

**LOCAL LAW NO. 7 OF 2009  
COUNTY OF ROCKLAND  
STATE OF NEW YORK**

(Introduced by: Hon. Connie L. Coker)  
(Co-Sponsor: Hon. Alden H. Wolfe)

Ms. Coker offered the following Local Law, which was seconded by Mr. Wolfe and by roll call vote was adopted:

A local law regulating the use of lawn fertilizer within the County of Rockland.

Be it enacted by the legislature of the county of Rockland as follows:

**Section 1. Name of local law**

This law shall be known as “the Lawn Fertilizer Regulation Act of 2009.”

**Section 2. Legislative intent.**

Increased eutrophication and hypoxia from nutrient pollution, specifically nitrogen and phosphorous, is a primary water quality problem facing Rockland County. Eutrophication, a process that takes place when excess nutrients enter water bodies and over-stimulate the growth of algae, results in an algae bloom. This algae bloom blocks sunlight from penetrating the water, thereby reducing the growth of plants that provide vital underwater food and shelter. In turn, the animals that depend on those plants either emigrate or die. In addition, when the algae decompose, much of the available oxygen in the water is consumed, resulting in drastically lowered levels of dissolved oxygen in the water. Hypoxia occurs where the level of dissolved oxygen has been reduced to such a degree that fish and other aquatic life are deprived of life-sustaining oxygen. Hypoxia severely impairs ecosystems and water bodies, resulting in unpleasant taste and odor, discoloration, the presence of toxins and increased turbidity.

While some nutrients in the County’s waterways occur naturally, most sources of nutrients are associated with human activity, and can be classified as either point or non-point sources. “Point sources” are those that are discharged from a single point, such as wastewater treatment plants, while “non-point sources” are more diffuse and originate from land use activities.

A key non-point source of both nitrogen and phosphorous introduced into the environment by human activity is the many pounds of lawn fertilizer applied by commercial property owners to their properties (such as golf courses) and homeowners to their lawns each year in the County of Rockland. While lawn fertilizer, which normally contains a mix of nutrients including nitrogen, phosphorous and potassium, has long been viewed as an essential element in keeping lawns green and healthy, it is completely over utilized. Phosphorous-based lawn fertilizer should only be added when soil analysis identifies phosphorous deficiencies in the soil. When phosphorous-based fertilizer is applied to already phosphorous-rich lawns, much of the excess simply runs off the lawn into storm drainage systems and into the waterways where the nitrogen and phosphorous accelerate algae growth and eutrophication, and can impair the normal functioning of water ecosystems. In fact, one pound of phosphorous fertilizer can stimulate the growth of 500 pounds of algae in a lake during a summer season.

The excessive use of lawn fertilizers and the misapplication of lawn fertilizers - which includes fertilizing when the ground is frozen, over-application, and misapplication or spillage on to impervious surfaces – all contribute to the nutrient pollution of the waterways.

This local law would restrict the application and use of lawn fertilizer in order to address unnecessary and preventable sources of nitrogen and phosphorous pollution and to improve water quality in the County.

### **Section 3. Definitions**

- A. **COUNTY** – the county of Rockland.
- B. **COMMERCIAL FERTILIZER** – any substance containing one or more recognized plant nutrients that is used for its plant nutrient content, and that is designed for use or claimed to have value in promoting plant growth, except un-manipulated animal or vegetable manures, agricultural lining material, wood ashes, gypsum and other products exempted by regulation of the New York State Commissioner of Agriculture and Markets. Any biosolid-based product that is not subject to regulation as a “commercial fertilizer” by the New York State Department of Agriculture and Markets is not subject to the provisions of this article.

- C. **LAWN FERTILIZER** – a commercial fertilizer distributed primarily for non-farm use, such as lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses and nurseries, as well as such other use as the commissioner may define by regulation. Lawn fertilizer does not include fertilizer products intended primarily for garden and indoor plant application.
- D. **0% PHOSPHOROUS** – an amount less than 0.67% phosphate.
- E. **SURFACE WATER** – lakes, bays, sounds, ponds, impounding reservoirs, perennial streams and springs, rivers, creeks, estuaries, marshes, inlets, canals and all other perennial bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private, but shall not include artificial ponds.
- F. **PERSON** – any natural person, individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint-stock association, or other entity or business organization of any kind.

#### **Section 4. Regulation of the Use and Application of Lawn Fertilizer**

- A. No person shall apply any lawn fertilizer within the County that is labeled as containing more than 0% phosphorous or other compound containing phosphorous, such as phosphate, except as provided in Section 5.
- B. No person shall apply lawn fertilizer between December 1<sup>st</sup> and April 1<sup>st</sup>.
- C. No person shall apply lawn fertilizer to any impervious surface including parking lots, roadways, and sidewalks. If such application occurs, the fertilizer must be immediately contained and either legally applied to turf or placed in an appropriate container.
- D. No person shall apply lawn fertilizer to any turf or lawn area on any real property within fifty (50) feet of any surface water, except that this restriction shall not apply where a continuous natural vegetative buffer, at least ten (10) feet wide, separates the turf or lawn area and the surface water.

## **Section 5. Exemptions.**

The prohibition against the use of lawn fertilizer under Section 4 (A) and (D) shall not apply to:

- A. turf or lawn areas that soil test confirm the need for additional phosphorous application. The lawn fertilizer shall not contain an amount of phosphorous exceeding the amount and rate of application recommended in the soil test application.
- B. agricultural uses, vegetable and flower gardens or applications to trees or shrubs.

## **Section 6. Sale of Fertilizer Containing Phosphorous**

- A. No person located and/or doing business with the County shall display for sale lawn fertilizer containing more than 0% phosphorous. Signs may be posted advising customers that lawn fertilizer containing more than 0% phosphorous is available upon request for uses permitted in Section 5.
- B. Any person located and/or doing business within the County which sells or offers for sale lawn fertilizer shall be required, at the location where lawn fertilizers are sold, to post a sign in the form provided by the Department of Consumer Protection, containing the regulations set forth in this Article and explaining the effects of phosphorous and nitrogen on water quality and Rockland County waters.

## **Section 7. Educational Requirements For Home Improvement Contractors.**

Every person who offers to provide or provides lawn or turf services, including but not limited to, persons applying for a license to engage in home improvement business pursuant to Chapter 286 of these laws, or applying for renewal of a license to engage in a home improvement business pursuant to said Chapter, and who offers to provide or provides lawn or turf services in the operation of such home improvement business, shall provide proof of completion of a turf management course approved by the Department of Consumer Protection every two years. The Director of the Department of Consumer Protection shall have the authority to adopt rules and regulations addressing additional educational needs as may be deemed necessary for the administration and enforcement of this paragraph.

## **Section 8. Public Education Campaign: Program Monitoring.**

- A. The County shall undertake a public education campaign aimed at the reduction of non-point source pollution in the Rockland County waterways. Such public education campaign will include the development of best management practices for lawn and garden care, as well as other strategies for the reduction of nutrient pollution caused by human activity, and shall specifically address the impacts of nitrogen and phosphorous on water quality in and around Rockland County.
- B. The County Executive shall cause an evaluation of the effectiveness of the restrictions on fertilizers under this Chapter to be undertaken and shall further cause an evaluation report to be provided to the County Legislature by December 31, 2016.

## **Section 9. Enforcement and Penalties.**

For the first violation of the provisions of this Chapter or any rule or regulation adopted pursuant to this Chapter, a civil penalty not exceeding fifty dollars (\$50.00) shall be imposed. For the second and any succeeding violation, a civil penalty not exceeding one hundred fifty dollars (\$150.00) shall be imposed for each single violation. No civil penalty shall be imposed as provided herein unless the alleged violator has received notice of the charge against him/her and has had an opportunity to be heard.

## **Section 10. Reverse Preemption.**

This law shall be null and void on the day that statewide legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the county of Rockland. The county legislature may determine by resolution whether or not identical or substantially similar statewide legislation or pertinent preempting state or federal regulations have been enacted for the purposes of triggering the provisions of this section.

**Section 11. Severability.**

If any clause, sentence, paragraph, subdivision, section or part of this local 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, effect 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 12. Effective date.**

This local law shall take effect immediately upon its filing with the New York State Secretary of State, except as follows:

- A. Sections 4(B), (C), and (D), and 6 shall take effect sixty (60) days after the filing of this law with the New York State Secretary of State.
- B. Section 7 and 8 shall take effect one hundred and eighty (180) days after the filing of this law with the New York State Secretary of State.
- C. Sections 4(A) and 5(A) and (B) shall take effect on January 1, 2011.

The vote resulted as follows:

Ayes:	14	(Legislators Coker, Darden, Day, Grant, Jackson, Meyers, Michel, Moroney, Murphy, Schoenberger, Soskin, Sparaco, Wolfe, Cornell)
Nays:	02	(Legislators Bierker, Jobson)
Absent:	01	(Legislator Hood, Jr.)