

ARTICLE III. - FERTILIZER REGULATIONS

Sec. 18-61. - Short title.

This article shall be known and may be cited as the "City of Marco Island Fertilizer Control Ordinance."

(Ord. No. 16-02, § 2, 3-7-2016)

Sec. 18-62. - Intent and purpose.

- (a) To provide for the regulation of fertilizers containing nitrogen or phosphorous and to provide specific management guidelines for fertilizer application in order to minimize the negative environmental effects said fertilizers have in and on the waterbodies within and surrounding the city.
- (b) These guidelines and practices are established to help communities, developers, builders, contractors, businesses and homeowners be partners in improving and protecting Florida's environment.
- (c) This article is based on the "Model Ordinance for Florida-Friendly Fertilizer Use" or equivalent as encouraged by F.S. § 403.9337.
- (d) Nitrogen and phosphorous are essential ingredients for plant growth; however, overuse and improper application of these nutrients create water quality issues and pollute our treasured natural waters. They promote algae blooms and other excessive plant growth. Low to no phosphorus fertilizer and slow release nitrogen fertilizer, along with proper utilization, result in absorption by plants and lower levels of nitrogen and phosphorus reaching the water bodies within and surrounding the city and their associated watersheds.
- (e) Certification and training, as required by article IV (Marco Island Lawn and Landscape Maintenance Registration Regulations), will result in increasing the knowledge of lawn and landscape maintenance professionals, and their customers, of:
  - (1) The effects of pesticides, fertilizers and overwatering on the environment;
  - (2) Ways to reduce the amount of fertilizers and pesticides utilized; and
  - (3) Methods to limit water use on lawns and landscapes thus potentially lowering the impacts of nonpoint source pollution on local water bodies.

(Ord. No. 16-02, § 2, 3-7-2016)

Sec. 18-63. - Definitions.

*Application* means the physical deposition of fertilizer to turf or landscape plants.

*Applicator* means any person who applies, in any manner, fertilizer to turf or landscape plants within the city as defined in this article.

*Approved best management practices training program* means a training program approved per F.S. § 403.9338, or any more stringent requirements set forth in this article that includes the most current version of the Florida Department of Environmental Protection's "Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries, 2008," as revised, and approved by the city manager or designee.

*Best management practices* means turf and landscape practices or combination of practices based on research, field-testing, and expert review, determined to be the most effective and practicable means, including economic and technological considerations, for improving water quality, conserving water supplies and protecting natural resources.

*City manager* means the city manager or his designee, who will administer and enforce the provisions of this article.

*Code compliance officer or inspector* means any designated employee or agent of the city whose duty it is to enforce codes and ordinances enacted by the city.

*Commercial fertilizer applicator*, except as provided in F.S. § 482.1562(9), means any person who applies fertilizer for payment or other consideration to property not owned by the person or firm applying the fertilizer and includes the employer of the applicator.

*Fertilize, fertilizing, or fertilization* means the act of applying fertilizer to a lawn (turf), specialized turf, or landscape plant.

*Fertilizer* means any substance that contains nitrogen, phosphorus, or any combination of these plant nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other soil enrichment, or provides other corrective measures to the soil.

*Guaranteed analysis* means the percentage of plant nutrients or measures of neutralizing capability claimed to be present in a fertilizer.

*Impervious surface* means a constructed surface, such as a sidewalk, road, parking lot, or driveway, covered by impenetrable materials such as asphalt, concrete, brick, pavers, stone, or highly compacted soils.

*Institutional applicator* means any person, other than a private, noncommercial or commercial applicator who applies fertilizer for the purpose of maintaining turf or landscape plants. Institutional applicators shall include, but shall not be limited to, owners and managers or employees of public lands, schools, parks, religious institutions, utilities, industrial or business sites, and any residential properties maintained in condominium or common ownership.

*Landscape plant* means any native or exotic tree, shrub, or groundcover (excluding turf).

*Lawn and landscape professional* means any person who engages in solicitation for the delivery of lawn or landscaping maintenance and services.

*Low maintenance zone* means an area a minimum of ten feet wide adjacent to watercourses which is planted and managed in order to minimize the need for fertilization, watering, mowing, etc.

*Leaching* means the process by which soluble constituents are dissolved and filtered through the soil by a percolating fluid.

*Noncommercial applicator* means any person other than a commercial fertilizer applicator or institutional applicator who applies fertilizer on turf or landscape plants in the city, such as an individual owner of a single-family residential unit.

*Person* means any natural person and shall also mean any business, corporation, association, club, organization, and/or any group of people acting as an organized entity.

*Prohibited application period* means the time period during which any of the following are likely: flood watch or warning, or a tropical storm watch or warning, or a hurricane watch or warning is in effect for any portion of Collier County, issued by the National Weather Service, or if heavy rain (World Meteorological Organization definition of heavy rain is rainfall greater than or equal to 50 mm (two inches) in a 24-hour period).

*Rainy season* means June 1 through September 30 of each calendar year.

*Rapid release or water soluble nitrogen* means any product containing:

- (1) Ammonium nitrate.
- (2) Ammonium sulfate.
- (3) Calcium nitrate.

- (4) Diammonium phosphate.
- (5) Monoammonium phosphate.
- (6) Potassium nitrate.
- (7) Sodium nitrate.
- (8) Urea (not in the form of slow release nitrogen).
- (9) Others as may be designated in writing by the administrator.

*Runoff* means the water that results from and occurs following a rain event, or following an irrigation event, because the water is not absorbed by the soil or landscape and flows from the area.

*Saturated soil* means a soil in which the voids are filled with water. Saturation does not require flow. For the purposes of this article, soils shall be considered saturated if standing water is present or the pressure of a person standing on the soil causes the release of free water.

*Slow release, controlled release, timed release, slowly available, or water insoluble nitrogen* means nitrogen in a form which delays its availability for plant uptake and use after application, or which extends its availability to the plant longer than a "rapid release nitrogen" product. Forms of slow release, controlled release, slowly available, or water insoluble nitrogen include:

- (1) Isobutylidene diurea (IBUD).
- (2) Resin, polymer, or sulphur coated urea.
- (3) Biosolids or residuals from domestic wastewater treatment.
- (4) Ureaformaldehyde.
- (5) Composted animal manure.
- (6) Others as may be designated in writing by the city manager or designee.

*Turf, sod, or lawn* means a piece of grass-covered soil held together by the roots of the grass.

*Wetlands* means those areas that are inundated or saturated by surface water or ground water at a frequency and a duration sufficient to support, and under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soils [see Fla. Admin. Code R. 62-340].

*Yard waste* means shredded yard clippings, leaves, grass clippings, coconuts, limbs and any plant debris created in the act of mowing, trimming and removal of vegetation.

(Ord. No. 16-02, § 2, 3-7-2016)

#### Sec. 18-64. - Fertilizer regulations.

- (a) *Applicability*. This section shall be applicable to and shall regulate any and all applicators of fertilizer and areas of application of fertilizer within the city unless such applicator is specifically exempted by the terms of this section from the regulatory provisions of this section. This section shall be prospective only, and shall not impair any existing contracts.
- (b) *Exemptions*. This section shall not apply to:
  - (1) Bona fide farm operations as defined in the Florida Right to Farm Act, F.S. § 823.14.
  - (2) Other properties not subject to or covered under the Florida Right to Farm Act that have pastures used for grazing livestock.
  - (3) Yard waste compost, mulches, or other similar materials that are primarily organic in nature and are applied to improve the physical condition of the soil. Yard wastes shall not be disposed of or stored by shorelines, seawalls,

swales or near storm drains.

- (4) Athletic fields that are maintained by a public entity and used by the public are exempt from fertilizer application regulations under section 18-64(f)(1) of this article.
  - (5) Newly planted turf and/or landscape plants may be fertilized only for a 60 day period beginning 30 days after planting, if needed to allow the plants to become well established. Caution should be used to prevent direct deposition of nitrogen and phosphorus into the water.
- (c) *Impervious surfaces.* Fertilizer shall not be applied, spilled, or otherwise deposited on any impervious surfaces. Any fertilizer applied, spilled, or deposited, either intentionally or accidentally, on any impervious surface shall be immediately and completely removed. Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf or any other legal site, or returned to the original or other appropriate container. In no case shall grass clippings, vegetative material, and/or vegetative debris, including coconuts either intentionally or accidentally, be washed, swept, thrown, or blown off into stormwater drains, ditches, conveyances, water bodies, wetlands, sidewalks or roadways.
- (d) *Fertilizer free zones.*
- (1) Fertilizer shall not be applied within ten feet of any pond, stream, storm drain, watercourse, lake, canal or wetland as defined by the Florida Department of Environmental Protection, or from the top of a seawall.
  - (2) Spreader deflector shields are required when fertilizing adjacent to fertilizer free zones or impervious surfaces.
- (e) *Timing of fertilizer application.* No applicator shall apply fertilizers containing nitrogen or phosphorous to turf and/or landscape plants during the rainy season (June 1 - September 30) and the prohibited application period and to saturated soils.
- (f) *Fertilizer content and application rate.*
- (1) Phosphorus fertilizer shall not be applied to turf or landscape plants unless a soil or tissue deficiency has been verified by an approved test. Where a deficiency has been verified, phosphorous fertilizer shall not be applied at application rates that exceed 0.25 lbs. P<sub>2</sub>O<sub>5</sub>/1000 ft<sup>2</sup> per application and not to exceed 0.50 lbs. P<sub>2</sub>O<sub>5</sub>/1000 ft<sup>2</sup> per year.
  - (2) Fertilizer applied to turf or landscape plants within the city must contain no less than 50 percent slow release nitrogen per guaranteed analysis label as guaranteed analysis and label are defined in F.S. ch. 576.
  - (3) *Total yearly applications.* Fertilizers shall not be applied more than four times during any one calendar year to a single area. No more than four pounds of nitrogen per 1,000 square feet shall be applied to any turf or landscape area in any calendar year.
  - (4) Where fertilizer application is not described in this article, fertilizer shall be applied in accordance with requirements and directions provided by Fla. Admin. Code R. 5E-1.003 for turf and as found in UF/IFAS recommendations for landscape plants, vegetable gardens, and fruit trees and shrubs.
- (g) *Education and outreach.*
- (1) The city will provide educational materials, notices and/or presentations notifying residents that fertilizers applied within the city shall be formulated and applied in compliance with this section.
  - (2) The beautification committee, in conjunction with city staff, shall incorporate into their community outreach programs no less than two educational sessions on the requirements of the fertilizer ordinance per year.
  - (3) Retail businesses within the city selling fertilizer are requested to post a notice in a conspicuous location near the fertilizer notifying customers of the fertilizer ordinance.

## Sec. 18-65. - Permitting, penalties and enforcement.

- (a) *Permitting.* All persons intending to apply fertilizer are required to obtain appropriate permits from the city.
- (1) A minimum of one business day prior to fertilizer application within the city, the person must apply for an e-mail permit, free of charge, indicating the location, type of fertilizer and acknowledgement that a spreader deflector will be utilized.
  - (2) Codes enforcement may visit any site where fertilization is occurring and stop work if a permit was not received or if improper products or methods are being employed.
- (b) Upon the request of code enforcement, applicators shall be required to provide the label for fertilizer being applied to verify compliance with this article.
- (c) Any person who violates any provision of this article shall be guilty of a noncriminal infraction. Violators will be subject to the issuance of a citation imposing the following penalties:
- (1) First violation: a fine up to \$150.00; and
  - (2) Each subsequent violation: a fine not to exceed \$300.00.
- (d) 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 magistrate pursuant to this Code, chapter 14 of this Code, and Florida law.

(Ord. No. 16-02, § 2, 3-7-2016)

## Secs. 18-66—18-100. - Reserved.