

ORDINANCE NO. 142

BENNER TOWNSHIP
CENTRE COUNTY,
PENNSYLVANIA

AN ORDINANCE TO ADDRESS CONCERNS WITH DANGEROUS TREES ADVERSELY AFFECTING THE PUBLIC SAFETY AND WELFARE OF THE TOWNSHIP AND ITS RESIDENTS AND VISITORS, SPECIFYING ACTIONS TO BE TAKEN WHERE DANGEROUS TREES HAVE BEEN IDENTIFIED, AND PRESCRIBING PENALTIES FOR VIOLATION.

PREAMBLE

WHEREAS, the Board of Supervisors of Benner Township wishes to promote the public health, safety, and welfare of its residents and visitors to the Township and protect the traveling public from dangers and harm that may arise from dangerous trees or other vegetation that may adversely impact travel on public roads or otherwise;

WHEREAS, dangerous trees are a hazard that can be identified and remedied to avoid harm, danger, or injury;

WHEREAS, the Township Roadmaster regularly inspects roadways in the Township, and can identify dangerous trees and other dangerous vegetation;

WHEREAS, it is desirable to enact this Ordinance for the efficient protection of the residents and visitors to the Township.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of Benner Township, Centre County, Pennsylvania, as follows:

Section 1. Title. This ordinance shall be known as the “Benner Township Dangerous Tree Ordinance.”

Section 2. Purpose. The purpose of this article is to require the removal of dead, dying or dangerous trees adversely affecting the Township public roads and other rights-of-way to protect the public health, safety and welfare and to eliminate a potential menace to public travel.

Section 3. Authority. This article is adopted pursuant to the powers and authority of the statutes of the Commonwealth of Pennsylvania, 36 P.S. § 2664 (relating to removal of trees menacing travel); the Second Class Township Code, 53 P.S. § 2907 (relating to removal of diseased or dangerous trees).

Section 4. Declaration of Nuisance. (a) Any tree or other significant vegetation, included bushes, that is determined to be a danger to the public health, safety or welfare in the Township due to disease, growth, location, pests, damage, or other causes, is hereby declared to be a nuisance and subject to abatement as provided for herein.

(b) The Township Roadmaster shall have the right to examine trees and other vegetation in the Township to determine whether such tree(s) or vegetation constitutes a nuisance due to the danger such tree(s) or vegetation poses to the public health, safety, or welfare of persons who may be utilizing the public rights-of-ways in the Township.

(c) It is not the intention of this Ordinance to regulate or control trees or other vegetation on private property that does not impact the public health, safety or welfare of use of the public roads or public rights-of-way in the Township.

Section 5. Notice to Remove. (a) Whenever it shall be reported to the Township Roadmaster or other appropriate official that any dangerous tree or other vegetation exists, the Roadmaster shall investigate the matter and make a determination of the appropriate action in response to such dangerous tree or vegetation. Such action may include, but not be limited to, pruning or removal of the dangerous tree or vegetation.

(b) Upon making such determination, the Roadmaster shall cause a written notice of such determination to be served upon the owner of the real property containing the dangerous tree or other vegetation, by personal service or by United States Mail, directing the owner to comply with all of the provisions of this article within not less than forty-five (45) days unless exigent circumstances warrant action more promptly. The Roadmaster shall also undertake to appropriately identify the dangerous tree(s) or other vegetation for the owner, and indicate the nature of the action that must be taken by the owner to rectify the situation.

(c) If the premises shall be 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 owners of such premises at the owner's last known post office address.

Section 6. Performance of Work by the Township; Assessment of Costs and Charges.

In the event of the failure of the owner or holder of the real estate containing the dangerous tree or other vegetation to cut and remove such dead, dying or dangerous tree, or to have such dead, dying or dangerous tree removed, or take such other action as directed by the Roadmaster within forty-five (45) days (or such shorter period of time depending upon the exigency of the danger) after being notified to do so, the Township of Benner shall have the nuisance removed either by its own labor forces or by an agent or contractor retained for that purpose and bill the owner or holder for the actual cost thereof.

Section 7. Other remedies. In addition to the other penalties provided by this article, the Township of Benner may file an action in the courts of Centre County, Pennsylvania, to recover costs and penalties, or may file an equity action in a court of equity to require the owner(s) of the real estate to comply with the provisions of this ordinance.

Section 8. Costs, Attorney's fees, and charges as lien. The cost of removal, attorneys' fees, and costs of filing a lien hereinabove mentioned may be entered by the Township as a lien against the property in accordance with existing provisions of law.

Section 9. Violations and penalties. Any person, firm or corporation found in violation of this article shall, upon conviction thereof before any issuing authority, be subject to a fine of up to \$500 for each violation. Each continuing day shall be a separate violation of this ordinance and shall be considered a separate offense and may be punishable as such.

Section 10. Additional Remedy. Should the Township through its Roadmaster or other appropriate official notify a property owner of a dangerous tree situation and specify the action(s) to be taken by the property owner to remedy the dangerous situation, and the property owner fails to undertake such action in accordance with the notice received from the Township, the Township may, as an additional remedy to those provided above, withhold from the property owner and any parent, subsidiary, or affiliated entity or organization, any other permits until compliance with this Ordinance is achieved by the property owner.

Section 11. Emergencies. Nothing contained in this ordinance shall prevent the Township from responding to emergency situations, or require the Township to provide notice to any property owner before taking action to respond to any emergency situation.

Section 12. Severability. If any provision, 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 the Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section or part thereof not been included herein.

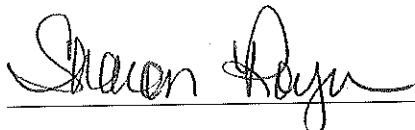
Section 13. Repealer. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of any such inconsistency.

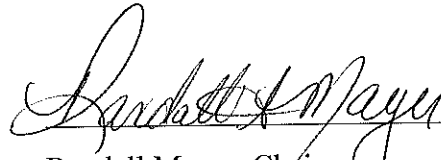
Section 14. Effective Date. This Ordinance shall become effective five (5) days after enactment.

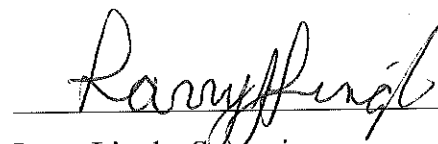
Adopted and ordained by the Supervisors of Benner Township, this 4th day of December, 2023, in lawful meeting properly advertised and convened.

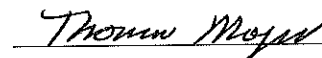
ATTEST

Board of Supervisors


Sharon Royer, Secretary


Randall Moyer, Chairman


Larry Lingle, Supervisor


Thomas Moyer, Supervisor

NOTE: Original Signed Copy is on file in the Benner Township Municipal Office, 1224 Buffalo Run Road, Bellefonte, PA

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