

FERTILIZER ORDINANCE

(Ord. No. 07-__)

An ordinance to regulate the application of phosphorous fertilizers in specified lake drainage districts in the Township; to require licensure of certain applicators of manufactured fertilizers, and to provide penalties for the violation thereof.

THE TOWNSHIP OF GRATTAN ORDAINS:

Section 1. Short Title.

This Ordinance shall be known and may be cited as the Grattan 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 those districts where storm water drains into the Township's primary lakes, these being: Big Pine Island Lake, Big Crooked Lake, Chapin Lake, Cowan Lake, Gavin Lake, Green Lake, McCarthy Lake, Murray Lake, Rattigan Lake, Round Lake, Scalley lake, Slayton Lake and Tower Lake.

(b) The Township Board further determines that storm water flowing through an over-fertilized area of turf is likely to carry portions of fertilizer with it. If such storm water, carrying all or some of the elements from the fertilizer, should ultimately drain into a lake or other body of water, there are likely to be adverse impacts upon the lake or other body of water. Such impacts include the excessive growth or spreading of aquatic plants. Accordingly, it is a further intent of this Ordinance to provide regulations that will promote the public health, safety and general welfare by tending to reduce the adverse impacts resulting from fertilizer flowing into or otherwise reaching lakes and other bodies of water in the Township.

(c) It is the also the purpose and intent of this Ordinance to require licensure of commercial and institutional applicators of manufactured fertilizes 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" means any individual or entity that applies manufactured fertilizer in the Township in exchange for money or other valuable consideration.

(b) "Institutional applicator" means any individual or entity that applies manufactured fertilizers for the purpose of maintaining turf areas. Institutional applicators shall include, but are

not be limited to, owners of lands, schools, parks, religious institutions, utilities, industrial or business properties and residential properties maintained in condominium and/or common ownership; provided, however, that an institutional applicator shall not include an owner of individual parcels of land used for single family dwelling or agricultural purposes in any agricultural or residential district under the terms of the Township zoning ordinance, nor shall institutional applicator include the owner or operator of a golf course.

(c) "Manufactured fertilizer" means a commercially manufactured substance which enriches the soil and contains elements desirable for turf growth.

(d) "Turf" means a covering of grass vegetation which has both aesthetic and functional benefits maintained at a given level of management.

Section 4. Prohibition on Phosphorous Fertilizers in Lake Drainage Districts.

No manufactured fertilizer containing any amount of anhydric phosphoric acid shall be applied on lawns or other turf areas within the drainage districts of Big Pine Island Lake, Big Crooked Lake, Chapin Lake, Cowan Lake, Gavin Lake, Green Lake, McCarthy Lake, Murray Lake, Rattigan Lake, Round Lake, Scalley Lake, Slayton Lake and Tower Lake, as shown on the Grattan Township Lake Drainage Districts map adopted under section 7 of this Ordinance and maintained on file in the Township office; provided, however, that the provisions of this section shall not apply to the application of fertilizer for the purpose of improving the yield of crops on bona fide farms or for other purposes pertaining to agricultural production on bona fide farms.

Section 5. Exceptions.

(a) The prohibition of phosphorous fertilizers shall not apply to any lots or parcels of land as to which the Michigan Department of Agriculture has determined, based on tests and soil samples, that anhydric phosphoric acid is required to maintain lawn 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) Notwithstanding 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 analyses 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.

(3) Approvals granted under this section shall be valid for one growing season only.

Section 6. Commercial and Institutional Applicator of Manufactured Fertilizer Licensure Requirement and Procedure.

(a) All commercial and institutional applicators shall be licensed in good standing by the Township prior to their applying manufactured fertilizers on any lands in the Township's Lake Drainage Districts.

(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 and/or institutional applicator shall complete and submit to the Township clerk a license application. Applications shall be submitted by January 31 of the year for which a license is requested. The license application shall include the following:

(1) Legal and business name(s), address, telephone number and contact person of applicant.

(2) Name (if application), address and description of institutional applicator property, including the use, area and dimensions of the property.

(3) A copy of the applicant's material safety data sheet (MSDS) may also be required as part of the license application.

(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 the 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. Lake Drainage Districts.

For purposes of this Ordinance, the following lake drainage districts are hereby established: Big Pine Island Lake, Big Crooked Lake, Chapin Lake, Cowan Lake, Gaving Lake, Green Lake,

McCarthy Lake, Murray Lake, Rattigan Lake, Round Lake, Scalley Lake, Slayton Lake and Tower Lake. The lands comprising each lake drainage district shall be those shown on the Grattan Township Lake Drainage Districts map, which shall be maintained on file in the Township office.

Section 8. Violation; Penalties; Enforcement.

(a) A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not be less than \$250 nor more than \$500 for the first offense and not less than \$500, nor more than \$1,000 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 and/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 said 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 hereby 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) Should a commercial or institutional applicator be found to be in violation of this Ordinance, the Township Board, following notice and an opportunity of the licensee to be heard, may revoke a license for such period of time as the Board may determine. 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 such applicator for a period of not less than one calendar year, and for such greater period of time as the Board may determine.

Section 9. Reserved.

Section 10. Appeals.

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

(c) The decision of the Township Board on the appeal shall be set forth in writing, and a copy thereof shall be given to the party appealing. If the appeal is denied, the written decision shall include the reasons for the denial.

Section 11. Severability.

The various parts, sections and clauses of this Ordinance are declared to be 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 12. Adopting and Effective Date.

This Ordinance shall become effective 30 days after its publication, or 30 days after the publication of a summary of its provisions, in a local newspaper of general circulation.