

ORDINANCE 19-2021

AN ORDINANCE OF THE BOROUGH OF WOODBURY HEIGHTS AMENDING AND SUPPLEMENTING CHAPTER 64 ENTITLED "PROPERTY MAINTENANCE CODE" and CHAPTER 64A ENTITLED "PROPERTY MAINTENANCE" OF THE BOROUGH OF WOODBURY HEIGHTS CODE TO ESTABLISH A NEW SECTION 64A ENTITLED "PROPERTY MAINTENANCE- PLANTING, GROWING OR CULTIVATING BAMBOO AND OTHER INVASIVE PLANT SPECIES"

WHEREAS, residents within the Borough of Woodbury Heights plant various vegetation, including bamboo, and other invasive plant species for beautification, privacy and/or to create natural barriers in and around their properties; and

WHEREAS, municipalities have been considering how to manage vegetative waste and address overgrowth of invasive plant species in suburban residential settings, including the Borough of Woodbury Heights; and

WHEREAS, the Mayor and Borough Council have determined that the recommended amendments to Chapter 64 and Chapter 64A, respectively, of the Borough Code are warranted to promote the health, safety, and welfare of the citizens of the Borough of Woodbury Heights to provide appropriate standards and regulations for the planting, growing and/or cultivating of bamboo and other invasive plant species so as to avoid adverse impacts on neighboring properties and residents affected by invasive plant species.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Woodbury Heights, Gloucester County, and State of New Jersey, that Chapters 64 and 64A of the Code of the Borough of Woodbury Heights are hereby amended and supplemented, as follows:

SECTION I. Chapter 64 entitled "Property Maintenance Code" and specifically Section 302.4 entitled "WEEDS" is hereby retitled and amended and supplemented to read, as follows:

Section 302.4 "WEEDS AND INVASIVE PLANT SPECIES": "All premises and exterior property shall be maintained free from weeds or plant growth in excess of ten (10) inches. All noxious weeds and invasive plant species, shall be prohibited. Weeds shall be defined as all grasses, annual plants, and vegetation, other than trees or shrubs provided: however, this term shall not include cultivated flowers and gardens. Invasive plant species are defined within Section 64A-1(B).

EXCEPTION: Empty lots without structures shall be exempt from Section 302.4

Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 112.4 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut, remove and/or destroy the weeds or invasive plant species growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property."

SECTION II. Chapter 64A of the Borough Code entitled "Property Maintenance" is hereby amended and supplemented in its entirety to read, as follows:

The new title of Chapter 64A that shall be adopted into the Borough Code is entitled: "**Property Maintenance-Planting, Growing or Cultivating Bamboo and Other Invasive Plant Species**" to read, as follows:

§ Section 64A-1

Definitions and scope; prohibition; confinement.

A. Purpose. This article is adopted to control the planting, cultivating, and/or growing of bamboo and other invasive plant species in the Borough of Woodbury Heights. It is further intended to require barriers that will prevent the spread of invasive plant species, such as bamboo, into adjacent properties and other areas in the Borough of Woodbury Heights.

B. Definitions. Invasive plant species definition. All native and nonnative vines, trees, shrubs, herbaceous plants, vegetation, as well as their cultivars that are known or believed to be invasive to natural ecosystems in New Jersey shall be considered invasive as they grow out of place and are competitive, persistent and pernicious. Invasive plant species also includes plant species that may damage trees, vegetation, sidewalks or structures. Specific examples of invasive plant species include, but are not limited to, the following: bamboo, as well as invasive plant species developed by the New Jersey Species Strike Team and the New Jersey Forestry Association. The terms "bamboo" and "invasive plant species" shall include, but not be limited to, the following plant genera (commonly known as spreading or running type): Arundinaria, Bambusa, Chimonobambusa, Dendrocalamus, Fargesia, Japanese Knotweed, Phyllostachys, Pleioblastus, Sasa, Sasaella, Semiarundinaria, Ragweed, multi-flora rose, kudzu-vine and poison oak or ivy.

C. Prohibition. No owner, tenant or occupant of a property, or person, corporation or other entity, shall plant, install, or cause or permit the planting or installation of any invasive plant species such as bamboo within any lot and/or parcel of ground anywhere within geographic boundaries of the Borough of Woodbury Heights.

D. Duty to confine; inspection and approval of Code Enforcement Officer.

(1) If there exists any species commonly known as "bamboo-running or clumping," or any other invasive plant species located upon any property within the Borough of Woodbury Heights prior to the effective date of this article, there shall be a duty to confine imposed upon the owner or occupant of the property. The duty to confine shall require owners and occupants to prevent the encroachment, spread, invasion or intrusion of bamboo and other invasive plant species onto any other private property, public property, or public right-of-way.

(2) All places and premises in the Borough of Woodbury Heights shall be subject to inspection by the Code Enforcement Officer when there is reason to believe that any section of this article is being violated.

(3) Property owners who seek to confine bamboo or other invasive plant species must do so in accordance with methods approved by the Borough of Woodbury Heights Code Enforcement Officer. The Code Enforcement Officer may permit, inspect and approve methods of confinement and amend the requirements of said confinement from time to time. The Code Enforcement Officer may also permit, inspect and approve proper methods for full removal of bamboo or other invasive plant species.

(4) Failure to confine bamboo or other invasive plant species in accordance with the requirements of this Ordinance enforced by the Code Enforcement Officer shall require immediate removal by the property owner or occupant.

(5) An owner or occupant with property containing bamboo or other invasive plant species prior to the adoption of this article may fully remove the bamboo or other invasive plant species in lieu of the duty to confine. Such removal must conform with the requirements set forth by the Code Enforcement Officer.

§ Section 64A-2

Proper method of confinement and mandatory setback.

A. Bamboo and any other invasive plant species shall be considered properly confined when its root system is entirely contained within an aboveground level planter, barrel, or other vessel of such design, material and location as to completely prevent the root system's growth beyond the container in which it is planted.

B. When properly confined as described herein, all bamboo and invasive plant species shall be located, trimmed, and maintained so that no part of the plant shall be closer than 10 feet from any property line.

§ Section 64A-3

Encroachment.

A. Encroachment on public property; rights of Borough. When an encroachment of bamboo or any other invasive plant species occurs upon public property or a public right-of-way, the Borough of Woodbury Heights may remove or contract for the removal of such bamboo or other invasive plant species from public property or right-of-way. The cost of removal shall be the responsibility of the property owner and shall be assessed as a lien against the property on which the growth originated. The cost of removal of the bamboo and any other invasive plant species shall also include the installation of an appropriate barrier to prevent future invasion onto the public

property or any right-of-way.

B. Encroachment on private property; rights of property owner. Nothing herein shall be interpreted as limiting the rights of a private property owner to seek civil relief through a court of proper jurisdiction, nor the institution of civil proceedings against the proper parties.

§§ Section 64A-4

Recovery of costs.

A. The cost of corrective action, together with any civil penalties, legal fees and other costs shall be recoverable from the responsible party in violation of this Ordinance.

B. Whenever it shall be deemed for the preservation and protection of the public health, safety and welfare, or to eliminate a fire hazard, the Code Enforcement Officer, as well as the Director of the Department of Public Works, or their designees, shall require any owner, tenant, occupant, managing agent, executor, administrator or other similar person to remove or destroy invasive plant species, brush, weeds (including ragweed), dead and dying trees, stumps, roots, obnoxious growth, filth, garbage, trash and debris from any property or within the entire perimeter of the property that extends to the curb line of the roadway abutting the property, within five days after receipt of notice to remove or destroy the same.

C. Litter, weeds and natural accumulations: All premises shall be kept reasonably free from the accumulation of refuse, brush, weeds, broken glass, stumps, roots, filth, garbage, trash, litter, debris and, without limitation, accumulations of natural debris such as leaves to the extent that such accumulations exhibit an excessive lack of maintenance and care, or may otherwise expose nearby properties to the effects of such accumulations.

D. All such obnoxious growth, debris and natural accumulations delineated in the preceding paragraphs shall be collected and either removed from the premises or accumulated in trash cans, bags or other similar containers for removal by any appropriate sanitation service; the property shall be cleared within the entire perimeter of the property and extend to the curb line or gutter line of the adjoining roadway, as the case may be.

SECTION III. INCONSISTENT ORDINANCES REPEALED. All ordinances or parts of other Ordinances in conflict with the provisions of this Ordinance shall, to the extent of the conflict, be, and are hereby repealed, provided that nothing herein shall in any way excuse or prevent prosecution of any previous existing violation of any Ordinance superseded hereby.

SECTION IV. SAVING CLAUSE. Nothing in this Ordinance hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed by this Ordinance, nor shall any just or legal right or remedy of any character be lost, impaired or affected by the Ordinance.

SECTION V. In the event that any section, paragraph, sentence, clause or phrase of this Ordinance shall 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 that end the provisions of this Ordinance are hereby declared to be severable.

SECTION VI. PASSAGE AND PUBLICATION. This Ordinance shall be in full force and effect from its passage of publication by the Clerk as provided by law and shall continue in effect and operation until lawfully repealed by the Borough of Woodbury Heights.

BOROUGH OF WOODBURY HEIGHTS

By: *William C. Packer*
WILLIAM C. PACKER, MAYOR

ATTEST:



SHANNON ELTON, BOROUGH CLERK

CERTIFICATION

The foregoing Ordinance was introduced at a Regular Meeting of Borough Council of the Borough of Woodbury Heights held on the 15th day of September, 2021, and will be considered for final passage and adoption at a Regular Meeting at which time any person interested therein will be given an opportunity to be heard. Said meeting to be held on 20th day of October, 2021, at the Borough Hall, 500 Elm Ave, Woodbury Heights, New Jersey.



SHANNON ELTON, BOROUGH CLERK