

COUNTY OF BERGEN

ORDINANCE 1124 -23

ORDINANCE AMENDING AND MODIFYING PART II: GENERAL LEGISLATION
OF THE BOROUGH OF DEMAREST BOROUGH CODE

Section 1. Purpose & Authority. The purpose of this ordinance is to modify and amend Part II, General Legislation, Chapter 176 pursuant to N.J.S.A. 40:48-1, and 40:49-2.

Section 2. Amendments. (amendments are highlighted, deletions strikethrough).

Chapter 176-1 Purpose and intent.

The purpose and intent of this chapter 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 bamboo from any neighboring property line.

§ 176-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

BOROUGH

The Borough of Demarest, Bergen County, New Jersey

BUFFER ZONE

A distance of at least 2 feet from any lane, street or road, whether public or private, or from any neighboring property.

NOTICE

Any written notice by, from or on behalf of the Borough of Demarest i) notifying the running bamboo property owner(s) that they are in violation of this chapter and ii) directing them to cure or fix the violation within 30 days. Such notice shall be sent by certified mail, return receipt requested, and regular mail, 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. A copy of the notice may also be posted on the property in question.

RECEIPT OF NOTICE

Receipt of Notice shall be three (3) calendar days after date of mailing (excluding Sundays and national holidays), or, if applicable, the date of personally serving or posting the notice on the property in question, whichever is earlier.

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.

RUNNING BAMBOO PROPERTY OWNER(S)

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.

§ 176-3 Planting of running bamboo prohibited.

A. The planting of running bamboo is prohibited. The only exception shall be the planting of bamboo in individual contained planting pots, which shall be permitted.

B. Any preexisting running bamboo shall be permitted to remain subject to the provisions of this chapter but shall not be relocated, replanted, or replaced after having died or been removed.

C. Any person or entity who plants or replants (or who allows for the planting or replanting) of running bamboo within the Borough of Demarest after the effective date of this chapter shall be in violation of this chapter.

§ 176-4 Regulating pre-existing running bamboo.

A. Any preexisting running bamboo already in existence prior to the effective date of this chapter may remain, provided however that the running bamboo shall not be permitted to exist within any buffer zone or to extend beyond the metes and bounds of the property. Property owners shall have 90 days from the effective date of this chapter to comply with this chapter. If efforts to remove running bamboo from the buffer zone or outside the property line fail, property owners will be required to install sheathing. A failure to remove running bamboo from the buffer zone or outside the property line shall be defined as the Borough having received two or more complaints of continued non-compliance, substantiated by a Borough representative.

B. Running bamboo property owners shall take all necessary measures, including, but not limited to, cutting, trimming and removal, to ensure running bamboo does not exist within any buffer zone or beyond the property line. Such measures shall include, but are not limited to, cutting down running bamboo existing in the buffer zone or extending beyond the property line 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 permitted to remain outside the buffer zone, installing sheathing comprised of metal or other impenetrable material and placed no less than 2 feet from the property line at a sufficient depth to prevent any growth of running bamboo within any buffer zone or neighboring property.. Upon compliance, Property Owners shall provide the Borough's code enforcement officer proof of compliance.

C. Property owners shall be responsible for arranging for the pick up and removal of any disposed of running bamboo, at the property owner's sole cost and expense, as the Borough's Department of Public Works does not collect or dispose of running bamboo.

D. This section 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.

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§ 176-5

Enforcement; applicability.

This chapter shall be enforceable by the Code Enforcement Official for the Borough of Demarest and shall be applied to all properties and premises located within the Borough.

§ 176-6

Violations and penalties.

A. Whenever running bamboo is found planted in violation of this chapter, a notice shall be provided to the running bamboo property owner to abate the violation within 60 days.

B. The cost of abatement shall be borne by the running bamboo property owner.

C. If the running bamboo property owner fails to comply with the notice within the sixty-day period, the Code Enforcement Official may remove or otherwise control the invasive plant species at the property owner's expense. The Borough may thereafter recover all costs of removal from the running bamboo property owner as well as place a lien on the property for recovery of the cost of removal.

D. Any person in violation of this chapter who fails to abate the violation after notice shall be subject to the following penalties:

(1) A fine of not less than \$25 per day nor more than \$100 per day, for each day the violation exists after the sixty-day abatement period expires.

(2) Each day on which the violation continues shall constitute a separate offense under this chapter.

(3) Fines are in addition to any costs incurred by the Borough.

Section 3. Repealer. All prior ordinances that are inconsistent with this ordinance are repealed. All ordinances are hereby amended to be consistent with this ordinance and all ordinances, including this one, shall be construed consistent with the express purpose of this ordinance.

Section 4. Savings and Construction. This ordinance shall be construed consistent with the purpose stated in Section 1 hereof. Any ambiguities in this ordinance shall be construed in accordance with the purpose of this ordinance. If any part of this ordinance is invalidated by a court of competent jurisdiction, the remainder of this ordinance shall be saved to the full extent possible. This ordinance repeals provisions of the Demarest Code only where stated herein; otherwise this ordinance is amendatory and supplementary to existing provision of the [] Code.

Section 5. Codification. This ordinance shall be codified as amendments to the chapters set forth herein.

Section 6. Effective Date. This ordinance shall take effect immediately upon approval and publication of notice of adoption as provided by law.

Attest:

Approved:



Acting Clerk



Mayor Brian Bernstein

Introduced: 9/26/23

Adopted: 10/10/23