Salute to the Flag
Statement of Compliance with Open Public Meetings Act
Roll Call:

Council Members:
_____ Gabel  _____ Kuser  _____ Smith
_____ Lyden  _____ Fitzpatrick  _____ Scollans
_____ Golinski, Council President

In Attendance:
_____ Mayor Andes  _____ Administrator Ward
_____ Assistant Township Attorney DeBona  _____ Other: ____________

Public Portion (Please limit comments to a maximum of three (3) minutes)

ORDINANCES FOR INTRODUCTION

#27-15: An Ordinance Authorizing the Acquisition of Certain Real Property Located in the Township of Denville, County of Morris, and State of New Jersey and Providing for the Appropriation of $170,000 from the Open Space Trust Fund

RESOLUTIONS

R-15-267: Resolution Authorizing the Execution of a Contract for the Acquisition of Real Property for Historic Purposes

R-15-268: Resolution Establishing a Special Meeting of the Municipal Council of the Township of Denville

PRESENTATION / DISCUSSION

Discussion on Bamboo

Motion to Adjourn
ORDINANCE #27-15

BE IT RESOLVED that an Ordinance entitled:

An Ordinance Authorizing the Acquisition of Certain Real Property Located in the Township of Denville, County of Morris, and State of New Jersey and Providing for the Appropriation of $170,000 from the Open Space Trust Fund

Be Introduced and Read by Title on First Reading:

COUNCIL PRESIDENT: MOTION TO INTRODUCE
DISCUSSION ON ORDINANCE
ROLL CALL ON INTRODUCTION

BE IT RESOLVED that an Ordinance entitled:

An Ordinance Authorizing the Acquisition of Certain Real Property Located in the Township of Denville, County of Morris, and State of New Jersey and Providing for the Appropriation of $170,000 from the Open Space Trust Fund

Be Passed on First Reading

BE IT FURTHER RESOLVED that said ordinance shall be considered for final passage at a special meeting of the Municipal Council of the Township of Denville on 12-29-2015 at 7:30 p.m. in the evening, prevailing time, at the municipal building in said Township of Denville at which time and place all persons interested shall be given an opportunity to be heard concerning said ordinance.

BE IT FURTHER RESOLVED that the Municipal Clerk be authorized and directed to advertise this ordinance in The Citizen newspaper according to law.

COUNCIL PRESIDENT: MOTION TO PASS ON FIRST READING
ROLL CALL

Dated: 12-08-2015
ORDINANCE # 27-15

AN ORDINANCE AUTHORIZING THE ACQUISITION OF CERTAIN REAL PROPERTY LOCATED IN THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS, AND STATE OF NEW JERSEY AND PROVIDING FOR THE APPROPRIATION OF $170,000 FROM THE OPEN SPACE TRUST FUND

WHEREAS, the Local Lands and Buildings Law, N.J.S.A. 40A:12-1, et seq., provides that a municipality may, by ordinance, provide for the acquisition of real property or an interest therein by purchase, gift, devise, lease, exchange, or condemnation in the manner provided in the Eminent Domain Act, N.J.S.A. 20:3-1, et seq.; and

WHEREAS, the Municipal Council of the Township of Denville has determined that it is in the interest of the Township to acquire the property known as 501 Openaki Road, Denville, New Jersey, and identified as Block 20203, Lot 13, from the Denville Township Board of Education for the sum of $160,000 for purposes of historic preservation; and

WHEREAS, appropriations from the Township of Denville’s Open Space Trust Fund may be authorized by the governing body for historic preservation purposes.

NOW, THEREFORE, BE IT ORDAINED, by the Municipal Council of the Township of Denville, in the County of Morris, and State of New Jersey, as follows:

SECTION 1. The Township of Denville hereby authorizes the acquisition of the property known as 501 Openaki Road, Denville, New Jersey and identified as Block 20203, Lot 13, as shown on the Tax Map of the Township of Denville for historic preservation purposes and public use, which property is to be conveyed to the Township by the Denville Township Board of Education for the sum of $160,000.00.

SECTION 2. There is hereby appropriated the total amount of $170,000 for the purchase price and other closing costs in connection with the purpose set forth in Section 1 from the Township of Denville Open Space Trust Fund.
SECTION 3. The Mayor and Municipal Clerk and all other proper officers and employees of the Township are hereby authorized and directed to take any and all steps necessary to effectuate the purposes of this ordinance.

SECTION 4. No debt is to be authorized by the enactment and passage of this ordinance.

SECTION 5. The capital budget of the Township of Denville is hereby amended to conform with the provisions of this Ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Municipal Clerk and is available there for public inspection.

SECTION 6. All ordinances of the Township of Denville which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 7. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this ordinance.

SECTION 9. This ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

BY ORDER OF THE MUNICIPAL COUNCIL
OF THE TOWNSHIP OF DENVILLE

ATTEST:                        APPROVED:

KATHRYN BOWDITCH-LEON          MAYOR THOMAS ANDES
MUNICIPAL CLERK                TOWNSHIP OF DENVILLE

Adoption Date:
RESOLUTION

WHEREAS, the Municipal Council of the Township of Denville has determined that it is in the interest of the Township to acquire property known as Block 20203, Lot 13, located at 501 Openaki Road from the Denville Township Board of Education for the sum of $160,000 for purposes of historic preservation.

NOW, THEREFORE, BE IT RESOLVED, by the Municipal Council of the Township of Denville, in the County of Morris, and State of New Jersey, as follows:

1. The Mayor and Township Clerk are hereby authorized to execute a Contract for Sale between the Township and the Denville Township Board of Education for the acquisition of Block 20203, Lot 13, located at 501 Openaki Road in the Township of Denville, for a purchase price of $160,000, which Contract of Sale is subject to the adoption of an ordinance by the Township Committee authorizing the acquisition of the property and appropriating the necessary funds.

2. A copy of the Contract for Sale is on file in the office of the Township Clerk for inspection by the public.

3. This Resolution shall take effect immediately.

BY ORDER OF THE MUNICIPAL COUNCIL
OF THE TOWNSHIP OF DENVILLE

I, Kathryn Bowditch-Leon, Municipal Clerk of the Township of Denville do hereby certify the above to be a true and exact copy of the resolution adopted by the Municipal Council at their meeting held on December 8, 2015.

Certification Dated: ____________________________ Kathryn Bowditch-Leon, RMC
Municipal Clerk
CONTRACT FOR SALE OF REAL ESTATE

This Contract for Sale is made on __________, 2015,

BETWEEN

THE DENVILLE TOWNSHIP BOARD OF EDUCATION,

whose address is 400 Morris Avenue, Suite 279, Denville, New Jersey 07834,

referred to as the Seller,

AND

TOWNSHIP OF DENVILLE, a Municipal Corporation of the State of New Jersey

whose address is the Municipal Building, 1 St. Mary’s Place, Denville, New Jersey 07834,

referred to as the Buyer.

The words “Buyer” and “Seller” include all Buyers and all Sellers listed above.

1. Purchase Agreement. The Seller agrees to sell and the Buyer agrees to buy the property described in this contract.

2. Property. The property to be sold consists of: (a) the land and all the buildings, other improvements and fixtures on the land and (b) all of the Seller’s rights relating to the land.

The real property to be sold is commonly known as 501 Openaki Road in the Township of Denville in the County of Morris and State of New Jersey. It is shown on the municipal tax map as Block 20203, Lot 13, consisting of approximately .852 acres, which consists of a one-story structure encompassing 1554 total square feet (“Property”).

3. Purchase Price. The purchase price is ONE HUNDRED SIXTY THOUSAND AND NO/100 DOLLARS ($160,000.00)

4. Payment of Purchase Price. The Buyer will pay the purchase price at closing of title by Township check.

5. Time and Place of Closing. The closing date cannot be made final at this time. The Buyer and Seller agree to make the closing date as soon as possible after the effective date of the Township ordinance authorizing the acquisition and appropriating the necessary funds. Both parties will fully cooperate so the closing can take place in a timely fashion. Should closing of title not occur by January 29, 2016, either the Buyer or Seller may declare, in writing, the contract null and void.

The closing will be held at the municipal offices of the Township of Denville, 1 St. Mary’s Place, Denville, New Jersey. Seller shall also deliver to Buyer any and all affidavits and other
10. Ownership. The Seller agrees to transfer and the Buyer agrees to accept ownership of the property free of all claims and rights of others, including any rights of others pursuant to a lease, license, or contract, except for:

(a) the rights of utility companies to maintain pipes, poles, cables and wires over, on and under the street, the part of the property next to the street or running to any house or other improvement on the property;

(b) recorded agreements which limit the use of the property, unless the agreements: (1) are presently violated; (2) provide that the property would be forfeited if they were violated, or (3) unreasonably limit the normal use of the property; and

(c) all items included in schedule A as part of the description of the property.

In addition to the above, the ownership of the Buyer must be insurable at regular rates by any title insurance company authorized to do business in New Jersey subject only to the above exceptions.

6. Transfer of Ownership. At the closing, the Seller will transfer ownership of the property to the Buyer. The Seller will give the Buyer a properly executed deed and an adequate affidavit of title. If the Seller is a corporation, it will also deliver a corporate resolution authorizing the sale.

7. Type of Deed. A deed is a written document used to transfer ownership of property. In this sale, the Seller agrees to provide and the Buyer agrees to accept a deed known as a Bargain and Sale with Covenants against Grantors' Acts.

8. Requirements of Seller to Deliver to Buyer. Within ten (10) days of Seller and Buyer executing this Contract, Seller shall deliver to Buyer:

(a) Any title examination and/or title search together with any policy of fee owner title insurance which may be within the possession or control of Seller;

(b) The latest survey of the Property, if any, which may presently be in the custody or control of Seller;

(c) A copy of the Deed to the Property into Seller; and

(d) Any site plan applications, or applications or requests for subdivision approval, zoning amendment, sewer, water and other utility service and/or allocations as may have been submitted by Seller to the appropriate State, Federal, and/or local governmental agency, for which a final decision in the form of an approval or a denial has not yet been made by such entity or agency.

9. Physical Condition of the Property. This property is being sold "as is." The Seller does not make any claims or promises about the condition or value of any of the property included in this sale. The Buyer has inspected the property and relies on this inspection and any rights, which may be provided for elsewhere in this contract.

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11. **Default.** In the event that the closing of title to the Property in accordance with the terms of this Contract does not take place as a result of default by Buyer, Seller's sole remedy shall be the termination of this Contract. In the event that the closing of title to the property in accordance with the terms of this Contract does not take place as a result of a default by Seller, Buyer's remedies shall be (a) termination of this contract.

12. **Possession.** At the closing the Buyer will be given possession of the property free of any rights of tenants.

13. **Complete Agreement.** This contract is the entire and only agreement between the Buyer and the Seller. This contract replaces and cancels any previous agreements between the Buyer and the Seller. This contract can only be changed by an agreement in writing signed by both Buyer and Seller. The Seller states that the Seller has not made any other contract to sell the property to anyone else.

14. **Parties Liable.** This contract is binding upon all parties who sign it and all who succeed to their rights and responsibilities.

15. **Notices.** All notices under this contract must be in writing. The notices must be delivered personally, sent by confirmed facsimile or mailed by regular mail to the other party, or to the other party's attorney to the addresses below. Confirmed facsimiles and electronic mail sent during the course of normal business hours of 9:00 a.m. through 5:00 p.m. are considered a proper form of notice under the Contract of Sale. Any facsimiles or electronic mail received after 5:00 p.m. shall be considered a proper form of notice for the next business day.

If to Seller:

Paul E. Griggs, Esq.  
Sciarrillo, Cornell, Merlino, McKeever & Osborne, LLC  
238 St. Paul Street  
Westfield, NJ 07090  
(908) 481-5000 Phone  
(908) 264-2045 Fax  
Email address: pgriggs@sciarrillolaw.com

With a copy to:  
Steven A. Forte, Superintendent  
Denville Board of Education  
400 Morris Ave., Suite 279  
Denville, NJ 07834  
(732) 983-6530 Phone

If to Buyer:  
Paula J. DeBona, Esq.  
Jansen & DeBona, LLC  
413 West Main Street  
Boonton, NJ 07005  
(973) 334-0031 Phone  
(973) 334-2023 Fax  
Email address: pauladebona@jansendebonalaw.com

With a copy to:  
Steven Ward, Administrator
16. Municipal Approval. The parties acknowledge that this contract is subject to the adoption of an ordinance or ordinances by the governing body of the Township of Denville authorizing the acquisition of the property in accordance with N.J.S.A. 40A:12-1 et seq. and appropriating the necessary funds.

17. Realtor's Commission. The parties hereto expressly represent that no realtor or broker has been involved in this transaction and that no commission is due or will become due and owing.

18. Adjustments at Closing. The Buyer and Seller agree to adjust the following expenses as of the closing date: municipal water and sewer charges.

SIGNED AND AGREED TO BY:

Witnessed/Attested by: ____________________________ Date Signed: ____________________________

Damaris Gurowsky, Secretary

Attested by: ____________________________

Kathryn Bowditch-Leon, Clerk

THE DENVILLE TOWNSHIP BOARD OF EDUCATION

By: ____________________________ (Seal)

David Napoloni, President

SELLER

TOWNSHIP OF DENVILLE

By: ____________________________ (Seal)

Thomas W. Andes, Mayor

BUYER
RESOLUTION ESTABLISHING A SPECIAL MEETING OF THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF DENVILLE

WHEREAS, the Municipal Council of the Township of Denville established its meeting schedule at the reorganization meeting held on January 6, 2015; and

WHEREAS, the Municipal Council wishes to schedule a special meeting to be held on December 29, 2015 at 7:30 P.M.; and

WHEREAS, the purpose of this special meeting is to conduct a public hearing on Ordinance #27-15 entitled “An Ordinance Authorizing the Acquisition of Certain Real Property Located in the Township of Denville, County of Morris, and State of New Jersey and Providing for the Appropriation of $170,000 from the Open Space Trust Fund” and, following the public hearing, to consider the final adoption of said Ordinance and to take any other action necessary to facilitate acquisition of Block 20203, Lot 13, also known as 501 Openaki Road.

NOW, THEREFORE, BE IT RESOLVED, by the Municipal Council of the Township of Denville that a special meeting of the Municipal Council of the Township of Denville shall be held on Tuesday, December 29, 2015 at 7:30 P.M. in the Municipal Council Chambers of the Denville Municipal Building, 1 Saint Mary’s Place, Denville, NJ 07834.

BE IT FURTHER RESOLVED that official action will be taken at this meeting.

BY ORDER OF THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF DENVILLE

I, Kathryn Bowditch-Leon, Municipal Clerk for the Township of Denville do hereby certify the above to be a true and exact copy of the resolution adopted by the Municipal Council of the Township of Denville at their regular Council meeting held on December 8, 2015.
Good Morning Chris:

Based upon our discussion last week, the following are a few informational links related to the regulation of bamboo in the State of New Jersey.

It seems the Assembly adopted Bill #3452 on December 14, 2014, which prohibits the spread of bamboo onto neighboring properties. It does not seem there is a corresponding Senate bill at the present time.

http://www.njleg.state.nj.us/2014/Bills/A3500/3452_11.HTM

In late 2013, the Borough of Emerson adopted an ordinance related to bamboo and prohibiting it being planted or growing to within 10' of a property line.


In 2014, the Borough of Hillsdale considered a very similar but slightly more restrictive ordinance requiring bamboo be planted in containers and never installed within 10' of a property line (which it seems must still be within a container, if I am reading it correctly). From my review of the Hillsdale website, the ordinance was unanimously introduced but defeated on adoption in October 2014.


And, finally, the following is a link to a website which list the dozen or so municipalities in New Jersey that have adopted or concerned adopting an ordinance regulating bamboo: http://bamboolaws.com/new-jersey-bamboo-ordinances/

Thanks,

Steve
SYNOPSIS
   Regulates planting and sale of running bamboo; establishes disclosure requirement for real estate licensees.

CURRENT VERSION OF TEXT
   As introduced.
AN ACT concerning running bamboo, and supplementing Titles 4, 13, and 45 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. a. A person who plants running bamboo or who allows running bamboo to grow on the person's property shall not allow such running bamboo to grow beyond the boundaries of the property. A person who violates this subsection shall be liable for any damages caused to any adjacent property by the running bamboo, including, but not limited to, the cost of removal of any running bamboo that grows on to the adjacent property. A subsequent purchaser of property, or a person who takes possession of property pursuant to a foreclosure or other legal action, shall be responsible for maintaining the running bamboo in compliance with this subsection.

b. A person shall not plant running bamboo or allow running bamboo to be planted on the person's property at a location that is 100 feet or less from the property boundary line of any abutting property or public right-of-way unless: (1) the running bamboo is contained by a properly constructed and maintained barrier system that prevents the spread of roots underground; or (2) the running bamboo is planted above ground in a container or planter so that the running bamboo is contained and does not come in contact with the surrounding soil.

A person who violates this subsection shall be liable to a civil penalty of $100, to be collected in a summary proceeding pursuant to the “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.). If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate, and distinct offense until such time as the running bamboo is removed or contained by a properly constructed barrier system. The provisions of this subsection shall not apply to any running bamboo planted on or before the effective date of this act.

c. A retail seller or installer of running bamboo shall provide to each customer who purchases running bamboo from the seller or installer a statement prepared by the New Jersey Agricultural Experiment Station at Rutgers, the State University, pursuant to section 2 of P.L. , c. (C. ) (pending before the Legislature as this bill). A retail seller or installer of running bamboo who violates this subsection shall be fined $100 for each plant sold or installed in violation of this act, to be collected in a summary proceeding pursuant to the “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.).

d. For the purposes of this section, “running bamboo” means any bamboo in the genus Phyllostachys, including Phyllostachys aureosulcata.

2. a. The New Jersey Agricultural Experiment Station at Rutgers, the State University, shall, in consultation with the Department of Agriculture, develop a statement that includes: (1) an explanation that running bamboo is a fast growing plant that may spread if not properly contained; (2) a plain language summary of the provisions contained in section 1 of P.L. , c. (C. ) (pending before the Legislature as this bill); and (3) recommendations, based on the best available information, on
This bill would make it unlawful for any person who plants running bamboo or who allows running bamboo to grow on his or her property to permit the bamboo to grow beyond the boundaries of the property. Violators would be liable for any damages caused to any neighboring property by running bamboo. A subsequent purchaser of property, or a person who takes possession of property pursuant to a foreclosure, would be responsible for ensuring that any running bamboo does not grow beyond the boundaries of the property.

The bill would also make it unlawful for any person to plant running bamboo or allow running bamboo to be planted within 100 feet from the property boundary line of any abutting property or public right-of-way, unless: (1) the bamboo is contained by a properly constructed and maintained barrier system that prevents the spread of roots underground; or (2) the bamboo is planted above ground in a container or planter so that the running bamboo does not come in contact with the surrounding soil. Violators would be fined $100. If the violation is of a continuing nature, each day during which it continues would be a separate offense.

Under the bill, a retail seller or installer of running bamboo would have to provide to each customer who purchases running bamboo a statement, prepared by the New Jersey Agricultural Experiment Station (NJAES) at Rutgers, the State University, including: (1) a statement that running bamboo is a fast growing plant that may spread if not properly contained; (2) a plain language summary of the provisions of this bill; and (3) recommendations, based on the best available information, on methods to properly contain running bamboo. The bill directs the NJAES to prepare this statement and make the statement available on its website. A retail seller or installer who violates

STATEMENT

This bill would make it unlawful for any person who plants running bamboo or who allows running bamboo to grow on his or her property to permit the bamboo to grow beyond the boundaries of the property. Violators would be liable for any damages caused to any neighboring property by running bamboo. A subsequent purchaser of property, or a person who takes possession of property pursuant to a foreclosure, would be responsible for ensuring that any running bamboo does not grow beyond the boundaries of the property.

The bill would also make it unlawful for any person to plant running bamboo or allow running bamboo to be planted within 100 feet from the property boundary line of any abutting property or public right-of-way, unless: (1) the bamboo is contained by a properly constructed and maintained barrier system that prevents the spread of roots underground; or (2) the bamboo is planted above ground in a container or planter so that the running bamboo does not come in contact with the surrounding soil. Violators would be fined $100. If the violation is of a continuing nature, each day during which it continues would be a separate offense.

Under the bill, a retail seller or installer of running bamboo would have to provide to each customer who purchases running bamboo a statement, prepared by the New Jersey Agricultural Experiment Station (NJAES) at Rutgers, the State University, including: (1) a statement that running bamboo is a fast growing plant that may spread if not properly contained; (2) a plain language summary of the provisions of this bill; and (3) recommendations, based on the best available information, on methods to properly contain running bamboo. The bill directs the NJAES to prepare this statement and make the statement available on its website. A retail seller or installer who violates
this provision would be fined $100 for each plant sold or installed in violation of the bill.

Finally, the bill imposes a duty on real estate brokers, broker-salespersons, and salespersons, to provide notice to prospective purchasers of the existence of running bamboo within 100 feet of a residential property, and notice of the provisions of this act. A broker, broker-salesperson, or salesperson who knowingly fails to make this disclosure would be subject to the penalties set forth in R.S.45:15-1, as determined by the New Jersey Real Estate Commission.

This legislation came at the behest of Elaine Walsh of Linwood, New Jersey. Ms. Walsh, a nurse and mother of two, formally resided in Atlantic City, but lost her home during Superstorm Sandy. She relocated to a house in Linwood, but soon discovered that her property was being overrun by running bamboo from a neighboring yard. The invasive plant caused thousands of dollars worth of damage to Ms. Walsh’s property and threatened the foundation of her home. This bill would give Ms. Walsh and New Jersey residents in similar situations the legal means to recover for damage caused by running bamboo.
An Ordinance of the Borough of Emerson Adopting Regulations for the Planting, Growing or Cultivating Bamboo

The Borough of Emerson hereby ordains:

SECTION 1. Purpose.

This Ordinance is adopted to control the planting, cultivating or growing of bamboo in the Borough of Emerson, 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 tenants shall plant, cultivate, or cause to grow, any bamboo on any lot or parcel of ground in the Borough of Emerson, 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 as to entirely prevent the spread of growth of the bamboo plants' root system beyond the container beyond which it is planted; or

2. The root system is contained within a properly constructed and maintained barrier system.

3. 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.

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 any bamboo on any property within the Borough limits unless the code enforcement officer determines on his 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.


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, which notice shall be substantially as follows:
This Ordinance shall take effect immediately upon final passage, approval and publication by law.

DIAGRAM

SECTION 8. Effective Date.

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

ATTEST:

Carlos Colina
Mayor

Carol Dray, RMC CMC CMR
Borough Clerk
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.

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.

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<th>Council member</th>
<th>Motion</th>
<th>Second</th>
<th>Yes</th>
<th>No</th>
<th>Absent</th>
<th>Abstain</th>
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Introduced: July 8, 2014

Attest: [Signature]
Susan Witkowski
Municipal Clerk

[Signature]
Max Arnowitz
Mayor
New Jersey Bamboo Ordinances

NJ currently has no adopted state laws prohibiting the planting, propagating or selling of bamboo. A number of towns have adopted ordinances and some have proposed ordinances for future review.

New Jersey State Bamboo Laws: ASSEMBLY, No. 3452 (Proposed)

Bamboo Ordinance by Town:

<table>
<thead>
<tr>
<th>Town</th>
<th>Ordinance Reference</th>
<th>Adoption Date</th>
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<tbody>
<tr>
<td>Brick Township</td>
<td>amendment to code ch. 233</td>
<td>10/7/14</td>
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<tr>
<td>Brigantine</td>
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<tr>
<td>Emerson Borough</td>
<td>ordinance no. 1470-13</td>
<td>12/3/13</td>
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<td>Howell Township</td>
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<td>Linwood</td>
<td>ordinance no. 22-2014</td>
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<td>Medford Lakes</td>
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<td>Raritan Township</td>
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<td>Wayne</td>
<td>amendment to code ch. 129</td>
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<td>Woodbridge Township</td>
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