

LOCAL LAW NO. __ OF 2024
A LOCAL LAW TO ENACT CHAPTER 90
(BAMBOO) OF THE CODE OF THE CITY OF
MOUNT VERNON TO BAN RUNNING BAMBOO

Be it Enacted by the City Council of the City of Mount Vernon as follows:

SECTION 1. The Code of the City of Mount Vernon is amended by adding the following (language in **Bold and Underlined** to be added), language in ~~**Strikethrough and Bold and Underlined**~~ to be deleted):

Chapter 90. BAMBOO

§ 90-1. Title.

This local law is entitled “Bamboo.”

§ 90-2. Purpose and Intent.

A. **Purpose. The purpose of this chapter is to promote and protect the property, property values, and health and welfare of the residents of the City of Mount Vernon; guests and visitors to the City; and aesthetic qualities of the environment of the City of Mount Vernon.**

B. **Intent. The City finds that the planting and/ or the growing of certain species of bamboo within the City of Mount Vernon has been, and will continue to be, destructive to the natural environment, including indigenous flora; potentially harmful to human health, in that it can provide a breeding ground for mosquitoes which are vectors for disease; destructive to structures, building foundations, walls, driveways, walkways and other improvements on properties within the City adjoining and neighboring those properties where such bamboo has been planted and/ or permitted to grow; and that, because of these effects, the City declares it necessary to regulate or prohibit the planting and/ or growing of such bamboo within the City.**

§ 90-3. Definitions.

RUNNING BAMBOO - Any tropical or semitropical grasses with monopodial (leptomorph) rhizome (root) systems, including but not limited to the following plant genera: Arundinaria, Chimonobambusa, Phyllostachys, Pleioblastus, Pseudosasa, Sasa, Sasaella and Semiarundinaria.

CLUMPING BAMBOO - Any tropical or semitropical grasses with monopodial (leptomorph) rhizome (root) systems or sympodial (pachymorph) grasses, including but not limited to Bambusa, Chusquea, Dendrocalamus, Drepanostachyum, Fargesia, Himalayacalamus, Otatea, Thamnocalamus, Thyrsostachys and Yushania

§ 90-4. Regulation.

A. **It shall be unlawful from the effective date of this chapter for an owner or tenant of property, anywhere within the City of Mount Vernon, to plant running bamboo into the ground, or, with respect to existing running bamboo, to cause, permit, cultivate and/or allow such bamboo to be maintained in such a manner that it migrates onto any adjoining property, including any public property and/ or any City right-of-way.**

B. **All running bamboo which migrates onto adjacent properties shall be deemed a public nuisance, and no property owner shall have any vested or nonconforming right to continue maintenance of such bamboo, even if it preexisted the adoption of this regulation.**

C. Every owner or occupant of property or person or corporation or other entity located within the City of Mount Vernon shall, before taking any action to plant, replant, install or reinstall or cause or permit the planting, replanting, installation or reinstallation of a plant species, upon any property, including but not limited to one-family and two-family residences, commonly considered to be classified as "clumping bamboo," register with the Department of Buildings and obtain a permit for such planting. The fee for such permit shall be \$25.

§ 90-5. Control of Running Bamboo.

Each owner of the property from which the running bamboo originated, or owner or tenant who has maintained bamboo that has spread to adjoining or neighboring properties, is required to take such measures as are reasonably expected to prevent such running bamboo from invading or growing onto adjoining or neighboring properties, including the City's right-of-way. Such measures shall include, but not be limited to, installation of sheathing impenetrable by running bamboo at a sufficient depth, which at a minimum shall be three (3) feet in depth, within the subject property lines where the running bamboo exists, to prevent encroachment upon adjoining or neighboring property, including the City's right-of-way, by such bamboo.

§ 90-6. Removal.

A. In the event that existing running bamboo growing on an owner's or tenant's property invades or grows upon an adjoining or neighboring property, including any public property and/ or any City right-of-way, the City's Building Inspector shall notify in writing, through the issuance of a Notice of Violation, the bamboo property owner that said owner or tenant has planted, caused, or permitted such bamboo to invade or grow upon an adjoining or neighboring property, and that said owner or tenant shall be responsible for the removal of such bamboo, within 30 days from the date of such notice.

B. In the event that new running bamboo is planted or allowed to grow on an owner's or tenant's property, the Building Inspector shall notify in writing, through the issuance of a Notice of Violation, the bamboo property owner that said owner or tenant has planted, caused, or permitted such bamboo to grow upon their property, and that said owner or tenant shall be responsible for the removal of such bamboo from the property and anywhere such bamboo has grown or spread to, within 30 days from the date of such notice. This subsection shall not apply if the Building Inspector issues a Notice of Violation to an adjoining or neighboring property pursuant to 90-6(A) of this chapter, and the property owner on which the bamboo is growing or has spread to permits the removal of said bamboo.

C. Property owners issued a Notice of Violation pursuant to subsections 90-6(A) 90-6(B) shall remove the offending bamboo in its entirety, including stems and roots, and dispose of the bamboo according to the " NYS DEC Guidelines for Disposing of Invasive Plant Material."

§ 90-7. Violations and penalties.

A. Violations. Any owner of the property from which the bamboo originated or owner of property where bamboo has been maintained who violates any of the provisions of this chapter shall be guilty of a violation thereof. Each and every day that a violation of this chapter shall exist shall constitute a separate violation of this chapter.

B. Penalties. Failure to cure a violation of any provision of this chapter within the allotted period of time, as specified within the Notice of Violation, shall be punishable by a fine of not less than \$ 100 and not more than \$ 500, for each violation. A second and subsequent violation for the same offense is punishable by a fine of not more than \$ 1, 000. Each day the violation is committed constitutes a separate offense. If a property owner is issued a second and subsequent violation

pursuant to subsection 90-6(A), said property owner shall remove all of the existing bamboo on its property as well as the adjacent or neighboring property which caused such violation.

C. Remediation. If, after being issued a Notice of Violation, a property owner demonstrates good faith efforts to the satisfaction of the Building Inspector to remove the offending bamboo but is precluded from immediately doing so due to inclement weather, delays on the part of a bamboo removal service outside of the property owner's control, or issues obtaining access to the adjoining or neighboring property to remove the offending bamboo, the Building Inspector shall have the authority to preclude the involuntary delays from the count of violations.

SECTION 2. If any section, subsection, clause, phrase or other portion of this local law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, the portion of the law declared to be invalid will be deemed a separate, distinct and independent portion and the declaration will not affect the validity of the remaining portions hereof, which will continue in full force and effect.

SECTION 3. This local law is adopted pursuant to the authority granted by Municipal Home Rule Law § 10. It supersedes the provisions of the City Law to the extent that they are inconsistent with this local law.

SECTION 4. This local law will take effect immediately upon its filing in the office of the Secretary of State in accordance with Municipal Home Rule Law § 27.