



**TOWN OF EAST HAMPTON
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MEMORANDUM

TO: Town Board

FROM: Office of the Town Attorney
Brittany L. Cohen, Esq. Deputy Town Attorney

DATE: September 3, 2026

RE: Bamboo Legislation

The proposed legislation adds Chapter 155A to establish a clear and enforceable framework for regulating bamboo within the Town. The legislation is intended to address uncontrolled spread of bamboo while keeping municipal enforcement focused on compliance with the Town Code, rather than disputes between adjoining private property owners.

Key Provisions

- **New Bamboo** -Prohibits the planting of new bamboo except where it complies with the containment and setback requirements contained in this Chapter.
- **Preexisting Bamboo**- Requires removal of preexisting bamboo within ten feet of a property line.
- **Containment** – Requires preexisting bamboo remaining outside of that 10 foot buffer to be maintained and contained to prevent growth into the buffer area or beyond the property boundary.
- **Encroachment** – Prohibits bamboo from extending onto adjoining private and/or Town owned property.

- **Notice and opportunity to cure-** Except for the affirmative planting of prohibited new bamboo, an owner of preexisting bamboo receives notice of the alleged condition and an opportunity to bring the property into compliance before a civil violation is charged.
- **Enforcement roles-** Ordinance investigates and enforces the alleged Code violations, with the Department of Natural Resources providing technical expertise concerning bamboo identification growth, containment and remediation.
- **Bureau of Administrative Adjudication (“BAA”) enforcement-** Violations may be prosecuted before the BAA pursuant to Chapter 62 of the Town Code.
- **Private property disputes-** The BAA determines whether the Town Code was violated; it does not adjudicate private claims between neighbors involving trespass, nuisance, damages and other private rights.
- **Additional remedies-** The Town retains the ability to seek injunctive or other appropriate relief when necessary.

Proposed- Bamboo Regulations

§ 155A-1 Purpose and Intent

The Town Board finds that bamboo is an invasive species capable of spreading rapidly through underground rhizomes and may invade adjoining properties, public rights-of-way, wetlands, natural areas and other environmentally sensitive areas. The uncontrolled spread of bamboo may displace native vegetation, impair natural habitats, interfere with property use, damage improvements and impose substantial remediation costs upon property owners and the Town. The uncontrolled growth and spread of bamboo therefore constitutes a condition detrimental to the public health, safety and welfare and a nuisance that the Town has an interest in preventing and abating.

The Town Board further finds that the Town has substantial interest in preventing the introduction and spread of invasive plant species and protecting private and public property and the Town's natural resources, and establishing reasonable standards for the maintenance and containment of bamboo located upon private property.

The purpose of this Chapter is to prohibit the further planting of bamboo, except as expressly permitted herein; regulate and require the containment or removal of existing bamboo; establish clear responsibility for maintaining property in compliance with this Chapter; establish procedures for municipal enforcement and protect private and public property and the Town's natural resources from the uncontrolled spread of bamboo.

This Chapter establishes municipal property maintenance requirements and bamboo control requirements. It is not intended to create, determine or adjudicate private rights or liabilities between property owners.

§ 155A- 2 Definitions and word usage.

- A. The following definitions shall govern the interpretation of this chapter unless otherwise expressly defined herein. Words used in the singular shall include the plural and vice versa. The word "shall" is always mandatory.
- B. As used in this chapter, the following terms shall have the meanings indicated:

BAMBOO

"Bamboo," as used in this Section, shall mean both running and clumping bamboo, unless a specific type of bamboo is identified herein.

Running Bamboo

Any tropical or semi-tropical grasses with monopodial (leptomorph) rhizome (root) systems which typically send off rhizomes far away from the plant including, but not limited to, the following plant genera: Arrow Bamboo, Arundinaria, Bambusa, Chimonobambusa,

Common Bamboo, Golden Bamboo, Phyllostachys, Pleioblastus, Pseudosasa, Sasa, Sasaella, and Semiarundinaria.

Clumping Bamboo

Any tropical or semi-tropical or sympodial podial (pachymorph) grasses which typically send off rhizomes near the base of the plant, including, but not limited to, Bambusa, Chusquea, Dendrocalamus, Drepanostachyum, Fargesia, Himalayacalamus, Otatea, Thamnocalamus, Thyrostachys and Yushania.

BAMBOO ENCROACHMENT

The physical extension or growth of bamboo, including its rhizomes or other propagating portions, beyond the boundary of the property upon which the bamboo is located or maintained.

BAMBOO PROPERTY OWNER

The owner of real property in the Town of East Hampton upon which bamboo is located, including any person or entity having legal or equitable ownership of such property.

BAMBOO NUISANCE

A condition involving bamboo located, planted, maintained, grown, propagated or insufficiently contained upon real property in violation of an express requirement of this Chapter. The designation of a condition as a Bamboo Nuisance under this Chapter is solely for purposes of municipal regulation and enforcement and shall not constitute a determination that a private nuisance exists under common law.

PREEXISTING BAMBOO

Bamboo existing upon real property within the Town of East Hampton prior to the effective date of this chapter.

§ 155A-3 Applicability; Responsibility for bamboo

A. Responsibility for property. The owner of property upon which bamboo is located shall be responsible for compliance with this Chapter regardless of when or by whom the bamboo was planted by or established.

B. Preexisting Bamboo. The presence of bamboo upon property prior to the effective date of this Chapter, shall not, standing alone, constitute a violation. Preexisting bamboo shall thereafter be maintained in accordance with the setback, containment and other requirements applicable to preexisting bamboo. See § 155A-5.

C. Notice and opportunity to cure. Except for a violation of § 155A-4, no civil violation based upon the failure to maintain, remove, or contain preexisting bamboo, or upon the encroachment of preexisting bamboo in violation of § 155A-5(D), shall be charged until the property owner has received written notice identifying the condition alleged to violate this Chapter and has failed to correct such condition within the time specified in the notice.

D. Municipal enforcement; private rights. The requirements of this Chapter constitute municipal regulations governing the planting, maintenance, containment and removal of bamboo. Any determination made by the Town, or the Bureau of Administrative Adjudication (hereinafter also referred to as the “BAA” or “the Bureau”) pursuant to this Chapter, shall be solely for purposes of determining compliance with and enforcing this Chapter. Nothing herein shall authorize the Bureau to adjudicate a claim for trespass, private nuisance, negligence or any other private cause of action, right, remedy, or defense between private parties, nor shall a determination under this Chapter constitute a determination of civil liabilities between the private parties.

§ 155A-4 Prohibition on planting bamboo.

- A. No person shall, after the effective date that this Chapter, plant bamboo or cause bamboo to be planted within the Town except as expressly permitted in this Section.
- B. Bamboo may be planted only where (1) the bamboo and its entire root and rhizome system are entirely contained within an above-ground-level planter, vessel, or other containment system designed and maintained to prevent the escape, spread or growth of the bamboo or its rhizomes; and (2) no portion of the bamboo, including stalks, branches leaves, roots or rhizomes is located within ten (10) feet to any property line.
- C. Any person who, after the effective date of this Chapter plants, directs, authorizes or causes bamboo to be planted, in violation of this section, commits a civil violation at the time of such planting.

§ 155A-5 Regulations regarding preexisting bamboo.

- A. Preexisting bamboo may remain only in accordance with the requirements of this Section 155A-5.
- B. No preexisting bamboo shall be permitted to remain within ten (10) feet of any property line. The Bamboo Property Owner shall remove and abate the growth of the Bamboo within ten (10) feet of the edge of any property line in the Town of East Hampton. This removal and abatement shall include the removal of such rhizomes and other propagating portions as are reasonably necessary to prevent regrowth.
- C. **Containment.** All preexisting bamboo located more than ten (10) feet from a property line shall be maintained and contained so as to prevent the bamboo, including its

rhizomes, or other propagating portions, from extending into the required setback area or beyond the boundaries of the property.

D. **Encroachment prohibited.** No Bamboo Property Owner shall, following notice as provided herein, maintain or permit preexisting bamboo located upon the owner's property to extend, grow or propagate beyond the boundaries of such property onto or beneath adjoining private property, Town-owned property, a public right of way, or other public property.

E. A Bamboo Property Owner shall employ reasonable and effective measures necessary to comply with this section.

F. **Investigation and determination of apparent violation.** Where the Director of Environmental Protection, or his or her designee, by and through the Department of Natural Resources (hereinafter "the Department") has cause to believe, whether upon complaint or upon information obtained by any Town Department, that bamboo is being maintained in violation of this Chapter, the Director may refer the matter to an Ordinance Enforcement Officer, or other Town official duly authorized to enforce Code violations. An Ordinance Enforcement Officer, or other duly authorized enforcement official, may investigate the alleged violation and, in connection therewith, may consider observations made from lawful vantage points, surveys, photographs, property records, observations of bamboo and rhizome growth, property boundaries or other relevant information or evidence.

The Department shall assist in such investigation by providing technical expertise, field assistance, identification of bamboo, evaluation of bamboo and rhizome growth, and other such assistance as may be requested by the enforcement official.

Nothing herein shall be construed to authorize entry upon private property without the consent of a person authorized to grant access, pursuant to an administrative warrant or other court authorization where required, or as otherwise authorized by law.

G. **Evidence of encroachment.** The presence of bamboo or bamboo rhizomes beyond the boundary of a property upon which bamboo is located may constitute evidence that bamboo upon such property has not been maintained or contained in accordance with this Section. Nothing herein shall create a presumption of civil liability between property owners.

H. **Scope of corrective obligation.** Where following investigation, an Ordinance Enforcement Officer or other duly authorized enforcement official has reasonable cause to believe that a violation of this section exists, the enforcement official may, in accordance with §155A-6, require such corrective measures upon the Bamboo Property Owner's property as are reasonably necessary to bring that property into compliance and prevent further encroachment. In determining appropriate corrective measures, the enforcement official may rely upon the technical findings or recommendations of the Department of Natural Resources. Nothing in this section shall authorize the Town or the

Bureau of Administrative Adjudication to require a Bamboo Property Owner to enter upon, perform work upon, or remediate privately owned property belonging to another person without the lawful consent of such person. Nothing herein shall authorize the Bureau to award damages, remediation expenses or other monetary relief to a private party.

§ 155A-6 **Notice to Cure.**

- A. **Notice to cure.** Where following investigation, an Ordinance Enforcement Officer or other duly authorized enforcement official has reasonable cause to believe that property is being maintained in violation of §155A-5, or any other provision of this Chapter for which an opportunity to cure is required, the enforcement official shall provide written notice to cure to the property owner. In making such determination, the enforcement official may rely upon the technical findings or recommendations provided by the Department. The notice shall identify: (1) the property upon which the violation is alleged to exist; (2) the provision or provisions of this Chapter alleged to have been violated; (3) the condition or conditions constituting the alleged violation; (4) the corrective measures required to bring the property into compliance; (5) the period of time which the corrective action must be completed; and (6) the consequences of failing to correct the violation within the prescribed time period.
- B. **Time to cure.** The owner shall have thirty (30) days from service of the notice to correct the condition, or such other reasonable time period as the enforcement official, after consultation with the Department, determined appropriate based on the nature and extent of the bamboo, environmental restrictions, seasonal limitations and other relevant circumstances. The enforcement official, in consultation with the Department, may extend the compliance period for good cause where substantial corrective measures have commenced and are being diligently pursued.
- C. **Service.** Notice shall be served personally or by certified mail, return receipt requested, addressed to the property owner at the last address shown on the most current assessment roll of the Town. A copy may additionally be served upon an authorized agent or lawful occupant and may be posted in a conspicuous location on the bamboo property owner's property.
- D. **Failure to comply.** Upon the failure to correct the violation within the prescribed period, Code Enforcement may issue a notice of violation or summons returnable before the Bureau of Administrative Adjudication, and/or commence such other enforcement proceeding as authorized by law.

§ 155A- 7. **Administrative enforcement.**

- A. Any civil violation of this Chapter may be prosecuted before the Bureau of Administrative Adjudication in accordance with Chapter 62 of the Town Code and the rules and regulations of the Bureau.

- B. In any proceeding involving an alleged violation of this Chapter, evidence concerning the location, growth, propagation or spread of bamboo or its components, may be offered to the extent relevant to establishing the charged violation.
- C. The Bureau's determination shall be limited to whether the respondent committed the civil violation charged and the imposition of such civil penalties as are authorized by this Chapter and Chapter 62. Nothing in this Chapter shall authorize the Bureau to adjudicate claims between private parties for trespass, private nuisance, property damage, remediation costs or other private rights or liabilities.
- D. **Civil penalties.** Any person found to have committed a civil violation of this Chapter shall be subject to a monetary penalty of not less than \$500 and not more than \$1,000 for each violation. Following the expiration of any applicable notice and cure period, each day that a violation continues shall constitute a separate civil violation.
- E. **Additional remedies.** In addition to the civil penalties provided herein, the Town may commence an action or proceeding in a court of competent jurisdiction to compel compliance with this Chapter, enjoin any continuing violation, require removal or containment of bamboo in violation of this Chapter, or obtain such other relief as may be authorized by law. The remedies provided by this Chapter shall be cumulative.