

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 15<sup>th</sup> and April 1st.

Passed by the Nassau County Legislature on May 18, 2009  
Voting: ayes: 18 naves: 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 15<sup>th</sup> and April 1<sup>st</sup> 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.

FORM APPROVED

*[Signature]*  
MAJORITY COUNSEL

“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 15<sup>th</sup> 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**

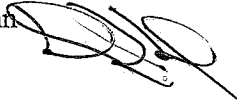
*M. J. G. G. G.*

**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 PM 3:08



**LOCAL LAW**

'08 APR 3 PM 3:08

**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



617.20  
**Appendix C**  
**State Environmental Quality Review**  
**SHORT ENVIRONMENTAL ASSESSMENT FORM**  
**For UNLISTED ACTIONS Only**

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

1. APPLICANT/SPONSOR Nassau County Legislature	2. PROJECT NAME Local Law restricting the use of Fertilizer in winter months
3. PROJECT LOCATION: Municipality North Hempstead, Hempstead, Oyster Bay County Nassau County	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) County Wide	
5. PROPOSED ACTION IS: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> 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? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No      If No, describe briefly	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input checked="" type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Agriculture <input checked="" type="checkbox"/> Park/Forest/Open Space <input checked="" type="checkbox"/> Other Describe:	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No      If Yes, list agency(s) name and permit/approvals:	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No      If Yes, list agency(s) name and permit/approvals:	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: _____ Date: _____ Signature: _____	

**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 THRESHOLD IN 6 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 6 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) irreversibility; (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

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Print or Type Name of Responsible Officer in Lead Agency

\_\_\_\_\_  
 Title of Responsible Officer

\_\_\_\_\_  
 Signature of Responsible Officer in Lead Agency

\_\_\_\_\_  
 Signature of Preparer (if different from responsible officer)

Reset



**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

*Interim*  
David Gugerty, Legislative Majority Counsel

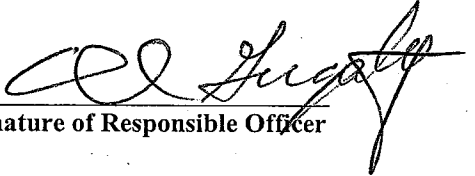
\_\_\_\_\_  
Name and Title of Responsible Officer in Lead Agency

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

  
\_\_\_\_\_  
Signature of Responsible Officer

  
\_\_\_\_\_  
Signature of Responsible Officer

  
\_\_\_\_\_  
Signature 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 <sup>Interim</sup> 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

  
Signature of Responsible Officer

  
Signature of Responsible Officer

  
Signature of Preparer

**For Further Information:**

Contact Person: David Gugerty, Esq.  
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1 West Street  
Mineola, New York 11501

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**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](mailto: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