

**AGENDA FOR THE REGULAR MEETING
OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
APRIL 10, 2006
5:30 P.M.**

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL

ACCEPTANCE OF AGENDA: THOSE ITEMS ON THE AGENDA INDICATED BY AN ASTERICK (*) ARE ON THE CONSENT AGENDA AND WILL BE VOTED ON BY ONE MOTION.

4. APPROVAL OF AGENDA
5. APPROVAL OF CONSENT AGENDA
6. *APPROVAL OF MINUTES OF RESCHEDULED REGULAR MEETING OF MARCH 29, 2006
7. *APPROVAL OF ACCOUNTS PAYABLES
8. UNFINISHED BUSINESS
9. OTHER BUSINESS
(Items are for discussion only – no action will be taken)
 - A. Recognition of March 2006 Employee of the Month – DPS clerical staff, Municipal Court clerical staff, and all administrative Employees of the city.
10. NEW BUSINESS
 - A. Questions and Answers to Proposed Ordinances 2006-01 and Proposed Ordinance 2006-02 and Public Comments will be taken at this time.

ORDINANCE 2006-01

STORMWATER POLLUTION PREVENTION PROGRAM-
PHOSPHORUS ESTABLISHING REGULATIONS FOR LAWN
FERTILIZER, APPLICATION & SALE

**ENACTING AN ORDINANCE UNDER CHAPTER 4 TITLED
“DEPARTMENTS” ENACTING NEW ARTICLE 8 TITLED**

**“STORMWATER POLLUTION PREVENTION PROGRAM-
PHOSPHORUS ESTABLISHING REGULATIONS FOR LAWN
FERTILIZER APPLICATION & SALE” SECTIONS 1 THROUGH
11 OF THE CITY OF RUIDOSO DOWNS CODE OF
ORDINANCES**

WHEREAS, this ordinance is intended to promote the general health, safety and welfare of the people of Ruidoso Downs; and

NOW THEREFORE, be it ordained by the Governing Body of the City of Ruidoso Downs, County of Lincoln, State of New Mexico, that:

Chapter 4 of the City of Ruidoso Downs Code of Ordinances is hereby amended to include the following provisions as the new Article 8 Sections 1 through 11 of Chapter 4:

- Section 1. Authority.
- Section 2. Purpose And Intent.
- Section 3. Applicability.
- Section 4. Definitions.
- Section 5. Regulation Of The Use And Application Of Lawn Fertilizer.
- Section 6. Exemptions.
- Section 7. Sale of Fertilizer Containing Phosphorus.
- Section 8. Enforcement.
- Section 9. Penalty
- Section 10. Severability Clause.
- Section 11. Effective Date

Section 1. **AUTHORITY.** Use NMSA on Municipal Authority

Section 2. **PURPOSE AND INTENT.** The City of Ruidoso Downs City Council finds that the Rio Ruidoso is a natural asset, which enhances the environmental, recreational, cultural and economic resources of the area and contributes to the general health and welfare of the public. The City Council further finds that regulating the amount of nutrients and contaminants, including phosphorus contained in fertilizer, entering the river will improve and maintain river water quality.

Section 3. **APPLICABILITY.**

This ordinance applies in all areas within the corporate limits of the City of Ruidoso Downs.

- Section 4. DEFINITIONS.
- (A.) “Agricultural use” has the meaning set forth in sec. 47-9-5A NMSA 1978 for “agricultural facility.”
- (B.) Fertilizer has the meaning set forth in sec. 76-11-3 D. & E. NMSA 1978.
- (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 and indoor plant application.
- Section 5. REGULATION OF THE USE AND APPLICATION OF LAWN FERTILIZER.
- (A.) Effective September 1, 2006, no person shall apply any lawn fertilizer within City of Ruidoso Downs that is labeled as containing more than 0% phosphorus or other compound containing phosphorus, such as phosphate, except as provided in section 6.
- (B.) No lawn fertilizer shall be applied when the ground is frozen or covered with snow.
- (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.
- Section 6. EXEMPTIONS. The prohibition against the use of fertilizer under section 5. shall not apply to:
- (A.) Newly established turf or lawn areas during their first growing season.
- (B.) Turf or lawn areas that soil tests, performed within the past three years by a state approved (NMED or NMDA) soil testing laboratory, confirm are below required phosphorus levels for lawns as established by the NMSU 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.
- (C.) Agricultural uses, vegetable and flower gardens, or application to trees or shrubs.
- (D.) Yard waste compost, biosolids (if treated to meet “class A” under 40 CFR 503) or other similar materials that are primarily organic in nature and are applied to improve the physical condition of the soil.

- Section 7. **SALE OF FERTILIZER CONTAINING PHOSPHORUS.**
 (A.) Effective September 1, 2006, no person shall sell or offer for sale any lawn fertilizer within City of Ruidoso Downs 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 6.
 (B.) Effective September 1, 2006, no person shall display lawn fertilizer containing phosphorus. Signs may be posted advising customers that lawn fertilizer containing phosphorus is available upon request only for uses permitted by sec. 6.
 (C.) Effective May 1, 2006, a sign containing the regulations set forth in this ordinance and the effects of phosphorus on the Rio Ruidoso's water must be prominently displayed where lawn fertilizers are sold.
- Section 8. **ENFORCEMENT.** Violations of this ordinance will be enforced by the Public Works Director, Code Enforcement Officer, or Police Department of the City of Ruidoso Downs.
- Section 9. **PENALTY.** Any person who violates section 5. in the application of fertilizer at his or her residence shall be subject to a forfeiture of up to \$50 per violation. Any commercial fertilizer applicator, residential or commercial developer, industrial or commercial owner, or other person who violates section 5, and any person who violates section 7, shall be subject to a forfeiture of up to \$250 for the first violation within a twelve month period, up to \$350 for the second violation within a twelve month period, and up to \$500 for the third and each subsequent violation within a twelve month period.
- Section 10. **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.**
- Section 11. **EFFECTIVE DATE.** The Stormwater Pollution Prevention-Phosphorus Establishing Regulations For Lawn Fertilizer Application & Sale Ordinance of the City of Ruidoso Downs shall become effective five days after publication as provided by law.

PASSED, APPROVED AND ADOPTED this _____ day of _____ 2006.

ATTEST:

/s/ Bob A. Miller, Mayor

/s/ City Clerk

ORDINANCE 2006-02
CITY OF RUIDOSO DOWNS

AN ORDINANCE ENACTING A NEW CHAPTER 11 TITLED “ENVIRONMENTAL PROTECTION” ARTICLE 1 TITLED “PHOSPHORUS DETERGENT RESTRICTION” SECTIONS 11-1-1 THROUGH 11-1-4 OF THE CITY OF RUIDOSO DOWNS CODE OF ORDINANCES

WHEREAS, this ordinance is intended to promote the general health, safety and welfare of the people of Ruidoso Downs; and

NOW THEREFORE, be it ordained by the Governing Body of the City of Ruidoso Downs, County of Lincoln, State of New Mexico, that:

CHAPTER 11
ENVIRONMENTAL PROTECTION
ARTICLE 1
PHOSPHORUS DETERGENT RESTRICTION

11-1-1	Definitions
11-1-2	Labeling of phosphate content of detergents.
11-1-3	Limitation on sale
11-1-4	Penalty.

11-1-1 DEFINITIONS.

- (a) "Synthetic detergent" or "detergent" means any cleaning compound which is available for household use, laundry use, other personal uses or industrial use which is composed of organic and inorganic compounds including soaps, water softeners, surface active agents, dispersing agents, foaming agents, buffering agents, builders, fillers, dyes, enzymes and fabric softeners, whether in the form of crystals, powders, flakes, bars, liquids, sprays or any other form.

- (b) "Polyphosphate builder" or "phosphorus" means a water softening and soil suspending agent made from condensed phosphates, including pyrophosphates, tri-phosphates, tripolyphosphates, metaphosphates and glassy phosphates, used as a detergent ingredient, but shall not include "polyphosphate builders" or "phosphorus" which is essential for medical, scientific or special engineering use under such conditions and regulations as may be prescribed, after hearing, by the City Administrator.
- (c) "Recommended use level" means the amount of synthetic detergent or detergent which the manufacturer thereof recommends for use per wash load, at which level such synthetic detergent or detergent will effectively perform its intended function.
- (d) "Machine dishwasher" means equipment manufactured for the purpose of cleaning dishes, glassware and other utensils involved in food preparation, consumption or use, using a combination of water agitation and high temperatures.
- (e) "Dairy equipment", "beverage equipment" and "food processing equipment" means that equipment used in the production of milk and dairy products, foods and beverages, including the processing, preparation or packaging thereof for consumption.
- (f) "Industrial cleaning equipment" means machinery and other tools used in cleaning processes during the course of industrial manufacturing, production and assembly.

11-1-2. LABELING OF PHOSPHATE CONTENT.

No person, firm or corporation shall sell, offer or expose for sale, give or furnish any synthetic detergent or detergent, whether in the form of crystals, powders, flakes, bars, liquids, sprays or any other form in the City after September 1, 2006 unless the container, wrapper or other packaging thereof shall be clearly labeled with respect to its polyphosphate builder or phosphorus ingredient content clearly and legibly set forth thereon in terms of percentage of phosphorus by weight, expressed as elemental phosphorus per container, wrapper or other packaging thereof, as well as grams of phosphorus, expressed as elemental phosphorus per recommended use level.

11-1-3. LIMITATION ON SALE OF DETERGENTS.

(a) No person, firm or corporation shall sell, offer or expose for sale, give or furnish any synthetic detergent or detergent containing more than two and one half (2.5) percent of phosphorus by weight, expressed as elemental phosphorus, within the City after September 1, 2006. No person, firm or corporation shall sell, offer or expose for sale, give or furnish any

synthetic detergent or detergent which requires a recommended use level of such synthetic detergent or detergent which contains more than seven grams of phosphorus by weight expressed as elemental phosphorus, within the City after September 1, 2006. Notwithstanding the foregoing provisions herein, synthetic detergents or detergents manufactured for use in machine dishwashers, dairy equipment, beverage equipment, food processing equipment and industrial cleaning equipment shall not be subject to the limitations herein set forth but are hereby made expressly to the provisions of subsection (b) hereof.

(b) No person, firm or corporation shall sell, offer or expose for sale, give or furnish any synthetic detergent or detergent containing any phosphorus, expressed as elemental phosphorus, including synthetic detergents or detergents manufactured for machine dishwashers, dairy equipment, beverage equipment, food processing equipment and industrial cleaning equipment within the City after September 1, 2006.

(c) The concentration of phosphorus by weight, expressed as elemental phosphorus in any synthetic detergent or detergents shall be determined by the current applicable method prescribed by the American Society for Testing and Materials (A.S.T.M.).

11-1-4. PENALTY.

Any person or business found guilty of violating, disobeying, omitting, neglecting or refusing to comply with, or resisting or opposing the enforcement of any provision of this chapter, except when otherwise specifically provided, shall be fined not more than two hundred and fifty dollars (\$250.00) for the first offense, and not more than five hundred dollars (\$500.00) for the second and each subsequent offense, in any one year period. A separate and distinct offense shall be regarded as committed each day on which such person shall continue or permit any such violation or failure to comply is permitted to exist after notification thereof.

Ordinance No. 2006-02 shall become effective five days after publication as provided by law.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2006.

/s/ Bob A. Miller, Mayor

ATTEST:

/s/ Carol Virden, City Clerk

- B. Consider Approving Reclassification Public Works Department-
Equipment Operator- Ronnie Randolph
- C. Planning and Zoning Report
 - 1. Consider Approving Planning and Zoning
Recommendation of Denial of Conditional Use
Permit for Mac's Auto Sales, Inc. for truck &
auto sales at 553 West Hwy 70.

11. PUBLIC INPUT

- 12. EXECUTIVE SESSION: Discussion of all threatening and/or pending
Litigation pursuant to the Open Meetings Act; Section 10-15-1
Subparagraph (H) 7.

Wastewater Treatment Plant-EPA Permitting;
Forest Guardian Vs. City of Ruidoso Downs and Village of Ruidoso
Terlecky Vs. City of Ruidoso Downs

- 12A. Consider Possible action pursuant to Open Meetings Act
Section 10-15-1(H) 7 Threatening and or Pending Litigation

13. ADJOURNMENT

I certify that notice to the Public Meeting has been given in compliance with Section 10-15-1 through 10-15-4 NMSA 1978 and Resolution 2005-24

Carol Virden, MMC City Clerk
Posted City Bulletin Board: April 7, 2006
City of Ruidoso Downs Website: www.ruidosodowns.us/
Time: 9:00 A.M.

