

ORDINANCE NO. 3720

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, ENTITLED "AN ORDINANCE TO REPEAL AND REENACT WITH AMENDMENTS SECTIONS 14-31 AND 14-35 AND TO ENACT SECTION 14-37 OF THE CODE OF THE CITY OF CUMBERLAND RESPECTIVELY ENTITLED 'DEFINITIONS', 'CUTTING OF WEEDS' AND 'PROPAGATION OF ORNAMENTAL GRASSES AND BAMBOO' FOR THE PURPOSE OF REGULATING THE PLANTING AND LOCATION OF ORNAMENTAL GRASSES AND BAMBOO."

WHEREAS, Section 14-31 of the City Code sets forth the definitions applicable to Chapter 14, Article II, Division 1 of the City Code;

WHEREAS, Section 14-35 of the City Code sets forth the City's regulations relative to the cutting of weeds;

WHEREAS, in recent years, City residents have increased the usage of ornamental grasses and bamboo as a means to beautify their gardens;

WHEREAS, as a result of this increased usage, the Mayor and City Council have received complaints relative to the uncontrolled growth of such vegetation impairing traffic visibility, causing property encroachments and serving as a place for the habitation and propagation of vermin; and

WHEREAS, having considered the said complaints, the Mayor and City Council have determined that amendments to sections 14-31 and 14-35 of the City Code and the enactment of section 14-37 are necessary to protect and preserve its rights, property, and privileges, to preserve peace and good order, and to protect the health, comfort and convenience of the citizens of the City of Cumberland.

JUL 31 2012

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NOW, THEREFORE:

SECTION 1: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, that sections 14-31 and 14-35 of the Code of the City of Cumberland (1991 Edition) be and are hereby repealed and reenacted, the said reenacted versions being set forth below, text edited versions being attached hereto as Exhibit A:

Section 14-31 – Definitions.

Bamboo means any grasses in the genera bambusa, phyllostachys, and pseudosasa of the family poaceae (grass).

Building means a structure adapted to permanent or continuous occupancy or use for residential, public, institutional, business, industrial or storage purposes.

Chief of police means the Chief of the Cumberland Police Department, or his duly authorized agent.

Director of community development means the director of the department of community development, or his duly authorized agent.

City administrator means the City Administrator of the City of Cumberland, or his duly authorized agent.

Dwelling means any building which is wholly or partly used or intended to be used for living or sleeping by human occupants, provided that temporary housing shall not be regarded as a dwelling.

Garbage means all kitchen refuse of residences, hotels, restaurants or other places where food is prepared for human consumption, and all offal from fish, meat, and vegetable markets, and all vegetable or organic substances unfit for food that are subject to immediate decay.

Health officer means the deputy state health officer or his duly authorized representative.

Infestation means the presence, within or around a dwelling, of any insects, rodents or other pests.

Junk vehicles means dismantled, partially dismantled, wrecked, junked, non-operating, or discarded vehicles left on private property with or without the consent of the property owner.

Lot means a piece, parcel or plot of land.

Nuisance means any condition or use of premises or building exteriors which is dangerous to human life, health or safety; renders soil, water, food, or air impure or unwholesome: is generally detrimental to the health and safety of the citizens of the city; which is detrimental to the property of others or which causes or tends to cause diminution in the value of other property in the neighborhood in which such premises are located.

Offal means the refuse from slaughtered or salvageable dead animals, crustaceans, or any other animal form, including but not limited to, heads, feet, viscera, hair, blood, feathers, bowels, scales, or oils.

Open fire means a fire where any material is burned in the open or in a receptacle other than a furnace, incinerator or other equipment connected to a stack or chimney.

Ornamental grasses means grasses that are not indigenous to the State of Maryland that are intended to add beauty and diversity to landscaping and are not invasive. Ornamental grasses do not include turf grasses or weeds.

Premises means a lot, plot or parcel of land, including the buildings or structures thereon.

Rubbish means all combustible and noncombustible waste materials, except garbage; including, but not limited to, the residue from the burning of wood, coal, coke and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust.

Temporary housing means any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utilities system on the same premises for more than thirty (30) consecutive days.

Section 14-35. – Cutting of weeds.

It shall be unlawful for any owner, occupant or person in control of any lot or land within the city to allow or maintain on any such lot or land any growth of grass (other than ornamental grasses), weeds or other rank vegetation to a height over twelve (12) inches. Every owner, occupant or person in control of any lot or land with the city shall cause such lot or land to be kept free from ragweed, wild mustard, wild lettuce, wild parsley, common thistle, milkweed, poison ivy, poison oak, and sumac by destroying such invasive weeds by spraying with a chemical compound or by cutting and removal. It shall likewise be unlawful for any property owner to permit grass, weeds or any vegetable matter, other than shade trees, to grow or remain growing upon the sidewalks, curbs, or gutters abutting his property.

SECTION 2: AND BE IT FURTHER ORDAINED, that section 14-37 of the Code of the City of Cumberland is hereby enacted and shall read as follows:

SECTION 14-37. – Propagation of ornamental grasses and bamboo.

The planting and/or propagation of ornamental grasses and/or bamboo must be undertaken responsibly by property owners to ensure that the plantings are regularly maintained in a controlled and attractive manner. Ornamental grasses and bamboo shall not be maintained at a plant density that promotes habitats for snakes, rats and other pests that create a nuisance for adjoining property owners. Such plantings must also be maintained within defined garden or landscaping areas and not allowed to spread onto adjoining properties. To ensure that these planting requirements are served all ornamental grass and bamboo plantings shall comply with the following requirements:

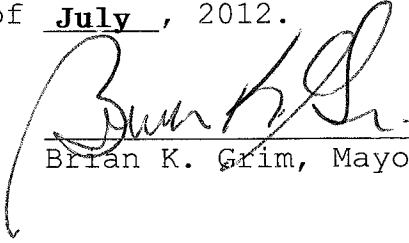
- (1) All planting areas for ornamental grasses and bamboo shall be defined and controlled through the installation of appropriate growth barriers for the varieties of plants used that will effectively prevent the unintentional spread of the plants beyond the defined boundaries of the planting area. Planting areas containing bamboo shall be completely enclosed through the installation of a root barrier comprised of galvanized metal sheathing or other barrier material impenetrable to bamboo roots to a depth below the ground sufficient to prevent the spread of bamboo beyond the enclosed planting area.
- (2) Planting areas containing ornamental grasses or bamboo shall not be located within the minimum front, rear, or side building setbacks for the applicable zoning district of the property as specified in section 6.03.01 of the City's zoning ordinance. In zoning districts where no specific minimum front, side, or rear building setbacks are required, a minimum planting setback of ten (10) feet shall be observed along all property boundaries. These planting setbacks shall not be required of any indigenous (native) plants to the State of Maryland.

(3) Where a property owner seeks to establish a planting area or garden within the minimum setback lines required in subparagraph (2) above, approval from the natural resource specialist or his designee must be obtained prior to planting. In order to obtain approval for such plantings, the applicant must submit a sketch plan of the property, drawn to scale, noting the locations of all improvements on the property, the boundaries of the planting area, the species of plants that will be planted within the planting area, and the location of all adjoining property lines relative to the planting area. The applicant shall also specify the intended plant density that the owner seeks to achieve at maturity and the specifications of all barriers that will be employed along the boundaries of the planting area to contain and prevent the future spreading of the plantings. The natural resources specialist or his designee may require additional measures to be employed as may be necessary to ensure containment of the plantings and may impose a limit on plant density within the planting area to ensure that the plants can be maintained in a healthy and attractive state that will not be conducive to pest habitats.

(4) The owner of any property containing ornamental grasses and bamboo shall be solely and directly responsible for preventing the spread of such plants beyond the defined planting area(s). Where such plants spread across a property line, the owner of said property from which the plants originated shall be financially and materially liable for removing and eliminating the invading bamboo from all adjoining premises as well as for mitigating or repairing any physical damage caused to improvements on adjoining properties or rights-of-way by invasive plant growth.

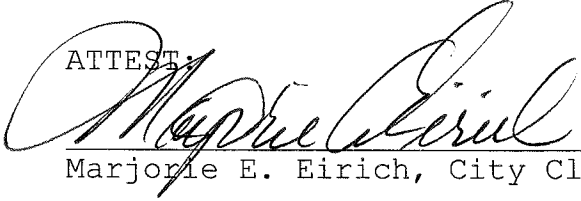
SECTION 3: AND BE IT FURTHER ORDAINED, that this Ordinance shall take effect from the date of its passage.

Passed this 31st day of July, 2012.



Brian K. Grim, Mayor

ATTEST:



Marjorie E. Eirich, City Clerk

1st reading: July 17, 2012
2nd reading: July 31, 2012
3rd reading: July 31, 2012
Passed: July 31, 2012

EXHIBIT A

New language to be added is depicted in **BOLD FACE & CAPITAL LETTERS** and language to be deleted in ~~striketrough~~ font

PART II – MUNICIPAL CODE
CHAPTER 14 – NUISANCES
ARTICLE II – HEALTH AND SANITATION
DIVISION 1 – GENERALLY

Section 14-31 – Definitions.

BAMBOO MEANS ANY GRASSES IN THE GENERA BAMBUSA, PHYLLOSTACHYS, AND PSEUDOSASA OF THE FAMILY POACEAE (GRASS).

Building means a structure adapted to permanent or continuous occupancy or use for residential, public, institutional, business, industrial or storage purposes....

Open fire means a fire where any material is burned in the open or in a receptacle other than a furnace, incinerator or other equipment connected to a stack or chimney.

ORNAMENTAL GRASSES MEANS GRASSES THAT ARE NOT INDIGIENOUS TO THE STATE OF MARYLAND THAT ARE INTENDED TO ADD BEAUTY AND DIVERSITY TO LANDSCAPING AND ARE NOT INVASIVE. ORNAMENTAL GRASSES DO NOT INCLUDE TURF GRASSES OR WEEDS.

Premises means a lot, plot or parcel of land, including the buildings or structures thereon.

Section 14-35. – Cutting of weeds.

It shall be unlawful for any owner, occupant or person in control of any lot or land within the city to allow or maintain on any such lot or land any growth of grass (**OTHER THAN ORNAMENTAL GRASSES**), weeds or other rank vegetation to a height over twelve (12) inches. Every owner, occupant or person in control of any lot or land within the city shall cause such lot or land to be kept free from ragweed, wild mustard, wild lettuce, wild parsley, common thistle, milkweed, poison ivy, poison oak, and sumac by destroying such ~~noxious~~ **INVASIVE** weeds by spraying with a chemical compound or by cutting and removal. It shall likewise be unlawful for any property owner to permit grass, weeds or any vegetable matter, other than shade trees, to grow or remain growing upon the sidewalks, curbs, or gutters abutting his property.