

ARTICLE IX

Bamboo**[Added 7-20-2015 by L.L. No. 2-2015]****§ 165-52. Regulation of bamboo.**

A. Purpose and intent.

- (1) The Board of Trustees finds that the unregulated planting and maintenance of bamboo threatens indigenous trees, plants and grasses and that regulation is necessary to protect private and public property from its damaging effects.

B. Regulation.

- (1) It shall be unlawful from the effective date hereof for an owner or tenant of property, anywhere within the Village of Bellerose to plant running bamboo (as herein defined) into the ground, or with respect to existing bamboo to cause, permit, cultivate or allow such bamboo to be maintained in such a manner that it migrates onto any adjoining property, including any public property and rights-of-way held by the Village. An owner, tenant or occupier of property, upon 10 days' notice from the Village, by first-class mail, of the occurrence of bamboo migration upon adjacent property which is originating from their property, shall take immediate and appropriate measures to prevent such bamboo from migrating onto adjacent property, by installing a barrier sufficiently deep and impenetrable to prevent migration, or by providing for its complete removal.
- (2) All 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, whether or not it preexisted the adoption of this regulation. Any property owner who fails to prevent migration of bamboo onto an adjoining property shall be guilty of trespass, and the fact that the offending bamboo preexisted the adoption of this regulation shall not constitute a defense.
- (3) In determining whether or not a barrier installed to prevent the migration of bamboo is sufficiently deep to prevent future migration onto an adjacent owner's property, a barrier less than four feet in depth, unless not possible due to the level of ground water intrusion, shall be presumed to be insufficient to prevent such migration.

C. Definitions. As used in this section, the following terms shall have the meanings indicated:

RUNNING BAMBOO — Any tropical or semitropical grasses with mompodial (leptomorph) rhizome (root) systems, including, but not limited, to the following

plant genera: Arundinaria, Chimonobambusa, Phyllostachys, Pleioblastus, Pseudosasa, Sasa, Sasaella and Semiarundinaria.

D. Removal.

- (1) In the event that bamboo growing on an owner's or tenant's property invades or grows upon an adjoining or neighboring property owned or held on behalf of the Village of Bellerose, the Village shall notify the bamboo property owner that said owner or tenant has planted, caused, or permitted such bamboo to grow on his/her property, and that said owner or tenant shall be responsible for the removal of such bamboo from Village property. This notice shall be sent by certified mail, return receipt requested, and by first-class mail to the latest address of said owner or tenant on file with the Village Clerk. A copy of the notice shall also be left in a conspicuous location on said owner's or tenant's property in the Village of Bellerose.
- (2) In the event that the property owner or tenant does not obtain a permit for the removal of said bamboo from the Village property and fails to remove the same within 30 days from the date the Village first deposited the notice as provided in Subsection D(1) above, then the Village, at its discretion, may remove or arrange for the removal of such bamboo from the Village property and install a barrier to prevent further migration. Said owner who caused or allowed such bamboo to migrate, shall be liable to the Village for all of the Village's costs in mitigating the bamboo from Village property and restoring the ground. Such costs shall be assessed against the property of the bamboo property owner as a tax payable by such bamboo property owner, if such costs remain unpaid more than 30 days after demand for payment. Removal is to be made in accordance with a plan approved by the Building Inspector.
- (3) In the event that the Village is compelled to undertake the removal or to contract for the removal of bamboo, as provided for in Subsection D(2) above, neither the Village nor its employees shall have any liability for damages or other claims to the bamboo property owner by reason of the removal or installation of a barrier. In the event such removal entails or causes damage to the flora or other property of a person other than the bamboo property owner, the bamboo property owner in violation of this section shall be responsible for such damages.

E. Violations; penalties for offenses.

- (1) A violation hereof shall result in penalties as prescribed under Chapter 1 of the Code. A second or subsequent violation shall result in a minimum fine of between \$500 and \$1,000. The continuance of such offense for each day after a violation is served shall be deemed a separate offense.