

**MUSKEGON COUNTY BOARD OF COMMISSIONERS
AMENDMENT TO ORDINANCE NO. 2006-329**

TO BAN FERTILIZER CONTAINING PHOSPHORUS IN MUSKEGON COUNTY

APPROVAL DATE: October 24, 2006

PUBLISH DATE: November 8, 2006

1. Authority

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

2. Purpose and Intent

The Muskegon County Board of Commissioners finds that Muskegon County's lakes and streams are a natural asset, 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, specifically phosphorus contained in fertilizer, entering the lakes will improve and maintain lake water quality.

3. Applicability

(a) This ordinance applies in all areas of Muskegon County.

(b) Cities and villages wholly or partially in Muskegon County may assume administration and regulation of lawn fertilizer application and sale if they have adopted ordinances that includes standards at least as restrictive as those described in Sections 5 through 9.

4. Definitions

(a) "Agricultural 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 distributed by property owner, renter or commercial entity, distributed 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, or product intended for snow or ice removal.

5. Regulation of the Use and Application of Lawn Fertilizer

(a) Effective January 1, 2007, no person shall apply any lawn fertilizer within Muskegon County that is labeled as containing more than 0% phosphorus or other compound containing phosphorus, such as phosphate, except as provided in Section 6.

(b) No person shall apply lawn fertilizer containing phosphorus 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.

6. Exemptions

The prohibition against the use of lawn fertilizer containing phosphorus under section 5 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 Sate University Extension Service or other qualified or recognized authority in the area of soil analysis for 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.

7. Sale of Lawn Fertilizer Containing Phosphorus

(a) Effective January 1, 2007, no person shall sell or offer for sale any lawn fertilizer within Muskegon County that is labeled as containing more than 0% phosphorus, such as phosphate, except such fertilizer may be sold for use as provided in Section 6.

(b) Effective January 1, 2007, no person shall display lawn fertilizer containing phosphorus. Signs may be posted advising customers that lawn fertilizer containing phosphorus is available upon request for uses permitted by Section 6.

(c) Effective August 1, 2006, a sign containing the regulations set forth in this ordinance and the effects of phosphorus on Muskegon County's waters must be prominently displayed where lawn fertilizers are sold.

8. Enforcement

Violations of this ordinance will be enforced by the Muskegon County Health Department.

9. Penalty

Any person who violates Section 5 in the application of fertilizer at his or her residence shall be subject to a forfeiture of twenty-five (\$25.00) Dollars per violation. Any commercial fertilizer applicator, residential or commercial developer, industrial or commercial owner, or other person who violates Section 5, and any person violates Section 7 shall be subject to a forfeiture of \$50.00 for the first (1st) 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.

10. Severability Clause

If any section, provision or portion of this ordinance is ruled invalid by a court, the remainder of the ordinance shall not for that reason be rendered ineffective or invalid.

Motion by _____, second by _____, carried, to adopt the foregoing resolution at a regular meeting of the Muskegon County Board of Commissioners held October 24, 2006 at 3:30 PM.

I, Karen Buie, Clerk of Muskegon County, State of Michigan, do hereby certify that the above is a true and correct copy of an amended ordinance adopted by the Muskegon County Board of Commissioners at the October 24, 2006 regular meeting, in testimony whereof, I have hereunto set my hand and affixed the seal of my office, this day of _____ 2006.

Karen Buie, County Clerk