

# Egg Harbor Township

## Ordinance No. 29

2018

### **An ordinance to amend Chapter 78 of the Township Code entitled “Brush, Grass and Weeds”**

**WHEREAS**, it has been determined the bamboo plant and other invasive plants are often difficult to control, and can and has caused significant damage to properties in the Township of Egg Harbor (Township); and

**WHEREAS**, pursuant to N.J.S.A. 40:48-2.13, the Township is authorized to enact ordinances requiring the destruction and removal of brush, weeds, stumps, roots and obnoxious growth where necessary to preserve the public health, safety and general welfare; and

**WHEREAS**, pursuant to N.J.S.A. 40:48-2, the Township is authorized to enact ordinances for the protection of person and property and for the preservation of the public health, safety and welfare of the municipality and its inhabitants; and

**WHEREAS**, the Township Committee has deemed it in the best interest of the public health, safety and welfare to amend Chapter 78 of the Township Code to regulate the growth of bamboo and other invasive plant species; and

**NOW, THEREFORE, BE IT ORDAINED**, by the Township Committee for the Township of Egg Harbor, County of Atlantic, State of New Jersey, as follows:

**SECTION 1:** Chapter 78 of the Township Code entitled “Brush, Grass and Weeds” is hereby renamed as “Brush, Grass, Weeds, Trees and Invasive Plants”.

**SECTION 2:** Chapter 78 of the Township Code is hereby amended by adding a new article, Article III, to read as follows:

### **ARTICLE III**

#### **Planting, Growing or Cultivating Bamboo and Other Invasive Plant Species”**

#### **§78-11 Definitions and scope; prohibition; confinements.**

- A. Purpose. The article is adopted to control the planting, cultivating, and/or growing of bamboo and other invasive plant species in the Township of Egg Harbor. It is further intended to require barriers that will prevent the spread of invasive plant species, such as bamboo, into other public or private property in the Township of Egg Harbor.
- B. Definitions. All native and nonnative vines and vegetation that grow out of place and are competitive, persistent and pernicious; those plants may damage trees, vegetation, sidewalks or structures. Examples include, but are not limited to, bamboo as well as invasive plant species developed by the New Jersey Species Strike Team and the New Jersey Forestry Association. The terms "bamboo" and "invasive plant species" shall include, but not be limited to, the following plant genera (commonly known as spreading or running type): Arundinaria, Bambusa, Chimonobambusa, Dendrocalamus, Fargesia, Phyllostachys, Pleioblastus, Sasa, Sasaella, Semiarundinaria, Ragweed, multi-flora rose, kudzu-vine and poison oak or ivy.

- C. 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 invasive plant species such as bamboo within any lot and/or parcel of ground anywhere within the Township.
- D. Duty to confine.
  - 1. If there exists any species commonly known as "bamboo-running or clumping," or any other invasive plant species located upon any property within the Township of Egg Harbor prior to the effective date of this article, there shall be a duty to confine imposed upon the owner or occupant of the property. The duty to confine shall require owners and occupants to prevent the encroachment, spread, invasion or intrusion of bamboo and other invasive plant species onto any other private property, public property, or public right-of-way.
  - 2. All places and premises in the Township of Egg Harbor shall be subject to inspection by the Code Enforcement Officer when there is reason to believe that any section of this article is being violated.
  - 3. Property owners who seek to confine bamboo or other invasive plant species must do so in accordance with methods approved by the Township of Egg Harbor Code Enforcement Officer. The Code Enforcement Officer may permit, inspect and approve methods of confinement and amend the requirements of said confinement from time to time. The Code Enforcement Officer may also permit, inspect and approve proper methods for full removal of bamboo or other invasive plant species.
  - 4. Failure to confine bamboo or other invasive plant species in accordance with the requirements set forth by the Code Enforcement Officer shall require immediate removal by the property owner or occupant.
  - 5. An owner or occupant with property containing bamboo or other invasive plant species prior to the adoption of this article may fully remove the bamboo or other invasive plant species in lieu of the duty to confine. Such removal must conform with the requirements set forth by the Code Enforcement Officer.

**§78-12 Proper method of confinement and mandatory setback.**

- A. Bamboo and other invasive plant species shall be considered properly confined when its root system is entirely contained within an aboveground level planter, barrel, or other vessel of such design, material and location as to completely prevent the root system's growth beyond the container in which it is planted.
- B. When properly confined as described herein, all bamboo and invasive plant species shall be located, trimmed, and maintained so that no part of the plant shall be closer than 10 feet from any property line.

**§78-13 Encroachment.**

- A. Encroachment on public property; rights of Township. When an encroachment of bamboo or other invasive plant species occurs upon public property or public right-of-way, the Township of Egg Harbor may remove or contract for the removal of such bamboo or other invasive plant species from the public property or right-of-way. The cost of removal shall be the responsibility of the property owner and shall be assessed as a lien against the property on which the growth originated. The cost of removal of the bamboo and other invasive plant species shall also include the installation of an appropriate barrier to prevent future invasion onto the public property or right-of-way.

- B. Encroachment on private property; rights of property owner. 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 proper parties.

**§78-14 Removal.**

In the event it is determined that there is an encroachment or invasion on any adjoining private or public property or public right of way, the Township shall notice the property owner in writing that the bamboo or other invasive plant species has invaded other private or public property or public right of way and demand the removal of the bamboo or other invasive plant species from such other private or public property or public right of way and the confinement against future encroachment or the total removal of the bamboo or other invasive plant species from the owner's property. Notice shall be provided by certified, return receipt requested mail and regular mail. If the bamboo or other invasive plant species property owner does not remove the bamboo or other invasive plant species from such other private or public property or public right of way within forty five (45) days of the date of notice, the Code Enforcement Officer shall cause a citation to be issued with a penalty up to \$100.00 for each day the violation continues, enforceable through the Municipal Court of the Township of Egg Harbor, as well as civil proceedings for injunctive or civil relief.

**§78-15 Violations and Penalties.**

Except as otherwise provided in subsection D above, any person, firm, corporation or other entity violating any of the provisions of this Article shall, upon conviction thereof, be subject to a fine of not less than \$500.00 but not more than \$2,000.00 or by imprisonment for a term not exceeding ninety (90) days or by a period of community service not exceeding ninety (90) days. Any such penalty shall be in addition to the costs incurred in cutting or removing said brush, hedges or other plant life described in the notice given by the Chief of Police, or his designated representative, of the Township of Egg Harbor. For purposes of this article, each day on which such a condition exists after the expiration of the notice shall be deemed or constitute a separate offense under this article, and separate complaints may be filed for each such offense.

**SECTION 3:** All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are, to the extent of such inconsistency, hereby repealed.

**SECTION 4:** Should any section, clause, sentence, phrase or provision of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

**SECTION 5:** This Ordinance shall take effect upon final passage, adoption and publication in the manner prescribed by law.

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE TOWNSHIP COMMITTEE OF EGG HARBOR TOWNSHIP, IN THE COUNTY OF ATLANTIC, STATE OF NEW JERSEY, HELD JUNE 20, 2018, AND WILL BE FURTHER CONSIDERED FOR FINAL PASSAGE AFTER A PUBLIC HEARING THEREON AT A REGULAR MEETING OF SAID TOWNSHIP COMMITTEE TO BE HELD IN THE TOWNSHIP HALL, IN SAID TOWNSHIP ON JULY 18, 2018.

Dated: June 20, 2018

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Eileen M. Tedesco, RMC  
Township Clerk