

BOROUGH OF RUTLEDGE

ORDINANCE NUMBER 461

AN ORDINANCE OF THE BOROUGH OF RUTLEDGE, DELAWARE COUNTY, PENNSYLVANIA, ADOPTING REGULATIONS FOR THE PLANTING, GROWING, OR CULTIVATING OF BAMBOO.

THE BOROUGH OF RUTLEDGE HEREBY ORDAINS:

SECTION 1. Purpose.

This Ordinance is adopted to control the planting, cultivating or growing of bamboo in the Borough of Rutledge; and to require barriers to prevent the spread of existing bamboo into other areas of the Borough.

SECTION 2. Regulation of the Planting, Growing or Cultivating of Bamboo.

Subject to certain exemptions set forth in this Ordinance, no persons, or other property owners or tenants shall plant, cultivate, or cause to grow, any bamboo on any lot or parcel of ground in the Borough of Rutledge, subject to the following exceptions:

1. The root system of such bamboo plants is entirely contained within an above ground level planter, barrel, or other vessel of such design, material, and location as to entirely prevent the spread of growth of the bamboo plants' root system beyond the container in which it is planted; or
2. The root system is contained within a barrier, constructed in accordance with the following specifications, and only after a compliance inspection is performed and a permit issued by the code enforcement officer:
 - 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;
 - f. When installed, the barrier shall slant outward from the bottom to top.
3. Whether planted or growing in a container, as described herein, all bamboo plants shall be located, trimmed and maintained so that no part of the plant shall be closer than 10 feet from any property line.

SECTION 3. Exemptions.

This Ordinance shall not apply to any land owner or possessor who, prior to the effective date of this ordinance, has planted or caused to grow any bamboo on any property within the borough limits unless the code enforcement officer determines on his own or upon complaint from any abutting or nearby property owner, that any portion of such bamboo has been allowed to grow upon, extend roots across, or extend branches, stalks or leaves over any public way or any private property not owned by or in the possession of such land owner or any possessor of said land.

SECTION 4. Complaint, Notice, Order for Removal and Compliance.

Whenever a complaint is received by the Borough regarding the encroachment of any bamboo plant or root, or whenever the Borough on its own observations and inspections, determines that there is an encroachment of bamboo plants or roots on to the property of another landowner, or an encroachment onto any public street or sidewalk, the Borough shall give notice to the landowner, or tenant in possession of the property, or both, which notice shall be substantially as follows:

1. The Notice shall be mailed by certified mail, return receipt requested, properly addressed and with sufficient postage, and by first class mail, and the Notice shall be posted on the property in a conspicuous place. Notice by certified mail shall be deemed complete on the date of personal delivery, or the date the certified mail is marked refused or unclaimed or otherwise undeliverable by the United States Post Office.
2. The Notice shall specify the nature of the violation.
3. The Notice shall state that the violation must be corrected within thirty (30) days from the date of mailing, or posting the property, whichever is later.
4. The Notice shall state specifically what must be done by the responsible party to correct the violation.
5. The Notice shall state that failure to comply within the thirty days will result in the removal of the violation by the Borough, or in the issuance of a citation for each day the violation exists, the institution of civil proceedings against the proper parties for injunctive or other civil relief, as well as the criminal penalties for such violation.

SECTION 5. Repealer.

All Ordinances, Resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 6. Penalties.

- A. Any person determined by any court of competent jurisdiction to have

violated this ordinance shall be subject to pay a fine of not less than \$25.00 per day, nor more than \$100.00 per day, for each day the violation existed after the date for removal as set forth in the notice which was sent to the violator, and received by the violator. Each day of a continuing violation shall constitute a separate offense, for which a fine can be levied.

B. If the violation is not remedied within the time set forth in the aforesaid notice, the Borough is hereby authorized to remove or have removed any encroaching bamboo and to take all reasonable steps to eradicate the re-growth of the bamboo on neighboring property, or public rights of way, including sidewalks, and to restore such land to its normal condition, prior to such removal and eradication.

C. The Borough is authorized to remove and eradicate the plants causing the encroachment, upon the failure of the responsible party to properly contain the plants in accordance with the notice provided by the Borough in accordance with the terms of this Ordinance.

D. The cost of the corrective action together with any civil penalties, legal fees, and other costs, shall be recoverable from the responsible party.

SECTION 7. Effective Date.

This Ordinance shall become effective thirty (30) days after it is passed by Council, signed by the President of Council and Approved in writing by the Mayor.

ENACTED and ORDAINED this 19th day of December 2011

BOROUGH OF RUTLEDGE