

8. Second Reading and Public Hearing

10:15 a. m

- d. **ORDINANCE 07-012 AMENDING ORDINANCE 07-003 REGULATING THE USE OF FERTLIZERS CONTAINING NITROGEN AND/OR PHOSPHORUS WITHIN THE CITY OF SANIBEL; AMENDING SECTIONS 5(B)(2) AND 9(A) TO CHANGE THE REQUIRED PERCENTAGE OF MINIMUM SLOW RELEASE NITROGEN FROM 70% TO 50%; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE**

**CITY OF SANIBEL
ORDINANCE NO. 07-012**

AN ORDINANCE AMENDING ORDINANCE 07-003 REGULATING THE USE OF FERTILIZERS CONTAINING NITROGEN AND/OR PHOSPHORUS WITHIN THE CITY OF SANIBEL; AMENDING SECTIONS 5(B)(2) AND 9(A) TO CHANGE THE REQUIRED PERCENTAGE OF MINIMUM SLOW RELEASE NITROGEN FROM 70% TO 50%; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on March 6, 2007, the Sanibel City Council adopted Ordinance 07-003 which provided for the regulation of Fertilizers containing nitrogen and/or phosphorus and provided specific management guidelines for Fertilization in order to minimize the negative environmental effects said Fertilizers have in and on Sanibel's lakes, canals, estuaries, interior freshwater wetlands, the Sanibel River and nearshore waters of the Gulf of Mexico; and

WHEREAS, Section 5(B)(2) of Ordinance 07-003 requires that "Fertilizer applied to Turf and/or Landscape Plants within the City of Sanibel must contain no more than 20% total nitrogen, with at least 70% of the total nitrogen as Slow Release Nitrogen per guaranteed analysis label (as guaranteed analysis and label are defined by Chapter 576 Florida Statutes, such definition incorporated herein)"; and

WHEREAS, Section 9(A) of Ordinance 07-003 requires that "Retail businesses within the City of Sanibel selling Fertilizer shall post a notice in a conspicuous location near the Fertilizer notifying customers of the limitation on the use of Fertilizer containing greater than 2% phosphorus, and/or greater than 20% total nitrogen with at least 70% minimum Slow Release Nitrogen"; and

WHEREAS, a detailed survey by the City of Sanibel Natural Resources Department of fertilizer products available at local home improvement stores has revealed a lack of sufficient products available to meet the requirements set forth in Ordinance 07-003 as it pertains to the 70% minimum Slow Release Nitrogen; and

WHEREAS, it is the recommendation of the Natural Resources Department that Sections 5(B)(2) and 9(A) of Ordinance 07-003 be amended in order to change the required percentage of minimum Slow Release Nitrogen from 70% to 50%;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Sanibel, Florida, that:

SECTION 1. Section 5(B)(2) of Ordinance 07-003 shall be amended as follows with underlining indicating additions and ~~striketrough~~ indicating deletions:

SECTION 5. TIMING OF FERTILIZER APPLICATION; CONTENT AND APPLICATION RATE; IMPERVIOUS SURFACES; BUFFER ZONES

B. Fertilizer Content and Application Rate

- 1) No Fertilizer shall be applied to Turf and/or Landscape Plants within the City of Sanibel that contains more than 2% phosphorous or other compounds containing phosphorous, such as phosphate, per guaranteed analysis label (as guaranteed analysis and label are defined by Chapter 576 Florida Statutes, such definition incorporated herein). The use of no phosphorus Fertilizer is strongly encouraged, as Florida soils typically contain sufficient phosphorus for a healthy native or man made landscape.
- 2) Fertilizer applied to Turf and/or Landscape Plants within the City of Sanibel must contain no more than 20% total nitrogen, with at least ~~70%~~ 50% of the total nitrogen as Slow Release Nitrogen per guaranteed analysis label (as guaranteed analysis and label are defined by Chapter 576 Florida Statutes, such definition incorporated herein).
- 3) Fertilizers should be applied to Turf and/or Landscape Plants at the lowest rate necessary without exceeding the maximum weight per application. Fertilizer shall not be applied at a rate greater than one (1) pound of nitrogen per 1000 square feet per application. No more than four (4) pounds of nitrogen per one thousand (1000) square feet shall be applied to any Turf/landscape area in any calendar year.

The above provisions are also applicable to and regulate the application of pesticide/Fertilizer mixtures, including, but not limited to, "weed and feed" products.

SECTION 2. Section 9(A) of Ordinance 07-003 shall be amended as follows with underlining indicating additions and ~~strike through~~ indicating deletions:

SECTION 9. SALE OF FERTILIZER

- A. Retail businesses within the City of Sanibel selling Fertilizer shall post a notice in a conspicuous location near the Fertilizer notifying customers of the limitation on the use of Fertilizer containing greater than 2% phosphorus, and/or greater than 20% total nitrogen with at least ~~70%~~ 50% minimum Slow Release Nitrogen requirement in the City of Sanibel. Such notices shall be developed, produced at the City's cost, and issued by the City to such retail businesses for posting.

SECTION 3. CODIFICATION.

This ordinance shall be deemed an amendment to the Code of Ordinances of the City of Sanibel and the Sanibel Code of Ordinances is hereby amended.

SECTION 4. SEVERABILITY.

If any section, subsection, sentence, clause, phrase or portion of this ordinance, or application hereof, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion of application hereof.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall be effective immediately upon adoption.

DULY PASSED AND ENACTED by the Council of the City of Sanibel, Florida, this 18th day of September, 2007.

AUTHENTICATION:

Mick Denham, Mayor

Pamela Smith, City Clerk

APPROVED AS TO FORM:

Kenneth B. Cuyler

Kenneth B. Cuyler, City Attorney

9/4/07

Date

First Reading: _____

Publication Date: _____

Second Reading: _____

Vote of Council members:

Denham: _____

Johnston: _____

Jennings: _____

Pappas: _____

Ruane: _____

Date filed with City Clerk: _____