

Introduced by: Legislator Denenberg at the
request of the County Executive

LOCAL LAW 24 -2007

A LOCAL LAW in relation to preventing the spread of invasive species in Nassau County

Passed by the Nassau County Legislature on December 17, 2007

Voting: Ayes: 19, Nays: 0, Abstained: 0

Became a law on December 20, 2007 with the approval
of the County Executive.

BE IT ENACTED by the County Legislature of the County of Nassau as follows:

Section 1. A new title D-15 of Chapter 21 of Chapter 272 of the Laws of 1939, constituting the Nassau County Administrative Code, is hereby added, to read as follows:

Section 2. Legislative Intent.

This Legislature hereby finds and determines that invasive species can displace native species and alter natural ecosystems, and are considered to be the second leading cause of species extinction and endangerment worldwide. Such invasive species can negatively impact agriculture, industry and human health. It is the intent of this law is to protect the ecology of Nassau County by preventing the introduction of any waste containing invasive species in any ecosystem in Nassau County, and to prohibit the sale of such species in the County.

§ 21-24.1. Definitions.

As used in this law, the following terms shall have the following meanings:

(a) "Alien species" means, with respect to a particular ecosystem, any species, including its seeds, eggs, spores, or other biological material, capable of propagating or reproducing that species, that is not native to that ecosystem.

MAJORITY COUNSEL

FORM APPROVED

(b) "Citation" means notice issued to a person identifying all violations of this title determined to exist in the course of a single on-site inspection of such person's property or premises.

(c) "Commissioner" means the Commissioner of the Nassau County Office of Consumer Affairs.

(d) "Control" means eradicating, suppressing, reducing, or managing invasive species populations, preventing spread of invasive species from areas where they are present, and taking steps such as restoration of native species and habitats to reduce the effects of invasive species and to prevent further invasions.

(e) "Department" means the Nassau County Office of Consumer Affairs.

(f) "Invasive species" means an alien species, including all of its cultivars and varieties, whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

(g) "Invasive species committee" means the committee established and comprised as set forth in this title.

(h) "Native species" means, with respect to a particular ecosystem, a species that, other than as a result of an introduction, historically occurred or currently occurs in that ecosystem.

(i) "Person" means any individual, governmental entity, firm, partnership, corporation, company, society, association, or any organized group of persons whether incorporated or not, and every officer, agent, or employee thereof.

(j) "Propagation" means purposefully increasing the population of a species by means of manipulating its sexual and/or asexual reproduction processes.

§ 21-24.2. Prohibitions.

(a) No person shall introduce, throw, dump, deposit, place or cause to be propagated, transplanted, introduced, thrown, dumped, deposited or placed in any river, stream, lake, pond, wetland or storm water drain, in whatever capacity and for whatever purpose, the invasive plant species listed in paragraph b of this section.

(b) No person shall knowingly collect, transport, sell, distribute, propagate or transplant any living and viable portion of any plant, or the compost, mulch, soil, or other materials containing seeds or other viable parts of any such plant, included in the Nassau County prohibited invasive plant species lists as follows:

TABLE 1

Scientific Name	Common Name
<i>Alliaria petiolata</i>	Garlic mustard
<i>Ampelopsis brevipedunculata</i>	Porcelain-berry
<i>Anthriscus sylvestris</i>	Wild chervil
<i>Aralia elata</i>	Japanese angelica tree
<i>Artemisia vulgaris</i>	Mugwort, common wormwood
<i>Cabomba caroliniana</i>	Carolina fanwort; cabomba
<i>Cardamine impatiens</i>	Narrowleaf bittercress
<i>Caulerpa taxifolia</i>	Marine "killer algae"
<i>Celastrus orbiculatus</i>	Oriental bittersweet
<i>Centaurea stoebe</i>	Spotted knapweed
<i>Cirsium arvense</i>	Canada thistle
<i>Cynanchum louiseae</i>	Black swallow-wort
<i>Cynanchum rossicum</i>	Pale swallow-wort
<i>Egeria densa</i>	Brazilian water weed
<i>Elaeagnus angustifolia</i>	Russian olive
<i>Elaeagnus umbellata</i>	Autumn Olive
<i>Euphorbia cyparissias</i>	Cypress spurge
<i>Euphorbia esula</i>	Leafy spurge
<i>Froelichia gracilis</i>	Cottonweed
<i>Glaucium flavum</i>	Sea poppy, yellow horned poppy
<i>Glossostigma diandrum</i>	Mudmat

Scientific Name	Common Name
<i>Heracleum mantegazzianum</i>	Giant hogweed
<i>Hesperis matronalis</i>	Dame's rocket
<i>Humulus japonicus</i>	Japanese hops
<i>Hydrilla verticillata</i>	Hydrilla
<i>Hydrocharis morsus-ranae</i>	European frog-bit (aquatic)
<i>Impatiens glandulifera</i>	Tall impatiens; purple balsam
<i>Lepidium latifolium</i>	Tall pepperweed, perennial pepperweed
<i>Lespedeza cuneata</i>	Chinese lespedeza
<i>Ligustrum obtusifolium</i>	Border privet
<i>Ludwigia grandiflora</i>	Water primrose
<i>Ludwigia peploides</i>	Floating primrose-willow; water purslane
<i>Lythrum salicaria</i>	Purple loosestrife
<i>Microstegium vimineum</i>	Japanese stilt grass
<i>Myosotis scorpioides</i>	Forget me not
<i>Microstegium vimineum</i>	Japanese stilt grass
<i>Myriophyllum aquaticum</i>	Parrot feather, Brazilian water milfoil
<i>Myriophyllum spicatum</i>	Eurasian water milfoil
<i>Najas minor</i> Allioni	Eutrophic water-nymph
<i>Nelumbo nucifera</i>	Pink lotus
<i>Nymphoides peltata</i>	Yellow floating heart
<i>Paulownia tomentosa</i>	Princess tree
<i>Phalaris arundinacea</i>	Reed canary-grass
<i>Phragmites australis</i>	Common reed grass (nonnative genotype)
<i>Polygonum cuspidatum</i>	Japanese knotweed
<i>Polygonum perfoliatum</i>	Mile a minute vine
<i>Polygonum sachalinense</i>	Giant knotweed

Scientific Name	Common Name
<i>Potamogeton crispus</i>	Curly leaf pondweed
<i>Pueraria montana</i>	Kudzu
<i>Ranunculus ficaria</i>	Lesser celandine
<i>Rhamnus cathartica</i>	Common buckthorn
<i>Rosa multiflora</i>	Multiflora rose
<i>Rubus phoenicolasius</i>	Wineberry
<i>Salvinia molesta</i>	Giant salvinia
<i>Senecio jacobaea</i>	Tansy ragwort; stinking willie
<i>Silphium perfoliatum</i>	Cup-plant
<i>Trapa natans</i>	Water chestnut
<i>Vitex rotundifolia</i>	Beach vitex; roundleaf chastetree

TABLE 2

<i>Lonicera x bella</i>	Bell's honeysuckle
<i>Lonicera morrowii</i>	Morrow's honeysuckle
<i>Lonicera maackii</i>	Amur honeysuckle
<i>Lonicera japonica</i>	Japanese honeysuckle
<i>Lonicera tatarica</i>	Tartarian honeysuckle
<i>Lonicera xylosteum</i>	Dwarf, Fly honeysuckle
<i>Myosotis scorpioides</i>	Forget-me-not (aquatic)

§ 21-24.3. Invasive species committee.

(a) A committee on invasive species shall advise the Commissioner on matters affecting the county relating to invasive species. The committee shall annually choose one of its members to serve as chairperson and another of its members to serve as vice-chairperson.

The County Executive shall appoint the members of such committee, which shall be comprised of the following members:

1. The Commissioner of the Nassau County Office of Consumer Affairs, or his or her designee;
2. the Commissioner of the Nassau County Department of Public Works, or his or her designee;
3. the Commissioner of the Nassau County Department of Parks, Recreation and Museums, or his or her designee;
4. a representative of the Cornell Cooperative Extension;
5. a representative of the Nassau County Soil & Water Conservation District;
6. a representative of The Nature Conservancy;
7. a representative of the nursery or landscape industry;
8. a scientist or gardener having terrestrial or aquatic invasive species expertise;
9. a representative of the Long Island Invasive Species Management Area.

(b) The committee on invasive species shall assist the Commissioner's preparation and publication of amendments, when appropriate, to the Nassau County prohibited invasive species list.

§ 21-24.4 Exemptions.

(a) The Commissioner and/or department employees, while acting in the performance of their duties, shall be exempt from the restrictions of this section relative to:

- (1) Collection;
- (2) Distribution;
- (3) Transportation;
- (4) Propagation;
- (5) Control; or
- (6) Disposal.

(b) Persons who have been granted an approved written variance from the Department as provided in §21-24.5 shall be exempt from the provisions of this section for one or more of the following activities:

- (1) Collection;
- (2) Transportation;
- (3) Cultivation;
- (4) Transplantation;
- (5) Propagation;
- (6) Control; or
- (7) Disposal.

(c) The prohibitions set forth in §21-24.2 shall not apply to the collection and transportation of prohibited invasive species in connection with the maintenance of a public herbarium, mycology or entomology collection.

§ 21-24.5 Variance requests.

(a) Any person may apply for a written variance permitting the collection, transportation, cultivation, transplantation or propagation of prohibited invasive species for scientific or educational purposes in accord with the conditions set forth in such variance.

(b) Applicants seeking such variance shall obtain an application form from the Department. No application deemed incomplete shall be granted, and approval of any application shall be subject to the sole discretion of the Department.

(c) No request for such variance shall be approved that is likely to result in any of the following:

- (1) environmental impacts;
 - (2) economic damage; or
 - (3) cause harm to human health.
- (d) Persons obtaining an approved written variance shall, within thirty days of the completion of the project, submit written notification to the Department describing the results of the project.

§ 21-24.6 Disposal of prohibited invasive species. Prohibited invasive species shall only be disposed of in a manner that renders them non-living and non-viable.

§ 21-24.7 Enforcement. The Department shall be authorized to enforce the provisions of this title and, in its discretion, to impose penalties within the parameters herein. A first

offense shall be subject to a warning. Each citation thereafter identifying violations of § 21-24.2(a) and § 21-24.5 shall be subject to a civil penalty, payable to the County, of not less than ten dollars nor more than twenty five dollars for each plant that is the subject of the citation. Each citation thereafter identifying violations of § 21-24.2(b) shall be subject to a civil penalty, payable to the County, of not less than one hundred dollars nor more than one thousand dollars for each plant that is the subject of the citation.

§ 21-24.8 Severability. If any section, subdivision, paragraph, subparagraph, clause, or item of this title is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct, and independent provision; and such holding shall not affect the validity of the remaining portions thereof.

Section 3. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that the above activity is an unlisted action under the provisions of Title 6 NYCRR Part 617, which will not have significant adverse impacts on the environment for the following reasons: 1) the proposed action will not exceed any of the criteria in Section 617.7 (C) of Title 6 NYCRR which sets forth thresholds for determining significant adverse impacts on the environment; 2) the proposal does not appear to significantly threaten any unique or highly valuable environmental or cultural resources as identified in or regulated by the Environmental Conservation Law of the State of New York or the Nassau County Charter and Code; and 3) the legislation will discourage the spread of non-native aquatic plant and animal species in Nassau County waters which is a beneficial environmental impact.

Section 4. Effective Date

This law shall take effect on January 1, 2008; except, however, that the prohibition as it relates to Table 1 in paragraph b of § 21-24.2 of this law shall not take effect until January 1, 2009 and the prohibition as it relates to Table 2 in paragraph b of § 21-24.2 of this law shall not take effect until January 1, 2011.

APPROVED

Thomas R. Spina
County Executive

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DATE 12/20/07