, this 19th day of May, 2008.

NEW BETHLEHEM BOROUGH

By: s/ James H. Merwin
James Merwin
President of New Bethlehem Borough Council

ATTEST:

By: s/ Richard McGarrity
Secretary

The foregoing Amended Ordinance of the Borough of New Bethlehem is hereby approved by the Mayor of New Bethlehem Borough on the 19th day of May, 2008.

Tom Seidle
New Bethlehem Borough Mayor