

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
ORDINANCE**

ORDINANCE NO. 002-2016

**RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE
CHAPTER XI (PROPERTY MAINTENANCE) OF THE CODE OF UPPER
TOWNSHIP TO CONTROL INVASIVE PLANTS**

WHEREAS, the Township Committee desires to adopt an ordinance to control invasive plants; and

BE IT ORDAINED by the Township Committee, in the Township of Upper, County of Cape May and State of New Jersey, as follows:

SECTION 1. Chapter 11 of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, shall be amended to add Section 11-3 as hereinafter provided:

CHAPTER 11. PROPERTY MAINTENANCE

11-1 Unchanged.

11-2 Unchanged.

11-3 INVASIVE PLANTS PROHIBITED; CONTAINMENT AND REMOVAL.

11-3.1 Purpose.

The purpose of this section is to protect and promote the public health through the control of the growth of invasive plant species.

11-3.2 Definitions.

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

Invasive Plants. All native and non-native vines and vegetation that grow out of place and are competitive, persistent and pernicious. These plants may damage trees, vegetation, other plant materials, or structures. Examples include but are not limited to running (monopodial) bamboo, clumping (sympodial) bamboo, multiflora rose, kudzu-vine and poison ivy and oak.

11-3.3 Prohibition.

No owner, tenant or occupant of a property or person, corporation or other entity, shall plant, install or cause or permit the planting or installation of Invasive Plants upon any property located within the Township of Upper.

11-3.4 Duty to Confine.

In the event any Invasive Plants are located upon any property within the Township of Upper prior to the adoption of this ordinance the owner and occupant of said property shall jointly and severally be required to confine such species to prevent the encroachment, spread, invasion or intrusion of same onto any other private or public property or public right-of-way. In lieu of confining the species, the property owner or occupant may elect to totally remove the Invasive Plants from the property and all affective properties. Failure to properly confine such plants shall require removal as set forth below. The cost of said removal shall be at the Invasive Plant property owner's expense. This duty to confine shall not apply if the property owner and/or occupant can establish to the satisfaction of the Code Enforcement Officer that the Invasive Plant which is on his or her property at the time of the adoption of this ordinance originated on another property.

11-3.5 Removal.

In the event Invasive Plants are present on the date of adoption of this ordinance and a complaint is received by the Township regarding an encroachment of any Invasive Plant, and the Code Enforcement Officer of the Township, after observation and/or inspection, determines that there is an encroachment or invasion on any adjoining/neighborhood private or public property or public right-of-way (hereinafter "the affected property"), the Township shall serve notice to the Invasive Plant property owner in writing that the Invasive Plant has invaded other private or public property(s) or public right-of-way(s) and demand the removal of the Invasive Plant from the affected property and demand approved confinement against future encroachment or, in the alternative, the total removal from the property owner's property. Notice shall be provided to the Invasive Plant property owner, as well as to the owner of the affected property, by certified,

return receipt requested mail and regular mail. Within forty-five (45) days of receipt of such notice, the Invasive Plant property owner shall submit to the Code Enforcement Officer of the Township, with a copy to the owner of the affected property, a plan for the removal of the Invasive Plant from the affected property, which plan shall include restoration of the affected property after removal. Within one hundred twenty (120) days of receipt of the Code Enforcement Officer's approval of the plan of removal and restoration, the removal and restoration shall be completed to the satisfaction of the Code Enforcement Officer.

11-3.6 Violations and Penalties.

- a. Whenever an Invasive Plant as defined by this section is found on any plot of land, lot or any other premises or place in violation of this ordinance, or if existing upon adoption of this ordinance, but is found to have spread beyond the boundaries of a property and the Invasive Plant property owner does not complete removal in accordance with this ordinance, the Invasive Plant property owner shall upon conviction, be subject to the penalties stated in Chapter I, Section 1-5 of this Code. In addition, the Administrative Officer may request and the Municipal Court may grant, a specific performance remedy.
- b. Nothing herein shall be interpreted as limiting the rights of a private property owner to seek civil relief through a court of proper jurisdiction, nor the institution of civil proceedings against the proper parties.

11-3.7 Other Ordinances and Laws Unaffected.

Nothing herein shall be interpreted as limiting the right of the Township to require abatement and removal of Invasive Plants pursuant to any other applicable Township ordinance or state statute, including but not limited to Upper Township Code Section 11-1 above and N.J.S.A. 40:48-2.13. The Township may require abatement and removal under Section 11-1 or state law prior to pursuing, and independently of, any enforcement action pursuant to this Section 11-3.

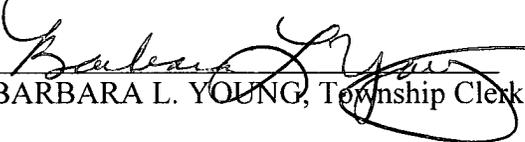
SECTION 2. EFFECTIVE DATE: This ordinance shall take effect immediately upon adoption and publication as required by law.

SECTION 3: REPEALER: All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency only.

SECTION 4: SEVERABILITY: If any section, paragraph, subdivision, subsection, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, subsection, clause or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.

SECTION 5: CODIFICATION: This Ordinance shall be codified as indicated in Chapter 11 of the Upper Township Code.

ATTEST:


BARBARA L. YOUNG, Township Clerk


RICHARD PALOMBO, Mayor

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE **8th DAY OF FEBRUARY**, 2016 AND WILL BE TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER TO BE HELD ON THE **7th DAY OF MARCH, 2016** AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY.

BY ORDER OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER.

BARBARA L. YOUNG, TOWNSHIP CLERK
TOWNSHIP OF UPPER

Legislative History:

Introduced: February 8, 2016

Publication: February 12, 2016

Newspaper(s): The Press of Atlantic City

Second Reading and Public Hearing: March 7, 2016

Final Adoption: March 7, 2016

Final Publication Date: March 10, 2016

I certify that the foregoing Ordinance was finally adopted by the Township Committee of the Township of Upper on March 7, 2016 and notice of adoption was thereafter published pursuant to law in the Press of Atlantic City on March 10, 2016.


BARBARA L. YOUNG, Township Clerk