

Agenda Item 12
Meeting of 4/20/11

RESOLUTION 11-12883

A RESOLUTION URGING THE COLLIER COUNTY BOARD OF COUNTY COMMISSIONERS TO ADOPT FERTILIZER ORDINANCE REGULATIONS ANALOGOUS TO THE CITY OF NAPLES' FERTILIZER ORDINANCE (CHAPTER 52, ARTICLE VII OF THE CODE OF ORDINANCES); DIRECTING THE CITY CLERK TO FORWARD A COPY OF THIS RESOLUTION TO THE BOARD OF COUNTY COMMISSIONERS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Naples has recognized the detrimental effects of the introduction of excessive amounts of nitrogen and phosphorus into the local bays and estuaries surrounding Naples; and

WHEREAS, fertilizer is a major source of these excess nutrients that reach natural waterbodies through stormwater runoff; and

WHEREAS, a significant portion of fertilizer-based pollution can be ameliorated by using the correct fertilizer and the correct application methods; and

WHEREAS, nitrogen from slow release fertilizers has been shown to be less likely to run off the land and pollute natural waterbodies; and

WHEREAS, supplementing fertilizer containing phosphorous is unnecessary for most sites located within Collier County and its incorporated municipalities; and

WHEREAS, prohibiting the application of fertilizer during the rainy season lessens excess nutrient runoff; and

WHEREAS, on March 5, 2008, City Council adopted an ordinance that regulates the indiscriminate use of fertilizer; and

WHEREAS, a portion of the pollutant laden runoff reaching waterbodies in the City of Naples originates in Collier County and its incorporated municipalities, and their associated riverine and estuarine ecosystems; and

WHEREAS, Collier County is considering the adoption of a fertilizer ordinance that would address the application of fertilizer within the bounds of the County; and

WHEREAS, the City of Bonita Springs, Lee County, and the City of Marco Island, with adjoining boundaries to Collier County, have adopted or are in the process of adopting fertilizer ordinance regulations similar to that of the City of Naples; and

WHEREAS, divergence between local governments in the stringency of their fertilizer ordinances can lead and has led to confusion for landowners and fertilizer applicators; and

WHEREAS, the establishment of uniformity between adjacent local government fertilizer ordinances will not only alleviate uncertainty but also lead to enhanced watershed management; and

WHEREAS, it is important for fertilizer applicators to obtain education and certification by taking appropriate classes;


NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPLES, FLORIDA:

Section 1. That the Mayor and City Council, representing the City of Naples as an incorporated municipality within Collier County, requests that Collier County adopt a fertilizer ordinance that contains all the elements of an effective and protective fertilizer ordinance similar to the City's ordinance, Chapter 52, Article VII of the Code of Ordinances, for the purposes of regional consistency, as well as to protect our regional water quality, a copy of which chapter is attached hereto and made a part hereof.


Section 2. The City Clerk is hereby directed to forward a copy of this Resolution to the Collier County Board of County Commissioners.

Section 3. That this resolution shall take effect immediately upon adoption.

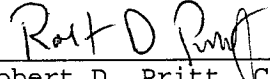
PASSED IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA, THIS 20TH DAY OF APRIL, 2011.


Bill Barnett, Mayor

Attest:


Tara A. Norman, City Clerk

Approved as to form and legality:


Robert D. Pritt, City Attorney

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Date filed with City Clerk: 4-22-11

ARTICLE VII. - LAWN AND LANDSCAPE MAINTENANCE AND CONTENT OF FERTILIZER**Sec. 52-181. - Purpose and intent.**

(a)

Purpose and intent.

(1)

The purpose and intent of this article is 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 of Naples. Stormwater runoff is a major source of pollution for our natural waters, and in order to improve the water quality of the waterbodies within and surrounding the city and restore their estuarine ecosystem, the amount and kinds of pollution flowing into these waterbodies must be reduced. Collectively these natural waters are an asset that is critical to the environmental, recreational, cultural, and economic well-being of Naples and the surrounding areas and contribute to the general health and welfare of the public. Therefore, regulation of nutrients, including both nitrogen and phosphorous, contained in fertilizer entering the above-referenced waterbodies is crucial. Reducing the negative effects of nutrient pollution combined with lawn and landscape maintenance professional certification will be an essential step towards improving and maintaining water and habitat quality. The use of low phosphorous and slow release nitrogen fertilizers is strongly encouraged as Florida soils typically contain sufficient phosphorous for a healthy native or man-made landscape and nitrogen can quickly and easily run off landscapes. Certification will result in increasing the knowledge of lawn and landscape maintenance professionals, and their residential and business customers, of:

a.

The effects of pesticides, fertilizers and overwatering on the environment;

b.

Ways to reduce the amount of fertilizers and pesticides utilized; and

c.

Methods to limit water use on lawns and landscapes thus potentially lowering the impacts of nonpoint source pollution on local waterbodies.

(2)

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 nutrients reaching the waterbodies within and surrounding the City of Naples and their associated watersheds.

(b)

Scope.

(1)

A program aimed at moderating the impacts of nutrient runoff from lawns and landscaped areas within the watersheds of the waterbodies within and surrounding the City of Naples is hereby established whereby persons will be certified by the city to perform lawn and landscape work upon exhibiting a professional level of knowledge.

(2)

A program aimed at reducing the levels of nutrients reaching our natural waterbodies as a result of improper application and content of fertilizer applied throughout the city

is hereby instituted since most soils already have enough phosphorous present and nitrogen from slow release sources is less likely to run off the land and pollute natural waterbodies.

(Ord. No. 08-11972, § 1, 3-5-2008)

Sec. 52-182. - 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. Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application:

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

Commercial fertilizer applicator means any person who applies fertilizer on turf or landscape plants within the city in exchange for money, goods, services, or other valuable consideration.

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 one or more recognized 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.

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 non-commercial 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 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).

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

Non-commercial 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.

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 city manager.

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 reference "rapid release nitrogen" product. Forms of slow release, controlled release, slowly available, or water insoluble nitrogen include:

- (1) Isobutylidene diruea (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.

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

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 62-340 F.A.C.].

(Ord. No. 08-11972, § 1, 3-5-2008)

Sec. 52-183. - Applicability.

This article shall be applicable to and shall regulate any applicators of fertilizer within the city unless such applicator is specifically exempted or excepted by the terms of this article from the regulatory provisions of this article. This section shall apply to retail businesses within the city selling fertilizer.

(Ord. No. 08-11972, § 1, 3-5-2008)

Sec. 52-184. - Timing of fertilizer application; content and application rate; impervious surfaces; buffer zones; and mode of application.

- (a) *Timing of application.* No applicator shall apply fertilizers containing nitrogen or phosphorous to turf or landscape plants during the rainy season.
- (b) *Fertilizer content and application rate.*

- (1) No fertilizer shall be applied to turf or landscape plants within the city that contains more than two percent phosphorous or other compounds containing phosphorous, such as phosphate, per guaranteed analysis label as guaranteed analysis and label are defined in F.S. Ch. 576.
- (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) Fertilizers should be applied to turf or landscape plants at the lowest rate necessary without exceeding the maximum rate per application. Fertilizer shall not be applied at a rate greater than one pound of nitrogen per 1,000 square feet per application. 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.
- (c) *Total yearly applications.* Fertilizers shall not be applied more than four times during any one calendar year to a single area.
- (d) *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.
- (e) *Buffer zones.* No fertilizer shall be applied within ten feet of any pond, stream, water course, lake, canal, wetland, or other waterbody.
- (f) *Mode of application.* Spreader deflector shields are required when fertilizing adjacent to buffer zones or impervious surfaces. The shields must be positioned such that fertilizer granules are deflected away from all impervious surfaces and buffer zones.

(Ord. No. 08-11972, § 1, 3-5-2008)

Sec. 52-185. - Exemptions.

- (a) The timing of applications, fertilizer content, application rate provisions, and other provisions set forth above in subsections 52-184 of this article shall not apply to:
 - (1) Newly established turf or landscape plants for the first 60 days after installation or planting, provided documentation for newly established turf or landscape plants is maintained to support this exemption;
 - (2) Areas where soil tests confirm, and such tests are confirmed and approved by the natural resources manager or designee, that phosphorous levels are below ten parts per million. This is equivalent to a "very low" designation for phosphorous set forth in the University of Florida Institute of Food and Agricultural Science Extension Soil Testing Laboratory Procedures Training Manual (Circular 1248, September 2002);
 - (3) Vegetable gardens;
 - (4) 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.

- (b) For all golf courses, the provisions of the Florida Department of Environmental Protection document, "Best Management Practices for the Enhancement of Environmental Quality on Florida Golf Courses, 2007," as updated, shall be followed when applying fertilizer to golf course practice and play areas.

(Ord. No. 08-11972, § 1, 3-5-2008)

Sec. 52-186. - Lawn and landscape maintenance-mandatory certification requirements.

- (a) *Certification of lawn and landscape professionals.* The provisions contained in this section shall constitute the requirements for certification of lawn and landscape maintenance professionals by the city.
- (b) *General requirements.* No commercial or institutional applicator shall apply fertilizer without first obtaining a city certification as a lawn and landscape maintenance professional.
- (c) *Certification.* To obtain city certification as a lawn and landscape maintenance professional, a person shall demonstrate competency through successful completion of a best management practices course, the curriculum of which will be approved by, provided by, or under the supervision of, the city and which will include at a minimum, the following general standards of competency:
- (1) Effects on the environment from sediment, nutrients, and pesticides moving off site through surface or ground water.
 - (2) Site design and plant selection that enhances the natural environment.
 - (3) Rates and methods of applying fertilizer and irrigation that minimize negative environmental consequences.
 - (4) Utilization of integrated pest management to both minimize pests and decrease chemical applications.
- (d) *Specific standards of competency.* In addition to the general standards of competency, a person seeking lawn and landscape maintenance certification shall provide evidence of having completed a course of study with at least six hours of instruction in the areas identified under the general standard of competency.
- (e) *Certification.* The city will provide a person who has satisfied the general and specific standards of competency set forth in this section, with a state certificate and landscape certification card indicating that the person is a certified lawn and landscape maintenance professional for the specified duration.
- (f) After obtaining city certification as stated above, all certificate holders shall annually enroll in and successfully complete a refresher course.
- (g) *Administration.* The program shall be administered by the city manager through the city's natural resources division. The city manager is authorized to determine the qualifications of any applicant or any person performing lawn and landscape maintenance and to enforce this article as provided herein. The determination of qualifications of an applicant by the city manager may be appealed to the city council by filing of an appeal within 14 days after

receipt of determination. The city council will conduct a hearing within 30 days, or will appoint a special magistrate within 60 days. The time periods may be waived by consent of the applicant and the city manager. The determination by city council will constitute final agency action.

(h)

Procedure for application for certification.

(1)

A person requesting certification by the city as a lawn and landscape maintenance professional shall obtain an application for certification from the city that requires proof of completion of a course of instruction in the areas identified under the standards of competency.

(2)

The initial application fee and annual renewal fee shall be set forth in the city's fee schedule, Appendix A, and will be used to defray the costs of the program, including without limitation, record keeping associated with the certification credentials, production of certificates and landscape certification cards, and all aspects of the written and verbal communications concerning the educational requirements.

(i)

[*Staff certification.*] Lawn and landscape maintenance shall be performed only by those businesses that have at least one supervisor and a minimum of ten percent of their field operations staff certified by the city as lawn and landscape professionals.

(Ord. No. 08-11972, § 1, 3-5-2008)