

CITY OF DOVER
ORDINANCE #2012-16

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:

That Chapter 114 – Vegetation, be amended by adding a new Article III – Bamboo, as follows:

Article III. Bamboo

Sec. 114-36. – *Unlawful to plant or grow bamboo.* It shall be unlawful to plant or grow bamboo on any lot or parcel of ground within the city unless:

- (a) The root system of such bamboo plant(s) is entirely contained within an above-ground-level planter, barrel, or other vessel of such design, material, and location as to entirely prevent the spread/growth of the bamboo plant'(s) 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, and only after a compliance inspection is performed, and a building permit is issued by the city of Dover:
 - 1. The barrier itself shall be composed of high density polypropylene or polyethylene, 40 mil or heavier;
 - 2. Each portion or sheet of the barrier shall be secured or joined together by the use of stainless steel clamps or stainless steel closure strips designed for such barriers;
 - 3. The barrier shall be installed not less than 30 inches deep;
 - 4. The barrier shall be circular or oblong shaped;
 - 5. Not less than three inches of the barrier shall protrude above ground level around the entire perimeter of the barrier;
 - 6. When installed, the barrier shall slant outward from the bottom to the top.
- (c) Whether planted or growing in a container (under subparagraph (a) above) or contained within a barrier (under subparagraph (b) above), all bamboo plants shall be located, trimmed and maintained so that no part of the plant (including stalks, branches, leaves, and/or roots) shall extend nearer than ten feet from any property line.

Sec. 114-37. - Exemptions.

Section 114-36 shall not apply to any landowner or possessor who, prior to the effective date of this article, has planted or caused to grow any bamboo on any property within the limits of the city unless a city code enforcement official determines that any portion of such bamboo has been allowed to grow upon, extend roots across, or extend branches, stalks or leaves over any public way or any private property not owned by or in the possession of such landowner or possessor.

Sec. 114-38. - Complaint/order for removal, repair and compliance.

When it has been determined by the city that any bamboo plant or root is encroaching on the property of an adjacent or abutting landowner, or public way, the city shall, prior to taking any other action to enforce compliance with this article, give written notice to be delivered by certified mail, to the person(s) or legal entity(s) causing such condition to exist, which notice shall:

- (1) Specify the nature and location of the violation;
- (2) Provide notice of the need to remove and/or correct such condition within 30 days from the effective date of such notice;
- (3) Require that the removal and/or correction of such condition includes:
 - a. The removal and eradication of any bamboo plant or root from any adjoining or nearby lot(s) or public way to which it has spread from its original planting site, and the correction and repair of any property damage sustained to said adjoining or nearby lot(s) or public way, in removing such bamboo; and
 - b. The containment of the bamboo plant causing said encroachment, by mandatory and full compliance with section 114-36 (a) or (b);
- (4) State that upon failure to comply with the notice and order for removal and/or containment, the city may remove and eradicate the bamboo upon the land of any nearby or abutting property owner, public way and/or upon the property of the person(s) or entity(s) planting or causing such bamboo to grow, as provided in section 114-33.

Sec. 114-39. – Abatement of bamboo.

- (a) If the violation is not remedied within the time set forth in the notice and order as outlined above, the city is hereby authorized to remove or have removed any encroaching bamboo and to take all reasonable steps to eradicate its re-growth from said adjacent or nearby property or public way, and to restore any such lands to its natural condition prior to such removal and eradication (including fill, grading, and seeding).
- (b) The city shall also be authorized to remove and eradicate the plant(s) causing the encroachment, upon the responsible party(s)' failure to properly contain the plant after notice.
- (c) The cost of corrective action taken by the city shall be billed to the property owner whose property was the source of the encroachment.
- (d) If the charges assessed by the city for removal or eradication of the bamboo are not paid, then the city, after having corrected the deficiency and violation, shall place its charges and expenses as specified in the municipal lien docket as a lien against said property, and the city solicitor shall be directed to enforce said lien or to collect the charges imposed by the city by any other means that he may deem desirable and most advantageous.

ADOPTED: JULY 9, 2012

SYNOPSIS

The proposed ordinance would prohibit the planting or growing of bamboo in the city of Dover and would authorize the city to abate bamboo that has encroached onto adjacent properties and public ways and charge the cost of this abatement to the property owner.

Actions History:

July 9, 2012 - Final Reading by City Council

June 25, 2012 – First Reading by City Council

June 11, 2012 - Introduced in the Parks, Recreation & Community Enhancement Committee