

Amended Ordinance No. 17 -18

By: Tim Madison

An Ordinance to amend Section 1492.01 in order to add "running bamboo" to the list of "Noxious Vegetation / Weeds", and to provide the Code Enforcement Officer with the authority to require the containment and removal of pre-existing encroaching bamboo.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BEXLEY, OHIO:

Section 1.

That Section 1492.01 is hereby amended as follows:

1492.01 VEGETATION/WEED CONTROL REQUIRED.

(a) No owner or occupant having charge or control of a premises in the City shall permit noxious or rank vegetation/weeds to grow thereon, constituting a nuisance or danger to public health and safety.

(i) "Noxious vegetation/weeds" are defined to include, but are not limited to:

- (1) Thistle
- (2) Burdock
- (3) jimson weed
- (4) ragweed
- ~~(5) milkweed~~
- (5) mullein
- (6) poison ivy
- (7) poison oak
- (8) poison sumac

(ii) Vegetation of rank growth includes, but is not limited to grass/lawn areas that exceed eight inches in height and bushes, shrubs, flowers, trees, branches and limbs that extend into or overhang the public right-of-way. Such vegetation shall constitute a public nuisance or danger to public health and safety.

(b) Restrictions on Growth of Bamboo

(i) Definitions. As used in this chapter, certain terms are defined as follows:

(1) "Bamboo" means any tropical or semi-tropical grasses classified as "running bamboo" with monopodial (leptomorph) rhizome (root) systems which typically send off the rhizomes far away from the plant.

(2) "Bamboo Owner" means any property owner or resident who has planted and/or grows Bamboo, or who maintains Bamboo on the property, or who permits Bamboo to grow or remain on the property even if the Bamboo has spread from an adjoining property. Any property owner or resident at whose property Bamboo is found will be considered a Bamboo Owner, except any property owner or resident who:

(A) Did not plant or grow or cause Bamboo to be planted or grown on his or her property; and

(B) Has provided satisfactory proof to the City that, within a reasonable period of time after discovering the encroachment of

Bamboo onto the property from an adjoining or neighboring property, advised the owner of such property, by delivery of a written notice, of an objection to the encroachment of the Bamboo and a request for the Bamboo to be removed; and

(C) Has initiated steps for the removal of the Bamboo from the property.

- (ii) **Applicability.** For purposes of this Section 14921.01(b), Bamboo found growing upon property shall constitute presumptive evidence that the Bamboo was planted and/or grown by and with the consent of the owner upon whose property the Bamboo is growing. If the Bamboo is found to have encroached, spread, invaded or intruded upon any property other than the property on which it was planted, including public property and right-of-way, it shall be presumed that the Bamboo is “running bamboo” as defined herein, and subject to the provisions of this Section 14921.01(b),.
- (iii) **Duty to Confine.** All Bamboo Owners must confine Bamboo in a manner that will prevent the Bamboo from encroaching, spreading, invading or intruding onto any other private or public property or right-of-way, and shall be required to take any such reasonable measure to do so, including but not limited to the installation of a properly constructed and maintained underground physical barrier system. A Bamboo Owner who fails to confine Bamboo to the Bamboo Owner’s property shall be subject to the provisions of Section 1492.03 and 1492.04 herein.
- (iv) **Property Owners Affected by Bamboo.** In the event that a property owner notifies a Bamboo Owner that Bamboo is encroaching, spreading, invading or intruding upon such property owner’s property, as required under Section 1492.01(b)(i)(2)(B), such notifying property owner shall give consent to the Bamboo Owner for the Bamboo Owner to enter such notifying property owner’s property in order that the Bamboo Owner may remove the Bamboo thereon. Failure to give consent shall hold the notifying property owner responsible for the removal of the encroaching Bamboo at such property owner’s cost. Consent hereunder shall also be deemed to be consent given to a contractor that the Bamboo Owner may hire for the removal of the Bamboo, and to the City or the City’s contractor should that become necessary. Neither the Bamboo Owner, the City, or a contractor hired on behalf of the Bamboo Owner or the City to remove Bamboo from a neighboring property, shall be liable for incidental damages caused by the removal of the Bamboo.

Section 2.

That Section 1492.02 is hereby amended as follows:

1492.02 NOTICE TO CUT AND DESTROY.

The Code Official shall cause written notice to be served by regular mail upon the owner, operator or occupant of such premises in violation of Section 1492.01, notifying them that the noxious and/or rank vegetation/weeds be cut within seven (7) days of the notice and that the

premises be maintained in accordance with this chapter. **In the instances of running bamboo, the Code Official shall exercise appropriate discretion in establishing a reasonable timeline for removal and the installation of a barrier, as required.** If the address of such owner, operator or occupant is unknown, it shall be sufficient to post notice once on the property.

Section 3.

That the provisions of Section 1492.01(b) shall apply to instances of bamboo that precede the passage of this ordinance.

Section 4.

That this Ordinance shall go into effect and be in force from and after the earliest period allowed by law.

Passed Aug 28, 2018


Lori Ann Feibel, President of Council

Attest: William Harvey, 2018
William Harvey, Clerk of Council

Approved: Aug 23, 2018


Benjamin Kessler, Mayor

First Reading: 6-26-18

Second Reading: 8-14-18

Third Reading: 8-28-18

Passed: 8-28-18

