

## **SPECIAL BOARD OF COMMISSIONERS**

**Todd M. Sinai, President**

**April 3, 2024 - 6:10 PM**

### **AGENDA**

**1. Call to Order**

**2. Roll Call**

**3. Public Comment**

The Floor is open to provide the opportunity for the public to address the Board on matters relating to agenda items which will be voted upon at this meeting.

**Response to Public Comment** - Appropriate time for any member of the Board, the Township Manager, or designated staff person to address or respond to any statement made by a member of the public during the Public Comment portion of the agenda.

**4. Finance Committee**

- a. A meeting of the Finance Committee will be held on Wednesday, April 3, 2024 at approximately 6:00 p.m. at which time the following item may be referred to the Board of Commissioners for action: Award Of Contract – Milling And Paving Of Various Township Streets. Additional information may be found on the agenda for the aforementioned Finance Committee meeting.

**5. Adoption of Ordinances**

- ADOPTION OF ORDINANCE - CHAPTER 59, BRUSH, GRASS AND WEEDS - BAMBOO AMENDMENTS

**6. Adjournment**



## AGENDA ITEM INFORMATION

COMMITTEE: Building and Planning Committee

ITEM: ADOPTION OF ORDINANCE - CHAPTER 59, BRUSH, GRASS AND WEEDS - BAMBOO AMENDMENTS

An Ordinance to amend the Code of the Township of Lower Merion, Chapter 59, Brush, Grass, and Weeds by amending the Qualified Bamboo Exemption, revising a Property Owner's abatement responsibilities, establishing a new appeals process and conditions for defense to a violation; requiring the installation of a bamboo barrier at least 20 feet away from a property line only when feasible, and removing duplicative language.

This ordinance was authorized for advertisement at a stated meeting of the Board of Commissioners held March 20, 2024 and duly advertised in the March 25, 2024, edition of the Times Herald.

### ATTACHMENTS:

Description	Type
□ Proposed Ordinance - Bamboo Amendments	Ordinance

AN ORDINANCE

NO. \_\_\_\_\_

**AN ORDINANCE To Amend The Code Of The Township Of Lower Merion, Chapter 59, Brush, Grass And Weeds, By Amending the Qualified Bamboo Exemption; Revising a Property Owner's Abatement Responsibilities; Establishing a New Appeals Process and Conditions for Defense to a Violation; Requiring the Installation of A Bamboo Barrier At Least 20 Feet Away From A Property Line Only Where Feasible; And Removing Duplicative Language.**

The Board of Commissioners of the Township of Lower Merion hereby ordains:

**Section 1.** The Code of the Township of Lower Merion, Chapter 59 thereof, entitled Brush, Grass and Weeds, §59-1, Declaration of objectionable and poisonous vegetation as health hazards and nuisance, subsection B, Prohibited acts, paragraph (2), Qualified Bamboo Exemption, shall be revised to provide as follows:

§59.1 Declaration of objectionable and poisonous vegetation as health hazards and nuisance

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B. Prohibited Acts.

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(2) Qualified Bamboo Exemption. Although bamboo is declared to be a nuisance plant and growing or allowing it to grow on land within the Township is prohibited, bamboo that was propagated or allowed to grow before May 18, 2016, is exempt from the prohibition and may remain on the land. This exemption does not apply, ~~however,~~ to any bamboo that migrates or falls onto any land owned or held by the Township, public or private right-of-way ~~onto any roadway or sidewalk, onto the private property of another,~~ or which is within 20 feet of the property line of an adjoining property. ~~a third party or a public or private right-of-way.~~

**Section 2.** The Code of the Township of Lower Merion, Chapter 59 thereof, entitled Brush, Grass and Weeds, §59-2, Notice to Abate Violation and Landowner's Duty to Abate, shall be revised to provide as follows:

§59.2 Notice to Abate Violation and ~~Landowner's~~ Property Owner's Duty to Abate.

- A. The Township is hereby authorized to issue a notice of violation to any ~~landowner~~ property owner upon finding that a nuisance plant is growing on ~~that landowner's~~ a property, or has migrated onto any land owned or held by the Township, or public right-of-way, or onto any roadway or sidewalk, or onto the private property of another in violation of this chapter. Such notice shall be served by regular mail, with proof of mailing, or hand delivery, or if service cannot be effected by either means, by posting the notice in a conspicuous manner on the property. The notice shall require the ~~landowner~~ property owner, within 30 days of the date of the notice, to remove the nuisance plant from the owner's property(ies), or public right-of-way sidewalk, or roadway specified in the notice, and shall set forth the penalties for a failure to abate, including payment of the costs incurred by the Township in removing the nuisance from public property or public right-of-way ~~should the landowner fail to do so.~~
- B. A ~~property owner~~ landowner may appeal a notice of violation by letter setting forth only a defense listed in subsection 59.2.C below ~~the grounds therefor~~ and sent within 14 days of receipt or posting of the notice of violation to the Director of Building and Planning. The appeal shall be heard by the Building and Planning Committee of the Board of Commissioners or by an appointed hearing officer.
- C. ~~If~~ The following shall be a valid and complete defense to a notice of violation: ~~based on the presence of bamboo on the respondent landowner's property either that:~~
- (1) The bamboo was growing on the property prior to May 18, 2016, and is not within 20 feet of the property line of ~~a third party~~ an adjoining property or a public or private right-of-way; or
  - (2) ~~The following:~~ The property owner has previously taken adequate steps to remove the encroaching bamboo and to prevent its future migration.
    - (a) ~~The bamboo migrated from property not owned or controlled by the respondent landowner, and either:~~
      - [1] ~~Before receiving the notice of violation, the respondent landowner had given written notice to the owner of the land from which the bamboo migrated of the unlawful encroachment and had demanded its removal, to no avail; or~~
      - [2] ~~The respondent landowner has taken steps to remove the encroaching bamboo.~~

- D. ~~If bamboo growing on a property prior to May 18, 2016, encroaches onto adjoining property, public or private, or within 20 feet of the property line of an third party adjoining property or a public or private right-of-way, the respondent-landowner~~ property owner is hereby required to remove the encroachment bamboo and to install at least 20 feet from the property boundary an impenetrable barrier on the owner's property to prevent further encroachment as follows:
- (1) The barrier shall be made of masonry, metal, or high-density, eighty mil thick polyethylene to a depth of 30 inches below grade and two to three inches above grade to prevent the encroachment from recurring. The barrier shall be placed at least 20 feet from the property boundary.
  - (2) If the Director of Building & Planning or his/her designee determines that removal of bamboo or placement of the required barrier is impractical, not feasible or would unreasonably disturb natural features, he/she is authorized to impose modified requirements so that the goal of preventing bamboo migration can most effectively be prevented.
  - (3) The failure to comply with either of these requirements remove the bamboo and the failure to install an impenetrable barrier shall constitute a separate violations.
- E. ~~If bamboo growing on a property prior to May 18, 2016, encroaches onto adjoining property, public or private, or within 20 feet of the property line of a third party or a public or private right of way, the respondent landowner is hereby required to remove the encroachment and to install at least 20 feet from the property boundary an impenetrable barrier to a depth of three feet below grade to prevent the encroachment from recurring. The failure to comply with either of these requirements shall constitute a separate violation. (Reserved)~~

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**Section 3.** Nothing in this Ordinance or in Chapter 59 of the Code of the Township of Lower Merion, as hereby amended, shall be construed to affect any suit or proceedings in any Court, any rights acquired or liability incurred, any permit issued, or any cause or causes of action existing under the said Chapter 59 prior to the adoption of this amendment.

**Section 4.** The provisions of this Ordinance are severable, and if any section, sentence, clause, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any Court of competent jurisdiction, such decision of this court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this ordinance. It is hereby declared to be the intent of the Board that this ordinance would have been adopted if such illegal, invalid, or unconstitutional section, sentence, clause, part, or provision had not been included herein.

**Section 5.** This Ordinance shall take effect and be in force from and after its approval as required by law.

Approved by the Board this      day of      , 2024.

BOARD OF COMMISSIONERS OF THE  
TOWNSHIP OF LOWER MERION

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Todd M. Sinai, President

ATTEST:

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Jody L. Kelley, Secretary