

ORDINANCE 2016-03

ORDINANCE OF THE BOROUGH OF BELMAR, AMENDING CHAPTER XXXI, REGULATING THE PLANTING OR GROWING OF BAMBOO WITHIN THE BOROUGH

WHEREAS, the Borough of Belmar wishes to amend Chapter 31 Environment and Natural Resources by creating section 31-4 Bamboo, as follows:

SECTION 31-4. BAMBOO

31-4.1 PURPOSE AND INTENT.

The purpose of this Ordinance is to preserve and protect private and public property from the damaging spread of running bamboo grasses and to protect indigenous plants and the wildlife they support from the invasive spread of such bamboo from any neighboring property line.

31-4.2 DEFINITIONS.

- A. Running Bamboo – Any monopodial (running) woody grass from the genera of bamboos including, but not limited to, *Bambusa*, *Phyllostachys* and *Pseudosasa*, as well as common bamboo, golden bamboo and arrow bamboo.
- B. Running Bamboo Property Owner(s) – Any property owner(s) or tenant(s) who, or which, have Running Bamboo on their property, even if the Bamboo has spread onto their property from an adjoining property.
- C. Buffer Zone – A distance of at least 10 feet from any lane, street or road, whether public or private, or from any neighboring property, whichever is more restrictive for the Running Bamboo Property Owner.
- D. Borough – The Borough of Belmar Monmouth County, New Jersey.
- E. Notice – Any written notice by, from or on behalf of the Borough, notifying the Running Bamboo Property Owner(s) that they are in violation of this Ordinance and directing them to cure or fix the violation. Such Notice shall be sent by certified mail, return receipt requested, addressed to the owner(s) listed on the current tax address on file with the Borough. A copy may also be posted on the property in question.
- F. Receipt of Notice – Receipt of the Notice required herein shall be the date of mailing said Notice, or, if applicable, posting of the Notice on the property in question, whichever is earlier.

31-4.3 NO PLANTING OF RUNNING BAMBOO.

- A. The planting of Running Bamboo is prohibited in the Borough of Belmar.
- B. Any existing Running Bamboo may not be replanted or replaced after any such existing Running Bamboo has died or been removed.
- C. Any person who plants or replants Running Bamboo within the Borough limits after the effective date of this Ordinance shall be in violation of this Ordinance and shall be subject to the penalties set forth herein, subject to the following exceptions:
 - 1. The root system of such Running Bamboo is entirely contained within an above ground planter and located so as to entirely prevent the spread or growth of the bamboo plants' root system beyond the container in which it is planted; or
 - 2. The root system is contained within a barrier, constructed in accordance with the following specifications:
 - a. The barrier itself shall be composed of a high density polypropylene or polyethylene, with a minimum thickness of 40 mm;
 - b. Each portion of the barrier shall be joined together by the use of stainless steel strips or clamps;
 - c. The barrier shall be a minimum of 30 inches deep, with 2-3 inches of the barrier protruding above ground level around the entire perimeter of the bamboo;
 - d. When installed, the barrier shall slant outward from the bottom to top.
 - 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.

31-4.4 REGULATION OF AND LIMITATIONS ON EXISTING RUNNING BAMBOO

- A. Any Running Bamboo already in existence on any property within the Borough limits as of the effective date of this Ordinance, may remain on such property, subject to the following regulation: Running Bamboo shall not be permitted to exist within any Buffer Zone.
- B. Running Bamboo Property Owner(s) shall take all necessary measures to ensure that any Running Bamboo on their property does not exist within any Buffer Zone. Such measure shall include, but are not limited to, cutting down Running Bamboo existing

in the Buffer Zone and physically removing or poisoning the rhizomes or spraying any regrowth for several years until the Running Bamboo is dead and, if Running Bamboo is permitted to remain outside the Buffer Zone, installing sheathing comprised of metal or other impenetrable material and placed no less than 10 feet from the property line at a sufficient depth to prevent any growth of Running Bamboo within any Buffer Zone.

- C. This Ordinance shall not be deemed to alter any rights at common law or otherwise that any property owner may have to recover the cost of removal of Running Bamboo on their own property from another property owner from whose property the Running Bamboo has spread.

31-4.5 REMOVAL OF RUNNING BAMBOO

If Running Bamboo on any property grows in or into any Buffer Zone, the Borough shall give Notice to the Running Bamboo Property Owner(s), as required by this Ordinance, that the said Property Owner(s) are responsible for the extermination or removal of such Running Bamboo from the Buffer Zone.

31-4.6 INSPECTION

All places and premises in the Borough of Belmar shall be subject to inspection by the Code Enforcement Officer to determine compliance with this Ordinance.

31-4.7 VIOLATIONS AND PENALTIES

- A. Whenever Running Bamboo as defined by this section is found planted in the ground on any plot of land, lot or any other premises or place, a notice of violation shall be given to the Running Bamboo Property Owner, in writing, giving said owner 10 days to remove or abate the same.
- B. The cost of the abatement shall be borne by the Running Bamboo Property Owner.
- C. If the Running Bamboo Property Owner fails to comply with such notice, the Code Enforcement Officer may remove or otherwise control the invasive plant species and the Borough may thereafter recover the cost of such removal from the Running Bamboo Property Owner and place a lien on the property to recover the cost of the removal.
- D. Any person violating any of the provisions of this ordinance who fails to abate the violation after notice shall be subject to the following penalties:
 - 1. A fine, not to exceed \$1,000.00, plus the costs of prosecution, for each day on which a violation has occurred, and for which the property owner has been found guilty.

2. Each day on which the violation occurs shall constitute a separate offense under this Ordinance.

31-4.8 SEVERABILITY CLAUSE

If any part of this Ordinance is found to be unconstitutional, illegal or invalid, for any reason, such unconstitutionality, illegality, or invalidity shall not affect any of the remaining provisions or parts of this Ordinance and those remaining provisions shall remain in full force and effect.

SECTION II. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

SECTION III. All Ordinances or parts of ordinances inconsistent with or in conflict with the ordinance are hereby repealed to the extent of such inconsistency.

SECTION IV. This Ordinance shall take effect 20 days after final passage, adoption and publication according to law.