

ORDINANCE NO. 555

BOROUGH OF PARKESBURG
CHESTER COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE BOROUGH OF PARKESBURG, CHESTER COUNTY,
PENNSYLVANIA GOVERNING AND REGULATING BAMBOO AS A PLANT IN THE
BOROUGH, PROVIDING DEFINITIONS, RESTRICTIONS AND PENALTIES FOR
VIOLATING THE RESTRICTIONS AS IDENTIFIED.

The Borough Council of the Borough of Parkesburg, Chester County, Pennsylvania, hereby ORDAINS that the following Regulations shall be **effective immediately**:
SECTION 1: TITLE.

This Ordinance shall be known and may be cited as the “Bamboo Prohibition Ordinance” adopted under the authority of the Borough Code, 8 Pa. C.S.A. § 101 et seq, and the particular authority as set forth therein at 8 Pa. C.S. A. § 1202 in general (and subsections (4) (prohibiting any nuisance on public or private grounds) and (5) making regulations as may be necessary for the health, safety... and general welfare... of the borough)) and as reserved under § 1203.

SECTION 2: PURPOSE AND INTENT.

The purpose of this Ordinance is to preserve and protect private and public property from the damaging spread of certain bamboo grasses, protect indigenous plant materials from the invasive spread of bamboo, and maintain the general welfare of the residents of the Borough of Parkesburg.

SECTION 3: DEFINITIONS AND WORD USAGE.

A. For the purpose of this Ordinance, the following terms, phrases, words, and their derivations shall have the meanings set forth hereafter:

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 person who has planted and/or grown bamboo on their property, or who permits bamboo to grow or remain on their property, even if the bamboo has spread from an adjacent property.

BOROUGH – the Borough of Parkesburg, County of Chester, Commonwealth of Pennsylvania.

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

SECTION 4: APPLICABILITY.

For purposes of this Ordinance, 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.

SECTION 5: REGULATION – BAMBOO RESTRICTIONS.

A. Any Bamboo growing upon any premises in the Borough in violation of any provision of this Ordinance is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness, and comfort of the inhabitants of the Borough.

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

1. The root system of such bamboo plant is entirely contained within a planter 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

2. The root system of such bamboo plant is entirely contained within a barrier, constructed in accordance with the following specifications, and only after a permit is issued by the Borough:

- a. The barrier shall be composed of high density polypropylene or polyethylene, forty (40) mil or heavier;
- b. portions or sheets of the barrier shall be secured or joined together with the use of stainless steel clamps or stainless steel closure strips designed for such barriers;
- c. the entire perimeter of the barrier shall be more than thirty (30) inches below ground level and more than three (3) inches above ground level;
- d. when installed, the barrier shall slant outward from the bottom to the top.

Any person who hereafter plants or grows, or causes to be planted or grown, bamboo with the Borough except under the conditions set forth in subparagraph (1) and (2) above, shall be deemed to be in violation of this Ordinance and shall be subject to penalties as are set forth herein.

3. All existing bamboo shall be removed or restricted in accordance with subparagraphs (1) and (2) above - except that even with such restrictions, no bamboo shall be permitted to exist within 20 feet of the edge of the pavement or traveled portion of any public roadway in the Borough or within 10 feet of any property line of any property in the Borough. Any bamboo owner whose property contains bamboo within 20 feet of the edge of pavement or traveled portion of any roadway in the Borough or within 10 feet of any property line shall remove and abate such bamboo. When removing and destroying bamboo, all rhizome disposal

must be by removal which requires verification and authorization by the Borough. No composting or trash disposal of rhizomes shall be allowed.

SECTION 6: PRE-EXISTING 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 Ordinance must be brought into compliance with the requirements of Section 5 above.

B. Each bamboo owner with pre-existing bamboo shall have a period of six (6) months from the effective date of this Ordinance to bring the property into compliance with the requirements of Section 5 above - except that if such non-compliant bamboo is within 20 feet of the edge of the pavement or traveled portion of any public roadway in the Borough or within 10 feet of any property line of any property in the Borough, such bamboo must **immediately** be removed from these areas to protect the property of the Borough and the property of the neighbors.

SECTION 7: PERMITTING/INSPECTING.

Any installation of bamboo or removal of bamboo or containment of bamboo as provided for by this Ordinance shall require a permit issued by the Borough on forms prepared by the Borough. Permit fees shall be established by resolution of Borough Council in amounts sufficient to cover the costs of administering the permit application. Additionally, inspection fees shall be established by resolution of Borough Council relative to the installation, containment, or removal of bamboo at issue in amounts sufficient to cover the costs of inspecting permitted activities. All permits and inspection fees shall be subject to further modification by resolution of Borough Council.

SECTION 8: VIOLATIONS AND REMEDIES.

1. Notice of Violation.

A. Each bamboo owner shall be responsible to ensure that any bamboo on his property does not violate the provisions of this Ordinance. In the event that there is any bamboo growing in violation of the provisions of this Ordinance, the Borough shall notify the bamboo owner in writing of the existence of said violation. Said notice of violation shall be served by mailing it to the registered owner of the property or by posting the property at a conspicuous location.

B. Any bamboo owner receiving a notice of violation shall bring his property into compliance with this Ordinance within 30 days of the date of the notice. If the bamboo owner fails to bring his property into compliance with the notice, the Borough may then issue a non-traffic citation against the bamboo owner. However, in circumstances where the bamboo owner is in direct violation of the prohibition that bamboo shall not be permitted to exist within 20 feet of the edge of the pavement or traveled portion of any public roadway in the Borough or within 10 feet of any property line of any property in the Borough, such compliance shall be immediate and failure to immediately abate the circumstances by the bamboo owner, shall permit the

Borough to issue a non-traffic citation within 10 days (rather than the otherwise applicable 30 days of notice) or pursue other remedies as noted herein.

C. In addition, where a bamboo owner does not remedy and correct the violations set forth in any notice of violation issued to him, the Borough may remove any bamboo that is in violation of this Ordinance located upon the bamboo owner's property; take all reasonable action to eradicate its re-growth; and/or restore any real property to its natural condition prior to such removal and eradication. Any costs incurred by the Borough in removing any bamboo and/or remedying any violation of this Ordinance shall be at the expense of the bamboo owner, and in the event that the costs remain unpaid more than 30 days after the demand for payment has been made by the Borough on the bamboo owner, the Borough may lien the property of the bamboo owner for these costs (including a 10% administrative fee of such expense plus reasonable attorney's fees and filing costs). Such lien shall be collected as provided by law for the collection of municipal lien claims.

D. In the event the Borough is compelled to remove or contract for the removal of bamboo, as herein provided above, neither the Borough nor its employees shall have any liability for damages or other claims to the bamboo owner by reason of the removal of such bamboo. In the event such removal entails or causes damage to the flora or other property of a person other than the bamboo owner, the bamboo owner in violation of this Ordinance shall be responsible for any and all such damages.

2. Violations, Penalties, and Remedies.

A. Any person or entity who shall violate any provisions of this Ordinance, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$600.00, plus costs, including reasonable attorney's fees, incurred as a result of the prosecution. Each day that a violation of this Ordinance continues or each subsection of this Ordinance which shall be found to have been violated shall constitute a separate offense.

B. In addition, Borough Council of the Borough of Parkesburg may institute suits in equity or at law, to restrain, prevent, or abate a violation of this Ordinance. 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 and shall include an award of reasonable attorney's fees, costs, expert testimony etc.

SECTION 9. SEVERABILITY

The provisions of this Ordinance are severable. If any sentence, clause, or section of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, by any court of competent jurisdiction, such decision of the court shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as a legislative intent of the Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid provision not been included herein.

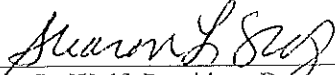
SECTION 10. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage.

SECTION 11. REPEALER


Any Ordinances, or parts of Ordinances in conflict herewith be and the same are hereby repealed.

ENACTED AND ORDAINED this day of , 2022.

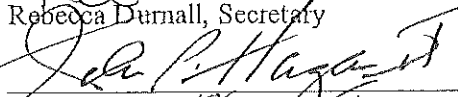


Sharon L. Wolf, President Borough Council

ATTEST:



Rebecca Durnall, Secretary



Approved this 18 day of July, 2022
John P. Hagan II, Mayor