

ALLEGAN COUNTY BOARD OF COMMISSIONERS

**ORDINANCE No. 1014.0
TO BAN LAWN FERTILIZER CONTAINING PHOSPHORUS
IN ALLEGAN COUNTY**

Section 1. Authority

This Ordinance is adopted under the authority of MCLA 46.10b.

Section 2. Purpose and Intent

The Allegan County Board of Commissioners finds that Allegan County's lakes, rivers and streams are natural assets, which enhance the environmental, recreational, cultural and economic resources of the area and contribute to the general health and welfare of the public. The Board further finds that regulating the amount of nutrients and contaminants, including phosphorus contained in lawn fertilizer, entering the lakes, rivers and streams of Allegan County will improve and maintain lake and stream water quality by reducing algae blooms and the excess growth and spread of other aquatic plants. The Allegan County Board of Commissioners finds that unreasonable adverse effects on the environment of Allegan County and on the public health of the citizens of Allegan County and the visitors to Allegan County will occur unless this Ordinance is adopted to ban and/ or control the use of lawn fertilizers containing phosphorus.

Section 3. Applicability

- (a) This Ordinance applies in all areas of Allegan County.
- (b) Townships, cities and villages wholly or partially in Allegan County may assume administration and regulation of lawn fertilizer application if they have adopted ordinances that includes standards at least as restrictive as those described in Sections 5 through 8.

Section 4. Definition

- (a) "Agriculture uses" means beekeeping, dairying, egg production, floriculture, fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts, berries, sod farming and vegetable raising.
- (b) Fertilizer has the meaning in MCLA 324.8501(k)
- (c) Lawn fertilizer means any fertilizer, whether applied by property owner, renter or commercial entity, intended for nonagricultural use, such as for lawns, golf courses, parks and cemeteries. Lawn fertilizer does not include fertilizer products intended primarily for garden or indoor use.

Section 5. Regulation of the Use and Application of Lawn Fertilizer

(a) Effective January 1, 2009, no person shall apply any lawn fertilizer within Allegan County that is labeled as containing more than 0% phosphorus, except as provided in Section 6 of this Ordinance.

(b) No lawn fertilizer shall be applied when the ground is frozen.

(c) No person shall apply lawn 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 restrictions upon the use of lawn fertilizer under Section 5 of this Ordinance 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 the Michigan State University Extension Service or other qualified or recognized authority in the area of soil analysis, confirm are below phosphorus levels established by the Michigan State University 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, bio-solids or other similar materials that are primarily organic in nature and are applied to improve the physical condition of the soil.

Section 7. Enforcement

This Ordinance will be enforced by the Environmental Health Division of the Allegan County Health Department.

Section 8. Civil Infraction Penalties; Injunctive Relief

Any person who violates Section 5 in the application of lawn fertilizer at his or her residence shall be subject to a civil infraction penalty of fifty (\$50) dollars per violation. Any commercial fertilizer applicator, residential or commercial developer, industrial or commercial owner, or other person who violates Section 5, shall be subject to a civil infraction penalty of \$50 for the first violation within a twelve (12) month period, \$150.00 for the second violation within a twelve (12) month period, and \$300.00 for the third and each subsequent violation within a twelve (12) month period. The repeated use of lawn fertilizer in violation of this Ordinance may also be declared a nuisance, subject to injunctive and other equitable relief in the Allegan County Circuit Court.