

OFFICIAL

**BOROUGH OF FOREST HILLS
ORDINANCE NO. 1102**

AN ORDINANCE OF THE BOROUGH OF FOREST HILLS,
ALLEGHENY COUNTY, PENNSYLVANIA, AMENDING
CHAPTER 10, HEALTH AND SAFETY, TO PROHIBIT
BAMBOO, WEEDS AND NOXIOUS VEGETATION IN THE
BOROUGH.

WHEREAS, Section 1202(5) of the Borough Code, 8 Pa.C.S. § 1202(12), authorizes the Borough of Forest Hills (the "Borough") to make regulations as may be necessary for the health safety and general welfare of the Borough; and

WHEREAS, the Borough has determined that the planting, cultivating and growing of certain running noxious plants and grasses, particularly those plants and/or grasses commonly referred to as "bamboo," within the Borough of Forest Hills has a negative impact on the health, safety and welfare of the citizens of The Borough of Forest Hills and the public at large, as the uncontrolled planting, cultivating and growth of said bamboo plants and grasses results in the destruction of private and public property and constitutes a nuisance within the Borough; and

WHEREAS, the Council of the Borough desires to amend its Code of Ordinances to prohibit bamboo and noxious weeds in the Borough and to establishes regulations regarding bamboo and noxious; and

NOW, THEREFORE, the Council of the Borough of Forest Hills hereby ordains and enacts as follows, incorporating the above recitals by reference:

SECTION 1. Chapter 10 of the Borough Code of Ordinances, Health and Safety, is amended by adding a new Part 3 as follows:

Part 3 BAMBOO, WEEDS AND NOXIOUS VEGETATION

§ 10-301 Weeds and noxious vegetation prohibited.

It shall be unlawful, and deemed a nuisance, for any owner, occupant or operator of real property within the Borough of Forest Hills to:

- A. Fail, neglect or refuse to maintain said real property and the land area between the lot lines of said real property and the cartway edge of any abutting alley or street, free at all times of weeds and noxious vegetation. Weeds and noxious vegetation shall include those listed under the PA Controlled Plant and Noxious Weed Act and Federal Noxious Weed list.
- B. Except as set forth in § 10-3022 below, fail, neglect or refuse to remove all cuttings and other accumulations of weeds and noxious vegetation from said real property and land area.

§ 10-302 Invasive Noxious Grasses

The Borough has determined that the planting, cultivating and growing of certain running noxious plants and grasses, particularly those plants and/or grasses commonly referred to as "bamboo," within the Borough of Forest Hills has a negative impact on the health, safety and welfare of the citizens of The Borough of Forest Hills and the public at large, as the uncontrolled planting, cultivating and growth of said bamboo plants and grasses results in the destruction of private and public property and constitutes a nuisance within the Borough. The Borough has therefore determined that it is in the best interests of the citizens of the Borough of Forest Hills and the public at large to control the planting, cultivating and/or growing of said bamboo plants and grasses within the Borough, primarily by prohibiting the future planting, cultivating and/or growing of said bamboo plants and grasses within the Borough, and by requiring the use of barriers to prevent the invasive spread of existing bamboo plants and grasses within the Borough.

§ 10-303 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

BAMBOO — Any monopodial (running) tropical or semitropical grasses from the genera Bambusa, including, but not limited to, Bambusa, Phyllostachys, Fallopiia and Pseudosasa, as well as common bamboo, golden bamboo, arrow bamboo, and Japanese bamboo.

BAMBOO OWNER — Any property owner and/or resident who has planted and/or grows bamboo, or who maintains and/or cultivates bamboo on his/her property, or who permits bamboo to grow or remain on the property even if the bamboo has spread from an adjoining property. Any property owner and/or resident of property on which bamboo is found shall be considered to be a bamboo owner. A property owner and/or resident will not be considered to be a bamboo owner if:

- A. He/she has provided satisfactory proof to the Borough that, within a reasonable period of time after discovering the encroachment of bamboo onto the subject property from an adjoining or neighboring property, he advised the owner of such property of his/her objection to the encroachment of the bamboo; and
- B. He/she has initiated steps for the removal of the bamboo from the property, including remedies at law.

§ 10-304 Planting, cultivating or growing of bamboo prohibited; exceptions; removal.

- A. For purposes of this chapter, bamboo found growing upon a property shall constitute presumptive evidence that the bamboo was planted, cultivated and/or grown by and/or with the consent of the subject property owner, tenant, and/or any other individual, entity or corporation then having control of and/or over the subject property.
- B. Prohibition. Upon the effective date of this chapter, the planting, cultivating and/or growing of bamboo shall be prohibited within the Borough. No persons, property owners, tenants, and/or other individuals, entities, and/or corporations having control of and/or over any property located within the Borough shall plant, cultivate, and/or cause to grow any bamboo on any real property within the Borough. Any person who plants, cultivates, and/or grows, and/or causes or allows to be planted, cultivated and/or grown, bamboo within the Borough shall be deemed to be in violation of this chapter and shall be subject to such penalties as are set forth herein.
- C. This chapter shall not be deemed to alter or abrogate any rights at common law, or otherwise, that any persons, property owners, tenants, and/or other individuals, entities, and/or corporations may have to recover the cost of removal of any bamboo found on their own property that has encroached from a neighboring property.
- D. Exceptions. Notwithstanding the prohibitions set forth in § 10-304.B above, upon the effective date of this chapter, persons, property owners, tenants, and/or other individuals, entities, and/or corporations having control of and/or over any property located within the Borough shall be permitted to plant, cultivate, and/or cause to grow bamboo on any real property within the Borough only if:
 - (1) Containment of root system.
 - a) The root system of such bamboo is entirely contained within an aboveground-level planter, barrel or other vessel of such design, material, and location as to entirely prevent the spread of growth of the bamboo root system beyond the container in which it is planted; or
 - b) The root system of such bamboo is contained within and/or restricted by a barrier, constructed in accordance with the following specifications, and only after a compliance inspection is performed and a permit issued by the Borough:

1. The barrier itself shall be composed of a high-density polypropylene or polyethylene, with a thickness of 40 ml or more;
 2. Each portion or sheet of the barrier shall be secured or joined together by the use of stainless-steel clamps or stainless-steel closure strips designed to be used with such barriers;
 3. The barrier shall be installed not less than 30 inches deep;
 4. The barrier shall be circular or oblong shaped;
 5. Not less than three inches of the barrier shall protrude above ground level around the entire perimeter of the bamboo; and
 6. When installed, the barrier shall slant outward from the bottom to top.
- (2) Any and all bamboo existing pursuant to this § 10-304.D shall, at all times, be located, trimmed and maintained so that no bamboo, or any part thereof, shall be within 10 feet of any property line, curb, and/or sidewalk, nor within 40 feet of any roadway, cartway, street, storm sewer, sanitary sewer and/or public water facilities within the Borough.
- E. Any bamboo that has been planted or otherwise permitted to grow on any property within the Borough prior to the effective date of this chapter may remain on such property subject to compliance with the following:
- (1) The bamboo shall not be within 10 feet of any property line, curb, and/or sidewalk or within 40 feet of any roadway, cartway, street, storm sewer, sanitary sewer and/or public water facilities within the Borough.
 - (2) Any bamboo owner whose property contains bamboo that is located within 10 feet of any property line, curb, and/or sidewalk or within 40 feet of any roadway, cartway, street, storm sewer, sanitary sewer and/or public water facilities within the Borough shall remove such bamboo and shall abate the growth of such bamboo so that it is not within 10 feet of any property line, curb, and/or sidewalk or within 40 feet of any roadway, cartway, street, storm sewer, sanitary sewer and/or public water facilities within the Borough.
 - (3) A bamboo owner shall further be responsible to ensure that any bamboo planted and/or growing on the property of the bamboo owner prior to the effective date of this chapter is maintained such that it does not encroach or grow upon any adjoining or neighboring property or properties, including all public property and public rights-of-way. If the Borough determines that any such bamboo, or part thereof, has been allowed to encroach, grow upon, extend roots across, and/or extend branches, stalks and/or leaves over any public right-of-way and/or any private property not owned by and/or in the possession of the bamboo owner, the bamboo owner shall be required to comply with the provisions of § 10-304.D (1) (b) above.
- F. Removal. In the event that a bamboo owner does not remove or contract for the removal of any bamboo that is found to be in violation of any of the provisions of this chapter within 30 days of the date of notice of violation issued by the Borough, the Borough may, at its discretion, and in addition to any and all other enforcement actions available to it, take any and all actions necessary to effectuate the removal of such bamboo. The bamboo owner shall be liable and responsible to the Borough for any and all costs incurred by the Borough in effectuating the removal of such bamboo, including reasonable attorney's fees. Such costs may be assessed against the property of the bamboo owner and entered as a lien on the property. Nothing herein shall be construed to create any affirmative obligation on the part of the Borough to abate or remove any bamboo within the Borough.

- G. Replanting prohibited. Any bamboo either planted or caused to be planted or existing on a property prior to the effective date of this chapter may not be replanted or replaced in kind once such running bamboo is or has become, for any reason, dead, destroyed, uprooted or otherwise removed, unless such replanting is consistent with the provisions of § 10-304.D above.

§ 10-305 Violations and penalties.

Any person, property owner, tenant, and/or other individual, entity, and/or corporation who violates any of the provisions of this chapter shall, upon conviction before any Magisterial District Justice, be guilty of a summary offense and shall be required to pay a fine not exceeding \$1,000 and costs of prosecution, in addition to all other costs hereinbefore provided. Each and every day on which any person, property owner, tenant, and/or other individual, entity, and/or corporation shall be in violation of the provisions of this chapter shall constitute a separate offense.

SECTION 2. All prior ordinances and resolutions are hereby repealed in whole or in part to the extent inconsistent herewith.

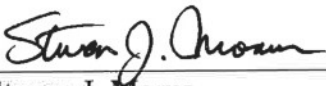
SECTION 3. Should any sentence, section, clause, part or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole, other than the part declared to be invalid.

SECTION 4. This Ordinance shall take effect in accordance with applicable law.

ORDAINED and **ENACTED** this 16th day of November, 2022, by the Council of the Borough of Forest Hills in lawful session, duly assembled.


ATTEST:

BOROUGH OF FOREST HILLS



Steven J. Morus
Borough Manager/Secretary
(Seal)

By:


Markus Erbedinger
President, Borough Council

EXAMINED and **APPROVED** this this 16th day of November, 2022.



Frank Porco
Mayor