ORDINANCE 2010-5

ORDINANCE OF THE TOWNSHIP OF TOWNSHIP OF OCEAN,
COUNTY OF OCEAN, STATE OF NEW JERSEY,
FOR FERTILIZER APPLICATION

Section 1. Purpose:

An ordinance to regulate the outdoor application of fertilizer so as to reduce the overall amount of excess nutrients entering waterways, thereby helping to protect and improve surface water quality. This ordinance does not apply to fertilizer application on commercial farms.

Section II. Basis and Background:

Elevated levels of nutrients, particularly phosphorus, in surface water bodies can result in excessive and accelerated growth of algae and aquatic plants (eutrophication). Excessive growth can result in diurnal variations and extremes in dissolved oxygen and pH, which, in turn, can be detrimental to aquatic life. As algae and plant materials die off, the decay process creates a further demand on dissolved oxygen levels. The presence of excessive plant matter can also restrict use of the affected water for recreation and water supply.

While healthy vegetated areas are protective of water quality by stabilizing soil and filtering precipitation, when fertilizers are applied to the land surface improperly or in excess of the needs of target vegetation, nutrients can be transported by means of stormwater to nearby waterways, contributing to the problematic growth of excessive aquatic vegetation. Most soils in New Jersey contain sufficient amounts of phosphorus to support adequate root growth for established turf. Over time, it is necessary to replenish available phosphorus, but generally not at the levels commonly applied. Other target vegetation, such as vegetable gardens and agricultural/horticultural plantings, will have a greater need for phosphorus application, as will the repair or establishment of new lawns or cover vegetation. A soils test and fertilizer application recommendation geared to the soil and planting type is the best means to determine the amount of nutrients to apply. Timing and placement of fertilizer application is also critical to avoid transport of nutrients to waterways through stormwater runoff. Fertilizer applied immediately prior to a runoff-producing rainfall, outside the growing season or to impervious surfaces is most likely to be carried away by means of runoff without accomplishing the desired objective of supporting target vegetation growth. Therefore, the management of the type, amount and techniques for fertilizer application is necessary as one tool to protect water resources.

This ordinance does not apply to application of fertilizer on commercial farms, but improper application of fertilizer on farms would be problematic as well. Stewardship on the part of commercial farmers is needed to address this potential source of excess nutrient to water bodies. Commercial farmers are expected to implement best management practices in accordance with conservation management plans or resource conservation plans developed for the farm by the Natural Resource Conservation Service and approved by the Soil Conservation District Board.

Section III. Definitions:

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Ordinance clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The work "shall" is always mandatory and not merely directory.

a. Buffer – the land area, 25 feet in width, adjacent to any water body.

b. Commercial farm – a farm management unit producing agricultural or horticultural products worth $2,500 or more annually.

c. Fertilizer – means a fertilizer material, mixed fertilizer or any other substance containing one or more recognized plant nutrients, which is used for its plan nutrient content, which is designed for use or claimed to have value in promoting plant growth, and which is sold, offered for sale, or intended for sale.

d. Impervious Surface – a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water. This term shall be used to include any highway, street, sidewalk, parking lot, driveway, or other material that prevents infiltration of water into the soil

e. Person – any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

f. Phosphorus fertilizer – any fertilizer that contains phosphorus, expressed as p205, with a guaranteed analysis of greater than zero; except that it shall not be considered to include animal (including human) or vegetable manures, agricultural liming materials, or wood ashes that have not been amended to increase their nutrient content.

g. Soils Test – a technical analysis of soil conducted by an accredited soil-testing laboratory following the protocol for such a test established by Rutgers Cooperative Research and Extension.

h. Water body – a surface water feature, such as a lake, river, stream, creek, pond, lagoon, bay or estuary.

Section IV. Prohibited Conduct:

No person may do any of the following:

a. Apply fertilizer when a runoff producing rainfall is occurring or predicted (within 24 hours) and/or when soils are saturated and a potential for fertilizer movement off-site exists.

b. Apply fertilizer to an impervious surface. Fertilizer inadvertently applied to an impervious surface must be swept or blown back into the target surface or returned to either its original or another appropriate container for refuse.

c. Apply fertilizer within the buffer of any water body.

d. Apply fertilizer more than 15 days prior to the start of or at any time after the end of the recognized growing season (March 1 to November 15).

Section V. Phosphorus Fertilizer Application

No person may do the following:

a. Apply phosphorus fertilizer in outdoor areas except as demonstrated to be needed for the specific soils and target vegetation in accordance with a soils test and the associated annual fertilizer recommendation issued by Rutgers Cooperative Research and Extension.

b. Exceptions:

1. Application of phosphorus fertilizer needed for

    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-established or repairing a turf area.

2. Application of phosphorus fertilizer that delivers liquid or granular fertilizer under the soils surface, directly to the feeder roots.

3. Application of phosphorus fertilizer to residential container plantings, flowerbeds, or vegetable gardens.

Section VI. Enforcement:

This Ordinance shall be enforced by the Code Enforcement Officer of the Township of Township of Ocean.

Section VII. Violations and Penalties:

Any person(s) found to be in violation of the provisions of this ordinance shall be subject to a fine not to exceed $500.00.

Section VIII. Severability:

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

Section IX. Effective date:

This Ordinance shall be in full force and effect 20 days from final adoption.

All of which is adopted this 23rd day of September 2010, by the Township Committee of the Township of Township of Ocean, State of New Jersey, County of Ocean.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed by the Township Committee of Township of Ocean on first reading at meeting held on the 12th day of August, 2010 at 7:00 p.m. The Ordinance will be considered for second and final reading at a meeting of the Township Committee which is scheduled for the 23rd day of September, 2010, at 7:00 p.m., or as soon thereafter as the matter may be reached, at the Municipal Building located at 50 Railroad Avenue, Waretown, New Jersey, at which time the public is invited to ask questions, raise objections, or provide public comment with regard to the proposed adoption of this Ordinance.

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Diane B.Ambrosio, Municipal Clerk