01-19-06

ORDINANCE 289

VILLAGE OF SPRING LAKE FERTILIZER ORDINANCE

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES ADOPTED BY THE VILLAGE OF SPRING LAKE TO ADD A NEW PROVISION TO REGULATE THE APPLICATION OF CERTAIN MANUFACTURED FERTILIZERS IN THE VILLAGE; TO REQUIRE LICENSURE OF CERTAIN APPLICATORS OF MANUFACTURED FERTILIZERS; TO PROVIDE PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; AND TO REPEAL ALL CONFLICTING ORDINANCES OR PARTS OF ORDINANCES.

THE VILLAGE OF SPRING LAKE, OTTAWA COUNTY, MICHIGAN ORDAINS:

Section 1. Addition of Article IV to Chapter 30. The Code of Ordinances adopted by the Village of Spring Lake, Ottawa County, Michigan, is hereby amended to add a new Article IV to Chapter 30 which shall state in its entirety as follows:

ARTICLE IV - FERTILIZERS

Sec. 30-130 Legislative Findings.

(a) Based upon scientific studies and general knowledge, the Village Council has determined that phosphorus, which is contained in most manufactured fertilizers, when used within the Village, enters into the Village water resources, resulting in excessive and accelerated growth of algae and aquatic plants. The Village Council has therefore determined that it is necessary and in the public interest to regulate the application of manufactured fertilizers containing phosphorous within the Village.

(b) It is also the purpose and intent of this Article to require licensure of commercial and institutional applicators of manufactured fertilizers within the Village.

Sec. 30-131 Definitions. The following words and phrases, as used in this Article, shall have the meanings stated respectively in this section.

(a) **Commercial Applicator.** Any individual or entity that applies manufactured fertilizer in the Village in exchange for money or other valuable consideration.

(b) **Institutional Applicator**. Any individual or entity that applies manufactured fertilizers for the purpose of maintaining turf areas. Institutional applicator shall include, but are not limited to, owners of lands, schools, parks, religious institutions, utilities, industrial or business properties and residential properties maintained in condominium and/or common

ownership. However, an institutional applicator shall not include an owner of individual parcels of land used for a single family dwelling or agricultural purposes in any residential district under the terms of the Spring Lake Village Zoning Ordinance.

(c) Manufactured Fertilizer. A commercially manufactured substance which enriches the soil and contains elements desirable for turf growth.

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

Sec. 30-132. Prohibition on Phosphorus Fertilizers in Village. No manufactured fertilizer containing any amount of anhydric phosphoric acid shall be applied on lawns or other turf areas within the Village. However, this section shall not apply to the application of fertilizer for the purpose of improving the yield of crops for other purposes pertaining to agricultural production on a farm.

Sec. 30-133. Exceptions.

(a) The prohibition of phosphorus fertilizers shall not apply to any lots or parcels of land for which the Michigan Department of Agriculture has determined, based on tests and soil samples, that anhydric phosphoric acid is required to maintain turf 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 Village Zoning Administrator.

(b) Regardless of any other provision in this Article 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 Village Zoning Administrator and the Village Zoning Administrator 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 analysis 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.

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

Sec. 30-134 Commercial and Institutional Applicator of Manufactured Fertilizer Licensure Requirements and Procedure.

(a) All commercial and institutional applicators shall be licensed in good standing by the Village before they apply manufactured fertilizers on any lands in the Village.

(b) A license issued under this Article 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 or institutional applicator shall complete and submit to the Village Clerk/Treasurer a license application. The license application shall include the following:

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

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

(3) A copy of the applicant's material safety data sheet (MSDS).

(d) The applicant shall sign the application where indicated, and the signature shall serve as an attestation that the applicant has read this Article in its entirety and agrees to comply with all of its provisions.

(e) Upon submission of an application, the applicant shall pay any fee established by the Village Council.

(f) The Village Zoning Administrator shall review the completed application and determine whether the manufactured fertilizers to be used comply with the provisions of the Article.

(g) If the application is complete, and if the proposed use of manufactured fertilizer would comply with the terms of this Article, a numbered license shall be issued. The license shall expire two years from the date of issuance.

(h) The Village Clerk/Treasurer shall maintain a list of all currently-licensed commercial and institutional applicators.

Sec. 30-135. Violation; Penalties; Enforcement.

(a) In addition to any other charges, fines or penalties for which a person may be liable under applicable law or local ordinance, any violation of this Article shall constitute a municipal civil infraction, subject to section 1-8, plus costs and other sanctions, for each infraction. Each day during which any violation of this Article continues shall be deemed a separate and distinct offense. Increased civil fines may be imposed for repeated violations of this article. A repeat violation means a second or subsequent municipal civil infraction violation committed by a person within any 12-month period and for which a person admits responsibility or is determined to be responsible. The increased civil fine for repeat violations shall be as follows:

(1) The fine for any offense which is a first repeat offense shall be $250.00, plus costs and other sanctions.

(2) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be $500.00, plus costs and other sanctions.

Sec. 30-136. Appeals. Any homeowner or applicator of manufactured fertilizer aggrieved by a decision made by the Zoning Administrator under this Article shall have the right to appeal to the Village Council.

(1) The appeal shall be commenced by filing with the Village Clerk 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 Article pending the outcome of the appeal.

(2) The Village Council shall consider the appeal at a public meeting. The Council shall affirm, affirm with conditions or reverse the decision or determination being appealed, consistent with the terms of this Article.

Section 2. Administrative Liability. No officer, agent, or employee of the Village shall be personally liable for any damages the Village may accrue to any as a result of any act required or permitted in the of duties under and in the enforcement of this Ordinance.

Section 3. Severability and Captions. The phrases, sentences, sections, and provisions of this Ordinance are severable and the finding that any portion thereof is unconstitutional or otherwise unenforceable shall not detract from or affect the enforceability of the remainder of this Ordinance. Pronouns shall be read as masculine, feminine, or neuter as may be appropriate. Captions appearing at the beginning of any section shall not be deemed as part of this Ordinance and shall have no independent significance.

Section 4. **Repeal of Conflicting Ordinances.** All other Ordinances, parts of Ordinances or amendments thereto, any of which are in conflict with the provisions of this Ordinance, are repealed in their entirety.

Section 5. **Effective Date.** This Ordinance was approved and adopted by the Village Council of Spring Lake, Ottawa County, Michigan, on the 6th of March, 2006, and shall be effective upon publication.

William Filber
Village President

Maribeth Lawrence
Village Clerk/Treasurer

CERTIFICATE

I, Maribeth Lawrence, the Clerk/Treasurer for the Village of Spring Lake, Ottawa County, Michigan, do hereby certify that the foregoing Village of Spring Lake Ordinance was adopted at a regular meeting of the Village Council held on _____, 2006. The following members of the Village Council were present at that meeting: _____ The following members of the Village Council were absent: _____. The Ordinance was adopted by the Village Council with members of the Council _____ voting in favor and with members of the Council _____ voting in opposition. The Ordinance was published in the Grand Haven Tribune on _____, 2006.

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Maribeth Lawrence
Clerk/Treasurer

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