

Chapter 8.36

LAWN FERTILIZER APPLICATION CONTROL

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8.36.010 Purpose.

The purpose of this ordinance is to define regulations which will aid the Town in managing and protecting its water resources which are enjoyed by its residents and other users, by controlling the application of lawn fertilizer in the Town of Burlington. This ordinance is designed to protect the health, safety, and welfare of the residents of the Town.

8.36.020 Definitions.

For the purpose of this ordinance, certain terms and words are defined as follows:

A. "Commercial Applicator" is a person who is engaged in the business of applying fertilizer for hire.

B. "Fertilizer" means a substance containing one or more recognized plant nutrients that is used for its plant nutrient content and designed for use or claimed to have value in promoting plant growth. Fertilizer does not include animal and vegetable manures that are not manipulated, marl, lime, limestone, and other products, which may be exempted by State Law.

C. "Noncommercial Applicator" is a person who applies fertilizer but who is not a commercial lawn fertilizer applicator.

8.36.030 Application Control.

A. Fertilizer Containing Phosphorous Prohibited. No person, firm, corporation, franchise, or commercial or noncommercial applicator, including homeowners or renters, shall apply any lawn fertilizer, liquid or granular, which contains any amount of phosphorous or other compound containing phosphorous, such as phosphate, within the Town of Burlington, except:

(i) The naturally occurring phosphorous in unadulterated natural or organic fertilizing products such as yard waste compost.

(ii) As otherwise provided in paragraph 8.36.040 B of this Section

B. Impervious Surfaces and Drainage Ways. No person shall apply any fertilizer to impervious surfaces, areas within drainage ditches, or waterways.

C. Buffer Zone. Fertilizer shall not be applied:

(i) To any established natural buffer zones or delineated wetland.

(ii) Below the Ordinary High Water Mark as established by the Department of Natural Resources or other state regulation.

(iii) Within ten (10) feet of any wetland or water resource.

8.36.040 Exemptions.

The following are exemptions to the specified provisions of this ordinance:

A. The prohibition against use of fertilizer containing any quantity of phosphorous under Paragraph 8.36.030 A. shall not apply to turf and lawn areas which soil tests confirm are below established phosphorous levels for typical area soils. The lawn fertilizer application shall not contain an amount of phosphorous exceeding the amount of phosphorous and the appropriate application rate recommended in the soil test evaluation. Phosphorous applied as lawn fertilizer pursuant to the aforementioned exemption shall be integrated into the soil where it is immobilized and generally protected from loss by runoff.

B. This ordinance in its entirety shall not apply to any farming or agricultural business, provided the use of fertilizers as defined herein is related to the growth of a product or maintenance of growing fields. Appropriate steps shall be taken to integrate the fertilizer into the soil where it is immobilized and generally protected from loss by runoff. This exemption shall not apply to lawn areas of said farm or agricultural business.

836.050 Enforcement and Penalties.

A. The Police Department, Building Inspector, Health Officer, or Highway Superintendent may enforce the provisions of this Chapter and may make inspections upon complaint to ensure the provisions of this Chapter are not violated.

B. In addition to any other penalty imposed by this Chapter for violation of its provisions, the Town may order abatement of any prohibited fertilizer application as set forth herein. The Town shall be entitled to reimbursement of all costs associated with

any abatement action, including injunctive relief.

C. Any person who shall violate any provision of this Chapter shall be subject to the penalties set forth in Chapter 1.20 of the Code of General Ordinances.