

PROPOSED DRAFT

BOROUGH OF GREEN LANE MONTGOMERY COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE BOROUGH OF GREEN LANE, MONTGOMERY COUNTY, PENNSYLVANIA, TO PRESERVE AND PROTECT PRIVATE AND PUBLIC PROPERTY FROM THE DAMAGING EFFECTS OF THE SPREAD OF CERTAIN INVASIVE, NONNATIVE PLANTINGS, SUCH AS BAMBOO; TO PROTECT INDIGENOUS PLANT MATERIALS FROM THE INVASIVE SPREAD OF NONNATIVE PLANTINGS, SUCH AS BAMBOO; AND TO MAINTAIN THE GENERAL WELFARE OF THE RESIDENTS OF THE BOROUGH OF GREEN LANE

ORDINANCE NO. 2023-___

Section 1. Purpose and intent.

The purpose of this chapter is to preserve and protect private and public property from the damaging effects of the spread of certain invasive, nonnative plantings, such as bamboo; to protect indigenous plant materials from the invasive spread of nonnative plantings, such as bamboo; and to maintain the general welfare of the residents of the Borough of Green Lane.

Section 2. Definitions.

For the purpose of this chapter, the following definitions shall apply:

Bamboo. Any monopodial (running) tropical or semi-tropical grasses from the genera Phyllostachys or Pseudosasa, including, but not limited to, Phyllostachys aureosulcata, yellow groove bamboo. In addition, this definition includes common bamboo, golden bamboo and arrow bamboo.

Bamboo owner. Any owner/occupant who has planted and/or grows bamboo on his or her property; who maintains bamboo on his or her property; or who permits bamboo to grow or remain on his or her property, even if the bamboo has spread from an adjoining property. A property owner and/or resident will not be considered to be a bamboo owner if:

- A. He/she has provided satisfactory proof to the Borough of Green Lane that, within a reasonable period of time after discovering the encroachment of bamboo onto the subject property from an adjoining or neighboring property, he/she advised the owner of such property of his/her objection to the encroachment of the bamboo in writing; or
- B. He/she has initiated steps for the removal of the bamboo from the subject property, including seeking available remedies at law and/or equity.

Person. Any person owning or occupying any premises within the Borough of Green Lane. For purposes of this chapter, bamboo owner responsibilities shall apply to the owner in the case of vacant premises or premises occupied by the owner, or to the occupant of the premises in case of premises occupied by other than the owner.

Section 3. Planting and growing restrictions.

- A. Any bamboo growing upon any premises in the Borough of Green Lane in violation of any of the provisions of this section is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness and comfort of the inhabitants of the Borough of Green Lane.
- B. Prohibitions; exceptions.
 - (1) The planting or growing of bamboo shall be prohibited within the Borough of Green Lane, unless: (a) The root system of such bamboo plant is entirely contained within a planter, barrier, or other vessel, located entirely above ground-level, and of such design, material, and location as to entirely prevent the spread/growth of the bamboo's root system beyond

the container in which it is planted; or (b) The root system is contained within a barrier, constructed in accordance with the following specifications, and only after a permit is issued by the Borough of Green Lane: [1] The barrier shall be composed of high-density polypropylene or polyethylene, 40 mil or heavier; [2] Portions or sheets of the barrier shall be secured or joined together by the use of stainless steel clamps or stainless steel closure strips designed for such barriers; [3] The entire perimeter of the barrier shall be more than 30 inches below ground level and more than three inches above ground level; and [4] When installed, the barrier shall slant outward from the bottom to the top.

- (2) Any person who hereafter plants or grows, or causes to be planted or grown, bamboo within the Borough of Green Lane, except as under the conditions set forth in Subsection B(1)(a) and (b) above, shall be deemed to be in violation of this chapter, and shall be subject to such penalties as are set forth herein.
- (3) For purposes of this chapter, 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. Property lines and removal of bamboo.

- (1) 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 of Green Lane. 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 public road in the Borough of Green Lane.
- (2) Whether planted or in existence before the effective date of this chapter, and/or 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.
- (3) When removing and destroying bamboo, all rhizome (underground plant stem capable of producing the shoot and root systems of a new plant) disposal must be by incineration only. No composting or trash disposal of rhizomes shall be allowed.

Section 4. Bamboo owner responsibilities.

- A. The bamboo owner shall remove, trim, or cut all bamboo growing or remaining upon such premises in violation of the provisions of Section 3 of this chapter.
- B. The bamboo owner shall be responsible for the cost of removal and/or abatement of bamboo that has encroached upon an adjoining property in violation of this chapter.
- C. Preexisting bamboo.
 - (1) Any bamboo that has been planted or otherwise permitted to grow on any property within the Borough of Green Lane prior to the effective date of this chapter may remain on such property, subject to the compliance with this chapter.
 - (2) Each bamboo owner shall be responsible to ensure that the bamboo planted or growing on his/her property prior to the effective date of this chapter 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 in accordance with the recommendations of an independent qualified expert familiar with the growth, removal and/or eradication of bamboo; 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.

- (3) Replanting prohibited. Any bamboo existing on a property prior to the effective date of this chapter may not be replanted or replaced in kind once such bamboo is or has become, for any reason, dead, destroyed, uprooted or otherwise removed except in compliance with the provisions of this chapter.

Section 5. Removal from Borough of Green Lane Property.

- A. Encroachment. In the event that bamboo growing on a bamboo owner's property invades or grows onto Borough of Green Lane property, including, but not limited to rights-of-way, the Borough of Green Lane shall notify the bamboo owner in writing that bamboo has invaded the Borough of Green Lane property and that the bamboo owner is responsible for the removal of such bamboo from the Borough of Green Lane property. 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 Borough of Green Lane property, or does not make an arrangement with the Borough of Green Lane for removal of such bamboo within 15 calendar days from the date of the encroachment notice, the Borough of Green Lane, at its discretion, may remove such bamboo from the Borough of Green Lane property. The bamboo owner shall be liable and responsible to the Borough of Green Lane for all costs associated with removing the bamboo from the Borough of Green Lane 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 and payment has been made by the Borough of Green Lane on the bamboo owner, the Borough of Green Lane may lien the property of the bamboo owner for these costs, plus interest, fees, and expenses, as allowed by law.
- C. In the event that the Borough of Green Lane is compelled to undertake the removal of bamboo, as provided for above, neither the Borough of Green Lane 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 person or entity other than the bamboo owner, the bamboo owner shall be responsible for such damages.

Section 6. Notice of violation.

- A. In the event that there is any bamboo growing or remaining upon such premises in violation of the provisions of Section 3 of this chapter, the Borough of Green Lane shall notify the bamboo owner in writing of the existence of such violation. Notice of violation shall be served by handing it directly to the bamboo owner; by mailing it to the last known address of the bamboo owner; or by posting notice of violation on the premises at a conspicuous location.
- B. Any bamboo owner receiving a notice of violation shall bring his or her property into compliance with this chapter within 15 calendar days of the bamboo owner's receipt of said notice. If the bamboo owner fails to bring his/her property into compliance with the notice and this chapter, then the Borough of Green Lane may issue a non-traffic citation against the bamboo owner.

Section 7. Violations and penalties.

- A. Any person who violates any of the provisions of this chapter shall, upon conviction, in a summary proceeding before any Magisterial District Judge of Montgomery County, be punishable by a fine of not more than \$300 and costs of prosecution, including all costs and

attorney fees, for each and every offense, provided that anyone violating a provision of this Chapter may, within five days of the notice of violation or encroachment notice, pay to the Borough of Green Lane Treasurer, under such rules and regulations as the Borough of Green Lane Borough Council may prescribe, the sum of \$20 for each offense as a penalty for and in full satisfaction of such violation. Each day that such violation is continued shall constitute a new and separate offense, punishable by like fine, penalty and imprisonment.

- B. In addition, the Borough of Green Lane Borough Council may institute suits, in equity or at law, to restrain, prevent, or abate a violation of this chapter. Such proceedings may be initiated before any court of competent jurisdiction. The expense of such proceedings, including all costs and attorney fees, shall be recoverable from the violator in any manner as may now or hereafter be provided by law.

Section 8. Repealer. All other ordinances or parts thereof which are in conflict with this ordinance are hereby repealed.

Section 9. Validity. The provisions of this ordinance are severable, and if any section, clause, sentence, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, clauses, sentences, parts, or provisions of this ordinance. It is hereby declared to be the intent of the Borough Council that this ordinance would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence, part, or provision had not been included herein.

Section 10. Effective Date. This ordinance shall become effective within the time period provided by law.

ENACTED and ORDAINED by the BOROUGH COUNCIL of THE BOROUGH OF GREEN LANE this _____ day of _____, 2023.

BOROUGH OF GREEN LANE

By: _____
Brian Carpenter, Borough Council President

By: _____
Lynn Wolfe, Borough Mayor

ATTEST:

Mary T. Garber, Borough Secretary
(Borough of Green Lane seal)