

ADOPT NEGATIVE DECLARATION AND PHOSPHATE FERTILIZER LAW

Presented by Councilwoman Annabi

RESOLUTION # R 10-99

**LOCAL LAW #1-2010
PHOSPHATE FERTILIZER LAW**

RESOLVED, that the Town Board adopt the Negative Declaration in regard to adding a new chapter to the Town Code of the Town of Putnam Valley, titled "Phosphate Fertilizer Law" and;

BE IT FURTHER RESOLVED, that the Town Board adopt Local Law #1-2010 adding a new Chapter 88 to the Town Code of the Town of Putnam Valley, titled "Phosphate Fertilizer Law".

Seconded by Supervisor Tendy

LOCAL LAW # 1-2010

A LOCAL LAW adding a new Chapter 88 to the Town Code of the Town of Putnam Valley, titled "Phosphate Fertilizer Law"

BE IT ENACTED by the Town Board of the Town of Putnam Valley as follows:

Section 1. A new Chapter 88 is added to the Town Code of the Town of Putnam Valley, reading as follows:

"Chapter 88"

Phosphate Fertilizer Law

A. Definition and Use Prohibition

- (1) "Person means any individual, partnership, corporation, trust, estate, limited liability company, and any other legal entity capable of entering into a contract. "Person" includes, but is not limited to, those engaged in the business of landscape contracting and/or gardening.

- (2) It shall be unlawful for any person to apply fertilizer containing phosphorus, or any compound containing phosphorous (such as phosphate), to any outdoor location within the Town of Putnam Valley ("Town").
- (3) The prohibition specified in Section (2) above shall not apply to:
 - (a) newly established lawn areas during their first growing season;
 - (b) existing lawn areas whose soil tests provided to the Code Enforcement Officer reveal the need for additional phosphorous.

B. Limitation of Sale

- (1)
 - (a) Except as provided in subsection (b) hereof, no person shall sell or offer for sale within the Town any fertilizer that is labeled as containing phosphorus, or any other compound containing phosphorus, such as phosphate.
 - (b) Section B(1)(a) hereof shall not apply where the purchaser certifies in writing to the Seller that the phosphorus-containing fertilizer being purchased will be limited to those applications specified in Section A(3) above. Such certification shall contain the purchaser's name, mailing address, location of proposed use and basis of claimed exception. Such certification shall be retained by the Seller for a period of two (2) years from date of sale, and shall be exhibited to the Town Code Enforcement Officer upon his/her request.

- (2) No person shall within the Town display for sale fertilizer containing phosphorus or any other compound containing phosphorus. Signs shall be posted advising customers that fertilizer containing phosphorus or phosphorus-containing component is available upon request only for uses permitted by section A(3).
- (3) Any person who sells or offers for sale fertilizer within the Town is required, at the location where *such* fertilizers are sold, to post a sign containing this Chapter and explaining the effects of phosphorus and nitrogen on water quality.

C. Penalties

- (1) A first violation of this chapter shall subject the violator to the imposition by the Town Board of a civil penalty in the sum of \$50. The alleged violator shall be issued written notice of the violation at least 10 days prior to the Town Board meeting at which the violation is to be addressed, and shall be afforded an opportunity to be heard at said meeting.
- (2) A second and each subsequent violation of this Chapter by the same person shall constitute a violation under NY State Penal Law Section 55.10(3), and shall subject the violator to a fine of not less than \$150 and not more than \$500, imprisonment of up to 15 days, or both.

D. Reverse Preemption

This chapter shall be null and void on the day that Federal, State or County 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, federal, or County administrative agency issues and promulgates regulations preempting such action by the Town of Putnam Valley. The Town Board may determine via resolution whether or not identical or substantially similar federal, state or county legislation, or pertinent preempting county, state, federal regulations have been enacted for the purpose of triggering the provisions of this section.

E. Separability

If any section, subsection, sentence, clause, phrase or portion of this local law is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

This Local Law shall take effect 30 days after its filing with the NY State Secretary of State.

Dated: Putnam Valley, New York
February 17, 2010

ROLL CALL VOTE

Councilwoman Annabi-	Aye
Councilman Cinque-	Aye
Councilman Yetter-	Aye
Councilwoman Whetsel-	Aye
Supervisor Tandy-	Aye

Motion Unanimously Carried.

OFFICE OF THE TOWN CLERK

State of New York
County of Putnam
Town of Putnam Valley

ss.:

I have compared the preceding or annexed copies of the

TOWN BOARD MEETING OF FEBRUARY 17, 2010 RESOLUTION #R 10-99

with the originals filed in this office and **DO HEREBY CERTIFY** the same to be correct transcripts there from and of the whole of such originals.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed the seal of said Town this:

23rd Day of February 2010



Town Clerk, Town of Putnam Valley