

ORDINANCE 07-

AN ORDINANCE RELATING TO LAWN AND LANDSCAPE MAINTENANCE AND THE CONTENT OF FERTILIZERS APPLIED TO LAWNS AND LANDSCAPED AREAS WITHIN THE CITY; CREATING A NEW ARTICLE VII OF CHAPTER 52 OF THE CITY OF NAPLES CODE OF ORDINANCES REQUIRING LAWN AND LANDSCAPE MAINTENANCE TO BE PERFORMED BY CERTIFIED LAWN AND LANDSCAPE MAINTENANCE PROFESSIONALS; REQUIRING USE OF ORGANIC, NO PHOSPHORUS, AND SLOW RELEASE NITROGEN FERTILIZERS WHEN APPROPRIATE; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

WHEREAS, the City has implemented a program for certification of lawn and landscape professionals under Resolution 06-11245; and

WHEREAS, persons have become certified through the program; and

WHEREAS, it is now advisable to provide an enforcement mechanism to ensure that lawn and landscape maintenance is performed by certified professionals; and

WHEREAS, nitrogen, phosphorus, and heavy metals associated with fertilizer use within the City are a major source of pollution, primarily from runoff; and

WHEREAS, organic fertilizers contain relatively low concentrations of nutrients, release nutrients over a long time period, increase the organic content of soil, increase water holding capacity, increase bacterial and fungal activity, and are slow to leach from soil making them less likely to contribute to water pollution than synthetic fertilizers; and

WHEREAS, phosphorus is not a necessary fertilizer ingredient for all sites and all locations within the City; and

WHEREAS, nitrogen from slow release sources is less likely to run off the land and pollute natural water bodies; and

WHEREAS, a significant portion of pollutant runoff from the City reaches surrounding natural water bodies and

their associated riverine, estuarine, and marine ecosystems; and

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

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

Section 1: That a new Article VII of Chapter 52 of the Code of Ordinances, City of Naples, Florida, is hereby created by adding sections to be numbered 52-181, through 52-184, which shall read as follows:

Article VII. Lawn and Landscape Maintenance & Content of Fertilizer.

Sec. 52-181. Purpose and Scope.

(a). *Purpose.*

(1) Stormwater runoff is a major source of pollution for the natural water bodies within and adjacent to the City of Naples. In order to improve the water quality of these water bodies and restore their riverine, estuarine, and marine ecosystems, the amount and kinds of pollution flowing as stormwater must be reduced. There is a need to develop a stronger knowledge of the connection between yards, streets, stormwater, and natural water bodies among all those who live and work in Naples. Therefore, restrictions on the type of certain fertilizers and minimum standards for the certification of lawn and landscape maintenance professionals by the City are hereby established. 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 the riverine, estuarine, and marine environments.

(2) Nitrogen and phosphorus are essential ingredients for

plant growth; however, these nutrients create pollution problems when stormwater runoff carries them into natural water bodies. They promote algae blooms and other excessive plant growth. No phosphorus fertilizer, slow release nitrogen fertilizer, and organic fertilizer assure proper utilization and absorption by plants and lower levels of nutrients in stormwater runoff.

(b). *Scope.*

(1) A program aimed at moderating the impacts of stormwater runoff from lawns and landscaped areas on natural water bodies within and adjacent to 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) This ordinance relies also upon education and outreach to encourage proper environmental management of lawns and landscapes in an effort to reduce pollution reaching our natural water bodies.

(3) A program aimed at reducing the levels of nutrients in fertilizers applied throughout the City is hereby instituted since most soils already have enough phosphorus present, nitrogen from slow release sources is less likely to run off the land and pollute natural water bodies, and organic fertilizers are less likely to contribute to pollution than synthetic fertilizers.

Section 52-182. 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.* All persons working within the city as lawn and landscape maintenance professionals must be certified by the City.

(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 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:

- a. Provide evidence of having completed a course of study with at least 6 hours of instruction in the areas identified under the General Standard of Competency.
- b. Provide evidence annually of having completed 3 hours of continuing education in any of the areas identified in the General Standards of Competency during the past year.

(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 certificate and competency card indicating that the person is a certified lawn and landscape maintenance professional for the specified duration.

(f). *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 notice of the determination. The city council will conduct a hearing within 30 days, or will appoint a special magistrate to conduct the hearing and make a recommended order to the council 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.

(g). *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 as 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 certification credentials, production of certificates and competency cards, and all aspects of the written and verbal communications concerning the educational requirements.

(h). Lawn and landscape maintenance shall be performed only by those businesses that have at least one supervisor and a minimum of ten percent (10%) of their staff certified by the City as lawn and landscape professionals.

Section 52-183. Content of Fertilizers.

(a) This section delineates the acceptable content of fertilizers usable within the city for lawn and landscaped areas.

(b) "No phosphorus" fertilizers and slow release nitrogen fertilizers shall be utilized or applied to all lawn or landscaped areas where phosphorus is not required as a soil supplement or where immediate nitrogen release is not necessary. Whenever fertilizer is applied, organic fertilizer should be utilized and applied in place of synthetic fertilizer.

Section 52-184. Enforcement and Penalties.

The violation of any provision of this article shall subject the violator to any enforcement procedure and to the penalties provided in Section 1-15 of this code. This article may be enforced against any person actually committing the infraction and any owner or person in control of the property upon which the violation occurs or condition exists. Each day of violation shall constitute a separate offense.

Section 2. If any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

Section 3. That all sections or parts of sections of the Code of Ordinances, City of Naples, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

Section 4. This ordinance shall take effect immediately upon adoption at second reading.

APPROVED AT FIRST READING THIS _____ DAY OF _____, 2007.

PASSED AND ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND
REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA
THIS ____ DAY OF _____, 2008.

Bill Barnett, Mayor

Attest:

Approved as to form
and legality:

Tara A. Norman
City Clerk

Robert D. Pritt
City Attorney

Date filed with City Clerk:_____