

An amendment to add a new chapter entitled Running Bamboo Ordinance in Title 8 entitled “Health and Safety” to the Cambridge Municipal Code as follows:

## **Chapter 8.69—Running Bamboo Ordinance**

Sections:

### **8.69.010—Short Title**

This Chapter may be cited as the Running Bamboo Ordinance of the City of Cambridge

### **8.69.020—Statement of Purpose**

A. The purpose and intent of this ordinance is to preserve and protect private and City owned property and City owned rights of way from the damaging spread of Running Bamboo and to protect indigenous biodiversity threatened by Running Bamboo.

B. Running Bamboo that encroaches beyond the Running Bamboo Owner’s property and/or spreads rhizomes and new shoots pose a risk of substantial damage to the structures and property of abutting parcels. As Running Bamboo threatens to be destructive to the natural environment and to the enjoyment of public and private property including structures and paved surfaces in the City of Cambridge, the City Council hereby declares it necessary to require the control of existing and all subsequent Running Bamboo plantings.

### **8.69.030—Definitions**

A. Commissioner. The Commissioner of Public Works or his or her designee.

B. Running Bamboo. Any monopodial (running) tropical or semi-tropical bamboo grasses or bamboo species (“Bamboo”). In addition, for purposes of this ordinance, any species of Bamboo that is found to have encroached, spread, invaded, or intruded (“Encroached” or “Encroachment”) upon any property other than the property on which it was originally planted, including City owned property or a City owned right of way, shall be presumed to be Running Bamboo, and subject to the provisions of this Chapter.

C. Running Bamboo Owner. Any property owner, whether a person, firm, trust, corporation or other legal entity, at whose property Running Bamboo is found will be considered a Running Bamboo Owner, except any property owner who has provided satisfactory evidence to the Commissioner that the property owner did not plant the Running Bamboo on his or her property, and upon discovery of the Encroachment of Running Bamboo onto his or her property from an abutting property, informed the owner of such abutting property, by delivery of a written notice by certified mail within a year of the Encroachment occurring, of an objection to the Encroachment of the Running Bamboo, and provides a copy of such written notice to the Commissioner within 5 days of mailing to the abutting property owner. The Commissioner may, but is not required to, consider the following as additional evidence to determine whether a property owner is a Running Bamboo Owner:

1. Photographic evidence that the Running Bamboo began on the Running Bamboo Owner's property and encroached onto the neighboring property;
2. the absence of an adequate Running Bamboo barrier system on the Running Bamboo Owner's property;
3. other evidence provided to the Commissioner demonstrating that the Running Bamboo was not planted on the owner's property.

#### **8.69.040—Applicability**

For the purposes of this Chapter, Running Bamboo found growing upon a property shall constitute evidence that the Running Bamboo was planted and/or grown by and is on the property with the consent of the owner upon whose property the Running Bamboo is growing unless otherwise demonstrated as per section 8.69.030 of this Chapter.

#### **8.69.050—Requirements.**

A. All Running Bamboo Owners shall confine Running Bamboo in a manner that will prevent the Running Bamboo from any Encroachment onto any private or City owned property or City owned right of way. The following shall constitute an adequate barrier system confining the Running Bamboo:

1. A seamless barrier composed of high density polypropylene, or polyethylene, or a metal barrier with sealed, overlapping and reinforced seams, or an impermeable joint free concrete barrier. The barrier must extend at least 36 inches below the ground surface, and the barrier must extend at least 2 inches above the ground surface for the entire length of the installation, and the installation must extend such that the possibility of flanking the barrier system is not possible, or
2. The placement of the Running Bamboo in a fully enclosed above ground pot or planter, or
3. As otherwise determined to be an adequate barrier system by the Commissioner.

B. Running Bamboo Owners who have Running Bamboo planted or present within four feet of the boundary line of the Running Bamboo Owner's property must install and maintain a barrier preventing the spread of the Running Bamboo beyond the Running Bamboo Owner's property.

C. The Commissioner shall have the authority to promulgate regulations to accomplish any of the provisions of this Chapter.

#### **8.69.060—Enforcement**

A. Enforcement Officials: The Commissioner or his or her designee shall have the authority to enforce the provisions of this Chapter.

B. Any Running Bamboo Owner that is found to have violated the provisions of this Chapter may be subject to penalties pursuant to 8.69.070 of this Chapter.

C. In the event Running Bamboo Encroaches onto City owned property or any City owned right of way, the Commissioner shall notify the Running Bamboo Owner in writing of such Encroachment and/or other violation of this Chapter, which order shall:

- (1) Provide notice of the requirement to prevent Running Bamboo from Encroaching onto City owned property or a City owned right of way;
- (2) Specify the nature and location of the violation;
- (3) when applicable, order that the Running Bamboo Owner remove all portions of the Running Bamboo from the City property or the City owned right of way, and construct a adequate barrier system to prevent any further Encroachment, and
- (4) State that the failure to comply with the notice and order will lead to the Running Bamboo Owner being held liable to the City for the cost of removal of the Encroachment, fines that may be imposed pursuant to §8.69.070, and the City's cost to install a barrier pursuant to the provisions of this Chapter.

D. The Commissioner's order shall be sent to the Running Bamboo Owner by first class and certified mail, return receipt requested.

E. Where applicable, the Running Bamboo Owner must obtain and comply with all federal, state, and local permits, licenses and other requirements necessary to remove the Running Bamboo from any City property or the City right of way.

F. If the Running Bamboo Owner fails to remove the Running Bamboo as directed in the order sent pursuant to this Section, the City may remove the Running Bamboo that has Encroached onto City owned property or onto a City owned right of way. The City may also construct a barrier designed to contain the Running Bamboo and prevent further intrusion. The cost of the removal of the Running Bamboo and the installation of a barrier shall be charged to the Running Bamboo Owner. The City shall not be liable to the Running Bamboo Owner for damages caused as a result of the Running Bamboo removal and the Running Bamboo Owner shall be liable for any and all damages to City owned property or rights of way or property owned by any third party, and expenses related thereto.

G. If the City causes Running Bamboo to be removed from City owned property or from a City owned right of way, or causes a barrier to be installed, a statement of cost thereof shall be mailed to the Running Bamboo Owner by first class and certified mail, return receipt requested with a demand for immediate payment to the City for all such costs.

### **8.69.070—Penalty**

Any Running Bamboo Owner that is in violation of this Chapter may be fined \$100.00 per day for each day that the Running Bamboo remains unconfined on the Running Bamboo Owner's property, or is in violation of any other provisions of this chapter. Any such penalty or penalties may be enforced through non-criminal disposition as provided by G.L. c. 40, §21D.

**8.69.080—Severability**

The provisions of this Chapter are severable. If any section, provision or portion of this Chapter is determined to be invalid by a court of competent jurisdiction, the remaining provisions of this Chapter shall continue to be valid.