

BOROUGH OF LIGONIER
COUNTY OF WESTMORELAND
COMMONWEALTH OF PENNSYLVANIA

ORDINANCE NO. 557

AN ORDINANCE OF THE BOROUGH OF LIGONIER
REGULATING THE PLANTING AND GROWING OF BAMBOO

BE IT ORDAINED, and it is hereby enacted and ordained by the Council of the Borough of Ligonier in session lawfully assembled as follows:

SECTION I
PURPOSE AND INTENT

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

SECTION II
GENERAL PROVISIONS

A. Definitions:

1. Bamboo - Any monopodial (running) tropical or semi-tropical grasses from the genera Bambusa including, but not limited to Bambusa, Phyllostachys, and Pseudosasa as well as Common Bamboo, Golden Bamboo and Arrow Bamboo.
2. Bamboo Owner - Any property owner or resident 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. Any property owner or resident at which Bamboo is found on the property will be considered a Bamboo Owner, except any property owner or resident who:
 - Did not plant or grow or cause Bamboo to be planted or grown on his property; and
 - Has provided satisfactory proof to the Borough that, within a reasonable period of time after discovering the encroachment of Bamboo onto the property from an adjoining or neighboring property, he advised the owner of such property of his objection to the encroachment of the Bamboo, and
 - Has initiated steps for the removal of the Bamboo from the property, including remedies at law.

3. Borough – The Borough of Ligonier of the County of Westmoreland and Commonwealth of Pennsylvania

B. Applicability. For purposes of this Ordinance, 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.

C. Prohibition. Upon the effective date of this Ordinance, the planting or growing of Bamboo shall be prohibited within the Borough. Any person who thereafter plants or grows, or causes to be planted or grown, Bamboo within the Borough shall be deemed to be in violation of this Ordinance, and shall be subject to such penalties as are set forth hereunder.

D. Regulation. Any Bamboo that has been planted or otherwise permitted to grow on any property within the Borough prior to the effective date of this Ordinance may remain on such property subject to compliance with this Ordinance.

- 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 Borough, and
- 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 Borough, and
- Each Bamboo Owner shall be responsible to ensure that the Bamboo planted or growing on the property prior to the effective date of this Ordinance does not encroach or grow upon any adjoining or neighboring property or properties, including all public property and Borough right-of-ways, and
- Each Bamboo Owner shall be required to take such measures as are reasonably expected to prevent such Bamboo from invading or growing onto adjoining or neighboring properties. Such measures shall include, but not be limited to, installation of sheathing comprised of metal or other material impenetrable by Bamboo at a sufficient depth within the property line or lines where the running bamboo is planted or is growing to prevent the growth or encroachment upon adjoining or neighboring property by the Bamboo.

E. Removal.

1. In the event that Bamboo growing on a Bamboo Owner's property invades or grows on an adjoining or neighboring property that is owned or held on behalf of the Borough, the Borough shall notify the Bamboo Owner in writing that the Bamboo has invaded the Borough property and that the Bamboo Owner is responsible for the removal of such running bamboo from the Borough property. This notice shall be sent by certified mail, return receipt requested and by regular mail to the latest address of the Bamboo Owner

on file with the Borough and a copy of the notice shall also be posted at the Bamboo Owner's property.

2. In the event that the Bamboo Owner does not remove or contract for the removal of the Bamboo from the Borough property, or does not make an arrangement with the Borough for removal of such Bamboo within thirty (30) days from the date the Borough first provided notice pursuant to the above, the Borough, at its discretion, may remove or arrange for the removal of such Bamboo from the Borough property. The Bamboo Owner shall be liable and responsible to the Borough for all costs incurred in removing the Bamboo from the Borough property. Such costs may be assessed against the property of the Bamboo Owner.

F. Replanting Prohibited. Any Bamboo either planted or caused to be planted or existing on a property prior to the effective date of this Ordinance 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.

SECTION III VIOLATIONS AND PENALTIES

Any person, firm or corporation violating any of the provisions of this Ordinance shall, in addition to the other charges hereinbefore provided for each offense, upon summary conviction before any Magisterial District Justice, pay a fine not exceeding \$1,000.00 per violation and costs of prosecution, together with reasonable attorneys' fees incurred by the Borough in the enforcement proceedings; and in default of payment of the fine and costs, the violator may be sentenced to imprisonment to the extent allowed by law for the punishment of summary offenses. Each and every day in which any person, firm or corporation shall be in violation of this ordinance shall constitute a separate offense.

SECTION IV REPEALER

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

SECTION V SEVERABILITY CLAUSE

If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance. It is hereby declared as the intent of the Council of the Borough of Ligonier that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein.

SECTION VI
EFFECTIVE DATE

This Ordinance shall become effective upon enactment.


Enacted and ordained this 7 day of October, 2013.

ATTEST:

BOROUGH OF LIGONIER

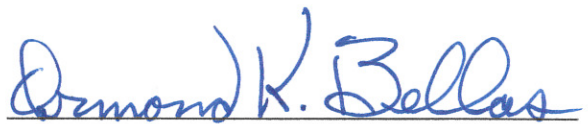


Paul A. Fry, Jr., Secretary

By: 

Robert E. Helterbran, President of Council

Examined and approved this 7 day of October, 2013.



Ormond Bellas, Mayor
Ormond K. Bellas