

SPONSORED BY: _____
SECONDED BY: _____

CITY OF HOBOKEN
ORDINANCE NO.: _____

AN ORDINANCE AMENDING CHAPTER 110 OF THE HOBOKEN CITY
CODE ENTITLED “GARBAGE, RUBBISH AND LITTER” ARTICLE II
ENTITLED “REFUSE” TO INCLUDE §110-11 “BAMBOO PLANTS”

THE MAYOR AND COUNCIL OF THE CITY OF HOBOKEN DOES HEREBY
ORDAIN AS FOLLOWS:

Section 1: The following additions shall be made to Chapter 110 of the Hoboken City Code entitled “Garbage, Rubbish and Litter”, Article II entitled “Refuse” to add §110-11:

§ 110-11 Bamboo Plants.

- A. **Purpose:** It is determined that certain types of the bamboo plant are invasive and often difficult to control, and can cause significant damage to property. The purpose of this section is to preserve and protect public and private property in the City of Hoboken 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 Hoboken.
- B. **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 (monopodial) Bamboo or Clumping (sympodial) Bamboo upon any property located within the City of Hoboken. This prohibition shall include but is not limited to the following plant genera:
- a. Arundinaria;
 - b. Bambusa;
 - c. Chimonobambusa;
 - d. Dendrocalamus;
 - e. Fargesia;
 - f. Phyllostachys;
 - g. Pleioblastus;
 - h. Pseudosasa;
 - i. Sasa;
 - j. Sasaella;
 - k. Semiarundinaria.

- C. **Duty to Confine.** In the event any species commonly known as Running Bamboo or Clumping Bamboo is located upon any property within the City of Hoboken, 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.
- a. 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.
 - b. 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.
 - c. This duty to confine shall not apply if the property owner and/or occupant can establish to the satisfaction of the City Inspector that the bamboo which is on his/her property at the time of the adoption of this Ordinance originated on another property.

D. **Removal.**

1. In the event Running Bamboo or Clumping 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 City Inspector, after observation and/or inspection, determines that there is an encroachment or invasion on any adjoining/neighboring 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 the removal of the bamboo from the affected property, and demand approved confinement against future encroachment or, in the alternative, the total removal from the bamboo property owner's property. 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 forty-five (45) days of receipt of such notice, the bamboo property owner shall submit to the City Inspector, with a copy to the owner of the affected property, a plan for the removal of the bamboo from the affected property, which plan shall include restoration of the affected property after removal of the bamboo. Within one hundred twenty (120) days of receipt of approval of the plan of removal and restoration, the removal and restoration shall be completed to the satisfaction of the City.
2. If the bamboo property owner does not accomplish the removal of the bamboo from such other private or public property or public right-of-way in accordance herewith, the City Inspector shall cause a citation to be issued and penalties to be imposed in accordance with N.J.S.A. 40:49-5 ("Penalties for municipal ordinances") for each day the violation continues, enforceable through the Municipal Court of the City of the City of Hoboken. 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.

E. **Replanting Prohibited:** Any Running Bamboo or Clumping 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 TWO: REPEAL OF INCONSISTENT PROVISIONS

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

SECTION THREE: SEVERABILITY

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION FOUR: EFFECTIVE DATE

This Ordinance shall take effect immediately upon passage and publication as provided by law.

SECTION FIVE: CODIFICATION

This ordinance shall be a part of the Code of the City of Hoboken as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Code.

The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Hoboken in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

Date of Introduction: June 7, 2017

Introduction:

Councilperson	Yea	Nay	Abstain/Present	Absent
Ravi Bhalla				
Peter Cunningham				
Michael DeFusco				
James Doyle				
Tiffany Fisher				
David Mello				
Ruben Ramos, Jr.				
Michael Russo				
Jen Giattino, Council President				

Final Reading:

Councilperson	Yea	Nay	Abstain/Present	Absent
Ravi Bhalla				
Peter Cunningham				
Michael DeFusco				
James Doyle				
Tiffany Fisher				
David Mello				
Ruben Ramos, Jr.				
Michael Russo				
Jen Giattino, Council President				

Approved as to Legal Form:

 Brian Aloia, Esq. Corporation Counsel

Adopted by the Hoboken City Council
 By a Vote of ____ Yeas to ____ Nays
 On the ____ day of ____, 2017

 James Farina, City Clerk

Vetoed by the Mayor for the following reasons: _____

-or-

Approved by the Mayor
 On the ____ day of ____, 2017

 Dawn Zimmer, Mayor