

NEW BRITAIN BOROUGH
BUCKS COUNTY, PENNSYLVANIA

ORDINANCE 380

AN ORDINANCE OF THE BOROUGH OF NEW BRITAIN, BUCKS COUNTY, COMMONWEALTH OF PENNSYLVANIA; AMENDING THE NEW BRITAIN BOROUGH CODE TO INCLUDE A NEW CHAPTER 177 *WEEDS AND VEGETATION*; PROVIDING FOR REGULATIONS TO CONTROL THE PLANTING, CULTIVATING, OR GROWING OF CERTAIN RUNNING BAMBOO GRASSES AND OTHER NOXIOUS AND INVASIVE VEGETATION IN THE BOROUGH; PROVIDING FOR DEFINITIONS; PROHIBITING THE PLANTING OR GROWING OF BAMBOO AND OTHER NOXIOUS AND INVASIVE VEGETATION IN THE BOROUGH; PROVIDING FOR CERTAIN EXCEPTIONS; PROVIDING FOR REGULATIONS REQUIRING THE REMOVAL OF BAMBOO AND OTHER NOXIOUS AND INVASIVE VEGETATION; PROVIDING FOR PENALTIES FOR VIOLATION OF THIS ORDINANCE; REPEALING INCONSISTENT ORDINANCES OR PARTS OF ORDINANCES; PROVIDING FOR A SAVINGS CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the New Britain Borough Council is empowered to adopt certain ordinances and to promulgate certain regulations to benefit the general health, safety and welfare of the Borough; and

WHEREAS, the Borough desires to establish certain regulations concerning the cultivation of weeds and vegetation within the Borough, and to establish certain penalties for violation of such regulations; and

WHEREAS, the Borough Council desire to enact code provisions to prevent the planting, cultivating or growing of certain running bamboo grasses and other noxious and invasive species, which the Borough has determined to be a nuisance and a public hazard; and

NOW, THEREFORE, it is hereby ORDAINED and ENACTED by the Borough Council of New Britain Borough, Bucks County, as follows:

SECTION I

The Code of New Britain Borough is hereby AMENDED to include the following new Chapter 177 – *Weeds and Vegetation*, including the following provisions:

§177-1 Purpose and Intent.

The Borough Council of New Britain Borough recognizes that a variety of vegetation in the Borough is desirable as it promotes soil and air quality, prevents erosion, and is aesthetically pleasing. Borough Council also recognizes that bamboo and other noxious

or invasive plants do not promote a variety of vegetation. In some cases noxious or invasive plants emit pollens and irritants into the air; in other cases noxious or invasive plants overtake native plants and wildflowers. Therefore it is the intent of this ordinance to encourage the propagation of wildflowers and native species by controlling the planting, cultivating, or growing of certain running bamboo grasses and certain other noxious and invasive species in the Borough, and requiring barriers to prevent the invasive spread of existing running bamboo and other noxious and invasive species into other areas of the Borough.

§ 177-2 Definitions.

BAMBOO. Any monopodial (running) tropical or semi-tropical grasses from the general Bambusa, including but not limited to Bambusa Phyllostachys, Fallopiia and Pseudosasa as well as Common Bamboo, Golden Bamboo, Arrow Bamboo, and Japanese Bamboo.

NOXIOUS AND INVASIVE SPECIES. In addition to Bamboo, any species listed on the most recent Pennsylvania Noxious Weed Control List, maintained by the Pennsylvania Department of Agriculture, or its equivalent; also the following species:

1. Cannabis Satvia, commonly known as marijuana
2. Cirsium Arvense, commonly known as Canadian thistle
3. Rosa Multiflora, commonly known as multiflora rose
4. Sorghum Halepense, commonly known as Johnson grass
5. Carduus Nutans, commonly known as musk thistle
6. Cirsium Vulgare, commonly known as bull thistle
7. Datura Stramonium, commonly known as jimson weed
8. Polygonum Perfoliatum, commonly known as mile-a-minute
9. Puerria Lobata, commonly known as kudzu vine
10. Sorghum Bicolor, commonly known as shattercane
11. Heracleum Mantegazzianum, commonly known as giant hogweed
12. Galega Officinalis, commonly known as goatsrue
13. Lythrum Salicaria, commonly known as purple loosestrife
14. Polygonum Cuspidatem, commonly known as Japanese knotweed

PROPERTY OWNER. Any legal owner, resident, occupant, or responsible entity, who has planted and/or grows Bamboo or other Noxious and Invasive Species, or who maintains Bamboo or other Noxious or Invasive Species on his/her property, or who permits Bamboo or other Noxious or Invasive Species to grow or remain on the property even if the Bamboo or other Noxious or Invasive Species has spread from an adjoining property. Any property owner or resident at property on which Bamboo or other Noxious or Invasive Species is found will be considered a Property Owner, except any property owner, resident, occupant, or responsible entity who/that:

1. Has provided satisfactory proof to the Borough that, within a reasonable period of time after discovering the encroachment of Bamboo or other

Noxious or Invasive Species onto the property from an adjoining or neighboring property, he/she/it has advised the owner of such property of his/her/its objection to the encroachment; and

2. has initiated steps for the removal of the encroaching Bamboo or other Noxious or Invasive Species, including notifying the Borough of the encroachment or otherwise exercising private remedies at law.

§ 177-2 General Provisions.

- A. For purposes of this section, Bamboo or other Noxious and Invasive Species found growing upon a property shall constitute presumptive evidence that the Bamboo or other Noxious and Invasive Species was planted and/or grown by and/or with the consent of the property owner, tenant, occupant, or other individual, entity or corporation having control over the property.
- B. Prohibition. Except as provided herein, upon the effective date of this section, the planting or growing of Bamboo or other Noxious and Invasive Species shall be prohibited within the Borough and no persons, property owners, tenants or other individual entities or corporations having control of property within the Borough shall plant, cultivate or cause to grow any Bamboo or other Noxious and Invasive Species on any lot or parcel within the Borough, including the spread of Bamboo or other Noxious and Invasive Species onto the property of another. Any person who plants or grows, or causes or allows to be planted or to be grown, Bamboo or other Noxious or Invasive Species within the Borough shall be deemed to be in violation of this section and shall be subject to the penalties provided herein.
- C. This Ordinance shall not be deemed to alter any rights of any property owner at common law or otherwise to recover the cost of removal of Bamboo or other Noxious or Invasive Species on their property that has run over from a neighboring property.
- D. Any Bamboo that has been planted or otherwise permitted to grow on any property within the Borough prior to the effective date of this section may remain on such property only subject to compliance with the following:
 1. The Bamboo shall not be closer than ten (10) feet from any property line, pavement or sidewalk and no closer than forty (40) feet from any public or private roadway within the Borough.
 2. Any Property Owner whose property contains Bamboo shall remove and abate the growth of any Bamboo within forty (40) feet of the

edge of pavement or traveled portion of any roadway within the Borough.

3. Each Property Owner shall be responsible to ensure that the Bamboo planted or growing on the property prior to the effective date of this section 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.
4. If the Borough determines that any portion of such Bamboo has been allowed to grow upon, extend root across, or extend branches, stalks, or leaves over any public right of way or any private property not owned by or in possession of the Property Owner, the Property Owner shall be required to comply with the provisions of § 177-2.B and § 177-2.D hereof.

§ 177-3 Notice of Violation and Removal.

- A. The New Britain Code Enforcement Officer, or any officer or employee of the Borough of New Britain designated by Borough Council for this purpose, is authorized to give notice, by personal service or by United States Mail, to the Property Owner, of any premises in violation of this Ordinance, directing and requiring compliance with the terms of the Ordinance within five (5) days of receipt of the notice. Whenever, in the judgement of the New Britain Borough Code Enforcement Officer, or the designee thereof, it shall appear to be impractical to give notice as above provided, notice may be given by posting conspicuously on the property where such offending plants exist, a notice or order directing and requiring that such offending plants be removed or abated within ten (10) days.
- B. In the event the Property Owner does not remove or abate, or contract for the removal or abatement, of the offending plants within the time period provided in the notice, the Borough may take such steps it deems appropriate to abate the violation, including removal or abatement of the plant(s) by Borough personnel, removal or abatement of the plant(s) by contract, charging the costs of removal or abatement as liens against the property remediated or filing an appropriate action in equity to abate the violation. Nothing herein shall be construed to create an affirmative obligation on the part of the Borough to abate or remove any Bamboo or other Noxious or Invasive Species within the Borough.

§ 177-4 Replanting Prohibited.

Any Bamboo or other Noxious or Invasive Species which is removed after the effective date of this section, whether by death, destruction or other method, may not be replanted unless such replanting is consistent with the provisions of this section that apply to new plantings.

§ 177-5 Violations and Penalties.

Any person, firm or corporation found to be in violation of any of the terms, conditions or provisions of this Ordinance shall, in addition to any other remedies provided hereunder, upon conviction before any Magisterial District Judge, be guilty of a summary offense and shall be required to pay a fine not exceeding \$1,000.00 plus the costs of prosecution. Each day that a violation continues after due notice shall constitute a separate offense.

SECTION II Repealer

All ordinances, code sections or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

SECTION III Savings Clause

It is hereby declared to be the legislative intent that if a court of competent jurisdiction declares any provision of this Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Ordinance shall continue to be separately and fully effective.

SECTION IV Effective Date

This Ordinance shall become effective immediately.

ORDAINED and ENACTED an ordinance of the Borough of New Britain this 12th day of April, 2017.

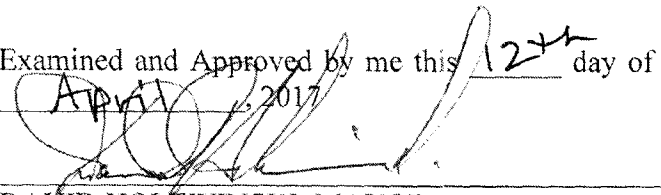
BOROUGH OF NEW BRITAIN:

Robyne J. Kelemen
ROBYNE KELEMEN, COUNCIL PRESIDENT

ATTEST:

Carrie Gamble
CARRIE GAMBLE, BOROUGH SECRETARY

Examined and Approved by me this 12th day of April, 2017



DAVID HOLEWINSKI, MAYOR