Amendment In The Nature Of A Substitution Clerk Item 206-09

Introduced by: Legislator Denenberg

Local Law No. 11 -2009

A LOCAL LAW to ban the application of fertilizer in Nassau County between November 15th and April 1st.

Passed by the Nassau County Legislature on May 18, 2009
Voting: ayes: 18 nayes: 0 abstained: 0
Became a law on June 16, 2009 with the approval of the County Executive.

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF NASSAU, AS FOLLOWS:

Section 1. Short title

This law shall be known as the “Nassau County Fertilizer Law” and shall appear in the Miscellaneous Laws as Title 72.

§ 2 Legislative Intent. This legislature finds that the use of fertilizer during the cold weather months results in nitrogen run-off and leaching which leads to contaminated drinking water, storm water, ground water as well as the pollution of waterways, wetlands and estuaries. It is the purpose of this law to reduce the amount of nitrogen released into the environment by prohibiting the application of fertilizer to any real property in the County between November 15th and April 1st every year.

§ 3. Definitions. As used in this law, the following terms shall have the meanings indicated:

“Agricultural commodity” shall mean any plant or part thereof, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters or other comparable persons) primarily for the sale, consumption, propagation or other use by man or animals.
“Commissioner” shall mean the Commissioner of the Nassau County Department of Health.

“Department” shall mean the Nassau County Department of Health.

“Fertilizer” shall mean any organic or inorganic material of natural or synthetic origin which is added to soil and or soil mixtures or solutions to supplement nutrients and is claimed to contain one or more essential plant nutrients. The term "fertilizer" shall not include un-manipulated animal manure, un-manipulated vegetable manure, compost, mulch, compost tea and agricultural liming materials used to reduce soil acidity.

“Person” shall mean any individual, business, firm, partnership, limited liability partnership, corporation, company, limited liability company, society, association, or any organized group of persons whether incorporated or not.

“Turf” shall mean any area of earth principally vegetated by grass, but shall not include areas used for the purpose of producing an agricultural commodity as defined by Environmental Conservation Law Section 33-0101 and this section.

§ 4. Prohibition. No person shall apply fertilizer to any turf on any real property within the County of Nassau between November 15th and April 1st of every year.

§ 5. Penalties. Any person who violates section four of this local law shall be subject to a civil penalty of not greater than two hundred and fifty ($250) dollars for the first offense, not greater than five hundred ($500) dollars for the second offense and not greater than one thousand ($1,000) for every offense thereafter, which may be recovered following notice and an opportunity to be heard in a proceeding before the Commissioner or his or her designee.

§ 6. Rules. The Commissioner shall promulgate such rules as are necessary to effectuate the provisions of this title.

§ 7. Severability. If any clause, sentence, paragraph, subdivision, section or part of this 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, 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.

§ 8. SEQRA Determination. This legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this action is an unlisted action under the provisions of Title 6 NYCRR Part 617, and that based on an evaluation of the environmental criteria set forth in §617.7(c) that are considered to be indicia of significant adverse environmental impacts, along with the recommendation of the Nassau County Planning Commission acting in its advisory capacity to the legislature, that such action will not have significant adverse impacts on the environment, and that no additional environmental review or action is necessary.

The proposal does not appear to significantly threaten any unique or highly valuable environmental or cultural resources as identified in or regulated by the Environmental Conservation Law of the State of New York or the Nassau County Charter and Code; and the action will have significant beneficial impacts by minimizing nitrogen leachate to groundwater and surface waters, which will minimize hazards to drinking water and human health, while alleviating cultural eutrophication stresses to surface waters.

§ 9. Effective Date. This law shall take effect sixty (60) days after becoming a law.

APPROVED

[Signature]

County Executive

DATE 6/16/09
COUNTY OF NASSAU

Inter Departmental Memo

To: David Gugerty
   Legislative Majority Counsel

From: Donald Hohn
   Planner III

Date: March 31, 2009

Subject: S.E.Q.R.A. Documentation for the Local Law in relation to the reduction of nitrogen pollution by reducing the use fertilizer
         N.C.P.C. File 25E-2008

The Nassau County Planning Commission has completed its review of the above referenced project under the State Environmental Quality Review Act. Please find the enclosed Documentation including the Original Certified Resolution of the Planning Commission, Negative Declaration to be adopted by the Legislature and the supporting Environmental Assessment Form (EAF). Please insure that page 1 of the EAF is signed by the responsible officer as the “Applicant/Sponsor”.

NC PLANNING DEPT

'09 APR 3 PM3:08
LOCAL LAW

STATE ENVIRONMENTAL QUALITY REVIEW
LOCAL LAW IN RELATION TO THE REDUCTION OF NITROGEN
POLLUTION BY REDUCED USE OF FERTILIZER
NEGATIVE DECLARATION RECOMMENDATION

NCPC FILE NO. 25E-2008

WHEREAS, in accordance with §1611 of the County Charter and acting in an advisory capacity to the NASSAU COUNTY LEGISLATURE, the NASSAU COUNTY PLANNING COMMISSION is required to review certain proposed actions of the LEGISLATURE under STATE ENVIRONMENTAL QUALITY REVIEW ACT, and

WHEREAS, the Nassau County Legislature submitted to the NASSAU COUNTY PLANNING COMMISSION a Part I Environmental Assessment ("EAF"), relative to the Local Law, and

WHEREAS, the proposed action entails the following: Adoption of a Local Law that prohibits the application of fertilizer to any turf on County-owned and non-County owned real property by any person between November 1 and April 1 of every year, and requires that establishments which sell fertilizers post a sign and informational brochures on fertilizers and turf management within ten feet of the establishment’s fertilizer display area, and

WHEREAS, the NASSAU COUNTY PLANNING COMMISSION has reviewed the submitted Part I EAF, completed the Part II.

NOW THEREFORE BE IT RESOLVED, based on the description provided in the EAF, the Nassau County Planning Commission recommends that this action be classified as an UNLISTED action, pursuant to Part 617 of Title 6 NYCRR and §1611 of the Nassau County Government Law; and be it further

RESOLVED, the NASSAU COUNTY PLANNING COMMISSION finds that:

1. The proposed action will not result in a substantial adverse change in existing air quality, ground or surface water or quality, and traffic or noise levels; will not lead to a substantial increase in solid waste production and will not create a substantial increase in the potential of erosion, flooding, leaching or drainage problems.

2. The proposed action will not cause substantial adverse impact on a threatened or endangered species of animal or plant. The proposed action will not impact upon native species of plants and animals and their habitats. The proposed action will not result in any other significant adverse impact to natural resources;

3. The proposed action will not impair the environmental characteristics of a designated Critical Environmental Area;
4. The proposed action is in accordance with and will not conflict with the County's current plans or goals as officially approved or adopted;

5. The proposed action will not impair the character or quality of important historical archeological or architectural resources of the County, or any existing community or neighborhood character;

6. The proposed action will not result in major changes in the use of either the quantity or type of energy;

7. The proposed action does not create a hazard to human health;

8. The proposed action will not result in a substantial change in the use or intensity of use of land including agricultural, open space or recreational resources, or in the capacity to support existing uses;

9. The proposed action will not result in the creation of a material demand of other actions that would result in any of the above consequences;

10. The proposed action will not change two or more elements of the environment, which when considered together could result in a substantial adverse impact on the environment;

11. When considered cumulatively with other related actions, the proposed action will not have a significant effect on the environment or meet one of the above criteria; and be it further

**RESOLVED** that the NASSAU COUNTY PLANNING COMMISSION hereby recommends that the NASSAU COUNTY LEGISLATURE determine that the proposed action will not have a significant impact on the environment and issue a NEGATIVE DECLARATION.

The foregoing resolution was offered
ON MOTION of Commissioner Como,
seconded by Commissioner McCaffery.

Upon roll call the vote was as follows:

Jeffrey Greenfield, Chair EXCUSED
Michael Bellissimo, First Vice Chair AYE
Neal Lewis, Second Vice-Chair ABSTAINED
Leonard Shapiro AYE
Omar Jorge AYE
Philip Como AYE
Mary A. McCaffery AYE
Clara Gillens- Eromosele AYE

The First Chair declared the resolution duly adopted on December 4, 2008.
N.C.P.C. SEQRA File # 25E-2008
Resolution of Nassau County Planning Commission SEQRA File # 25E-2008
Adopted December 4, 2008

STATE OF NEW YORK )
 ) SS:
COUNTY OF NASSAU )

I, PATRICIA BOURNE, Executive Commissioner of the Nassau County Planning Commission, do hereby certify, that I have compared the preceding with the original resolution passed by the Planning Commission of Nassau County, New York,

on December 4, 2008

on file in my office and recorded in the record of proceedings of the Planning Commission of the County of Nassau and do hereby certify the same to be a correct transcript there from and of the whole said original.

I further certify that the resolution herein above-mentioned was passed by the concurring affirmative vote of the Planning Commission of the County of Nassau.

IN WITNESS WHEREOF, I have hereunto set my hand,
this 11th day of March in the year of two thousand and 09.

PATRICIA BOURNE, EXECUTIVE COMMISSIONER
NASSAU COUNTY PLANNING COMMISSION
### SHORT ENVIRONMENTAL ASSESSMENT FORM

**PART I - PROJECT INFORMATION** (To be completed by Applicant or Project Sponsor)

<table>
<thead>
<tr>
<th>1. APPLICANT/SPONSOR</th>
<th>2. PROJECT NAME</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nassau County Legislature</td>
<td>Local Law restricting the use of Fertilizer in winter months</td>
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<tr>
<th>3. PROJECT LOCATION:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Municipality</td>
</tr>
<tr>
<td>County</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map)</th>
</tr>
</thead>
<tbody>
<tr>
<td>County Wide</td>
</tr>
</tbody>
</table>

5. PROPOSED ACTION IS:  
- [ ] New  
- [ ] Expansion  
- [x] Modification/alteration

6. DESCRIBE PROJECT BRIEFLY:  
Adoption of a Local Law that prohibits the application of fertilizer to any turf on County-owned and non-County owned real property by any person between November 1 and April 1 of every year, and requires that establishments which sell fertilizers post a sign and informational brochures on fertilizers and turf management within ten feet of the establishment's fertilizer display area.

7. AMOUNT OF LAND AFFECTED:  
   - Initially [ ] acres  
   - Ultimately [ ] acres

8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS?  
- [x] Yes  
- [ ] No  
- If No, describe briefly

9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT?  
   - [x] Residential  
   - [x] Industrial  
   - [x] Commercial  
   - [x] Agriculture  
   - [x] Park/Forest/Open Space  
   - [x] Other

   Describe:

10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)?  
   - [ ] Yes  
   - [x] No  
   - If Yes, list agency(s) name and permit/approvals:

11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL?  
   - [ ] Yes  
   - [x] No  
   - If Yes, list agency(s) name and permit/approvals:

12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION?  
   - [ ] Yes  
   - [x] No

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE  
Applicant/sponsor name: _______________________________ Date: ________________

Signature: ____________________________________________

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If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment.
PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)

A. DOES ACTION EXCEED ANY TYPE I THRUSHOLD IN 8 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF.
   - Yes ☑ No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 8 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency.
   - Yes ☑ No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)
   - C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:
     - No
   - C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:
     - No
   - C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:
     - No
   - C4. A community’s existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:
     - No
   - C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:
     - No
   - C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:
     - No
   - C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:
     - None

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)?
   - Yes ☑ No

   If Yes, explain briefly:
   - The proposed action will likely reduce nitrogen loading into the Special Ground Water Protection Areas.

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?
   - Yes ☑ No

   If Yes, explain briefly:

PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) reversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

☐ Check this box if you have identified one or more potentially large or significant adverse impacts which MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

☑ Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action WILL NOT result in any significant adverse environmental impacts AND provide, on attachments as necessary, the reasons supporting this determination.

Name of Lead Agency

Print or Type Name of Responsible Officer in Lead Agency

Signature of Responsible Officer in Lead Agency

Date

Title of Responsible Officer

Signature of Preparer (different from responsible officer)
State Environmental Quality Review (SEQR)
NEGATIVE DECLARATION
Notice of Determination of Non-Significance

NCPC SEQRa File No. # 25E-2008  Date: December 4, 2008

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

Nassau County Legislature as lead agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

Name of Action: Local Law in relation to providing prices of restaurant specials

SEQRA Status: Type I ☐
Unlisted ☑

Conditioned Negative Declaration: ☐ Yes
☑ No

Description of Action:

The proposed action involves the Adoption of a Local Law that prohibits the application of fertilizer to any turf on County-owned and non-County owned real property by any person between November 1 and April 1 of every year, and requires that establishments which sell fertilizers post a sign and informational brochures on fertilizers and turf management within ten feet of the establishment’s fertilizer display area.

Location: County Wide, Nassau County, New York.
Reasons supporting this determination:

Completion of the Environmental Assessment Form Parts I and II have identified no significant adverse environmental impacts.

**Determination of Significance**

The environmental criteria set forth in §617.7 (c) are considered to be indication of significant adverse environmental impacts. Using these thresholds the Nassau County Legislature finds the following factors as its basis for the NEGATIVE DECLARATION determination:

1. The proposed action will not result in a substantial adverse change in existing air quality, and traffic or noise levels; will not lead to a substantial increase in solid waste production and will not create a substantial increase in the potential of erosion, flooding, leaching or drainage problems.

2. The proposed action will likely result in positive impacts on ground and surface water or quantity.

3. The proposed action will not cause substantial adverse impact on a threatened or endangered species of animal or plant. The proposed action will not result in any other significant adverse impact to natural resources;

4. The proposed action will not impair the environment characteristics of a designated Critical Environmental Area and will help prevent future adverse impacts to designated Critical Environmental Areas;

5. The proposed action is in accordance with and will not conflict with the County’s current plans or goals as officially approved or adopted;

6. The proposed action will not impair the character or quality of important historical archeological or architectural resources of the County, or any existing community or neighborhood character;

7. The proposed action will not result in major changes in the use of either the quantity or type of energy;

8. The proposed action does not create a hazard to human health;

9. The proposed action will not result in a substantial change in the use or intensity of use of land including agricultural, open space or recreational resources, or in the capacity to support existing uses;

10. The proposed action will not result in the creation of a material demand of other actions that would result in any of the above consequences;

11. The proposed action will not change two or more elements of the environment, which when considered together could result in a substantial adverse impact on the environment;
12. When considered cumulatively with other related actions, the proposed action will not have a significant effect on the environment or meet one of the above criteria;

Therefore, the Nassau County Legislature has determined that, based upon the above findings, the proposed Local Law will not have a significant adverse impact on the environment, and that no additional environmental review or action is necessary

Conditions:

None

SEQR Negative Declaration

David Gugerty, Legislative Majority Counsel

Name and Title of Responsible Officer in Lead Agency

Christopher Ostuni Esq., Legislative Minority Counsel

Name and Title of Responsible Officer in Lead Agency

Donald J. Hohn, Planner III

Name and Title of Preparer

For Further Information:

Contact Person: David Gugerty, Esq.
Legislative Majority Counsel

Address: Nassau County Legislature
1 West Street
Mineola, New York 11501

Telephone Number: (516) 571-4321

For Unlisted Actions a copy must be filed with the lead agency

Applicant: Nassau County Legislature

Other Involved Agencies: NONE
Therefore, the Nassau County Legislature has determined that, based upon the above findings, the proposed Local Law will not have a significant adverse impact on the environment, and that no additional environmental review or action is necessary.

**Conditions:**

None

**SEQR Negative Declaration**

David Gugerty, Legislative Majority Counsel

Name and Title of Responsible Officer in Lead Agency

Christopher Ostuni Esq., Legislative Minority Counsel

Name and Title of Responsible Officer in Lead Agency

Donald J. Hohn, Planner III

Name and Title of Preparer

For Further Information:

Contact Person: David Gugerty, Esq.
Legislative Majority Counsel

Address: Nassau County Legislature
1 West Street
Mineola, New York 11501

Telephone Number: (516) 571-4321

For Unlisted Actions a copy must be filed with the lead agency

Applicant: Nassau County Legislature

Other Involved Agencies: NONE
For Type I Actions and Conditioned Negative Declarations, a copy must be sent to:

Environmental Notice Bulletin at: enb@gw.dec.state.ny.us

ENB, NYS Department of Environmental Conservation
50 Wolf Road
Room 538, Albany, NY 12233-1750

County Executive, c/o County Clerk