

**BOROUGH OF SWARTHMORE  
DELAWARE COUNTY, PENNSYLVANIA**

**ORDINANCE NO.**

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE BOROUGH OF SWARTHMORE, DELAWARE COUNTY, PENNSYLVANIA, BY CREATING A NEW CHAPTER 676 ENTITLED "BAMBOO", PROVIDING FOR THE REGULATION AND CONTROL OF NEW AND EXISTING BAMBOO GRASSES WITHIN THE BOROUGH; PROVIDING DEFINITIONS FOR THE TERMS "BAMBOO", "BAMBOO OWNER", "BUFFER ZONE", "NOTICE", AND "RECEIPT OF NOTICE"; ESTABLISHING STANDARDS FOR THE REMOVAL OF BAMBOO WITHIN BUFFER ZONES; AND PROVIDING PENALTIES IN THE EVENT OF A VIOLATION THEREOF.

The Council of the Borough of Swarthmore hereby ENACTS AND ORDAINS that:

**SECTION I. PURPOSE AND INTENT.**

The purpose of this Ordinance is to provide for the health, safety and welfare of the residents of Swarthmore Borough and to preserve and protect private and public property and roadways from the spread of running bamboo grasses and the potential damage caused thereby.

**SECTION II. DEFINITIONS.**

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

- A. Bamboo – Any monopodial (running) woody grass from the genera of bamboos including, but not limited to, Bambusa, Phyllostachys and Pseudosasa, as well as common bamboo, golden bamboo and arrow bamboo, and including all roots, rhizomes and other plant parts.
- B. Bamboo Owner – Any owner of property who has planted and/or grows Bamboo, or who maintains Bamboo on the property, or who permits Bamboo to grow or remain on the property even if the Bamboo has spread from an adjoining property. The ownership of Bamboo within a container shall not qualify the owner as a Bamboo Owner.
- C. Buffer Zone – A distance of at least ten (10) feet from the edge of any public or private right of way, drive, street, road or sidewalk, or from any adjoining property line, public or private, whichever is more restrictive for the Bamboo Owner.
- D. Notice – Any written notice from the Borough to the Bamboo Owner(s) directing them to abate the condition of Bamboo in accordance with this Ordinance. Such Notice shall be sent by certified mail, return receipt requested, addressed to the owner(s) listed on the current tax address on file with the Borough.
- E. Receipt of Notice – Receipt of the Notice required herein shall be the date of mailing said Notice.
- F. Borough – The Borough of Swarthmore, Delaware County, Pennsylvania.

### **SECTION III. REGULATION OF NEW AND EXISTING BAMBOO.**

- A. After the effective date of this Ordinance, the planting of Bamboo on any lot or parcel of land within the Borough limits is prohibited. Any Bamboo that is already in existence on any property within the Borough limits as of the effective date of this Ordinance, may remain on such property, unless the Borough code enforcement official determines, upon complaint from any abutting or nearby affected property owner, that any portion of such Bamboo has been allowed to grow upon, extend roots across, or extend branches, stalks or leaves over any Buffer Zone. In the event that the code enforcement official determines that the area of Bamboo within the Buffer Zone of any Bamboo Owner's property is less than 750 square feet, the Bamboo Owner must remove the Bamboo from the Buffer Zone within one hundred and twenty (120) days of Receipt of Notice, or within one hundred and twenty (120) days of the following April 1<sup>st</sup> if Receipt of Notice occurs between November 1<sup>st</sup> and March 31<sup>st</sup>, and the Bamboo Owner must take additional measures by the anniversary of such 120th day to prevent the regrowth of Bamboo within the Buffer Zone. In the event that the code enforcement official determines that the area of Bamboo within the Buffer Zone of any Bamboo Owner's property exceeds 750 square feet, the Bamboo Owner must remove at least 750 square feet of Bamboo from the Buffer Zone within one hundred and twenty (120) days of Receipt of Notice, or within one hundred and twenty (120) days of the following April 1<sup>st</sup> if Receipt of Notice occurs between November 1<sup>st</sup> and March 31<sup>st</sup>, and must take additional measures by each subsequent anniversary of such 120th day to prevent the regrowth of Bamboo within that area and to further reduce the square footage of Bamboo within the Buffer Zone by at least an additional 750 square feet, until all Bamboo has been removed from the Buffer Zone.
- B. This Ordinance shall not be deemed to alter any rights at common law or otherwise that any property owner may have to seek remedies and recover the cost of removal of Bamboo on their own property from another person or entity that has caused the spread of Bamboo. This Ordinance shall also not be deemed to create any affirmative duty on behalf of the Borough to require the removal of Bamboo or the enforcement of this Ordinance, which enforcement shall at all times remain at the discretion of the Borough. The code enforcement official shall further retain discretion in the enforcement of Section III(A) above, such as in circumstances where the enforcement of the Buffer Zone is not warranted due to Bamboo height, topography, property size or irregularity, or reduced risk of harm to neighboring properties.

### **SECTION IV. ENFORCEMENT AND PENALTIES.**

Any Bamboo Owner who fails to comply with the terms of Section III shall be in violation of the terms of this Chapter.

Any Bamboo Owner who violates any of the provisions of this Chapter shall be liable to penalties as specified in the Codified Ordinances of the Borough of Swarthmore. In addition to the penalties provided for in the Codified Ordinances of the Borough of Swarthmore, if the violation remains unabated, the Borough may, at its own discretion, cause the condition to be removed or abated, with the cost of such removal or abatement, plus any fines, legal fees and collection costs, to be charged and collected by a civil action or by the filing of a lien against the property.

**SECTION V. SEVERABILITY CLAUSE.**

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held invalid or unconstitutional by any courts of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not render this Ordinance invalid.

**SECTION VI. EFFECTIVE DATE.**

This Ordinance shall become effective thirty-one (31) days after its enactment.

ENACTED AND ORDAINED this                      day of                      , 2015.

SWARTHMORE BOROUGH COUNCIL

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RALPH JACOBS  
PRESIDENT

APPROVED THIS 8<sup>TH</sup> DAY OF  
JUNE, 2015

ATTESTED THIS 8<sup>TH</sup> DAY OF  
JUNE, 2015

\_\_\_\_\_  
TIM KEARNEY  
MAYOR

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JANE C. BILLINGS  
BOROUGH MANAGER/SECRETARY