

**MAINTENANCE OF PRIVATE PROPERTY**

**Chapter 34**

**MAINTENANCE OF PRIVATE PROPERTY**

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**34-1. Authority.**

This Chapter and the objectives leading to its enactment are authorized by the Pennsylvania Borough Code.

**34-2. Definitions.**

**BUILDING** - a roofed structure enclosed by one or more walls for the shelter, housing, storage or enclosure of persons, goods, materials, equipment or animals.

**COURT** - an open and unoccupied space on a lot enclosed on at least three sides by the walls of a building.

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1 GARBAGE - putrescible animal and vegetable waste resulting from  
2 the handling, preparation, cooking and consumption of food.

3  
4 INFESTATION - the presence of insects, rodents, vermin and/or  
5 other pests.

6  
7 LOT - plot, tracks, premises or parcel of land with or without  
8 improvements thereto.

9  
10 OWNER - any person or persons jointly or severally, firm,  
11 corporation or other entity which either by convenience or  
12 inheritance or otherwise is vested with a title to a lot and/or  
13 improvements thereto or who retains the exclusive control of  
14 such lot and/or improvements thereto in his capacity as a legal  
15 representative, such as an administrator, trustee, executor,  
16 etc.

17  
18 REFUSE - all putrescible and nonputrescible solid waste,  
19 including garbage, rubbish, ashes, dead animals and market and  
20 industrial wastes.

21  
22 UNOCCUPIED HAZARD - any building or part thereof or man made  
23 structure which remains unoccupied for a period of more than  
24 six months, with either doors, windows or other openings  
25 broken, removed, boarded or sealed up or any building under  
26 construction upon which little or no construction work has been  
27 performed for a period of more than six months.

28  
29 YARD - any open space on the same lot with a building and, for  
30 the most part unobstructed from the ground up.

### 31 32 34-3. Application.

33  
34 The provisions of this Chapter shall supplement local laws,  
35 ordinances or regulations existing in the Borough of Exeter or  
36 those of the Commonwealth of Pennsylvania. Where a provision of  
37 this Chapter is found to be in conflict with any provision of a  
38 local law, ordinance, code or regulation or those of the  
39 Commonwealth of Pennsylvania, the provisions which are more  
40 restrictive or which establish the hire standard shall prevail.

### 41 42 34-4. Buildings and structures.

- 43  
44 A. No owner of any building or structure shall fail to take  
45 steps and perform such maintenance thereto as may be  
46 required from time to time to ensure the property is safe,  
47 sound, sanitary and secure and does not present a health  
48 and/or safety hazard to surrounding properties and to the  
49 general populous.

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## MAINTENANCE OF PRIVATE PROPERTY

1 B. No owner of any unoccupied building or structure shall fail  
2 to take such steps as may be required to ensure that these  
3 are securely closed so as to prohibit and deter entry  
4 thereto and to ensure that no health and/or safety hazard,  
5 or threat thereof, is precipitated due to lack of  
6 maintenance or due to neglect.  
7

8 C. Owners of any and all unoccupied buildings and/or  
9 structures which, through neglect, have deteriorated to the  
10 point of being classified as unoccupied hazards, and  
11 therefore constitute a severe health and/or safety hazard  
12 shall, upon direction of the Borough Council, remove or  
13 cause the removal of the building and/or structure.  
14

### 34-5. Yards, open lots, parking areas.

15 No person shall permit:  
16

17 A. Fences and/or minor structures to be constructed and  
18 maintained so as to present a safety or health hazard to  
19 persons and/or property.  
20

21 B. The development or accumulation of hazards, rodent  
22 harborage and/or infestation upon yards, courts or lots.  
23

24 C. Objectionable materials to accumulate and to be blown about  
25 the surrounding neighborhood.  
26

27 D. Wells, cesspools, cisterns, sedimentation ponds, storm  
28 water management and impoundment ponds and/or ponds of a  
29 similar nature to remain open without adequate fencing or  
30 barricades to prevent access thereto by the general public.  
31

32 E. The accumulation of heavy undergrowth and/or vegetation  
33 which would impair the health and/or safety of the  
34 neighborhood; nor shall they permit any trees, plants or  
35 shrubbery or any portion thereof, to grow on their property  
36 and which constitute a safety hazard to pedestrian and/or  
37 vehicular traffic.  
38

### 34-6. Infestation, prevention and correction.

39 A. Grounds, buildings and structures shall be maintained free  
40 of insect vermin and rodent harborage and infestation.  
41

42 B. Adequate sanitary facilities and methods shall be used for  
43 the collection, storage, handling and disposal of garbage  
44 and refuse.  
45

46 C. Where there exists rodent and/or vermin infestation,  
47  
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1 corrective measures shall be undertaken by the property  
2 owner and/or occupant to alleviate the existing problems to  
3 include screening, extermination and/or garbage and refuse  
4 control. Methods employed for extermination shall conform  
5 with generally accepted practices.  
6

### 34-7. Miscellaneous provisions.

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8  
9 No person shall permit:

- 10  
11 A. Roof surface and/or sanitary drainage to create a safety  
12 and/or health hazard to persons and/or property by reason  
13 of inadequate and/or improper construction or maintenance  
14 or manner of discharge.  
15  
16 B. Roof gutters, drains or any other system designed and  
17 constructed to transport storm water, to be discharged into  
18 any sanitary sewage system and/or any part thereof.  
19  
20 C. Any refrigerator, freezer and/or similar storage chest to  
21 be discarded, abandoned or stored in any place or location  
22 which is accessible to the general public without first  
23 completely removing any and all locking devices and/or  
24 doors.  
25

### 34-8. Responsibilities of occupants.

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28 Any occupant of a premises shall be responsible for compliance  
29 with the provisions of this Chapter with respect to the maintenance  
30 of that part of the premise which he occupies and/or controls in a  
31 safe, sound and/or sanitary condition pursuant to the terms of the  
32 contract/agreement under which he exercises occupancy and/or  
33 control thereof.  
34

### 34-9. Responsibilities of owners. - *Specific 6/06*

- 35  
36  
37 A. The owner or owners of premises shall comply with the  
38 provisions of this Chapter as well as operators and  
39 occupants, regardless of any agreements between owners and  
40 operators or occupants as to which parties shall assume  
41 such responsibility.  
42  
43 B. In instances where an occupant is responsible, or shares  
44 responsibility with an owner for the existence of one or  
45 more violations of this Chapter, said occupant shall be  
46 deemed responsible and treated as if an owner within the  
47 true intent and meaning of this Chapter.  
48  
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EXETER BOROUGH ORDINANCE

NO. of 2006

AN ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF EXETER, LUZERNE COUNTY, PENNSYLVANIA ESTABLISHING AND ASSESSING PENALTIES FOR THOSE WHO COMMIT THE ACT OF PLACING GRAFFITI ON ANY PROPERTY WITHIN THE BOROUGH LIMITS OF EXETER BOROUGH, WHETHER IT BE PUBLIC AND/OR PRIVATE PROPERTY. ADDITIONALLY, THIS ORDINANCE PROHIBITS PRIVATE PROPERTY OWNERS FROM ALLOWING GRAFFITI TO REMAIN ON THEIR PRIVATE PROPERTY FOR MORE THAN THIRTY DAYS FROM THE KNOWLEDGE OF ITS EXISTENCE.

WHEREAS, AN ORDINANCE ESTABLISHING AND ASSESSING PENALTIES FOR THE ACT OF PLACING GRAFFITI ON PUBLIC AND PRIVATE PROPERTY WITHIN EXETER BOROUGH, MORE SPECIFICALLY, DEFACING PUBLIC AND PRIVATE PROPERTY WITHIN THE BOROUGH LIMITS WILL PUNISH THOSE OFFENDERS WHO COMMIT SUCH AN ACT WITH CRIMINAL PENALTIES WITHIN THE JURISDICTION OF THE BOROUGH OF EXETER.

WHEREAS, THOSE PRIVATE PROPERTY OWNERS WHO FAIL TO REMOVE GRAFFITI FROM THEIR PRIVATE PROPERTY WITHIN A REASONABLE TIME PERIOD AS SHALL BE ESTABLISHED BY THIS ORDINANCE ARE ALSO SUBJECT TO CRIMINAL PENALTIES WITHIN THE JURISDICTION OF THE BOROUGH OF EXETER.

NOW, THEREFORE, BE IT AND IT IS HEREBY ENACTED AND ORDAINED BY THE COUNCIL OF THE BOROUGH OF EXETER, LUZERNE COUNTY, PENNSYLVANIA, AS FOLLOWS:

SECTION 1.

A. THIS LOCAL ORDINANCE PROHIBITS INDIVIDUALS FROM DEFACING OR DAMAGING PROPERTY, BOTH PRIVATE AND PUBLIC, BY MAKING ANY MARKS, SIGNS, SYMBOLS, OR WRITINGS ON ANY PROPERTY, BOTH PRIVATE AND PUBLIC.

B. AN INDIVIDUAL IS GUILTY OF VIOLATING THIS ORDINANCE WHEN HE OR SHE INTENTIONALLY DEFACES OR OTHERWISE DAMAGES TANGIBLE PUBLIC AND/OR PERSONAL PROPERTY OR TANGIBLE PROPERTY OF ANOTHER WITH GRAFFITI BY USE OF ANY AEROSOL SPRAY PAINT CAN, BROAD TIPPED INDELIBLE MARKER OR SIMILAR MARKING DEVICE.

C. DEFINITION - AS USED IN THIS ORDINANCE, THE TERM "GRAFFITI" MEANS ANY UNAUTHORIZED INSCRIPTION, WORD, FIGURE,

MARK OR DESIGN WHICH IS WRITTEN, MARKED, ETCHED, SCRATCHED, DRAWN OR PAINTED.

SECTION 2.

THIS LOCAL ORDINANCE PROHIBITS PRIVATE PROPERTY OWNERS FROM FAILING TO REMOVE GRAFFITI FROM THEIR PRIVATE PROPERTY. PRIVATE PROPERTY OWNERS ARE ALLOTTED A REASONABLE AMOUNT OF TIME TO REMOVE SAID GRAFFITI. PRIVATE PROPERTY OWNERS WILL BE GIVEN THIRTY DAYS FROM THE DATE THE GRAFFITI IS FIRST DETECTED TO TAKE REASONABLE STEPS TO REMOVE SAID GRAFFITI. IF THE GRAFFITI LOCATED ON PRIVATE PROPERTY IS NOT REMOVED BY THE PRIVATE PROPERTY OWNER WITHIN THIRTY DAYS OF THE DATE OF ITS EXISTENCE, THE PRIVATE PROPERTY OWNER IS SUBJECT TO THE PENALTIES PORTION OF THIS LOCAL ORDINANCE.

SECTION 3.

THE BOROUGH OF EXETER WILL ENFORCE THIS ORDINANCE AGAINST THOSE WHO PLACE GRAFFITI ON PROPERTY WITHIN THE BOROUGH OF EXETER AND THOSE PROPERTY OWNERS WHO FAIL TO REMOVE SAID GRAFFITI WITHIN THIRTY DAYS OF ITS EXISTENCE. THE BOROUGH OF EXETER HAS NO CONCERN FOR ANY CIVIL ARRANGEMENTS WHICH ARE MADE BETWEEN PROPERTY OWNERS AND RENTERS. THIS ORDINANCE WILL BE ENFORCED AGAINST PROPERTY OWNERS.

SECTION 4.

PENALTIES:

A. ANY INDIVIDUAL CITED UNDER THIS LOCAL ORDINANCE FOR PLACING GRAFFITI ON ANY PRIVATE AND/OR PUBLIC PROPERTY WITHIN THE BOROUGH OF EXETER SHALL BE SUBJECT TO THE FOLLOWING PENALTIES:

(1) Apply 18 Pa. C.S.A. 3304 Section 3304(b):

(a) GRADING - CRIMINAL MISCHIEF IS A FELONY OF THE THIRD DEGREE IF THE ACTOR INTENTIONALLY CAUSES PECUNIARY LOSS IN EXCESS OF \$5,000.00, OR A SUBSTANTIAL INTERRUPTION OR IMPAIRMENT OF PUBLIC COMMUNICATION, TRANSPORTATION, SUPPLY OF WATER, GAS OR POWER, OR OTHER PUBLIC SERVICE, IT IS A MISDEMEANOR OF THE SECOND DEGREE IF THE ACTOR INTENTIONALLY CAUSES PECUNIARY LOSS IN EXCESS OF \$1,000.00, OR A MISDEMEANOR OF THE THIRD DEGREE IF THE ACTOR INTENTIONALLY OR RECKLESSLY CAUSES PECUNIARY LOSS IN EXCESS OF \$500.00 OR CAUSES A LOSS IN EXCESS OF \$150.00 FOR A VIOLATION OF THE ABOVE REFERENCED

SECTION (1) (a) OF THIS LOCAL ORDINANCE. OTHERWISE, CRIMINAL MISCHIEF IS A SUMMARY OFFENSE.

B. ANY PRIVATE PROPERTY OWNER CITED UNDER THIS LOCAL ORDINANCE FOR FAILURE TO REMOVE GRAFFITI FROM HIS OR HER PRIVATE PROPERTY WITHIN THIRTY DAYS OF THE DETECTION OF SAID GRAFFITI SHALL BE SUBJECT TO THE FOLLOWING PENALTIES:

(1) A FINE OF TWO HUNDRED FIFTY (\$250.00) DOLLARS PER DAY FOR THE EXISTENCE OF THE VIOLATION TO BEGIN ACCRUING AFTER THE THIRTIETH DAY OF THE DETECTION OF THE GRAFFITI.

(2) RESTITUTION TO THE BOROUGH IF THE BOROUGH IS REQUIRED TO REMOVE SAID GRAFFITI FROM THE PRIVATE PROPERTY SINCE PRIVATE PROPERTY OWNERS FAILED TO DO SO.

#### SECTION 5.

THE EXISTENCE OF THIS STATUTE IN NO WAY IMPEDES THE BOROUGH OF EXETER FROM PURSUING CIVIL ACTION AGAINST ANY OFFENDERS IF SAID CIVIL ACTION IS APPROPRIATE CONCURRENTLY WITH SAID CRIMINAL SANCTIONS. IF THE BOROUGH OF EXETER IS FACED WITH COSTS FOR THE REMOVAL OF GRAFFITI FROM PRIVATE PROPERTY, EXETER BOROUGH IS ENTITLED TO PURSUE CIVIL REMEDIES OUTSIDE OF THE SCOPE OF THIS ORDINANCE. ADDITIONALLY, THIS ORDINANCE DOES NOT PRECLUDE RESIDENTS OF THE BOROUGH OF EXETER FROM PURSUING CIVIL ACTION AGAINST ANY APPROPRIATE OFFENDERS WHO MAY ALSO BE SUBJECT TO SANCTIONS UNDER THIS ORDINANCE.

#### SECTION 6.

ANY CORPORATE ENTITY THAT OWNS PRIVATE PROPERTY WITHIN THE BOROUGH OF EXETER AND MAY FALL SUBJECT TO THE SCOPE OF THIS ORDINANCE CAN ALSO BE FINED UNDER THIS ORDINANCE FOR FAILURE TO REMOVE GRAFFITI FROM THE PRIVATE PROPERTY IT OWNS WITHIN THIRTY DAYS OF THE DATE OF ITS DETECTION.

#### SECTION 7.

FAILURE FOR ANY INDIVIDUAL, OR CORPORATE ENTITY, TO COMPLY WITH THE PAYMENT OF ANY JUDGMENT PLACED AGAINST THEM BY THE MAGISTERIAL DISTRICT COURT AND/OR THE BOROUGH OF EXETER WILL RESULT IN THAT INDIVIDUAL AND/OR CORPORATE ENTITY BEING SUBJECT TO ALL NECESSARY COLLECTION METHODS INCLUDING BUT NOT LIMITED TO REPORTS TO COLLECTION AGENCIES. ADDITIONALLY THOSE INDIVIDUALS AND/OR CORPORATE ENTITIES WILL BE SUBJECT TO ADDITIONAL FEES AND FINES FOR THEIR FAILURE TO PAY THE LAWFULLY ASSESSED AMOUNT.

SECTION 8.

THE EXISTENCE OF THIS LOCAL ORDINANCE IN NO WAY PROHIBITS THE EXETER BOROUGH POLICE DEPARTMENT OR ANY OTHER LAW ENFORCEMENT AGENCY FROM PURSUING HIGHER GRADE OFFENSES AGAINST THOSE INDIVIDUALS WHICH MAY BE SUBJECT TO OTHER CRIMINAL SANCTIONS IN ADDITION TO THIS LOCAL ORDINANCE.

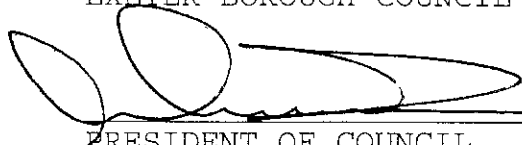
THIS ORDINANCE SHALL TAKE EFFECT June 6<sup>th</sup>, 2006.

ORDAINED AND ENACTED INTO LAW THIS 6 DAY OF June, 2006.

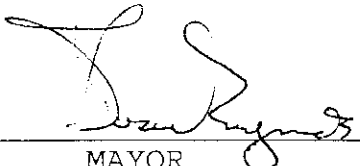
ATTEST:

EXETER BOROUGH COUNCIL

  
BOROUGH SECRETARY

  
PRESIDENT OF COUNCIL

APPROVED THIS 6 DAY OF June, 2006.

  
MAYOR



## MAINTENANCE OF PRIVATE PROPERTY

### 34-10. Inspections.

The Borough Council may or may not cause, through an authorized representative of the Borough, entry onto premises for the purpose of inspection of any and all premises, properties, buildings and/or structures located within the Borough for ascertaining the existence of violations. In those matters where the nature of an alleged violation is such that an inspection of the interior of a building structure is necessitated, prior arrangements must be made with the owner or his agents to secure access thereto.

### 34-11. Notice to comply.

A. If noncompliance with the provisions of this Chapter constitutes a nuisance or if any condition, structure or improvement poses a threat to the health, safety, or welfare of the public, the Borough Council, the Borough Chief of Police or any authorized representative of Borough Council shall issue a written notice to be served by registered or certified mail upon the owner of said premises or by personal service or if the owners whereabouts or identity be unknown, by posting the notice conspicuously upon the offending premises.

B. Said notice shall specify the condition or structure or improvement complained of and shall require the owner to commence to remove or otherwise rectify the condition or structure or improvement as set forth herein within ten days of mailing or posting or service of said notice and thereafter, to fully comply with the requirements of the notice within a reasonable time.

### 34-12. Authority to remedy noncompliance.

If the owner does not comply with the notice to abate the conditions within the time limit prescribed, the Borough shall have the authority to take measures to correct the conditions and collect the cost of such conditions plus ten (10%) percent of all costs. The Borough, in such event and pursuant to its statutory or otherwise authorized police powers, shall have the right and power to enter upon the offending premises to accomplish the foregoing.

### 34-13. Hearing.

A. Any person aggrieved by the decision of Borough Council, the Chief of Police or the authorized representative of Borough Council may request and shall then be granted a hearing before Borough Council provided he files with Borough Council within five (5) days after "notice to comply", a written petition requesting such hearing and

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1            setting forth a brief statement of the grounds therefore.  
2

3            B. After such hearing, the Borough Council shall sustain,  
4            modify or overrule the "notice to comply".  
5

6            **34-14. Penalties.**  
7

8            Any person who shall violate any provision of this Chapter  
9            shall upon conviction thereof be sentenced to pay a fine of not  
10           more than three hundred (\$300.00) dollars and in default of payment  
11           to undergo imprisonment for a term not to exceed thirty (30) days.  
12           Each day that a violation of this Chapter continues shall  
13           constitute a separate offense.  
14

15           **34-15. Owners severally responsible.**  
16

17           If the premises are owned by more than one owner each owner  
18           shall severally be subject to prosecution for the violation of this  
19           Chapter.  
20

21           **34-16. Remedies not mutually exclusive.**  
22

23           The remedies provided herein for the enforcement of this  
24           Chapter or any remedy provided by law, shall not be deemed mutually  
25           exclusive; rather they may be employed simultaneously or  
26           consecutively at the option of the Borough Council.  
27