

12/3/2020

**TOWNSHIP OF MAHWAH
ORDINANCE NO. 1918**

**AN ORDINANCE AMENDING CHAPTER 13 OF THE CODE OF THE
TOWNSHIP OF MAHWAH ENTITLED "ENVIRONMENTAL REGULATIONS"
TO REGULATE THE PLANTING OR GROWING OF BAMBOO WITHIN THE
TOWNSHIP**

WHEREAS, the Township of Mahwah wishes to amend Chapter 13 of the Code of the Township of Mahwah, entitled ENVIRONMENTAL REGULATIONS, by creating Section 13-2 BAMBOO.

NOW THEREFORE, BE IT ORDAINED by the Township Council of the Township of Mahwah that:

Section 1. The Township Code is amended by the addition of a new Section 13-2 entitled BAMBOO to read as follows:

Section 13-2 BAMBOO

13-2.1 PURPOSE AND INTENT

The purpose of this Ordinance 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 such bamboo from any neighboring property line.

13-2.2 DEFINITIONS

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. Running Bamboo Property Owner(s) – Any property owner(s) or tenant(s) who, or which, have Running Bamboo on their property, even if the Bamboo has spread onto their property from an adjoining property.

C. Buffer Zone – A distance of at least 10 feet from any lane, street or road, whether public or private, or from any neighboring property, whichever is more restrictive for the Running Bamboo Property Owner.

D. Township – The Township of Mahwah, Bergen County, New Jersey.

E. Notice – Any written notice by, from or on behalf of the Township, notifying the Running Bamboo 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 Township. A copy may also be posted on the property in question.

F. 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.

13-2.3 NO PLANTING OF RUNNING BAMBOO

- A. The planting of Running Bamboo is prohibited in the Township of Mahwah.
- B. Any existing Running Bamboo may not be replanted or replaced after any such existing Running Bamboo has died or been removed.
- C. Any person who plants or replants Running Bamboo within the Township 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:
 - 1. 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 bamboo plants' root system beyond the container in which it is planted; or
 - 2. The root system is contained within a barrier, constructed in accordance with the following specifications:
 - a. The barrier itself shall be composed of a high density polypropylene or polyethylene, with a minimum thickness of 40 mm;
 - b. Each portion of the barrier shall be joined together by the use of stainless steel strips or clamps;
 - c. 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;
 - d. When installed, the barrier shall slant outward from the bottom to top.
 - 3. 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 10 feet from any property line.

13-2.4. REGULATION OF AND LIMITATIONS ON EXISTING RUNNING BAMBOO

A. Any Running Bamboo already in existence on any property within the Township limits as of the effective date of this Ordinance may remain on such property.

B. Except as permitted under Section 13-2.4.A, running Bamboo 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 10 feet from the property line at a sufficient depth to prevent any growth of Running Bamboo within any Buffer Zone.

C. 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.

13-2.5 REMOVAL OF RUNNING BAMBOO

If Running Bamboo on any property grows in or into any Buffer Zone, The Township shall give Notice to the Running Bamboo 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.

13-2.6 INSPECTION

All places and premises in the Township of Mahwah shall be subject to inspection by the Property Maintenance Officer to determine compliance with this Ordinance.

13-2.7 VIOLATIONS AND PENALTIES

A. Whenever Running Bamboo as defined by this section is found planted in the ground on any plot of land, lot or any other premises or place, a notice of violation shall be given to the Running Bamboo Property Owner, in writing, giving said owner 10 days to remove or abate the same.

B. The cost of the abatement shall be borne by the Running Bamboo Property Owner.

C. If the Running Bamboo Property Owner fails to comply with such notice, the Property Maintenance Officer may remove or otherwise control the invasive plant species and the Township may thereafter recover the cost of such removal from the Running Bamboo Property Owner and place a lien on the property to recover the cost of the removal.

D. Any person violating any of the provisions of this Ordinance who fails to abate the violation after notice shall be subject to the following penalties:

1. A fine, not to exceed \$1,000.00, plus the costs of prosecution, for each day on which a violation has occurred, and for which the property owner has been found guilty.
2. Each day on which the violation occurs shall constitute a separate offense under this Ordinance.

Section 2. Severability

If any section, paragraph, sub-section, clause or provision of this ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole or any part thereof.

Section 3. Repealer

All ordinances or parts of ordinances of the Township heretofore adopted that are inconsistent with any terms and provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Section 4. Effective Date

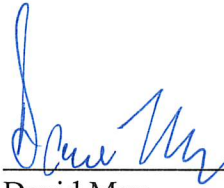
This Ordinance shall take effect as provided by law.

Ordinance No. 1918

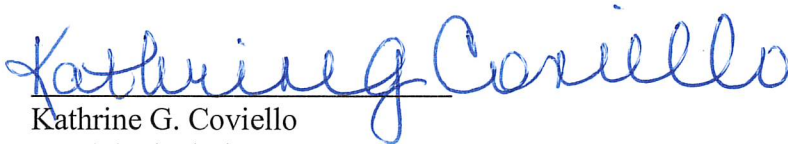
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Dated: June 14, 2021

Attest



David May
Council President



Kathrine G. Coviello
Municipal Clerk

I, Kathrine G. Coviello, Municipal Clerk of the Township of Mahwah, hereby certify that the within Ordinance was passed and adopted at a meeting of the Township Council held on the 17th day of December, 2020.



Kathrine G. Coviello, RMC/CMC/MMC
Municipal Clerk