

TOWNSHIP OF LOWER, COUNTY OF CAPE MAY, STATE OF NEW JERSEY

ORDINANCE #2025-07

Title: **AN ORDINANCE AMENDING CHAPTER 185, BRUSH, GRASS AND DEBRIS, OF THE CODE OF THE TOWNSHIP OF LOWER, TO ESTABLISH NEW REGULATIONS PROHIBITING THE PLANTING OF BAMBOO**

WHEREAS, Chapter 185 of the Code of the Township of Lower currently establishes regulations prohibiting individuals from maintaining obnoxious brush, weeds, dead and dying trees, stumps, roots, growths, filth, garbage, trash or debris maintained on properties located within the Township; and

WHEREAS, the Township Council of the Township of Lower has identified a need to amend Chapter 185 of the Code of the Township of Lower in order to preserve and protect public and private properties from the damaging spread of bamboo, a non-native invasive plant, by prohibiting the planting, growing, maintaining, or cultivation of bamboo throughout the Township of Lower; and

WHEREAS, the planting and uncontrolled growth of bamboo is known to threaten other vegetation, endanger existing ecosystems, and it is disruptive to the general health and welfare of a community, and the Township Council of the Township of Lower finds that establishing regulations prohibiting the planting, growth, maintenance, and cultivation of bamboo is necessary to protect native species, public and private properties, and existing ecosystems within the Township.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Township Council of the Township of Lower, County of Cape May, State of New Jersey that Chapter 185, Brush, Grass and Debris, be and hereby is amended as follows:

Section 1. Chapter 185, Brush, Grass and Debris, Subsection 185-2.1, is hereby incorporated as follows:

185-2.1 Bamboo Regulations and Prohibitions.

A. Purpose and Intent.

The purpose of this Section is to preserve and protect private and public property from the damaging spread of invasive bamboo and to protect native plants and the wildlife they support from the spread of invasive bamboo.

B. Definitions. The following definitions shall apply to this subsection:

BAMBOO

The plant species commonly known as bamboo which shall include both running (monopodial) bamboo and clumping (sympodial) bamboo.

PERSON

Any natural person, firm, corporation, partnership, limited liability company, or other organization or group.

PROPERTY OWNER

Any property owner(s), occupant(s), or tenant(s) who, or which, have Bamboo or invasive plants on their property, even if the Bamboo or invasive plant has spread onto their property from an adjoining property.

C. Prohibition on Planting, Growth, and Cultivation of Bamboo.

No Owner, Tenant, Occupant, or Other Person in possession or control of real property, whether public or private, shall plant, grow, maintain, or cultivate, or cause to plant, grow, maintain, or cultivate bamboo within the Township of Lower.

D. Duty to Confine.

- (1) In the event any species commonly classified as bamboo is located upon any property, whether public or private, within the Township, prior to the effective date of this article, the owner or person in possession of such property shall jointly and severally be required to confine such species to prevent the encroachment of same onto any other private or public property or public right-of-way. In lieu of confining the bamboo, the owner or person in possession of such property may remove the bamboo from the property and all affected properties. Failure to properly confine such bamboo shall require removal as set forth below. The cost of said removal shall be at the property owner's or person in possession's expense from which the bamboo first originated.
- (2) The duty to confine shall not apply if the bamboo which is on the property at the time of the adoption of this article originated on another property; the duty to confine shall apply to the owner or person in possession of the land from which the bamboo first originates.

E. Requirement to Remove.

- (1) In the event bamboo is present on the effective date of this article and a complaint is received by the Township regarding an encroachment of any bamboo plant or root, and the Code Enforcement Officer determines that there is an encroachment onto any adjoining/neighborhood private or public property or public right-of-way, the Township shall serve notice to the property owner, or person in possession of such property from which the bamboo first originates, in writing, that the bamboo has encroached onto other private or public property or public right-of-way and demand remediation of the encroachment of the bamboo from the affected property, and demand appropriate confinement against future encroachment. Notice shall be provided to the bamboo property owner, or person in possession of the property, as well as to the owner of the affected property, by certified mail, return receipt requested, and by regular mail. Within forty-five (45) days of receipt of such notice, the bamboo property owner or person in possession of the land shall submit to the Code Enforcement Officer, with a copy to the owner of the affected property, a plan for the remediation of the encroachment of the bamboo from the affected property, which plan shall include restoration of the affected property after remediation of the encroachment. Within one hundred and twenty (120) days of receipt of the Code Enforcement Officer's approval of the plan of remediation and restoration, the remediation and restoration shall be completed to the satisfaction of the Code Enforcement Officer.
- (2) Nothing herein shall be interpreted as limiting the rights of a private property owner to seek civil relief through a court of proper jurisdiction.
- (3) When an encroachment is upon public property or public right-of-way and the owner or person in possession of the property from which the bamboo first originated fails to comply with the written notice provided as set forth above, the Township, at its discretion, may remove or contract for the removal of such bamboo from the Township property or public right-of-way. The cost of such removal shall be the responsibility of the owner or person in possession of the property and shall be paid or assessed as a lien against the property on which the bamboo growth originated. The cost of said removal from the Township-owned property and/or public right-of-way shall include the installation of an appropriate barrier to prevent future bamboo invasion.

F. Responsible Parties.

In the event the property owner, or person in possession of such property, from which the bamboo first originates complies with the provisions of this article, including the confinement and removal of bamboo on and from their property, and an affected property owner refuses or fails to permit the confinement or removal of the bamboo on their property by the originating property owner,

that effected property owner shall be deemed, for the purposes of this article, to be the property owner, or person in possession of such property from which the bamboo first originates, and the provisions of this article shall apply to the affected property owner.

G. Replanting Prohibited.

Any bamboo existing on the effective date of this article shall not be replanted or replaced after such bamboo has died, been destroyed, uprooted, or otherwise removed.

H. Violations and Penalties.

Except as provided for in section 185-2.1(D)(2) above, any person who violates any of the provisions of this article, or who shall fail to remove and remediate bamboo after receiving the required notice set forth herein, shall, upon conviction thereof, be subject to a penalty of not more than \$1,000.00 and/or imprisonment for a period not exceeding thirty (30) days, and/or a period of community service not to exceed thirty (30) days. Any repetition of any act herein prohibited shall be deemed a new and separate offense, and upon conviction thereof be subject to the penalties herein.

Section 2. All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed to the extent of such conflict or inconsistency.

Section 3. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this Ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provision of this Ordinance are hereby declared to be severable.

Section 4. This Ordinance shall become effective 20 days after final passage and publication according to law.

First Reading: Feb 19, 2025

Adopted: March 17, 2025
Attest: Julie A Picard
Julie A Picard, Township Clerk

Thomas Conrad
Thomas Conrad, Councilmember

Joseph Wareham
Joseph Wareham, Councilmember

Roland Roy, Jr.
Roland Roy, Jr., Councilmember

Kevin S Coombs
Kevin Coombs, Deputy Mayor

Frank Sippel
Frank Sippel, Mayor