

AN ORDINANCE RELATING TO THE SALE OF PHOSPHORUS-BASED FERTILIZERS

THE CITY COUNCIL OF THE CITY OF OAK PARK HEIGHTS, WASHINGTON COUNTY, MINNESOTA, DOES ORDAIN:

1124.01 Purpose. The City has reviewed studies and existing data to determine the current and projected water quality of various streams, and wetlands within its community. The data indicates that water quality may be maintained and improved if the City is able to regulate the amount of lawn fertilizer and other chemicals entering the lakes as a result of storm water runoff or other causes. The purpose of this ordinance is to define regulations which will aid the City in managing and protecting its water resources which are enjoyed by its residents and other users.

1124.02 Definitions. For the purpose of this section, certain terms and words are defined as follows:

"Commercial Applicator" is a person who is engaged in the business of applying fertilizer for hire.

"Fertilizer" means a substance containing one or more recognized plant nutrients that is used for its plant nutrient content and designed for use or claimed to have value in promoting plant growth. Fertilizer does not include animal and vegetable manures that are not manipulated, marl, lime, limestone, and other products exempted by Rule by the Minnesota Commissioner of Agriculture.

"Noncommercial Applicator" is a person who applies fertilizer during the course of employment, but who is not a commercial lawn Fertilizer applicator.

"Pesticide" means a substance or mixture of substances intended to prevent, destroy, repel, or mitigate a pest, and a substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

1124.03. Regulations for Commercial Lawn Fertilizer Applicators.

Subdivision 1. License Required. No person, firm, corporation or franchise shall engage in the business of commercial lawn fertilizer applicator within the City unless a license has been obtained from the City Clerk or a designee as provided herein.

Subdivision. 2. License Application Procedure. Applicants for a commercial lawn fertilizer applicator license shall be submitted to the City Manager or a designee. The application shall consist of the following:

(a) Application Form. Application forms shall be provided by the City and shall include the following instructions:

(1) Name, address and telephone number of applicant and any individuals authorized to represent the applicant.

(2) Description of lawn fertilizer formula proposed to be applied on lawns within the City.

(3) A time schedule for application of lawn fertilizer and identification of weather conditions acceptable for lawn fertilizer application.

(b) Product Material Safety Data Sheet. A copy of Material Safety Data Sheet, including product chemical analysis of the intended lawn fertilizer, shall be submitted to the City along with the initial application for a license, and, thereafter, at least seven days before fertilizer composition changes are implemented.

(c) Minnesota State Licenses. A copy of all licenses required of the applicant by the State of Minnesota regarding the application of pesticides and fertilizers.

(d) License Fee. The license fee shall be as established by Resolution of the city council. The license shall expire on the 31st day of December. The license fee shall not be prorated.

Subdivision. 3. Conditions of License. Commercial lawn fertilizer applicator licenses shall be issued subject to the following conditions which shall be specified on the license form:

(a) Random Sampling. Commercial lawn fertilizer applicators shall permit the City to sample any commercial lawn fertilizers to be applied within the City at any time after issuance of the initial license.

(b) Possession of License. The commercial lawn fertilizer license, or a copy thereof, shall be in the possession of any party employed by the commercial lawn fertilizer applicator when making lawn fertilizer applications within the City.

(c) Possession of Product Material Safety Data Sheet. A copy of product Material Data Safety Sheet of the lawn fertilizer used shall be in the possession of any party employed by the commercial lawn fertilizer applicator when making lawn fertilizer applications within the City.

(d) State Regulations. Licensee shall comply with the provisions of the Minnesota Fertilizer and Soil Conditioner Law as contained in the Minnesota Statutes Chapter 18B.

1124.04. General Regulations.

Subdivision 1. Time of Application. Neither commercial applicators or noncommercial applicators may apply lawn fertilizer when the ground is frozen or when conditions exist which will promote or create runoffs.

Subdivision. 2. Sample Analysis. Cost. The cost of analyzing fertilizer samples taken from commercial applicators shall be paid by the commercial applicators if the sample analysis indicates that phosphorus content exceeds the levels authorized herein.

1124.05 Fertilizer Content. No person, firm, corporation, franchise, or commercial or noncommercial applicator, including homeowners or renters, shall sell any lawn fertilizer, liquid or granular, within the City of Oak Park Heights which contains

any amount of phosphorus or other compound containing phosphorus, such as phosphate, except:

- (a) the naturally occurring phosphorus in unadulterated natural or organic fertilizing products such as yard waste compost;
- (b) or as otherwise provided under regulations of the Minnesota Department of Agriculture.

1124.06 Impervious Surfaces and Drainage Ways. No person shall apply fertilizer to impervious surfaces, areas within drainage ditches, or waterways.

1124.07 Buffer Zone. Fertilizers and pesticides shall not be applied:

- (a) below the Ordinary High Water lines as established by the Minnesota Department of Natural Resources; or
- (b) within ten (10) feet of any wetland or water resource.

1124.08 Warning Signs for Pesticide Application. All commercial or noncommercial lawn fertilizer applicators who apply pesticides to turf areas must post or affix warning signs on the property where the pesticides are applied. The warning signs shall comply with the following criteria and contain the following information:

- (a) The warning signs must project at least eighteen (18) inches above the top of the grass line. The warning signs must be of a material that is rain resistant for at least a forty-eight (48) hour period and must remain in place up to forty-eight (48) hours from the time of initial application.
- (b) The following information must be printed on the warning signs in contrasting colors and capitalized letters measuring at least one-half inch (1/2"), or in another format approved by the Minnesota Commissioner of Agriculture. The signs must provide the following information:
 - (1) The name of the business, entity, or person applying the pesticide; and
 - (2) The following language: "This area chemically treated. Keep children and pets off until (date of safe entry)" or a universally accepted symbol and text approved by the Minnesota Commissioner of Agriculture as recognized as having the same meaning or intent as specified in this subparagraph. The warning signs may include the name of the pesticide used.
- (c) The warning sign must be posted on a lawn or yard between two (2) feet and five (5) feet from the sidewalk or street. For parks, golf courses, athletic fields, playgrounds, or other similar recreational property, the warning signs must be posted immediately adjacent to areas within the property where pesticides have been applied and at or near the entrance to the property.

- 1124.09. Exemption to Phosphorus Requirement. The prohibition against sale of fertilizer containing any quantity of phosphorus under Section 1124.04 shall not apply to sales affecting:
- (a) newly established or developed turf and lawn areas during first growing season; or
 - (b) turf and lawn areas which soil tests confirm are below phosphorus levels established by the University of Minnesota Extension Services. The lawn fertilizer application shall not contain an amount of Phosphorus exceeding the amount of phosphorus and the appropriate application rate recommended in the soil test evaluation.
- 1124.10 Construction and Interpretation. The provisions of this code shall be construed, interpreted and applied to be consistent with the Regulations promulgated by the Minnesota Department of Agriculture regarding the use of pesticides and phosphorus based fertilizers for lawn care applications.
- 1124.11 Penalty. Any person violating this Chapter shall be guilty of a petty misdemeanor.