

ORDINANCE NO. 554

BOROUGH OF PARKESBURG  
CHESTER COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE BOROUGH OF PARKESBURG, CHESTER COUNTY,  
PENNSYLVANIA GOVERNING AND REGULATING NOXIOUS AND/OR INVASIVE  
PLANTS IN THE BOROUGH, PROVIDING DEFINITIONS, RESTRICTIONS AND  
PENALTIES FOR VIOLATING THE PROHIBITIONS 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 “Noxious and/or Invasive Plants 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 (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 authority 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 noxious and/or invasive plants. The Borough recognizes as desirable to promote soil and air quality, prevent erosion and protect aesthetically pleasing native plants which are protected hereby. This Ordinance recognizes that Bamboo - identified as any monopodial (running) tropical or semi-tropical grasses from the genera Phyllostachys or Pseudosasa, including, but not limited to Phyllostachys aureosulcata-yellow groove bamboo as well as common bamboo, golden bamboo, and arrow bamboo - is a noxious and/or invasive species. However, because of fairly unique characteristics of Bamboo, it is treated separately in a separate Ordinance addressing same (and allowing for Bamboo as an ornamental plant under specifically controlled circumstances). As a result, **Bamboo is not regulated by this Ordinance.**

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:

NOXIOUS AND/OR INVASIVE SPECIES – Any species listed on the most recent Pennsylvania Noxious Weed Control List, maintained by the Pennsylvania Department of agriculture, or its equivalent; also, the following species (or any other species added by Resolution of Borough Council):

- A. *Ailanthus Altissima*, commonly known as “Tree of Heaven”;
- B. *Lonicera* sp, commonly known as “exotic bush honeysuckles”;
- C. *Celastrus orbiculatus*, commonly known as “oriental bittersweet”;
- D. *Humulus japonica*, commonly known as “Japanese hop”;
- E. *Conium maculatum*, commonly known as “poison hemlock”;
- F. *Fallopia Sachalinensis*, commonly known as “giant knotweed”;
- G. *Microstegium vimineum*, commonly known as “Japanese stiltgrass”;
- H. *Myriophyllum spicatum*, commonly known as “Eurasian watermilfoil”;
- I. *Potamogeton crispus*, commonly known as “curly-leaf pondweed”;
- J. *Typha angustifolia*, *typha x glauca*, commonly known as “narrowleaf & hybrid cattails”;
- K. *Phragmites australis*, commonly known as “phragmites”;
- L. *Cirsium arvense*, commonly known as “Canadian thistle”;
- M. *Rosa multiflora*, commonly known as “multiflora rose”;
- N. *Sorghum halepense*, commonly known as “Johnson grass”;
- O. *Carduus nutans*, commonly known as “musk thistle”;
- P. *Cirsium vulgare*, commonly known as “bull thistle”;
- Q. *Datura stramonium*, commonly known as “jimsonweed”;
- R. *Polygonum perfoliatum*, commonly known as “mile-a-minute”;
- S. *Pueraria lobata*, commonly known as “kudzu vine”;
- T. *Sorghum bicolor*, commonly known as “shattercane”;
- U. *Heracleum mantegazzianum*, commonly known as “giant hogweed”;
- V. *Galega officinalis*, commonly known as “goat’s rue”;
- W. *Lythrum salicaria*, commonly known as “purple loosestrife”; and
- X. *Polygonum cuspidatum*, commonly known as “Japanese knotweed”.

PROPERTY OWNER – Any legal owner, resident, occupant, or responsible entity, who has planted and/or grown noxious and/or invasive species, or who maintains noxious and/or invasive species on his/her property, or who permits noxious and/or invasive species to grow or remain on the property even if the noxious and/or invasive species has spread from an adjoining property. Any property owner or resident at property on which noxious and/or invasive species is found will be considered a property owner, except any property owner, resident, occupant, or responsible entity who/that:

- A. Has provided satisfactory proof to the Borough that, within a reasonable period of time after discovering the encroachment of noxious and/or invasive species onto the property, from an adjoining or neighboring property, he/she/it has advised the owner of such property of his/her/its objection to the encroachment; and
- B. Has initiated steps for the removal of the encroaching noxious and/or invasive species, including notifying the Borough of the encroachment or otherwise exercising private remedies at law.

#### SECTION 4: GENERAL PROVISIONS.

- A. For purposes of this section, any noxious and/or invasive species found growing upon a property shall constitute presumptive evidence that the noxious and/or invasive species was planted and/or grown by and/or with the consent of the property owner, tenant, occupant, or other individual, entity or corporation having control over the property;
- B. Prohibition. Upon the effective date of this Ordinance, the planting or growing of noxious and/or invasive species shall be prohibited within the Borough and no persons, property owners, tenants or other individual entities or corporations having control of property within the Borough shall plant, cultivate or cause to grow any noxious and/or invasive species on any lot or parcel within the Borough, including the spread of noxious and/or invasive species onto the property of another. Any person who plants or grows, or causes or allows to be planted or to be grown, noxious and/or invasive species within the Borough shall be deemed to be in violation of this Ordinance and shall be subject to the penalties provided herein; and,
- C. This Ordinance shall not be deemed to alter any rights of any property owner at common law or otherwise to recover the cost of removal of noxious and/or invasive species on their property that has run over from a neighboring property,

#### SECTION 5: NOTICE OF VIOLATION AND REMOVAL.

- A. The Borough Enforcement Officer, or any officer or employee of the Borough of Parkesburg designated by Borough Council for this purpose, is authorized to give notice, by personal service or by United States mail, to the property owner of any premises in violation of this Ordinance, directing and requiring compliance with the terms of the Ordinance within five days of receipt of the notice. Whenever, in the judgment of the Borough Enforcement Officer, or the designee thereof, it shall appear to be impractical to give notice as above-provided, notice may be given by posting conspicuously on the property where such offending plants exist, a notice or order directing and requiring that such offending plants be removed or abated within 10 days; and
- B. In the event the property owner does not remove or abate, or contract for the removal or abatement of the offending plants within the time period provided in the notice, the Borough may take such steps it deems appropriate to abate the violation, including removal or abatement of the plant(s) by Borough personnel, removal or abatement of the plant(s) by contract, charging the costs of removal or abatement as liens against the property remediated (plus an administrative fee of 10% of the costs of abatement and such other fees as may be determined by Resolution of Borough Council). Nothing herein shall be construed to create an affirmative obligation on the part of the Borough to abate or remove any noxious and/or invasive species within the Borough.

#### SECTION 6: REPLANTING PROHIBITED.

- A. Any noxious and/or invasive species which is removed after the effective date of this Ordinance, whether by death, destruction or other method, may not be replanted.

SECTION 7: VIOLATIONS AND PENALTIES.

- A. Any person, firm or corporation found to be in violation of any of the terms, conditions or provisions of this chapter shall, in addition to any other remedies provided hereunder, upon conviction before any Magisterial District Judge, be guilty of a summary offense and shall be required to pay a fine, not exceeding \$600.00 plus the costs of prosecution. Each day that a violation continues after due notice 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 8: 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.

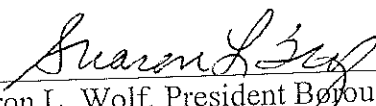
SECTION 9. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage.

SECTION 10. REPEALER

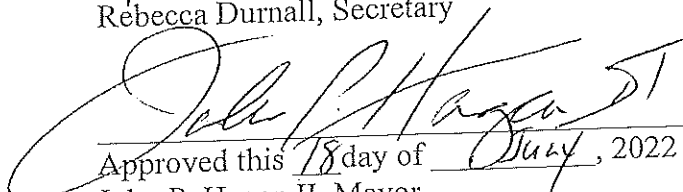
Any Ordinances, or parts of Ordinances in conflict herewith be and the same are hereby repealed.

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