

CITY OF MARCO ISLAND

ORDINANCE NO. 08- 15

AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA, AMENDING CHAPTER 8, BY ADDING ARTICLE IV, ENTITLED THE “MARCO ISLAND LAWN AND LANDSCAPE MAINTENANCE REGULATIONS,” ADDING SECTIONS 8-70 THROUGH 8-81 CONTAINING REGULATIONS FOR LAWN AND LANDSCAPE MAINTENANCE PROFESSIONALS PRACTICING IN THE CITY OF MARCO ISLAND, INCLUDING BUT NOT LIMITED TO REGULATIONS RELATED TO CERTIFICATION, DEFINITIONS, APPLICATION FEES, PENALTIES; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR REPEAL OF CONFLICTS AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, stormwater runoff is a major source of pollution in canals, bays, rivers and the Gulf of Mexico; and

WHEREAS, remedial actions are necessary in order to maintain and improve the water quality of these water bodies and their estuarine ecosystems, which can be accomplished through a reduction in the amount and type of pollution discharge as a result of landscaping requirements, installation, maintenance and runoff discharge into the City’s stormwater system; and

WHEREAS, there is a need to develop and strengthen public awareness of the interconnectivity between activities in residential and commercial yards, streets, the City’s stormwater system and our surrounding natural water bodies;

WHEREAS, regulating the performance of lawn and landscape maintenance work by requiring certification of minimal professional standards of education and experience may contribute to the long-term efforts to mitigate adverse impacts from stormwater runoff from lawns and landscaping into canals, bays, rivers and the Gulf of Mexico; and

WHEREAS, regulations establishing minimum standards for the certification of lawn and landscape maintenance professionals by the City will result in informing such persons and their residential and business customers of the effects of pesticides, fertilizers and over watering on the environment; ways to reduce the amount of fertilizers and pesticides utilized; the use of native vegetation and methods to limit water use on lawns and landscapes, thus potentially lowering the impacts of nonpoint source pollution on these water bodies and Gulf; and

WHEREAS, to be effective such regulations would also require education and outreach to the public to encourage proper environmental management of lawns and landscape in an effort to reduce pollution reaching our natural water bodies; and

WHEREAS, after reviewing the recommendation of City staff and comments from the public, the City Council finds the adoption of this Ordinance is in the best interest of the residents of the City of Marco Island.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA, AS FOLLOWS:

SECTION 1. Recitals.

The foregoing “WHEREAS” clauses are ratified and confirmed as being true, correct and reflective of the legislative intent underlying this Ordinance and are hereby made a specific part of this Ordinance.

SECTION 2. Amendment and Adoption.

The amendments to the Code of Ordinances contained in this Ordinance are hereby adopted as follows:

1. Article IV shall be created and entitled “MARCO ISLAND LAWN AND LANDSCAPE MAINTENANCE CERTIFICATION”

2. Secs. 8-70 to 81 shall be created and read as follows:

a. Sec. 8-70. Intent and Purpose.

The intent and purpose of this Article is to require any person or business entity performing lawn or landscaping maintenance work in the City of Marco Island to possess minimum qualifications and competency that will assist in strengthening and promoting public awareness of the need to engage in certain lawn and landscape maintenance activities and therefore mitigate long-term adverse impacts from stormwater run-off into natural water bodies located in and adjacent to the City of Marco Island.

b. Sec. 8-71. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

1. Landscape Architect an individual licensed by the State of Florida responsible for the preparation of landscaping plans and design.

2. Lawn and Landscape Professional means any person who engages in solicitation for the delivery of lawn, landscaping or lawn or landscaping maintenance services.

3. *Neighborhood Service Provider* an individual or business entity, which provides lawn, landscaping or lawn or landscaping maintenance services, which do not require the use of chemicals, fertilizers, or pesticides, to three or fewer property owners.

c. Sec. 8-72. Exception.

The certification requirement of this Article shall not apply to the following:

- i. any individual property owner engaging in lawn, landscaping or lawn or landscaping maintenance;
- ii. any Landscape Architects licensed by the State of Florida engaging in lawn or landscaping maintenance services;
- iii. any individual or business entity, which possesses a license from the State of Florida to apply herbicides, pesticides, chemicals;
- iv. a Neighborhood Service Provider; or
- v. ~~any~~ any individual or business entity possessing a valid specialty contractor's license from Collier County, Florida for the delivery of services such as landscaping, tree removal and trimming, and irrigation.

d. Sec. 8-73. Regulated Activities.

1. It shall be a violation of this Code to provide any lawn, landscaping, or lawn or landscaping maintenance services in the City without first being certified as a Lawn and Landscape Professional as provided herein.

2. Any lawn, landscape or lawn or landscape maintenance services provided to the City by a Lawn and Landscape Professional shall have at least one supervisor certified by the City as a Lawn and Landscape Professional. In addition, all business entities under contract with the City shall have ten percent (10%) of their staff certified by the City as a Lawn and Landscape Professional within six (6) months of entering into a contract with the City; and fifty percent (50%) of their staff certified by the City as a Lawn and Landscape Professional within one (1) year of entering into a contract with the City.

3. Any lawn, landscaping and landscape maintenance services provided by Lawn and landscape professionals within the City shall have at least one supervisor certified by the City as a Lawn and Landscape Professional. These businesses shall at least one supervisor and/or crew leader per vehicle certified by the City as a Lawn and Landscape Professional within one year of adoption.

e. Sec. 8-74. Certification Application; Contents.

1. Except as otherwise provided in Section 8-72, all persons before entering into or upon property within the City to perform lawn, landscaping or lawn or landscaping maintenance shall

demonstrate knowledge of the relationship between their profession and the environment through both experience and education. Certification shall be based on demonstrated ability experience, and education in the following areas of competency:

(a) Effects of the environment from sediment, nutrients, and pesticides moving off-site through surface or ground water.

(b) Site design and plant selection to enhance the natural environment.

(c) Rates and methods of applying fertilizer and irrigation that minimize negative environmental consequences.

(d) Utilization of Integrated Pest Management to both minimize pests and decrease chemical applications.

2. A person applying for certification by the City as a Lawn and Landscape Maintenance Professional shall provide evidence of completing a course of study from the Rookery Bay National Estuarine Research Reserve, Naples, Florida, or other approved provider, with at least six (6) hours of instruction in the areas identified under Section 2. Confirmation of attendance in a three (3) hour annual refresher course from Rookery Bay National Estuarine Research Reserve, or other approved provider must be provided to the City prior to issuance of a renewal certification.

3. A person applying for certification by the City as a Lawn and Landscape Maintenance Professional shall illustrate an ability to apply his or her knowledge of the concepts identified herein by providing a written, detailed management plan that outlines maintenance activities to be carried out for a specific location.

4. The City shall provide any person who has satisfied the requirement set forth herein and paid the application fee, a certificate indicating the City considers that person to be a certified Lawn and Landscape Maintenance Professional.

5. The certification program shall be managed and administered by the Community Development Department. However, the City Council shall retain the authority to approve certification of any applicant for lawn and landscape maintenance certification.

f. Sec. 8-75. Duration, Renewal.

A certification issued under this Article shall be valid for one year. Renewals for an additional one year period may be granted, unless previously issued certificates are revoked as provided in this Article. A maximum of two one year renewals will be granted without submission of a new certification application and without payment of the applicable certification fee. However, prior to receiving a renewed certification, the applicant must update and make any necessary changes needed to the previously submitted certification application.

g. Sec. 8-76. Duty to Carry, Exhibit Certification.

Every certified Lawn and Landscaping Professional shall carry his or her certification and photo identification at all times while engaged in lawn or landscaping maintenance work in the City.

h. Sec. 8-77. Fees.

An initial application fee shall be ~~\$50.00~~ \$25.00, which shall be used to defray the costs of certificates and other expenses of the program. A fee of \$25.00 shall be charged to renew certification ~~annually~~. The application fee may be amended by resolution of the City Council as may be necessary.

i. Sec. 8-78. Revocation Authorized; Grounds.

Certifications issued under this Article may be revoked by the City Manager or the City Manager's designee after notice and hearing for any of the following offenses:

1. Fraud, misrepresentation or a false statement in the application.
2. Fraud, misrepresentation or a false statement in the performance of lawn or landscaping maintenance services.
3. Violation of any condition, provision or qualification provided in the application.
4. Conviction, nolo contendere plea or forfeiture resulting from violation of any city, state or federal law involving theft, fraud, violence or moral turpitude.
5. Conducting business in an unlawful manner or in such manner as to threaten breach of the peace or menace to public health, safety or welfare.
6. Failure to comply with any provision of this Article.

j. Sec. 8-79. Notice of Revocation.

Written notice of revocation of a certification issued under this Article and the grounds therefor shall be mailed or delivered to a certified Lawn and Landscaping Professional at the address specified in its application.

k. Sec. 8-80. Appeal.

Any person aggrieved by the denial of a certification or revocation of a certification shall have the right of appeal to the City Council. Such appeal shall be taken by filing with the City Manager, within 14 days after notice of the action complained of has been mailed or delivered to such person's last known address, a written statement setting forth fully the grounds for the appeal. The City Manager shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant at least five days before the date of said hearing. The decision and order of the City Council on such appeal shall be final.

1. Sec. 8-81. Penalties.

Any person or persons, firm or corporation, or any agent thereof, who violates any of the provisions of any Section of this Article shall be punished by revocation of any certification issued under this Article, and other penalties as may be imposed by the Code Enforcement Board pursuant to Florida law or this Code

SECTION 3. Inclusion in the Code of Ordinances.

It is the intention of the City Council and it is hereby ordained that the amendments to the Code of Ordinances adopted by this Ordinance shall be included and become a part of the Code of Ordinances of the City of Marco Island. The Sections of this Ordinance, as adopted, may be renumbered or relettered and that the word "ordinance" may be changed to "Section," "Article," or other appropriate word.

SECTION 4. Conflicts and Severability.

If any word, phrase, clause, subSection, or Section of this Ordinance is for any reason held unconstitutional or invalid for any reason or cause, the remaining portion of this Ordinance shall remain in full force and effect and shall be valid as if the invalid portion was not included in the Ordinance. All Sections or parts of Sections of all existing ordinances in conflict with this Ordinance shall be and the same are hereby repealed to the extent of such conflict.

SECTION 5. Effective Date.

This Ordinance shall take effect immediately upon adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND THIS
1st day of December, 2008.

Attest:

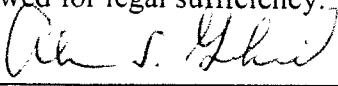
CITY OF MARCO ISLAND, FLORIDA

By: 
Laura M. Litzan, City Clerk

By: 
William D. Trotter, Chairman

(SEAL)

Reviewed for legal sufficiency:

By: 
Alan L. Gabriel, City Attorney