

INCORPORATED VILLAGE OF SALTAIRE

LOCAL LAW NO. 1 OF THE YEAR 2008

A LOCAL LAW AMENDING CHAPTER 38 OF THE VILLAGE CODE OF THE VILLAGE OF SALTAIRE ESTABLISHING REGULATIONS REGARDING THE PLANTING AND/OR GROWING OF BAMBOO IN THE VILLAGE OF SALTAIRE

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE INCORPORATED VILLAGE OF SALTAIRE AS FOLLOWS:

1.0 Title, Enactment, Effective Date and Purpose.

1.1 Title of Local Law

1.2 Enactment.

1.3 Effective Date.

1.4 Purpose and Intent of Local Law.

2.0 General Provisions

3.0 Violations and Penalties

4.0 Severability and Validity

Section 1.0 Title, Enactment, Effective Date and Purpose.

1.1. Title of Local Law

This Local Law shall be entitled, “Local Law No. 1 of 2008, a Local Law Adopting Regulations regarding the Planting and/or Growing of Bamboo in the Village of Saltaire.”

1.2 Enactment.

Pursuant to Section 10 of the Home Rule Law and the Village Law of the State of New York, the Incorporated Village of Saltaire, County of Suffolk and State of New York, hereby enacts by this Local Law No. of 2008, a Local Law of the Incorporated Village of Saltaire.

1.3. Effective Date.

This Local Law shall take effect upon the filing of a copy of this Local Law with the New York State Department of State which shall be within twenty (20) days of the adoption of this Local Law.

1.4. Purpose and Intent of Local Law.

A. Purpose

The purpose of this Local Law is to promote and protect the property, property values and welfare of the residents of the Village of Saltaire and their guests, and of the visitors to the Village, and to protect the property and preserve the aesthetic qualities of the environment of the Village of Saltaire.

B. Intent

It is the finding of the Board of Trustees that the planting and/or the growing of bamboo, a plant not indigenous to the Fire Island National Seashore, within the Village of Saltaire has been and will continue to be destructive to the natural environment, including indigenous flora, and destructive to structures and walks on properties within the Village adjoining and neighboring those properties where bamboo has been planted and/or permitted to grow; that because of these effects the planting and the growing of bamboo threatens the value and physical integrity of both public and private property in the Village; and that therefore, in order to protect and preserve said environment and values, the Village declares it necessary to regulate or prohibit the planting and/or growing of bamboo within the village

Section 2.0 General Provisions.

Chapter 38 of the Village Code of the Village of Saltaire shall be amended to add Section 20 which shall read as follows:

“Section 20. Regulating the Planting and/or Growing of Bamboo.

A. Definitions. For purposes of this Section: (i) “bamboo” shall be defined as any tropical or semi-tropical grass of the genera Bambusa, Dendrocalamus or of any other related genera.

(ii) “Bamboo Property Owner” shall be defined as a property owner in the Village who has planted or grown or caused the planting or growing of bamboo on his property and/or permitted or permits the growing of bamboo on his property that had had initially encroached onto his property from an adjoining or neighboring property.

B. Applicability. For purposes of this Section, if bamboo is found growing upon a property that shall constitute presumptive evidence that the growing of bamboo on the property shall have occurred with the consent of the owner of such property, except that such property owner shall not

be presumed to be a Bamboo Property Owner if the property owner did not plant or grow or cause said bamboo to be planted or grown on his property and he shall provide the Village Administrator with proof, satisfactory to the Village Administrator, that within a reasonable period of time after he first learned of the encroachment of bamboo onto his property from an adjoining or neighboring property he advised the owner of such adjoining or neighboring property of his objection to the encroachment of bamboo onto his property and/or initiated steps for the removal of the bamboo from his property.

- C. Prohibition. Effective upon the date this provision shall become law, the planting or growing of bamboo shall be prohibited within the Village of Saltaire. Any person who thereafter plants or grows, or causes to be planted or grown, bamboo within the Village shall be deemed to be in violation of this Section, and shall be subject to such penalties as are set forth hereunder.

- D. Regulation. Any bamboo which has been planted or otherwise permitted to grow on any property within the Village of Saltaire prior to the effective date of this Section 20. may remain on such property subject to compliance with this Section 20. Each Bamboo Property Owner shall be responsible to ensure that the bamboo planted or growing on his property prior to the effective date of this Section 20. does not encroach or grow upon any adjoining or neighboring property or properties, including all public property and right of ways held by the Village, and shall be required to take such measures as are reasonably expected to prevent such bamboo from invading or growing onto adjoining or neighboring properties. Such measures shall include installation of sheathing comprised of metal or other material impenetrable by bamboo at a sufficient depth within the property line or lines where the bamboo is planted or is growing to prevent the growth or encroachment upon adjoining or neighboring property by said bamboo. The Board of Trustees may from time to time prescribe such rules and regulations as may be necessary to give effect to this

Section 20.

- E. Removal. (1) In the event that bamboo growing on a Bamboo Property Owner's property invades or grows on an adjoining or neighboring property that is owned or held on behalf of the Village of Saltaire, the Village shall notify the Bamboo Property Owner that the bamboo said Owner had planted or caused to plant or had permitted to grow on his property has invaded Village property, and that the Bamboo Property Owner is responsible for the removal of such bamboo from the Village property. This notice shall be sent by certified mail, return receipt requested and by regular mail to the latest address of the Bamboo Property Owner on file with the Village Clerk and a copy of the notice shall also be

left in a conspicuous location on the Bamboo Property Owner's property in the Village of Saltaire.

(2) In the event that the Bamboo Property Owner does not remove or contract for the removal of said bamboo from the Village property, or does not make an arrangement with the Village for removal of such bamboo within thirty (30) days from the date the Village first deposited the notice as provided in Subsection (E)(1) above with the United States Postal Service, then the Village, at its discretion, may remove or arrange for the removal of such bamboo from the Village property. The Bamboo Property Owner shall be liable and responsible to the Village for the Village's costs in removing the bamboo from the Village property. Such costs may be assessed against the property of the Bamboo Property Owner as a tax payable by such Bamboo Property Owner in the event that the costs remain unpaid more than thirty (30) days after demand for payment has been made by the Village on the Bamboo Property Owner.

(3) In the event that the Village is compelled to undertake the removal or to contract for the undertaking of removal of bamboo, as provided for in Subsection (E)(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 of such bamboo. In the event such removal entails or causes damages to the flora or other property of a person other than the property of the Bamboo Property Owner, the Bamboo Property Owner in violation of this Section shall be responsible for such damages.

- F. Replanting Prohibited. Any bamboo either planted or caused to be planted or existing on a property prior to the effective date of this Section may not be replanted or replaced in kind once such bamboo is or has become, for any reason, dead, destroyed, uprooted or otherwise removed.
- G. Notification. Within thirty (30) days after the effective date of this Section the Village shall give notice by reasonable means to all property owners in the Village advising them of the enactment of this Section and requesting that each property owner who would be deemed a Bamboo Property Owner hereunder as of the effective date of this Section notify the Village in writing no later than sixty (60) days after the date of the aforementioned notice from the Village that bamboo is present on the property of such property owner and such other information as may be requested in the notice from the Village.

Section 3.0 Violations and Penalties

- A. Violations. Any property owner who violates any of the provisions of this Section shall be guilty of a violation thereof. Each and every day that a violation of this Section shall exist shall constitute a separate violation of this Section..

- B. Penalties
 - (1) A violation of any provision of this Section shall be punishable by a fine not to exceed \$250 for each violation.

 - (2) The Village may also pursue civil or injunctive relief, or pursue criminal penalties, irrespective of any determination to prosecute for a violation of this Section.

Section 4.0 Severability and Validity

In the event that any portion or portions of this Local Law #1 of 2008 shall be determined to be invalid or unenforceable for any reason, the remainder of the Local Law and its provisions shall remain in full force and effect.