

**TOWN OF WEST NEW YORK
COUNTY OF HUDSON, STATE OF NEW JERSEY**

**ORDINANCE #4/21
AN ORDINANCE ADDING CHAPTER 126 TO THE CODE OF THE
TOWN OF WEST NEW YORK ENTITLED "BAMBOO"**

WHEREAS, The Town desires to curb the spread of invasive plants commonly known as "bamboo" within the Town.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Board of Commissioners of the Town of West New York, County of Hudson, State of New Jersey that the Code of the Town of West New York is hereby amended as follows:

I.

A Chapter 126 entitled "Bamboo" is hereby added to the Code of the Town of West New York that reads as follows:

§ 126-1. Purpose.

This chapter is adopted to control the planting, cultivating or growing of any evergreen perennial flowering plant in the subfamily *Bambusoideae* of the grass family *Poaceae* commonly referred to as "bamboo" in the Town of West New York; and to require barriers to prevent the spread of existing bamboo into other areas of the Town.

§ 126-2. Planting, growing or cultivating restricted.

Subject to certain exemptions set forth in this chapter, no persons, or other property owners or others in possession or control of real property shall plant, cultivate or cause to grow bamboo on any lot or parcel of land within the Town of West New York, subject to the following exceptions:

A. Where the root system of such bamboo plants is entirely contained within an above-ground level planter, barrel, or other vessel of such design, material and location so as to entirely prevent the spread or growth of the bamboo plants' root system beyond the container in which it is planted.

B. All bamboo plants shall be located, trimmed and maintained so that no part of the plant shall be closer than 10 feet to any property line or right-of-way.

§ 126-3. Exemptions.

This chapter shall not apply to any landowner or possessor who, prior to the effective date of this chapter, has planted or caused to grow bamboo on any property within the Town limits unless the Code Enforcement Officer determines that any portion of such bamboo has been allowed to grow upon, extend roots across, or extend branches, stalks or leaves over any public way or any private property not owned by or in the possession of such landowner, tenant, or any possessor of said land.

§ 126-4. Complaint notice; order for removal and compliance.

Whenever a complaint is received by the Town regarding the encroachment of any bamboo plant or root, or whenever the Town determines that there is an encroachment of bamboo plants or roots onto the property of another, the Town, through its delegated official, shall forward a notice of violation to the alleged offending person, property owner, tenant in possession of the property, or other in possession of such property (hereinafter the "responsible party"), which notice shall be substantially as follows:

A. The notice shall be mailed by certified mail, return receipt requested, properly addressed and with sufficient postage, and also by first class mail. Notice by certified mail shall be deemed served on the date of personal delivery, or the date the certified mail is marked "refused" or "unclaimed" or otherwise undeliverable by the United States Post Office.

- B. The notice shall specify the nature of the violation.
- C. The notice shall state that the violation must be cured within 30 days from the date of the received or returned mailing.
- D. The notice shall state specifically what must be done by the responsible party to correct the violation.

§ 126-5. Violations and penalties.

A. Any person determined by any court of competent jurisdiction to have violated this chapter shall be subject to pay a fine of not less than \$25 per day, nor more than \$100 per day, for each day the violation exists after the date for cure as set forth in the notice. Each day of a continuing violation shall constitute a separate offense, for which an additional fine can be levied. The per-day fine will be in addition to a penalty for failure to comply with the Bamboo Ordinance. This fine can be up to \$1,000.

B. If the violation is not remedied within the time set forth in the aforesaid notice, the Town is hereby authorized, but not obligated, to remove or have removed any encroaching bamboo and to take all reasonable steps to eradicate the regrowth of the bamboo on the public rights-of-way, including sidewalks, and to restore such land to its normal condition, prior to such removal and eradication.

C. The Town's cost of the corrective action together with any civil penalties, legal fees and other costs shall be recoverable from the responsible party.

II.

Severability. The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

III.

Repealer. All Ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency.

IV.

Codification. The Town Clerk shall have this Ordinance incorporated in the official copies of the Code of the Town of West New York. The Town Clerk and the Town Attorney be and are hereby authorized and directed to correct any typographical error in this Ordinance and change any heading, chapter numbers, article numbers and section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those headings and numbers and existing provisions of the Code of the Town of West New York, or as they may otherwise deem appropriate, even if the headings, chapter numbers, article numbers and section numbers thus modified are otherwise provided for in this Ordinance.

V.

This Ordinance shall take effect upon passage and publication as required by law.

Summary of Ordinance

This Ordinance is adopted to control the planting, cultivating or growing of bamboo within the Town.

Introduced: February 3, 2021

Adopted: March 3, 2021

Statement

The foregoing ordinance having been previously adopted for first reading and published was further considered by the Mayor and Board of Commissioners of the Town of West New York on **March 3, 2021** and at said date was duly and finally adopted after public hearing thereon.

Adelinny Plaza, RMC
Deputy Town Clerk

Commissioner Victor M. Barrera

Commissioner Cosmo A. Cirillo

Commissioner Margarita A. Guzman

Commissioner Yoleisy Yanez

Mayor Gabriel Rodriguez
BOARD OF COMMISSIONERS

Attest: _____
Adelinny Plaza, RMC
Deputy Town Clerk