

## ORDINANCE NO. 2021-06

### ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, STATE OF NEW JERSEY SUPPLEMENTING THE BOROUGH'S REVISED GENERAL ORDINANCES TO INSERT NEW CHAPTER 242: "BAMBOO AND INVASIVE PLANTS" TO PROHIBIT THE FUTURE PLANTING AND REGULATE THE EXISTING PLANTINGS OF INVASIVE SPECIES OF VEGETATION WITHIN THE BOROUGH

**WHEREAS**, the Borough of Red Bank (the "Borough") is a densely populated community with a wide variety of commercial and residential properties landscaped in different ways; and

**WHEREAS**, because of the proximity of dwellings and businesses to each other within the Borough, the planting of invasive species by one property owner can have adverse effects upon many others, and in some cases, can be deleterious to native plants and wildlife throughout the Borough; and

**WHEREAS**, the Borough seeks to prohibit any new plantings of bamboo and other invasive species, and to establish standards to govern existing plantings of invasive species, as may be herein permitted, to better protect native species and surrounding property owners;

**NOW, THEREFORE BE IT ORDAINED** by the Mayor and Council of the Borough of Red Bank, County of Monmouth, and State of New Jersey that the Borough's Revised General Ordinances is amended to include new Chapter 242: "Bamboo and Invasive Plants" as follows:

### CHAPTER 242 BAMBOO AND INVASIVE PLANTS.

#### § 242-1 Purpose and Intent.

The purpose of this Ordinance is to preserve and protect private and public property from the damaging spread of bamboo and other invasive plants and to protect indigenous plants and the wildlife they support from the spread of invasive plants from any neighboring property line.

#### § 242-2 Definitions.

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

- A. **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.
- B. **Property Owner(s)** – Any property owner(s) or tenant(s) who, or which, have Running Bamboo or Invasive Plants on their property, even if the Bamboo or Invasive Plant has spread onto their property from an adjoining property.
- C. **Invasive Plants** shall mean all native and non-native vines and vegetation, including ragweed, multi-flora rose and kudzu-vine, that grow out of place and are competitive, persistent, and pernicious. These plants may damage trees, vegetation, or structures.
- D. **Prohibited Plants** shall mean all vegetation known as *Reynoutria japonica*, *Fallopia japonica*, and/or *Polygonum cuspidatum* (commonly known as Japanese knotweed) and *Ailanthus altissima* (commonly known as "Tree of Heaven").
- E. **Buffer Zone** – A distance of at least five (5) feet from any lane, street or road, whether public or private, or from any neighboring property, whichever is more restrictive for the property owner.
- F. **Borough** – The Borough of Red Bank, Monmouth County, New Jersey.
- G. **Notice** – Any written notice by, from or on behalf of the Borough, notifying the Property Owner(s) that they are in violation of this Ordinance and directing them to

cure or fix the violation. 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. A copy may also be posted on the property in question.

H. **Receipt of Notice** – Receipt of the Notice required herein shall be the date of mailing said Notice, or, if applicable, posting of the Notice on the property in question, whichever is earlier.

**§ 242-3 Bamboo.**

A. *No Planting of Running Bamboo.*

1. The planting of Running Bamboo is prohibited within the Borough.
2. Any existing Running Bamboo may not be replanted or replaced after any such existing Running Bamboo has died or been removed.
3. Any person who plants or replants Running Bamboo within the Borough limits 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:
  - a. 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 plants' root system beyond the container in which it is planted; or
  - b. The root system is contained within a barrier, constructed in accordance with the following specifications:
    - i. The barrier itself shall be composed of a high density polypropylene or polyethylene, with a minimum thickness of 6 mil (or 1/16 of an inch);
    - ii. Each portion of the barrier shall be joined together by the use of stainless steel strips or clamps;
    - iii. 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;
    - iv. When installed, the barrier shall slant outward from the bottom to top.
  - c. 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 five (5) feet from any property line.

B. *Regulation of Existing Running Bamboo.*

1. Any Running Bamboo already in existence on any property within the Borough limits as of the effective date of this Ordinance, may remain on such property, provided that Running Bamboo shall not be permitted within any Buffer Zone.
2. Property Owner(s) shall take all necessary measures to ensure that any Running Bamboo on their property does not exist within any Buffer Zone. Such measure shall include, but are not limited to, cutting down Running Bamboo existing in the Buffer Zone and physically removing or poisoning the rhizomes or spraying 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 five (5) feet from the property line at a sufficient depth to prevent any growth of Running Bamboo within any Buffer Zone.
3. This Ordinance 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.

C. *Removal of Running Bamboo.* If Running Bamboo on any property grows in or into any Buffer Zone, the Borough shall give Notice to the Property Owner(s), as required by this Ordinance, that the said Property Owner(s) are responsible for the extermination or removal of such Running Bamboo from the Buffer Zone.

D. *Inspection.* All premises within the Borough shall be subject to inspection by the Code Enforcement Officer to determine compliance with this Chapter as provided by law.

E. *Violations and Penalties.*

1. Whenever Running Bamboo is found planted in the ground on any plot of land, lot or any other premises or place in contravention of the provisions of this Chapter, a Notice shall be given to the Property Owner(s), providing thirty (30) days to remove or abate the same.
2. The cost of the removal and/or abatement shall be borne by the Property Owner(s).
3. If the Property Owner(s) fail(s) to comply with such notice, the Code Enforcement Officer may remove or otherwise control the Running Bamboo and the Borough may thereafter recover the cost of such removal from the Property Owner(s) and place a lien on the property to recover the cost of the removal according to law.
4. Any person violating this Ordinance who fails to abate the violation after notice shall be subject to a fine, not to exceed \$500.00, plus costs, for each day on which a violation has occurred, and for which the property owner has been found guilty. Each day on which the violation occurs shall be a separate offense under this Chapter.

**§ 242-4 Invasive Plants and Prohibited Plants.**

A. *Plantings and Prohibitions.*

1. All new in-ground plantings of Invasive Plants and Prohibited Plants are strictly forbidden within the Borough.
2. All existing plantings of Invasive Plants must be contained by appropriate physical barriers to prevent the growth or spread of Invasive Plants within any Buffer Zone of any property.
3. Prohibited Plants are hereby prohibited within the limits of the Borough and all such plantings shall be destroyed by the Property Owner(s) within thirty (30) days of receiving written notice from the Borough.

B. *Inspection.* All premises within the Borough shall be subject to inspection by the Code Enforcement Officer to determine compliance with this Chapter as provided by law.

C. *Requirements of Property Owner(s).*

1. All Property Owner(s) shall be required to control the growth of existing plantings of Invasive Plants.
2. The failure of any Property Owner(s) to control the spread of Invasive Plants within any Buffer Zone of residential or commercial property is a violation of this Chapter.
3. The failure of Property Owner(s) to remove and/or destroy Prohibited Plants growing upon residential or commercial property is a violation of this Chapter.

D. *Removal or Abatement.*

1. Whenever Invasive Plants or Prohibited Plants are found planted in the ground on any plot of land, lot or any other premises or place in contravention of the provisions of this Chapter, a Notice shall be given to the Property Owner(s), providing thirty (30) days to remove or abate the same.
2. The cost of the removal and/or abatement shall be borne by the Property

Owner(s).

3. If the Property Owner(s) fail(s) to comply with such notice, the Code Enforcement Officer may remove or otherwise control the Invasive Plants and/or Prohibited Plants and the Borough may thereafter recover the cost of such removal from the Property Owner(s) and place a lien on the property to recover the cost of the removal according to law.
4. Any person violating this Ordinance who fails to abate the violation after notice shall be subject to a fine, not to exceed \$500.00, plus costs, for each day on which a violation has occurred, and for which the property owner has been found guilty. Each day on which the violation occurs shall be a separate offense under this Chapter.

**BE IT FURTHER ORDAINED** by the Governing Body of the Borough of Red Bank that any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. All other provisions of the Revised General Ordinances are ratified and remain in full force and effect.

**BE IT FURTHER ORDAINED** by the Governing Body of the Borough of Red Bank that if any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

**BE IT FURTHER ORDAINED** by the Governing Body of the Borough of Red Bank that this Ordinance shall take effect immediately upon its passage and adoption according to law.

	Motion	Yes	No	Abstain	Absent
Councilman Yassin	Second	X			
Councilwoman Triggiano	Motion	X			
Councilman Ballard		X			
Councilman Yngstrom		X			
Councilman Ziprich		X			
Councilwoman Horgan		X			

Introduction: January 27, 2021

Public Hearing/Adoption: February 10, 2021