

Introduction date: October 10, 2023

Adoption date: October 23, 2023

**ORDINANCE 2023-13
TOWNSHIP OF EASTAMPTON
BURLINGTON COUNTY**

**AN ORDINANCE OF THE TOWNSHIP OF EASTAMPTON TO
REGULATE THE PLANTING AND MAINTENANCE OF BAMBOO**

WHEREAS, the Township has recognized the damage that can be caused by the spreading and invasive nature of bamboo; and

WHEREAS, this damage includes the impact that bamboo can have on surrounding property owners; and

NOW THEREFORE, BE IT ORDAINED by the Township Council of the Township of Eastampton, County of Burlington, State of New Jersey as follows:

SECTION 1. A new Chapter 151 shall be added to the Township Code of Eastampton and shall read as follows:

Chapter 151: Bamboo, Regulation of

§ 151-1. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

BAMBOO - All native and nonnative variations of the plant commonly known as "bamboo." To that extent, there shall be no distinction between various types of bamboo or named types of bamboo.

BAMBOO PROPERTY OWNER(S) - Any property owner(s) or tenant(s) or person or entity in control of property or his or her agent who, or which, have bamboo on their property, even if the bamboo has spread onto their property from an adjoining property.

BUFFER ZONE - A distance of at least 10 feet from any property line, lane, street, avenue, or road, whether public or private, from any neighboring property, whichever is more restrictive to the bamboo property owner(s).

NOTICE - Any written notice of violation by, from or on behalf of the Township of Eastampton notifying the bamboo property owner(s) that they are in violation of this chapter and directing them to cure or fix the violation. Such notice shall be sent by certified mail, return receipt requested, and regular mail addressed to the owner(s) listed on the current tax address on file in the Township or landlord/tenant registration statement or mercantile license on file in the Township. A copy shall also be posted on the property in question.

RECEIPT OF NOTICE - Receipt of the notice required herein shall be the date of mailing said notice or, if applicable, posting of the notice on the property in question, whichever is earlier.

§ 151-2. Planting of bamboo prohibited.

A. As of the adoption of this chapter, planting of any bamboo is prohibited in the Township of Eastampton.

B. Any existing bamboo may not be replaced or replanted after any such existing bamboo has died or been removed.

C. Any person who plants or replants bamboo within the Township of Eastampton after the effective date of this chapter shall be in violation of this chapter and shall be subject to the penalties set forth herein.

D. All existing bamboo, existing prior to the enactment of this chapter, shall be trimmed and maintained so that no part of the plant or plants shall be closer than 10 feet from the property line.

§ 151-3. Regulation of and limitation on existing bamboo.

Any bamboo already in existence on any property within the Township's limits as of the effective date of this chapter may remain on such property, subject to the following regulations:

A. Bamboo shall not be permitted to exist within any buffer zone, as defined by this chapter, or to spread to adjoining properties.

B. The bamboo property owners(s), and/or tenant, person or entity in control or his or her agent, shall take all necessary measures to ensure that any bamboo on the property does not exist within any buffer zone. Such measures shall include but not be limited to cutting down the bamboo existing in the buffer zone and physically removing or spraying any regrowth for several years or until the bamboo is dead, and, if bamboo is permitted to remain outside of the buffer zone, installing sheathing comprised of metal and other impenetrable material and placed no less than 10 feet from the property line at a sufficient depth to prevent any growth of bamboo within any buffer zone. Any poisoning, as described above, must be in accordance with State and Federal law and with products approved for use by NJDEP, the EPA and State and Federal law."

C. In addition to the buffer zone, and any adjoining properties, as stated by this chapter, bamboo shall not be allowed in municipal rights-of-way, conservation easements or municipal property no matter what distance from the property line.

D. This chapter shall not be deemed to alter any rights at common law or otherwise that any property owner(s) may have to recover the cost of removal of bamboo on their own property from another property owner from whose property the bamboo has spread.

§ 151-4. Removal of bamboo.

If bamboo on any property grows in or into any buffer zone or any adjoining property, the Township shall give notice to the bamboo property owner(s), and/or tenants or person or entity in control or their agents, as required by this chapter, that the said property owner(s), and/or tenants or person or entity in control or their agents, are responsible for the extermination or removal of such bamboo from the buffer zone, and/or with the consent of the adjoining property owner, removal, remediation and restoration of the adjoining property to its natural state prior to the growth of bamboo.

§ 151-5. Inspection.

All places and premises in the Township of Eastampton shall be subject to inspection by the Township's Department of Code Enforcement.

§151-6. Notice of failure to comply with ordinance.

The Township's Department of Code Enforcement, in writing, as defined in this chapter, shall deliver to the owner(s), and/or tenant or person or entity in control of the subject property or the agent of the owner(s) and/or tenant or person in control or entity, advising him/her or the entity of the particular violation. The owner(s), and/or tenant, person or entity, shall have 30 days from the date of receipt of said notice to commence extermination or removal and remediation of all bamboo which is in violation of this chapter, as noted in the notice of violation, with completion of all the aforesaid actions and restoration of the property to its prior natural status without the bamboo at their sole cost and expense within 90 days of commencement. Said notice shall serve as a continuing notice for the remainder of the calendar year, and the Township may, without further notice, take action in accordance with this chapter.

§ 151-7. Hardship appeal for extension of time.

Any party who needs to take action as a result of §151-6 but is able to demonstrate that they, after a good-faith effort to complete all of the aforesaid actions within 90 days, are unable to do so, said party may file a notice of appeal within 10 days following the ninety-day period of completion to the Township Manager to seek a temporary extension of time to complete all extermination, removal, remediation and/or restoration as required by the notice of violation. Such an extension shall only be granted after proof of good-faith efforts to complete all of the aforesaid actions within 90 days without success. Should the Township Manager deny the appeal, a final appeal may be made to the Mayor and Council within 10 days of the Township Manager's denial. During all such appeals, actions of enforcement of this chapter shall be stayed until the appeal process is completed. A grant of an extension of time shall provide a limited time for completion and not an exemption from completion.

§151-8. Failure or refusal to comply with chapter.

Upon failure, neglect or refusal of any owner(s) and/or tenant or person or entity in control or his/her or its agent to remediate existence of bamboo located on the property of the owner(s),

and/or tenants or person or entity in control or their agents, in violation of this chapter, or on adjoining property owners' property, upon consent to remediate, and to restore the adjoining property owners' property in order to correct the conditions in violation of this chapter within the time period prescribed above, then the Township is authorized to take all actions prescribed by this chapter against the violating owner(s) and/or tenants or person or entity in control or their agents. All remediation shall also include proper restoration of the subject property to its natural state without bamboo.

§151-9. Violations and penalties.

A. Whenever bamboo, as defined by this chapter, is found planted in the ground or any plot of land, lot or any other premises or place in violation of this chapter, a notice of violation shall be issued, pursuant to §151-6.

B. The cost of abatement and restoration shall be borne by the bamboo property owner(s), and or tenant, person or entity in control, or their agent.

C. If the bamboo property owner(s), and/or tenant or person or entity in control, fails to comply with such notice of violation, subject to any period of appeal, the Township's Department of Code Enforcement under all circumstances may issue a summons and seek the fines provided by the Municipal Court or designated court to the extent stated below.

D. Any owner(s), and/or tenants or person or entity in control or their agents, violating any of the provisions of this chapter and who fail to abate, remediate and restore said property in violation after proper notice shall be subject to the following penalties:

(1) For a first offense, a fine not to exceed the statutory limitations of fines in Municipal Court or \$2,000, whichever is greater, plus costs of prosecution for each day in which the violation has occurred for which the property owner or party in control has been found guilty.

(2) For a second or greater offense, a maximum fine allowed by state statute, a term of imprisonment not exceeding 90 days or a period of community service not exceeding 90 days or any combination thereof. In addition, the Township, through the Code Enforcement Department, may remove, remediate and restore the property or otherwise control the bamboo species, and the Township may thereafter recover the cost of such removal, remediation and restoration from the bamboo property owner(s), and/or tenants or person or entity in control or their agents, and place a lien on the property to cover the cost of the removal, remediation and restoration.

(3) The remedy of removal of the bamboo and remediation and restoration of the subject property by the Township shall exist at all times, including a first violation where such bamboo is located in a municipal right-of-way, municipal easement or a municipal property, along with the right to place a lien on the property to recover the cost of removal.

(4) Each day in which a violation occurs shall constitute a separate offense under this chapter.

§151-10. Enforcement of other laws or ordinances not impaired.

The regulation of bamboo standards and regulations shall be in addition to the provisions of any other applicable ordinance, law, rule or regulation. Nothing in this chapter shall be construed to impair or prevent enforcement of any other ordinance, law, rule or regulation.

§151-11. Enforcement in Superior Court of New Jersey or other appropriate court.

The remedies set forth in §151-9 shall not be exclusive, and the Township shall at all times have the option to bring a legal action in the Superior Court of New Jersey or other appropriate court to seek injunctive relief or other equitable remedies, damages and costs of remediation, removal and restoration and/or other legal action to the extent permitted by law, and seek against the violating party the costs of said action, including reasonable attorney fees.

§151-12. Severability.

In the event any provision of this chapter is stricken by a court for any reason, the remaining provisions of the chapter shall remain valid and in full force and effect notwithstanding the stricken provision.

SECTION 2. Repealer. All ordinances or parts of ordinances inconsistent or in conflict with this Ordinance are hereby repealed as to said inconsistencies and conflict.

SECTION 3. Severability. If any section, part of any section, or clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this ordinance. The governing body of the Township of Eastampton declares that it would have passed the ordinance and each section and subsection thereof, irrespective of the fact that any one or more of the subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

SECTION 4. Effective Date. The ordinance shall take effect immediately upon passage and publication according to law.

Adopted: October 23, 2023

ATTEST:


KIM-MARIE WHITE
Municipal Clerk


ROBERT APGAR
Mayor

Introduction: October 10, 2023

Council	Motion	2 nd	Ayes	Nays	Abstain	Absent
Councilman Rodriguez	✓		✓			
Councilman Santillo			✓			
Councilman Springer		✓	✓			
Councilman Zeno						✓
Mayor Apgar			✓			
		VOTE	4			

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Councilman Santillo		✓	✓			
Councilman Springer			✓			
Councilman Zeno						✓
Mayor Apgar			✓			
		VOTE	4	0		