



CITY of NOVI CITY COUNCIL

Agenda Item D
April 10, 2017

SUBJECT: Approval of Ordinance Review Committee recommendation to adopt Ordinance No. 17-119.3, amending Chapter 12, "Drainage and Flood Damage Protection," Article VII "Fertilizer Application," of the City of Novi Code, in order to delete the requirements of Section 12-274, "Rates and Application Schedule; Prohibitions" relating to required mailings, delete Section 12-276, "Registration Requirement and Procedure," and renumber the remaining provisions accordingly. **SECOND READING**

SUBMITTING DEPARTMENT: Community Development

CITY MANAGER APPROVAL: PA

BACKGROUND INFORMATION:

The Community Development staff has been tasked with identifying current City Ordinance provisions throughout the City Code that may be out of date, duplicative, or no longer efficient or required. The staff brought several such provisions to the Ordinance Review Committee (ORC) for consideration at its January 6, 2017 meeting, including Ordinance No. 17-119.3, which repeals the registration requirements in Chapter 12 for commercial fertilizer applications.

The fertilizer application provisions were adopted in 2002, around the time that the EPA and MDEQ made the push towards addressing the Phase II, non-point source storm water quality issues. While certainly not questioning the effectiveness and/or need for the intended outcome of the Phase II/NPDES/illegal discharge elimination programs (independent of who funds them), the registration of all commercial applicators appears to be optional.

The provisions of 12-276 regarding the "Registration requirement and procedure" for registering commercial applicators appears to have happened exactly one in the retrievable history of the Ordinance. The ORC suggests this Section of the ordinance be repealed.

In addition, with regard to the intent to educate our citizens relative to proper application of fertilizer, Section 12-274(7) requires a spring mailing to summarize and remind persons within the City of the Ordinance provisions. This information could be more effectively communicated by way of social media, the City website, events such as Novi Spring Palooza, and as part of other City newsletters.

RECOMMENDED ACTION: Approval to adopt Ordinance No. 17-119.3, amending Chapter 12, "Drainage and Flood Damage Protection," Article VII "Fertilizer Application," of the City of Novi Code, in order to delete the requirements of Section 12-274, "Rates and Application Schedule; Prohibitions" relating to required mailings, delete Section 12-276, "Registration Requirement and Procedure," and renumber the remaining provisions accordingly. **SECOND READING**

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 17-119.3

AN ORDINANCE TO AMEND THE CITY OF NOVI CODE OF ORDINANCES, AT CHAPTER 12, "DRAINAGE AND FLOOD DAMAGE PREVENTION," ARTICLE VII, "FERTILIZER APPLICATION," IN ORDER TO DELETE THE REQUIREMENTS IN SECTION 12-274, "RATES AND APPLICATION SCHEDULE; PROHIBITIONS," RELATING TO REQUIRED MAILING, SECTION 12-276, "REGISTRATION REQUIREMENT AND PROCEDURE," AND RENUMBER THE REMAINING PROVISIONS ACCORDINGLY.

THE CITY OF NOVI ORDAINS:

PART I. That Chapter 12, "Drainage and Flood Prevention," Article VII, "Fertilizer Application," Section 12-276, "Registration Requirement and Procedure," of the City of Novi Code of Ordinances is hereby deleted and the remaining section is renumbered.

ARTICLE VII. ~~FERTILIZER APPLICATION.~~ [RESERVED]

Sec. 12-271 [unchanged]

Sec. 12-272 [unchanged]

Sec. 12-273 [unchanged]

Sec. 12-274. Rates and application schedule; prohibitions.

The following regulations shall apply for turf applications of manufactured fertilizers:

(1) – (6) [unchanged]

~~(7) — In the interest of educating persons within the city relative to the application of fertilizer to areas of turf, it is the intent of this article that the city will prepare and distribute a mailing each spring for the purpose of providing a summary and reminder of the provisions of this article. Such mailing may provide suggestions with regard to fertilizer application and good turf management, and may also include suggestions with regard to the availability of fertilizers that minimize damage to water resources.~~

Sec. 12-275. [unchanged]

~~Sec. 12-276.— Registration requirement and procedure.~~

- ~~(a) All commercial applicators shall register with the city each calendar year prior to applying fertilizers on any lands within the city during such calendar year.~~
- ~~(b) To register, a commercial applicator shall complete and submit to the city clerk the registration form available in the clerk's office, which shall include the following information:
 - ~~(1) Legal and business names, addresses, telephone numbers and contact persons of the applicant.~~
 - ~~(2) The product name or names of fertilizers to be used, including the percentage, weight and ratios of elemental nitrogen and elemental phosphorous, and a confirmation that it shall be reasonably feasible to conform with the requirements of this article. If this statement may not be made, such fact shall be brought to the attention of the city manager or the city manager's designee, in writing, prior to the application of fertilizer within the city.~~
 - ~~(3) A description of the vehicles, including trailers, which will be used by the applicator during the ensuing calendar year in connection with the application of fertilizer to turf areas within the city. Such description shall include the make, model, year and type of vehicle, and the license plate number assigned by the Michigan Secretary of State.~~
 - ~~(4) The city clerk shall forward a copy of the completed registration form for each commercial applicator to the city's ordinance enforcement personnel.~~
 - ~~(5) The city clerk shall maintain a current list of all commercial applicators registered with the city.~~
 - ~~(6) Each registered commercial applicator shall notify the city clerk in writing of any changes in the information disclosed in the registration.~~~~

Sec. 12-~~277~~276. - Penalties for violation.

- (a) A person or business found to have violated a provision of this article of the Code shall be responsible for a municipal civil infraction.
- (b) Each provision violated, and each day on which a violation is found to have occurred, shall constitute a separate offense.
- (c) The penalty for a first violation of this article shall be the payment of one hundred dollars (\$100.00), and the penalty for a second and each subsequent violation within any two-year period shall be the payment of two hundred dollars (\$200.00).
- (d) Nothing in this section shall preclude the city from seeking any other and further relief in law or equity in any court.

PART II. Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART III. Savings Clause. The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART IV. Repealer. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

PART V. Effective Date. The provisions of this Ordinance are ordered to take effect following publication in the manner prescribed by the Charter of the City of Novi.

PART VI. Adoption. This ordinance is hereby declared to have been adopted by the Novi City Council in a meeting thereof duly held and called on the ___ day of _____, 2017, in order to be given publication in the manner prescribed by the Charter of the City of Novi.

Moved by _____ and supported by _____.

Robert J. Gatt, Mayor

Cortney Hanson, City Clerk

Certificate of Adoption

I hereby certify that the foregoing is a true and complete copy of the ordinance adopted at the regular meeting of the Novi City Council held on the ___ day of _____, 2017.

Cortney Hanson, City Clerk