

O F F I C I A L

BOROUGH OF ETNA

ORDINANCE NO. 1215

AN ORDINANCE OF THE BOROUGH OF ETNA DECLARING DANGEROUS OBSTRUCTIONS IN STREAMBEDS AND CREEKS IN THE IN THE BOROUGH OF ETNA, A PUBLIC NUISANCE; PROHIBITING AND PROVIDING FOR REMOVAL OF SUCH NUISANCES BY THE OWNER OR OCCUPIER OF SUCH PROPERTY; PROVIDING FOR REMOVAL COSTS AND PENALTIES FOR VIOLATIONS; PENALTIES TO BE A LIEN.

WHEREAS, dangerous obstructions in streambeds and creeks in the Borough of Etna are detrimental and prejudicial to the public health, safety, cleanliness, and comfort of the residents of the Borough of Etna and constitute a public nuisance;

BE IT ORDAINED AND ENACTED by the Council of the Borough of Etna, and it is hereby ORDAINED AND ENACTED by the authority of same:

SECTION 1. DEFINITION. For the purpose of this Ordinance, the following definition shall apply:

(a) "Dangerous Obstructions" shall mean any tree, structure, trash, debris, or other structure or thing which exists was placed, dumped, or which has fallen or is likely to fall during a subsequent flood or windstorm at a location within or along a water course, streambed, or creek, where said obstruction could cause interference with or a diversion of the stream flow or creek or could become water-borne during periods of heavy runoff.

SECTION 2. DUTY TO REMOVE DANGEROUS OBSTRUCTIONS. From and after the passage and approval of this Ordinance, all owners and occupiers of property within the Borough through whose property streams, creeks, or water courses flow, are required to remove from same all dangerous obstructions, including all trash, debris, or other structure or things which impede the flow of water through the stream, creek, or water course.

SECTION 3. NONCOMPLIANCE A NUISANCE. All dangerous obstructions, trees, structures, trash, debris, or other structure or thing which exists was placed, dumped, or which has fallen or is likely to fall during a subsequent flood or

windstorm at a location within or along a water course, streambed, or creek, where said obstruction could cause interference with or a diversion of the stream flow or creek or could become water-borne during periods of heavy runoff, within Etna Borough are hereby declared to be a nuisance.

SECTION 4. ENFORCING AUTHORITY. The Borough Engineer and the Building Inspector are hereby authorized to make such inspections and take such action as may be required to enforce the provisions of this Ordinance.

SECTION 5. INSPECTION. The Borough Engineer and the Building Inspector shall inspect all trees, structures, and other things within and adjacent to all streams, creeks, channels, and watercourses within the Borough to determine whether or not such things constitute a dangerous obstruction, as defined herein.

SECTION 6. NOTICE TO OWNER OR OCCUPIERS OF PROPERTY TO REMOVE DANGEROUS OBSTRUCTIONS. Whenever it shall be ascertained by the Borough Engineer or Building Inspector that any owner or occupier of any real estate in Etna Borough has failed or neglected to comply with any of the terms of this Ordinance, the Building Inspector shall cause a written notice to be served upon the owner or occupier, by personal service or by United States Mail, directing the owner or occupier to comply with all the terms of this Ordinance within five (5) days. If the premises are vacant, service of such notice shall be made by posting a copy thereof in a conspicuous place on the premises and mailing a copy of such notice by certified mail to the owner or owner's last known post office address.

SECTION 7. FAILURE OF OWNER OR OCCUPIER TO COMPLY. In the event of the failure of the owner or occupier of said real estate within the Borough of Etna to remove such dangerous obstruction within five (5) days after being notified to do so, the Borough of Etna shall remove and abate such dangerous obstruction and bill the owner or occupier for the actual cost thereof, together with a charge of Ten (\$10.00) Dollars.

SECTION 8. REPORT OF DANGEROUS OBSTRUCTION. Before the Borough removes any obstructions under the provisions of this Ordinance, the Borough Engineer or Building Inspector shall prepare and file with the Borough Secretary a Report setting forth the reasons for finding the existence of a dangerous obstruction. Whenever possible, photographs should also be provided.

SECTION 9. LEGAL PROCEEDINGS TO FORCE COMPLIANCE. In addition to the other penalties provided by this Ordinance, the Borough of Etna may institute proceedings in Courts of Equity to require owners of real estate in the Borough of Etna to comply with the provisions of this Ordinance.

SECTION 10. PENALTIES TO BE A LIEN. The cost of removal, fine, and penalties hereinabove mentioned may be entered by the Borough of Etna as a lien against the property in accordance with existing provisions of Law.

SECTION 11. VIOLATIONS.

(a) It shall be unlawful for any person to remove, deface, or mutilate any Notice posted pursuant to the provisions of this Ordinance;

(b) It shall be unlawful for any person to obstruct, impede, or interfere with any owner or his agent, or with any representative of the Borough when engaged in performing any reasonable act for the execution of any Order of Abatement issued pursuant hereto.

SECTION 12. PENALTY. Any person, firm, or corporation violating the provisions of this Ordinance, shall, upon conviction thereof before any Issuing Authority, forfeit and pay a fine of not more than Three Hundred (\$300.00) Dollars for each offense and in default of payment shall be imprisoned for a period not exceeding five (5) days in the County jail.

Each and every day upon which any owner or occupier of real estate in the Borough of Etna permits a violation to exist shall constitute a separate offense.

SECTION 13. SEVERABILITY. The provisions of this Ordinance shall be severable, and if any of its provisions shall be held to be unconstitutional or unenforceable for any reason, the validity of any of the remaining provisions of this Ordinance shall not be affected.

SECTION 14. CONFLICT. All ordinances or parts of ordinances conflicting herewith be and the same are hereby repealed insofar as they conflict herewith.

ORDAINED AND ENACTED this 19th day of February,
1991, by the Council of the Borough of Etna.

Peter Ramage
Peter F. Ramage, President

ATTEST:

Mary Ellen Cavlovic
Mary Ellen Cavlovic, Secretary

EXAMINED AND APPROVED by me this 19th day of February, 1991.

Tony Damiano
Tony Damiano, Mayor

I certify this to be a true and correct copy of the official proceedings of
The Council of the Borough of Etna.

Mary Ellen Cavlovic
Mary Ellen Cavlovic, Secretary