

Introduced by: Ms. Kilpatrick  
Date of introduction: June 14, 2016

**ORDINANCE NO. 16-064**

**TO AMEND NEW CASTLE COUNTY CODE CHAPTER 7 ("PROPERTY MAINTENANCE CODE") TO  
STRENGTHEN THE PROTECTION OF PRIVATE AND PUBLIC PROPERTY  
FROM THE DAMAGING SPREAD OF BAMBOO**

**WHEREAS**, the purpose of this ordinance is to strengthen the laws protecting and preserving private and public property and indigenous plants from the damaging spread of bamboo, deemed a noxious weed by the State of Delaware, for the general welfare of the residents of New Castle County.

**NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**

Section 1. *New Castle County Code* Chapter 7 ("Property Maintenance Code"), Article 1 ("In General"), Article 1 ("Standards for Property Maintenance"), Section 7.01.002 (Amendments to the International Property Maintenance Code), Chapter 3 ("General Requirements"), Section PM 302.4.10.1, is hereby amended by adding the material that is underscored and deleting the material that is stricken, as set forth below.

*Section PM 302.4.10.1.* ~~Running~~ Bamboo is a noxious weed and may not be planted on any property in New Castle County. Bamboo that was planted before the effective date of this ordinance shall not be permitted to remain on any parcel unless:

- (1) The root system of such bamboo plant is entirely contained within an above-ground level planter, barrel, or other vessel of such design...
- (2) The root system is contained within a barrier, constructed in accordance with the following specifications...
- (3) In the event that bamboo is not contained as set forth in subsections (1) and (2) above, the owner of the parcel on which the bamboo is not contained shall be required to remove and eradicate the bamboo from the owner's property and shall be liable for any damages caused to any adjacent property by the bamboo, including, but not limited to, the cost of removal of any bamboo caused to grown on adjacent property. In the event that the owner of the parcel does not remove or contract for the removal and eradication of the bamboo from the owner's property and/or the adjacent property on which the bamboo has grown, within thirty (30) days of notice of non-contained bamboo, the County, at its discretion, may remove or arrange for the removal of such non-contained bamboo from the parcel and any affected adjacent parcel. The owner of the parcel on which the bamboo is present shall be

liable and responsible to the County for all costs incurred in removing and eradicating the bamboo from the parcel and/or adjoining parcel. Such costs may be assessed against the property of the owner of the parcel on which the bamboo originated and on which the bamboo was non-contained.

(4) An owner or agent of a parcel on which bamboo has been found to be planted or existing before the effective date of this ordinance and non-contained may not replant or replace bamboo on the property. A subsequent purchaser of property on which bamboo is present or a person who takes possession of property pursuant to a foreclosure or other legal action shall be responsible for containing the bamboo in compliance with this section.

Section 2. If any sentence, clause, section or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect any remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared the intent of New Castle County Council that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 3. This ordinance shall become effective immediately upon its adoption by County Council and approval by the County Executive, or as otherwise provided in 9 *Del. C.* Section 1156.

Adopted by County Council of  
New Castle County on:

\_\_\_\_\_  
President of County Council  
of New Castle County

Approved on:

\_\_\_\_\_  
County Executive  
New Castle County

**SYNOPSIS:** This ordinance eliminates the word “running” before bamboo, as all species of bamboo have been found to be invasive if not contained, and as bamboo is deemed noxious in the State of Delaware. This ordinance requires removal and eradication of bamboo that is not contained on the parcel on which it originated or was planted from said parcel and from adjoining parcels on which it has encroached as required by law and permits the County to remove and eradicate the bamboo if the Property owner on which the bamboo originated or was planted does not do so upon notice.

**FISCAL NOTE:** This legislation will have no discernible fiscal impact.