BOROUGH OF HILLSDALE
COUNTY OF BERGEN
STATE OF NEW JERSEY
ORDINANCE 14-11
(Introduction)

AN ORDINANCE OF THE BOROUGH OF HILLSDALE, COUNTY OF BERGEN, STATE OF NEW JERSEY ADOPTING REGULATIONS FOR THE PLANTING, GROWING AND/OR CULTIVATING OF BAMBOO

BE IT ORDAINED by the Borough Council of the Borough of Hillsdale, County of Bergen, State of New Jersey as follows:

SECTION 1. **Purpose.**

This Ordinance is adopted to control the planting, cultivating and/or growing of bamboo in the Borough of Hillsdale 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, residents, citizens, property owners and/or tenants of the Borough shall plant, cultivate, or cause to grow, any bamboo on any lot and/or parcel of ground anywhere within the geographic boundaries of the Borough of Hillsdale, except for:

1. Where 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 beyond which it is planted,

2. 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 ten (10) feet from any property line.

SECTION 3. **Exemptions.**

This Ordinance shall not apply to any land owner or possessor of said land 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/her 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. If such occurs, the provisions of Section 4 shall apply.

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 land owner, or tenant in possession of the property, or both, the Borough shall cause Notice to be served and the following actions occur:

1. The Notice shall be mailed by Certified Mail, Return Receipt Requested, properly addressed and with sufficient postage, and also by First Class mail. 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. First Class mail shall be deemed delivered within five (5) calendar days of its being mailed by the Borough.

2. The Notice shall specify the nature of the violation(s).

3. The Notice shall state that the violation(s) must be corrected within twenty (20) calendar days from the date of the received or returned mailing.

4. The Notice shall state specifically what must be done by the responsible party to correct the violation(s).

SECTION 5. **Repealer.**

All Ordinances of the Borough of Hillsdale which are inconsistent with the provisions of this Ordinance are hereby repealed as 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 Twenty-Five ($25.00) Dollars per day nor more than One Hundred ($100.00) Dollars per day, for each day the violation exists after the date for removal as set forth in the Notice which was sent to violator and received by the violator as defined above. Each day of a continuing violation shall constitute a separate offense, for which an additional fine can be levied. The per day fine will be in addition to a penalty for failure to comply with the Bamboo Ordinance. This fine can be up to the maximum penalty set by the State of New Jersey.

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 the public rights of way, including sidewalks, and to restore such land to its normal condition, prior to such removal and eradication.

C. 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. **Unlawful**

If any section, subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any Court of competent jurisdiction, such decision shall not affect the remaining portion of this Ordinance.

SECTION 8. **Effective Date.**

This Ordinance, if adopted by the Borough Council shall, within five (5) days after its passage, Sundays excepted, be presented to the Mayor and Borough Clerk. The Mayor shall, within ten (10) days after receiving the ordinance, Sundays excepted, either approve this Ordinance by affixing his signature thereto or return it to the Council by delivering it to the Borough Clerk together with a statement setting forth his objections thereto or any item or part thereof. This Ordinance or any item or part thereof shall not take effect without the Mayor's approval, unless the Mayor fails to return this Ordinance to the Borough Council, as prescribed above, or unless the Borough Council, upon consideration of this Ordinance following its return shall, by a vote of two thirds (2/3rds) of all of the members of the Borough Council, resolve to override the veto.

Council member	Motion	Second	Yes	No	Absent	Abstain	Recuse
DeGise, Jason			x				
Frank, Douglas		x	x				
Kelley, Thomas			x				
Looes, Chrisoula	x		x				
Meyerson, Lawrence			x				
Pizzella, Frank			x				

Introduced: July 8, 2014

Attest: Susan Witkowski
Susan Witkowski
Municipal Clerk

Max Arnowitz
Mayor