

WESTTOWN TOWNSHIP

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AGENDA **Westtown Township Board of Supervisors** **Workshop Agenda**

Westtown Township Municipal Building
1039 Wilmington Pike, Westtown

Tuesday, September 7, 2021

Start time: 6:30 pm Workshop

- 1. Consider DVRPC Streetlight Procurement Program**
- 2. Consider Act 50 Small Wireless Ordinance**
- 3. Consider Rustin Walk Field Rental**
- 4. Consider Revised Draft Amendment to Chapter 54 (Brush, Grass and Weeds) of Township Code Regarding Bamboo**
- 5. Public Comment on Workshop Items***

**The public comment period at the end of the Workshop will last approximately 10 minutes. The public will be asked to limit their remarks to two minutes each to allow others an opportunity to speak. To the extent that further public comment is required, speakers will be asked to save their remarks until the Public Comment - Non-Agenda Items portion of the Regular Board of Supervisors Meeting.*

MEMO

Date: September 1, 2021
To: Board of Supervisors
From: Jon Altshul, Township Manager
Re: DVRPC Regional Streetlight Procurement Program

The Delaware Valley Regional Planning Commission (DVRPC) sponsors a Regional Streetlight Procurement Program, whereby municipalities can convert their existing streetlights to LED. Because Westtown does not own its own streetlights, but does pay electricity costs for 6 of them, in our case, this program would facilitate streetlight procurement as well.

Our current annual electricity expenditure for the six streetlights is \$1,288.

This is a “turnkey” program, whereby DVRPC and its advisors handle the legal and technical side of the project. 61 municipalities in Southeast Pennsylvania have used this program to convert their streetlights, including 9 that have used the program to procure them as well.

According to DVRPC, the payback period should be about 4 years given the lower cost of electricity for LED lights, which based on what we currently spend on electricity, means that the conversion cost should be relatively modest. In addition, my understanding is that the cost of actually procuring the streetlights from PECO is \$0.

The Board should be aware that once we own the lights, we will be responsible for maintaining them, although this ongoing maintenance cost is still reflected in the payback period.

If the Board is interested in pursuing this matter further, DVRPC has a deadline of September 28 for municipalities to sign up for a no-cost, no-obligation feasibility study, which would allow the procurement and LED conversions to occur in the summer of 2022.

The question for the Board is therefore: should the Township undertake a free feasibility study? I have attached some marketing materials about the program.



DVRPC’s RSLPP assembles the resources needed to design, procure, and finance the transition to light-emitting-diode (LED) street lighting tailored to each municipality’s needs. The RSLPP is designed to help municipalities overcome the barriers of implementing an LED conversion project, such as navigating the conversion process, identifying the best solutions, finding trusted project partners, and paying for the upfront cost of the project.

What are the benefits of LED streetlights?

- LEDs can reduce energy consumption and cost by 50-75% relative to incumbent technology.
- The longer lifespan of LEDs reduces system maintenance costs by 50-80%.
- LEDs provide improved lighting performance and quality, which can improve roadway safety.
- LEDs are a directional light source, which can reduce light pollution and trespass.
- LEDs are a controllable light source. Controls can help manage both the quality and quantity of light.

Summary of RSLPP Benefits

- RSLPP provides a **turnkey program approach** that supports all aspects of the project development, municipal decision-making, construction, and post-conversion project savings verification.
- RSLPP provides **technical design assistance** to ensure that all the benefits of an LED lighting system upgrade are realized and the unique needs of each municipality are met.
- RSLPP leverages the project scale of multiple municipalities in a **transparent pooled procurement** model that delivers the best product solutions at the best price. Solicitations for material, distributor, and installer were developed by technical experts and issued by DVRPC on behalf of municipalities.
- RSLPP provides **project management support** to ensure the implementation of the project causes minimal disruption and expediently addresses any issues that arise during construction.
- The pooled buying power will result in lower than market pricing on products and labor, as well as most services provided through the program.
- All products and services will be vetted by experts, ensuring that the program achieves the highest quality at the lowest possible price.
- RSLPP will arrange an **optional pool of low-cost financing**, structured so that energy cost savings exceed loan payments each year.

1

RSLPP Program Results

DVRPC launched the first round of RSLPP in 2015 and second round in 2018, together resulting in the conversion of more than 30,500 cobrahead and 8,800 “decorative” streetlights, 1,400 area lighting fixtures, and 12,000 traffic signals to LED across 61 municipalities in southeastern PA (a list of municipalities is provided on page two). Key results of these projects were:

- More than \$32 million net savings over 20 years.
- Median payback projects was just over 7 years (including all program, project development, and financing costs).



Connecting People, Places & Prosperity in Greater Philadelphia | DVRPC fully complies with Title VI of the Civil Rights Act of 1964 and related nondiscrimination statutes in all activities. DVRPC public meetings are always held in ADA-accessible facilities, and in transit-accessible locations when possible. Auxiliary services, such as interpretation, can be provided to individuals who submit a request at least seven days prior to a public meeting. For more information, visit www.dvrpc.org/GetInvolved/TitleVI.

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How does it work? (Step by Step)

Phase 1: Feasibility

Data-driven analysis of upgrade opportunities resulting in a feasibility study.

Phase 1 Deliverables

- No-Cost Feasibility Study showing estimated savings, project costs, rebates and financial payback.
- Project Development contract between the Municipality and Design Service Professional and resolution template

Phase 2: Project Development

Field audits, design and analysis resulting in a final design project proposal.

Phase 2 Deliverables

- Field audits of existing lighting system showing GPS location and attributes of each fixture.
- Comprehensive and standardized design of upgraded lighting system.
- Final design proposal showing forecasted savings, final project costs, rebates, and financial payback.
- Construction contract between the Municipality and installation contractor and resolution template.

Phase 3: Construction

Management of the project installation including reporting and issue resolution during construction.

Phase 3 Deliverables

- Robust project management process of project installation ensuring consistent communication of progress and issue resolution.
- Utility bill updates and rebates processed.

Phase 4: Post Construction Operation and Maintenance

Confirmation of project savings and strategies for on-going maintenance.

Phase 4 Deliverables

- Strategies for maintaining new system and on-going standardization.
- Verification of savings
- (Optional) Prepare and/or update municipality ordinances.

List of RSLPP Participating Municipalities

Bucks County (Bensalem Township, Buckingham Township, Ivyland Borough, Middletown Township, New Britain Township, New Hope Borough, Newtown Borough, Pennel Borough, Tullytown Borough, Warrington Township); **Chester County** (East Marlborough Township, Kennett Square Borough, Malvern Borough, New Garden Township, Oxford Borough, Phoenixville Borough, South Coatesville Borough, Tredyffrin Township, Uwchlan Township, West Brandywine Township); **Delaware County** (Aston Township, Brookhaven Borough, City of Chester, Collingdale Borough, Colwyn Borough, Darby Borough, East Lansdowne Borough, Eddystone Borough, Glenolden Borough, Haverford Township, Lansdowne Borough, Marcus Hook Borough, Media Borough, Millbourne Borough, Morton Borough, Newtown Township, Rutledge Borough, Trainer Borough, Yeadon Borough); **Montgomery County** (Ambler Borough, Cheltenham Township, Collegeville Borough, Hatfield Township, Jenkintown Borough, Lansdale Borough, Limerick Township, Lower Moreland Township, Lower Gwynedd Township, Lower Pottsgrove Township, Montgomery Township, Narberth Borough, Norristown, North Wales Borough, Rockledge Borough, Schwenksville Borough, Springfield Township, Towamencin Township, Trappe Borough, Upper Dublin Township, Upper Moreland Township, Whitemarsh Township).



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Regional Streetlight Procurement Program: Letter of Intent

This Letter of Intent commits _____ [name of municipality] to participate in DVRPC's Regional Streetlight Procurement Program (RSLPP) and obtain resources to transition to LED street lighting tailored to the municipality's needs. Through this commitment, the municipality agrees to provide DVRPC and its contractors the necessary data and information required to develop a Feasibility Study (see below for required information). An informational fact sheet that explains the RSLPP structure and proposed timeline has been provided along with this LOI [RSLPP Fact Sheet for Decision Makers Round3_FINAL.pdf]

This letter does not bind the municipality to commit to purchase products, labor or consulting services in the program. If the municipality proceeds to Project Development or Construction Phases of this project, the municipality agrees to pay DVRPC a Program Fee of 5% of the Project Development contract cost and up to 3% of the Construction contract cost which will be invoiced by the contractors. This Program Fee will reimburse DVRPC's costs for technical, legal, and administrative services to assist with the RSLPP.

By participating in the RSLPP, each municipality will obtain:

1. A Feasibility Study developed by a qualified Design Services Professional (DSP) that has been competitively selected by the RSLPP Municipal Steering Committee. Keystone Lighting Solutions has been selected as the DSP.
2. The ability to contract directly with the DSP to conduct Project Development and Construction Phase management services.
3. The ability to contract for Construction directly with a qualified installation contractor that has been competitively selected by the RSLPP Municipal Steering Committee. Armour and Sons Electric Inc., has been selected as the installation contractor.
4. Workshops and one-on-one assistance, and regular program communication from DVRPC.

By signing this letter, the municipality commits to:

1. Provide the following data to DVRPC during of the Feasibility Phase:
 - a. A copy of the municipality's most recent streetlight and (if applicable) traffic signal bill from PECO. If you have more than one streetlight or traffic signal account, please provide a bill for each account;
 - b. A completed RSLPP Questionnaire, provided by KLS; and
 - c. If applicable, a non-binding buyback quote from PECO.
2. Provide any additional information requested by the DSP, as long as this additional information can be produced by the municipality without added cost.
3. Assign one point of contact that is responsible for communicating with DVRPC and the DSP throughout the program. Additional contacts can be added.

I acknowledge that DVRPC will be responsible for managing the DSP throughout the duration of the program to ensure that program goals are met.

DVRPC will not manage the DSP's contracts with each municipality or the contract between the municipality and the installation contractor.

I acknowledge that each municipality will have their own contract with the DSP if they decide to proceed beyond Feasibility Phase. If a municipality decides to proceed through construction, each municipality will sign its own construction contract with the installation contractor, and this contract will be managed by the DSP and the municipality.

Municipality:

Print Name

Signature

Date

Title

DVRPC:

Print Name

Signature

Date

Title

MEMO

Date: September 2, 2021
To: Board of Supervisors
From: Jon Altshul, Township Manager
Re: Consider Act 50 Small Wireless Ordinance

As outlined in the attached fact sheet, the recently-enacted Act 50 regulates the construction of “small wireless facilities” in public rights-of-way. As you may remember, last year the PA Supreme Court upheld an earlier Commonwealth Court decision that ruled that Distributed Antennae System (DAS) or “mini cell tower” operators are public utilities and therefore are exempt from local zoning ordinances. Act 50 restores some municipal authority over these small wireless facilities, including basic design guidelines, co-location guidelines and the permitting process.

The Cohen Law Group, which also renegotiated our Verizon Franchise Agreement, has offered to review our ordinance. However, I polled area municipalities and the general consensus was that the amendments that are needed are relatively modest and can be handled in consultation with the Township solicitor.

Maggie has begun a review of our wireless ordinance and will be working with Pat on a draft ordinance. The requirements of Act 50 take effect at the end of October, so we have time to get a new ordinance in place before that deadline.

[View this email in your browser](#)



New PA Act 50: Small Wireless Facilities Act Amendments to Local Ordinances Needed

On June 30th, 2021, Governor Wolf signed into law PA Act 50, entitled the "Small Wireless Facilities Deployment Act." Act 50 regulates the construction of "small wireless facilities" in the public rights-of-way. Unlike prior versions of the bill, Act 50 is the result of meaningful negotiations among the state municipal associations, the wireless industry and key state legislators. These negotiations led to critical improvements over the prior bills.

Act 50 preserves municipal authority over defined "small wireless facilities" in the public rights-of-way, but it also requires municipalities to enact new ordinances or amend existing ordinances to comply with the requirements of the Act. Municipalities may then assert their rights to manage these wireless facilities. The key highlights of the Act are as follows:

- All small wireless facility applications and deployments are subject to the requirements of municipal ordinances that comply with the Act.
- The Act establishes application fees and right-of-way use fees, but also allows municipalities to assess higher fees upon a showing of higher costs.
- Municipalities may establish design guidelines for small wireless facilities in order to protect public safety and minimize their aesthetic impact.
- The Act imposes specific time frames for municipal approvals or denials of wireless facility applications.
- Municipalities may require applicants to attempt to collocate antennas on existing poles prior to installing new poles.
- Municipalities may require design or concealment measures for wireless facilities in historic districts or on historic buildings.
- Municipalities may restrict deployment of facilities in underground districts or areas.
- Municipalities must allow the attachment of small wireless facilities to municipally-owned poles, subject to certain conditions. For example, municipalities may reserve space on such poles for future municipal use.

Critically, the requirements of the Act begin to apply on **October 28, 2021**. Absent a municipal ordinance that complies with the Act, the provisions of Act 50 alone will control wireless facility deployments in your municipality beginning on that date. As such, we recommend that your municipality enact an ordinance (or amend your existing ordinance) and prepare design guidelines as quickly and efficiently as possible.

If your municipality has not yet done so, we recommend an assessment of your current wireless ordinance and design guidelines to ensure that they:

1. Provide the public safety, aesthetic, financial, and other benefits permitted under federal and state law.
2. Help to preserve the character of your community.

If we can assist you in this effort or if you have any questions about Act 50 or wireless regulation generally, please do not hesitate to contact us directly.

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The Cohen Law Group is a law firm that represents local governments in cable, wireless, and broadband matters

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Memo

To: Board of Supervisors
From: Pam Coleman
CC: Jon Altshul
Date: September 3, 2021
Re: Rustin Walk Field Use

Pursuant to the approved land development plans for Rustin Walk and guidance from the Township Solicitor, the Township is now responsible for the maintenance of the Rustin Walk Field (RWF) and adjacent parking lot. Accordingly, we can now lease the field. WCUSC / Penn Fusion Soccer Academy is eager to enter into an agreement with the Township for use of RWF. WCUSC/PF intends to initially use the field for it's Little Players Program (ages 3-5), which does not require a high quality field. I have discussed the following items with WCUSC/PF representatives:

- WCUSC/PF is willing to improve the field at an estimated cost of \$8,000 (see attached), and would maintain the field March - October, but would like the field rental fee to be adjusted in consideration of this initial investment.
- The RWF parking lot has 43 spaces (two are designated ADA spaces). WCUSC/PF understands that overflow parking onto WCASD property (Rustin High School) must be negotiated with WCASD.
- Portable toilet(s), which must be placed in the RWF parking lot (thereby sacrificing one of the 43 parking spaces), would be the responsibility of WCUSC/PF, as needed based on field use.
- WCUSC/PF would be responsible for the disposal of any trash generated during their use of RWF (carry in - carry out). Trash receptacles would not be provided by the Township.

It is difficult to determine the market rate for comparable fields. WCUSC/PF pays Westtown \$3000/year for use of the lower Oakbourne field (corner of S. Concord and E. Pleasant Grove Roads). Does the Township want to offer a fee reduction for RWF in consideration of their investment in field improvement?

Also for your information, WCUSC's 2020 and 2019 Form 990 filings are summarized below:

	2020	2019
Revenues	\$2,843,046	\$3,008,891
Expenses	\$2,701,979	\$2,887,304
Net Income	\$141,067	\$317,188

Memo

To: Westtown Township Board of Supervisors
From: Maggie Dobbs, AICP, Director of Planning & Zoning
Date: September 2, 2021
Re: Bamboo Ordinance

At the August 16 BOS meeting, a draft bamboo ordinance was presented with proposed updates to reflect changes discussed by the Board relating to the ownership responsibility and maintenance of properties with bamboo. Additional modifications were requested to remove the financial responsibility of property owners to remove bamboo on neighboring properties and to provide definitions for “invasive” versus “non-invasive” bamboo. The Board also requested to see the full text of Lower Merion Township as an example of how that ordinance is outlined; please see the attached pages for a full copy of their ordinance.

Further, it was requested that the violations and penalties section be amended to constitute a civil liability instead of a summary offense as is currently provided for in the ordinance. A final draft of the ordinance will amend the violations language to reflect this change.

The draft ordinance has been amended to remove the responsibility of property owners to remove bamboo on properties other than their own. The responsibility remains on them to prevent it from encroaching onto other’s properties. Bamboo species has also been identified as “clumping” versus “running” with the “running” bamboo as the more invasive type. However, since there is no restriction on growing either type of bamboo and with a blanket requirement that bamboo of any kind shall not encroach onto other properties, there is not a code enforcement benefit to creating a distinction, as field identification of bamboo species is not possible.

Removal of bamboo on Township property. While the BOS discussed the idea that bamboo “growers” should not be responsible for removing bamboo on adjacent properties, there is still a concern that property owners may or have already permitted their bamboo to grow into Township-owned open space areas. I would suggest we retain the requirement that property owners are responsible for removal in the case of encroachment into Township owned land so that it reduces the cost and burden on taxpayers in the event that Public Works has to remove it.

ORDINANCE 2021 - ##

**WESTTOWN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA**

**AN ORDINANCE AMENDING CHAPTER 54, BRUSH, GRASS
AND WEEDS, OF THE CODE OF WESTTOWN TOWNSHIP
REGARDING NUISANCES AS IT RELATES TO BAMBOO AND
THE RESPONSIBILITY OF PROPERTY OWNERS.**

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Westtown Township, Chester County, Pennsylvania, that certain provisions of Chapter 54, Brush, Grass and Weeds, of the Code of Westtown Township, as amended, be amended as follows:

SECTION 1. Chapter 54, Brush, Grass and Weeds, §54-1 Nuisances prohibited, Subsection B shall be amended to read as follows:

- B. Bamboo is a group of perennial evergreens in the true grass family (Poaceae) and typically can be categorized as either a “clumping” or “running” type. Certain of the more than 1,450 species of running bamboo can be invasive and can grow to 40 feet in height. The Board of Supervisors has, therefore, determined that bamboo species, including, but not limited to, Bambuseae, Phyllostachys and Pseudosasa, including Common Bamboo, Golden Bamboo and Arrow Bamboo, shall be declared to be a nuisance and shall be maintained only as follows:
- (1) Bamboo shall not be planted, maintained or otherwise be permitted to exist within 40 feet of the edge of the pavement or traveled portion of any public roadway in the Township, and
 - (2) Bamboo planted or growing on a property shall not be permitted to encroach or grow upon adjoining or neighboring properties, including public property and Township right-of-ways, and shall not spread beyond the property lines of the property where it has been planted, grown, or permitted to remain.

SECTION 2. Chapter 54, Brush, Grass and Weeds, §54-2 Responsibility of owners and occupants, Subsection B shall be amended to read as follows:

- B. Property owners or occupants of properties containing bamboo in violation of the prohibition set forth in § 54-1B(1) of this chapter shall remove and abate the growth of the bamboo within 40 feet of the edge of the pavement or the traveled portion of a public road within the Township and shall keep the same in good order and free of bamboo at all times.

SECTION 3. Chapter 54, Brush, Grass and Weeds, §54-2 Responsibility of owners and occupants, Subsection C shall be added to read as follows:

C. Property owners who plant, grow, or permit bamboo to remain on their property are herein considered to be “bamboo owners” and shall be required to take such measures as are reasonably expected to prevent bamboo from encroaching or growing onto adjoining or neighboring properties. Such measures shall include, but are not limited to, regular removal of new bamboo growth, and/or installation of sheathing comprised of metal, plastic, or other material impenetrable by bamboo at a sufficient depth and height within the property line or lines where the bamboo is planted or is growing to prevent such growth or encroachment upon adjoining or neighboring properties.

(1) In the event that bamboo growing on a property encroaches or grows onto an adjoining or neighboring property that is owned or held on behalf of the Township, the Township shall notify the bamboo owner in writing that the bamboo has invaded the Township property and require the removal of such bamboo from the Township property.

(2) In the event that the property owner does not remove or contract for the removal of the bamboo from the Township property, or does not make an arrangement with the Township for removal of such bamboo within 30 days from the date the Township first provided notice pursuant to the above, the Township, at its discretion, may remove or arrange for the removal of such bamboo from the Township property and the property owner shall be liable and responsible to the Township for all costs incurred in removing the bamboo from the Township property.

SECTION 4. Chapter 54, Brush, Grass and Weeds, §54-4 Violations and penalties shall be amended to read as follows:

TBD to reflect civil liability, not summary offense.

SECTION 5. If any sentence, clause or section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or validity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal, invalid sentence, clause, section or part thereof not been included herein.

SECTION 6. All ordinances or parts of ordinances conflicting or inconsistent herewith are hereby repealed.

SECTION 7. This Ordinance will be effective five (5) days after enactment.

[Signature page for Ordinance follows]

ENACTED AND ORDAINED this _____ day of _____, 2021.

ATTEST:

WESTTOWN TOWNSHIP

Secretary

Carol R. De Wolf, Chair

Scott E. Yaw Esq., Vice Chair

Richard Pomerantz, Police Commissioner

DRAFT

Township of Lower Merion, PA
Thursday, September 2, 2021

Chapter 59. Brush, Grass and Weeds

[HISTORY: Adopted by the Board of Commissioners of the Township of Lower Merion 2-18-1976 by Ord. No. 1759. Amendments noted where applicable.]

GENERAL REFERENCES

Open burning — See Ch. 78, Art. II.
Rodent and insect control — See Ch. 90, Art. VIII.
Property maintenance standards — See Ch. 92.
Shade trees — See Ch. 128.
Planting materials and specifications — See Ch. A177.

§ 59-1. Declaration of objectionable and poisonous vegetation as health hazard and nuisance.

[Amended 5-18-2016 by Ord. No. 4083; 3-20-2019 by Ord. No. 4161]

- A. By reason of the danger they pose to public health, safety, or the ecology of the Township, the following plants or conditions are hereby declared to be nuisances:
- (1) Any plant that encroaches onto a roadway or sidewalk to an extent that it obstructs the vision of pedestrians or motorists, constitutes a tripping hazard for pedestrians, or otherwise interferes with safe travel by pedestrians or motor vehicles.
 - (2) Any weed or plant designated as noxious in the noxious weed list set forth in the Act of Oct. 30, 2017, P.L. 774, No. 46, 3 Pa. C. S. § 1519, as it may be amended from time to time by the Commonwealth's Controlled Plant and Noxious Weed Committee, *Carduus nutans*, commonly known as "musk thistle"; *Cirsium arvense*, commonly known as "Canadian thistle"; *Cirsium vulgare*, commonly known as "bull thistle"; *Datura stramonium*, commonly known as "jimson weed"; *Galega officinalis*, commonly known as "goat's rue"; *Heracleum mantegazzianum*, commonly known as "giant hogweed"; *Lythrum salicaria*, commonly known as "Purple loosestrife"; *Persicaria perfoliata*, commonly known as "mile-a-minute"; *Puerria DC*, commonly known as "kudzu"; *Rose multiflora*, commonly known as "multiflora rose"; *Sorghum bicolor Moench ssp. drummondii*, commonly known as "shattercane"; and *Sorghum halepense*, commonly known as "Johnson grass."
 - (3) Bamboo, meaning any monopodial (running), tropical or semitropical grass from the genus *Bambusa*, including but not limited to *Bambusa*, *Phyllostachys*, and *Pseudosasa*; including *Bambusa vulgaris*, commonly known as "common bamboo"; *Phyllostachy aurea*, commonly known as "golden bamboo"; and *Pseudosasa japonica*, commonly known as "arrow bamboo."
 - (4) *Aegeopodium podagraria*, commonly known as "goutweed"; *Ampelopsis brevipedunculata*, commonly known as "porcelain berry"; *Microstegium vimineum*, commonly known as "Japanese stiltgrass"; *Polygonum cuspidatu*, commonly known as "Japanese knotweed"; *Celastrus Orbiculatus*, commonly known as "Oriental Bittersweet"; *Hedera Helix L.*, commonly known as "English ivy"; *Humulus Japonicus*, commonly known as "Japanese Hops"; *Wisteria sinensis*, commonly known as "Chinese Wisteria"; and *Rubus phoenicolasius*, commonly known as "wineberry."

- (5) Toxicodendron pubescens, commonly known as "Atlantic poison oak"; Toxicodendron radicans, commonly known as "eastern poison ivy"; and Toxicodendron vernix, commonly known as "poison sumac."
- (6) Other noxious, toxic or allergenic weeds of like kind or, if offensive, any vines, tall grass or other vegetation exceeding 12 inches in height.

B. Prohibited Acts.

- (1) It is hereby declared to be unlawful for any landowner or occupant to propagate, allow to grow, or maintain on land within the Township any plant declared by this chapter to be a nuisance.
- (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, onto any roadway or sidewalk, onto the private property of another, or which is within 20 feet of the property line of a third party or a public or private right-of-way.

§ 59-2. Notice to abate violation and landowner's duty to abate.

[Amended 9-21-1994 by Ord. No. 3369; 1-19-2002 by Ord. No. 3629; 5-18-2016 by Ord. No. 4083; 3-20-2019 by Ord. No. 4161]

- A. The Township is hereby authorized to issue a notice of violation to any landowner upon finding that a nuisance plant is growing on that landowner's property, or has migrated onto any land owned or held by the Township, 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, within 30 days of the date of the notice, to remove the nuisance plant from the property(ies), 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 should the landowner fail to do so.
- B. A landowner may appeal a notice of violation by letter setting forth 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.
- C. It 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 or a public or private right-of-way; or
 - (2) The following:
 - (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 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 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 failure to comply with either of these requirements shall constitute a separate violation.

[Amended 3-17-2021 by Ord. No. 4209]

- 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.
- F. The appeal of a notice of violation shall toll the running of the thirty-day period for abating a violation until the date of a final decision.

§ 59-3. Performance of work upon noncompliance with notice.

[Amended 9-21-1994 by Ord. No. 3369; 1-19-2002 by Ord. No. 3629]

In the event that the owner or occupant shall refuse or neglect to abate such health hazard or nuisance within a period of 10 days as required by such notice, the Department of Building and Planning may cause such weeds, vines, tall grasses, poison ivy, poison sumac, poison oak or other objectionable vegetation to be cut, eradicated and removed, keeping an account of the expenses of inspecting the premises, service of notice and abating the health hazard and nuisance; and all such costs and expenses shall be charged to and paid by such owner or occupant.

§ 59-4. Collection of costs.

All costs and expenses incurred by the Township in the abatement of such health hazards and nuisances shall be a lien upon the premises, and whenever a bill therefor remains unpaid for a period of 60 days after it has been rendered, the Township Solicitor shall file a municipal claim or an action of assumpsit for such costs and expenses, together with a penalty of 10%, in the manner provided by law for the collection of municipal claims.

§ 59-5. Violations and penalties.

[Amended 9-21-1977 by Ord. No. 1802; 8-3-1988 by Ord. No. 3104]

Any person, firm or corporation failing to abate such health hazard or nuisance in accordance with the requirements of any notice given as provided in § 59-2 above shall, in addition to the payment of said costs and expenses, be subject to a fine or penalty not exceeding \$600 for each and every offense; and whenever such person shall have been notified by the Director of Public Works by service of such notice or summons in a prosecution or in any other way that he is committing such violation of this chapter, each day that he shall continue such violation after the expiration of the aforesaid 10 days shall constitute a separate offense punishable by a like fine or penalty. Such fines or penalties shall be collected as like fines or penalties are now by law collected.