

ORDINANCE NO. 192

SPRING LAKE TOWNSHIP FERTILIZER ORDINANCE

AN ORDINANCE TO REGULATE THE APPLICATION OF CERTAIN MANUFACTURED FERTILIZERS IN THE TOWNSHIP; TO REQUIRE LICENSURE OF CERTAIN APPLICATORS OF MANUFACTURED FERTILIZERS; TO PROVIDE PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; AND TO REPEAL ALL CONFLICTING ORDINANCES OR PARTS OF ORDINANCES.

THE TOWNSHIP OF SPRING LAKE, OTTAWA COUNTY, MICHIGAN ORDAINS:

Section 1. Title.

This Ordinance shall be known and cited as the Spring Lake Township Fertilizer Ordinance.

Section 2. Intent and Purpose.

- A. Based upon scientific studies and general knowledge, the Township Board has determined that phosphorus, which is contained in most manufactured fertilizers, when used within the Township, enters into the Township's water resources, resulting in excessive and accelerated growth of algae and aquatic plants. The Township Board has therefore determined that it is necessary and in the public interest to regulate the application of manufactured fertilizers containing phosphorous within the Township.
- B. It is also the purpose and intent of this Ordinance to require licensure of commercial and institutional applicators of manufactured fertilizers within the Township.

Section 3. Definitions.

The following words and phrases, as used in this Ordinance, shall have the meanings stated respectively in this section.

- A. **Commercial Applicator.** Any individual or entity that applies manufactured fertilizer in the Township in exchange for money or other valuable consideration.
- B. **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 Spring Lake Township Zoning Ordinance.

- C. **Manufactured Fertilizer.** A commercially manufactured substance which enriches the soil and contains elements desirable for turf growth.
- D. **Turf.** A covering of grass vegetation which has both aesthetic and functional benefits maintained at a given level of management.

Section 4. Prohibition on Phosphorus Fertilizers in Township.

No manufactured fertilizer containing any amount of anhydric phosphoric acid shall be applied on lawns or other turf areas within the Township. 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.

Section 5. 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 Township Clerk.
- B. Regardless of any other provision in this Ordinance 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 Township Clerk, and the Township 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 subsection, 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.

Section 6. 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 Township before they apply manufactured fertilizers on any lands in the Township.
- B. A license issued under this Ordinance 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 Township 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 Ordinance 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 Township Board.
- F. The Township Clerk shall review the completed application and determine whether the manufactured fertilizers to be used comply with the provisions of this Ordinance.
- G. If the application is complete, and if the proposed use of manufactured fertilizer would comply with the terms of this Ordinance, a numbered license shall be issued. The license shall expire two years from the date of issuance.
- H. The Township Clerk shall maintain a list of all currently-licensed commercial and institutional applicators.

Section 7. Violation; Penalties; Enforcement.

- A. A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$250.00 nor more than \$500.00 for the first offense, and not less than \$500.00 nor more than \$1,000.00 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 Township in enforcing the Ordinance or remedying the violation of the Ordinance. For purposes of this section, "subsequent offense" means a violation of this Ordinance committed with respect to a separate incident by the same person within 12 months after a previous violation of the Ordinance 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 Ordinance is declared to be a nuisance *per se*. In addition to other penalties and remedies, the Township may seek injunctive relief against the violator, in addition to other relief provided by law.
- C. If a commercial or industrial applicator is found in violation of this Ordinance, the Township Board, 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 Ordinance on more than one occasion in any one calendar year, the Township Board 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 Board may determine.

Section 8. Appeals.

Any homeowner or applicator of manufactured fertilizer aggrieved by a decision made by the Township Clerk under this Ordinance shall have the right to appeal to the Township Board.

- A. The appeal shall be commenced by filing with the Township Board 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 Ordinance pending the outcome of the appeal.
- B. The Township Board shall consider the appeal at a public meeting. The Board shall affirm, affirm with conditions or reverse the decision or determination being appealed, consistent with the terms of this Ordinance.

Section 9. Severability.

The various parts, sentences, paragraphs, sections and clauses of this Ordinance are severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected.

Section 10. Effective Date.

This ordinance was approved and adopted by the Township Board of the Township of Spring Lake, Ottawa County, Michigan, on December 12, 2005, and it is ordered to take effect 30 days after publication of the ordinance or of a summary in the *Grand Haven Tribune*, a newspaper having general circulation in the Township, pursuant to the provisions of Act No. 191 of the Public Acts of 1939, as amended.

John H. Nash, Supervisor

H. Carolyn Boersma, Clerk

CERTIFICATE

I, H. Carolyn Boersma, the Clerk for the Township of Spring Lake, Ottawa County, Michigan, certify that the foregoing Fertilizer Ordinance was adopted at a regular meeting of the Township Board held on December 12, 2005. The following members of the Township Board were present at that meeting: John Nash, H. Carolyn Boersma, Lou Draeger, Norma Cook, Ronald Lindquist, Robert Shay and Lawrence Mierle. The following members of the Township Board were absent: None. The Ordinance was adopted by the Township Board with members of the Board Nash, Boersma, Draeger, Cook, Lindquist and Shay voting in favor, and members of the Board Mierle voting in opposition. The Ordinance was published in the *Grand Haven Tribune* on December 21, 2005.

H. Carolyn Boersma, Clerk