

**FRANKLIN TOWNSHIP  
CHESTER COUNTY  
ORDINANCE NO. 2018-01**

**AN ORDINANCE OF FRANKLIN TOWNSHIP, CHESTER  
COUNTY, COMMONWEALTH OF PENNSYLVANIA  
AMENDING THE FRANKLIN TOWNSHIP CODE OF  
ORDINANCES, CHAPTER 10, HEALTH AND SAFETY TO  
ADD A NEW PART 3 REGULATING BAMBOO.**

**BE IT ENACTED AND ORDAINED** by the Board of Supervisors of Franklin Township, the Franklin Township Code of Ordinances is hereby amended as follows:

Section 1. Chapter 10 – Health and Safety of the Franklin Township Code of Ordinances is hereby amended to add a new Part 3 as follows:

**PART 3  
BAMBOO**

**Bamboo**

**§10-301. Purpose and Intent.**

The purpose of this Part 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 residents of Franklin Township.

**§10-302. General Provisions.**

1. Definitions.

*Bamboo*—any monopodial (running) tropical or semi-tropical grasses from the genera Phyllostachys or Pseudosasa, including, but no 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 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.

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

*Township*—the Township of Franklin, County of Chester, Commonwealth of Pennsylvania.

2. Applicability. For purposes of this Part, 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, unless it is clear that the bamboo appears to have encroached from an adjacent property.

3. Regulation.

A. Bamboo shall not be planted, maintained, or otherwise be permitted to exist within 40 feet of the edge of the pavement or traveled portion of any public roadway in the Township. Any bamboo owner whose property contains bamboo shall remove and abate the growth of the bamboo within 40 feet of edge of the pavement or traveled portion of a public road in the Township.

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 10 feet to any property line.

C. When removing and destroying bamboo, all rhizome disposal must be by incineration only, which requires verification and authorization by the Township. No composting or trash disposal of rhizomes shall be allowed.

4. Pre-existing Bamboo.

A. Any bamboo that has been planted or otherwise permitted to grow on any property within the Township prior to the effective date of this Part may remain on such property, subject to compliance with this Part.

B. Each bamboo owner shall be responsible to ensure that the bamboo planted or growing on the property prior to the effective date of this Section does not encroach or grow upon any adjoining or neighboring property, including all public property and rights-of-way. Such bamboo owners shall be required to take such measures as are reasonably expected to prevent such invasion or encroachment, including, but not limited to, the installation of sheathing comprised of metal or other material impenetrable by bamboo at a sufficient depth within the property line or lines where the bamboo is planted or is growing to prevent the growth or encroachment upon adjoining or neighboring property by the bamboo.

5. Removal from Township Property.

A. Encroachment. In the event that bamboo growing on a bamboo owner's property invades or grows onto Township property, including, but not limited to, rights-of-way, the Township shall notify the bamboo owner in writing that the bamboo has invaded the Township property and that the bamboo owner is responsible for the removal of such running bamboo from the Township property or right-of-way. This encroachment notice shall be sent by certified mail, return receipt requested and by regular mail to the last known address of the bamboo owner, and a copy of the notice shall also be posted in a conspicuous location on the bamboo owner's property.

B. In the event that the bamboo owner does not remove the bamboo from the Township property, or does not make an arrangement with the Township for removal of such bamboo within 30 days from the date of the encroachment notice, the Township, at its discretion, may remove such bamboo from the Township property. The bamboo owner shall be liable and responsible to the Township for all costs incurred in removing the bamboo from the Township property. Such costs may be assessed against the property of the bamboo owner, and in the event that the costs remain unpaid more than 30 days after the demand of payment has been made by the Township on the bamboo property owner, the Township may lien the property of the bamboo owner for these costs.

C. 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 bamboo. In the event such removal entails or causes damages to the property of any other person or entity other than the bamboo owner, the bamboo owner shall be responsible for such damages.

### **§10-303. Violations and Remedies**

#### 1. Notice of Violation.

A. Each bamboo owner shall be responsible to ensure that any bamboo on their property does not violate the provisions of this Part. In the event that there is any bamboo growing in violation of the provisions of this Part, the Township 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 register owner of the property or by posting the property at a conspicuous location.

B. Any bamboo owner receiving a notice of violation shall bring their property into compliance with this Part within 30 days of the date of the notice. If the bamboo owner fails to bring their property into compliance with the notice and this Part, the Township may then issue a non-traffic citation against the bamboo owner.

C. In addition, where a bamboo owner does not remedy and correct the violations set forth in any notice of violation issued to them, the Township may remove any bamboo that is in violation of this Part 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 Township in removing any bamboo and/or remedying any violation of this Part 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 of payment has been made by the Township on the bamboo owner, the Township may lien the property of the bamboo owner for these costs.

#### 2. Violations, Penalties, and Remedies.

A. Any person or entity who shall violate any provisions of this Part, 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 \$1,000, plus costs, including reasonable attorney's

fees, incurred as a result of the prosecution. Each day that a violation of the Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

B. In addition, the Township Board of Supervisors may institute suits, in equity or at law, to restrain, prevent, or abate a violation of this Part. 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.

Section 2. Severability. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of any other section or provision of this Ordinance than the one so declared.


Section 3. Repealer. All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed to the extent of the said inconsistency.

Section 4.—Effective Date. This Ordinance shall be effective five (5) days from the date of enactment.

ENACTED AND ORDAINED by the Board of Supervisors of Franklin Township, Chester County, Pennsylvania, this 26 day of September, 2018.


FRANKLIN TOWNSHIP  
BOARD OF SUPERVISORS

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John Auerbach, Chairman


  
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David Snyder, Vice-Chairman

  
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Donna Dea, Member

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Nancy Morris, Member

  
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Steffen Torres, Member

ATTEST:

  
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Sharon Norris, Secretary