

**BOROUGH OF NEW PROVIDENCE
ORDINANCE 2009-11**

“AN ORDINANCE OF THE BOROUGH OF NEW PROVIDENCE, COUNTY OF UNION, STATE OF NEW JERSEY, REGULATING FERTILIZER APPLICATION”

BE IT ORDAINED by the Mayor and Council of the Borough of New Providence, County of Union, State of New Jersey that the Zoning Ordinance of the Borough is amended to add the following section, regulating fertilizer application:

SECTION I. 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.

SECTION II. 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.

- a. Buffer - the land area, 10 feet in width, adjacent to any waterbody, except that for any fertilizer application between 10 feet and 25 feet from any water body, a drop spreader must be used.
- 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 P_2O_5 , 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. 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 III. Prohibited Conduct.

No person may do any of the following:

- a. Apply fertilizer, when a runoff producing rainfall is occurring or predicted within 12 hours 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 USDA Plant Hardiness Zone 6b (March 1 to November 15).

SECTION IV. Phosphorus Fertilizer Application.

No person may do the following:

- a. Apply phosphorus fertilizer, in outdoor areas on individual lots, 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 soil's surface, directly to the feeder roots.
 3. Application of phosphorus fertilizer to residential container plantings, flowerbeds, or vegetable gardens.

SECTION V. Enforcement.

This ordinance shall be enforced by the Borough Engineer or his designee, or the Police Department of the Borough of New Providence.

SECTION VI. Violations and Penalties.

Any person(s) found to be in violation of the provisions of this ordinance shall be subject to one (1) warning. After the first warning, the fine for a second violation shall not exceed \$500.00. For each subsequent violation, the fine shall not exceed \$1,000.00 per violation.

SECTION VII. 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 VIII. Effective Date.

This ordinance shall take effect immediately upon adoption and publication according to law.

INTRODUCED: August 10, 2009
PUBLIC HEARING: August 24, 2009
ADOPTED: August 24, 2009

BOROUGH OF NEW PROVIDENCE
COUNTY OF UNION
STATE OF NEW JERSEY

John A. Thoms, Mayor

Attest:

Wendi B. Barry, Borough Clerk