

**ORDINANCE NO. – (Revised 1 July 2008)**

**AN ORDINANCE REGULATING THE AMOUNT AND TYPE OF NITROGEN  
DISCHARGED INTO THE WATERSHED OF THE BARNEGAT BAY**

**WHEREAS**, nitrogen is a contaminant that negatively affects waterways; and

**WHEREAS**, as much as twenty-nine percent of the total nitrogen entering the Barnegat Bay watershed is the direct result of the application of fertilizer containing nitrogen; and

**WHEREAS**, the application of fertilizer during the winter season when the ground is likely to be frozen or grass is not actively growing has particularly negative effects, since turf does not absorb the nitrogen and the nitrogen runs off into adjacent waterways;

**WHEREAS**, there is a sound scientific basis to conclude that compounds containing nitrogen and phosphorus in manufactured fertilizer, if used in the watershed of the Barnegat Bay, result in nutrient loading that accelerates undesirable algae and aquatic plant growth, known as “eutrophication”; and

**WHEREAS**, eutrophication is detrimental to the Barnegat Bay; and

**WHEREAS**, the amount and type of nitrogen that discharges into the Barnegat Bay watershed causes significant harm to the ecology of the Bay and impairs its habitat value; and

**WHEREAS**, the Barnegat Bay is becoming increasingly degraded as habitat for hard clams, bay scallops and other species due to the effects of excessive nitrogen; and

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

**WHEREAS**, it is imperative that restrictions on the amount and type of nitrogen discharged into the Barnegat Bay watershed be imposed to protect the integrity of the Bay for present and future generations; and

**WHEREAS**, it is necessary to regulate users and vendors of fertilizer to prohibit the sale and use of fertilizer that contains high percentages of nitrogen and quick-acting nitrogen; and

**WHEREAS**, the regulation of total nitrogen, as well as the ratio of slow-release nitrogen to quick-acting nitrogen in fertilizer, can achieve beneficial results with minimal impacts on users and vendors; and

**WHEREAS**, this ordinance is a reasonable approach that requires only modest modifications to the timing, amount and type of fertilizer used; and

**WHEREAS**, for these reasons, the County has determined that it is necessary and appropriate to regulate the sale, use and application of nitrogen in fertilizer to protect the Barnegat Bay.

**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. “Commercial applicator” means any individual or entity that applies fertilizer in exchange for money, goods, services or any other valuable consideration.
4. “Fertilize, fertilizing or fertilization” means the act of applying fertilizer to turf.
5. “Fertilizer” means a substance that enriches the soil with elements essential for turf growth, such as nitrogen, phosphorus and potassium or that controls soil acidity or alkalinity.
6. “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.
7. “Institutional applicator” means any person or entity other than a non-commercial applicator or commercial applicator that applies fertilizer for the purpose of maintaining turf. Institutional applicators shall include, but shall not be limited to, owners and managers of public lands, schools, parks, religious institutions, utilities, industrial or business sites or any residential properties maintained in common ownership, including but not limited to condominiums and any

common area communities.

8. “Non-commercial applicator” means any person other than a commercial fertilizer applicator or an institutional applicator who applies fertilizer on turf.

9. “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 or that extends its availability to the plant and is not rapidly available to turf. Forms of slow-release, controlled-release, slowly available or water insoluble nitrogen include:

- a. Isobutylidene diurea (“IBDU”);
- b. Resin, polymer or sulpher-coated urea;
- c. Bio-solids or residuals from domestic waste water 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.

10. “Tier one fertilizer” is fertilizer in which slow release nitrogen is between forty and forty-nine percent of total nitrogen.

11. “Tier two fertilizer” is fertilizer in which slow release nitrogen is greater than forty-nine percent of total nitrogen.

12. “Turf” means a piece of grass-covered soil held together by the roots of the grass, also known as “sod or lawn.”

13. “Vendor” means any person who provides fertilizer for the purposes of sale or distribution to any commercial applicator, institutional applicator or non-commercial applicator.

14. "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).

## **SECTION 2**

### **PROHIBITED CONDUCT**

A. Commercial applicators, institutional applicators, and non-commercial applicators shall not engage in the following activities:

1. Apply fertilizer when rainfall is occurring or predicted within twenty-four(24) hours.
2. Apply fertilizer between November 15 and March 1.
3. Apply, spill or deposit fertilizer on any impervious surface and fail to remove the applied, spilled or deposited fertilizer.
4. Apply fertilizer within ten feet of water bodies, retention and detention areas, drainage ditches or storm water drains.
5. Deposit grass clippings, leaves, or any other vegetative debris into water bodies, retention and detention areas, drainage ditches or storm water drains or roadways. As permitted by local, county or state regulations, grass clippings, leaves, or any other vegetative debris may be placed in a roadway during scheduled clean up programs.

B. The requirements of this section shall apply to commercial, institutional applicators, and non-commercial applicators effective January 1, 2009.

## **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. Fertilizer applied to turf must contain no more than thirty percent total nitrogen with at least forty percent of the total nitrogen as slow-release nitrogen in accordance with a guaranteed analysis label.
  2. While remaining in compliance with Paragraph 3a and 3b, applicators shall not exceed the manufacturer's recommended application rate for the fertilizer used.
  3. a. Tier one fertilizer shall not be applied at a rate greater than one pound of nitrogen for every 1,000 square feet for each application.  
  
b. No more than four pounds of tier one fertilizer per 1,000 square feet shall be applied to turf on the same property in a calendar year.
  4. a. Tier two fertilizer shall not be applied at a rate greater than 1.5 pounds of nitrogen for every 1,000 square feet for each application.  
  
b. No more than six pounds of Tier two fertilizer per 1,000 square feet shall be applied to turf on the same property in a calendar year.
  5. The above-referenced application requirements shall apply to the application of pesticide and fertilizer mixtures, including but not limited to “weed and feed” products.
- B. The requirements of this section shall apply to commercial and institutional applicators effective January 1, 2009.
- C. The requirements of this section shall apply to non-commercial applicators effective January 1, 2011.

#### **SECTION 4**

##### **CERTIFICATION REQUIREMENTS FOR COMMERCIAL APPLICATORS**

A. Commercial Applicator Certification. In addition to any current or future training or educational requirements mandated by the State of New Jersey or Ocean County, no commercial applicators shall apply fertilizer without obtaining a certificate of competency (hereinafter referred to as “certificate holder”) from Ocean County. Said certificate shall include an endorsement acknowledging the certificate holder’s familiarity with fertilizer content and application requirements. All persons working as employees and under the direct

supervision of a certificate holder shall be exempt provided that they are required to comply with this ordinance.

The certificate of competency shall be developed and administered under the auspices of the County

Environmental Health Act, N.J.S.A.26:3A2-27.

B. Any certificate holder who fails to abide by the requirements of this ordinance, or who fails to assure that its employees comply, after receiving one appropriate notice of violation, shall be subject to having the certificate of competency rescinded.

C. The requirements of this section shall apply to commercial applicators effective January 1, 2009.

## **SECTION 5**

### **VENDOR REQUIREMENTS**

A. Sale of approved fertilizer products. Vendors are required to provide products for sale to commercial applicators, institutional applicators and non-commercial applicators that meet the requirements of this ordinance.

B. Vendors shall conspicuously display signage as required by the County of Ocean.

## **SECTION 6**

### **EXEMPTIONS**

A. The following activities shall be exempt from Section 3, 4, and 5 of this ordinance:

1. Application of fertilizer during a sixty (60) day period after turf is newly planted.
2. Application of fertilizer to areas where soil tests confirm that nitrogen levels are below ten parts per million or are equivalent to a very low designation for nitrogen established by the Rutgers Agricultural Extension Soil Testing Laboratory.
3. Use of reclaimed water for irrigation, provided it is not used within ten feet of any water body or wetland.
4. Application of fertilizer for agricultural uses, including sod farms.
5. Golf Courses, provided that the golf course is operated in accordance with the New Jersey Department of Environmental Protection Best Management Practices Manual for Golf Course

Construction and Operations in New Jersey dated August 2000 and as may be hereafter amended.

## **SECTION 7**

### **SOIL TESTING**

Testing of soil chemistry can demonstrate a reduced need for nitrogen fertilizer and all applicators are urged to have their soil tested annually by the Rutgers Agricultural Extension Soil Testing Laboratory or other qualified agency for soil pH, essential nutrient levels, and organic matter.

## **SECTION 8**

### **INCONSISTENT ORDINANCES REPEALED**

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

## **SECTION 9**

### **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.