

## ORDINANCE 2200

### **AN ORDINANCE OF THE BOROUGH OF SOUTH PLAINFIELD, COUNTY OF MIDDLESEX, STATE OF NEW JERSEY ADOPTING REGULATIONS FOR THE PLANTING, GROWING AND/OR CONTAINMENT OF BAMBOO.**

**WHEREAS**, it has been found that certain types of bamboo spread rapidly underground through the root systems and underground rhizomes, thereby damaging and infesting nearby property, and that they are not native to the Borough, but nevertheless, there presently exists within the Borough running bamboo that has expanded beyond the borders of properties upon which it was originally grown, and is causing damage to adjoining property; and

**WHEREAS**, such invasive forms of bamboo will, by their nature, invade, infest and damage other plants, roads, sidewalks, buildings and structures in nearby properties and areas; and

**WHEREAS**, it is found that invasive forms of bamboo are not readily controlled by customary or readily available agricultural measures;

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of South Plainfield, County of Middlesex, State of New Jersey that the Code of the Borough shall be amended to add a new Chapter 334 to be entitled "PLANTING, GROWING, AND/OR CONTAINMENT OF BAMBOO", as follows:

#### 334-1. PURPOSE AND INTENT.

The purpose of this Ordinance is to control the planting, growing, maintenance and/or containment of bamboo in the Borough of South Plainfield, and to preserve and protect private and public property from the damaging spread of running bamboo.

#### 334-2. DEFINITIONS.

A. Buffer Zone – A distance of at least ten (10) feet from any lane, street, or road, whether public or private, or such distance from any neighboring property, whether private or public, whichever is more restrictive for the bamboo owner.

B. 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.

C. Clumping Bamboo – Any sympodial (clumping) woody grass from the genera of bamboos, including, but not limited to, *Fargesia* and *Bambusa*, as well as other non-running species.

D. Bamboo Owner(s) – Any property owner(s) who, or which, have bamboo on their property, whether such bamboo was planted by the property owner, by prior property owner, or has spread onto the property from an adjoining property.

E. Borough – The Borough of South Plainfield, Middlesex County, New Jersey.

F. 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 fix the violation. Such Notice shall be sent by certified mail, return receipt requested, addressed to the owner(s) listed on the current real property tax list on file with the Borough. A copy may also be posted on the property in question.

G. Root Barrier – An underground barrier used to contain the root system of Running Bamboo.

### 334-3. BAMBOO PLANTING PROHIBITED, CONTAINMENT AND REMOVAL.

A. Prohibition – No owner, tenant or occupant of a property, or person, corporation or other entity, shall plant, install, cause or permit the planting or installation of running bamboo upon any property located within the Borough.

B. Duty to Confine – In the event any running bamboo is located upon any property within the Borough prior to the effective date of this Ordinance, the owner and occupant of said property shall jointly and severally be responsible to confine such running bamboo to prevent the encroachment, spread, invasion or intrusion of same onto any buffer zone, or any other private or public property. The root system may be contained within an above-ground planter or within an underground Root Barrier. The Root Barrier shall be constructed in accordance with the following specifications:

- a. The barrier shall be composed of 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 above grade the entire perimeter of the bamboo area.
- d. When installed, the barrier shall slant outward from the bottom to the top.

In lieu of confining running bamboo, the property owner or occupant may elect to totally remove the bamboo from the property and all affected properties. Failure to properly confine running bamboo shall require removal. The cost of such removal shall be at the running bamboo owner's expense.

C. Removal – In cases where running bamboo has spread onto an adjoining property, the owner of the property in which the running bamboo originated shall be responsible for any removal, containment, and/or penalties, as defined within this Ordinance. In the event running bamboo is present on the effective date of this Ordinance, and a complaint is received by the Borough regarding an encroachment of any running bamboo,

and the Property Maintenance Official of the Borough, after observation and/or inspection determines that there is an encroachment or invasion on any adjoining/neighborly private or public property, or public right-of-way, or in any buffer zone, or in the event such determination is made by the Property Maintenance Official regardless of the receipt of a complaint, the Borough shall serve notice to the running bamboo owner(s) in writing that the running bamboo has invaded other private or public property, buffer zone or public right-of-way, and demand remediation of the encroachment of the running bamboo from the affected property, and demand approved confinement against future encroachment. The notice shall be provided to the running bamboo owner(s), as well as to the owner of any affected property, by certified mail, return receipt requested, and regular mail. Within thirty (30) days of receipt of such notice, the running bamboo owner(s) shall submit to the Property Maintenance Official a plan for remediation of the encroachment of the running bamboo from the affected property, which plan shall include restoration of the affected property after remediation of the encroachment. A copy of such plan must also be provided to the owner of the affected property. Within ninety (90) days of receipt of approval of a plan of remediation and restoration by the Property Maintenance Official, the remediation and restoration shall be completed to the satisfaction of the Property Maintenance Official.

#### 334-4. EXEMPTIONS.

Planting and maintaining of non-running bamboo plants shall be permitted here the root system of such clumping 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 in which it is planted.

#### 334-5. RESERVATION OF RIGHTS, VIOLATIONS AND PENALTIES.

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 caused by the spread of running bamboo from another property owner.

Any property owner, whether a person, firm, corporation or other legal entity, or occupant of property, violating any provision of this Ordinance shall be subject to the following penalties upon conviction of such violation:

A. A fine not to exceed One Hundred (\$100.00) Dollars for each day on which a violation has occurred or imprisonment in the County Jail for a term of not more than Thirty (30) days, or both.

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

C. When an encroachment is upon public property or a public right-of-way, and the running bamboo owner(s) and/or occupant(s) has not complied with the written Notice provided as set forth above, the Borough, at its discretion, may remove or contract for the removal of such running bamboo from the public property or public right-of-way. The cost of such removal shall be the responsibility of the running bamboo owner(s) and occupant(s),

jointly and severally, and shall be paid or assessed as a lien as against the property on which the running bamboo originated. The cost of such removal from Borough-owned property and/or public right-of-way shall include the installation of an appropriate Root Barrier to prevent future spread of running bamboo.

#### 334-6. SEVERABILITY.

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.

This Ordinance shall take effect upon final passage and publication in accordance with New Jersey law.