

ORDINANCE NO. 01 – 2024

EAST MARLBOROUGH TOWNSHIP

CHESTER COUNTY, PENNSYLVANIA

AN ORDINANCE OF EAST MARLBOROUGH TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA, TO ENACT A NEW ORDINANCE TITLED, “DISEASED, DYING, DEAD, AND DANGEROUS TREES” TO REGULATE THE MAINTENANCE AND REMOVAL OF DISEASED, DYING, DEAD, AND/OR DANGEROUS TREES LOCATED IN ANY TOWNSHIP RIGHT-OF-WAY; SPECIFICALLY PROVIDING SECTIONS REGARDING PURPOSE, APPLICABILITY, CUTTING AND REMOVAL OF DISEASED OR DANGEROUS TREES, AND RESPONSIBILITY FOR COSTS; AND FURTHER PROVIDING FOR SEVERABILITY, REPEALER, AND AN EFFECTIVE DATE.

WHEREAS, under the Second Class Township Code, 53 P.S. § 65607(1), the Board of Supervisors of East Marlborough Township (the “Board”) is charged with the responsibility to ensure the health, safety, and welfare of its citizens;

WHEREAS, pursuant to the Second Class Township Code, 53 P.S. § 66506, the Board may adopt such ordinances and such other codes not inconsistent with the Pennsylvania Constitution and as may be required from time to time to protect the safety and welfare of the citizens;

WHEREAS, the presence of diseased, dying, dead, and/or dangerous trees in the rights-of-way of East Marlborough Township (the “Township”) presents a serious threat to the public health, safety, and welfare of the Township;

WHEREAS, for the reasons set forth in more detail below, the Board intends to preserve, maintain, and enhance the health, safety, and welfare of the residents and visitors of the Township by enacting an ordinance to mandate that property owners take prompt action to remove diseased, dying, dead, and/or dangerous trees from the rights-of-way of the property of the owner;

WHEREAS, the Board further desires to defray tax dollars expended to remove diseased, dying, dead, and/or dangerous trees situated within the Township rights-of-way on properties of residents, by passing through the cost of such removal to property owners, so that other Township residents and taxpayers do not unnecessarily shoulder the financial burden;

WHEREAS, pursuant to the Municipal Claim and Tax Lien Law, 53 Pa. Stat. Ann. § 7101, et seq., the Board is authorized to file a lien against the real property on which, among other things, the Township conducts work or removes a nuisance, and where the bill for the same remains unpaid by the property owner;

WHEREAS, the Board desires to authorize appropriate Township personnel and/or agents to file a lien on the property for any work done by the Township in removing diseased, dying, dead, and/or dangerous trees, and where the bill for such work remains unpaid by the property owner;

WHEREAS, the Board, after due consideration of the proposed ordinance at a duly advertised public hearing, has determined that the health, safety, and general welfare of the residents of the Township will be served by this Ordinance, which will regulate the maintenance and removal of diseased, dying, dead, and/or dangerous trees located in the Township rights-of-way situated on private property located in the Township; and

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of East Marlborough Township, Chester County, Pennsylvania, it is hereby enacted and ordained by the authority of same, as follows:

ARTICLE I. REGULATIONS.

DISEASED, DYING, DEAD, AND/OR DANGEROUS TREES

Section 1. Purpose.

The purpose of this Ordinance is to better ensure the safety of the residents and visitors of the Township, and to prevent the dangers caused by diseased, dying, dead, and/or dangerous trees from affecting the health, safety, and welfare of the public or the right of the public to the unobstructed use of public roads or property.

Section 2. Applicability.

This Ordinance applies to owners of property on which is located trees, the condition of which, through disease or otherwise, unreasonably affects or interferes with the healthy, safety, or welfare of the public or the right of the public to the unobstructed use of public roads or property.

Section 3. Cutting and/or Removal of Diseased, Dying, Dead, and/or Dangerous Trees.

In furtherance of the protection of the Township, its residents, and persons using public rights-of-way in the Township, if the condition of the trees, through disease or otherwise, does unreasonably affect or interfere with the health, safety, or welfare of the public or the right of the public to the unobstructed use of public roads or property, then the Township Manager or designee may give notice *via* certified mail, return receipt requested to the owner of the property on which the tree is located to immediately cut

and/or remove the tree (as the case may be). If within thirty (30) days after the date of such notice to remove the tree(s), the property owner has not complied with that notice, the Township or its agent may enter the premises and perform any act necessary to abate, clear, and/or remove the tree(s). If a diseased, dying, dead, and/or dangerous tree requires immediate attention, as determined in the sole discretion of the Township, then the Township or its agent may immediately remove the tree(s) from the right-of-way, without prior notice to the property owner, and then bill the property owner for the cost of such removal.

Section 4. Responsibility for Costs.

The costs of cutting and/or removal of the tree(s) by the Township and/or its agent(s) shall be charged to the property owner and shall be due and payable to the Township within thirty (30) days of the date that the Township bills the property owner for such cutting and/or removal. If the amount of the bill is not paid within thirty (30) days, all amounts due and owing shall be deemed to be delinquent and shall be subject to a penalty of 10% of the amount billed. If the amount of the bill is not paid within forty-five (45) days, the Township may file a municipal lien against the real estate of the property owner, which shall be collected in the same manner as other municipal liens.

ARTICLE II. SEVERABILITY. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts hereof. It is hereby declared as the intent of Board that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included therein.

ARTICLE III. REPEALER. All Ordinances or parts of Ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

ARTICLE IV. EFFECTIVE DATE. This Ordinance shall become effective five (5) days following enactment (*i.e.*, January 7, 2024)

ENACTED AND ORDAINED THIS 2nd DAY OF JANUARY 2024.

[SIGNATURE PAGE TO FOLLOW]

**BOARD OF SUPERVISORS
EAST MARLBOROUGH TOWNSHIP**

ATTEST:

Neil Lovekin
Neil Lovekin,
Manager/Secretary

By: Kathryn M. Monul
_____, Chairperson

Ellen D. Scangelis
_____, Vice Chairperson

[Signature]
_____, Member

[Signature]
_____, Member

_____, Member