

**ORDINANCE 17-2016**

**AN ORDINANCE AMENDING CHAPTER 74 OF THE CODE OF THE BOROUGH  
OF CLAYTON BY ADDING A NEW SUBSECTION TO CONTROL INVASIVE  
PLANTS  
(PROPERTY MAINTENANCE)**

*WHEREAS*, the Mayor and Council of the Borough of Clayton, County of Gloucester and State of New Jersey desires to adopt an amendment to Chapter 74 (Property Maintenance) of the Code Book to control invasive plants; and

*BE IT ORDAINED* by the Mayor and Council of the Borough of Clayton, County of Gloucester and State of New Jersey as follows:

**Section 1.** Chapter 74, Property Maintenance, of the Code of the Borough of Clayton, shall be amended to add a new Section to control invasive plants as hereinafter provided:

**Section 2.** Purpose.

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

**Section 3.** Definitions.

As used in this section, the following terms shall have the meaning indicted:

**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.

**Section 4. 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 Borough of Clayton.

**Section 5. Duty to Confine.**

In the event any Invasive Plants are located upon any property within the Borough of Clayton 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.

**Section 6. Removal**

In the event Invasive Plants are present on the date of adoption of this Ordinance and a complaint is received by the Borough regarding an encroachment of any Invasive Plant, and the Code Enforcement Officer of the Borough, 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 Borough shall serve notice to the Invasive Plant property owners 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 the owner of the affected property, by certified return receipt requested mail and regular mail. Within ten (10) days of receipt of such notice, the Invasive Plant property owner shall submit to the Code Enforcement Officer of the Borough, 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 sixty (60) 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.

**Section 7. 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 places 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 74, Section 14 of this Code. In addition, the Code Enforcement 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.

**Section 8. Other Ordinances and Laws Unaffected.**

Nothing herein shall be interpreted as limiting the right of the Borough to require abatement and removal of Invasive Plants pursuant to any other applicable Borough Code Section or State statute, including but not limited to N.J.S.A. 40:18-2.13. The Borough may require abatement and removal under this Ordinance or state law prior to pursuing, and independently of, any enforcement action pursuant to this Ordinance.

**Section 9. Repealer**

All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistencies.

**Section 10. Severability**

Each section of this Ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective, shall not be deemed to affect the validity or constitutionality of any other sections or parts hereof.

**BE IT FURTHER ORDAINED** that this Ordinance shall take effect immediately upon final passage and publication as required by law.

BOROUGH OF CLAYTON

  
\_\_\_\_\_  
THOMAS BIANCO, Mayor

Attest:

  
\_\_\_\_\_  
CHRISTINE NEWCOMB, Borough Clerk

## **PUBLIC NOTICE**

### **SUMMARY OF ORDINANCE # 17-2016**

#### **AN ORDINANCE AMENDING CHAPTER 74 OF THE CODE OF THE BOROUGH OF CLAYTON BY ADDING A NEW SUBSECTION TO CONTROL INVASIVE PLANTS (PROPERTY MAINTENANCE)**

The purpose of this Ordinance is to amend the Borough of Clayton Property Maintenance Ordinance with respect to Invasive Plants.

A copy of this Ordinance can be obtained without any cost, by any member of the general public in the Borough Clerk's Office within the Borough of Clayton in the Municipal Building, 125 N. Delsea Drive, Clayton, New Jersey, during normal business hours (8:00 a.m. to 4:00 p.m.), Monday through Friday.

This Ordinance was introduced at a meeting held on the 14<sup>th</sup> day of July, 2016. It is scheduled for a public hearing and final adoption at the next regular meeting of the Mayor and Council of the Borough of Clayton beginning at 7:30 p.m. on the 11<sup>th</sup> day of August 2016 at the Municipal Building, 125 N. Delsea Drive, Clayton, New Jersey.

Christine Newcomb, Municipal Clerk  
Borough of Clayton

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**TAKE NOTE** that the foregoing ordinance was introduced at a meeting of the Mayor and Council of the Borough of Clayton held on July 14, 2016 and was then read for the first time. The said ordinance will be further considered for final passage by the Mayor and Council at the Municipal Building, 125 N. Delsea Drive, Clayton, New Jersey, at a meeting beginning 7:30 p.m. on August 11, 2016, at which time and place, or any time and place to which such meeting be adjourned, all persons interested will be given an opportunity to be heard concerning such ordinance.

**BY ORDER** of the Mayor and Council of the Borough of Clayton.

Christine Newcomb  
Borough Clerk

**17-2016**

**NOTICE OF ADOPTION**

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**TAKE NOTE** that the foregoing Ordinance was finally adopted by the Mayor and Council of the Borough of Clayton on August 11, 2016

Christine Newcomb  
Borough Clerk