



Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

Protecting Indiana's Agriculture and Environment - Feed, Fertilizer, Pesticide and Seed

Purdue University • 175 South University Street
West Lafayette, IN 47907-2063
Telephone (765) 494-1492 • Facsimile (765) 494-4331
www.isco.purdue.edu

Robert D. Waltz, Ph.D.
*State Chemist &
Seed Commissioner*

Office of Indiana State Chemist

Decision on Waiver Request by Steuben County and the Town of Clear Lake

Petitioners:

The Commissioners of the County of Steuben

And

The Town Council of the Town of Clear Lake (Steuben County)

Public Hearing:

Under the authority of IC 15-16-2-50, the Commissioners of Steuben County (Commissioners) filed a request with the Indiana State Chemist to waive his exclusive authority to regulate the storage or use of fertilizer material and allow the Commissioners to adopt an ordinance concerning phosphorous containing fertilizers. That request was submitted in a letter dated September 1, 2009. The Town Council of the Town of Clear Lake ^[1] (Council) forwarded a similar request in a letter dated September 15, 2009. The Commissioners and the Council asked for a joint hearing and the State Chemist granted that request. By the consent of the Petitioners, the Office of the Indiana State Chemist (OISC) advertised the hearing in the Indianapolis Star on September 29, 2009 and on the Star website for seven days starting September 29, 2009.

The hearing was held on November 5, 2009, in West Lafayette, Indiana and it was presided over by the Indiana State Chemist, Robert D. Waltz, Ph.D.

Michael Hancock, Fertilizer Administrator (OISC), Matthew Pearson, Engineer (OISC), and Tammy Beaver (OISC, Administrative Assistant to Dr. Waltz and recorder of the hearing) were in attendance. Petitioners were simultaneously addressed based on jointly articulated arguments before the State Chemist including the following: Mr. Bill Schmidt, Presenter for the Commissioners of Steuben County and Mr. Ron Smith, a Commissioner of Steuben County also attended. Mary Jo Fitzenrider was the Presenter for the Town of Clear Lake. Dr. Pete Hippensteel, Angola College (retired), participated as an expert on behalf of the Petitioners. Dr. Hippensteel is an experienced water quality and lakes management professor.

^[1] The Town of Clear Lake is located in Steuben County

Guidance:

By statute (IC 15-16-2-50) and by mutual agreement, the State Chemist and the Petitioners separately and jointly, agreed to an informal hearing process guided by reference to statute that it be an informal hearing not subject to IC 4-21.5 (IC 15-16-2-50), subject to the general notification requirements for public hearings, and in principle the proposed rule draft of the OISC 355 IAC 2-1-8.

The hearing was informal, that is, a non adversarial format, advocacy positions pro and con were not engaged in the hearing. A determination on the petition for waiver by the State Chemist is based on presentation of evidence by the Petitioners that special circumstances exist that need to be addressed by the petitioning local authorities (confer IC15-16-2-50).

Summary of Petitioners' Request:

It is the Petitioners' claim, each separately and jointly, that use of phosphorus-containing fertilizers within the purview of their respective jurisdictions presents a special circumstance justifying considerations for waiver under authorities cited in IC 15-16-2-50 separately in the Town of Clear Lake and in Steuben County. Petitioners have requested a waiver under IC 15-16-2-50 for local authority, i.e., The Town Council of Clear Lake, and, by separate petition and authority, the Commissioners of Steuben County, to maintain previously adopted ordinances to ban phosphorus containing fertilizers, with certain exemptions [Reference the attached: Ordinance No. 765, adopted July 16, 2007, Commissioners of Steuben County; and Ordinance 2007-02, adopted June 11, 2007, Council of the Town of Clear Lake (Steuben County).]

Findings:

Because the petitions for waivers under IC 15-16-2-50 were separately filed and, as agreed by all parties, jointly heard in a hearing conducted by the State Chemist, the State Chemist therefore offers the following in consideration of jointly prepared arguments and presentation:

In Response to the evidence presented in writing and testimony provided in the hearing conducted November 5, 2009, in West Lafayette, Indiana, the State Chemist notes the following as Findings:

- 1) The Petitioners have a sincere and honest interest in the quality of life and the quality of waters within their respective jurisdictions.
- 2) The Petitioners have adopted ordinances to ban phosphorus containing fertilizers in the Town of Clear Lake (Ordinance 2007-02, June 11, 2007) and in Steuben County (Ordinance No. 765, adopted July 16, 2007). (Copies attached)
- 3) The Petitioners have jointly prepared and submitted documentation for consideration by the State Chemist and made their requests for granting of a waiver detailing the special circumstances that exist, in a manner consistent with the proposed rule 355 IAC 2-1-8 (a). (Proposed rule attached)
- 4) The State Chemist accepts the science presented by the Petitioners in support of the argument that phosphorus in aquatic environments is generally regarded as a limiting nutrient, which, when in excess in water, may contribute to algal blooms and degradation of waters. The science presented was supported with more or less validated data from many states and is known to be presented in limnology textbooks, and is commonly recognized by those working with lakes and rivers. The science presented, while documenting the consequences of excess phosphorus in water, did not support the Petitioner's case that special or unique circumstances existed within their respective jurisdictions that would be effectively remedied by the adopted Ordinances.
- 5) The Petitioners, although citing articles in support of the science that directly links phosphorus in water and algal blooms, failed to demonstrate local cause and effect within their respective jurisdictions. The point being that evidence was lacking in their argument that the proposed and adopted ordinances would in fact control or mitigate effectively the phosphorus inputs derived from phosphorus containing fertilizers applied within their respective jurisdictions, and thereby preventing unwanted, anticipated affects in their respective waters of concern.
- 6) The petitioners remedy to ban phosphorus containing fertilizers (specifically lawn fertilizers) with certain exemptions for new lawns or phosphorus-deficient lawns, is the substance of their

ordinance and their petition. The emphasis on education accompanying this ordinance would address the problem in the narrowest scope. Other aspects of the petition, not referenced in the ordinance, but documented in the written material provided and the discussion presented included efforts to educate users regarding the selection and application of lawn fertilizers, and to educate property owners on the methods to create effective buffer areas to reduce sediment run off and its associated phosphate in soil from entering the water. These latter elements of the petitioner's discussion are consistent with statewide educational efforts currently being developed by this Office and currently being conducted by the Indiana Department of Environmental Management, as well as rules currently in draft by the Office of Indiana State Chemist regarding use and application of fertilizer materials. The draft rules being developed by the Office of Indianan State Chemist do not include a ban on phosphorus containing lawn fertilizers.

- 7) The Petitioners presented data collected by the Petitioners that supported the Petitioners' position that 1) many lakes in Steuben County were approaching or attained eutrophic status as determined by different indices, and 2) that soils in Steuben County varied in the levels of phosphorus present and that soil testing prior to making an application of a phosphorus containing fertilizer is desirable. The science supporting the use of soil sampling to aid in determining proper application rates of fertilizers is regarded by the State Chemist as consistent with acceptable fertilizer management practices. This latter data supported the need for more education and communication about the use of phosphorus containing fertilizers, but the science presented did not strongly support the Petitioners' case for ban of such products as being effective.
- 8) The Petitioners on one occasion in response to a direct question and on a second occasion stated plainly, that local enforcement was not considered a highly desired outcome, i.e., that violations of the proposed ordinance would not be enforced through investigation or levying of local fines except in possibly the most extreme cases. It was expressed that the value of the ordinances under consideration resides in its reference to the standards adopted and the perceived authority to enforce the ordinance for violations. The State Chemist understands this incentive based ordinance framework as largely tied to education, and independent of an activity supported by enforcement of the ordinance.
- 9) The Petitioners initiated an education campaign on the appropriate use of fertilizers (see also point 6 above). This effort should be continued as an ongoing activity.

Copies to:

Neal R. Blythe
Mefford, Weber, and Blythe, P.C.
130 East Seventh Street
Auburn, IN 46706-1839

Donald J. Stuckey
Steuben County Attorney
112 South Cedar Street
Post Office Box 523
Auburn, IN 46706

Steuben County Lakes Council, Inc.
Attn: Mr. Bill Schmidt
Attn: Ms. Mary Jo Fitzenrider
207 South Wayne Street, Suite B
Angola, IN 46703

Dr. Jay Akridge, Dean
College of Agriculture
Agricultural Administration Bldg, Dean's Office
Purdue University
West Lafayette, IN 47907

Final Determination by the State Chemist of the request for waiver by the County of Steuben:

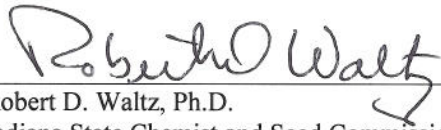
The request for a waiver under IC 15-16-2-50 to adopt local ordinance for the regulation of phosphorus bearing fertilizers and lawn fertilizers presented by the Commissioners of the County of Steuben is denied.

Denial of this request is based on oral and written testimony: 1) that did not establish that special circumstances exist (as required by IC 15-16-2-50); 2) that did not establish that ordinances banning the use of phosphorus containing fertilizers would effectively mitigate the further development of the problem or concern; and 3) that local enforcement was not considered a highly desired outcome, and no enforcement strategy was presented to effect an ordinance, even if the objection raised in 2) preceding was met.

In consequence, the Steuben County Ordinance 765, Ordinance to Ban Fertilizer Containing Phosphorus in Steuben County, Indiana, adopted July 16, 2007, is unenforceable.

Signed:

Date:



Robert D. Waltz, Ph.D.
Indiana State Chemist and Seed Commissioner

January 25, 2010

Copies to:

Neal R. Blythe
Mefford, Weber, and Blythe, P.C.
130 East Seventh Street
Auburn, IN 46706-1839

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Final Determination by the State Chemist of the request for waiver by the Town of Clear Lake:

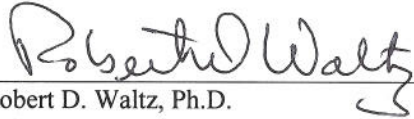
The request for a waiver under IC 15-16-2-50 to adopt local ordinance for the regulation of phosphorus bearing fertilizers and lawn fertilizers presented by the Town Council of the Town of Clear Lake (Steuben County) is denied.

Denial of this request is decided on oral and written testimony: 1) that did not establish that special circumstances exist (as required by IC 15-16-2-50); 2) that did not establish that ordinances banning the use of phosphorus containing fertilizers would effectively mitigate the further development of the problem or concern; and 3) that local enforcement was not considered a highly desired outcome, and no enforcement strategy was presented to effect an ordinance, even if the objection raised in 2) preceding was met.

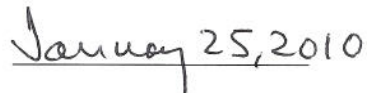
In consequence, the Ordinance 2007-02, Ordinance to Ban Fertilizer Containing Phosphorus in Town of Clear Lake, Steuben County, adopted June 11, 2007, is unenforceable.

Signed:

Date:



Robert D. Waltz, Ph.D.
Indiana State Chemist and Seed Commissioner



Copies to:

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Mefford, Weber, and Blythe, P.C.
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Purdue University
West Lafayette, IN 47907

injury to crops. (State Chemist of the State of Indiana; Fertilizer Law Rule 7; filed Sep 14, 1953, 7:00 am: Rules and Regs. 1954, p. 7; readopted filed Jun 20, 2001, 3:20 p.m.: 24 IR 3822; readopted filed Apr 27, 2007, 2:03 p.m.: 20070509-IR-355070039RFA)

355 IAC 2-1-8 Request for Hearing by Political Subdivision for Waiver for Fertilizer Material Use.

Authority: IC 15-16-2-44

Affected: IC 15-16-2-50

Sec 8. (a) For a hearing requested under IC §15-16-2-50, the petitioner must present evidence which supports the request for a waiver to adopt an ordinance. All evidence shall be received within fourteen (14) days of the hearing date. The applicant has the burden of showing the need for the requested waiver. The evidence must include, but is not limited to, the following:

- (1) A clear detailed statement of the problem being addressed;
- (2) The special circumstances that exist that warrant a waiver;
- (3) The political entity that will be covered by the request (township, city, county, etc.);
- (4) The resource(s) of the State that would be protected by the request (specific stream, river, lake, pond);
- (5) Current site specific scientific data, including applicable soil and water tests, which support the request;
- (6) Previous mitigation methods or steps implemented
- (7) Educational efforts undertaken to address the concern, and
- (8) A copy of the proposed ordinance

(b) In reaching a decision to approve or deny the waiver, the State Chemist shall consider the following:

- (1) Whether the scientific evidence supports the claims being made in the petition;
- (2) Whether the measures proposed in the petition will likely correct the purported problem or significantly reduce environmental impacts;
- (3) Whether the proposed ordinance corrects the problem in the narrowest scope possible;
- (4) Whether the ordinance will impose an undue burden upon the persons regulated;
- (5) Whether scientifically based maintenance levels of nutrient applications would still be allowed by the ordinance;
- (6) Acceptable fertilizer management practices.

(c) The State Chemist shall not consider the following factors in making a decision on whether to approve or deny the waiver:

- (1) Economic Impact
- (2) Odor

(d) In reaching a decision on whether to approve or deny the waiver the State Chemist may consult, in addition to the material supplied by the petitioner, the following:

- (1) The Indiana Fertilizer Advisory Board
- (2) Scientifically based materials provided by the College of Agriculture at Purdue University;
- (3) Other sources deemed necessary by the State Chemist.

The State Chemist shall prepare a written decision, with stated reasons, either allowing or denying the waiver within ninety (90) days after review.

112 South Cedar Street
Post Office Box 523
Auburn, Indiana 46706

DONALD J. STUCKEY
Attorney At Law

Tele.: (260) 925-1966
Fax: (260) 925-6166
e-mail: djstuckey@gmail.com

September 1, 2009

RECEIVED

SEP 25 2009

INDIANA STATE CHEMIST

Dr. Robert Waltz
Indiana State Chemist
And Seed Commissioner
Purdue University
175 South University Street
West Lafayette, Indiana 47907-2063

Dear Sir:

On September 1, 2009, the Steuben County Commissioners, pursuant to Indiana Code 15-16-2-50, passed a resolution petitioning your offices for a hearing to allow a waiver to adopt an ordinance relating to the use of fertilizer material. I enclose a copy of the petition. It is our understanding that upon receipt of the petition, you will hold a public hearing to consider allowing the waiver requested. Please provide notice of the date, time, and location where the hearing is scheduled. If we can provide you any further information to assist you, please advise.

Sincerely,


Donald J. Stuckey
Steuben County Attorney

DJS:dar

ORDINANCE NO. 765

ORDINANCE TO BAN FERTILIZER CONTAINING PHOSPHORUS IN STEUBEN COUNTY, INDIANA

1. Purpose And Intent:

The Steuben County Commissioners find that the lakes, rivers, and streams within Steuben County, Indiana, are a natural asset and are an environmental, recreational, cultural, and economic resource of the area which contributes to the general public health and public welfare. Steuben County Commissioners further find that regulating the phosphorus contained in fertilizer, which may enter the lakes, rivers, and streams within Steuben County, Indiana, will improve and maintain the water quality.

2. Applicability:

This ordinance applies to all areas in Steuben County, Indiana, lying outside of the corporate boundaries of municipalities within Steuben County, Indiana.

3. Definitions:

The following definitions shall apply to this ordinance:

- (a) "Agricultural uses" means beekeeping, dairying, egg production, floriculture, fish or fur fanning; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts, berries, sod fanning and vegetable raising.
- (b) "Fertilizer" means a substance containing one (1) or more recognized plant nutrients, which substance is used for its plant nutrient content and which is designed for use, or claimed to have value, in promoting plant growth. Fertilizer does not include, unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and other materials exempted by this ordinance.
- (c) "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 or indoor use.

4. Regulation Of The Use And Application Of Lawn Fertilizer:

- (a) No person shall apply any Lawn Fertilizer within Steuben County, Indiana, labeled as containing any phosphorus or other compound containing phosphorus, such as phosphate, except as provided below.
- (b) No Lawn Fertilizer shall be applied when the ground is frozen.
- (c) No person shall apply Fertilizer to any impervious surface. If such application occurs, the Fertilizer must be immediately contained and either legally applied to turf or placed in an appropriate container.

5. **Exemptions:**

The prohibition against the use of fertilizer shall not apply to:

- (a) Newly established turf or lawn areas during their first growing season.
- (b) Agricultural uses, vegetable and flower gardens, or application to trees or shrubs.
- (c) 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.

6. **Enforcement:**

Violation of this ordinance will be enforced by the Steuben County Commissioners through any means allowed by law.

7. **Penalty:**

Any person who violates this ordinance commits a "Class C Infraction" and shall be subject to a civil penalty of One Hundred and no/100 Dollars (\$100.00).

8. **Severability Clause:**

If any sections, provision or portion of this ordinance is ruled invalid by any court or administrative agency, the remainder of the ordinance shall not for that reason be rendered ineffective or invalid.

BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect from and after its passage and publication according to law.

Dated: July 16, 2007.

First Reading: July 16, 2007
Second Reading: July 16, 2007
Third Reading: July 16, 2007



F. Mayo Sanders




Ronald Smith



James Crowl

ATTEST:



Pamela Coleman, Steuben County Auditor

RESOLUTION NUMBER 09-2009-01

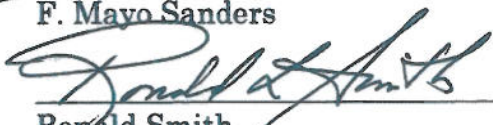
It is hereby resolved by the Steuben County Commissioners that the County of Steuben shall petition the offices of the Indiana State Chemist And Seed Commissioner pursuant to Indiana Code 15-16-2-50 requesting a hearing to allow a waiver to adopt an ordinance regulating the use of fertilizer in Steuben County.

It is further resolved that a copy of this Resolution shall be forwarded to Dr. Robert Waltz, Indiana State Chemist And Seed Commissioner, Purdue University, 175 South University Street, West Lafayette, Indiana 47907-2063, with the attached letter requesting a hearing.

DATED: September 1, 2009.



F. Mayo Sanders

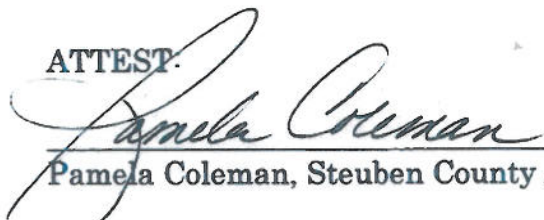


Ronald Smith



James Crowl

ATTEST.



Pamela Coleman, Steuben County Auditor

MEFFORD, WEBER AND BLYTHE, P.C.

COPY

ATTORNEYS AT LAW
Federal Tax ID# 35-1489320

RECEIVED

SEP 17 2009

Donald T.
Mefford

W. Erik
Weber

Neal R.
Blythe

September 15, 2009

INDIANA STATE CHEMIST

Dr. Robert Waltz
Indiana State Chemist
And Seed Commissioner
Purdue University
175 South University Street
West Lafayette, Indiana 47907-2063

Re: Town of Clear Lake Request for Public Hearing

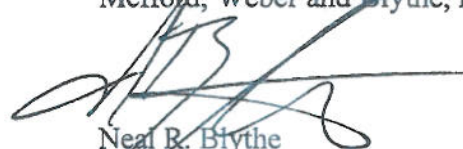
Dear Dr. Waltz:

On September 14, 2009 the Town Council of the Town of Clear Lake, Indiana, pursuant to Indiana Code 15-16-2-50(b), passed a resolution authorizing the Town of Clear Lake to request a waiver from your office which would allow the regulation of fertilizer containing phosphorus within the corporate limits of the Town of Clear Lake. I have enclosed a copy of the Resolution for your review. Please consider this letter and the attached resolution a petition for a public hearing to request a waiver to allow the adoption and/or enforcement of an ordinance by the Town of Clear Lake to regulate the storage or use of fertilizer material. Please advise notice of the date, time and location of the public hearing. Additionally, if you would be so kind as to accommodate the Town of Clear Lake by scheduling the public hearing at the same time as the public hearing requested by Steuben County, Indiana, it would be greatly appreciated. The Town of Clear Lake and Steuben County have been cooperating for approximately two (2) years to educate the public and research the impact that certain phosphorus containing fertilizers have on the quality of the lakes within the jurisdictions of the respective governing bodies. We believe holding the hearings as close together as possible will benefit all parties by negating the need to present duplicated information to your office.

Thank you.

Yours truly,

Mefford, Weber and Blythe, P.C.



Neal R. Blythe

Neal@lawmwb.com

(Direct Line: 260-925-7681)

NRB

ORDINANCE NO. 2007-02

**ORDINANCE TO BAN FERTILIZER CONTAINING
PHOSPHORUS IN TOWN OF CLEAR LAKE, STEUBEN COUNTY**

1. Purpose and Intent

The Town Council of the Town of Clear Lake finds that the lakes and streams within the Town of Clear Lake 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 Town of Clear Lake Town Council further finds that regulating the amount of nutrients and contaminants, including phosphorus contained in fertilizer, entering the Clear Lake watershed will improve and maintain lake water quality.

2. Applicability

- (a) This ordinance applies to all areas within the boundaries of the municipal Town of Clear Lake, Indiana.

3. Definitions

- (a) "Agricultural uses" means beekeeping, dairying, egg production, floriculture, fish or fur fanning; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts, berries, sod fanning and vegetable raising.
- (b) "Fertilizer" means a substance containing one (1) or more recognized plant nutrients, which substance is used for its plant nutrient content and which is designed for use, or claimed to have value, in promoting plant growth. Fertilizer does not include unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and other materials exempted by this ordinance.
- (c) "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 or indoor use.

4. Regulation of the Use and Application of Lawn Fertilizer

- (a) No person shall apply any Lawn Fertilizer within the Town of Clear Lake, Indiana that is labeled as containing more than 0% phosphorus or other compound containing phosphorus, such as phosphate, except as provided in Section 5.
- (b) No Lawn Fertilizer shall be applied when the ground is frozen.
- (c) 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.

5. Exemptions

The prohibition against the use of fertilizer under section 4 shall not apply to:

- (a) Newly established turf or lawn areas during their first growing season.
- (b) Agricultural uses, vegetable and flower gardens, or application to trees or shrubs.
- (c) 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.

6. Sale of Fertilizer Containing Phosphorus

- (a) No person or establishment shall sell or offer for sale any Lawn Fertilizer within the Town of Clear Lake, Indiana that is labeled as containing more than 0% phosphorus, or other compound containing phosphorus such as phosphate, except such Fertilizer may be sold for use as provided in Section 5.
- (b) No person or establishment shall display Lawn Fertilizer containing phosphorus within the Town of Clear Lake, Indiana. Signs may be posted advising customers that Lawn Fertilizer containing phosphorus is available upon request for uses permitted by Section 5.
- (c) A sign containing the regulations set forth in this ordinance and the effects of phosphorus on the Town of Clear Lake's waters must be prominently displayed at the Town Hall.

7. Enforcement

Violations of this ordinance will be enforced by the Town of Clear Lake through any means allowed by law.

8. Penalty

Any person who violates Section 4 in the application of Fertilizer at his or her residence shall be subject to a forfeiture of fifty (\$50.00) Dollars per violation. Any commercial fertilizer applicator, residential or commercial developer, industrial or commercial owner, or other person who violates Section 4, or any person violates Section 6 shall be subject to a forfeiture of \$50.00 for the first (1st) violation within a twelve (12) month period, \$150.00 for the second violation within a twelve (12) month period, and \$300.00 for the third and each subsequent violation within a twelve (12) month period.

9. Severability Clause

If any section, provision or portion of this ordinance is ruled invalid by a court, the remainder of the ordinance shall not for that reason be rendered ineffective or invalid.

BE IT FURTHER ORDAINED that this Ordinance be in full force and effect from and after its passage and publication in a newspaper of general circulation as defined by Indiana Code.

1st Reading _____
2nd Reading _____
3rd Reading _____

PASSED AND ADOPTED by the Clear Lake Town Council, Clear Lake, Indiana, this _____
day of _____, 2007.

John McArdle, President
Town Board of Trustees

ATTEST:

Virginia Nye
Clear Lake Clerk-Treasurer

Presented by me to the Clear Lake Town Council of Clear Lake, Indiana, this ____ day of
_____, 2007.

VIRGINIA NYE
Clear Lake Clerk-Treasurer

VOTING

AYE

NAY

JOHN MCARDLE

ANTHONY KRAUS

LARRY ARMSTRONG

RESOLUTION 3-2009

A RESOLUTION AUTHORIZING THE REQUEST OF A WAIVER FROM THE INDIANA STATE CHEMIST TO ALLOW ENFORCEMENT OF THE CLEAR LAKE ORDINANCE BANNING PHOSPHATE FERTILIZER

SUMMARY

This resolution authorizes the Town of Clear Lake to request a waiver, and expend funds seeking said waiver, from the Indiana State Chemist to allow enforcement of Clear Lake Ordinance 2007-02 banning the sale and/or use of fertilizer containing phosphate in the Town of Clear Lake.

_____ Recorder's Office	<input checked="" type="checkbox"/> Publish Public Hearing
_____ Auditor's Office	_____
_____ Clerk's Office	_____ Publish O/R after adoption
_____ Other:	_____

RESOLUTION 3-2009

A RESOLUTION AUTHORIZING THE REQUEST OF A WAIVER FROM THE INDIANA STATE CHEMIST TO ALLOW ENFORCEMENT OF THE CLEAR LAKE ORDINANCE BANNING PHOSPHATE FERTILIZER

WHEREAS, the Town of Clear Lake passed Ordinance 2007-02 banning the use and sale of fertilizer containing phosphate on June 11th, 2007; and,

WHEREAS, the Town of Clear Lake has been advised by the Indiana State Chemist that prior to enforcement of said ordinance, the Town of Clear Lake must obtain a waiver from the Indiana State Chemist pursuant to IC 15-16-2-50(b); and,


WHEREAS, the officials of the Town of Clear Lake believe that Ordinance 2007-02 is necessary to maintain and improve the current water quality of Clear Lake and the Clear Lake watershed;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Clear Lake, Steuben County, State of Indiana that the Town of Clear Lake shall seek a waiver from the Indiana State Chemist, pursuant to IC 15-16-2-50(b), allowing the enforcement of Clear Lake Ordinance 2007-02.

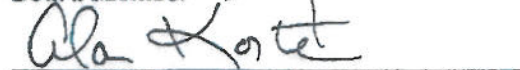
BE IT FURTHER RESOLVED, that the Clear Lake Town Council authorizes the expenditure of funds necessary to apply for and seek said waiver.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

PASSED AND ADOPTED by the Town Board of the Town of Clear Lake, Indiana, this
14th day of September, 2009.



ROBERT LEWIS
Board Member



ALAN KORTE
Board Member



BARRY WORK
Board Member



GEORGE SCHENKEL
Board Member



KATHLEEN SUE WILLIAMS
Board Member

ATTEST:



KAY KUMMER
Clerk-Treasurer