

## **ORDINANCE 03-2022**

### **AN ORDINANCE OF THE BOROUGH OF MOUNT ARLINGTON, COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING CHAPTER 53 OF THE CODE OF THE BOROUGH OF MOUNT ARLINGTON, TO REMOVE RESPONSIBILITY FROM THE BOROUGH TO REMOVE ANY AND ALL UNCURED CHAPTER 53 VIOLATIONS RELATING TO TREES, AND INSTEAD PROVIDING THE PROPERTY MAINTENANCE OFFICER, OR OTHER AUTHORIZED OFFICER OR EMPLOYEE OF THE BOROUGH, THE AUTHORITY TO ISSUE A COMPLAINT IN MUNICIPAL COURT WITH RESPECT TO SUCH CODE VIOLATIONS**

**BE IT ORDAINED** by the Borough Council of the Borough of Mount Arlington, in the County of Morris, State of New Jersey as follows:

Section 1. The Borough of Mount Arlington (the "Borough") is a public body corporate politic of the State of New Jersey. The Borough Council of the Borough of Mount Arlington (the "Borough Council") has determined that the presence of brush, weeds, dead and dying trees, leaves, stumps, roots, obnoxious growth, filth, garbage, trash and other debris within the Borough has, and continues to be, a problem affecting the public health, safety and the general welfare of the public. Brush, weeds, dead and dying trees, leaves, stumps, roots, obnoxious growth, filth, garbage, trash and other debris within the Borough also present a fire hazard.

Section 2. In consequence, the Borough Council desires to amend Chapter 53, specifically Subsections §53-3, Service of Notice, §53-4, Removal by Borough, and §53-5, Violations and Penalties, of the Borough Municipal Code (the "Borough Code"), so that the Borough may more effectively mitigate and/or resolve Chapter 53 violations. Currently, Chapter 53, Subsection §53-3, Service of notice, provides that notices of violations pursuant to Chapter 53, shall include a warning that the Borough, through the Borough Property Maintenance Officer, or other authorized officer or employee of the Borough, shall remove or direct the removal of any violation, and such costs shall be charged to the violator if the property owner fails to do so. It is the desire of the Borough Council to remove responsibility of the Borough to remove or cause to be removed any violations of Chapter 53, and therefore, Chapter 53, Subsection §53-3 of the Borough Municipal Code, is hereby amended to conform with the provisions of this ordinance, and shall read as follows (additions are underlined and deletions are in [brackets]):

#### **§ 53-3 Service of notice.**

Notice to the owner or tenant to cause the removal of the substances referred to in § 53-2 may be served on him either personally or by certified mail at the address to which tax bills are sent; and if by certified mail, the ten-day period within which the removal shall be accomplished shall be deemed to have commenced from the date of the return receipt obtained by the postal authority for the delivery of

the notice. Every notice, in addition to requiring removal, shall warn the owner or tenant of the lands to which the notice refers that failure to accomplish the removal within the times stated shall result in the Property Maintenance Officer, or other authorized officer or employee of the Borough, issuing a Complaint in Municipal Court.

Section 3. Chapter 53, Subsection §53-4, Removal by Borough, currently provides that upon failure to cure any violations pursuant to Chapter 53, the Borough, through the Borough Property Maintenance Officer, or other authorized officer or employee of the Borough, shall remove or direct the removal of any violation, and such costs to remove shall be charged to the owner or tenant of the lands. Chapter 53, Subsection §53-4 of the Borough Municipal Code, is hereby amended to conform with the provisions of this ordinance, and shall therefore be removed in its entirety.

Section 4. Chapter 53, Subsection §53-5, Violations and Penalties, provides that any persons, upon failure to cure any violations pursuant to Chapter 53, and a conviction of the same, shall be liable for any penalties provided for in Chapter 1, Article III of the Code. Chapter 53, Subsection §53-5 of the Borough Municipal Code, is hereby amended to conform with the provisions of this ordinance, is re-codified as § 53-4, and shall read as follows (additions are underlined and deletions are in [brackets]):

**§ 53-4 Violations and penalties.**

[Amended 3-16-1994 by Ord. No. 83-1; 3-15-1995 by Ord. No. 95-11; 7-8-02 by Ord. No. 02-23]

A. Upon failure to remove any violations in accordance with Chapter 53 within the time provided for in § 53-3, the Property Maintenance Officer, or other authorized officer or employee of the Borough, shall have the authority to issue a Complaint in Municipal Court.

B. Maximum penalty. Any person violating any part of this chapter shall, upon conviction thereof, be liable to the penalty provided by Chapter 1, Article III.

Section 5. All of the remaining provisions in Chapter 53 of the Borough Code shall remain unchanged and have full force and legal effect. All other resolutions and ordinances governing Chapter 53 violations enacted and inconsistent herewith are hereby modified pursuant to the terms of this Ordinance.

Section 6. This Ordinance shall take effect after final adoption and publication and otherwise as provided by applicable law.

**I HEREBY CERTIFY** this to be a true and correct Ordinance of the Mayor and Borough Council of the Borough of Mount Arlington, adopted on March 1, 2022 and will be further considered after a Public Hearing held on April 5, 2022 at the Municipal Building at 7:00p.m.

INTRODUCED: March 1, 2022

ADOPTED: April 5, 2022

ATTEST:

BOROUGH OF MOUNT ARLINGTON  
COUNTY OF MORRIS  
STATE OF NEW JERSEY

A handwritten signature in black ink, appearing to read 'M. N. Bansch', written over a horizontal line.

Matthew N. Bansch  
Borough Clerk

A handwritten signature in black ink, appearing to read 'Michael Stanzilis', written over a horizontal line.

Michael Stanzilis, Mayor  
Borough of Mount Arlington