

**LOCAL LAW NO. \_\_\_ OF 2011**  
**LOCAL LAW**  
**ESTABLISHING LAWN FERTILIZER AND**  
**PESTICIDE RUNOFF CONTROL RESTRICTIONS**

**BE IT ENACTED** by the Queensbury Town Board as follows:

**ARTICLE 1.** The Queensbury Town Code is hereby amended by adding the following new Chapter [107]:

**CHAPTER [107] - LAWN FERTILIZER AND PESTICIDE RUNOFF CONTROL**

**§107-1 SHORT TITLE**

This chapter shall be known as the "Town of Queensbury Lawn Fertilizer and Pesticide Runoff Control Law."

**§107-2 FINDINGS**

(1) Past Land use management practices have contributed to the decline in the water quality in our local bodies of water. Since lawns are less permeable than the natural topography and vegetation, chemicals associated with lawn maintenance (like those used in fertilizers, pesticides and herbicides) are transported by stormwater into our lakes, bays, ponds, reservoirs, streams and wetlands. When these chemicals accumulate and exceed natural concentrations, they become contaminants, substances that can cause harm to the ecosystem. Chemicals associated with lawn care maintenance are contaminating our water bodies and can cause of numerous and substantive health and environmental concerns. These contaminants can endanger human, aquatic and plant health.

(2) The increased amount of nutrients in our water bodies can cause an excess of aquatic plants and algae, and can encourage the growth of nuisance and invasive species. Dead and decomposing plants and algae can deplete oxygen levels and create dead zones. Phosphorus is the limiting nutrient that promotes eutrophication in our lakes, impairing water quality and accelerating the water bodies' aging process.

(3) In addition to their inherent environmental value, the pristine waters of Lake George, Glen Lake and Lake Sunnyside have an important economic role; not only are shore side buildings and land values dependent on the maintenance and improvement of these water bodies' quality, so too is tourism, an important component of the local economy. Therefore, these bodies of water warrant additional and more stringent standards of protection than those scheduled to go into effect January 1, 2012 pursuant to Chapter 205 of the 2010 Laws of New York. In addition, it is essential that these standards become effective as soon as possible to prevent further decline in the water quality of these bodies of water.

### **§107-3 INTENT**

The intent of this Chapter is to better regulate land use management practices, specifically by limiting water body exposure to nitrates, phosphorus compounds and pesticide-related chemicals, to reduce water body contamination, improve water body ecosystem integrity and assure healthier human, animal and plant habitats. This Chapter applies to shores of Glen Lake, Lake Sunnyside, and the portion of Lake George within the Town of Queensbury.

### **§107-4 DEFINITIONS**

(1) "Town" means the Town of Queensbury.

(2) "Commercial fertilizer" means any substance containing one or more recognized plant nutrients which is designed for use or claimed to have value in promoting plant growth, except unmanipulated animal or vegetable manures, agricultural liming material, wood ashes, gypsum and other products exempted by regulation of the New York State Commissioner of Agriculture and Markets. Any biosolid-based product which 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 Chapter.

(3) "Lawn fertilizer" means a commercial fertilizer distributed primarily for non-agricultural uses, such as applications on lawns.

(4) "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling or controlling any insects, rodents, fungi, weeds, or other forms of plant or animal life or viruses, except viruses on or in living humans or other animals, and any substance or mixture of substances intended as a plant regulator, defoliant or desiccant. Pesticides include, but are not limited to, chemical products used for grub control, weed killer, fungus treatment, insect spray, crab grass preventer and include all products that are classified as herbicides, algaecides, insecticides, fungicides, rodenticides and termiticides, etc.

### **§107-5 Regulation of the Use and Application of Lawn**

(1) No person shall, whether knowingly or negligently by virtue of insufficient control, apply or authorize any person by way of service contract or other arrangement to apply, any lawn fertilizer on vegetation within fifty (50) feet of Glen Lake, Lake Sunnyside, or the portions of Lake George within the Town of Queensbury.

(2) No person shall, whether knowingly or negligently by virtue of insufficient control, apply or authorize any person by way of service contract or other arrangement to apply, any lawn fertilizer on any privately-owned impermeable surface that directs stormwater flow into Glen Lake, Lake Sunnyside, or the portions of Lake George within the Town of Queensbury.

(3) Only lawn fertilizer labeled as containing no phosphorus (or other compound containing phosphorus, such as phosphate) may be applied between fifty (50) feet and two hundred (200) feet from the shorelines of Glen Lake, Lake Sunnyside, or the portions of Lake George within the Town of Queensbury.

(4) Fertilizer use beyond 200 feet of the shorelines of Glen Lake, Lake Sunnyside and Lake George is not regulated by this law.

(5) No person shall, whether knowingly or negligently by virtue of insufficient control, apply or authorize any person by way of service contract or other arrangement to apply lawn fertilizer to any impermeable surface including parking lots, roadways, and sidewalks. If such application occurs, the fertilizer must be immediately contained and either legally applied to turf or other appropriate vegetation or placed in an appropriate container and properly disposed of.

#### **§107-6 Regulation of the Use and Application of Pesticides.**

(1) All persons performing residential lawn applications treating an area more than one hundred square feet shall affix markers to be placed within or along the perimeter of the area where pesticides will be applied. Markers are to be placed so as to be clearly visible to persons immediately outside the perimeter of such property. Such markers shall be posted at least twelve inches above the ground and shall be at least four inches by five inches in size.

(2) The markers required pursuant to this paragraph shall be in place on the day during which the pesticide is being applied and shall instruct persons not to enter the property and not to remove the signs for a period of at least twenty-four hours. Such instruction shall be printed boldly in letters at least three-eighths of an inch in height.

#### **§107-7 Exemptions.**

This Chapter shall not apply to:

(1) Newly established turf or lawn areas during their first growing season.

(2) Emergency situations which are confirmed by the Code Enforcement Officer. The Town's Code Enforcement Officer will assess the emergency claim, assure its validity and may allow an exemption, if the exemption request is the most appropriate remedial action. If the emergency request is for the use of a pesticide, all non-pesticide remedies must be considered first. If pesticide use is needed, it must be the least toxic effective control and its use must be restricted to only the infested area.

(3) Situations in which a reliable soil test indicates a need for the addition of phosphorus fertilizer. This test shall be conducted by qualified agencies such as the Cornell University Cooperative Extension.

(4) Application of lawn fertilizer where a continuous natural vegetative buffer, at least fifteen (15) feet wide, exists between the turf or lawn area where the application is to occur and any surface water or an impermeable surface. This buffer must conform to the requirements of Town Code §179-8-040. – Shoreline Buffers. This local law will also apply to the Town Code §179-8-040 buffer area.

(5) Agricultural uses, vegetable and flower gardens or application to trees or shrubs.

(6) Natural chemical-free pesticides and herbicides; labeled environmentally safe and not harmful to plants, animals and humans.

(7) U.S. Department of Agriculture (USDA) approved organic herbicides, pesticides and repellants.

(8) Application of pesticides for invasive plant control, if all applicable State and local agency approvals have been obtained.

(9) Impermeable surfaces that discharge to approved treatment devices that are a part of an approved stormwater management plan.

#### **§107-8 Enforcement and Penalties.**

(1) 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 one hundred fifty dollars (\$150.00) shall be imposed. For the second and succeeding violations, a civil penalty not exceeding four hundred fifty dollars (\$450.00) shall be imposed for each single violation. No civil penalty shall be imposed as provided for herein unless the alleged violator has received notice of the charge and has had an opportunity to be heard.

(2) If a property owner violates any provision of this Chapter, he shall be held responsible for the full penalty.

(3) If a landscaper/maintenance service contracted by a property owner, occupant or agent violates any provision of this Chapter, both the landscaper/maintenance service and the property owner, occupant or agent responsible for the service contract shall be held responsible for the full penalty.

(4) Whenever a violation of this chapter occurs, the town's building and codes officer, or an authorized designee may, at his or her own initiative, enforce compliance and order the violation be remedied. All complaints shall be made in writing to the town's building and codes officer or authorized designee who shall then properly record such complaint and timely investigate the same. The

town's building and codes officer shall have the authority to issue a summons or take any such enforcement action authorized by law upon any person owning, leasing, controlling or managing any building, structure or land.

**ARTICLE 2.** The invalidity of any clause, sentence, paragraph or provision of this Local Law shall not invalidate any other clause, sentence, paragraph or part thereof.

**ARTICLE 3.** All Local Laws or Ordinances or parts of Local Laws or Ordinances in conflict with any part of this Local Law are hereby repealed.

**ARTICLE 4.** This Local Law shall take effect upon filing in the office of the New York State Secretary of State.