

STRICKEN AS OF 9/22/2016
AMENDED COPY AS OF 4/4/2016

Intro. Res. No. 1309-2016
Introduced by Legislator Lindsay

Laid on Table 3/22/2016

RESOLUTION NO. -2016, ADOPTING LOCAL LAW
NO. -2016, A LOCAL LAW TO LIMIT NITROGEN
CONTENT IN LAWN FERTILIZERS

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on March 22, 2016, a proposed local law entitled, "**A LOCAL LAW TO LIMIT NITROGEN CONTENT IN LAWN FERTILIZERS**"; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. -2016, SUFFOLK COUNTY, NEW YORK

A LOCAL LAW TO LIMIT NITROGEN CONTENT IN LAWN FERTILIZERS

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that it is the policy of the County of Suffolk to preserve and protect tidal wetlands, bays, freshwater wetlands and surface waters in order to prevent their despoliation and destruction.

This Legislature further finds that Long Island depends on a sole source aquifer for its drinking water; and accordingly, the County of Suffolk must constantly update its laws, policies and procedures to prevent contamination of the aquifer.

This Legislature further finds and determines that overuse of fertilizers is harming freshwater and tidal wetlands, bays, surface waters and groundwater as excess nitrogen leaches out of the soil that it is applied to and enters the wetland environment.

This Legislature finds that the excess nutrients leads to depressed dissolved oxygen levels in the wetlands and surface water areas, resulting in harm to aquatic life, an increase in algal blooms and a diminishing of water clarity.

This Legislature further determines that the County of Suffolk has already taken action to reduce the excessive use of nitrogen based fertilizers by enacting a local law to prohibit the application of fertilizers between November 1 and April 1 every year.

This Legislature also finds that more can be done to protect the County's freshwater wetlands, bays, tidal wetlands, surface waters and groundwater from the damaging effects of excessive nitrogen and phosphorous leaching due to the overuse of fertilizers.

Therefore, the purpose of this law is to prevent the application and sale of fertilizer containing more than 10% nitrogen and more than 5% water soluble nitrogen within Suffolk County.

Section 2. Amendments.

Chapter 459 of the SUFFOLK COUNTY CODE is hereby amended by the addition of a new Article III to read as follows:

**CHAPTER 459
FERTILIZER**

* * * *

ARTICLE III, NITROGEN LIMITS

§ 459-21. Definitions.

As used in this Article, the following terms shall have the meaning indicated:

“Commissioner” – the Commissioner of the Department of Economic Development and Planning.

“Department” – the Department of Economic Development and Planning.

“Lawn Fertilizer” – any liquid or granular fertilizer distributed primarily for non-farm use, including for use on lawns, home gardens, shrubbery and flowers.

The terms “Establishment”, “Fertilizer”, “Person” and “Turf” shall have the meanings indicated in Article II of this Chapter.

§ 459-22. Sale and Use Restrictions.

- A. No establishment within the County of Suffolk shall sell or offer for sale any lawn fertilizer that is labeled as containing more than 10% total nitrogen or more than 5% water soluble nitrogen.
- B. No person shall apply lawn fertilizer to any turf within the County of Suffolk which is labeled as containing more than 10% total nitrogen or more than 5% water soluble nitrogen.

§ 459.23. Exemptions.

- A. The application restrictions set forth in § 459-22 shall not apply to land used in farm operations, as defined in the NEW YORK AGRICULTURAL MARKETS Law Section 301.
- B. The application restrictions set forth in § 459-22 shall not apply to golf courses, the Suffolk County Farm or athletic fields, subject to the same exemption provisions set forth in Article II, of this Chapter, § 459-14.

§ 459-24. Waivers.

Upon a written application to the Department by a person utilizing County-owned property, a waiver of the use restrictions set forth in § 459-22 may be granted as deemed appropriate by the Commissioner in his or her sole discretion, based upon the same factors as set forth in Article II of this Chapter, § 459-15.

§ 459-25. Enforcement.

- A. The Suffolk County Department of Health Services shall enforce the sale and use restrictions of this article, in accordance with the enforcement procedures established by Suffolk County Sanitary Code Article II, §§ 760-202 through 760-220.
- B. This Article will not be enforced by the Suffolk County Department of Health Services until the Department of Environmental Conservation approves the restrictions set forth herein in accordance with §17-2105 of the New York Environmental Conservation Law.

§ 459-26. Penalties.

- A. Any violation of the sale and use restrictions of this article shall be subject to a civil penalty, in an amount not to exceed \$500 per violation.
- B. Each day of continued violation shall constitute a separate additional violation.

§ 459-27. Rules and Regulations.

The Department, in consultation with the Suffolk County Department of Health Services and the Suffolk County Office of Consumer Affairs, shall issue and promulgate such rules, regulations and standards as deemed necessary and appropriate to carry out the provisions of this article.

Section 3. Submission to the New York State Department of Environmental Conservation.

The Department of Health Services shall submit this law to the New York State Department of Environmental Conservation together with any documents it deems appropriate to demonstrate that the restrictions set forth in this law are necessary to address water quality conditions in Suffolk County. The Department of Health Services may request the assistance of any County department or agency to prepare such documentation and all County departments and agencies shall cooperate with the Department of Health Services.

Section 4. Applicability.

This law shall apply to actions occurring on or after the effective date of this law.

Section 5. 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.

Section 6. Reverse Preemption.

This local law shall be null and void on the day that federal and statewide legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Suffolk. The County Legislature may determine via duly enacted resolution whether or not identical or substantially similar federal or statewide legislation, or pertinent preempting state or federal regulations have been enacted for the purpose of triggering the provision of this section.

Section 7. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 8. Effective Date.

This law shall take effect on January 1, 2017.

DATED:

APPROVED BY:

County Executive of Suffolk County

Date: