

**UPPER GWYNEDD TOWNSHIP  
MONTGOMERY COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 2018 - \_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 127 OF THE UPPER  
GWYNEDD TOWNSHIP CODE BY CREATING ARTICLE IV – BAMBOO  
AND ESTABLISHING REGULATIONS FOR THE PLANTING,  
CULTIVATING, GROWING, CONTROL AND/OR REMOVAL OF  
BAMBOO, AND PENALTIES FOR VIOLATIONS OF THE SAME, AND  
REPEALING ALL INCONSISTENT ORDINANCES OR SECTIONS OF  
TOWNSHIP CODE ORDINANCES**

**WHEREAS**, pursuant to the First-Class Township Code of the Commonwealth of Pennsylvania, the Township of Upper Gwynedd, in the exercise of its corporate powers, is empowered to enact and adopt ordinances for the health, protection, safety, welfare and benefit of its citizens and the public at large; and

**WHEREAS**, the Board of Commissioners of Upper Gwynedd Township ("Board of Commissioners") has determined that it is in the best interests of the health, protection; safety, welfare and benefit of its citizens and the public at large at this time to establish regulations relating to the planting, cultivating and/or growing of a certain running plant, specifically Bamboo, within the Township of Upper Gwynedd, together with penalties for violations of such regulations, so as to prevent the spread of running bamboo onto neighboring property; and

**WHEREAS**, the Board of Commissioners has determined that such regulations should be codified as "Chapter 127, Article IV - Bamboo" of the Code of Ordinances of the Township of Upper Gwynedd,

**NOW, THEREFORE**, the **BOARD OF COMMISSIONERS** of the **UPPER GWYNEDD TOWNSHIP** does hereby **ENACT and ORDAIN** as follows:

**Section 1.** Chapter 127 of the Code of Ordinances of Upper Gwynedd Township is hereby amended to include the following:

**Article 4  
Bamboo**

**Section 127-19. Short Title.**

This Chapter shall be known and may be cited as the "Upper Gwynedd Township Bamboo Ordinance."

**Section 127-20. Purpose and Intent.**

Upper Gwynedd Township has determined that the planting, cultivating and growing of certain running plants, particularly those plants commonly referred to as Bamboo, within Upper Gwynedd Township has a negative impact on the health, safety and welfare of the citizens of Upper Gwynedd Township and the public at large, as the uncontrolled planting, cultivating and growth of said Bamboo plants results in the destructive spread of said plants onto private and public property and thereby constitutes a nuisance within Upper Gwynedd Township. Upper Gwynedd Township has therefore determined that is in the best interests of the citizens of Upper Gwynedd Township and the public at large to control the planting, cultivating and/or growing said Bamboo plants within Upper Gwynedd Township, primarily by prohibiting the future planting, cultivating and/or growing said Bamboo plants within Upper Gwynedd Township, and by requiring the use of barriers to prevent the invasive spread of existing Bamboo plants within Upper Gwynedd Township.

**Section 127-21. Definitions.**

*Bamboo* - Any monopodial (running) tropical or semi-tropical grasses from the genera Bambusa including, but not limited to Bambusa, Phyllostachys, Fallopia and Pseudosasa, as well as Common Bamboo, Golden Bamboo, Arrow Bamboo, and Japanese Bamboo.

*Bamboo Owner* - Any property owner and/or resident, corporation and/or other entity who has planted and/or grows Bamboo, or who maintains and/or cultivates Bamboo on his/her/its property, or who permits Bamboo to grow or remain on property, even if the Bamboo has spread from an adjoining property. Any property owner and/or resident, corporation and/or other entity owning, residing, occupying or doing business on property on which Bamboo is found shall be considered a Bamboo Owner. A property owner and/or resident, corporation and/or other entity will not be considered to be a Bamboo Owner if:

- a. He/she/it has provided satisfactory proof to Upper Gwynedd Township that, within a reasonable period of time not to exceed 60 days after discovering the encroachment of Bamboo onto the subject property from an adjoining or neighboring property, he/she/it advised the owner of such property of his/her/its objection to the encroachment of the Bamboo, and
- b. He/she/it has initiated steps for the removal of the Bamboo from the property, including remedies at law.

*TOWNSHIP* - Upper Gwynedd Township, Montgomery County, Pennsylvania.

**Section 127-22. General Provisions.**

- A. For purposes of this Chapter, Bamboo found growing upon a property shall constitute

presumptive evidence that the Bamboo was planted, cultivated and/or grown by, and/or with the consent of, the subject property owner, tenant, and/or any other individual, entity or corporation then having control of over the subject property, subject to the definition of Bamboo Owner, above.

- B. Prohibition. Upon the effective date of this Chapter, the planting, cultivating and/or growing of Bamboo shall be prohibited within the Township. No persons, property owners, tenants, and/or other individuals, entities, and/or corporations having control of and/or over any property located within the Township shall plant, cultivate, and/or cause to grow any Bamboo on any real property within the Township. Any person who plants, cultivates, and/or grows, and/or causes or allows to be planted, cultivated and/or grown, Bamboo within the Township, shall be deemed to be in violation of this Chapter and shall be subject to such penalties as are set forth herein.
- C. This Ordinance shall not be deemed to alter or abrogate any rights at common law, or otherwise, that any persons, property owners, tenants, and/or other individuals, entities, and/or corporations may have to recover the cost of removal of any Bamboo found on their own property that has encroached from a neighboring property.
- D. Exceptions. Notwithstanding the prohibitions set forth in Section 127-22 B, above, upon the effective date of this Chapter, persons, property owners, tenants, and/or other individuals, entities, and/or corporations having control of and/or over any property located within the Township shall be permitted to plant, cultivate, and/or cause to grow Bamboo on any real property within the Township only if:
1. The root system of such Bamboo is entirely contained within an above ground level planter, barrel or other vessel of such design, material, and location as to

prevent completely the spread of growth of the Bamboo root system beyond the container in which it is planted; or

2. The root system of such Bamboo is contained within and/or restricted by a barrier, constructed in accordance with the following specifications, and installed by an experienced installer with certification provided to the Township:

- a. The barrier itself shall be composed of a high-density polypropylene or polyethylene, with a thickness of 40 mL, or more;
- b. Each portion worksheet of the barrier shall be secured or joined together by the use of stainless-steel clamps or stainless-steel closure strips designed to be used with such barriers;
- c. The barrier shall be installed not less than 30 inches deep;
- d. The barrier shall be circular or oblong shaped;
- e. Not less than 3 inches of the barrier shall protrude above ground level around the entire perimeter of the bamboo; and
- f. When installed, the barrier shall slant outward from the bottom to top.

3. Any and all Bamboo existing pursuant to this shall, at all times, be located, trimmed and maintained so that no Bamboo, or any part thereof, shall be within ten (10') feet of any property line, curb, and/or sidewalk, or within forty (40') feet of any roadway, cartway, street, storm sewer, sanitary sewer and/or public water facilities within the Township.

- E. Any Bamboo that has been planted or otherwise permitted to grow on any property within the Township prior to the effective date of this Chapter may remain on such property subject to compliance with the following:

1. The Bamboo shall not be within ten (10') feet of any property line, curb, and/or sidewalk, or within forty (40') feet of any roadway, cartway, street, storm sewer, sanitary sewer and/or public water facilities within the Township.
  2. Any Bamboo Owner whose property contains Bamboo that is located within ten (10') feet of any property line, curb, and/or sidewalk, or within forty (40') feet of any roadway, cartway, street, storm sewer, sanitary sewer and/or public water facilities within the Township shall remove such Bamboo and shall abate the growth of such Bamboo so that it is not within ten (10') feet of any property line, curb, and/or sidewalk, nor within forty (40') feet of any roadway, cartway, street, storm sewer, sanitary sewer and/or public water facilities within the Township.
  3. A Bamboo Owner shall further be responsible to ensure that any Bamboo planted and/or growing on the property of the Bamboo Owner prior to the effective date of this Chapter is maintained such that it does not encroach or grow upon any adjoining or neighboring property or properties, including all public property and public rights-of-way. If the Township determines that any such Bamboo, or part thereof, has been allowed to encroach, grow upon, extend roots across, and/or extend branches, stalks and/or leaves over any public right-of-way and/or any private property not owned by and/or in the possession of the Bamboo Owner, the Bamboo Owner shall be required to comply with the provisions of §127-22 D2, above.
- F. Removal. In the event that a Bamboo Owner does not remove or contract for the removal of any Bamboo that is found to be in violation of any of the provisions of this Chapter within thirty (30) days of the date of notice of violation issued by the

Township, the Township may, at its discretion, and in addition to any and all other enforcement actions available to it, take any and all actions necessary to effectuate the removal of such Bamboo. The Bamboo Owner shall be liable and responsible to the Township for any and all costs incurred by the Township in effectuating the removal of such Bamboo, including reasonable attorney's fees. Such costs may be assessed against the property of the Bamboo Owner and entered as a lien on the property. Nothing herein shall be construed to create any affirmative obligation on the part of the Township to abate or remove any Bamboo within the Township.

- G. Replanting prohibited. Any Bamboo either planted or caused to be planted or existing on a property prior to the effective date of this Chapter may not be replanted or replaced in kind once such running Bamboo is or has become, for any reason, dead, destroyed, uprooted or otherwise removed, unless such replanting is consistent with the provisions of §127-22 D., above.

**Section 127-23. Violations and Penalties**

Any person, property owner, tenant, and/or other individual, entity, and/or corporation who violates any of the provisions of this Chapter shall, upon conviction before any Magisterial District Justice, be guilty of a summary offense and shall be required to pay a fine not exceeding \$1,000.00 and costs of prosecution, in addition to all other costs herein before provided. Each and every day on which any person, property owner, tenant, and/or other individual, entity, and/or corporation shall be in violation of the provisions of this Chapter shall constitute a separate offense.

**Section 2. SEVERABILITY.**

In the event that any section, sentence, clause, phrase or word of this ordinance shall be

declared illegal, invalid or unconstitutional by any Court of competent jurisdiction, such declaration shall not prevent or otherwise foreclose enforcement of any of the remaining portions of this ordinance.

**Section 3. REPEALER.**

All ordinances or parts of ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed.

**Section 4. EFFECTIVE DATE.** This Ordinance shall become effective five (5) days after its enactment.

**ORDAINED** and **ENACTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**ATTEST:**

**BOARD OF COMMISSIONERS  
UPPER GWYNEDD TOWNSHIP**

By:\_\_\_\_\_

Alex Kaker,  
Assistant Secretary

By:\_\_\_\_\_

Kenneth E. Kroberger  
President