

ORDINANCE NO. 22, 2014

AN ORDINANCE AMENDING CHAPTER 99 BRUSH, GRASS AND WEEDS, TO ADDRESS BAMBOO, OF THE CODE OF THE CITY OF LINWOOD AND REPEALING ALL ORDINANCES HERETOFORE ADOPTED THE PROVISIONS OF WHICH ARE INCONSISTENT HEREWITH.

BE IT ORDAINED, by the Common Council of the City of Linwood, County of Atlantic and State of New Jersey as follows:

SECTION 1: Chapter 99, Brush, Grass and Weeds is hereby amended to add the following section:

99-9. BAMBOO PLANTING PROHIBITED; CONTAINMENT AND REMOVAL

It is determined that certain types of the bamboo plant are invasive and often difficult to control, and can and has caused significant damage to properties in the City of Linwood. The purposes of this subsection are to preserve and protect private and public property from the damaging spread of bamboo, to protect indigenous and other plant materials from the invasive spread of bamboo, and to maintain the general welfare of the residents of the City of Linwood.

- a.) **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 plant species commonly known as Running Bamboo upon any property located within the City of Linwood. For the purposes of this section, “running bamboo” means any bamboo in the genus *Phyllostachys*, including *Phyllostachys aureosulcata*.
- b.) **Duty to Confine:** In the event any species commonly known as Running Bamboo is located upon any property within the City of Linwood, prior to the effective date of this prohibition, the owner and occupant of said property shall jointly and severally be required to confine such species to prevent the encroachment, spread, invasion or intrusion of same onto any other private or public property or public right of way. In lieu of confining the species, the property owner or occupant may elect to totally 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 bamboo property owner’s expense. This duty to confine shall not apply if the property owner and/or occupant can establish to the satisfaction of the Code Enforcement Officer that the bamboo which is on his/her property at the time of the adoption of this ordinance originated on another property.
- c.) **Removal:**
 - (1) In the event Running Bamboo is present on the effective date of this prohibition and a complaint is received by the City regarding an encroachment of any bamboo plant or root, and the Code Enforcement Officer of the City,

after observation and/or inspection, determines that there is an encroachment or invasion on any adjoining/neighborhood private or public property or public right of way (hereinafter, "the affected property"), the City shall serve notice to the bamboo property owner in writing that the bamboo has invaded other private or public property(s) or public right of way(s) and demand remediation of the encroachment of the bamboo from the affected property, and demand approved confinement against future encroachment. Notice shall be provided to the bamboo property owner, as well as to the owner of the affected property, by certified, return receipt requested mail and regular mail. Within 45 days of receipt of such notice, the bamboo property owner shall submit to the Code Enforcement Officer of the City, 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 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 of the City.

(2) If the bamboo property owner does not accomplish the remediation of the encroachment from such other private or public property or public right of way in accordance herewith, the Code Enforcement Officer of the City of Linwood shall cause a citation to be issued with a penalty up to \$100.00 for each day the violation continues, enforceable through the Municipal Court of the City of Linwood. The Administrative Officer may request, and the Municipal Court may grant, a specific performance remedy. The City may also institute civil proceedings for injunctive or civil relief.

(3) 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 property parties.

(4) When an encroachment is upon public property or public right of way and the bamboo property owner and/or occupant has not complied with the written notice provided as set forth above, the City of Linwood, at its discretion, may remove or contract for the removal of such bamboo from the City property or public right of way. The cost of such removal shall be the responsibility of the bamboo property owner and occupant 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 City owned property and/or public right of way shall include the installation of an appropriate barrier to prevent future bamboo invasion.

d.) Replanting Prohibited: Any Running Bamboo either planted or caused to be planted or existing on the effective date of this regulation, may not be replanted or replaced once such bamboo is or has become dead, destroyed, uprooted, or otherwise removed.

Section 2 All ordinances or portions thereof inconsistent with this ordinance are repealed to the extent of such inconsistency.

Section 3 If any portion of this ordinance is declared to be invalid by a court of competent jurisdiction, it shall not affect the remaining portions of the ordinance which shall remain in full force and effect.

Section 4 This Ordinance shall take effect in the time and manner prescribed by law.

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| <i>FIRST READING:</i> | <i>November 25, 2014</i> |
| <i>PUBLICATION:</i> | <i>December 1, 2014</i> |
| <i>PASSAGE:</i> | <i>December 10, 2014</i> |

The within Ordinance was introduced at a meeting of the Common Council of the City of Linwood, County of Atlantic and State of New Jersey held on, November 25, 2014 and will be further considered for final passage after a public hearing thereon at a meeting of said Common Council on December 10, 2014.

LEIGH ANN NAPOLI, RMC, MUNICIPAL CLERK

RICHARD L. DEPAMPHILIS, III, MAYOR