

BOROUGH OF OLD TAPPAN

ORDINANCE NO. 1059-13

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

WHEREAS, 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 levels. The presence of excessive plant matter can also restrict use of the affected water for recreation and water supply; and

WHEREAS, 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 storm water to nearby waterways, contributing to the problematic growth of excessive aquatic vegetation; and

WHEREAS, the timing and placement of fertilizer application is also critical to avoid transport of nutrients to waterways through storm water 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; and

WHEREAS, The Borough of Old Tappan deems it necessary and desirable to regulate the type, amount and techniques for fertilizer application to protect water resources.

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Old Tappan, County of Bergen, State of New Jersey, as follows:

Section 1. Definitions.

For the Purpose of this ordinance, the following terms, phrase, 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 \$2,500.00 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 guaranteed analysis of greater than zero; except that it shall not be considered to include animal (including human) or vegetable manures, agricultural liming minerals, 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.

Section 2. 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 prior to March 1st and after October 31st of any year.

Section 3. 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 soil 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.

Section 4. Enforcement.

This ordinance shall be enforced by the Police Department and the Department of Public Works of the Borough of Old Tappan.

Section 5. 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 \$500.00.

Section 6. Repealer.

All ordinances or parts of ordinances inconsistent or in conflict with this Ordinance are hereby repealed as to said inconsistencies and conflicts.

Section 7. Severability.

If any section, part of any section, or clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this ordinance. The governing body of the Borough of Old Tappan declares that it would have passed the ordinance and each section thereof, irrespective of the fact that any one or more of the subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

Section 8. Effective Date.

This ordinance shall take immediate effect upon passage and publication according to law.