

BOROUGH OF ETNA
COMMONWEALTH OF PENNSYLVANIA

ORDINANCE NO. 1392

AN ORDINANCE OF THE BOROUGH OF ETNA PROVIDING FOR NOTICE AND FINES FOR NON-TRAFFIC SUMMARY OFFENSES OF BOROUGH ORDINANCES AND PROVIDING PROCESS AND PROCEDURES.

WHEREAS, the Borough of Etna is authorized by relevant Pennsylvania law, including but not limited to the Borough Code, to adopt and enforce regulations applicable throughout the Borough, and

WHEREAS, the Borough of Etna is likewise authorized to, upon admission or conviction, levy a fine for violation of the same; and

WHEREAS, the Borough has identified various mechanisms for enforcement, including non-traffic citations, notices of violation, and ticket, as efficient in suitable situations;

NOW, THEREFORE, IT IS ORDAINED and ENACTED by the Council of the Borough of Etna, Allegheny County, as follows:

I. DEFINITIONS

- A. "Borough Officers" may include Borough Police Officers, the Zoning Code Official, the Building Code Official, or other persons deputized or directed by Borough Council to enforce its laws and ordinances.
- B. "Responsible Party" shall mean the following:
 - i. The person or persons, natural or legal, personally observed by the Borough Officer violating the applicable ordinance provision or Code; or
 - ii. The record owner of real estate or his/her/its duly registered agent of Property; or
 - iii. The tenant of real estate where the record owner can prove that the tenant is legally responsible through a valid lease or other enforceable writing; or
 - iv. Where the record owner of real estate is not known or available, the equitable owner of the Property shall be deemed to be the Responsible Party; or
 - v. Other person, natural or legal, otherwise assigned, or responsible agent of the Responsible Party.
- C. "Violation Ticket" shall mean a Borough instrument created pursuant to this Ordinance notifying the Responsible Party of a relevant violation of the Borough of Etna Borough Code with associated fines as adopted by Borough Council. A Violation Ticket is an offer by the Borough of Etna extended to settle a violation by paying the fine in lieu of a citation being issued against the violator. No remediation period is offered with this type of Notice.

II. GENERAL

The Borough may issue a violation of the Borough of Etna Code of Ordinances, , in the form of a Notice of Violation, a Violation Ticket or a Non-Traffic Citation (collectively referred to as "Notice") where such violation could, upon admission or conviction, constitute a summary offense for a violation of the Borough of Etna Code of Ordinances. Such Notice shall be provided by an appropriate Borough Office as provided herein.

III. NOTICE

- A. Upon the determination that a relevant Code has been violated, a Borough Office may notify the Responsible Party of the violation in the form of a Notice of Violation, a Violation Ticket or a Non-Traffic Citation ("Notice")
- B. A Notice Shall:
 - i. Be in writing, and
 - ii. Include a brief description of the time/date/location of the violation inspected; and
 - iii. Specify the violation which exists with reference to the applicable ordinance provision or Code; and
 - iv. State the amount of the fine; and
 - v. Where applicable, describe the time period for remediation; and
 - vi. A statement regarding the right of appeal or other judicial process.

IV. SERVICE OF NOTICE

- A. Notice shall be served upon the Responsible Party in the following manner:
 - i. By personally serving the Responsible Party; or
 - ii. By personally serving at the residence of the Responsible Party, to an adult member of the family with which he/she resides, but if no adult member of the family is found to an adult person in charge of such residence; or
 - iii. By personally serving at any office or usual place of business of the Responsible Party his/her/its agent or to the adult person for the time being in charge thereof; or
 - iv. By mailing the notice to the last known address of the Responsible Party by certified mail, return receipt requested and if returned as unclaimed to be sent first class mail; or
 - v. Other method permitted by relevant Pennsylvania law or Borough Ordinance.
- B. If any person to whom the Notice of Violation is directed cannot be served in the above manner, the Borough Officer shall briefly note the appropriate facts in the file and shall make service upon such person by posting the notice of violation in a conspicuous place on the premises described by the Notice.
- C. For the purposes of this Section, a person "cannot be served" when the person to be served has no residence or office or usual place of business within the Borough and the mailed Notice is returned undelivered; or when the Notice cannot be served on subsections (i), (ii), or (iii) hereof, after two (2) trips on two (2) separate days to the residence or office or usual place of business of the responsible party

and if the mailed notice of violation is returned undelivered, an internet search and postal search have been conducted.

- D. Notwithstanding the above service requirements, any Notice relating to a motor vehicle may be made by affixing the Notice to the vehicle under the front windshield wiper or other location on the vehicle reasonably believed to be conspicuous to a driver.
- E. Notwithstanding the above service requirements, any Notice relating to a property maintenance code or related property-oriented violation may be made by (1) affixing the Notice to the Front door of the affected property and (2) sending a copy of the Notice to the Responsible Party at the last known address via first class mail.
- F. Nothing herein shall otherwise limit the scope and manner of service or Notice of criminal matters by the Etna Police Department.
- G. Nothing herein shall limit the reasonable discretion of Borough Officials to issue warnings in lieu of Notices. Failure of a Borough Official or exercise of discretion shall not relieve a Responsible Party from compliance or future compliances.

V. FINES AND FEES

- A. The maximum daily fines for specific Ordinances herein shall be set forth in the relevant Etna Borough Ordinance, as may be amended from time to time, by resolution where so authorized, or in the Borough Fee Schedule Resolution as adopted by the Borough Council, as amended from time to time, by resolution.
- B. Where a Violation Ticket is issued by the Borough Officer, the Violation Ticket may provide for a fine per violation or Ordinance in an amount less than the maximum daily fine, provided that the responsible party pays the Violation Ticket as herein provided.
 - i. Tickets that remain unpaid in seven (7) days after notice may be converted into a Non-Traffic Citation, where upon conviction, carry the full maximum daily fine provided by specific Ordinance.
 - ii. Violation Ticket fines may be incorporated into the Borough Fee Schedule by resolution as adopted by the Borough Council, as amended from time to time.

VI. INCONSISTENT ORDINANCES REPEALED

All prior ordinances and sections inconsistent with the terms contained herein are hereby repealed.

VII. EFFECTIVE DATE

This ordinance shall be effective immediately.

THIS ORDINANCE adopted by the Council of Etna Borough as a duly assembled public meeting held this 21 day of MARCH, 2023

ATTEST:

ETNA BOROUGH

Mary Ellen Ramagl
Secretary

By: Don Becki
Council President

Thomas J. Rengers
Mayor