

# **BOROUGH OF OLD TAPPAN**

## **ORDINANCE NO. 1116-17**

### **AN ORDINANCE OF THE BOROUGH OF OLD TAPPAN ADOPTING REGULATIONS RESTRICTING THE PLANTING, GROWING OR CULTIVATING OF BAMBOO**

THE BOROUGH OF OLD TAPPAN HEREBY ORDAINS

#### **SECTION 1. Purpose.**

This Ordinance is adopted to control the planting, cultivating or growing of bamboo in the Borough of Old Tappan; 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 others in possession or control of real property tenants shall plant, cultivate or cause to grow, bamboo on any lot or parcel of land within the Borough of Old Tappan, 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 so as to entirely prevent the spread or growth of the bamboo plants' root system beyond the container in which it is planted; and
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 10 feet from any property line or right of way.

#### **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 bamboo on any property within the borough limits unless the code enforcement officer determines 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, tenant, 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 determines that there is an encroachment of bamboo plants or roots on to the property of another the Borough, through its delegated official, shall forward a notice of violation to the alleged offending person, property owner, or other in possession of such property, ((hereinafter the "violation" 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 also by First Class mail. Notice by Certified mail shall be deemed served 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 cured within thirty (30) days from the date of the received or returned mailing.
4. The Notice shall state specifically what must be done by the violator to correct the violation.

**SECTION 5. Repealer.**

All Ordinances of the Borough of Old Tappan which are inconsistent with the provisions of this Ordinance are hereby repealed as to the extent of such inconsistency.

**SECTION 6. Penalties.**

- A. Any-violator 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 exists after the date for cure-as set forth in the Notice. 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 \$1,000.
- B. If the violation is not remedied within the time set forth in the aforesaid notice, the Borough is hereby authorized, but not obligated 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 Borough's cost of the corrective action together with any civil penalties, legal fees and other costs shall be recoverable from the violator.

**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 shall take effect immediately upon final passage, approval and publication by law.