

## **ORDINANCE NO. 1130**

An Ordinance adding Chapter 11, Section 11-12. Use and Sale of Fertilizer to the City of Marshfield Wisconsin Municipal Code defining and regulating the use and sale of fertilizers in the City of Marshfield.

The Common Council of the City of Marshfield do hereby ordain as follows:

Section 11-12 is hereby added to read as follows.

Section 11-12 Use and Sale of Fertilizer

### (1) PURPOSE

- (a) The purpose of this Section is to provide for the health, safety, and general welfare of the citizens of the City of Marshfield by regulating the amount of nutrients and contaminants, including phosphorus contained in fertilizer, to prevent or limit contamination of the City's natural groundwater system. The objectives of this Section are:
  - (i) To regulate the sale of fertilizers containing phosphorus
  - (ii) To regulate the application of fertilizers containing phosphorus

### (2) DEFINITIONS. For the purpose of this Section, the following definitions shall apply:

- (a) "Agricultural Land Uses" means alterations or disturbances of land for the production of food and fiber including, but not limited to, general farming, livestock and poultry enterprises, grazing, nurseries, horticulture, viticulture, truck farming, forestry, sod production, cranberry production and wild crop harvesting.
- (b) "City" means the City of Marshfield.
- (c) "Fertilizer" has the meaning set forth in §94.64(1)(e), Wis. Stats. By definition, "fertilizer" includes "lawn fertilizer."
- (d) "Garden" means an area of exposed or partially exposed soils in which vegetables or flowers are grown.
- (e) "Lawn" means an area of natural or hybrid grass or similar turfs of ground cover customarily associated with and maintained in connection with homes, athletic fields, parks, cemeteries and other open space, in an urban or suburban environment, but not as an agricultural crop.
- (f) "Lawn Fertilizer" means any Fertilizer, applied by property owner, renter, or commercial entity, for other than Agricultural Land Uses, such as for lawns, golf courses, parks and cemeteries. Lawn Fertilizer does not include fertilizer products intended primarily for Garden and indoor plant application.

### (3) USE AND APPLICATION OF LAWN FERTILIZER

- (a) Effective January 1, 2009, no person shall apply any Lawn Fertilizer within the City that is labeled as containing more than 0% phosphorus and other compound containing phosphorus, such as phosphate, except as provided in §(4) below.
- (b) Effective January 1, 2009, no Lawn Fertilizer shall be applied when the ground is frozen.
- (c) Effective January 1, 2009, no person shall apply Fertilizer to any impervious surface including parking lots, roadways, and sidewalks. If such application occurs, the Fertilizer must be immediately contained and either legally applied to turf or placed in an appropriate container.

### (4) EXEMPTIONS. The prohibition against the use of Fertilizer and Lawn Fertilizer under §(3) above. shall not apply to:

- (a) Newly established turf or Lawn areas during their first growing season.
- (b) Lawn areas that soil tests, performed within the past three years by a state of WI certified soil testing laboratory, confirm are below phosphorus levels established by the University of Wisconsin Extension Service. The Lawn Fertilizer application shall not contain an amount of phosphorus exceeding the amount and rate of application recommended in the soil test evaluation.
- (c) Agricultural Land Uses, Gardens, or application to trees or shrubs.
- (d) Yard waste compost, biosolids or other similar materials that are primarily organic in nature and are applied to improve the physical condition of the soil.

### (5) SALE OF FERTILIZER CONTAINING PHOSPHORUS

- (a) Effective January 1, 2009, no person shall sell or offer for sale any Lawn Fertilizer within the City that is labeled as containing more than 0% phosphorus, or other compound containing phosphorus, such as phosphate, except such fertilizer may be sold for use as provided in §(4) above.
- (b) Effective January 1, 2009, no person shall display Lawn Fertilizer containing phosphorus. Signs may be posted advising customers that Lawn Fertilizer containing phosphorus is available upon request for uses permitted by §(4) above.
- (c) Effective January 1, 2009, a sign devised by the City identifying the effects of phosphorus on the region's waters and notifying the public of the limitations that take effect January 1, 2009 on the use and sale of phosphorus based fertilizers must be prominently displayed where Lawn Fertilizers are sold.

### (6) PENALTY. Any person who violates this Section in the application of Fertilizer at his or her residence and any commercial Fertilizer applicator, residential or commercial

developer, industrial or commercial owner, or other person who violates this Section shall be subject to a forfeiture of \$75 for the first violation within a twelve month period, and \$150 for the second and each subsequent violation within a twelve month period.

SECTION 2. SAVINGS CLAUSE. If any provision of this Ordinance shall be less restrictive than applicable state statute or in conflict with such statutes, as they exist at passage hereof or as they may hereafter be amended, then, in such case, the state statute shall supersede the provision hereof to the extent applicable.

SECTION 3. SEVERABILITY. If any provision of this Ordinance is found to be unconstitutional or otherwise contrary to law, then such provision shall be deemed void and severed from the Ordinance and the remainder of this Ordinance shall continue in full force and effect.

SECTION 4. This Ordinance shall be in force and effect from and after its adoption and publication as provided by law.

ADOPTED: \_\_\_\_\_

\_\_\_\_\_  
Chris L. Meyer, Mayor

APPROVED: \_\_\_\_\_

ATTEST: \_\_\_\_\_

PUBLISHED: \_\_\_\_\_

Deb M. Hall, City Clerk