BOROUGH OF HELLERTOWN

ORDINANCE NO.: 830

AN ORDINANCE OF THE BOROUGH OF HELLERTOWN, NORTHAMPTON COUNTY, PENNSYLVANIA AMENDING CHAPTER 310 ENTITLED PROPERTY MAINTENANCE AND AMENDING CHAPTER 278 ENTITLED NUISANCES OF THE CODE OF THE BOROUGH OF HELLERTOWN TO PERMIT THE REGULATIONS GOVERNING THE CULTIVATION OF BAMBOO.

WHEREAS, the Borough of Hellertown is empowered to establish a nuisance ordinance and to regulate the cultivation of bamboo within the Borough and to issue fines and enforce ordinances per 8 Pa. C.S.A. 1202 and 3321 and per the powers set forth in the Pennsylvania Municipal Planning Code.

WHEREAS, the Borough of Hellertown believes it is in the Public's best interest to establish specific regulations to set forth criteria regulating bamboo for the health, safety and welfare of all Borough residents.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE BOROUGH OF HELLERTOWN AND IT IS ENACTED AND ORDAINED AS FOLLOWS:

SECTION 1. Chapter 310 of the Hellertown Borough Code or Ordinances is hereby amended by adding a "Cultivation of Bamboo" regulation as new Section 310-4 as set forth below:

310-4 CULTIVATION OF BAMBOO

310-4 A. Purpose.

The provisions of this Section are enacted to control planting, growing or cultivating of bamboo in the Borough of Hellertown so as to prevent the spread of noxious vegetation and the trespass of noxious vegetation onto public and private properties and onto public rights of way. Therefore, it is the intent of this Section to ensure that the vegetation named herein do not become a threat to the public health, safety and welfare.

310-4 B. Definitions.

PLANT – A living organism exemplified by trees, flowers, grasses, shrubs, herbs, mosses, ferns, et al. The word "Plant" shall be understood to mean any and all parts of a plant, including stem and stalk, leaves, seed pods, flowers and fruit, and roots.

RESTRICTED VEGETATION – Any plant that is determined by the Borough of Hellertown Council or the Commonwealth of Pennsylvania to be injurious to public health,

crops, livestock, agricultural land or other property. Such Restricted Vegetation is listed in 310-4C.

310-4 C. Vegetation Restricted.

All species of Running Bamboo, including but not limited to Acidosasa, Arundinaria, Bashania, Brachystachyum, Chimonobambusa, Gelidocalamus, Indocalamus, Indosasa, Ochlandra, Phyllostachys, Pleioblastus, Pseudosasa, Sasa, Sasaella, Semiarundinaria, Shibataea, Sinobambusa, and those commonly known as Common Bamboo, Golden Bamboo and Arrow Bamboo.

310-4 D. Regulations Governing Running Bamboo.

(1) No person, firm, corporation, property owner, or possessor of property shall plant, cause to grow or cultivate any Running Bamboo on any lot or parcel of ground, subject to the following exceptions:

(a) The root system of the Running Bamboo plants is entirely contained within an above ground planter, barrel or other container of such design, material and location as to prevent the spread of the Running Bamboo root system beyond the confines of the container in which it is contained; or

(b) The root system is planted in the ground but is entirely contained within a barrier, constructed in accordance with the following specifications:

(i) The barrier itself shall be composed of a high-density polypropylene or polyethylene, with a thickness of at least 40 mils;

(ii) The barrier shall be secured and joined together by stainless steel clamps or stainless steel closure strips designed to be used with such barriers;

(iii) The barrier shall be installed at least thirty (30) inches deep;

(iv) At least three (3) inches of the barrier must protrude above ground level around the entire perimeter of the Running Bamboo;

(v) The barrier shall slant outward from the bottom to top.

(c) Whether planted or growing in a container, as described herein, all Running Bamboo plants shall be located, controlled and maintained so that no part of the plant is closer than ten (10) feet from any public right-of-way or property line or encroaching upon adjacent property.

(2) The owner of any property in the Borough of Hellertown on which Running Bamboo is growing in violation of Section 310-4D(1)(c) shall remove all parts of the Running Bamboo plant(s) that are closer than ten (10) feet from any public right-of-way or property line.

If the violation is the result of encroachment of the root system, the owner of the property shall remove all Running Bamboo plant(s) from the property or shall install the barrier described in 310-4D(1)(b).

310-5 E. Complaint, Notice, Order for Removal and Compliance.

(1) Whenever a complaint is received by Hellertown Borough regarding the encroachment of any Restricted Vegetation onto a public right-of-way and/or adjacent property, or whenever Hellertown Borough on its own observation and inspections determines that there is an encroachment of Restricted Vegetation onto a public right-of-way, Hellertown Borough shall take the necessary steps to verify that a violation of this Ordinance has occurred. If a violation has occurred, Hellertown Borough shall give notice of the property owner to control and/or remove the offending restricted vegetation plant.

(a) The Notice shall be mailed by certified mail, return receipt requested, properly addressed and with sufficient postage. Notice by certified mail shall be deemed complete on the date of personal delivery. If the certified mail is marked "refused", "unclaimed" or otherwise undeliverable by the United States Postal Service, notice will be sent by regular mail and by posting the notice on the property.

(b) The Notice shall specify the nature of the violation.

(c) The Notice shall state specifically what must be done by the responsible party to correct the violation and come into compliance with this Ordinance. The Notice shall specify, as appropriate, the practices and processes to be followed and shall set a timeframe for compliance.

(d) The Notice shall state that failure to comply with the compliance timeframe will result in the removal of the Restricted Vegetation by Hellertown Borough and that the responsible party will be billed for all costs incurred by Hellertown Borough, may, in its discretion elect to issue a citation daily until such time as the offending Restricted Vegetation or root system is removed by the property owner, and the Notice should so advise the responsible party.

(2) Compliance with the provisions of the Notice shall be subject to the inspection of the Hellertown Borough Code Enforcement Officer.

310-4 F. Penalties.

Violations and penalties. Any person who violates or permits a violation of this section shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by fine of not less than $100.00 nor more than $1,000.00, plus cost of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to

continue shall constitute a separate offense and each subsection of this section is violated shall also constitute a separate offense.

SECTION 2: Chapter 310-4 shall be amended to become new Section 310-5 and be modified as follows:

~~310-4~~ 310-5. Effect on other related ordinances.

Nothing in this chapter shall prevent the Borough from enforcing a violation of grass and other vegetation through the Property Maintenance Code and/or the Nuisance Ordinance. Nothing shall prevent the Borough from enforcing a violation of the Cultivation of Bamboo through the Nuisance Ordinance.

SECTION 3: Chapter 278, entitled Nuisance Subsection 5 is hereby modified to add new Section 278-5(Q) to read as follows:

The improper use and/or allowing the cultivation of Bamboo which leads to the encroachment of bamboo, as defined in Section 310-4, and subject to the exceptions set forth in Section 310-4D upon public grounds, sidewalks, pavement, highways, alleys, thoroughfare, curb, sidewalk, lane, alley, park, square or any public building or public place.

SECTION 4: Any and all ordinances and/or parts hereon which are inconsistent herewith are hereby and the same repealed.

ENACTED AND ORDAINED this _____ day of _____, 2019.

ATTEST:

Cathy Hartranft
Borough Manager

BOROUGH OF HELLERTOWN

Thomas S Rieger
Thomas Rieger, President Borough Council

David J. Heydt
MAYOR