

## **BOROUGH OF NEW FLORENCE**

### **ORDINANCE NO. 213**

AN ORDINANCE ADDRESSING NUISANCES RELATING TO GRASS, WEEDS, AND OTHER VEGETATION AND RUBBISH, GARBAGE, WASTE, AND DEBRIS AND PRESCRIBING REMEDIES AND/OR PENALTIES FOR VIOLATION

#### **Section 1: Nuisances and Hazards**

##### **A. High grass, high weeds, and other high vegetation prohibited as nuisances and/or constituting a fire hazard under certain conditions.**

- 1) No person, partnership, entity, or corporation owning or occupying any real property within the Borough of New Florence shall permit:
  - a) Any high grass, high weeds, or high vegetation, including sidewalk grass or any vegetation whatsoever that grows or remains upon such premises so as to exceed the height of eight (8") inches (or 20.32 centimeters). Said high grass, weeds, and/or vegetation is hereby declared to be a nuisance and to constitute a fire hazard, and, as such, is detrimental to the health, safety, cleanliness, and comfort of the community or abutting residents and/or landowners of the Borough.
  - 2) Responsibility for removal, trimming, or cutting grass, weeds, and other vegetation. The owner, tenant, and occupier of any real property (whether being vacant, owner-occupied, or occupied by owner's tenant) all and each jointly are required to remove, trim, or cut all high grass, weeds, or other vegetation growing or remaining upon such real property within the Borough in violation of the provisions of this Ordinance.
  - 3) Exceptions to Sections 1 and 2 Enforcements
    - a) Small plots of designated garden areas of fruits or vegetables for human consumption on the premises and not for commercial purposes do not create a nuisance as per Section 1(A)(1).
    - b) Specific designated plots of flowers, trees, and plants for ornamental purposes and not for commercial purposes do not create a nuisance as per Section 1(A)(1).
    - c) The planting of trees for aesthetic and shade area(s) and not for commercial purposes, do not create a nuisance as per Section 1(A)(1).
    - d) Kept and attended to bushes or hedges that are not for commercial purposes do not create a nuisance as per Section 1(A)(1).

## **B. Regulation of Rubbish, Garbage, Waste, Debris.**

- 1) No person(s), firm(s), corporation(s), or entity(ies) owning or occupying a property within the Borough shall permit, leave, or cause to be left or accumulated on any street, lane, alley, private or public property the following items, materials, or personalty where said condition creates a nuisance, fire, or health hazard, or is detrimental to the health and safety, cleanliness, and/or comfort of the community within the Borough and/or the inhabitants of the Borough:
  - a) Any garbage, rubbish, waste material, and debris of any kind, junked, scrapped, or wrecked motor vehicles and/or trailers, flammable articles, or stored vehicles without a current inspection sticker, current vehicle registration, or current license.
  - b) Any accumulation or storage of garbage; rubbish; waste material; vegetation; or debris of any kind; junk, scrapped, or wrecked/unused motor vehicles or trailers; flammable articles; or stored vehicles without a current inspection sticker or current vehicle registration.
  - c) Any storage or accumulation of unused construction materials or construction equipment. (Unused means not moved or used within three (3) months).
  - d) Any weather-caused condition of trees, plants, displaced storm debris, earth movement, water ponding, mud, dirt, gravel, or earthquake damage; or any other naturally occurring or manmade hazards or dangers/disasters.
  - e) Exceptions to Enforcement of (B), Subparagraphs 1(a), 1(b), and 1(c).
    - i) If the materials are part of an open and valid construction permit issued by the Borough.
    - ii) If the debris, garbage, or rubbish is temporary for a weekly garbage hauling service, and the debris, garbage, or rubbish is temporarily enclosed and bagged, tied shut, or in a sealed garbage can.

## **C. Enforcement of Section 1(A) and (B):**

- 1) With reference to a finding of violation(s), the Borough of New Florence shall issue a Citation to the owner(s) and/or occupant(s) of the property in writing and delivered to the owner(s) and/or occupant(s). If the owner(s) and/or occupant(s) is/are not found, then said Citation shall be posted on or at the main entrance to the structure of subject property and

a copy mailed by U.S. postage to the address of record of the real property owner.

- 2) If after five (5) days of the Citation being posted, the cited conditions are not corrected or removed, the Borough may forthwith undertake the steps required to abate the cited hazard(s) and/or condition(s), and then lien all costs, fees, attorney's fees, and expenses incurred against the real property with a copy of the lien provided to the owner of the property. All liens may be filed at the Prothonotary's Office of Westmoreland County, Pennsylvania.

**D. Penalty for Violation of Section 1 (A) and (B):**

- 1) Any person, partnership, entity, or corporation who or which shall be found in violation of any provisions of this Ordinance shall be guilty of a summary offense, and shall pay a fine not exceeding One Thousand and 00/100 (\$1,000.00) Dollars and not less than Three Hundred and 00/100 (\$300.00) Dollars. Said fines and penalty shall be collected and paid to the Borough of New Florence.
- 2) This penalty or fine shall be an additional remedy to the Municipal Lien process provided by this Ordinance.
- 3) Each day that a violation continues after the fifth (5<sup>th</sup>) day following the date of issuance of notice or citation, the Magisterial District Judge shall determine each 5<sup>th</sup> day as another separate violation.
- 4) In addition to the other powers herein set forth for violation of this Ordinance, the Borough may institute proceedings in Courts of Equity and/or by request for injunctive relief.
- 5) The Court may award court costs, fines, penalties and fees, including attorneys' fees for each summary enforcement caused by Defendant(s)' conduct.

**E. Authority for enforcement.**

- 1) The Borough Council, Solicitor, Officer, or a Borough Designee is hereby authorized to issue Borough Ordinance Violation Citations by personal service or by U.S. mail, together with posting of the realty, to the Owner or occupant, as the case may be, who is in violation of this Ordinance.
- 2) Any citizen of the Borough may enforce this Ordinance upon Notice to the Borough and compliance with notice requirements to realty owners.

**F. Non-Effectuated Statutes:**

1) Pursuant to Title 3 P.S., Section 953, the Borough of New Florence does not by enactment of this Ordinance, Sections 1(A) or (B), prohibit nor does it define agricultural operations conducted in accordance with "normal agricultural operations" within the definition of a nuisance as per this Ordinance, so long as the agricultural operation does not have a direct, adverse effect on the public health and safety.

a) Pursuant to the definition of "normal agricultural operations," the definition shall be defined as per Title 3 P.S., Section 952 as "the activities, practices, equipment, and procedures that farmers adopt, use, or engage in the production and preparation for market of poultry, livestock, and their products, and in the production, harvesting, and preparation for market or use of agricultural, agronomic, horticultural, silvicultural, and aquacultural crops and commodities, and is: a) not less than ten (10) contiguous acres in area; or b) less than ten (10) contiguous acres in area, but has an anticipated yearly gross income of at least Ten Thousand and 00/100 (\$10,000.00) Dollars."

**Section 2. Severability/Savings.** If any sentence, clause, section, or part 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, sections, or other parts of this Ordinance. It is hereby declared as the intent of the Borough Council of the Borough of New Florence that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included therein.

**Section 3. Repealer.** All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

**Section 4. Effective Date.** This Ordinance shall become effective on the first full date after the date of enactment.

**ENACTED AND ORDAINED** into an Ordinance this 21st day of July, 2015.

NEW FLORENCE BOROUGH

By: Kelly C. Lutz  
Council President

ATTEST:

Mary Strucaly  
Secretary

Examined and approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

Neus Gindler  
MAYOR