

BOROUGH OF CRESSKILL

ORDINANCE NO. 23-17-1618

AN ORDINANCE TO AMEND CHAPTER 275 ARTICLE XV LANDSCAPING ADDING
SECTION 66.2 ENTITLED PLANTING OR GROWING BAMBOO WITHIN THE
BOROUGH

WHEREAS, the Borough of Cresskill desires to enact an Ordinance restricting and preventing the planting or cultivating of Bamboo; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Cresskill, in the County of Bergen and State of New Jersey, that:

SECTION 1. The code of the Borough of Cresskill be and is hereby amended by adding Section 66.2 Entitled “Planting and growing Bamboo within the Borough”, to read as follows:

Section 66.2 PLANTING OR GROWING BAMBOO WITHIN THE BOROUGH

§ 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 any bamboo plant or subspecies from any neighboring property line.

§ DEFINITIONS

“Running Bamboo” shall mean 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. “Running Bamboo Property Owner(s)” shall mean any property owner(s) or tenant(s) who has Running Bamboo on their property, even if the Bamboo has spread onto their property from an adjoining property.

“Buffer Zone” shall mean a distance of at least 100 feet from any lane, street or road, whether public or private, or from any neighboring property.

“Borough” shall refer to Borough of Cresskill, Bergen County, New Jersey.

“Notice” shall mean any written notice by, from or behalf of the Borough, (1) notifying the Running Bamboo Property Owner(s) that they are in violation of this Ordinance and (2) directing them to cure or reverse the violation within ten (10) days. 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 or personally-served on the property owner or tenant. In lieu of mail service, the Borough may post a copy of The Notice on the property in question.

“Receipt of Notice” shall be the date of mailing the Notice, or, if applicable, the date of personal serving or posting of The Notice in the property in question, whichever is earlier.

§ NO PLANTING OF RUNNING BAMBOO

A. The planting of Running Bamboo is prohibited in the Borough as of the effective date of this Ordinance.

- B. Any existing Running Bamboo, unless it meets the property distance requirements may not be replanted or replaced after having died and in any event shall be immediately removed.
- C. Any person who plants or replants Running bamboo within the Borough 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 itself shall be joined together by the use of stainless strips or clamps; and
 - 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 100 feet from any property line.

§ REGULATION OF AND LIMITATIONS ON EXISTING RUNNING BAMBOO

- A. Any Running Bamboo already in existence on any property within the Borough as of the effective date of this Ordinance shall be removed unless the Plants comply with Buffer Zone or potting requirements as stated in the State Statute and this Ordinance.
- B. Running Bamboo Property Owner(s) shall take all necessary measures to ensure that any Running Bamboo on their property does not exist withing any Buffer Zone. Such measures shall include, but are not limited to, cutting down Running Bamboo existing in the Buffer Zone and physically removing or damaging the Rhizomes and removing any regrowth for several years until the Running bamboo is dead and, if Running Bamboo is present outside the Buffer Zone, the property owner shall install sheathing compromised of as more fully described in Paragraph (C) (2)(a)(b)(c)(d) and install same not less than one hundred (100) 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 altar 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.

§ ENFORCEMENT

This Chapter shall be enforceable by the Code Enforcement Officer or Health Officer and shall apply to all properties and premises within the Borough.

§ VIOLATIONS AND PENALTIES

- A. Whenever Running Bamboo is found planted in the ground or otherwise on any property or premises in the Borough in violation of this Chapter, a Notice shall be given to the Running Bamboo Property owner to abate the violation within ten (10) days. This provision shall not apply to any property or premises in the Borough as described in, subsection (C)(1).
- B. The cost of the abatement shall be borne by the Running Bamboo Property owner.
- C. If the Running Bamboo Property owner fails to commence with compliance with the Notice within the ten (10) day period, the Code Enforcement Officer or Health Officer may order the removal 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 lien the property to recover the cost of the removal, upon adoption of a Resolution authorizing the lien.
- D. Violation of the Statute and/or Ordinance as it pertains to:
 - i. Planting of or failure to remove bamboo; or
 - ii. The Property Owner permits the Bamboo to grow beyond the Property Boundaries or within one hundred (100) feet from the property line shall be subject to the following penalties:
 - a. A fine, not less than \$500 or more than \$1,000.00, plus court costs, for each day when the property owner has been found guilty.
 - b. Each day on which the violation continues constitute a separate offense under this Ordinance.
 - c. Ordered removal of the Bamboo.

SECTION 2: Each section of this Ordinance and every subsection hereof shall be deemed independent, separate and distinct from all other sections, and the holding of any section or a part hereof to be unconstitutional, void, or ineffective for any case shall not be deemed to affect the validity or constitutionality of any other section or part hereof, and to this end, the provisions of this Ordinance are hereby declared severable.

SECTION 3. All other ordinances, codes or parts thereof that are in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency. In the event of any inconsistencies between the provisions of this Ordinance and any prior Borough ordinances, the provisions hereof shall be determined to govern. All other parts, portions, and provisions of the Borough's ordinances are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 4. This ordinance shall take effect upon passage and publication as required by law.