

**NEW FLORENCE BOROUGH
WESTMORELAND COUNTY, PENNSYLVANIA**

ORDINANCE NO. 189

AN ORDINANCE OF NEW FLORENCE BOROUGH, WESTMORELAND COUNTY, GOVERNING THE REPAIR, REMOVAL, DEMOLITION OR VACATION OF ANY STRUCTURES DANGEROUS TO THE HEALTH, SAFETY OR GENERAL WELFARE OF THE RESIDENTS OF THE BOROUGH; PROVIDING A PROCEDURE FOR THE REPAIR, REMOVAL, DEMOLITION OR VACATION OF SUCH STRUCTURES; ESTABLISHING PROCEDURES FOR THE REPAIR, REMOVAL, DEMOLITION OR VACATION OF SUCH DANGEROUS STRUCTURES; PROVIDING FOR RECOVERY OF THE COSTS OF REPAIR, REMOVAL, DEMOLITION OR VACATION AS A MUNICIPAL LIEN OR ASSESSMENT IMPOSABLE ON THE REAL PROPERTY ON WHICH SUCH DANGEROUS STRUCTURES ARE LOCATED; PROVIDING ADDITIONAL REMEDIES TO THE BOROUGH FOR THE RECOVERY OF THE COSTS OF REPAIR, REMOVAL, DEMOLITION OR VACATION IN ACTIONS AT LAW OR EQUITY; IMPOSING AND PRESCRIBING PENALTIES FOR VIOLATIONS.

BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF NEW FLORENCE, AND IT IS HEREBY ORDAINED AND ENACTED BY THE AUTHORITY OF THE SAME AS FOLLOWS:

SECTION 1. SHORT TITLE.

This Ordinance shall be known and may be cited as the "New Florence Borough Dangerous Structure Ordinance".

SECTION 2. PURPOSES.

The purposes of this Ordinance include but are not limited to:

- A. Provide for the identification of structures or parts of structures within the Borough which, by virtue of their condition, are considered to be dangerous to the public health, safety and welfare.

- B. Prevent dangerous structures from further deterioration.
- C. Provide an orderly process according to law by which dangerous structures may be repaired, removed, demolished, and/or vacated.
- D. Provide a procedure through which the repair, removal, demolition or vacation of a dangerous structure is accomplished by the Borough while respecting the rights under the United States and Pennsylvania Constitutions of any person, entity, etc., occupying, owning, or having any property interest in either the dangerous structure itself or the real property upon which the dangerous structure is located.
- E. Promote and protect the health, safety and general welfare of residents of the Borough of New Florence and the public generally.

SECTION 3. DEFINITIONS.

Unless otherwise expressly stated, the following words used in this Ordinance shall have the meanings indicated below.

- A. **Borough:** The Borough of New Florence, Westmoreland County, Pennsylvania.
- B. **Borough Council:** The duly elected Council of the Borough of New Florence, Westmoreland County, Pennsylvania.
- C. **Building:** Any structure having a roof, self-supported or supported by walls, columns or air pressure, which is fixed to the ground, whether permanently or otherwise, used or occupied or intended to be used or occupied for the shelter, housing, storage or enclosure of any individual, animal, process, equipment, goods or materials of any kind or nature.
- D. **Dangerous Structure:** All structures, or parts thereof, which have any of the following defects:
 - 1. Structures which have been damaged by fire, wind, or any other cause to a degree which has rendered the structure dangerous to life, safety, general health or welfare of persons, whether occupying such structures or not; or
 - 2. Structures which have become deteriorated, decayed, unsafe, unsanitary, or which, by virtue of a violation of any code of any nature applicable to such structure, have become unfit for human habitation or are likely to cause accidents, sickness, or disease to the occupants thereof or any other person;

3. Any parts, portions, extensions, etc., of any structure which by virtue of improper attachment or otherwise are or have become unsafe to such a condition that such portion, etc., may fall and/or collapse and injure or otherwise be deleterious to the health, safety, or general welfare of the occupants of the structure or any other person; and
4. Those structures which by virtue of their general condition are unsafe, unsanitary or dangerous to the health, safety or general welfare of any person, whether an occupier of the structure or otherwise.

E. **Structure:** Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land; all "buildings" and other improvements to real property are hereby declared to be structures for purposes of this Ordinance.

SECTION 4. DANGEROUS STRUCTURES DECLARED TO BE NUISANCES.

All "dangerous structures" as defined by this Ordinance are hereby declared by the New Florence Borough Council to be public nuisances and shall be repaired, removed, demolished or vacated in accordance with this Ordinance.

SECTION 5. PRELIMINARY INVESTIGATION AND PROCEDURES.

- A. Whenever it shall be reported to or come to the attention of any Borough Council Member, any Borough Officer (as defined by the Borough Code), or any Borough police officer, that any structure — whether complete or in the process of construction — or any portion of such structure is in a dangerous condition, that person shall provide written notification to the Borough Council of the dangerous condition; this written notification shall briefly describe the structure, the dangerous condition, and the postal address of the property on which such structure is located.
- B. Upon receipt of the written notification, the Borough Council, whether in executive session or regular session, may order an investigation, examination and report to be made of the subject structure; the investigation required by this section shall be undertaken by any one or more of the following individuals:
 1. The Borough Engineer;
 2. Any member of the Police Department;
 3. The Borough Solicitor;
 4. Any other person (including any agent, servant, or worker of the Borough) authorized by the Borough Council.

- C. The investigation report ordered by the Borough Council pursuant to Section 5.B. shall be in writing and shall contain sufficient information to permit the Borough Council to determine whether the structure which is the subject of the investigation is in a dangerous condition as defined by this Ordinance and shall:
1. Specify the exact condition of the structure;
 2. State in what respect the structure is dangerous;
 3. State whether the structure is capable of being repaired or whether it has deteriorated to such a condition as to warrant its removal, demolition or vacation.
- D. Upon receipt of the report required by Section 5.C., the Borough Council shall commence the Notice and Hearing Procedures in accordance with Sections 6 and 7.

SECTION 6. NOTICE PROCEDURES.

- A. Upon receipt of the report required by Section 5.C., the Borough Council shall give written Notice of the report pursuant to Section 6.B.
- B. The written Notice required by Section 6.A. shall be served upon the following:
1. The owner of record of the premises; **and**
 2. Any occupant of the premises; **and**
 3. Any mortgagee; **and**
 4. Any lessee, agent, or other person or entity having any interest of any nature whatsoever in the property on which the structure is located.
- C. For purposes of determining the owner of record of any property subject to the provisions of this Ordinance, the Council shall secure from the Office of the Recorder of Deeds of Westmoreland County, Pennsylvania, a copy of any deed or other indenture for the subject property and shall ascertain the existence of any mortgagee from the Office of the Recorder of Deeds.
- D. Service of the Notice shall be made by any form of mail requiring a receipt signed by any person identified in Section 6.B. above or that person's authorized agent. Service shall be complete upon delivery of the mail. If the mail is returned with the notation by the U.S. postal authorities that the addressee refused to accept the mail, the Borough Council shall have the right of service by mailing a copy of the Notice to the person at the same address by regular mail, postage prepaid, with the return address of the Borough appearing thereon. Service by ordinary mail shall be considered complete if the mail is not returned to the Borough within fifteen (15) days after mailing.
- E. In addition to the requirement pertaining to mailing of the Notice, the Notice may be personally served upon any adult occupant of the dangerous structure.

- F. The Notice required by Section 6.A. shall also be affixed to the dangerous structure.
- G. The Notice required by Section 6.A. shall be substantially in the following form:

NOTICE

To the owners, occupiers, and all other persons having an interest in this property:

The structure or a portion of it on this property has been determined to be dangerous by the Borough Council of New Florence, Westmoreland County, Pennsylvania. The New Florence Borough Council will hold a hearing to determine whether this structure should be vacated and/or repaired and/or removed and/or demolished.

The hearing to be held by the New Florence Borough Council will be held at _____ am/pm, prevailing time, on _____, _____, at the New Florence Borough Office. The hearing will be held in accordance with the provisions of the Pennsylvania "Local Agency Law" (the Act of April 28, 1978, P.L. 202, 2 Pa.C.S.A. §551, et seq., as amended).

You may be represented by legal counsel at this hearing. You should take this Notice to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

Lawyer Referral Service
Westmoreland County Bar Association
129 North Pennsylvania Avenue
Greensburg, PA 15601
Telephone: (724) 834-8490

SECTION 7. HEARING PROCEDURES AND ADJUDICATION.

- A. The public hearing shall be conducted by the Borough Council, and the hearing shall be held by the Borough Council not less than thirty (30) days after service of the Notice required by Section 6.A.
- B. The hearing to be held by the Borough Council, and any adjudication rendered by the Borough Council pursuant thereto, shall be held in accordance with the provisions of the "Local Agency Law", i.e., the Act of April 28, 1978, P.L. 202 (2 Pa. C.S.A. §551 et. seq.), as amended.
- C. At the conclusion of the last hearing required by this Ordinance, the Borough Council shall issue an adjudication. The adjudication shall be in writing, shall contain Findings of Fact, Reasons for the Adjudication, Conclusions of Law, and an Order.
- D. The adjudication and Order required by Section 7.C. shall be rendered by the Borough Council within sixty (60) days after the close of the hearing record, but this time may be extended by any party with the consent of the Borough Council.
- E. The adjudication and Order of the Borough Council shall be served upon all parties or their attorney of record by First-Class Regular Mail, postage prepaid.
- F. Any Order issued as part of the adjudication above may contain provisions requiring the subject structure or any portion thereof to be repaired, removed, demolished, or vacated, or may contain such other directive as the Borough Council shall deem appropriate in order to protect the public health, safety and welfare.
- G. Any appeal of the adjudication and Order issued by the Borough Council shall be filed with the Court of Common Pleas of Westmoreland County within thirty (30) days after the date of any such adjudication and Order.

SECTION 8. ELEMENTS TO BE CONSIDERED.

The Borough Council, in preparing the Order accompanying the adjudication, shall consider whether:

- A. The evidence presented during the hearing is sufficient to permit the Borough Council to conclude that the dangerous structure can be repaired so that it will no longer be in violation of the provisions of this Ordinance, so that the Council may order the dangerous structure to be repaired; or
- B. The evidence presented during the hearing is sufficient to permit the Borough Council to conclude that the dangerous structure or any portion thereof is in such a condition that it is dangerous to the health, safety, or general welfare of the occupant or occupants thereof, so that the Council may order the dangerous structure to be vacated immediately; or

- C. All costs and expenses of any emergency repair, emergency removal, emergency demolition or emergency vacation of any dangerous structure or portion thereof shall be recovered by the Borough in accordance with Section 9.

SECTION 12. SEVERABILITY.

If any section or provision of this Ordinance is declared by any Court of competent jurisdiction to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect the constitutionality, legality, or validity of this Ordinance as a whole, nor the constitutionality, legality or validity of any other section or provision of this Ordinance other than the one so declared to be unconstitutional, illegal, or invalid.

SECTION 13. REPEAL OF CONFLICTING ORDINANCES.

All existing Ordinances of the Borough of New Florence or parts thereof which are inconsistent with the provisions of this Ordinance are hereby repealed.

SECTION 14. EFFECTIVE DATE.

The provisions of this Ordinance shall become effective five (5) days following enactment.

Ordained and enacted by the Council of the Borough of New Florence in a public meeting held this 20TH day of APRIL, 1999.

NEW FLORENCE BOROUGH COUNCIL

By: Eugene A. Gorirossi
Eugene A. Gorirossi, President

Attest:

Margaret G. Boyle
Margaret G. Boyle, Secretary-Treasurer

APPROVED THIS 20TH DAY OF APRIL, 1999.

By: Harold E. Luther
Harold Luther, Mayor