

ORDINANCE #15-02

**AN ORDINANCE OF THE TOWNSHIP OF MIDDLETOWN,
COUNTY OF BUCKS, COMMONWEALTH OF PENNSYLVANIA,
ESTABLISHING REGULATIONS FOR THE PLANTING, CULTIVATING AND/OR
GROWING OF CERTAIN RUNNING NOXIOUS PLANTS AND GRASSES,
SPECIFICALLY BAMBOO GRASSES, AND PENALTIES FOR VIOLATIONS OF THE
SAME; REPEALING ALL INCONSISTENT ORDINANCES OR SECTIONS OF
THE TOWNSHIP CODE OF ORDINANCES;
CREATING CHAPTER 155 – BAMBOO
OF THE TOWNSHIP CODE OF ORDINANCES;
AND ESTABLISHING AN EFFECTIVE DATE HEREFOR.**

WHEREAS, the Township of Middletown is a township of the second class of the Commonwealth of Pennsylvania, duly organized and operating in accordance with the laws of the Commonwealth; and

WHEREAS, pursuant to the Second Class Township Code of the Commonwealth of Pennsylvania, the Township of Middletown, 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 Board of Supervisors of the Township of Middletown (“Board of Supervisors”) 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 to at this time establish regulations relating to the planting, cultivating and/or growing of certain running noxious plants and grasses, specifically Bamboo grasses, within the Township of Middletown, together with penalties for violations of such regulations; and

WHEREAS, the Board of Supervisors has further determined that such regulations should be codified as “Chapter 155 – Bamboo” of the Code of Ordinances of the Township of Middletown,

NOW, THEREFORE, the BOARD OF SUPERVISORS of the TOWNSHIP OF MIDDLETOWN does hereby **ENACT** and **ORDAIN** as follows:

1. "Chapter 155 – Bamboo" of the Code of Ordinances of the Township of Middletown is hereby created and established to read as follows:

Chapter 155 - Bamboo

§155-1. Short Title.

This Chapter shall be known and may be cited as the "Middletown Township Bamboo Ordinance."

§155-2. Intent and Purpose.

The Township 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 Township of Middletown, has a negative impact on the health, safety and welfare of the citizens of Middletown Township 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 Township. The Township has therefore determined that is in the best interests of the citizens of Middletown Township and the public at large to control the planting, cultivating and/or growing said Bamboo plants and grasses within the Township of Middletown, primarily by prohibiting the future planting, cultivating and/or growing said Bamboo plants and grasses within the Township, and by requiring the use of barriers to prevent the invasive spread of existing Bamboo plants and grasses within the Township.

§155-3. Definitions.

BAMBOO

Any monopodial (running) tropical or semi-tropical grasses from the genera Bambusa including, but not limited to Bambusa, Phyllostachys, Fallopia 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 has provided satisfactory proof to the Township 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 has initiated steps for the removal of the Bamboo from the property, including remedies at law.

TOWNSHIP

The Township of Middletown, Bucks County, Pennsylvania.

§155-4. General Provisions.

- 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 Township. No persons, property owners, tenants, and/or other individuals, entities, and/or corporations having control of and/or over any property located within the Township shall plant, cultivate, and/or cause to grow any Bamboo on any real property within the Township. Any person who plants, cultivates, and/or grows, and/or causes or allows to be planted, cultivated and/or grown, Bamboo within the Township, shall be deemed to be in violation of this Chapter and shall be subject to such penalties as are set forth herein.
- C. This Ordinance 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 §155-4.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 Township shall be permitted to plant, cultivate, and/or cause to grow Bamboo on any real property within the Township only if:
 1. The root system of such Bamboo 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 Bamboo root system beyond the container in which it is planted; or

2. 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 Township:
 - a. The barrier itself shall be composed of a high density polypropylene or polyethylene, with a thickness of 40 mL, or more;
 - b. Each portion worksheet 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;
 - c. The barrier shall be installed not less than 30 inches deep;
 - d. The barrier shall be circular or oblong shaped;
 - e. Not less than 3 inches of the barrier shall protrude above ground level around the entire perimeter of the bamboo; and
 - f. When installed, the barrier shall slant outward from the bottom to top.
 3. Any and all Bamboo existing pursuant to this §155-4.D. shall, at all times, be located, trimmed and maintained so that no Bamboo, or any part thereof, shall be within ten (10') feet of any property line, curb, and/or sidewalk, nor within forty (40') feet of any roadway, cartway, street, storm sewer, sanitary sewer and/or public water facilities within the Township.
- E. Any Bamboo that has been planted or otherwise permitted to grow on any property within the Township 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 ten (10') feet of any property line, curb, and/or sidewalk, or within forty (40') feet of any roadway, cartway, street, storm sewer, sanitary sewer and/or public water facilities within the Township.
 2. Any Bamboo Owner whose property contains Bamboo that is located within ten (10') feet of any property line, curb, and/or sidewalk, or within forty (40') feet of any roadway, cartway, street, storm sewer, sanitary sewer and/or public water facilities within the Township shall remove such Bamboo and shall abate the growth of such Bamboo so that it is not within ten (10') feet of any property line, curb, and/or sidewalk, or within forty (40') feet of any roadway, cartway, street, storm sewer, sanitary sewer and/or public water facilities within the Township.
 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 Township 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 §155-4.D.2., 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 thirty (30) days of the date of notice of violation issued by the Township, the Township 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 Township for any and all costs incurred by the Township 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 Township to abate or remove any Bamboo within the Township.
- 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 §155-4.D., above.

§155-5. 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 \$1,000.00 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.

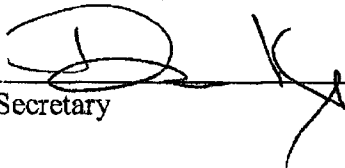
- 2. The provisions of this Ordinance are severable, and if any section, clause, sentence, part or provision hereof shall be held illegal, invalid or unconstitutional, the decision of the Court shall not affect or impair the remaining parts and provisions of this ordinance.
- 3. All other ordinances, portions of ordinances, or any section of the Township Code inconsistent with this Ordinance are hereby repealed.


4. This Ordinance shall be effective the earlier of five (5) days after enactment or as otherwise provided by statute.

ORDAINED AND ENACTED this 13th day of April, 2015.

ATTEST:

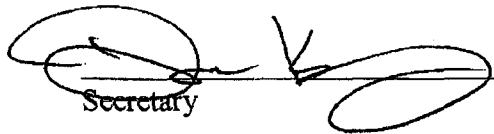
MIDDLETOWN TOWNSHIP
BOARD OF SUPERVISORS


Secretary


Chairperson

I hereby certify that the foregoing is a true and correct copy of Ordinance #15-02, enacted by the Board of Supervisors of the Township of Middletown, County of Bucks, Commonwealth of Pennsylvania, on the 13th day of April, 2015.

SEAL


Secretary