Legislation Text

File #: 061029, **Version:** 1

061029
SUBSTITUTE 1

ALD. D'AMATO
Substitute ordinance relating to the regulation of the application and use of fertilizer.
75-61 cr
This ordinance makes it unlawful for any person to apply any fertilizer that is labeled as containing more than 3% phosphorus, and to apply any fertilizer more than 4 times per year.

However, the regulation of the application and use of fertilizer does not apply to:

1. Turf or lawn areas newly established via seeding or sodding, and during the first 12 months after seeding or sodding.
2. Turf or lawn areas for which soil tests, performed within the past 3 years by a state-certified laboratory, confirm that application of fertilizer nutrients is required to promote adequate turf growth as defined by the University of Wisconsin extension service.
3. Applications to agricultural uses, vegetable gardens, flower gardens, trees and shrubs.
4. Turf fertilizers shown through accredited research and labeling to contain at least 50% slow release or water insoluble nitrogen.
5. 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 or fertilize the soil.

This ordinance also makes it unlawful to apply fertilizer to any impervious surface, or when the ground is frozen or otherwise impervious to water infiltration, and when conditions exist which promote runoff.

Any person who violates this section in the application of fertilizer at his or her residence shall be subject to a forfeiture of $50 per violation. Any commercial fertilizer applicator, residential or commercial developer, industrial or commercial owner who violates this section shall be subject to a forfeiture of $50 for the first violation within a 12-month period, $150 for the second violation within a 12-month period, and $300 for the third and each subsequent violation within a 12-month period.

The health department shall enforce this ordinance, which shall become effective one year following passage and publication.

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 75-61 of the code is created to read.

75-61. Regulation of Fertilizer Application and Use.
1.PURPOSE AND INTENT. The common council finds that the city's numerous natural waters are assets which enhance the environmental, recreational, cultural and economic resources of the area and contribute to the general health and welfare of the public. The common council further finds regulating the amount of nutrients contained in fertilizer entering the city's natural waters will improve and maintain

water quality in the city.
2.DEFINITIONS. In this section:
a.“Agricultural use” has the meaning set forth in s. 30.40(1), Wis. Stats., as amended.
b.“Fertilizer” has the meaning set forth in s. 94.64(1)(e), Wis. Stats., as amended.
c.“Impervious surface” means a surface which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes semi-impervious surfaces such as compacted clay, as well as most conventional street and alley surfaces, sidewalks, parking lots and similar improvements.
d.”Runoff” means the dewatering or irrigation of water flowing over the ground surface.
3. REGULATIONS OF THE USE AND APPLICATION OF LAWN FERTILIZER.
a.No person shall apply any fertilizer that is labeled as containing more than 3% phosphorus except as provided in sub. 4.
b.No person shall apply any fertilizer more than 4 times per year, except as provided in sub. 4.
c.No fertilizer shall be applied when the ground is frozen or otherwise impervious to water infiltration.
d.No fertilizer shall be applied when conditions exist which promote or create runoff.
e.No person shall apply fertilizer to any impervious surface. 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 in sub. 3 shall not apply to:
a.Turf or lawn areas newly established via seeding or sodding and during the first 12 months after seeding or sodding.
b.Turf or lawn areas for which soil tests, performed within the past 3 years by a state-certified soil testing laboratory, confirm that application of fertilizer nutrients is required to promote adequate turf growth as defined by the university of Wisconsin extension service. The fertilizer application shall not exceed the amount of nutrients and rate of application recommended in the soil test evaluation.
c.Applications to agricultural uses, vegetable gardens, flower gardens, trees and shrubs.
d.Turf fertilizers shown through accredited research and subsequent labeling to contain at least 50% slow release or water insoluble nitrogen.
e.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 or fertilize the soil.
5.ENFORCEMENT. In addition to other applicable enforcement procedures and pursuant to s. 66.0113, Wis. Stats., and ch. 800, Wis. Stats., the commissioner of health and his or her designee may issue citations pursuant to the citation procedure in s. 50-25 to any person violating this section.
6. PENALTY. a.Any person who violates sub. 3 in the application of fertilizer at his or her residence shall be subject to a forfeiture of $50 per violation.
b.Any commercial fertilizer applicator, residential or commercial developer, industrial or commercial owner who violates sub. 3 shall be subject to a forfeiture of $50 for the first violation within a 12-month period, $150 for the second violation within a 12-month period, and $300 for the third and each subsequent violation within a 12-month period.

Part 2. This ordinance takes effect one year following passage and publication [city clerk to insert date].
APPROVED AS TO FORM

_____
Legislative Reference Bureau
Date: _____
IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

_____
Office of the City Attorney
Date: _____

LRB06531-2
LCS
11/28/06