

**MIDDLETOWN TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA**

COUNCIL COMMITTEE MEETING

**MONDAY, NOVEMBER 22, 2021
BEFORE COUNCIL MEETING**

6:30pm **ROADS, HIGHWAYS, AND PUBLIC SAFETY COMMITTEE**

- A. Discussion of a proposed ordinance approving the regulation of new and existing bamboo grasses within the Township.

(Note: No other committee meetings are scheduled)

**TOWNSHIP OF MIDDLETOWN
DELAWARE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 838

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWNSHIP OF MIDDLETOWN, DELAWARE COUNTY, PENNSYLVANIA, BY CREATING A NEW CHAPTER 65, ENTITLED "BAMBOO", FOR THE REGULATION, LIMITATION AND CONTROL OF NEW AND EXISTING BAMBOO GRASSES WITHIN THE TOWNSHIP, ESTABLISHING STANDARDS AND REQUIREMENTS FOR THE REMOVAL AND MAINTENANCE OF BAMBOO IN THE TOWNSHIP, PROVIDING FOR NOTICE AND ENFORCEMENT PROCEDURES FOR THE REGULATION OF BAMBOO AND ESTABLISHING PENALTIES AND THE ASSESSMENT OF COSTS IN THE EVENT OF A VIOLATION OF THE TERMS OF THIS CHAPTER.

The Council of the Township of Middletown hereby ENACTS AND ORDAINS the following amendments to the Code of Ordinances of the Township of Middletown, Delaware County, Pennsylvania:

SECTION I.

The Code of Ordinances of the Township of Middletown, Delaware County, Pennsylvania is hereby amended to provide for a new Chapter 65, Bamboo, to be provided as follows:

§ 65-1. Purpose and Intent.

The purpose of this Chapter is to preserve and protect the private and public property from the damaging of certain bamboo grasses, protect indigenous plant materials from the invasive spread of bamboo and maintain the general welfare of the residents of Middletown Township.

§ 65-2. General Provisions.

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

1. Bamboo – Any monopodial (running) woody or arborescent grasses from the genera bambusa, arundinaria and dendrocalamus of the subfamily bambusoideae, from tropical or temperate regions having hollow stems and thick rhizomes, including, but not limited to, Acidosa, Arundinaria, Bashania, Brachhystachyum, Chimonbambusa, Gelidocalamus, Indocalamus, Indosasa, Ochlandra, Phyllostachys, Pleioblastus, Pseudosasa, Sasa, Sasaella, Semiarundinaria, Shibataea, and Sinobambusa, as well as common bamboo, golden bamboo and arrow bamboo.
2. Bamboo Owner – Any owner, tenant, occupier and/or agent 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.
3. Buffer Zone – A distance of at least 10 feet from the edge of any shared drive, street, road or sidewalk, whether public or private, or from any neighboring property line, public or private.

4. Notice – Any written notice by, from or on behalf of the Township, notifying the Bamboo Owner(s) that they are in violation of this Chapter and directing them to cure or fix the violation.
5. Receipt of Notice – Receipt of the Notice required herein shall be the date of mailing said Notice, or, if applicable, posting of the Notice on the property in question, whichever is earlier.
6. Township – The Township of Middletown, Delaware County, Pennsylvania

B. Regulation of Existing and New Bamboo.

1. Existing Bamboo. Any Bamboo that is already in existence on any property within the Township limits as of the effective date of this Ordinance, or which is planted after the effective date of this Ordinance, may remain on such property, unless the Township Code Enforcement Officer 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 leave over any Buffer Zone. In the event the Code Enforcement Officer makes such a determination, the Bamboo Owner shall be subject to the following regulations:

- a. Bamboo Owner must take measures to ensure that any Bamboo on their property does not exist within any Buffer Zone. Such measures shall include, but are not limited to:

- (1) Managing, trimming, cutting and removing all Bamboo plants or roots existing in the Buffer Zone and maintain the Buffer Zone free and clear of Bamboo, including the root system, as necessary to destroy the Bamboo and root system within the Buffer Zone.

- (2) Any Bamboo remaining outside a Buffer Zone must be entirely contained within a barrier, constructed in accordance with the following specifications:

- i. The barrier itself shall be composed of high density polypropylene or polyethylene, with a thickness of at least 40 mils;
- ii. The barrier shall be installed at least 24” inches deep in the ground;
- iii. At least four (4) inches of the barrier must protrude above ground level around the entire perimeter of the Buffer Zone;
- iv. The barrier shall be secured and joined together by stainless steel clamps or stainless steel closure strips designed to be used with such barriers;
- v. All Bamboo plants shall be located, trimmed and maintained so that no part of the plant is closer than 10 feet to the edge of any public drive, street, road or sidewalk.

2. New Bamboo. Any property owner who plants Bamboo after the effective date of this Ordinance shall be required to take measures to ensure that no portion of any such Bamboo is permitted to grow within a Buffer Zone. Such measures shall include, but are not limited to, installing barriers in accordance with the specifications set forth in this Subsection.
3. The terms of this Subsection 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 allowed the spread of Bamboo upon an adjacent property.

§ 65-3. Notice of Violation

- A. If Bamboo on any property has been planted or allowed to grow in violation of the terms of this Chapter, the Township shall give written Notice to the Bamboo Owner(s) as required by this Chapter that said Bamboo Owner(s) are responsible for abatement of such violation within thirty (30) days from the date of the Receipt of Notice (“Abatement Period”). In the event that it is determined the Township Code Enforcement Officer that the required abatement cannot reasonably be completed within the Abatement Period, the Township Code Enforcement Officer may extend the Abatement Period up to ninety (90) days from the date of the Receipt of Notice upon written request by the Bamboo Owner.
- B. The Notice issued under this Subsection shall be served by certified mail, return receipt requested, addressed to: 1) the owner(s) listed on the current tax address on file with the Township; and 2) to the occupier of the property by either first-class mail or by posting a copy of the Notice on the property in question, at the option of the Township.
- C. That failure to comply or abate the condition within the time and manner specified constitutes a violation of this Chapter and the Township shall invoke one or both of § 65-4 of this Chapter necessary to enforce the provisions hereof.

§ 65-4. Violations and Penalties; costs of removal.

In the event that said Notice of violation is not complied with as directed, the Township shall take any of the following actions as it may deem necessary to enforce the provisions of this Chapter:

- A. Commence a summary enforcement proceeding before the Magisterial District Justice against the property owner(s), and upon conviction thereof, be punishable by a fine of up to \$500 for each violation thereof. Violators shall also be responsible for court costs and reasonable attorneys' fees of the Township, as permitted by law. Each and every day in which a person shall be in violation of this Chapter shall constitute a separate offense.

- B. Cause the condition to be removed or abated by the Township, the costs for which removal plus a service fee will be charged to the property owner(s). If such costs are not paid in full within 90 days, such costs may be filed as a lien against the property and collected in the same manner as other municipal liens or by personal action commenced in the Court of Common Pleas of Delaware County. Any voluntary action taken by the Township pursuant to this section shall not create any obligations on the part of the Township to continue such action, nor shall it limit, ameliorate or change the obligation of the property owner(s).

SECTION II.

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 III.

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

ENACTED AND ORDAINED on the _____ day of _____ 2021.

ATTEST:

TOWNSHIP OF MIDDLETOWN COUNCIL

By: _____
John McMullan
Township Manager

By: _____
Mark Kirchgasser
Chairman of Council