

O-16-24

**AN ORDINANCE AMENDING CHAPTER 297 OF THE REVISED GENERAL
ORDINANCES OF THE BOROUGH OF WHARTON, COUNTY OF MORRIS, STATE
OF NEW JERSEY**

BE IT ORDAINED by the Governing Body of the Borough of Wharton that Chapter 297 is hereby amended as follows:

Chapter 297 Trees/Vegetation

Article II. Bamboo/ Invasive Plants and/or Noxious Plants

§ 297-11. Purpose.

This article is adopted to control the planting, growing, maintaining and/or cultivating of bamboo and/or other noxious and/or invasive plants in the Borough of Wharton and to require barriers to prevent the spread of existing bamboo and/or other noxious and/or invasive plants into other areas of the Borough. Bamboo is deemed to be an invasive plant.

§ 297-12. Definition.

INVASIVE AND/OR NOXIOUS PLANTS: Invasive and/or noxious plants are perennial weeds and plants, such as those not only reproduced by seed but also spread by underground roots, stems, and other highly reproductive parts, and which, when well established are highly destructive and difficult to control by ordinary good cultural practices. Examples include but are not limited to bamboo (spreading or running type), ragweed, multiflora rose, kudzu vine, poison ivy, poison oak, and poison sumac.

§ 297-13. Duties and powers of the Housing and Zoning Officer.

The Housing and Zoning Officer shall enforce the provisions of this chapter, along with the Administrator, the Assistant Administrator, the Director of Public Works and any other agent, officer or employee of the Borough as may be designated by the administration of the Borough.

§ 297-14. Regulation of the planting, growing or cultivating of bamboo or other invasive and/or noxious plants.

Subject to certain exemptions set forth in this article, no persons, residents, citizens, property owners and/or tenants of the Borough shall plant, cultivate, or cause to grow, any bamboo or other invasive and/or noxious plants on any lot and/or parcel of ground anywhere within the geographic boundaries of the Borough of Wharton, except for:

A. Where the root system of such plants is entirely contained within an above ground level planter, barrel, or other vessel of such design, material and location as to entirely prevent the spread of growth of the plants' root system beyond the container in which it is planted; and

B. Whether planted or growing in a container, as described herein, all plants shall be located, trimmed and maintained so that no part of the plant shall be closer than 10 feet from any property line.

§ 297-15. Exemptions.

This article shall not apply to any landowner or tenant in possession of said land who, prior to the effective date of this article, has any bamboo or other invasive and/or noxious plants on any property within the Borough's limits. Notwithstanding the foregoing, no portions of such bamboo or other invasive and/or noxious plants shall be allowed to grow upon, extend roots across, or extend branches, stalks or leaves over any public way or onto any private property. If such occurs, the provisions of § 297-16 shall apply.

§ 297-16. Complaint notice, order for removal and compliance.

Whenever a complaint is received by the Housing and Zoning Officer regarding the encroachment of any bamboo plant or root and/or the encroachment of any other invasive and/or noxious plants, or whenever the Borough, on its own observations and inspections, determines that there is an encroachment of bamboo plants or roots and/or the encroachment of any other invasive and/or noxious plants on the property of another landowner, or tenant in possession of the property, or both, the Borough shall cause notice to be served and the following actions to occur:

A. The notice shall be mailed by certified mail, return receipt requested, properly addressed and with sufficient postage, and also by first class mail. Notice by certified mail shall be deemed complete on the date of personal delivery, or the date the certified mail is marked refused or unclaimed or otherwise undeliverable by the United States Post Office. First class mail shall be deemed delivered within five calendar days of its being mailed by the Borough.

B. The notice shall specify the nature of the violation(s).

C. The notice shall state that the violation(s) must be corrected within 10 calendar days from the date of the received or returned mailing.

D. The notice shall state specifically what must be done by the responsible party to correct the violation(s).

§ 297-17. Violations and penalties.

A. Violation of any of the provisions of this chapter shall be punishable as provided in Chapter 1, General Provisions, Article I, General Penalty.

B. If the violation is not remedied within the time set forth in the aforesaid notice, the Borough is hereby authorized to remove or have removed any encroaching bamboo and/or any other invasive and/or noxious plants and to take all reasonable steps to eradicate the re-growth of the bamboo and/or of any other invasive and/or noxious plants on the public rights-of-way, including sidewalks, and to restore such land to its normal condition were such violation(s) not in existence.

C. The cost of the corrective action together with any civil penalties, legal fees and other costs shall be recoverable from the responsible party.

§ 297-18. Repealer.

All ordinances of the Borough of Wharton which are inconsistent with the provisions of this article are hereby repealed to the extent of such inconsistencies.

§ 297-19. Unlawful.

If any section, subsection, clause or phrase of this article is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this article.

§ 297-20. Effective date.

This article shall take effect immediately upon final passage, approval and publication as required by law.

**Date: First Reading: August 12, 2024
Second Reading: September 9, 2024**

ATTEST:

BOROUGH OF WHARTON

**Gabrielle Evangelista,
Municipal Clerk**

**WILLIAM J. CHEGWIDDEN,
MAYOR**