

Use and Importation of Fertilizer – Prohib. Restrictions and Penalties

An ordinance prohibiting the use of certain substances as fertilizer within the Town of Duluth, imposing conditions upon the importation for use of other substances as fertilizer within the Town of Duluth, and imposing penalties for failure to comply with the ordinance. The purpose of this ordinance is to promote the health, safety, order, convenience and general welfare of the Town of Duluth.

The Board of Supervisors of the Town of Duluth ordains:

Section 1. Definitions

1. “Person” means any human being, partnership, corporation, governmental body or agency, firm, association, cooperative, or any other legal entity.
2. “Sewage Sludge” means the solids and associated liquids in municipal wastewater that are encountered and concentrated by a municipal wastewater treatment plant.
3. “Importation” means to bring into the boundaries of the Town of Duluth from outside the boundaries of the Town of Duluth.
4. “Notice” means notice by the Town Clerk, which may be oral, written, telephonic, or other actual notice.
5. “Owner of Land” means any “person” who owns land, except for a vendor under a contract for deed.

Section 2. Prohibited and restricted uses of fertilizer.

1. No person shall use human waste, sewage or sewage sludge as fertilizer on any land within the Town of Duluth.
2. No person shall import for use chicken, turkey, pig, or cow manure as fertilizer on any land within the Town of Duluth unless the chicken, turkey, pig, or cow manure is plowed into the soil within forty-eight (48) hours of its importation into the boundaries of the Town of Duluth. A violation of this section occurs if a person so importing chicken, turkey, pig or cow manure fails to plow such manure into the soil within forty-eight (48) hours after notice to do so by the Town Clerk.
3. No owner of land within the Town of Duluth shall knowingly permit or allow another in possession of that land to use human waste, sewage, or sewage sludge as fertilizer upon that land.
4. No owner of land within the Town of Duluth shall knowingly permit or allow another in possession of that land to import for use chicken, turkey, pig, or cow manure upon that land unless the chicken, turkey, pig, or cow manure is plowed into the soil within forty-eight (48) hours of its importation into the boundaries of the Town of Duluth. A violation of this section occurs if the owner of land fails, within forty-eight hours of notice by the Town Clerk, to require the possessor of land to plow said manure into the soil. It is a defense to a violation of this subsection that the owner has no legal right or control over the possessor of land.
5. No owner or possessor of land or other person within the Town of Duluth shall, following importation, store or otherwise keep turkey, chicken pig, or cow manure unless said manure is plowed into the soil within forty-eight (48) hours of its importation into the boundaries of the Town of Duluth. A violation of this subsection occurs if the owner or possessor fails to plow such manure into the soil within forty-eight (48) hours after notice to do so by the Town Clerk.

Section 3. Violation.

1. A person violating the provisions of Section 2 (1) of this ordinance shall be guilty of a misdemeanor resulting in the payment of a fine of five hundred dollars (\$500.00), plus costs of prosecution.
2. A person violating the provisions of Section 2 (2), 2 (3), 2 (4), or 2 (5) shall be guilty of a petty misdemeanor resulting in the payment of a fine of one hundred dollars (\$100.00), plus costs of prosecution.
3. Each day a violation of Section 2 (2), 2 (3), 2 (4), or 2 (5) continues may be treated as a separate offense.
4. The town board may, to prevent a continuing violation of Section 2, direct the Township Attorney to seek injunctive relief depending upon the exigency of the situation.

Section 4. Variance.

Upon written application by the property owner, the possessor of land, or any other person, the Board may grant a variance from the provisions of this ordinance in order to promote the effective and reasonable application and enforcement of this Ordinance.

A variance may be granted by the Board after a public hearing where the Board determines that enforcement of this Ordinance would cause the applicant undue hardship, or that the Ordinance cannot be complied with due to technological impossibility or economic unreasonableness. The conditions of such variance shall be determined by the Town Board after considering the evidence presented at the public hearing. The variance may be revoked by the Board at any time for violation of any condition. An application for a variance shall be accompanied by a plan and time schedule for achieving compliance with the Ordinance.

Notice of such public hearing shall be published in the Town's legal newspaper once a week for three consecutive weeks, and all abutting landowners shall be notified by certified mail of the public hearing.

The applicant shall pay an application fee of \$150.00 to the Town Clerk upon his or her submission of a variance application to cover the cost of publication and the costs of normal professional services required by the Town Board in relation to the variance application and other related expenses associated therewith.

The variance shall not run with the land and shall be null and void six (6) months after its issuance.

Section 5. Effective date.

This ordinance shall be in full force and effect from and after its passage and approval as provided by law.

PASSED BY THE BOARD OF THE TOWN OF DULUTH THIS 9TH DAY OF OCTOBER 1991.

Richard A. Bakke
Chairman, Town of Duluth

ATTEST:
Dorothy Blomquist
Town Clerk