

**BOROUGH OF PATTERSON HEIGHTS
BEAVER COUNTY, PENNSYLVANIA**

ORDINANCE NO. 286

**AN ORDINANCE OF THE BOROUGH OF PATTERSON HEIGHTS,
BEAVER COUNTY, PENNSYLVANIA, AMENDING THE CODE OF
THE BOROUGH OF PATTERSON HEIGHTS, CHAPTER 94,
TITLED "NUISANCES", ADDING A NEW SECTION TO PROVIDE
FOR THE CONTROL AND REGULATION OF NEW AND
EXISTING BAMBOO WITHIN THE BOROUGH.**

WHEREAS, the Borough of Patterson Heights (hereinafter "Borough"), is a borough located in the County of Beaver, Commonwealth of Pennsylvania, incorporated as a body corporate and politic pursuant to the Borough Code, 8 Pa. C.S.A. §101, et. seq., having its office located at 600 Seventh (7th) Avenue, Beaver Falls (Patterson Heights), Pennsylvania, 15010; and

WHEREAS, pursuant to the Borough Code, 8 Pa. C.S.A. §3301.1(a), Borough Council shall enact ordinances in accordance with the Borough Code and the laws of the Commonwealth of Pennsylvania in which the powers of the Borough shall be exercised as deemed beneficial to the Borough and to provide for the enforcement powers of the Borough; and

WHEREAS, pursuant to the Borough Code, 8 Pa. C.S.A. §3301.1(b), every legislative act of Borough Council must be by ordinance; and

WHEREAS, pursuant to the Borough Code, 8 Pa. C.S.A. §3301.1(b)(4)(iii), such legislative act may include imposition of property maintenance standards within the Borough; and

WHEREAS, pursuant to the Borough Code, 8 Pa. C.S.A. §1202(4), Borough Council may require the removal of any nuisance by the owner or occupier of the grounds or remove the nuisance itself and collect the cost of removal, together with a penalty of Ten (10%) Percent of the

cost in the manner provided by law for the collection of municipal claims, action of assumpsit, or relief by a bill in equity; and

WHEREAS, further pursuant to the Borough Code, 8 Pa. C.S.A. §1202(5), Borough Council may make regulations as may be necessary for the health, safety, morals, general welfare and cleanliness and beauty, convenience, comfort and safety of the Borough; and

WHEREAS, Borough Council has determined that it is in the best interests for the health, protection, safety, welfare, and benefit of its citizens, residents, and the public at large to establish regulations relating to the planting, cultivating, and/or growing of a certain running plants and/or grasses, specifically bamboo, within the Borough, together with penalties for violations of such regulations, so as to prevent the spread of running bamboo onto neighboring property; and

WHEREAS, Borough Council has further determined that such regulations shall be codified under the *Weeds and Vegetation* sub§ of Chapter 94, titled "Nuisances" of the Code of the Borough, with new §94.22, titled **BAMBOO**.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Council of the Borough of Patterson Heights, Beaver County, Pennsylvania and it is hereby ordained and enacted by the authority of the same that:

1. A new subsection shall be created and codified under the *Weeds and Vegetation* subsection of Chapter 94, titled "Nuisances" of the Code of the Borough, with new §94.22, titled **BAMBOO**.

2. Under new §94.22, titled **BAMBOO**, shall be the following:

a. (A) **Purpose and Intent**. The Borough has determined that the planting, cultivating, and/or growing of certain running plants and/or grasses, particularly those plants commonly referred to as *bamboo*, within the Borough has a negative impact on the health, safety, and welfare of the citizens, residents and public at large, as the uncontrolled planting, cultivating, and/or growing of said bamboo plants results in the destructive spread of said plants onto public and private property and thereby

constitutes a nuisance within the Borough. The Borough has therefore determined that it is in the best interest of the citizens, residents, and public at large to control the planting, cultivating, and/or growing of said bamboo plants within the Borough, primarily by prohibiting future planting, cultivating, and/or growing of said bamboo plants within the Borough unless otherwise specified herein, and by requiring the use of barriers to prevent the invasive spread of existing bamboo plants and/or grasses within the Borough.

b. (B) Definitions.

Bamboo: Any monopodial (running) tropical or semi-tropical wood and/or grasses from the genera Bambusa including, but not limited to, Bambusa, Phyllostachys, Fallopia, and Pseudosasa, as well as common bamboo, golden bamboo, arrow bamboo, native bamboo (arundinaria gigantea) and Japanese bamboo, and including all roots, rhizomes and other plant parts.

Bamboo Owner: Any property owner or resident who has planted and/or grows bamboo, and/or who maintains bamboo on the property, and/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 of a property at which bamboo is found will be considered a Bamboo Owner, except when any property owner or resident:

1. Did not plant or grow or cause bamboo to be planted or grown on his or her property; and
2. Has provided satisfactory proof to the Borough that, within a reasonable period of time after discovering the encroachment of bamboo onto his or her property from an adjoining or neighboring property, he or she advised the owner of such property of his or her objection to the encroachment of the bamboo; and
3. Has initiated steps for the removal of the bamboo from his or her property, including remedies at law.

Borough: The Borough of Patterson Heights, Beaver County, Commonwealth of Pennsylvania.

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.

Notice: Any written notice from the Borough to the Bamboo Owner(s) directing him or her to abate, cure and/or otherwise fix 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.

Receipt of Notice: Shall be three (3) calendar days from the stamped mailing date.

c. (C) Applicability. For the purposes of this §94.22, Bamboo found growing upon a property shall constitute presumptive evidence that 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 over the subject property, subject to the definition of Bamboo Owner, herein.

d. (D) Prohibitions. Upon the effective date of this §94.22, the planting, cultivating, and/or growing of Bamboo shall be prohibited within the Borough. No persons, property owners, tenants, and/or other individuals, entities, and/or corporations having control of and/or over any property located within the Borough shall plant, cultivate, and/or cause to grow any Bamboo on any real property in the Borough. Any person who plants, cultivates, and/or grows, and/or causes or allows to be planted, cultivated, and/or grown Bamboo within the Borough, shall be deemed to be in violation of this §94.22 and shall be subject to such penalties as set forth herein, subject to the exceptions in (E)(II), herein.

e. (E) Regulations.

(I) General. This §94.22 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 his or her own property that has encroached from a neighboring or adjacent property.

(II) Exceptions.

a. Notwithstanding the prohibitions set forth in Subsection (D) directly above, upon the effective date of this §94.22, persons, property owners, tenants, and/or other individuals, entities, and/or corporations having control of and/or over any property located within the Borough shall be permitted to plant, cultivate, and/or cause to grow Bamboo on real property within the Borough only if:

i. 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

ii. 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 Borough:

1. The barrier itself shall be composed of a high-density polypropylene or polyethylene, with a thickness of 40 mil, or more;
2. 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;
3. The barrier shall be installed not less than thirty (30) inches deep;
4. The barrier shall be circular or oblong shaped;
5. Not less than three (3) inches of the barrier shall protrude above ground level around the entire perimeter of the Bamboo; and
6. When installed, the barrier shall slant outward from the bottom to top.

iii. Any and all Bamboo existing pursuant to this Exception a., 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, nor within forty (40) feet of any roadway, cartway, street, storm sewer, sanitary sewer, and/or public water facilities within the Borough.

b. Any Bamboo that has been planted other otherwise permitted to grow on any property within the Borough prior to the effective date of this §94.22 may remain on such property, subject to compliance with the following:

i. The Bamboo shall not be 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 Borough.

ii. 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 Borough shall remove such Bamboo and shall abate, cure and otherwise fix 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 Borough.

iii.

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 §94.22 is maintained such that it does not encroach or grow upon any adjoining property or properties, whether public or private, including all public property and public rights-of-way. If the Borough 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 (E)(II)(a)(ii), herein.

f. **(F) Removal.**

(I) In the event that Bamboo growing on a Bamboo Owner's property invades or grows on an adjoining or neighboring property, the Borough shall notify the Bamboo Owner in writing that the Bamboo has invaded the adjoining or neighboring property and that the Bamboo Owner is responsible for the removal of such Bamboo from the property. The Notice shall also be sent via regular U.S. Mail to the latest address of the Bamboo Owner's property on file with the Borough, along with a copy of the Notice being posted at the Bamboo Owner's property.

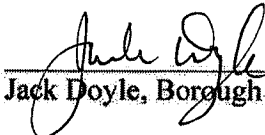
(II) In the event that the Bamboo Owner does not remove and/or remediate in compliance with this §94.22, contact the Borough for removal of said Bamboo, or make arrangements with the Borough for the removal of said Bamboo, within thirty (30) days from the date of Receipt of Notice as defined herein, the Borough, at its discretion, may remove or arrange to remove said Bamboo from the Bamboo Owner's property. The Bamboo Owner shall be liable and responsible to the Borough for all costs incurred in removing the Bamboo from the property, 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 Borough to abate or remove any Bamboo within the Borough.

g. **(G) Replanting Prohibited.** Any Bamboo either planted or caused to be planted or existing prior to the effective date of this §94.22 may not be replanted or replaced in kind once such Bamboo is or has become, for any reason, dead, destroyed, uprooted, or otherwise removed, unless such replanting is consistent with the provisions of (E)(II)(a)(ii), herein.

- h. (H) Violations and Penalties. In addition to the remedy set forth in (F)(II) (Removal) herein, any person, property owner, tenant, and/or other individual, entity, and/or corporation who violates any of the provisions of this §94.22 shall, upon conviction before any Magisterial District Judge, be guilty of a summary offense and shall be required to pay a fine not exceeding One Thousand (\$1,000.00) Dollars per violation/offense, court costs and reasonable attorney fees incurred by the Borough in the enforcement of this §94.22, and imprisonment to the extent allowed by the law for punishment of a summary offense. Each and every day which any person, property owner, tenant, and/or other individual, entity, and/or corporation is in violation of this provisions of this §94.22 shall constitute a separate offense. The Borough further expressly reserves all the enforcement rights afforded it in the Borough Code, 8 Pa. C.S.A. §3321 through and including 8 Pa. C.S.A. §3124.
- i. (I) Conflicts. Any Ordinance or parts thereof 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.
- j. (J) Severability. In the event that any section, sentence, clause, phrase, or word of this §94.22 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 §94.22.
- k. (H) Effective Date. This section shall become effective immediately.


ORDAINED AND ENACTED by the Council of the Borough of Patterson Heights this
21st day of August, 2024.

ATTEST:



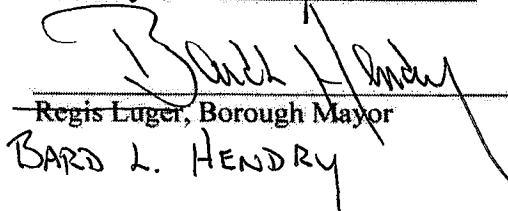
Jack Doyle, Borough Secretary

BOROUGH OF PATTERSON HEIGHTS



William A. Starn, Borough Council President

READ AND APPROVED by me, this 18th day of September, 2024.



Regis Luger, Borough Mayor
BARD L. HENDRY

CERTIFICATION OF THE BOROUGH

I hereby certify that the foregoing Ordinance was advertised in the Beaver County Times on July 24, 2024, a newspaper of general circulation in the municipality, and was duly enacted and approved as set forth a regular meeting of the Borough of Patterson Heights on Wednesday, August 21, 2024.

Jack Doyle
Jack Doyle, Borough Secretary

(SEAL)