OFFICIAL

BOROUGH OF ETNA

ORDINANCE NO. 1311

AN ORDINANCE OF THE BOROUGH OF ETNA, COUNTY OF ALLEGHENY, COMMONWEALTH OF PENNSYLVANIA, AMENDING CHAPTER 17 OF THE CODE OF ORDINANCES OF THE BOROUGH OF ETNA; PROVIDING FOR A NEW PART 3, TITLED "NUISANCE PROPERTIES"; PROVIDING FOR THE ASSESSMENT AND IMPOSITION OF COSTS TO THE OWNERS OF PROPERTIES BEING USED AS RESIDENCES WITHIN THE BOROUGH OF ETNA FOR REPEATED VIOLATIONS OF BOROUGH ORDINANCES AND THE LAWS OF THE COMMONWEALTH OF PENNSYLVANIA WHICH CAUSES PUBLIC DISORDER, DISTURBS AND THREATENS NEIGHBORING RESIDENTS AND PROPERTIES, BURDENS BOROUGH RESOURCES, ALL OF WHICH THREATENS AND INTERFERES WITH THE HEALTH, SAFETY AND WELFARE OF THE RESIDENTS OF THE BOROUGH OF ETNA.

WHEREAS, the Borough of Etna has the duty and authority to enact rules, regulations, ordinances and resolutions it deems beneficial and expedient or necessary for the abatement of nuisances; and

WHEREAS, certain properties being used as residences within the Borough of Etna repeatedly violate various local ordinances and state laws; and

WHEREAS, in so doing, such properties cause public disorder, disturb or threaten neighboring residents and properties, burden and utilize Borough resources, such as man power and funding, and evidence a general disregard of the laws of the Borough of Etna and the Commonwealth of Pennsylvania, which laws were enacted to ensure the common health, safety and welfare of all citizens, and

WHEREAS, the Borough of Etna is authorized to remove a nuisance, if the owner fails to do same, and collect the cost thereof from said owner, together with a penalty of ten (10%) percent of such cost, in the manner provided by law for the collection of municipal claims, or by action in assumpsit or by other means as authorized by law.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Council of the Borough of Etna that Chapter 17 of the Code of Ordinances of the Borough of Etna is hereby amended by adding a new Part 3 entitled "Nuisance Properties", said new Part to read as follows:

PART 3

NUISANCE PROPERTIES

Section 1. Purpose. Borough Council hereby finds that Nuisance Properties place a substantial and unacceptable threat and burden on the common health, safety and welfare of the residents of the Borough of Etna. To this end, Borough Council directs the Code Enforcement Officer, as provided in the following Sections, to charge the cost of abatement of Nuisance Properties to the Property Owner in an effort to deter repeated violations of state and local laws and to ensure restoration of the common health, safety and welfare of Borough residents.

Section 2. Definitions.

(1) "Code Enforcement Officer" means that official of the Borough of Etna charged with the duty of enforcing the provisions of the Zoning Ordinance of the Borough of Etna.

(2) "Cost of Abatement" means the reasonable cost of abatement of an Enumerated Infraction as calculated by the Code Enforcement Officer, including but not limited to the costs of Police Department and/or the costs of the Code Enforcement Officer response associated with abating an Enumerated Infraction.

(3) "Cost Schedule" means the complete list of costs associated with abating each Enumerated Infraction.

(4) "Nuisance Property" means any property being used as a residence within the Borough of Etna with five or fewer units that causes to be issued three (3) citations and/or legal complaints from the Police and/or the Code Enforcement Officer for any enumerated infraction on three (3) separate occasions within any one hundred-twenty (120) day period, or any property being used as a residence with more than five units that causes to be issued at least three (3) citations and/or filings of legal complaints from one unit or five (5) citations and/or filings of legal complaints from the entire building from the Police and/or Code Enforcement Officer for any Enumerated Infraction on separate occasions within any one hundred-twenty (120) day period.

(5) "Property Owner" means any person or business entity, profit or not-for-profit, owning an interest in any property within the boundaries of the Borough of Etna.

Section 3. Enumerated Infractions. An Enumerated Infraction is any of the following activities, behavior, or conduct, whenever engaged in by the owner(s), operator(s), tenant(s), occupant(s) or their invitee(s) occurring within the boundary lines of the property, or 100 feet or less outside the boundary lines of the property, including but not limited to:

(1) Violation of the Code of Ordinances of the Borough of Etna, Chapter 17, Parts 1 and 2;

(2) Violation of the Code of Ordinances of the Borough of Etna, No. 1076 of 1973;

(3) Violation of the Code of Ordinances of the Borough of Etna, No. 1274 of 2000 pertaining to the Uniform Construction Code;

(4) Violation of the Code of Ordinances of the Borough of Etna, No. 1289 of 2002 pertaining to the International Property Maintenance Code;

(5) Under the law of the Commonwealth of Pennsylvania, any violation designated as a summary offense, a misdemeanor, or a felony.

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Section 4. Procedure.

(1) All Enumerated Infractions will be reported by the citing Police Officer to the Code Enforcement Officer within seventy-two (72) hours of its occurrence. The Code Enforcement Officer shall notify the Property Owner by first-class mail to the Property Owner's last known address or cause to be hand-delivered a notice to the Property Owner's residence or usual place of business.

The notice shall be deemed to be properly delivered if sent either by first-class mail to the Property Owner's last known address or if delivered in person to the Property Owner. If the Property Owner cannot be located, the notice shall be deemed to be properly delivered if a copy of it is personally served upon a competent member of the Property Owner's family at least seventeen (17) years of age or a competent adult currently residing there. If a current address cannot be located, notice shall be deemed sufficient if posted on the potential Nuisance Property, and a copy of the notice is sent via first-class mail to the last known address of the Property Owner.

(2) The Code Enforcement Officer is herewith charged with keeping a log of such Enumerated Infractions. The log shall be maintained for the purposes of recording Enumerated Infractions from diverse sources who would not otherwise know of other Departments' activities with the subject property.

(3) Whenever the Code Enforcement Officer determines that an owner of a property being used as a residence with five or fewer units has been cited or a legal complaint has been filed for an Enumerated Infraction at least three (3) times on separate occasions within any one hundred-twenty (120) day period or an owner of a property being used as a residence within more than five units has been cited or a legal complaint has been filed for an Enumerated Infraction at least three (3) times from one unit or at least five (5) times from the entire building on separate occasions within any one hundred-twenty (120) day period, the Code Enforcement Officer shall notify the Property Owner in writing that the property has been designated as a Nuisance Property.

(4) The notice shall be deemed to be properly delivered if sent either by first-class mail to the Property Owner's last known address or if delivered in person to the Property Owner. If the Property Owner cannot be located, the notice shall be deemed to be properly delivered if a copy of it is personally served upon a competent member of

the Property Owner's family at least seventeen (17) years of age or a competent adult currently residing there. If a current address cannot be located, notice shall be deemed sufficient if posted on the potential Nuisance Property, and a copy of the notice is sent via first-class mail to the last known address of the Property Owner.

(5) The notice required by subsections (1) and (3) shall contain:

i. The street address or legal description sufficient for identification of the property;

ii. A description of the Enumerated Infraction(s) that have occurred at the property and a statement indicating that the property is declared as a Nuisance Property as a result of said Enumerated Infraction(s);

iii. Notice of the Property Owner's right to appeal pursuant to Section 6; and

iv. A statement that the Property Owner shall within ten (10) days respond to the Code Enforcement Officer, in writing, with either:

(a) the intent of the Property Owner to appeal the finding of the Code Enforcement Officer; or

(b) a proposal detailing a course of action by which Enumerated Activities will be abated at the property. The Code Enforcement Officer shall, within ten (10) days of receipt of said proposal, either approve or disapprove of the proposal. In the event the Code Enforcement Officer disapproves of the proposal, the Property Owner may appeal pursuant to Section 6.

(6) Whenever Code Enforcement Officer determines that an additional Enumerated Infraction has occurred at a property for which notice has been issued pursuant to subsection (3) of this Section, and either the Enumerated Infraction has occurred not less than thirteen (13) days after notice has been issued or an approved course of action under subsection 4(iv)(b) has not been completed, the Code Enforcement Officer shall charge the Cost of Abatement of the Enumerated Infraction to the Property Owner pursuant to Section 5 for this and any additional Enumerated Infraction, exceptions notwithstanding.

Section 5. Costs Charged to Owner.

(1) On an annual basis, the Code Enforcement Officer shall recommend a Cost Schedule for each Enumerated Infraction to the Borough Council, and Borough Council shall adopt such Cost Schedule as recommended by the Code Enforcement Officer or adopt a different Cost Schedule, as the Council deems appropriate, by resolution which will be filed in the Borough Secretary's office.

(2) The Code Enforcement Officer shall impose upon the owner of a Nuisance Property the Cost of Abatement of any Enumerated Infraction consistent with Section 4 of this Part 3. Any cost imposed upon the Property Owner shall constitute a lien against the property.

(3) Each subsequent incident of any Enumerated Infraction shall be deemed a separate violation subject to this Part 3.

Section 6. Appeal. Appeal of the determination of the Code Enforcement Officer pursuant to subsection 4(3), shall be submitted to the Borough Council within ten (10) days of service of the notice of Enumerated Infraction.

Section 7. Exceptions.

(1) In the event any Property Owner, after implementation of a Section 4.5(iv)(b) plan, demonstrates that Code Enforcement Officer or Police have not responded to an Enumerated Infraction at a Nuisance Property for at least a period of six (6) months, and all other requirements of this Part have been complied with, that property shall no longer be considered a Nuisance Property.

(2) Any citation or complaint issued to a tenant who is already in the process of being evicted, shall not count towards the number of citations or complaints that have been issued or filed necessary to be deemed a "nuisance property" if the property owner can prove that an eviction action has been commenced in a court of law and if the property owner is actively prosecuting said eviction action against the tenant.

Section 8. Repealer. All Ordinances, or parts of Ordinances, in conflict with the provisions of this Ordinance, are hereby repealed.

Section 9. Severability. It is hereby declared to be the intention of the Borough of Etna that the several provisions of this Ordinance are separable. If any Court of competent jurisdiction shall declare any words, sections, sentences or provisions of this Ordinance to be invalid, such ruling shall not affect any other words, sections, sentences or provisions of this Ordinance not specifically intended in said ruling.

ORDAINED AND ENACTED this 17 day of July, 2007, by the Council of the Borough of Etna.

Peter Ramage
Peter F. Ramage, President

ATTEST:
Mary Ellen Ramage
Mary Ellen Ramage, Secretary

EXAMINED AND APPROVED by me this 17 day of July, 2007.

Thomas J. Rengers
Thomas Rengers, Mayor