

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE BOROUGH OF PENNSBURG, CREATING ARTICLE II OF CHAPTER 54, "GRASS, WEEDS AND OTHER VEGETATION" OF THE OF THE CODE OF THE BOROUGH OF PENNSBURG, AS AMENDED, AND CREATING REGULATIONS FOR THE PLANTING, CULTIVATING, AND GROWING OF BAMBOO PLANTS AND GRASSES WITHIN PENNSBURG.**

**WHEREAS**, Pennsburg Borough has determined that is in the best interests of the citizens of the Borough of Pennsburg and the public at large to control the planting, cultivating and/or growing of bamboo plants and grasses within the Borough of Pennsburg. The purpose of this chapter is therefore to preserve and protect private and public property from the damage and spread associated with bamboo grasses; protect indigenous plant materials from the invasive spread of bamboo; and maintain the general welfare of the residents of the Borough of Pennsburg; and

**WHEREAS**, the Borough desires to amend its Code of Ordinances to provide for the regulation of bamboo plants and grasses within the Borough.

**NOW, THEREFORE, BE IT AND IT IS HEREBY ENACTED AND ORDAINED** by Pennsburg Borough Council, and it is hereby enacted and ordained by the authority of same as follows:

**SECTION 1.** A new Article II, entitled Bamboo, of Chapter 54, Grass, Weeds and Vegetation, of the Code of the Borough of Pennsburg, as amended, is hereby created and shall provide as follows:

**§ 54-4. Intent and Purpose.**

The Borough has determined that is in the best interests of the citizens of the Borough of Pennsburg and the public at large to control the planting, cultivating and/or growing of

bamboo plants and grasses within the Borough of Pennsburg. The purpose of this ordinance is therefore to preserve and protect private and public property from the damage and spread associated with bamboo grasses; protect indigenous plant materials from the invasive spread of bamboo; and maintain the general welfare of the residents of the Borough of Pennsburg.

**§ 54-5 Definitions.**

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

BAMBOO – Any type of the roughly 1450 species of bamboo known throughout the world from the grass family Poaceae, subfamily Bambusoideae, tribe Bambuseae. Fallopia japonica, commonly known as Japanese knotweed, although not bamboo, is an invasive plant that resembles bamboo and shall also be considered bamboo for the purposes of this article.

BAMBOO OWNER - Any property owner or occupant who has planted or grows bamboo, or who maintains 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 of property on which bamboo is found shall be considered to be a bamboo owner unless the property owner has initiated timely steps for the removal of the bamboo from the property, including but not limited to remedies at law.

CLUMPING BAMBOO – Any sympodial or pachymorph rhizome structure bearing bamboo, including but not limited to Fargesia, Thamnocalamus, Chusquea, and Borinda. Clumping bamboos are also fast growing but not as invasive as running bamboo. Clumping bamboo's thick root system, however, can be very damaging to roads and other structures.

RUNNING BAMBOO – Any monopodial or leptomorph rhizome structure bearing bamboo, including but not limited to Phyllostachys, and Pseudosasa as well as Golden Bamboo and Arrow Bamboo. Japanese knotweed shall be considered running bamboo for the purpose of this article. Running bamboo is extremely fast growing and highly invasive.

**§ 54-6. Prohibition.**

Upon the effective date of this ordinance, the planting of bamboo is prohibited within the Borough of Pennsburg subject to the exceptions contained in section 54-7 and any person who plants, cultivates, grows bamboo, or causes or allows to be planted, cultivated or grown bamboo within the Borough contrary to this section shall be deemed to be in violation of this ordinance and shall be subject to such penalties as are set forth herein.

**§ 54-7. Exceptions.**

- A. Any bamboo planted or otherwise permitted to grow on any property prior to the effective date of this article may remain on such property provided the bamboo shall not be maintained or otherwise permitted to exist within any area located within five (5) feet of the property line or forty (40) feet of the edge of any pavement or public road in the Borough. Provided, however,

that any bamboo planted or otherwise permitted to grow on any property prior to the effective date of this article may not be replanted or replaced in kind once such bamboo is or has become, for any reason, dead, destroyed, uprooted, or otherwise removed.

B. Bamboo may hereafter only be plant and cultivated without a permit if the root system is entirely contained within an above ground planter, barrel, or other vessel of such design, material, and location as to entirely prevent the spread of growth of the bamboo plants' root system beyond the container in which it is planted.

C. Clumping bamboo may hereafter be planted and cultivated within a barrier constructed in accordance with the following specifications, and only after a compliance inspection is performed and a permit issued by the code enforcement officer, but nevertheless may not be maintained or otherwise permitted to exist within any area located within five (5) feet of the property line or forty (40) feet of the edge of any pavement or public road in the Borough:

- (1) The barrier itself shall be composed of a high-density polypropylene or polyethylene material with a thickness of at least 40 millimeters;
- (2) 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;
- (3) The barrier shall be installed not less than thirty (30) inches deep;
- (4) The barrier shall be circular or oblong shaped;
- (5) Not less than three (3) inches of the barrier shall protrude above ground level around the entire perimeter of the clumping bamboo; and
- (6) When installed, the barrier shall slant outward from the bottom of the barrier to the top.

Prior to planting any clumping bamboo as regulated by this sub-section, a property owner must provide to the Code Enforcement Officer a written certification from a Certified Pennsylvania Horticulturist or other similarly qualified individual that the bamboo being planted is in fact clumping bamboo, and obtain a permit for planting.

**§ 54-8. Complaint; Notice; Removal.**

Whenever a complaint is received by the Borough regarding a violation of this article or whenever the Borough on its own observations and inspections determiners that there is a violation of this article, the Borough shall give notice to the landowner, tenant and/or

occupant in possession of the property, or both, at the Borough's discretion, and said notice shall be substantively in the conformance with the following:

- A. The notice shall be mailed by certified mail, return receipt requested, properly addressed with sufficient postage, and notice by certified mail shall be deemed complete on the date of persona delivery. If the certified mailing is marked refused or unclaimed, then the notice shall be posted on the property in a conspicuous place and notice shall be deemed complete at the time of posting.
- B. The notice shall specify the nature of the violation.
- C. The notice shall state that the violation must be corrected within thirty (30) days from the date of mailing or posting, whichever is later.
- D. The notice shall state specifically what must be done by the property owner to correct the violation.
- E. The notice shall state that failure to comply within the thirty (30) days will result in the removal of the violation by the Borough and/or in the issuance of a citation for each day the violation exists, the institution of civil proceedings against the property owner for injunctive relief or other civil relief, as well as the criminal penalties for such violations.

**§ 54-9. Penalties.**

- A. Any person determined by any court of competent jurisdiction to have violated this ordinance shall be subject to pay a fine of not less than \$25.00 per day, nor more than \$600.00 per day for each day the violation existed after the date for removal as set forth in the notice provided pursuant to section 54-8. Each day of a continuing violation shall constitute a separate offense for which a fine can be levied.
- B. If a violation is not remedied within the time set forth in the notice provided pursuant to section 54-8, the Borough is authorized to remove or have removed any bamboo in violation of this ordinance and take all reasonable steps to eradicate the growth giving rise to the violation and to restore such land to its normal condition prior to such removal or eradication. The costs of the corrective action together with any civil penalties, legal fees, and other costs shall be recoverable from the responsible party, by civil action or through Municipal Lien Claim.

**SECTION 2. Re-Enactment.** To the extent not inconsistent herewith, the remaining provisions of Chapter 54, Grass, Weeds and Vegetation, of the Code of the Borough of Pennsburg, as amended, are hereby reenacted and reordained.

**SECTION 3. Severability.** If any sentence, clause, section or other part of this ordinance is, for any reason, found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any remaining provisions, sentences, clauses, sections or other parts of this ordinance. It is hereby declared as the intent of Pennsburg Borough Council that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

**SECTION 4. Effective Date.** All provisions of this ordinance shall become effective immediately upon enactment.

**ENACTED and ORDAINED** this \_\_\_\_ day of \_\_\_\_\_, 2018.

**PENNSBURG BOROUGH COUNCIL**

BY: \_\_\_\_\_  
Kristopher Kirkwood, President

ATTEST: \_\_\_\_\_  
Lisa Hiltz, Secretary

Approved this \_\_\_\_ day of  
November, 2018.

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Vicki Lightcap, Mayor