INCORPORATED VILLAGE OF AMITYVILLE: LOCAL LAW # 2 OF YEAR 2014

A local law to amend Article 1 of Chapter 152 of the Code of the Village of Amityville (CVA) – General Regulations, by adding a new section §152-14 thereof to regulate the planting and maintenance of Bamboo.

BE IT ENACTED by the Board of Trustees of the Inc. Village of Amityville as follows:

Add a new CVA §152-14 entitled **Regulation of Bamboo** as follows:

Section 1. Purpose and Intent - CVA §152-14(A):

(A) 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.

Section 2. Regulation – CVA §152-14(B):

- (B)(1) It shall be unlawful from the effective date hereof for an owner or tenant of property (bamboo property owner), anywhere within the Village of Amityville to plant bamboo into the ground, or to cause, permit, cultivate or allow 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 Ten (10) Days Notice by First Class Mail, of the occurrence of bamboo migration upon adjacent property which is originating from their property, shall be required to take 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 non-conforming right to continue maintenance of such bamboo, whether or not it pre-existed 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 pre-existed 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 (4) feet in depth, unless not possible due to the level of ground water intrusion, shall be presumed to be insufficient to prevent such migration.

Section 3. Removal – CVA $\S152-14(C)$:

(C)(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 Amityville, the Village shall notify the bamboo property owner that said owner had planted, caused, or permitted bamboo to grow on his property, and that said owner or tenant shall be responsible for the removal of such bamboo from the 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 Amityville.

- (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 remove the same within Thirty (30) Days from the date the Village first deposited the notice as provided in Subsection (C)(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 the Village's costs in removing the bamboo from the 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 Thirty (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 (C)(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.

Section 4. Violation and Penalties – CVA §152-14(D):

(D) 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 Five Hundred (\$500) Dollars and One Thousand (\$1,000) Dollars.

Section 5. Effective Date.

This local law shall take effect on March 8, 2015, subject to filing with the Secretary of State.