

**RESOLUTION NO. 594 -2011, ADOPTING LOCAL LAW
NO. 35 -2011, 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 May 10, 2011, 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. 35 -2011, 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. Sale or distribution prohibited.

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] in Exhibit "I": "Do Not Sell List", as said exhibit[s] 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 "G" herein] Exhibit "II": "Variance Request."
- 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) The cultivar is guaranteed by the producer to be sterile; and
 - (4) There is 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
- D. The prohibitions contained in this article shall not apply to invasive species control, management or disposal activities, provided the activities follow best management practices for the species' control, management or disposal and do not result in the invasive species being further distributed.

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

§278A-16. Applicability.

The prohibition described in § 278A-11 of this article shall apply as of the dates enumerated for each individual species or cultivar as established in Exhibit "I": "Do Not Sell List".

[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, 2015.
- G. For actions involving species listed in Exhibit "G" occurring on or after January 1, 2016.]
- I. Exhibits "A" through "G" of Chapter 278A, Article II of the SUFFOLK COUNTY CODE are replaced and superseded by Exhibit "I": "Do Not Sell List", attached hereto.
- II. Exhibit "H" of Chapter 278A, Article II of the SUFFOLK COUNTY CODE is replaced and superseded by Exhibit "II": "Variance Request", attached hereto.

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.

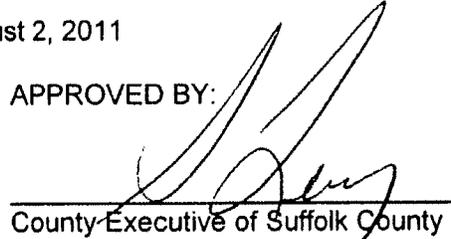
Section 6. Effective Date.

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

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

DATED: August 2, 2011

APPROVED BY:



County Executive of Suffolk County

Date: **AUG 17 2011**

After a public hearing duly held on August 17, 2011
Filed with the Secretary of State on September 13, 2011

EXHIBIT I: DO NOT SELL LIST

SCIENTIFIC NAME	COMMON NAME	Date Prohibition Takes Effect in Suffolk & Nassau Counties
<i>Acer platanoides</i>	Norway maple	1/1/2013 [§]
§except cultivars 'crimson king', 'royal red' banned effective 1/1/2016		
<i>Acer pseudoplatanus</i>	Sycamore maple	1/1/2013
<i>Alliaria petiolata</i>	Garlic mustard	1/1/2009
<i>Ampelopsis brevipedunculata</i>	Porcelain berry	1/1/2009
<i>Anthriscus sylvestris</i>	Wild chervil	1/1/2009
<i>Aralia elata</i>	Japanese angelica tree	1/1/2009
<i>Artemisia vulgaris</i>	Mugwort, Common wormwood	1/1/2009
<i>Berberis thunbergii</i> (includes all hybrids with other <i>Berberis</i> species)	Japanese barberry	1/1/2014
<i>Brachypodium sylvaticum</i>	Slender false brome	1/1/2012
<i>Cabomba caroliniana</i>	Carolina fanwort	1/1/2009
<i>Cardamine impatiens</i>	Narrowleaf bittercress	1/1/2009
<i>Celastrus orbiculatus</i>	Oriental bittersweet	1/1/2009
<i>Centaurea stoebe</i> ssp. <i>micranthos</i> s.l. (<i>biebersteinii</i> , <i>diffusa</i> , <i>xpsammogena</i> , <i>maculosamisapplied</i>)	Spotted knapweed, Spotted star-thistle	1/1/2009
<i>Cirsium arvense</i>	Canada thistle	1/1/2009
<i>Clematis terniflora</i>	Japanese virgin's bower	1/1/2011
<i>Cynanchum louiseae</i> (<i>C. nigrum</i> , <i>Vincetoxicum nigrum</i>)	Black swallow-wort	1/1/2009
<i>Cynanchum rossicum</i> (<i>C. medium</i> , <i>Vincetoxicum medium</i> , <i>V. rossicum</i>)	Pale swallow-wort	1/1/2009
<i>Dioscorea polystachya</i>	Chinese yam; Cinnamon vine	1/1/2012
<i>Egeria densa</i>	Brazilian waterweed	1/1/2009
<i>Elaeagnus umbellata</i>	Autumn olive	1/1/2009
<i>Euonymus alatus</i>	Winged euonymus	1/1/2016
<i>Euonymus fortunei</i>	Winter creeper	1/1/2013
<i>Euphorbia cyparissias</i>	Cypress spurge	1/1/2009
<i>Fallopia japonica/ sachalinensis/ xbohemica</i> (<i>Polygonum cuspidatum /sachalinense/xboehmicum</i>)	Japanese knotweed, Giant knotweed	1/1/2009

<i>Frangula alnus</i> (<i>Rhamnus frangula</i>)	Smooth buckthorn	1/1/2013
<i>Glyceria maxima</i> (<i>Glyceria grandis</i> var. <i>grandis</i>)	Tall glyceria, English watergrass, Reed mannagrass	1/1/2012
<i>Humulus japonicus</i>	Japanese hops	1/1/2009
<i>Hydrilla verticillata</i>	Water thyme	1/1/2009
<i>Hydrocharis morus-ranae</i>	Frogbit	1/1/2009
<i>Imperata cylindrica</i> (all except <i>I. c.</i> var. <i>koenigii</i> 'Red Baron' (syn. 'Rubra'))	Cogon grass	1/1/2012§
<i>Iris pseudacorus</i>	Yellow iris	1/1/2012
<i>Lepidium latifolium</i>	Broadleaf pepperweed	1/1/2009
<i>Lespedeza cuneata</i>	Chinese lespedeza	1/1/2009
<i>Ligustrum obtusifolium</i>	Border privet	1/1/2009
<i>Lonicera japonica</i>	Japanese honeysuckle	1/1/2011
<i>Lonicera maackii</i>	Amur honeysuckle	1/1/2011
<i>Lonicera morrowii</i> / <i>tatarica</i> / <i>xbella</i>	Morrow's honeysuckle	1/1/2011
<i>Ludwigia grandiflora</i>	Uruguayan primrose willow	1/1/2009
<i>Ludwigia peploides</i>	Floating primrose willow	1/1/2009
<i>Lythrum salicaria</i>	Purple loosestrife	1/1/2009
<i>Microstegium vimineum</i>	Japanese stilt grass	1/1/2009
<i>Miscanthus sinensis</i>	Chinese silver grass; Eulalia	1/1/2016
<i>Murdannia keisak</i>	Marsh dewflower	1/1/2012
<i>Myriophyllum aquaticum</i>	Parrot-feather	1/1/2009
<i>Myriophyllum heterophyllum</i> and <i>x M.pinnatum</i>	Broadleaf water-milfoil	1/1/2011
<i>Myriophyllum spicatum</i>	Eurasian water-milfoil	1/1/2009
<i>Nymphoides peltata</i>	Yellow floating heart	1/1/2009
<i>Oplismenus hirtellus</i>	Wavy leaf basketgrass	1/1/2012
<i>Persicaria perfoliata</i> (<i>Polygonum perfoliatum</i>)	Mile a minute weed	1/1/2009
<i>Phalaris arundinacea</i> (European genotype)	Reed canary-grass	1/1/2009
<i>Phellodendron amurense/japonicum</i>	Amur cork tree	1/1/2013
<i>Phragmites australis</i>	European common reed	1/1/2009
<i>Potamogeton crispus</i>	Curly pondweed	1/1/2009
<i>Pueraria montana</i> var. <i>lobata</i>	Kudzu	1/1/2009
<i>Ranunculus ficaria</i> (includes all subspecies)	Lesser celandine	1/1/2009
<i>Rhamnus cathartica</i>	Common buckthorn	1/1/2009
<i>Robinia pseudoacacia</i>	Black locust	1/1/2013
<i>Rosa multiflora</i>	Multiflora rose	1/1/2009
<i>Rubus phoenicolasius</i>	Wineberry	1/1/2009
<i>Salix atrocinerea/cinerea</i>	Gray florist's willow	1/1/2013
<i>Silphium perfoliatum</i> var. <i>perfoliatum</i>	Cup-plant	1/1/2009
<i>Trapa natans</i>	Water chestnut	1/1/2009

EXHIBIT II: VARIANCE REQUEST

County of Suffolk



**Invasive Species Act Variance Request Form For Scientific/Educational Research
Return this form to the Suffolk County Department of Environment and Energy**

All requirements of this form must be completed by the applicant. The information that you provide must be legible. Please type or print (clearly) in black ink.

Requested Invasive Species Information

Scientific Name:	
Common Name:	

Applicant Information

Name:					
Affiliation:					
Phone Number:		Fax Number:			
Mailing Address:					
City:		State:		Zip Code:	
E-Mail Address:					

Purpose/Need for Variance

Project Description: (please attach additional pages if necessary)				
Purpose of Project:				
Start Date:		End Date:		
Project Location:				

City:		State:		Zip Code:	
-------	--	--------	--	-----------	--

What measures will be taken to ensure that the invasive species being applied for in this variance will not escape, spread or negatively affect the surrounding natural environment, agriculture or forest crop, and/or human health?

Once the project has ended, how will the species be disposed of (please describe in detail)?

Additional Material Required

- USGS Topographical Map with Site clearly shown
- Photographs before project begins and after project ends
- A description of the results/findings of the research work

Applicant's Signature

Date

For Department of Environment and Energy Use Only

Does the applicant meet the requirements for a variance?

Yes No

Notes:

Approved: _____

Date: _____

Denied: _____

Date: _____

SUFFOLK COUNTY
County Legislature
RIVERHEAD, NY



This is to Certify That I, TIM LAUBE, Clerk of the County Legislature 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 2, 2011 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.

Tim Laube

Clerk of the Legislature

Intro. Res.

1425

Res. No.

594

August 2, 2011

Motion:

Romaine, Schneiderman, Browning, Muratore, Anker
Eddington, Montano, Cilmi, Lindsay, Vilorio-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Co-Sponsors:

Romaine, Schneiderman, Browning, Muratore, Anker
Eddington, Montano, Cilmi, Lindsay, Vilorio-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Second:

Romaine, Schneiderman, Browning, Muratore, Anker
Eddington, Montano, Cilmi, Lindsay, Vilorio-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	Thomas MURATORE					
6	Sarah S. ANKER					
7	Jack EDDINGTON					
9	Ricardo MONTANO					
10	Thomas CILMI					
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	15				

MOTION
<input checked="" type="checkbox"/> Approve
Table: _____
<input type="checkbox"/> Send To Committee
<input type="checkbox"/> Table Subject To Call
<input type="checkbox"/> Lay On The Table
<input type="checkbox"/> Discharge
<input type="checkbox"/> Take Out of Order
<input type="checkbox"/> Reconsider
<input type="checkbox"/> Waive Rule _____
<input type="checkbox"/> Override Veto
<input type="checkbox"/> Close
<input type="checkbox"/> 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

Roll Call _____ Voice Vote

Tim Laube, Clerk of the Legislature