AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, ADDING ARTICLE VIII – MANUFACTURED FERTILIZER, SECTIONS 10-801 THROUGH 10-813 TO THE CODE OF THE CITY OF NORMAN TO DEFINE MANUFACTURED FERTILIZER CONTAINING PHOSPHORUS, REGULATE ITS USE IN ACCORDANCE WITH SPECIFIC PROVISIONS, TO PROVIDE FOR REGISTRATION OF COMMERICAL APPLICATORS OF MANUFACTURED FERTILIZER, AND PROVIDE FOR PENALTY FOR FAILURE TO COMPLY WITH THE TERMS OF THIS CHAPTER; ADDING TO SECTION 13-108 TO PROVIDE FEES FOR COMMERICAL APPLICATORS OF MANUFACTURED FERTILIZER REGISTRATION; AND PROVIDING FOR THE SEVERABILITY THEREOF.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

§ 1. That Section 10-801 of Chapter 10 of the Code of the City of Norman shall be added to read as follows:

Sec. 10-801 Purpose

City Council finds that certain compounds containing phosphorus, which are contained in manufactured fertilizer, enter into the City's and neighboring communities' water sources resulting in excessive and accelerated growth of algae and aquatic plants which is detrimental to these water resources. It is the purpose and intent of this section to regulate the application of manufactured fertilizers containing phosphorus within the City of Norman.

§ 2. That Section 10-802 of Chapter 10 of the Code of the City of Norman shall be added to read as follows:

Sec. 10- 802 Definitions

For the purposes of this chapter, the following words and phrases shall have the meanings described in this section:

1) *Applicator:* any person who applies manufactured fertilizer in the City, including, but not limited to, homeowners, occupants of rental property, and property managers.
2) *Buffer:* the land area, 25 feet in width, adjacent to any waterbody.
3) *Commercial applicator* means any corporation, partnership, or business that is engaged in the business of applying fertilizer for hire and is required to register under this Chapter of the City of Norman Code.

4) *Commercial seller:* any person who sells or displays for sale any manufactured fertilizer in the City.
5) *General turf:* nonagricultural land managed using turf grasses including but not limited to home lawns, vegetable and flower gardens, golf courses, cemeteries, park areas as well as commercial, school, university and government grounds.
6) *Impervious cover:* Roads, parking areas, buildings, pools, patios, sheds, driveways, private sidewalks, and other impermeable construction covering the natural land surface. This shall include, but not be limited to, all streets and pavement within a subdivision. Vegetated water quality basins, vegetated swales, other vegetated conveyances for overland drainage, areas with gravel placed over pervious surfaces that are used only for landscaping or by pedestrians, and public sidewalks shall not be calculated as impervious cover.
7) *Manufactured fertilizer*: a commercially manufactured substance containing one or more recognized plant nutrients, which is used for its plant nutrient content and which is designed for use, or claimed to have value, in promoting plant growth. Fertilizer does not include unadulterated animal and vegetable manures, marl, lime, limestone, and wood ashes.
8) *Phosphate*: a form of phosphorus used to measure the phosphorus content of fertilizers. It is expressed as the chemical formula P_2O_5. The phosphorus (P) content of a fertilizer is forty three (43) percent of its phosphate (P_2O_5) content.
9) *Phosphorus fertilizer*: any fertilizer that contains phosphorus, expressed as P_2O_5, with a guaranteed analysis of greater than zero.
10) *Soil test:* a set of scientific measurements that determine the basic texture of soil, the pH level of soil, and the various nutrient levels of phosphorus, potassium, calcium and magnesium in soil, for the purpose of providing a fertilizer recommendation regarding the amount of nutrients and rate of application of nutrients for general turf growth.
11) *Waterbody*: a surface water feature such as a lake, river, stream, creek, pond, lagoon, bay, or estuary.

§ 3 That Section 10-803 of Chapter 10 of the Code of the City of Norman shall be added to read as follows:

Sec. 10-803 Phosphorus Fertilizer Application

(a) Manufactured fertilizer that contains any amount of phosphorus or a compound containing phosphorus, such as phosphate, shall not be applied to general turf within the City, except under one of the following exceptions:
    1. Application of manufactured fertilizer to an area during the first six (6) months of turf establishment from seed or sod;
    2. The naturally occurring phosphate in unadulterated natural or organic fertilizing products;
    3. The general turf and lawn area has been soil tested, with results from a certified laboratory, which confirms that the phosphate levels are less than or equal to 10 parts per million. In such cases, lawn fertilizer application

shall not exceed the laboratory recommended application rate for phosphorous;

(b) Manufactured fertilizer containing phosphorous applied pursuant to the above listed exceptions shall be watered into the soil within 14 hours so that the phosphorous can be immobilized and generally protected from loss by runoff.

§ 4. That Section 10-804 of Chapter 10 of the Code of the City of Norman shall be added to read as follows:

Sec 10-804 Prohibited Conduct

No person may do any of the following:

(a) Apply manufactured fertilizer when a runoff producing rainfall is occurring or predicted and/or when soils are saturated and a potential for fertilizer movement off-site exists.
(b) Apply manufactured fertilizer to impervious cover. Fertilizer applied to impervious cover, is to be removed by sweeping or blowing back into the target surface, returned to an appropriate container for reuse, or collected and disposed of properly. Excess fertilizer may not be disposed of by placing it in any area likely to lead into a storm drain.
(c) Store manufactured fertilizer uncontained on driveways or other areas of impervious cover.
(d) Apply manufactured fertilizer within 25 feet of any wetland, watercourse, or storm water retention or detention basin.
(e) Blow, sweep, dump, direct, or place leaves, grass clippings, or any yard debris into any street, storm drain, ditch, creek, pond, or waterway.

§ 5. That Section 10-805 of Chapter 10 of the Code of the City of Norman shall be added to read as follows:

Sec 10-805 Soil Testing

(a) Soil testing is required before an applicator or commercial applicator may apply phosphorus containing manufactured fertilizer. A soil sample or samples shall be taken from the general turf area on which an applicator or commercial applicator is proposing to apply manufactured fertilizer containing phosphorus or a compound containing phosphorus, following the procedure requirement by the soil testing service.
(b) The applicator or commercial applicator shall submit a soil sample to the soil testing service following the procedure required by the soil testing service.
(c) The soil testing service shall determine the rate and application of manufactured fertilizer containing phosphorus based on the results of the soil test and the requirements of this chapter.
(d) The results of the soil test shall be maintained for a period of 3 years following receipt of the test by the applicator or commercial applicator.

(e) The applicator or commercial applicator shall provide a copy of the soil test results to Director of Public Works or his/her designee within 48 hours of a written request for the test results.

§ 6. That Section 10-806 of Chapter 10 of the Code of the City of Norman shall be added to read as follows:

Sec 10-806 Information regarding manufactured fertilizer

(a) The Director of Public Works or his/her designee shall prepare an informational pamphlet that includes, at minimum, the following:
   1. A summary, or complete text, of this chapter,
   2. Facts regarding the environmental benefit of phosphorus reduction,
   3. A description of penalties for violation of this chapter, and
   4. A City phone number and website address where additional information will be available.

(b) A copy of the informational pamphlet shall be made available to commercial applicators at the time of registration each year. Commercial applicators may make reasonable facsimiles or copies of the informational pamphlet for distribution.

(c) A copy of the informational pamphlet shall be made available to commercial sellers no later than March 1st of each year. Commercial sellers may make reasonable facsimiles or copies of the informational pamphlet for distribution.

§ 7. That Section 10-807 of Chapter 10 of the Code of the City of Norman shall be added to read as follows:

Sec 10-807 Sale of Fertilizer Containing Phosphorus

(a) Any corporation, partnership or business establishment selling or displaying lawn fertilizer, liquid or granular, within the City of Norman that is labeled to contain more than zero (0) percent phosphate (P_2O_5) shall be required to clearly identify those fertilizers by displaying a sign indicating the phosphate levels and advising the use of such fertilizer is regulated within the City of Norman in accordance with this chapter.

(b) Commercial sellers shall have copies of the informational pamphlets on display, and have copies of the informational pamphlet available to customers, adjacent to the display of any manufactured fertilizer containing phosphorus for sale.

§ 8. That Section 10-808 of Chapter 10 of the Code of the City of Norman shall be added to read as follows:

Sec 10-808 Storage of Fertilizer

All manufactured fertilizer must be stored in a covered area from which rainwater runoff does not run directly into a storm sewer. Any spillage must be swept up and disposed of properly.

§ 9. That Section 10-809 of Chapter 10 of the Code of the City of Norman shall be added to read as follows:

Sec 10-809 Registration

(a) Commercial applicators shall register annually.
(b) No commercial applicator shall engage in the business of lawn fertilizer application in the City of Norman without first having registered as provided in this chapter; however, any owner occupant of a single-family dwelling may spread fertilizer on the lawn of the dwelling occupied by that owner occupant or owner occupant's immediate family.
(c) All City programs for fertilizer use shall be reviewed and approved by the Storm Water Engineer prior to any application upon City property.
(d) All commercial applicators shall receive a copy of Article VIII of Chapter 10 of the Code of the City of Norman and an informational pamphlet, which shall be provided to all employees who may be applying manufactured fertilizer containing phosphorus.

§ 10. That Section 10-810 of Chapter 10 of the Code of the City of Norman shall be added to read as follows:

Sec 10-810 Registration Application

(a) The following information shall be included in a complete application for registration:
    1. The legal name of the commercial applicator, any other names used, the address, telephone number, and contact person for the registrant;
    2. The product name, type of use, and percentage weight and ration of elemental phosphorus for every manufactured fertilizer to be used on general turf; and
    3. A notarized, sworn statement signed by an owner or duly authorized representative of a commercial applicator indicating that the applicator will provide appropriate training to its employees to ensure compliance with the requirements of Article VIII of Chapter 10 of the Code of the City of Norman throughout the registration period, including, but not limited to, completing soil test prior to applying manufactured fertilizer containing phosphorus and applying manufactured fertilizer at rates required by soil tests.
(b) The completed Registration form shall be returned to the Storm Water Engineer or his/her designee along with:
    1. Annual Registration Fee pursuant to §13-108 of this Code; or

2. If the commercial applicator certifies, on the Registration form, that the commercial applicator will not use any manufactured fertilizer containing phosphorus, the Annual Registration Fee shall be waived.

§ 11. That Section 10-811 of Chapter 10 of the Code of the City of Norman shall be added to read as follows:

Sec 10-811 Inspections and Log Book

(a) The Director of Public Works or his/her designee shall have the right to inspect property on which manufactured fertilizer has been applied by a registered applicator.
(b) The commercial applicator shall provide a 5-ounce sample of any manufactured fertilizer used by the commercial applicator in the City of Norman upon request by Director of Public Works or his/her designee to enforce this chapter.
(c) The commercial applicator shall keep a log book of each place where manufactured fertilizer containing phosphorus has been applied and shall make the log book available for inspection to the City of Norman upon request. The log book shall contain:
    1. Address of site of application;
    2. Amount of manufactured fertilizer containing phosphorus applied; and
    3. Results of the soil test conducted prior to application of manufactured fertilizer containing phosphorus.
(d) The commercial applicator shall keep a log of all employees who have received training on Article VIII of Chapter 10 of the Code of the City of Norman and informational pamphlets for distribution.

§ 12. That Section 10-812 of Chapter 10 of the Code of the City of Norman shall be added to read as follows:

Sec 10-812 Required distribution of information regarding manufactured fertilizer

(a) Commercial applicators will be provided a copy of an informational pamphlet at the time of registration each year. Commercial applicators may make facsimiles or copies of the informational pamphlet for distribution.
(b) A commercial applicator shall provide at least 1 copy of the informational pamphlet to the owner or occupant of each address at the time of first application of manufactured fertilizer each year.

§ 13. That Section 10-813 of Chapter 10 of the Code of the City of Norman shall be added to read as follows:

Sec 10-813 Violations and Penalties

Sec 10-813 Violations and Penalties

Any applicator, commercial applicator or commercial seller found to be in violation of the provisions of this chapter shall be subject to a fine in the amount of not less than fifty dollars ($50.00) nor more than seven hundred fifty dollars ($750.00).

§ 14. That Section 13-108 of Chapter 13 of the Code of the City of Norman shall be amended to read as follows:

Sec 13-108 Fee schedules for licenses and permits and occupational taxes

* * *

(t) Manufactured Fertilizer 25.00

§ 15. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance, except that the effective date provision shall not be severable from the operative provisions of the ordinance.

ADOPTED this 26th day of February, 2013.

Cindy Rosenthal, Mayor

ATTEST:

Brenda Hall, City Clerk

CITY OF NORMAN CORPORATE SEAL OKLAHOMA

NOT ADOPTED this _____ day of _____, 2013.

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Cindy Rosenthal, Mayor