

CHAPTER 98: PHOSPHOROUS-FREE FERTILIZER

Section

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§ 98.01 TITLE.

This chapter shall be known and cited as the “City of Ferrysburg Phosphorus-Free Fertilizer Ordinance.”

(Ord. 228, passed 2-20-06)

§ 98.02 INTENT AND PURPOSE.

(A) Based upon scientific studies and general knowledge, the City Council has determined that phosphorus, which is contained in most manufactured fertilizers, when used within the city, enters into the city’s water resources, resulting in excessive and accelerated growth of algae and aquatic plants. The City Council has therefore determined that it is necessary and in the public interest to regulate the application of manufactured fertilizers containing phosphorous within the city.

(B) It is also the purpose and intent of this chapter to require licensure of commercial and institutional applicators of manufactured fertilizers within the city.

(Ord. 228, passed 2-20-06)

§ 98.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly calls for or indicates a different meaning.

COMMERCIAL APPLICATOR. Any individual or entity that applies manufactured fertilizer in the city in exchange for money or other valuable consideration.

INSTITUTIONAL APPLICATOR. Any individual or entity that applies manufactured fertilizers for the purpose of maintaining turf areas. Institutional applicators shall include, but are not limited to, owners of lands, schools, parks, religious institutions, utilities, industrial or business properties and residential properties maintained in condominium and/or common ownership. However, an institutional applicator shall not include an owner of individual parcels of land used for a single family dwelling or agricultural purposes in any agricultural or residential district under the terms of the City of Ferrysburg Zoning Ordinance.

MANUFACTURED FERTILIZER. A commercially manufactured substance which enriches the soil and contains elements desirable for turf growth.

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

(Ord. 228, passed 2-20-06)

§ 98.04 PHOSPHORUS FERTILIZERS IN THE CITY PROHIBITED.

No manufactured fertilizer containing any amount of an hydric phosphoric acid shall be applied on lawns or other turf areas within the city. However, this section shall not apply to the application of fertilizer for the purpose of improving the yield of crops or for other purposes pertaining to agricultural production on a farm.

(Ord. 228, passed 2-20-06)

§ 98.05 EXCEPTIONS.

(A) The prohibition of phosphorus fertilizers shall not apply to any lots or parcels of land for which the Michigan Department of Agriculture has determined, based on tests and soil samples, that anhydric phosphoric acid is required to maintain turf in a healthy condition. Any commercial or institutional applicator or homeowner who claims this exception shall submit a copy of the determination made by the Department of Agriculture to the City Clerk.

(B) Regardless of any other provision in this chapter to the contrary, a homeowner, or a commercial applicator working for a homeowner, may obtain approval to use phosphorous fertilizer on the homeowner's property, provided the homeowner or applicator submits to the City Clerk, and the City Clerk approves, a laboratory analysis of the soil on the property indicating that the soil requires phosphorous fertilizer in order to be usable for turf-growing purposes.

(1) Lab analysis conducted for this purpose shall be performed by an independent source, such as, but not limited to, the Michigan State University Extension Service.

(2) If the use of phosphorous fertilizer is approved under this section, the resulting application of the phosphorous fertilizer shall be conducted so as to use only that amount of phosphorous fertilizer indicated in the lab analysis as being sufficient to render the soil usable for turf-growing purposes.

(C) Approvals granted under this section shall be valid for one growing season only.

(Ord. 228, passed 2-20-06)

§ 98.06 COMMERCIAL AND INSTITUTIONAL APPLICATOR OF MANUFACTURED FERTILIZER LICENSURE REQUIREMENTS AND PROCEDURE.

(A) All commercial and institutional applicators shall be licensed in good standing by the city before they apply manufactured fertilizers on any lands in the city.

(B) A license issued under this chapter shall be valid until expiration, suspension or revocation. Licenses shall expire two years from the date of issuance but may be renewed for additional two-year periods.

(C) To secure a license, a commercial or institutional applicator shall complete and submit to the City Clerk a license application. The license application shall include the following:

(1) Legal and business name, address, telephone number and contact person of applicant;

(2) Name, address and description of institutional applicator property, if applicable, including the use, area and dimensions of the property; and

(3) A copy of the applicant's material safety data sheet (MSDS).

(D) The applicant shall sign the application where indicated, and the signature shall serve as an attestation that the applicant has read this chapter in its entirety and agrees to comply with all of its provisions.

(E) Upon submission of an application, the applicant shall pay any fee established by the City Council.

(F) The City Clerk shall review the completed application and determine whether the manufactured fertilizers to be used comply with the provisions of this chapter.

(G) If the application is complete, and if the proposed use of manufactured fertilizer would comply with the terms of this chapter, a numbered license shall be issued. The license shall expire two years from the date of issuance.

(H) The City Clerk shall maintain a list of all currently-licensed commercial and institutional applicators.

(Ord. 228, passed 2-20-06)

§ 98.07 VIOLATION; ENFORCEMENT.

If a commercial or industrial applicator is found in violation of this chapter, the City Council, following notice and an opportunity of the licensee to be heard, may revoke the applicator's license for a period of time determined by the Board. If a commercial or institutional applicator is found to be in violation of this chapter on more than one occasion in any one calendar year, the City Council shall revoke the license of the applicator for a period of not less than one calendar year, and for such greater period of time as the City Council may determine.

(Ord. 228, passed 2-20-06)

§ 98.08 APPEALS.

Any homeowner or applicator of manufactured fertilizer aggrieved by a decision made by the City Clerk under this chapter shall have the right to appeal to the City Council.

(A) The appeal shall be commenced by filing with the City Council a written statement containing the specific reasons for the appeal within 30 days following the date of the decision being appealed. The timely filing of an appeal shall have the effect of staying any license issued under this chapter pending the outcome of the appeal.

(B) The City Council shall consider the appeal at a public meeting. The City Council shall affirm, affirm with conditions or reverse the decision or determination being appealed, consistent with the terms of this chapter.

(Ord. 228, passed 2-20-06)

§ 98.99 PENALTY.

(A) A violation of this chapter is a municipal civil infraction, for which the fine shall be not less than \$250 nor more than \$500 for the first offense, and not less than \$500 nor more than \$1,000 for a subsequent offense, in the discretion of the Court, and in addition to all other costs, damages, expenses and actual attorneys' fees incurred by the city in enforcing the chapter or remedying the violation of the chapter. For purposes of this section, "subsequent offense" refers to a violation of this chapter committed with respect to a separate incident by the same person within 12 months after a previous violation of the chapter for which the person admitted responsibility or was adjudicated to be responsible. Each day that a violation occurs shall constitute a separate offense.

(B) A violation of this chapter is declared to be a nuisance per se. In addition to other penalties and remedies, the city may seek injunctive relief against the violator, in addition to other relief provided by law.

(Ord. 228, passed 2-20-06)