

Ordinance 12-01-08-02

An Ordinance Amending Section 54, Public Waters and Beaches, to include a new section, 168, pertaining to regulations for lawn fertilizer and sales.

The Board of Trustees for the Village of Fontana on Geneva Lake, Walworth County, Wisconsin, do ordain as follows:

Section I. Section 54-168 is hereby created to address the regulations for lawn fertilizers and sales.

Section 54-168, Regulations for Lawn Fertilizer and Sales.

This chapter is recommended by the Geneva Lake Environmental and is adopted by the Village under the authority of the Wisconsin State Statutes 62.04.

(a) **Purpose and Intent.** The Village finds that Geneva Lake and its streams are a natural asset which enhance the environmental, recreational, cultural and economic resources of the area and contribute to the general health and welfare of the public. The Village further finds that regulating the amount of nutrients and contaminants, including phosphorus contained in fertilizer, entering the surface waters will improve and maintain lake and stream water quality.

(b) **Applicability.** This section applies in all areas of the Village of Fontana.

(c) **Definitions.** The following words, term and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) Agricultural use means beekeeping, dairying, egg production, floriculture, fish or fur farming, forest and game management, grazing, livestock raising, orchards, plant greenhouses and nurseries, poultry raising, raising of grain, mint and seed crops, raising of fruits, nuts and berries, sod farming and vegetable raising.

(2) Fertilizer has the meaning set forth in the Wisconsin State Statutes 94.64 (1)(e).

(3) Lawn fertilizer means any fertilizer, whether distributed by property owner, renter or commercial entity, distributed for nonagricultural use, such as for lawns, golf courses, parks and cemeteries. Lawn fertilizer does not include fertilizer products intended primarily for garden and indoor plant applications.

(d) Regulation of the use and application of lawn fertilizer.

(1) No person shall apply any lawn fertilizer within the Village that is labeled as containing more than zero percent phosphorus or other compound containing phosphorus, such as phosphate, except as provided in the exemptions in this section.

(2) No lawn fertilizer shall be applied when the ground is frozen.

(3) No person shall apply fertilizer to any impervious surface including parking lots, roadways and sidewalks. If such application occurs, the fertilizer must be immediately contained and either legally applied to turf or placed in an appropriate container.

(e) **Exemptions.** The prohibition against the use of fertilizer under subsection (e) shall not apply to:

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

(2) Turf or lawn areas that soil tests, performed within the past three years by a state-certified soil testing laboratory, confirm are below phosphorus levels established by the University of Wisconsin Extension Service. The lawn fertilizer application shall not contain an amount of phosphorus exceeding the amount and rate of application recommended in the soil test evaluation.

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

(4) Yard waste compost, bio-solids or other similar materials that are primarily organic in nature and are applied to improve the physical condition of the soil.

(f) **Sale of fertilizer containing phosphorus.**

(1) No person shall sell or offer for sale any lawn fertilizer within the Village that is labeled as containing more than zero percent phosphorus, or other compound containing phosphorus, such as phosphate, except such fertilizer may be sold for use as provided in the exemptions of this section.

(2) No person shall display lawn fertilizer containing phosphorus. Signs may be posted advising customers that lawn fertilizer containing phosphorus is available upon request for uses permitted by the exemption of this section.

(3) A sign containing the regulations set forth in this section and the effects of phosphorus on Geneva Lake and its streams must be prominently displayed where lawn fertilizers are sold.

(g) **Enforcement.** Violations of this section will be enforced by the Village of Fontana building inspector or other code enforcement officer.

(h) **Penalty.** Any person who violates this section in the application of fertilizer at his or her residences shall be subjected to a forfeiture of \$25.00 per violation. Any commercial fertilizer applicator, residential or commercial developer, industrial or commercial owner, or other person who violates subsection (e), and any person who violates subsection (f)

shall be subject to a forfeiture of \$50.00 for the first violation within a 12-month period, \$150.00 for the second violation within a 12-month period, and \$300 for the third and each subsequent violations within a 12-month period.

(i) **Severability clause.** If any section, provision or portion of this section is ruled invalid by a court, the remainder of the section shall nor for that reason be rendered ineffective or invalid.

Effective Date: This ordinance shall be in full force and effect upon its passage approval, and publication as required by law.

Passed and Adopted by the Village Board of the Village of Fontana on Geneva Lake, Walworth County, WI this 1st day of December, 2008.

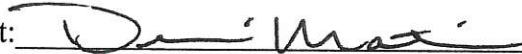
Village of Fontana on Geneva Lake

By:



Ronald Pollitt, President

Attest:



Dennis L. Martin, Clerk

