

**HATBORO
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO. 1063

AN ORDINANCE OF THE BOROUGH OF HATBORO, MONTGOMERY COUNTY, COMMONWEALTH OF PENNSYLVANIA, ESTABLISHING REGULATIONS FOR THE PLANTING, CULTIVATING, GROWING, CONTROL AND/OR REMOVAL OF BAMBOO, AND PENALTIES FOR VIOLATIONS OF THE SAME; REPEALING ALL INCONSISTENT ORDINANCES OR SECTIONS OF THE BOROUGH CODE OF ORDINANCES; AND CREATING "CHAPTER 10, PART 4 – BAMBOO" OF THE BOROUGH CODE OF ORDINANCES; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, pursuant to the Borough Code of the Commonwealth of Pennsylvania, the Borough of Hatboro, in the exercise of its corporate powers, is empowered to enact and adopt ordinances for the health, protection, safety, welfare and benefit of its citizens and the public at large; and

WHEREAS, the Council of Hatboro Borough ("Council") has determined that it is in the best interests of the health, protection, safety, welfare and benefit of its citizens and the public at large at this time to establish regulations relating to the planting, cultivating and/or growing of a certain running plant, specifically Bamboo, within the Borough of Hatboro, together with penalties for violations of such regulations, so as to prevent the spread of running bamboo onto neighboring property; and

NOW, THEREFORE, be it, and it is hereby **ORDAINED** by the Borough Council of the Borough of Hatboro, Montgomery County, Pennsylvania, and is hereby **ENACTED** and **ORDAINED** by authority of same as follows:

Chapter 10, Part 4: Bamboo

I. The Code of the Borough of Hatboro is hereby amended by adding a new Part to Chapter 10, Health and Safety, to be entitled "Bamboo" which shall read as follows:

§ 401

Vegetative Growth a Nuisance Under Certain Conditions.

The purpose of Chapter 10, Part 4, is to preserve and protect private and public property from the damaging effects of uncultivated gardens, tall grasses, unabated weeds, and the spread of certain invasive, non-native plantings such as bamboo; to protect indigenous plant materials from the invasive spread of non-native plantings such as bamboo; and to maintain the general welfare of residents of Hatboro Borough.

§ 402

Definitions.

For purposes of this chapter, the following definitions shall apply:

BAMBOO

Any monopodial (running) tropical or semi-tropical grasses from the genera Phyllostachys or Pseudosasa, including, but not limited to, Phyllostachys aureosulcata — Yellow Groove bamboo. In addition, this definition includes common bamboo, golden bamboo and arrow bamboo.

BAMBOO OWNER

Any owner/occupant who has planted and/or grows bamboo on his or her property; who maintains bamboo on his or her property; or who permits bamboo to grow or remain on his or her property, even if the bamboo has spread from an adjoining property.

PERSON

Any individual, corporation, partnership, joint venture, unincorporated association, municipal corporation or agency, other group acting as a unit, or combination thereof.

OWNER/OCCUPANT

Any person owning or occupying any premises within Hatboro Borough. For purposes of this chapter, owner/occupant responsibilities shall apply to the owner in the case of vacant premises or premises occupied by the owner, or to the occupant of the premises in case of premises occupied by other than the owner.

§ 403

Height and Certain Vegetation Restricted.

1. Owner/occupants shall not permit any grass, or weeds, or any vegetation whatsoever not edible or planted for some ornamental purpose to grow or remain upon such premises so as to exceed a height of eight inches or to throw off any unpleasant or noxious odor or to conceal any filthy deposit or to create or produce pollen. Any grass, weeds or other vegetation growing upon any premises in the Borough in violation of any the provisions of this section is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness and comfort of the inhabitants of the Borough. Uncultivated gardens shall be treated the same as weeds and tall grasses.

2. The planting or growing of bamboo shall be prohibited within the Borough, unless:

A. The root system of such bamboo plant is entirely contained within a planter, barrier, or other vessel, located entirely above ground level, and of such design, material, and location as to entirely prevent the spread/growth of the bamboo's root system beyond the container in which it is planted; or

B. The root system is contained within a barrier, constructed in accordance with the following specifications, and only after a permit is issued by the Borough:

(1) The barrier shall be composed of high-density polypropylene or polyethylene, 40 mil or heavier, or equivalent;

(2) Portions or sheets of the barrier shall be secured or joined together by the use of stainless steel clamps or stainless steel closure strips designed for such barriers;

(3) The entire perimeter of the barrier shall be more than 30 inches below ground level and more than three inches above ground level; and

(4) When installed, the barrier shall slant outward from the bottom to the top.

3. Any person who hereafter plants or grows, or causes to be planted or grown, bamboo within the Borough, except as under the conditions set forth in Subsections 1 and 2 above, shall be deemed to be in violation of this chapter, and shall be subject to such penalties as are set forth herein. For purposes of this chapter, bamboo found growing upon a property shall constitute presumptive evidence that the bamboo was planted and/or grown by and/or with the consent of the bamboo owner.

4. Property Lines and Removal of Bamboo.

A. Bamboo shall not be planted, maintained, or otherwise be permitted to exist within 40 feet of the edge of the pavement or traveled portion of any public roadway in the Borough. Any bamboo owner whose property contains bamboo shall remove and abate the growth of the bamboo within 40 feet of the edge of the pavement or traveled portion of a public road in the Borough.

B. Whether planted or growing in a container or contained within a barrier, all bamboo plants shall be located, trimmed, and maintained so that no part of the plant (including stalks, branches, leaves, and/or roots) shall extend nearer than 10 feet to any property line.

C. When removing and destroying bamboo, all rhizome (underground plant stem capable of producing the shoot and root systems of a new plant) disposal must be by incineration only. No composting or trash disposal of rhizomes shall be allowed.

5. Other Noxious Weeds. In accordance with Pennsylvania's Noxious Weed Control Law (3 P.S. § 255), no owner/occupant shall sell, transport, plant, or otherwise propagate a noxious weed, as identified in the Noxious Weed Control List (7 Pa. Code § 110.1), except as permitted by the Pennsylvania Secretary of Agriculture for specific horticultural or experimental use.

§ 404

Owner and Occupant Responsibilities.

1. The owner/occupant shall remove, trim or cut all grass, weeds, bamboo, or other vegetation growing or remaining upon such premises in violation of the provisions of § 403 of this chapter.

2. The owner/occupant shall be responsible for the cost of removal and/or abatement of bamboo that has encroached upon an adjoining property in violation of this chapter.

3. Preexisting Bamboo.

A. Any bamboo that has been planted or otherwise permitted to grow on any property within the Borough prior to the effective date of this Part 4 may remain on such property, subject to compliance with § 403 of this Chapter.

B. Each bamboo owner shall be responsible to ensure that the bamboo planted or growing on the property prior to the effective date of this Part 4 does not encroach or grow upon any adjoining or neighboring property, including all public property and rights-of-way. Such bamboo owners shall be required to take such measures as are reasonably expected to prevent such invasion or encroachment, including, but not limited to, the installation of a barrier to sufficient depth as outlined in § 403, Subsection 2B, within the property line or lines where the bamboo is planted or is growing to prevent the growth or encroachment upon adjoining or neighboring property by the bamboo.

C. Replanting prohibited. Any bamboo existing on a property prior to the effective date of this Part 4 may not be replanted or replaced in kind once such bamboo is or has become, for any reason, dead, destroyed, uprooted, or otherwise removed, except in compliance with the provisions of this chapter.

§ 405

Grass, Weed, Vegetation or Bamboo Removal from Borough Property.

1. Encroachment. In the event that bamboo growing on a bamboo owner's property invades or grows onto Borough property, including, but not limited to, rights-of-way, the Borough shall notify the bamboo owner, in writing, that bamboo has invaded the Borough property and that the bamboo owner is responsible for the removal of such bamboo from the Borough property. This encroachment notice shall be sent by certified mail, return receipt requested, and by regular mail to the last known address of the bamboo owner, and a copy of the notice shall also be posted in a conspicuous location on the bamboo owner's property.

2. In case any person, firm or corporation shall neglect, fail or refuse to comply with such encroachment notice within the period of time stated therein, the Borough may order the removal, trimming or cutting of such grass, weeds or vegetation, and the cost thereof shall be collected by the Borough from such person, firm or corporation, in the manner provided by law. Such costs may be assessed against the property of the bamboo owner and, in the event that the costs remain unpaid more than 30 days after the demand of payment has been made by the Borough on the bamboo owner, the Borough may lien the property of the bamboo owner for these costs, plus interest, fees, and expenses, as allowed by law.

3. In the event that the Borough is compelled to undertake the removal of bamboo, as provided for above, neither the Borough nor its employees, contractors, or agents shall have any liability to the bamboo owner for any damages or other claims arising out of the removal of such bamboo. In the event such removal entails or causes damages to the property of any other person or entity other than the bamboo owner, the bamboo owner shall be responsible for such damages.

§ 406

Notice of Violation.

1. In the event that there is any grass, weeds, bamboo, or other vegetation growing or remaining upon such premises in violation of the provisions of § 403 of this chapter, the Borough shall notify the owner/occupant, in writing, of the existence of such violation. Notice of violation shall be served by handing it directly to the owner/occupant; sent by certified mail, return receipt requested, and by regular mail to the last known address of the

owner/occupant. Whenever, in the judgment of the Borough, it shall appear to be impracticable to give notice as above provided, either because the owner or occupant cannot readily be found or because a search for the owner or occupant would entail unreasonable delay, the Borough or any officer or employee of the Borough designated thereby for that purpose may give notice by posting conspicuously on the property where such nuisance exists a notice or order directing and requiring that such nuisance be abated within five days.

2. Any owner/occupant receiving a notice of violation shall bring his or her property into compliance with this chapter within five calendar days of the owner/occupant's receipt of said notice. In addition, where an owner/occupant does not, within five calendar days, remedy and correct (or make arrangements to remedy or correct) the violations set forth in any notice of violation issued to him or her, the Borough may:

A. Cut any grasses; and/or

B. Remove any weed, bamboo, or other vegetation that is in violation of this chapter and located upon the owner/occupant's property and/or that has spread to an adjoining property, taking all reasonable action to eradicate its re-growth; and/or

C. Restore any real property to its natural condition prior to such removal and eradication.

3. Any costs incurred by the Borough in remedying any violation of this Part 4 shall be at the expense of the owner/occupant, and in the event that the costs remain unpaid more than 30 days after the demand of payment has been made by the Borough on the owner/occupant, the Borough may lien the property of the owner/occupant for these costs, plus interest, fees (including attorney's fees), and expenses, as allowed by law.

4. In the event that the Borough is compelled to undertake remediation of any violation, as provided for above, neither the Borough nor its employees, contractors, or agents shall have any liability to the owner/occupant for any damages or other claims arising out of the remediation. In the event such remediation entails or causes damages to the property of any other person or entity other than the owner/occupant, the owner/occupant shall be responsible for such damages.

§ 407

Violations and Penalties.

1. Any person who violates any of the provisions of this chapter shall, upon conviction in a summary proceeding before any District Justice of Montgomery County, be punishable by a fine of not more than \$300 and costs of prosecution for each and every offense. Each day that such violation is continued shall constitute a new and separate offense, punishable by like fine.

2. In addition, the Borough Council may institute suits, in equity or at law, to restrain, prevent, or abate a violation of this chapter. Such proceedings may be initiated before any court of competent jurisdiction. The expense of such proceedings shall be recoverable from the violator in any manner as may now or hereafter be provided by law.

II. All ordinances or parts thereof inconsistent with the Ordinance are hereby repealed to the extent of the inconsistency.

§ 1-357. Records and reports.

The Parks and Recreation Commission shall keep records of its meetings and activities and shall make an annual report, which shall be printed in the annual municipal report or otherwise made known and available.

§ 1-358. Appropriations.

The Borough Council may from time to time appropriate funds for the expenses incurred by the Parks and Recreation Commission.

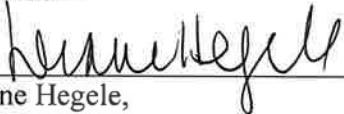
II. All ordinances or parts thereof inconsistent with the Ordinance are hereby repealed to the extent of the inconsistency.

III. The provisions of this Ordinance are declared to be severable. If any provision of this Ordinance is declared by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall have no effect on the remaining provisions of this Ordinance.

IV. This Ordinance shall be effective immediately following its legal enactment.

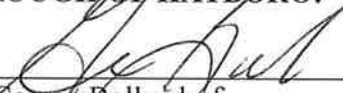
ORDAINED AND ENACTED by the Borough Council of the Borough of Hatboro, this 27 day of July 2020.

ATTEST:



Diane Hegele,
Borough Manager

BOROUGH OF HATBORO:

By: 

George Bollendorf,
Council President

APPROVED:



By: Mayor Nancy Guenst