

**HAMBURG TOWNSHIP
ORDINANCE NO. 75**

PESTICIDES AND MANUFACTURED FERTILIZERS

HAMBURG TOWNSHIP ORDAINS:

Section 1. Short title.

This ordinance shall be known and may be cited as Hamburg Township's Fertilizer Ordinance.

Section 2. Intent and purpose.

- A. Based upon scientific studies and general knowledge, the Township Board has determined that certain compounds containing nitrogen and phosphorus, which are contained in, manufactured fertilizers, when used within the Township enter into the Township's water resource, include wetlands and watercourses, resulting in excessive and accelerated growth of algae and aquatic plants (eutrophication) which is determined it necessary and appropriate to regulate the rate and application of manufactured fertilizers.
- B. It is the intent of this article to regulate the application of manufactured fertilizers on turf areas and not on or in areas such as gardens, farms and landscape amenities.
- C. It is also the intent of this article to implicitly recognize that mature topsoil has sufficient compounds such as phosphorus, which occur naturally to promote adequate turf root growth.
- D. It is the further purpose and intent of this article to require licensure of commercial and institutional applicators of manufactured fertilizers within the Township.
- E. It is recognized that there is a probability that storm water flowing through an over-fertilized area of turf is likely to pick-up and carry portions of the fertilizer with it. It is also recognized that if such storm water, carrying all or some of the elements from the fertilizer, should ultimately drain into a watercourse, an adverse impact upon such watercourse is likely. Therefore, it is the further intent of this article to provide regulations that are reasonably calculated to reduce the extent of adverse impact from fertilizer application upon watercourses.

Section 3. Definitions.

The following terms, phrases, words, and their derivatives shall have the meaning given in this section, unless the context requires otherwise:

Act means Natural Resources and Environmental Protection Act, Public Act 451 of 1994, MCL 324.1701, et seq., as amended.

Administrator means Hamburg Township's Zoning Administrator.

Commercial applicator means any individual or entity who applies manufactured fertilizer in the Township in exchange for money, goods, services or other valuable consideration.

Department means Hamburg Township's Planning and Zoning Department.

Institutional applicator means any individual or entity who applies manufactured fertilizers for the purpose of maintaining turf areas of more than one (1) acre. Institutional applicators shall include, but shall not be limited to, owners, operators and caretakers of golf courses, public lands, schools, parks, religious institutions, utilities, industrial or business sites and any residential properties maintained in condominium and/or common ownership. Owners of individual parcels in single-family residential districts shall not be considered as institutional applicators.

Manufactured fertilizer, means a commercially manufactured substance which enriches the soil containing elements essential for turf growth, being primarily nitrogen, phosphorus and potassium.

Turf means a covering of grass vegetation which has both aesthetic and functional benefits maintained at a given level of management.

Section 4. Construction of ordinance.

This Ordinance shall be liberally construed in favor of protecting the water resources of the Township, including watercourses and wetlands.

Section 5. Fertilizer rates and application schedule; prohibitions.

The following regulations shall apply for turf applications of manufactured fertilizers:

- A. Manufactured fertilizers shall be applied no more than once every eight (8) weeks or no more than four (4) times during any one (1) calendar year to any turf area.
- B. Application of manufactured fertilizers shall not be permitted prior to April 1 nor after November 15 in any year (due to the inability of frozen soil to absorb nutrients).

- C. Manufactured fertilizers shall not be applied to sidewalks, streets, driveways or other non-turf or non-landscaped areas unless removed within a period of two (2) hours. Excess fertilizer shall not be washed off of hard surfaces.
- D. In view of the specified needs of golf course turf areas, the application schedules set forth in subsection A above shall not apply to golf courses. Golf courses shall conform to the permissible rates specified in subsection E below. New greens and tees on golf courses shall be allowed a greater amount of annual rate of fertilizer than permitted in subsection E for the first two (2) years of growth, provided that written notice of permissible rates to be exceeded is given to the Department prior to or immediately following the initial application of manufactured fertilizer to the green or tee area. The notice shall contain the intended schedule and rates for the two (2) year exemption period. Written notice of any changes or deviations from the intended schedule and rates shall be given to the Department.
- E. Individuals who are not commercial or institutional applicators shall use their best efforts to conform with the following rates and applications. Commercial applicators and institutional applicators shall apply manufactured fertilizer only at the lowest rate necessary and without exceeding the maximum weight per application. Section 11 is intended to assist all applicators in making the determinations necessary to comply with these maximum rates.
1. Nitrogen (N). Elemental nitrogen shall be applied at the maximum of pounds per five thousand (5,000) square feet of turf area per year. Single applications of elemental nitrogen shall not exceed five (5) pounds per five thousand (5,000) square feet of turf area.
 2. Phosphorus (P). For commercial applicators, no elemental phosphorus whatsoever shall be applied to any turf area. Persons who are not commercial applicators shall use their best efforts to apply fertilizer with no elemental phosphorus; however if a fertilizer with no elemental phosphorus is not reasonably available for purchase by a non-commercial applicator, such person may apply an alternate fertilizer so long as the nitrogen to phosphorus ratio in such fertilizer is at least nine to one 9:1
 3. Potassium (K). Concentrations of potassium are not regulated under this Ordinance.

Section 6. Administrative relief for manufactured fertilizer applicators.

- A. All applicators desiring to apply manufactured fertilizers more frequently than permitted in subsection 5 (A) or in amounts exceeding the quantities prescribed in this Ordinance may seek administrative relief in accordance with this section.

- B. An applicator desiring to seek administrative relief under this section shall file an application with the Department on the form approved by the Township Board.
- C. A soil sample or samples shall be taken from the site on which an applicator is proposing to apply manufactured fertilizers in amount exceeding the quantities prescribed in the Ordinance. Such soil samples shall be taken by the Administrator of his/her designee and forwarded to the Livingston County Extension Service for analysis. Following completion of the analysis, the results shall be reviewed by the Administrator or the Administrator's designee.
- D. Approval or denial of the application shall be determined by the Administrator as expedient as possible, but in no event later than five (5) days after receipt of the soil analysis, based with consideration of the following criteria:
 - 1. Anticipated environmental impact upon surrounding water resources.
 - 2. Permeability of soils and topographic conditions of the site.
 - 3. Conditions of stormwater management systems and ability of the system for nutrient uptake.
 - 4. Percentage of the site allocated to impervious surfaces.
 - 5. Necessity demonstrated by the application with regard to the turf management.

Section 7. Special regulations for wetlands and watercourses.

Manufactured fertilizers shall not be permitted within any wetland, watercourse, or buffer zone as defined in the zoning ordinance. No fertilizer shall be applied within ten (10) feet of the ordinary high water mark of any wetland, watercourse, or natural features setback as defined in the Zoning Ordinance.

Section 8. Commercial and institutional applicator of manufactured fertilizer licensure requirement and procedure.

- A. All commercial and institutional applicators shall be licensed in good standing by the Township prior to applying manufactured fertilizers on any lands in the Township.

- B. A license issued under this Ordinance shall be valid until expiration, suspension or revocation.
- C. To secure a license, a commercial and/or institutional applicator shall complete and submit to the Township Clerk a license application. Previously licenses applicators shall submit their applications by January 31 of the year for which a license is requested. The license application shall include the following:
1. Legal and business name(s), address, telephone number and contact person of applicant.
 2. Name (if applicable), address and description of institutional applicator property, including the use, area and dimensions of the property.
 3. A copy of the applicant's material safety data sheet (MSDS) may also be required as part of the license application.
 4. The product names and manufactured fertilizers to be used, including the percentage weight and ratios of elemental nitrogen and elemental phosphorus.
 5. A description of the vehicles, including trailers, which will be used by the applicator during the license period to apply manufactured fertilizer to turf areas in the Township, which shall include the make, model, year and weight of the vehicle; the size of any manufactured fertilizer tanks; the vehicle identification number; the license plate/registration number assigned by the Michigan Secretary of State and any other registration or identification numbers assigned by other state or federal governmental agencies.
- D. Upon submission of an application to the Clerk, the applicant shall pay the fee according to the schedule established by resolution of the Township Board, which fee schedule shall be calculated to cover the costs of the license review, issuance and periodic field inspection.
- E. The Clerk shall forward the completed application to the Department for determination whether the manufactured fertilizers to be used comply with the provisions of this Ordinance.
- F. The application shall be approved or denied within thirty (30) days by the Department and, if approved:

1. A numbered license shall be issued, to expire on the immediately following November 15.
 2. A sticker or decal for each vehicle disclosed in the application under subsection (C) (5) shall be issued, which shall immediately be permanently affixed by the licensee to the inside lower left corner of each vehicle windshield.
- G. The Township Clerk shall maintain a current list of all licenses commercial and institutional applicators.
- H. A licensee shall notify the Department in writing of any changes in the information disclosed in the license application. Additional vehicles shall not be used to apply manufactured fertilizer to turf areas in the Township until a sticker or decal for the vehicle has been issued and permanently affixed to the vehicle windshield as provided in subsection (F)(2).

Section 9. Regulation of licensed applicator.

- A. The business name of a commercial applicator shall be prominently displayed on all company vehicles in order to assist in monitoring and enforcement of this Ordinance.
- B. The Administrator, or the Administrator's designate, shall be authorized to periodically inspect the property on which manufactured fertilizer has been applied by a licenses applicator.

Section 10. Inspection and license revocation.

- A. Should a commercial or institutional applicator be found to be in violation of this Ordinance, the Township Board, following notice and an opportunity of the licensee to be heard, shall have the right to revoke a license for a period of up to one (1) year. If a commercial or institutional applicator is found to be in violation of this Ordinance on more than one (1) occasion in any one (1) calendar year, the Township Board shall revoke the license of such applicator for a period of not less than one (1) calendar year, but not more than five (5) calendar years.

Section 11. Calculations for proper application of manufactured fertilizer.

Fertilizers are labeled with a 3-number system that indicates the percentage of the bag that contains (N) nitrogen, the first number, (P) phosphorus, the second number, and (K) potassium, the third number.

Example 1: A forty (40) pound bag of 25-0-11 fertilizer contains 25% N or 10 pounds of nitrogen ($40 \times .25 = 10$), 0% of phosphorus, and 11% K or 4.4 pounds of potassium ($40 \times .11 = 4.4$). The instructions on the bag indicate a coverage of 10,000 square feet (100sqft. x 100sqft.). One application following the instructions on the bag delivers 10 pounds of (N) nitrogen per 10,000 square feet which equals five pounds of (N) nitrogen per 5,000 square feet. Four applications per year would equal a total of 20 pounds of (N) nitrogen applied per 5,000 square feet per year.

Example 2: For non-commercial applicators who cannot purchase a 0% (P) phosphorus fertilizer.

A forty (40) pound bag of 30-3-4 fertilizer is allowed because the ratio of N to P is greater than 9 to 1 ($30/3 = 10$ to 1).

This fertilizer contains 30% N or 12 pounds of nitrogen ($40 \times .30 = 12$), 3% of P or 1.2 pounds of phosphorus ($40 \times .03 = 1.2$), and 4% of K or 1.6 pounds of potassium ($40 \times .04 = 1.6$). The instructions on the bag indicate a coverage of 15,000 square feet (100ft x 150ft). One application following the instructions on the bag delivers 12 pounds of (N) nitrogen per 15,000 square feet which equals four pounds of (N) nitrogen per 5,000 square feet.

The following are examples of typical fertilizers and their applicability to non-commercial applications:

<u>25-0-4</u>	<u>Preferred</u>
<u>27-3-3</u>	<u>Permitted</u>
<u>29-3-4</u>	<u>Permitted</u>
<u>16-10-4</u>	<u>Prohibited</u>
<u>22-4-11</u>	<u>Prohibited</u>

Follow the manufacturer's coverage directions on any fertilizer product.

Section 12. Violation; penalties; enforcement.

Violators of the provisions of this ordinance shall be subject to the Township's Civil Infraction Ordinance.

Section 13. Appeals.

Any applicator of manufactured fertilizer aggrieved by a determination made by the Zoning Administrator under this Ordinance shall have a right to appeal such determination to the Township Board within fourteen (14) days following the determination from which an appeal is intended. The request for appeal shall be in written form to the Township Board, submitted to the attention of the Township Clerk. The Township Board shall consider the

matter of the appeal at a regularly scheduled Board meeting.

Section 14. Savings clause.

That nothing in this Ordinance hereby adopted be construed to affect any just of legal right, or remedy of any character not shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

Section 15. Severability.

The various parts, sections and clauses of this Ordinance are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected.

Section 16. Adoption and effective date.

This Ordinance is hereby declared to have been adopted by the Hamburg Township Board at a meeting thereof duly called and held on the 15th day of April, 2003, and ordered to be given effect thirty (30) days after its publication as mandated by statute.

CERTIFICATION

I, Joanna Hardesty, Clerk of Hamburg Township, Livingston County, Michigan, do hereby certify that the foregoing Hamburg Township Fertilizer Ordinance was adopted at a regular meeting of the Hamburg Township Board held on April 15, 2003 at which the following members were present:

_____ Majoros, Hohl, Menzies, Hardesty, Balon-Vaughn, Wiley, Dillman _____

Ayes: _____ Majoros, Hohl, Menzies, Balon-Vaughn, Wiley, Dillman _____

Nays: _____ Hardesty _____

Abstain: _____

Joanna G. Hardesty, Township Clerk

Date passed: April 15, 2003
Publication date: April 23, 2003
Effective date: May 15, 2003