

## **Chapter 650 MANUFACTURED FERTILIZER**

### **650.01. Findings, Intent and Purpose.**

- (a) The City Commission finds that manufactured fertilizers containing phosphorus when used within the City of Battle Creek, enters into the City's and neighboring communities' water resources, including wetlands and watercourses, resulting in excessive and accelerated growth of algae and aquatic plants which is detrimental to these resources.
- (b) The City Commission finds that most topsoil in the City has a sufficient level of phosphorus, which occurs naturally to promote adequate turf root growth.
- (c) The City commission finds and determines that it is necessary and appropriate to regulate the application of manufactured fertilizer on general turf to reduce the adverse impact of fertilizer runoff to lakes, ponds, rivers, streams, wetlands and other water resources in the City.
- (d) It is the purpose and intent of this chapter to regulate the application of manufactured fertilizers only on general turf areas and not on or in areas such as gardens, farms, or landscape amenities.
- (e) It is the further purpose and intent of this chapter to regulate the use and application of manufactured fertilizer and manufactured fertilizer containing phosphorus within the City, and to require the distribution of informational literature to commercial and institutional applicators, commercial sellers, and consumers about the use and effect of manufactured fertilizers and manufactured fertilizers containing phosphorus.

### **650.02. Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meanings described in this section:

- (a) *Applicator* means any person who applies manufactured fertilizer on general turf in the City including, but not limited to, homeowners, occupants of rental property, and property managers.
- (b) *Commercial applicator* means any person who applies manufactured fertilizer on general turf in the City in exchange for money, goods, services, or other valuable consideration.
- (c) *Commercial seller* means any person who sells or displays for sale any manufactured fertilizer in the City.
- (d) *Fertilizer Program Administrator* means the person or persons designated to administer and enforce this chapter by the City Manager.
- (e) *General turf* means nonagricultural land managed using a covering of turf grasses having aesthetic or functional benefits, or both, including but not limited to residential lawns, cemeteries and park areas; as well as commercial, educational and governmental grounds and golf courses. General turf does not include vegetable and flower gardens, sod farms, pasture or other land used for agricultural production.
- (f) *Institutional applicator* means any person who applies manufactured fertilizer to general turf areas of more than 1 acre. Institutional applicators shall include but shall not be limited to, owners, operators and caretakers of public lands, parks, schools, religious

institutions, utilities, industrial or business sites and any residential properties maintained in condominium or common ownership. Owners of individual parcels in single-family residential zoning districts shall not be considered institutional applicators.

(g) *Manufactured fertilizer* means a commercially manufactured liquid or granular substance containing one or more recognized plant nutrients, which is used for its plant nutrient content and which is designed for use, or claimed to have value, in promoting plant growth and which may also contain pesticides. Fertilizer does not include unmanipulated animal and vegetable manures, marl, lime, limestone, and wood ashes.

(h) *Soil test* means a set of scientific measurements that determine the basic texture of soil, the pH level of the soil, and the various nutrient levels of phosphorus, potassium, calcium and magnesium in soil, for the purpose of providing a fertilizer recommendation regarding the amount of nutrients and rate of application of nutrients for general turf growth.

(i) *Soil testing service* means a company, organization, or City service unit designated by the Fertilizer Program Administrator to perform soil tests and recommend fertilizer application rates.

#### **650.03. Regulation of the use and application of manufactured fertilizer.**

(a) Manufactured fertilizer shall not be applied prior to March 15 or after November 15 in any year due to the inability of frozen soil to absorb nutrients.

(b) Manufactured fertilizer shall not be applied when conditions exist which can reasonably be anticipated to promote or create runoff, as for example, when heavy rain is forecast.

(c) Manufactured fertilizers shall not be applied or deposited on driveways, parking lots, streets, sidewalks, or other impervious surfaces. Any fertilizer applied or spilled, whether intentionally or accidentally, on an impervious surface shall be completely removed within one hour by its legal application to general turf or other lawful area or it being appropriately containerized.

(d) Manufactured fertilizer shall not be applied within 25 feet of any wetland, lake, river, stream, drain, watercourse, or storm water retention or detention basin.

(e) Manufactured fertilizers shall not be applied more than once every six weeks or more than five times during any one calendar year to a general turf area.

#### **650.04. Regulation of the use and application of manufactured fertilizer containing phosphorus.**

(a) Except as otherwise permitted by the terms of this chapter, manufactured fertilizer that contains any amount of phosphorus or a compound containing phosphorus, such as phosphate, shall not be applied to general turf within the City.

(b) Manufactured fertilizer containing any amount of phosphorus or a compound containing phosphorus shall be watered into the soil within 24 hours of application so that the fertilizer is immobilized and prevented from loss by stormwater runoff.

**650.05. Exemption for the use and application of manufactured fertilizer containing phosphorus.**

(a) The prohibition against the application of manufactured fertilizer containing any amount of phosphorus or a compound containing phosphorus in this chapter shall not apply to:

(1) General turf that is being established from seed or sod, during the first growing season of the seed or sod.

(2) General turf areas where a soil test completed within the last 3 years has indicated that the level of phosphorus in the soil is insufficient to support turf growth.

(b) A level of phosphorus in a soil test that is less than or equal to 10 parts per million indicates that the level of phosphorus in the soil is insufficient to support turf growth.

(c) The application of manufactured fertilizer allowed under this section shall not exceed the amount or rate of application of phosphorus or a compound containing phosphorus recommended by the soil test.

**650.06. Soil testing.**

(a) A soil sample or samples shall be taken from the general turf area on which an applicator is proposing to apply manufactured fertilizer containing phosphorus or a compound containing phosphorus, following the procedure required by the soil testing service.

(b) The applicator shall submit the soil sample to the soil testing service, following the procedure required by the soil testing service.

(c) The soil testing service shall determine the rate and application of manufactured fertilizer containing phosphorus based on the results of the soil test and the requirements of this chapter.

(d) The results of the soil test shall be maintained by the applicator for a period of 3 years following receipt of the test from the soil testing service.

(e) The applicator shall provide a copy of the soil test results to the Fertilizer Program Administrator within 48 hours of a written request for the test results by the Fertilizer Program Administrator.

**650.07. Inspections and responsibility of commercial and institutional applicators.**

(a) A commercial or institutional applicator shall have readily available the product name, type of use, and the percentage weight and ratio of elemental phosphorus for every manufactured fertilizer applied to general turf along with the corresponding material safety data sheets. The applicator is required to present this information upon request of the Fertilizer Program Administrator.

(b) A commercial or institutional applicator of manufactured fertilizer shall provide a 5-ounce random sample of any manufactured fertilizer used by the commercial or institutional applicator in the city upon request by the Fertilizer Program Administrator.

(c) A commercial or institutional applicator of manufactured fertilizers shall immediately provide soil test results for a general turf area where the applicator has applied manufactured fertilizer containing phosphorus or compounds containing phosphorus within 48 hours of a written request for the test results by the Fertilizer Program Administrator.

(d) The Fertilizer Program Administrator shall have the right to inspect property on which manufactured fertilizer has been applied by a registered applicator and to otherwise monitor applicators for conformance with this chapter.

(e) It shall be a violation of this chapter:

(1) If a manufactured fertilizer sample provided by a commercial or institutional applicator is found to contain phosphorus and the application of the fertilizer is not in compliance with the provisions of this chapter.

(2) If a commercial or institutional applicator fails to provide the product name, type of use, and the percentage weight and ratio of elemental phosphorus for every manufactured fertilizer applied to general turf.

(3) If a commercial or institutional applicator fails to immediately provide upon request the corresponding material data safety sheets for the manufactured fertilizer being applied.

(f) The conduct of the agents and employees of a commercial or institutional applicator, while engaged in the application of manufactured fertilizer, is deemed the conduct of the commercial and institutional applicator, subjecting the principal or employer to the municipal civil infraction penalties of this chapter.

#### **650.08. Inspections and responsibility of other applicators**

(a) Applicators who are not commercial or institutional applicators shall have readily available the product container including the name, type of use, and the percentage weight and ratio of elemental phosphorus for every manufactured fertilizer as it is being applied to general turf and for a 24 hour period thereafter. The applicator is required to present this information upon request of the Fertilizer Program Administrator.

(b) The Fertilizer Program Administrator shall have the right to inspect property on which manufactured fertilizer has been applied by a residential applicator.

(c) It is a violation of this chapter if an applicator fails to provide the product information for every manufactured fertilizer being applied to general turf.

#### **650.09. Information regarding manufactured fertilizer.**

(a) The City shall prepare an informational pamphlet that includes, at a minimum, the following information:

(1) A summary, or the complete text, of this chapter.

(2) Facts regarding the environmental benefit of phosphorus reduction.

(3) A description of the penalties for violation of this chapter.

(4) A City phone number and website address where additional information will be available.

(b) A copy of the informational pamphlet shall be made available to commercial applicators and commercial sellers no later than March 1 of each year. Commercial applicators and sellers may make copies of the informational pamphlet for distribution.

#### **650.10. Required distribution of information regarding manufactured fertilizer.**

(a) A commercial applicator shall provide at least one copy of the informational pamphlet to the owner or occupant of each address where the commercial applicator applies manufactured fertilizer prior to the application of fertilizer for that calendar year,

except only one informational pamphlet is required to be provided for multiple addresses on one parcel of land with the same ownership, such as apartments.

(b) A commercial seller shall display the informational pamphlet, and have copies of the informational pamphlet available to customers, in a conspicuous location adjacent to the display of any manufactured fertilizer for sale.

**650.11. Effective date.**

This chapter shall become effective on March 15, 2009.

**650.99. Penalties.**

(a) Each violation of this chapter will be a municipal civil infraction punishable by a fine of up to \$1,000.00. The fine any violation of this chapter shall be no less than \$100.00, except that the fine for each violation of this chapter by a commercial applicator, an institutional applicator, or a commercial seller shall be no less than \$250.00.

(b) A violation of this chapter is declared to be a nuisance *per se*. In addition to the penalty provided, the City may seek injunctive relief against the violator, an action for damages, and any other relief available or provided by law or equity.

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