Chapter 81
FERTILIZERS, USE OF

§ 81-1. Definitions.
§ 81-2. Prohibited conduct.
§ 81-3. Exemptions.
§ 81-4. Licensure.
§ 81-5. Conditions of licensure.
§ 81-6. Violations and penalties.

[HISTORY: Adopted by the Township Committee of the Township of East Hanover 8-11-2003 by Ord. No. 18-2003. Amendments noted where applicable.]

GENERAL REFERENCES

Landscapers - See Ch. 94.

§ 81-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

COMMERCIAL FARM - A farm management unit of not fewer that five acres producing agricultural or horticultural products worth not less than $2,500 annually for at least two successive years and otherwise satisfying all the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964, P.L. 1964, c. 48 (N.J.S.A. 54:4-23.1 et seq.)

FERTILIZER - Any substance used to promote soil fertility.

LANDSCAPER - Any person, firm, partnership, corporation or other entity involved in the practice of landscaping for profit which shall include, without limitation, the planting or fertilizing or mowing of lawns or gardens, the planting or fertilizing or maintenance or cutting of shrubs, bushes, trees or other ornamental vegetation or any combination of the foregoing.

§ 81-2. Prohibited conduct.

A. No person, firm, partnership, corporation, franchise or other entity shall apply fertilizer to lawns or other open areas and/or areas vegetated with grass within the Township of East Hanover where such fertilizer contains phosphorus exceeding 0.5% expressed as P2O5 on a dry basis. Laboratory results of samples analyzed are reported as milligrams per kilogram (mg/kg). To ensure compliance with the phosphorus limit of 0.5%, the following formula is used to convert mg/kg to a percentage: mg/kg laboratory result multiplied by 2.29 and divided by 10,000. The resulting percentage is then compared to the 0.5% limit to determine compliance.

B. Fertilizer applications shall not be made within 10 feet of any wetland or body of water, stream, pond, storm drainage system or watercourse, excluding street drainage systems.

C. No person, firm, partnership, corporation or other entity shall engage the services of a landscaper or fertilizer applicator to apply fertilizer within the Township of East Hanover unless such landscaper or applicator is registered with the Township and has additionally obtained a fertilizer application permit from the Township.

D. No person, firm, partnership, corporation, franchise or other for-profit entity shall engage in the business of fertilizer application within the Township unless such person, firm, partnership, corporation, franchise
or other entity has first registered with the Township and has additionally obtained a fertilizer application permit from the Township.

§ 81-3. Exemptions.

A. During the initial growing season, newly established turf areas shall be exempt from the provisions of § 81-2A above for a period not to exceed three months.

B. Owners of recreational (public and private) fields shall be exempt from the provisions of § 81-2A above upon a showing through a Township-approved testing procedure that there is a need for phosphorus in excess of the limits herein or other demonstrable necessity.

C. Commercial farms as defined in this chapter shall be exempt from the provisions of § 81-2A of this chapter.

D. Residential property owners shall be exempt from the imposition of any penalty for violation of this chapter; provided, however, that a residential property owner who, having been advised in writing that he/she is in violation of § 81-2A of this chapter, persists in violating said section shall, after two written warnings, be subject to the full extent of the penalty provisions hereof.

§ 81-4. Licensure.

A. Applicants for fertilizer application permits shall supply the name, address and telephone number of the applicant, the name, address and telephone number of the principal(s) if the applicant is other than a natural person, and the name, address and telephone numbers of any person(s) authorized to represent the applicant.

B. The annual fee for a fertilizer applicator permit shall be $100 for the first vehicle and up to 10 customers and $7.50 for each additional customer and $5 for each additional vehicle. A vehicle-specific copy of the permit is required for each vehicle operated by the applicator. Permits are in effect from April 1 of each year through March 31 of the following year.

§ 81-5. Conditions of licensure.

A. Commercial fertilizer applicators shall permit the Township to sample any commercial fertilizer mixture to be applied within the Township at any time after issuance of the initial license. The licensee shall pay the cost of such sampling.

B. The commercial fertilizer application permit or a copy thereof shall be in the possession of any representative employed by the fertilizer applicator when making fertilizer applications within the Township.

C. All registrations and permits issued under this chapter shall be deemed granted upon the express condition that, in addition to any other sanction or penalty, the Township may, after due notice by personal service or regular or certified mail and after a due process hearing before the Township Administrator, suspend or revoke the registration and/or fertilizer applicator permit of any person or entity for violating any provision of this chapter.

D. The Township may also suspend temporarily, pending a hearing or notice thereof, any such registration or permit when deemed by the Health Officer to be immediately necessary to prevent emergent danger to the public welfare. Any such temporary suspension without a hearing shall be for a period not to exceed 10 days.

§ 81-6. Violations and penalties.
A. Any person, firm, partnership, corporation, franchise or other entity who violates any provision of this chapter shall, upon conviction thereof, be subject to a fine not to exceed $1,250 or 90 days in jail or both. At the discretion of the court, a first offender may be subject to community service for a period not to exceed 90 days in lieu of fine. Second offenders shall be subject to a fine of not less than $100, and it is the intent of the Township Council that chronic violators be subjected to continually escalating penalties.

B. The penalty provisions of this section shall be in addition to any revocation or suspension of registration or permit as provided for in § 81-5C.

C. Each incident or violation (as measured on a daily basis) shall be considered a separate offense.