

ORDINANCE NO. 8016-024

**AN ORDINANCE OF THE TOWNSHIP OF SOLEBURY,
BUCKS COUNTY, PENNSYLVANIA TO PROVIDE FOR
THE REGULATION OF CONTROLLING, AND REMOVAL
OF BAMBOO, INCLUDING PENALTIES AND OTHER
REMEDIES FOR VIOLATIONS**

WHEREAS, the enactment of weed control ordinances are properly within the police powers of the Board of Supervisors of Solebury Township (the "Board");

WHEREAS, the Board has determined that certain protections are necessary to preserve and protect private and public property from the damaging effects of the spread of invasive, non-native bamboo; to protect indigenous plant materials from the invasive spread of non-native bamboo; and to maintain the general welfare of residents of Solebury Township;

NOW THEREFORE, in consideration of the foregoing, be it **ENACTED** and **ORDAINED** by the Board of Supervisors of Solebury Township, Bucks County, Pennsylvania, as follows:

I. The Ordinances of Solebury Township, County of Bucks, Commonwealth of Pennsylvania, are amended to add the following:

SECTION 1. Purpose and Intent.

The purpose of this Ordinance is to preserve and protect private and public property from the damaging effects of the spread of invasive, non-native bamboo; to protect indigenous plant materials from the invasive spread of running bamboo; and to maintain the general welfare of residents of Solebury Township.

SECTION 2. Definitions.

For purposes of this Ordinance, the following definitions shall apply:

- A. **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.
- B. **BAMBOO OWNER** - Any Owner/Occupant who has planted and/or grows Bamboo on their property; who maintains Bamboo on their property; or who permits Bamboo to grow or remain on their property, *even if the Bamboo has spread from an adjoining property.*
- C. **OWNER/OCCUPANT** - Any person owning or occupying any premises within Solebury Township. For purposes of this Ordinance, Owner/Occupant responsibilities shall apply to the owner in the case of vacant premises or premises occupied by the owner, and to

both the owner and the occupant of the premises in case of premises occupied by other than the owner.

- D. PERSON - Any individual, corporation, partnership, joint venture, unincorporated association, municipal corporation or agency, other group acting as a unit, or combination thereof.
- E. PRE-EXISTING BAMBOO – Any and all Bamboo planted and/or growing within Solebury Township prior to the effective date of this Ordinance.

SECTION 3. Bamboo Restricted – Owner and Occupant Responsibilities.

A. Pre-Existing Bamboo

The following shall apply to all bamboo planted and existing prior to the effective date of this ordinance (“Pre-Existing Bamboo”):

1. Each Bamboo Owner shall be responsible to ensure that any Pre-Existing Bamboo growing on the property does not encroach or grow upon any adjoining or neighboring property, including all public property and right-of-ways, after the effective date of this Ordinance. Bamboo Owners shall be required to take measures to prevent such invasion or encroachment.
2. Property Lines
 - a. Pre-Existing Bamboo shall not be maintained or otherwise be permitted to exist within thirty (30) feet of either: (a) the edge of the pavement or traveled portion of any public roadway in the Township; or (b) the legal right of way, whichever is greater. Any Bamboo Owner whose property contains Bamboo shall remove and abate the growth of the Pre-Existing Bamboo within thirty (30) feet of : (a) the edge of the pavement or traveled portion of a public road in the Township; or (b) the legal right of way, whichever is greater.
 - b. Whether planted or growing in a container or contained within a barrier, all Pre-Existing Bamboo plants shall be located, trimmed, and maintained so that no part of the plant (including stalks, branches, leaves, and/or roots) shall extend nearer than thirty (30) feet to any property line.

B. Bamboo Planted After the Effective Date of this Ordinance

The following shall apply to all bamboo planted after the effective date of this ordinance:

1. The planting of Bamboo in the ground shall be prohibited within the Township after the effective date of the ordinance.
2. Each Bamboo Owner shall be responsible to ensure that any Bamboo growing in a container does not spread outside of such container and does not encroach or grow upon any adjoining or neighboring property, including all public property and right-

of-ways, after the effective date of this Ordinance. Bamboo Owners shall be required to take measures to prevent such invasion or encroachment.

3. Property Lines

- a. Bamboo shall not be planted in a container, maintained, or otherwise be permitted to exist within thirty (30) feet of either: (a) the edge of the pavement or traveled portion of any public roadway in the Township; or (b) the legal right of way, whichever is greater. Any Bamboo Owner whose property contains Bamboo shall remove and abate the growth of the Bamboo within thirty (30) feet of: (a) the edge of the pavement or traveled portion of a public road in the Township; or (b) the legal right of way, whichever is greater.
 - b. Whether planted or growing in a container or contained within a barrier, all Bamboo plants shall be located, trimmed, and maintained so that no part of the plant (including stalks, branches, leaves, and/or roots) shall extend nearer than thirty (30) feet to any property line.
- C. Any person who hereafter plants or grows, or causes to be grown, Bamboo within the Township as set forth in subparagraphs (A) and (B) above, shall be deemed to be in violation of this Ordinance, and shall be subject to such penalties as are set forth herein.
- D. The Owner/Occupant shall be responsible for the cost of removal and/or abatement of Bamboo that encroaches upon an adjoining property after the effective date of this Ordinance in violation of this Ordinance.
- E. 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, except where any property Owner/Occupant:
1. Has provided satisfactory proof to the Township that, within a reasonable time after discovering the encroachment of Bamboo onto the property from an adjoining or neighboring property, the Owner/Occupant has advised the owner of such property of his or her objection to the encroachment of the Bamboo; and
 2. Has initiated steps for the removal of the Bamboo from the property.

SECTION 4. Notice of Violation and Bamboo Removal.

- A. In the event that there is any Bamboo growing or remaining upon such premises in violation of the provisions of Section 3 of this Ordinance, the Township shall, prior to taking any enforcement action, notify the Owner/Occupant in writing of the existence of such violation and that the Owner/Occupant is responsible for correcting the violation. Notice of Violation shall be served by handing it directly to the Owner/Occupant; by mailing it by certified mail, return receipt requested and by regular mail to the last known address of the Owner/Occupant; or by posting Notice of Violation on the premises at a conspicuous location.

- B. Any Owner/Occupant receiving a Notice of Violation shall take the following steps to remedy and correct the violation:
1. Pre-Existing Bamboo. Any Owner/Occupant whose property contains Bamboo planted or grown prior to the effective date of this Ordinance which has been permitted to grow in violation of Section 3(A) of this Ordinance, shall:
 - i. Within thirty (30) days of the Owner/Occupant's receipt of such Notice, reduce the height of any Bamboo that is in violation of this Ordinance to no greater than two (2) feet tall;
 - ii. Within six (6) months of the Owner/Occupant's receipt of such Notice, remove any Bamboo that is in violation of this Ordinance and take all reasonable corrective action to control against its regrowth.
 2. Bamboo Planted After the Effective Date of this Ordinance. Any Owner/Occupant whose property contains Bamboo planted after the effective date of this Ordinance in violation of Section 3(B) of this Ordinance shall remove and eradicate such bamboo in its entirety, including the shoot and root systems, and dispose of the bamboo in accordance with this Ordinance within sixty (60) days of the Owner/Occupant's receipt of such Notice.
- C. If the Owner/Occupant fails to remedy the violation in compliance with the above-referenced Notice and this Ordinance, then the Township may issue a non-traffic citation against the Owner/Occupant.
- D. In addition, where an Owner/Occupant does not within the time provided for under this Ordinance remedy and correct (or make arrangements to remedy or correct) the violations set forth in any Notice of Violation issued to them, the Township, at its discretion, may:
1. remove any Bamboo that is in violation of this Ordinance and located upon the Owner/Occupant's property and/or that has spread to an adjoining property, taking all reasonable action to control against its re-growth; and/or
 2. restore any real property to its natural condition prior to such removal and other corrective action.
- E. Any costs incurred by the Township in remedying any violation of this Ordinance shall be at the expense of the Owner/Occupant, and in the event that the costs remain unpaid more than thirty (30) days after the demand of payment has been made by the Township on the Owner/Occupant, the Township may lien the property of the owner/occupant for these costs, plus interest, fees (including attorneys fees), and expenses, as allowed by law.
- F. In the event that the Township is compelled to undertake remediation of any violation, as provided for above, neither the Township nor its employees, contractors, or agents shall have any liability to the Owner/Occupant for any damages or other claims arising out of the remediation. In the event such remediation entails or causes damages to the property of any other person or entity other than the Owner/Occupant, the Owner/Occupant shall be responsible for such damages.

SECTION 5. Violations and Penalties.

Any person who violates any of the provisions of this Ordinance shall, upon conviction in a summary proceeding before any District Justice of Bucks County, be punishable by a fine of not more than \$300 and costs of prosecution for each and every offense, provided that anyone violating a provision of this Ordinance may, within five (5) days of the Notice of Violation or Encroachment Notice, pay to the Township Treasurer, under such rules and regulations as the Township Board of Supervisors may prescribe, the sum of twenty dollars (\$20) for each offense as a penalty for and in full satisfaction of such violation. Each day that such violation is continued shall constitute a new and separate offense, punishable by like fine or penalty.

In addition, the Township Board of Supervisors 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.

II. Partial Repealer

All other provisions of the Ordinances of Solebury Township, as amended, shall remain in full force and effect. All other Ordinances or provisions of the Ordinance inconsistent herewith or in conflict with any of the terms hereof are, to the extent of said inconsistencies or conflicts, are hereby specifically repealed.

III. Severability

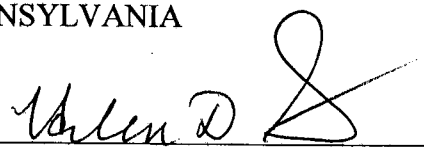
The provisions of this Ordinance are severable. If any section, clause, sentence, part or provision thereof shall be held illegal, invalid, or unconstitutional by a court of competent jurisdiction, such decision of the court shall not affect or impair any of the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Township Board of Supervisors that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence or part of a provision had not been included herein.

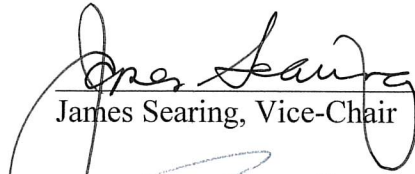
IV. Effective Date

All provisions of this Ordinance shall be in full force and effect five (5) days after the approval and adoption.

ORDAINED AND ENACTED this 15th day of Nov., 2016.

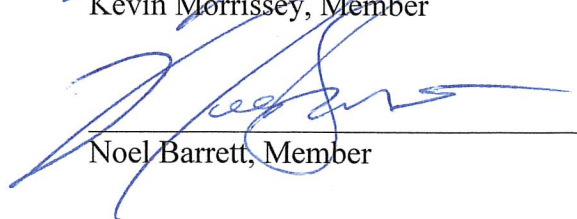
BOARD OF SUPERVISORS OF SOLEBURY
TOWNSHIP, BUCKS COUNTY,
PENNSYLVANIA


Helen Tai, Chairwoman



James Searing, Vice-Chair


Paul Cosdon, Member


Kevin Morrissey, Member


Noel Barrett, Member

Attest:


Gretchen K. Rice, Township Secretary