

BOROUGH OF WANAQUE
COUNTY OF PASSAIC
STATE OF NEW JERSEY

ORDINANCE #9-0-11

An ordinance to amend the Code of the Borough of Wanaque, Chapter 88, Property Maintenance, to establish Article VIII, Fertilizer Application.

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF WANAQUE AS FOLLOWS:

Section 1. That Chapter 88, Property Maintenance, of the Code of the Borough of Wanaque be amended to add the following:

Article VIII – Fertilizer Application

88-24. Purpose:

An ordinance to regulate the outdoor application of fertilizer so as to reduce the overall amount of excess nutrients entering waterways, thereby helping to protect and improve surface water quality. This ordinance does not apply to fertilizer application on commercial farms.

88-25. Basis and Background:

Elevated levels of nutrients, particularly phosphorus, in surface waterbodies can result in excessive and accelerated growth of algae and aquatic plants (eutrophication). Excessive plant growth can result in diurnal variations and extremes in dissolved oxygen and pH, which, in turn, can be detrimental to aquatic life. As algae and plant materials die off, the decay process creates a further demand on dissolved oxygen levels. The presence of excessive plant matter can also restrict use of the affected water for recreation and water supply. While healthy vegetated areas are protective of water quality by stabilizing soil and filtering precipitation, when fertilizers are applied to the land surface improperly or in excess of the needs of target vegetation, nutrients can be transported by means of stormwater to nearby waterways, contributing to the problematic growth of excessive aquatic vegetation. Most soils in New Jersey contain sufficient amounts of phosphorus to support adequate root growth for established turf. Over time, it is necessary to replenish available phosphorus, but generally not at the levels commonly applied. Other target vegetation, such as vegetable gardens and agricultural/horticultural plantings, will have a greater need for phosphorus application, as will the repair or establishment of new lawns or cover vegetation. A soils test and fertilizer application recommendation geared to the soil and planting type is the best means to determine the amount of nutrients to apply. Timing and placement of fertilizer application is also critical to avoid transport of nutrients to waterways through stormwater runoff. Fertilizer applied immediately prior to a runoff-producing rainfall, outside the growing

season or to impervious surfaces is most likely to be carried away by means of runoff without accomplishing the desired objective of supporting target vegetation growth. Therefore, the management of the type, amount and techniques for fertilizer application is necessary as one tool to protect water resources. This ordinance does not apply to application of fertilizer on commercial farms, but improper application of fertilizer on farms would be problematic as well. Stewardship on the part of commercial farmers is needed to address this potential source of excess nutrient load to waterbodies. Commercial farmers are expected to implement best management practices in accordance with conservation management plans or resource conservation plans developed for the farm by the Natural Resource Conservation Service and approved by the Soil Conservation District Board.

88-26. Definitions:

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Ordinance clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- a. Buffer - the land area, 25 feet in width, adjacent to any waterbody.
- b. Commercial farm - a farm management unit producing agricultural or horticultural products worth \$2,500 or more annually.
- c. Fertilizer - means a fertilizer material, mixed fertilizer or any other substance containing one or more recognized plant nutrients, which is used for its plant nutrient content, which is designed for use or claimed to have value in promoting plant growth, and which is sold, offered for sale, or intended for sale.
- d. Impervious Surface - a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water. This term shall be used to include any highway, street, sidewalk, parking lot, driveway, or other material that prevents infiltration of water into the soil.
- e. Person - any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.
- f. Phosphorus fertilizer - any fertilizer that contains phosphorus, expressed as P₂O₅, with a guaranteed analysis of greater than zero; except that it shall not be considered to include animal (including

human) or vegetable manures, agricultural liming materials, or wood ashes that have not been amended to increase their nutrient content.

g. Soils Test - a technical analysis of soil conducted by an accredited soil testing laboratory following the protocol for such a test established by Rutgers Cooperative Research and Extension.

h. Waterbody - a surface water feature, such as a lake, river, stream, creek, pond, lagoon, bay or estuary.

88-27. Prohibited Conduct:

No person may do any of the following:

a) Apply fertilizer when a runoff producing rainfall is occurring or predicted and/or when soils are saturated and a potential for fertilizer movement off-site exists.

b) Apply fertilizer to an impervious surface. Fertilizer inadvertently applied to an impervious surface must be swept or blown back into the target surface or returned to either its original or another appropriate container for reuse.

c) Apply fertilizer within the buffer of any waterbody.

d) Apply fertilizer more than 15 days prior to the start of or at any time after the end of the recognized growing season which is March 15 to October 31

88-28. Phosphorus Fertilizer Application

No person may do the following:

a) Apply phosphorus fertilizer in outdoor areas except as demonstrated to be needed for the specific soils and target vegetation in accordance with a soils test and the associated annual fertilizer recommendation issued by Rutgers Cooperative Research and Extension.

b) Exceptions

1. Application of phosphorus fertilizer needed for

a. establishing vegetation for the first time, such as after land disturbance, provided the application is in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. and implementing rules,

- b. re-established or repairing a turf area.
- 2. Application of phosphorus fertilizer that delivers liquid or granular fertilizer under the soils surface, directly to the feeder roots.
- 3. Application of phosphorus fertilizer to residential container plantings, flowerbeds, or vegetable gardens.

88-29. Enforcement:

This ordinance shall be enforced by the Police Department, Property Maintenance Officer, Health Officer, or any designee

88-30 Violations and Penalties:

Any person(s) found to be in violation of the provisions of this ordinance shall be subject to a fine not to exceed \$1000.

Section 2. **Severability.** Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

Section 3. **Effective date.** This Ordinance shall be in full force and effect upon final adoption, approval, and publication according to law.

Dated: May 9, 2011

Katherine J. Falone, RMC, CMC
Municipal Clerk

BOROUGH OF WANAQUE
COUNTY OF PASSAIC
STATE OF NEW JERSEY

ORDINANCE #9-0-11

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was Introduced at a Regular Meeting of the Mayor and Council of the Borough of Wanaque, Passaic County, New Jersey, held on the 9th day of May 2011, and passed on first reading, and the same was then ordered to be published according to law; and that such Ordinance will be further considered for final passage at a meeting of said Mayor and Council to be held in the Municipal Building, 579 Ringwood Avenue, Wanaque, New Jersey, at 8:00 P.M., at which time and place or at any time and place to which said meeting shall be from time to time adjourned, all persons interested will be given an opportunity to be heard concerning said Ordinance.

BY ORDER OF THE MAYOR AND COUNCIL OF THE BOROUGH OF
WANAQUE.

DATED: May 9, 2011

KATHERINE J. FALONE, RMC, CMC
Municipal Clerk

BOROUGH OF WANAQUE
COUNTY OF PASSAIC
STATE OF NEW JERSEY

ORDINANCE #9-0-11

BE IT RESOLVED that an Ordinance entitled:

AN ORDINANCE TO AMEND THE CODE OF THE
BOROUGH OF WANAQUE, CHAPTER 88, PROPERTY
MAINTENANCE TO ESTABLISH ARTICLE VIII,
FERTILIZER APPLICATION

pass first reading, and that said Ordinance be further considered for final passage and adoption at a regular meeting of the Borough Council to be held on the 13th day of June 2011, at the Municipal Building in the Borough of Wanaque, at 8:00 P.M., and that at such time and place all persons interested be given an opportunity to be heard concerning said Ordinance.

AND BE IT FURTHER RESOLVED that the Borough Clerk be instructed to publish in the manner provided by law a copy of said Ordinance, together with introduction thereof and notice when same will be considered for final passage and adoption.

Passed: 5/9/11

Filed: 5/9/11

Approved: 5/9/11

KATHERINE J. FALONE, RMC, CMC
Municipal Clerk

