

# WHITPAIN TOWNSHIP

ORDINANCE NO. 404

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AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF WHITPAIN AT PART II [GENERAL LEGISLATION], CHAPTER 155 [WEEDS AND VEGETATION], SECTION 1 [UNCONTROLLED GROWTH OF CERTAIN VEGETATION PROHIBITED] ADDING A NEW SUBSECTION B TO PROVIDE FOR REGULATION OF BAMBOO

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## CERTIFICATION

I, ROMAN M. PRONCZAK, BEING DULY SWORN ACCORDING TO LAW, DEPOSE AND SAY THAT I AM THE TOWNSHIP MANAGER IN WHITPAIN TOWNSHIP, MONTGOMERY COUNTY, PENNSYLVANIA AND THAT ATTACHED HERETO IS A TRUE AND COMPLETE CORRECT COPY OF ORDINANCE NO. 404.

  
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Roman M. Pronczak, P.E., Township Manager

October 19, 2022

ENACTED: October 18, 2022

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**WHEREAS**, The Board of Supervisors of Whitpain Township is duly empowered by the Second Class Township Code, 53 P.S. § 65101, *et seq.*, to enact certain regulations relating to the public health, safety welfare of the residents of Whitpain Township;

**WHEREAS**, Certain types of bamboo grow and spread vigorously by encroaching onto neighboring properties and continue to multiply, which can be a nuisance to neighbors;

**WHEREAS**, The rootstalks of bamboo form dense colonies that crowd out other understory plants, thereby decreasing biodiversity;

**WHEREAS**, Bamboo is extremely difficult to remove, and the process for removal may take multiple years and may include measures that are harmful to the environment such as herbicide use or burning;

**WHEREAS**, The Second Class Township Code authorizes the Board of Supervisors to make, amend and adopt amendments to the Whitpain Code of Ordinances, as amended, that are consistent with the Constitution and laws of the Commonwealth that it deems necessary for the proper management and control of the Township and the best interests of its residents;

**WHEREAS**, The Board of Supervisors of Whitpain Township has determined that certain amendments to the Whitpain Township Code of Ordinances, as amended, are required for the orderly administration of the laws of Whitpain Township; and

**WHEREAS**, The Board of Supervisors of Whitpain Township has determined that certain amendments to the Whitpain Township Code of Ordinances, as amended, are required to provide for clarity in the administration of the laws of Whitpain Township.

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**NOW, THEREFORE, IT IS HEREBY ENACTED AND ORDAINED** by the Whitpain Township Board of Supervisors that the Township's Code is amended as follows:

**SECTION 1.****Amendment to Chapter 155 [Weeds and Vegetation], Section 1  
[Uncontrolled Growth of Certain Vegetation Prohibited], to  
include a new Subsection B to regulate the growth of bamboo.**

The Code of the Township of Whitpain, Part II [General Legislation], Chapter 155 [Weeds and Vegetation], Section 1 [Uncontrolled growth of certain vegetation prohibited], is hereby restated and amended to add the underlined language (example) as follows:

**§ 155-1. Uncontrolled growth of certain vegetation prohibited**

A. General regulation. It shall constitute a public nuisance for any person, firm or corporation, being the owner or occupant of premises situate in Whitpain Township, to permit the growth or accumulation of Canada thistle, chicory, succory, blue daisies, weeds, grasses or other noxious or objectionable vegetation on said premises in excess of 12 inches in height. Notwithstanding the foregoing prohibition, the following areas shall be exempt from such cutting or trimming requirements, except that Canada thistle, chicory, succory, blue daisies, weeds or other noxious or objectionable vegetation shall be so controlled in such areas: land actively cultivated for crop production, land actively utilized as pasture or meadows, and non-noxious grasses planted for some useful or ornamental purpose.

B. Bamboo.

(1) Definitions

**BAMBOO**

Any monopodial (running) bamboo of the tribe "bambuseae", including, but not limited to, the genus Phyllostachys, and Pseudosasa as well as the Common Bamboo, Golden Bamboo, and Arrow Bamboo. Bamboo shall also be considered to include native bamboo (arundinaria gigantea).

**BAMBOO OWNER**

Any property owner or resident who has planted and/or grows Bamboo, or maintains Bamboo on their property, or permits Bamboo to grow or remain on the property even if the Bamboo has spread from an adjoining property. Any owner of or resident at property on which Bamboo is found will be considered a Bamboo owner, except any property owner or resident who:

- [1] Did not plant or grow or cause Bamboo to be planted or grown on their property, and
- [2] Has provided satisfactory proof to the Township that, within a reasonable amount of time after discovering

the encroachment of Bamboo onto the property from an adjoining neighbor, they advised the owner of such property of their objection to the encroachment of Bamboo, and

[3] Has initiated steps for the removal of the Bamboo from their property.

(2) **Prohibited Acts.** It is hereby unlawful for any person, firm or corporation, being an owner of any improved or unimproved lot, to permit bamboo to be planted or grown on the lot, or to spread to an adjoining lot, it being the intent to prohibit Bamboo within the Township, except as provided herein. Bamboo found growing on a property shall constitute presumptive evidence that Bamboo was planted and/or grown by and/or with the consent of the Bamboo Owner. Bamboo is hereby considered a noxious or objectionable vegetation unless grown under the conditions of this Subsection B.

(3) **Regulation of Bamboo.** The following special regulations pertain to the planting and maintenance of Bamboo.

(a) Any Bamboo that has been planted or otherwise permitted to grow on a lot within the Township prior to the effective date of this Section may remain on such property subject to compliance with this Section.

[1] Bamboo shall not be planted, maintained, or otherwise permitted to exist within 40 feet of the edge of the pavement or traveled portion of a public road in the Township, within 40 feet of the property line of any Township/public property, within 40 feet of any roadway, cartway, street, storm sewer, sanitary sewer and/or public water facilities within the Township, or within 25 feet of the property line of an adjoining or neighboring property, and

[2] 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. When 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 40 feet of the edge of the pavement or traveled portion of a public road in the Township, 40 feet of the property line of any Township/public property, 40 feet of any roadway, cartway, street, storm sewer, sanitary sewer and/or

public water facilities within the Township, or 25 feet of the property line of an adjoining or neighboring property.

[3] All other bamboo not in compliance with (i) and (ii) must be removed in accordance with the provisions of this Chapter. Each Bamboo Owner shall be required to take such measures as are reasonably expected to prevent such Bamboo from invading the setbacks set forth above. Such measures shall include but are not 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 such growth or encroachment prohibited herein. 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 (i) and (ii) above.

(b) Removal

[1] In the event that Bamboo growing on a Bamboo Owner's property invades or grows on adjoining or neighboring property that is owned or held on behalf of the Township, the Township will notify the Bamboo Owner in writing that the Bamboo has invaded the Township Property and that the Bamboo Owner is responsible for the removal of such running Bamboo from the Township property. This notice shall be sent via certified mail, return receipt requested and by regular mail to the latest address of the Bamboo Owner on file with the Township 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 Township Property, or does not make an

arrangement agreeable to the Township for removal of such Bamboo within sixty (60) days from the date the Township first provided notice pursuant to the above, the Township, at its discretion, may remove or arrange for the removal of such Bamboo from the Township property. The Bamboo Owner shall be liable and responsible to the Township for the cost incurred for removal of the Bamboo from the Township Property. Such costs may be assessed against the property of the Bamboo Owner.

- [3] The Board of Supervisors may also pursue the remedies provided by Section 155-4 and 155-5 of this Chapter.
- [4] 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.

(c) Replanting prohibited. Any Bamboo either planted or caused to be planted or existing on a property prior to the effective date of this Section may not be replanted or replaced once such running bamboo is or has become, for any reason, dead, destroyed, uprooted, or otherwise removed.

## **SECTION 2. Repeal and Ratification.**

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. Any other terms and provisions of the Township's Code unaffected by this Ordinance are hereby reaffirmed and ratified.

## **SECTION 3. Severability.**

Should any section, paragraph, sentence, clause, or phrase in this Ordinance be declared unconstitutional or invalid for any reason, the remainder of the Ordinance shall not be affected thereby and shall remain in full force and affect, and for this reason the provisions of this Ordinance shall be severable.

## **SECTION 4. Effective Date.**

This Ordinance shall become effective 5 days after enactment.

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**ORDAINED AND ENACTED** this 18th day of October 2022, by the Whitpain Township Board of Supervisors.

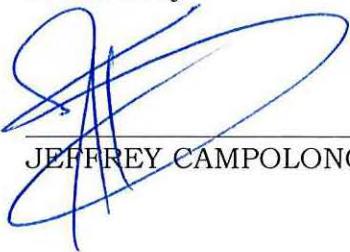
**WHITPAIN TOWNSHIP  
BOARD OF SUPERVISORS**



KIMBERLY J. KOCH, *Chair*

[Seal]

Attested by:



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JEFFREY CAMPOLONGO, *Secretary*