

ORDINANCE NO. 2016-003

AN ORDINANCE OF HILLTOWN TOWNSHIP, BUCKS COUNTY, COMMONWEALTH OF PENNSYLVANIA, ADOPTING REGULATIONS FOR THE CONTROL OF BAMBOO

WHEREAS, the Board of Supervisors of Hilltown Township, County of Bucks, Commonwealth of Pennsylvania is authorized to make such regulations as may be deemed necessary for the health safety and general welfare of its residents pursuant to the Pennsylvania Second Class Township Code (53 P.S. Section 66527); and,

WHEREAS, the Board of Supervisors of Hilltown Township is authorized to enact an Ordinance to prohibit and remove any nuisance on public or private grounds that is found to be harmful to the health, safety and general welfare; and,

WHEREAS, the Board of Supervisors of Hilltown Township believes it to be in the best interest of the residents of the Township to prohibit the planting of running bamboos, thereby protecting private and public property by preventing the invasive spread of bamboo onto public thoroughfares and neighboring properties; and,

WHEREAS, the Board of Supervisors of Hilltown Township recognizes that certain monopodial (running) bamboo species have been planted next to public roadways in Hilltown Township and that there are species of bamboo that are invasive and grow to forty (40) feet in height. Furthermore, during wind, rain and/or snow storm events the invasive bamboo stalks bend and block portions of public roads and cause a hazard to road traffic and impair the use and maintenance of public roads; and,

WHEREAS, the Board of Supervisors recognizes the threat of the spread of bamboo to indigenous flora and the wildlife it supports and that growth of a variety of vegetation within the Township promotes diversity and enriches the quality of life for all Township residents.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, and it is hereby ENACTED AND ORDAINED by the Board of Supervisors of Hilltown Township, Bucks County, Pennsylvania, after public hearing, duly advertised and held on the 26th day of September, 2016, as follows:

SECTION I. PURPOSE

The purpose of this Ordinance is to control the planting, growing or cultivating of Bamboo in Hilltown Township so as to prevent its spread onto public right-of-ways and/or neighboring properties and waterways. Therefore, it is the intent of this Ordinance to ensure that

invasive growth of Bamboo does not become a threat to the public health, safety and welfare of the residents of Hilltown Township.

SECTION 2. GENERAL PROVISIONS

- A. Definitions:
1. Bamboo – Any monopodial (running) tropical or semi-tropical grass of the genus Sasa, Pseudosasa and Pleioblastus, Phyllostachys (“Running Bamboo”).
 2. Bamboo Owner- Any property owner or resident who has planted and/or grows Bamboo, or who maintains Running Bamboo on the property, or who permits Bamboo to grow or remain on the property even if the Running Bamboo has spread to an adjoining property.
 3. Township – The Township of Hilltown, County of Bucks, Commonwealth of Pennsylvania.
- B. Applicability. For the purposes of this Ordinance, Running Bamboo found growing on a property constitutes presumptive evidence that the Bamboo was planted and/or grown by and/or with the consent of the Bamboo Owner.
- C. After the effective date of this Ordinance, Running Bamboo shall not be planted, within twenty (20) feet of a property line, edge of pavement or traveled portion of a public roadway or a riparian buffer.
- D. Any Bamboo Owner whose property contains Running Bamboo on the effective date of this Ordinance shall remove and abate the growth of Running Bamboo that has grown within ten (10) feet of a property line, edge of pavement or traveled portion of a public road.
- E. Each Bamboo Owner shall be responsible to ensure that Running Bamboo planted or growing on the property does not encroach or grow closer than ten (10) feet of a property line, edge of pavement or traveled portion of a public road.
1. When removing and destroying Running Bamboo, all rhizome disposal must be by incineration only. No composting or trash disposal of rhizomes shall be allowed.

SECTION 3. COMPLAINT, NOTICE, ORDER FOR REMOVAL AND COMPLIANCE

- A. Whenever a complaint is received by the Township regarding the encroachment of Running Bamboo in violation of this Ordinance, or whenever the Township on its own observations and inspections determines that there is encroachment of Running Bamboo in violation of this Ordinance, the Township shall give written notice to the Bamboo

Owner to remove, cut or trim the offending Running Bamboo in accordance with the requirements of Section 2.

1. The Notice of encroachment shall be hand delivered or sent certified mail, return receipt requested, properly addressed and with sufficient postage, to the last known address of the Bamboo Owner. Notice by certified mail shall be deemed complete on the date of personal delivery. If the certified mail is marked "refused", "unclaimed", or otherwise undeliverable by the United States Postal Service, Notice will be sent by regular mail and by posting the notice in a conspicuous location at the Bamboo Owner's property.
2. The Notice shall specify the nature of the violation and that the violation must be corrected within thirty (30) days from the date of mailing or posting of the property, whatever is later.
3. The Notice shall state specifically what must be done by the responsible party to correct the violation and come into compliance with this Ordinance.
4. The Notice shall state the failure to comply within thirty (30) days will result in the removal of the offending Running Bamboo by the Township and that the Bamboo Owner will be billed for all costs incurred and may be subject to a civil penalty of up to a maximum of Three Hundred Dollars (\$300.00) for each day that the Bamboo Owner is in violation of this Ordinance. Such costs may be assessed against the Bamboo Property Owner, 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 Bamboo Owner, the Township may file a Municipal Lien against the property of the Bamboo Owner for these costs, plus interest, fees, and expenses, as allowed by law.
5. In the event that the Township is compelled to undertake the removal of Bamboo, as provided for above, neither the Township nor its employees, contractors, or agents shall have any liability to the Bamboo Owner for any damages or other claims arising out of the removal of such Running Bamboo. In the event such removal entails or causes damage to the property of any other person or entity other than the Bamboo Owner, the Bamboo Owner shall be responsible for such damages.

SECTION 4. VIOLATIONS AND PENALTIES

Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Ordinance shall be assessed a civil penalty of up to a maximum of Three Hundred Dollars (\$300.00) per day plus all costs, including reasonable attorney fees incurred by the Township as a result thereof. If the penalty imposed for the violation of this Ordinance is not voluntarily paid to the Township, the Township shall initiate a civil enforcement proceeding before a Magisterial District Judge by complaint or by such other means as may be provided by the Pennsylvania Rules of Civil Procedure. In addition to or in lieu of

civil actions before a Magisterial District Judge, the Township may enforce this Ordinance in equity. In any case where a penalty for a violation of this Ordinance has not been timely paid and the person upon whom the penalty was imposed is found to have been liable therefor in civil proceedings, the violator shall be liable for the penalty imposed, including additional daily penalties for continuing violations, plus court costs and reasonable attorney fees incurred by the Township in the enforcement proceeding.

SECTION 5. SEVERABILITY

If any provision of this Ordinance is invalid for any reason, including preemption by State or Federal law, the remaining provisions of this ordinance shall apply.

SECTION 6. REPEALER

Any ordinance or part of an ordinance to the extent that it is inconsistent herewith is hereby repealed.

SECTION 7. EFFECTIVE DATE

This Ordinance shall become effective five (5) days after enactment.

ATTEST:



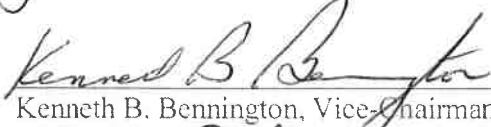
Donald D. Delamater,
Township Manager

adopted: September 26, 2016

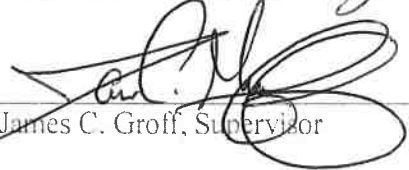
HILLTOWN TOWNSHIP
BOARD OF SUPERVISORS



John B. McIlhinney, Chairman



Kenneth B. Bennington, Vice-Chairman



James C. Groff, Supervisor