

**RESOLUTION NO. 645 -2009, ADOPTING LOCAL LAW
NO. 27 -2009, A LOCAL LAW AMENDING CHAPTER 278A OF
THE SUFFOLK COUNTY CODE ADDRESSING INVASIVE NON-
NATIVE PLANT SPECIES**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on June 9, 2009, a proposed local law entitled, "**A LOCAL LAW AMENDING CHAPTER 278A OF THE SUFFOLK COUNTY CODE ADDRESSING INVASIVE NON-NATIVE PLANT SPECIES**"; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. 27 -2009, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW AMENDING CHAPTER 278A OF THE SUFFOLK
COUNTY CODE ADDRESSING INVASIVE NON-NATIVE PLANT
SPECIES**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF
SUFFOLK**, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that Article II of Chapter 278A of the SUFFOLK COUNTY CODE regulates the sale, introduction and propagation of invasive non-native plant species in Suffolk County to protect our environment.

This Legislature also finds and determines that, as new invasive plant species develop and enter the market, the "Do Not Sell" list of plants in Suffolk County must be updated.

This Legislature further finds and determines that updating the "Do Not Sell" list helps keep Suffolk County's environment robust and healthy and protect it from further damage.

This Legislature also determines that the Department of Consumer Affairs would be better able to enforce the "Do Not Sell" list in Suffolk County.

Therefore, the purpose of this law is update current prohibitions on the sale of invasive non-native plant species to protect Suffolk County's ecology.

Section 2. Amendments.

I. Article 278A-11 of the SUFFOLK COUNTY CODE is hereby amended as follows:

§278A-11. Prohibitions.

[A. No person shall knowingly sell, transport, distribute, propagate or knowingly cause to be sold, transported, distributed or propagated to any person located within the County of Suffolk, or to any person making the purchase from within the County of Suffolk, any

invasive species as listed on Exhibit A herein, as said exhibit may be amended by law from time to time, with the advice of the Water and Land Invasives Advisory Board.

- B. No person shall knowingly sell, transport, distribute, propagate or knowingly cause to be sold, transported, distributed or propagated to any person located within the County of Suffolk, or to any person making the purchase from within the County of Suffolk, any invasive species as listed on Exhibit B herein, as said exhibit may be amended by law from time to time, with the advice of the Water and Land Invasives Advisory Board.]

No person shall knowingly sell, transport, distribute, propagate or knowingly cause to be sold, transported, distributed or propagated to any person located within the County of Suffolk, or to any person making the purchase from within the County of Suffolk, any invasive species as listed on Exhibits A through F herein, as said exhibits may be amended by law from time to time, with the advice of the Water and Land Invasives Advisory Board.

II. Article 278A-13 of the SUFFOLK COUNTY CODE is hereby amended as follows:

§278A-13. Exemptions.

- A. The prohibitions contained in this article shall not apply to bona fide scientific experiments or for educational purposes, provided that no invasive species used in such bona fide scientific experiments or for educational purposes shall be permitted to be sold or distributed.
- B. Any person desiring to use any invasive species for bona fide scientific experiments or for educational purposes shall be required to apply for a written waiver of the provisions of this article from the Suffolk County Department of Environment and Energy, on a form to be prescribed in Exhibit [C] G herein.
- C. A cultivar of a Do-Not-Sell Listed invasive species may be exempted from Do-Not-Sell status if:
1. its primary means of reproduction is sexual, and
 2. scientific, peer-reviewed criteria verify that a cultivar is effectively 100% male and female sterile, and
 3. guaranteed by the producer to be sterile, and
 4. enabling enforcement through appropriate safeguards to document the identity of the cultivar and source of the cultivar, including tagging individual plants and shipping and nursery invoices, and
 5. it is deemed appropriate for exemption by the Advisory Board and LIISMA SRC

III. Article 278A-15 of the SUFFOLK COUNTY CODE is hereby amended as follows:

§ 278A-15. Rules and regulations.

The Suffolk County Department of [Environment and Energy] Consumer Affairs shall issue and promulgate such rules and regulations as it deems necessary and appropriate to carry out the provisions of this article.

IV. Article 278A-16 of the SUFFOLK COUNTY CODE is hereby amended as follows:

§278A-16. Applicability.

- [A. The prohibition described in §278A-11A of this article shall apply to actions occurring on or after January 1, 2009.
- B. The prohibition described in §278A-11B of this article shall apply to actions occurring on or after January 1, 2011.]

The prohibition described in §278A-11 of this article shall apply as follows:

- A. For actions involving species listed in Exhibit "A", occurring on or after January 1, 2009.
 - B. For actions involving species listed in Exhibit "B", occurring on or after January 1, 2011.
 - C. For actions involving species listed in Exhibit "C" occurring on or after January 1, 2012.
 - D. For actions involving species listed in Exhibit "D" occurring on or after January 1, 2013.
 - E. For actions involving species listed in Exhibit "E" occurring on or after January 1, 2014.
 - F. For actions involving species listed in Exhibit "F" occurring on or after January 1, 2016.
- V. Exhibits "A" and "B" of Chapter 278, Article II, of the SUFFOLK COUNTY CODE are replaced and superseded by the Exhibits "A" and "B", attached hereto.
 - VI. Chapter 278, Article II, of the SUFFOLK COUNTY CODE is amended by the addition of new Exhibits "C" through "F", attached hereto.
 - VII. Exhibit "C" of Chapter 278, Article II, of the SUFFOLK COUNTY CODE shall be relettered as Exhibit "G".

Section 3. Applicability.

This law shall apply to all actions occurring on or after the effective date of this law.

Section 4. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder

thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 5. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

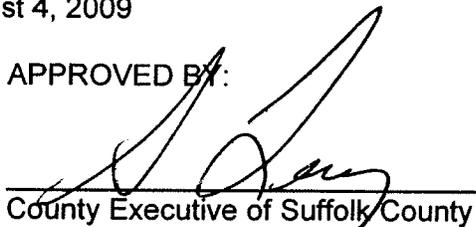
Section 6. Effective Date.

This law shall take effect immediately upon its filing in the Office of the Secretary of State.

[] Brackets denote deletion of existing language
___ Underlining denotes addition of new language

DATED: August 4, 2009

APPROVED BY:



County Executive of Suffolk County

Date: 8/28/09

After a public hearing duly held on August 18, 2009
Filed with the Secretary of State on September 15, 2009

EXHIBIT "A"

<u>Scientific Name</u>	<u>Common Name</u>
<i>Alliaria petiolata</i>	Garlic mustard
<i>Ameplopsis brevipedunculata</i>	Porcelain berry
<i>Anthriscus sylvestris</i>	Wild chervil
<i>Aralia elata</i>	Japanese angelica tree
<i>Artemisia vulgaris</i>	Mugwort, Common woodworm
<i>Cambomba caroliniana</i>	Carolina fanwort
<i>Cardamine impatiens</i>	Narrowleaf bittercress
<i>Celastrus orbiculatus</i>	Oriental bittersweet
<i>Centaurea stoebe</i> ssp. <i>Micranthos</i> s.l. (AKA <i>C. biebersteinii</i> , <i>C. diffusa</i> , <i>C. maculosa</i> misapplied, <i>C. xpsammogena</i>)	Spotted knapweed, Spotted star-thistle
<i>Cirsium arvense</i> (AKA <i>C. setosum</i> , <i>C. incanum</i> , <i>Carduus arvensis</i> , <i>Serratula arvensis</i>)	Canada thistle
<i>Cynanchum louiseae</i> (AKA <i>C. nigrum</i> , <i>Vincetoxicum nigrum</i>)	Black swallow-wort
<i>Cynanchum rossicum</i> (AKA <i>C. medium</i> , <i>Vincetoxicum medium</i> , <i>V. rossicum</i>)	European swallow-wort, Pale swallow-wort, Dog strangling vine
<i>Egeria densa</i>	Brazilian waterweed
<i>Elaeagnus umbellata</i>	Autumn olive
<i>Euphorbia cyparissias</i>	Cypress spurge
<i>Euphorbia esula</i>	Leafy spurge
<i>Fallopia japonica/sachalinensis/xbohemica</i> (AKA <i>Polygonum cuspidatum/sachalinense/xboehmicum</i>)	Japanese knotweed, Giant knotweed, Silver lace vine
<i>Froelichia gracilis</i>	Cottonweed
<i>Heracleum mantegazzianum</i>	Giant hogweed
<i>Humulus japonicus</i>	Japanese hops
<i>Hydrilla verticillata</i>	Water thyme
<i>Hydrocharis morsus-ranae</i>	Frogbit
<i>Lepidium latifolium</i>	Broadleaf pepperweed
<i>Lesperdeza cuneata</i>	Chinese lesperdeza
<i>Ligustrum obtusifolium</i>	Border privet
<i>Ludwigia grandiflora</i>	Uruguayan primrose willow
<i>Ludwigia peploides</i>	Floating primrose willow
<i>Lythrum salicaria</i>	Purple loosestrife
<i>Microstegium vimineum</i>	Japanese stilt grass
<i>Myriophyllum aquaticum</i>	Parrot-feather
<i>Myriophyllum spicatum</i>	Eurasian water-milfoil
<i>Nymphoides peltata</i>	Yellow floating heart
<i>Persicaria perfoliata</i> (AKA <i>Polygonum perfoliatum</i>)	Mile a minute weed
<i>Phalaris arundinacea</i> (Eurasian genotype)	Reed canary-grass
<i>Phragmites australis</i> subsp. <i>australis</i>	Common reed grass (non-native genotype)
<i>Potamogeton crispus</i>	Curly pondweed
<i>Pueraria montana</i> var. <i>lobata</i>	Kudzu
<i>Ranunculus ficaria</i>	Lesser celandine
<i>Rhamnus cathartica</i>	Common buckthorn
<i>Rosa multiflora</i>	Multiflora rose

Scientific Name

Rubus phoenicolasius

Senecio jacobaea

Silphium perfoliatum var. *perfoliatum*

Trapa natans

Vitex rotundifolia (AKA *V. ovata*, *V. trifolia*)

Common Name

Wineberry

Tansy ragwort, Stinking willie

Cup-plant

Water chestnut

Beach vitex; Roundleaf chastree

EXHIBIT "B"

Scientific Name

Clematis terniflora

Lonicera japonica

Lonicera maackii

Lonicera morrowii/tatarica/xbella

Lysimachia nummularia

Lysimachia vulgaris

Myriophyllum heterophyllum (including *M. heterophyllum* X *M. pinnatum*)

Common Name

Japanese virgin's bower, Yam-leaf clematis

Japanese honeysuckle

Amur honeysuckle

Morrow's honeysuckle

Moneywort

Garden loosestrife

Broadleaf water-milfoil

EXHIBIT "C"

Scientific Name

Iris pseudacorus

Common Name

Yellow Iris

EXHIBIT "D"

Scientific Name

Acer platanoides (except cultivars 'crimson king' and 'royal red' which are banned effective 1/1/16, see Exhibit "F")

Acer pseudoplatanus

Euonymus fortunei

Phellodendron amurense/japonicum

Rhamnus frangula (AKA *Frangula alnus*)

Robinia pseudoacacia

Salix atrocinerea/cinerea

Common Name

Norway maple

Sycamore maple

Spindle-tree

Amur cork tree

Smooth buckthorn

Black locust

Gray florist's widow

EXHIBIT "E"

Scientific Name

Berberis thunbergii (includes all hybrids with other *Berberis* species)

Common Name

Japanese barberry

EXHIBIT "F"

Scientific Name

Acer platanoides cultivars 'Crimson king' and
'Royal red'
Euonymus alatus

Common Name

Crimson King Norway maple, Royal Red
Norway maple
Winged euonymus

Intro. Res. 1508 Res. No. 645

August 4, 2009

Motion:
 Romaine, Schneiderman, Browning, Beedenbender, Losquadro
 Eddington, Montano, Alden, Lindsay, Viloría-Fisher, Barraga,
 Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Co-Sponsors:
 Romaine, Schneiderman, Browning, Beedenbender, Losquadro
 Eddington, Montano, Alden, Lindsay, Viloría-Fisher, Barraga,
 Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Second:
 Romaine, Schneiderman, Browning, Beedenbender, Losquadro
 Eddington, Montano, Alden, Lindsay, Viloría-Fisher, Barraga,
 Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

LD	Legislator	Yes	No	Abs	NP	R
1	Edward P. ROMAINE					
2	Jay H. SCHNEIDERMAN					
3	Kate M. BROWNING					
4	Brian BEEDENBENDER					
6	Daniel P. LOSQUADRO					
7	Jack EDDINGTON					
9	Ricardo MONTANO					
10	Cameron ALDEN					
11	Thomas F. BARRAGA					
12	John M. KENNEDY, JR.					
13	Lynne C. NOWICK					
14	Wayne R. HORSLEY					
15	DuWayne GREGORY					
16	Steven H. STERN					
17	Lou D'AMARO					
18	Jon COOPER					
5	Vivian VILORIA-FISHER, D.P.O.					
8	William J. LINDSAY, P.O.					
	Totals	<u>18</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

MOTION
<input checked="" type="checkbox"/> Approve
Table: _____
Send To Committee _____
Table Subject To Call _____
Lay On The Table _____
Discharge _____
Take Out of Order _____
Reconsider _____
Waive Rule _____
Override Veto _____
Close _____
Recess _____
APPROVED <input checked="" type="checkbox"/> FAILED _____
No Motion _____ No Second _____

RESOLUTION DECLARED
<input checked="" type="checkbox"/> ADOPTED
<input type="checkbox"/> NOT ADOPTED

Tim Laube
 Tim Laube, Clerk of the Legislature

Roll Call _____ Voice Vote

SUFFOLK COUNTY
County Legislature
RIVERHEAD, NY



This is to Certify That I, TIM LAUBE, Clerk of the of the County of Suffolk, have compared the foregoing copy of resolution with the original resolution now on file in this office, and which was duly adopted by the County Legislature of said County, on August 4, 2009, and signed by the County Executive on August 28, 2009, after a public hearing duly held on August 18, 2009 and filed with the Secretary of State on September 15, 2009 and that the same is a true and correct transcript of said resolution and of the whole thereof.

In Witness Whereof, I have hereunto set my hand and the official Seal of the County Legislature of the County of Suffolk on

Tim Laube

Clerk of the County Legislature