

Save Barnegat Bay Model Fertilizer Ordinance

ORDINANCE NO. - (Revised 10 June 2009)

AN ORDINANCE REGULATING THE CONTENT, APPLICATION, AND SALE OF FERTILIZER IN OCEAN COUNTY

WHEREAS, there is a sound scientific basis to conclude that nitrogen and phosphorus in manufactured fertilizer are contaminants that negatively affect water-bodies when present in excessive amounts, contributing to undesirable algae and aquatic plant growth, known as "eutrophication"; and

WHEREAS, excessive amounts of both nitrogen and phosphorus discharged into the Barnegat Bay watershed significantly decreases the habitat value of the estuarine ecosystem, especially for hard clams, bay scallops and other species; and

WHEREAS, the Barnegat Bay is an essential component of the recreation and tourism industry in Ocean County; and

WHEREAS, applying slow-release nitrogen to turf maintains healthy turf growth while decreasing contamination to groundwater; and

WHEREAS, applying phosphorus to turf only in situations in which a soil test indicates the need to do so is a sound management practice and can decrease the nutrient load to Barnegat Bay; and

WHEREAS, turf does not effectively utilize nitrogen and phosphorus during periods when the soil is frozen or grass is dormant, allowing nutrients to run off into Barnegat Bay in increased amounts; and

WHEREAS, heavy precipitation and snowmelt greatly increases the amount of nitrogen and phosphorus that run off into adjacent water-bodies; and

WHEREAS, it is necessary to regulate the use and sale of fertilizer that contains phosphorus and high percentages of fast-acting nitrogen in order to improve water quality; and

WHEREAS, allowing only the sale of fertilizer that meets the standards of this ordinance minimizes potential contamination to water-bodies; and

WHEREAS, it is imperative that restrictions on the amount of nitrogen and phosphorus discharged into the Barnegat Bay watershed be imposed so as to protect the integrity of the Bay for present and future generations.

NOW THEREFORE, be it enacted by the Board of Chosen Freeholders of the County of Ocean.

SECTION 1

DEFINITIONS

A. For the purposes of this ordinance, unless the context clearly indicates a different meaning:

1. The term "shall" indicates a mandatory requirement and the term "may" indicates a permissive action.
2. "Applicator" means any person who applies fertilizer to turf.
3. "Deflector shield" means a protective guard that allows the applicator to control the pattern, distance and direction in which fertilizer is applied.

4. "Drop spreader" means a device for applying fertilizer that releases material only onto the turf directly beneath the device in a pattern equivalent to or smaller than the device's wheel base.
5. "Fast-acting nitrogen" means any water-soluble nitrogen that is immediately available to turf upon application.
6. "Fertilize, fertilizing or fertilization" means the act of applying fertilizer to turf.
7. "Fertilizer" means a substance that enriches the soil with elements essential for turf growth, such as nitrogen, phosphorus or other substances.
8. "Impervious surfaces" means a surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.
9. "Landscape professional" means a person who, in exchange for money, goods, services or other consideration, applies fertilizer to turf.
10. "Landscaping" means establishment by sod or seeding, renovation, maintenance, fertilization or pest management of turf.
11. "Slow-release, controlled-release, timed-release, slowly available, or water-insoluble nitrogen" means nitrogen in a form that delays its availability for plant uptake and use after application and is not rapidly available to turf. These forms of nitrogen include, but not limited to:
 - a. Isobutylidene diurea ("IBDU");
 - b. Resin, polymer or sulfer-coated urea;
 - c. Bio-solids or residuals from domestic wastewater treatment;
 - d. Ureaformaldehyde;
 - e. Composted animal manure; and

f. Other substances of similar nature as may be designated in writing by the Director of Planning.

12. "Soil test" means a technical analysis of soil conducted by an accredited soil-testing laboratory following the protocol for such a test established by Rutgers Cooperative Research Extension.

13. "Turf" means grass-covered soil held together by the roots of the grass, also known as "sod or lawn."

14. "Vendor" means any person who provides fertilizer for the purposes of sale or distribution to any applicator.

15. "Water-bodies" includes, but is not limited to, streams, including intermittent streams, creeks, rivers, freshwater and tidal wetlands, ponds, lakes, marine waters, canals, lagoons, and estuaries within Ocean County, including all waters defined in 33 CFR 328.3(a)(3)).

16. "Weed and feed" means any product that, in combination with fertilizer, contains weed killer, defoliant, crabgrass preventer, or any other chemical for restricting the growth of plants other than turf.

SECTION 2

PROHIBITED CONDUCT

A. Applicators shall not engage in the following activities:

1. Apply fertilizer immediately before or during heavy rainfall, such as but not limited to, thunderstorms, hurricanes or north eastern storms or when the soil is saturated due to intense or extended rainfall.

2. Apply fertilizer between December 1 and March 1.

3. Apply, spill or deposit fertilizer on any impervious surface and fail to remove the applied, spilled or deposited fertilizer immediately.

4. Apply fertilizer closer than ten-feet to water-bodies.

5. Deposit grass clippings, leaves, or any other vegetative debris into water-bodies, retention and detention areas, drainage ditches or storm water drains, or onto impervious surfaces such as, but not limited to, roadways and sidewalks, except during scheduled clean up programs.

B. Paragraph A above shall not apply to landscape professionals prior to January 1, 2011. If the State has not adopted legislation and regulations requiring certification of landscape professionals in Best Management Practices by January 1, 2011, all provisions contained in this Section shall apply.

SECTION 3

FERTILIZER CONTENT AND APPLICATION REQUIREMENTS

FOR APPLICATORS

A. The following restrictions shall apply to the content of fertilizer to be applied to turf:

1. An applicator shall not apply any fertilizer to turf that contains less than 30% slow-release nitrogen; and

2. An applicator shall not apply fertilizer that contains phosphorus, unless a soil test indicates a phosphorus deficiency.

3. Any fertilizer applied to soil with a demonstrated phosphorus deficiency shall be in accordance with the recommendations of the Rutgers Cooperative Research Extension;

B. Fertilizer application must not exceed the manufacturer's recommended rate.

C. The above-referenced application requirements shall apply to the application of pesticide and fertilizer mixtures, including but not limited to, "weed and feed" products.

D. Paragraphs A to C above shall not apply to landscape professionals prior to January 1, 2011. If the State has not adopted legislation and regulations requiring certification of landscape professionals in Best Management Practices by January 1, 2011, all provisions contained in this Section shall apply.

SECTION 4

VENDOR REQUIREMENTS

A. Vendors are prohibited from selling products that do not comply with Section 3 of this ordinance.

B. Vendors selling exclusively to landscape professionals are exempt from Paragraph A above.

SECTION 5

EXEMPTIONS

A. The following activities shall be exempt from Section 3, and 4 of this ordinance:

1. Application of phosphorus when:

a. Establishing vegetation for the first time, such as after land disturbance, provided the application is in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. and implementing rules;

b. Re-establishing or repairing turf after substantial damage;

- c. Applying phosphorus fertilizer that delivers liquid or granular fertilizer under the soils surface, directly to the feeder roots;
2. Use of reclaimed water for irrigation, provided it is not used within ten-feet of any water-body.
3. Application of fertilizer for agricultural and horticultural uses, including sod farms.

SECTION 6

RECOMMENDATIONS

The following guidelines are recommended for use by any applicator.

1. Drop spreaders are recommended for use when applying fertilizer.
2. A voluntary ten-foot low maintenance zone is recommended from any water-body or from the top of any bulkhead;
 - a. The low maintenance zone should be maintained so as to minimize lawn size in favor of native plantings; and
 - b. When applicable, the low maintenance zone should be left in a natural state, and forested or natural vegetation areas should be considered valuable alternatives to the standard lawn; and
 - c. When possible, properties adjacent to water-bodies should be landscaped according to Best Management Practices outlined in the New Jersey Stormwater Best Management Practices Manual, Chapter 4: Stormwater Pollutant Removal Criteria, which provide guidelines for reducing total suspended solids and nutrient contamination to adjacent water-bodies.
3. It is recommended that a soil test be performed on each property once every three years.

4. It is recommended that grass clippings be left on the lawn
5. It is recommended that the nitrogen application rate not exceed 1 lb. nitrogen for every 1000 sq. ft. per fertilization;
6. It is recommended that fertilizer be applied no more than four times per year;
7. It is recommended that applicators using broadcast spreading when applying fertilizer use deflector shields to prevent spillage onto impervious surfaces and water-bodies.
8. Fertilizer should be applied in accordance with the following recommendations:

Recommended Nitrogen Amount	May	September	October	November (Optional)
A. If you irrigate and remove the grass clippings, apply 2.5 lbs. nitrogen per 1000 sq. ft, each year	0.5 lb.	1.0 lb.	1.0 lb.	(0.5 lb.)
B. If you irrigate, but do not remove the grass clippings, apply 2 lbs. nitrogen per 1000 sq. ft. each year.	0.5 lb.	1.0 lb.	0.5 lb.	(0.5 lb.)
C. If you do not irrigate and do not remove the clippings, apply 1.5 lbs. nitrogen per 1000 sq. ft. each year.	0.5 lb.	1.0. lb.	0.5 lb. (Optional)	—

SECTION 7

INCONSISTENT ORDINANCES REPEALED

Any and all ordinances inconsistent with this Ordinance are hereby repealed to the extent of any inconsistency.

SECTION 8

SEVERABILITY CLAUSE

Should any section, part or provision of this Ordinance be deemed invalid or unconstitutional, such decision shall not affect the validity of the remaining terms of the Ordinance as a whole or any part thereof, other than the section, part or provision held invalid or unconstitutional.

Section 9

EFFECTIVE DATE CLAUSE

This ordinance shall take effect on January 1, 2010.