

**CITY OF MARCO ISLAND**

**ORDINANCE NO. 16-XXX**

**AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA AMENDING CHAPTER 18, ENTITLED “ENVIRONMENT”, ESTABLISHING ARTICLE III, ENTITLED “FERTILIZER REGULATIONS”, SECTIONS 18-61 THROUGH 18-100, INCLUSIVE; AMENDING ARTICLE IV, ENTITLED “MARCO ISLAND LAWN AND LANDSCAPING MAINTENANCE CERTIFICATION REGULATIONS” IN CHAPTER 8, ENTITLED “BUSINESSES”, IN THE MARCO ISLAND CODE OF ORDINANCES; REVISING THE REGISTRATION AND PERMITTING REQUIREMENTS FOR LAWN AND LANDSCAPING BUSINESSES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Article VIII, Section 2 of the Florida Constitution, and Chapter 166, Florida Statutes, the City of Marco Island is authorized to protect the public health, safety and welfare of its residents and has the power and authority to enact regulations for valid governmental purposes that are not inconsistent with general or special law; and

**WHEREAS**, Section 1.01 of the Marco Island Charter empowers the City to adopt, amend, or appeal ordinances, resolutions and codes as may be required for the benefit of the City; and

**WHEREAS**, the Marco Island City Council desires to regulate the use of fertilizers containing nitrogen or phosphorous to minimize the negative environmental effects these fertilizers have in and on the waterbodies within and around the City of Marco Island, which degrade the quality of life, and jeopardize the health, safety, and welfare of the citizens of Marco Island; and

**WHEREAS**, Marco Island City Council finds it to be in the best interests of its citizens to amend the Marco Island Code of Ordinances accordingly.

<sup>1</sup> Proposed additions to existing City Code text are shown by underlining; proposed deletions from existing City Code text are shown by ~~striketrough~~.

40           **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE**  
41 **CITY OF MARCO ISLAND, FLORIDA<sup>1</sup> :**

42  
43           **SECTION 1. Recitals.**

44  
45           The foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true,  
46 correct and reflective of the legislative intent underlying this Ordinance.

47  
48           **SECTION 2. Amendment Adding Fertilizer Regulations.**

49  
50           The Code of Ordinances, Marco Island, Florida, is hereby revised by establishing Article III,  
51 entitled “Fertilizers Regulations”, Sections 18-61 through 18-100, inclusive, in Chapter 18, entitled  
52 “Environment”, as follows:  
53

54 **Chapter 18 -- ENVIRONMENT**

55 ....

56 **ARTICLE III. – FERTILIZER REGULATIONS**

57 **Sec. 18-61. - Short title.**

58           This Article shall be known and may be cited as the "City of Marco Island Fertilizer Control  
59 Ordinance".

60 **Sec. 18-62. - Intent and Purpose.**

- 61 (1) To provide for the regulation of fertilizers containing nitrogen or phosphorous and to  
62 provide specific management guidelines for fertilizer application in order to minimize the  
63 negative environmental effects said fertilizers have in and on the waterbodies within and  
64 surrounding the City of Marco Island.  
65  
66 (2) These guidelines and practices are established to help communities, developers, builders,  
67 contractors, businesses and homeowners be partners in improving and protecting  
68 Florida’s environment.  
69  
70 (3) This Article III “Fertilizer Regulations” is based on the *Model Ordinance for Florida-*  
71 *Friendly Fertilizer Use* or equivalent as encouraged by Section 403.9337, Florida  
72 Statutes.

73 (4) Nitrogen and phosphorous are essential ingredients for plant growth; however, overuse  
74 and improper application of these nutrients create water quality issues and pollute our  
75 treasured natural waters. They promote algae blooms and other excessive plant growth.  
76 Low to no phosphorus fertilizer and slow release nitrogen fertilizer, along with proper  
77 utilization, result in absorption by plants and lower levels of nutrients **nitrogen and**  
78 **phosphorus** reaching the water bodies within and surrounding the City of Marco Island  
79 and their associated watersheds.

81 (5) Certification and training, as required by Article IV (Marco Island Lawn and  
82 Landscape Maintenance Registration Regulations), will result in increasing the  
83 knowledge of lawn and landscape maintenance professionals, and their customers, of:  
84 (a). The effects of pesticides, fertilizers and overwatering on the environment;  
85 (b). Ways to reduce the amount of fertilizers and pesticides utilized; and  
86 (c). Methods to limit water use on lawns and landscapes thus potentially lowering  
87 the impacts of nonpoint source pollution on local water bodies.

88  
89  
90 **Sec. 18-63. - Definitions.**

91  
92 ~~Administrator means the City Manager, who will administer and enforce the provisions of this~~  
93 ~~Article.~~

94  
95 Application means the physical deposition of fertilizer to turf or landscape plants.

96  
97 Applicator means any person who applies, in any manner, fertilizer to turf or landscape plants  
98 within the city as defined in this ordinance.

99  
100 Approved Best Management Practices Training Program means a training program approved per  
101 Section 403.9338, Florida Statutes, or any more stringent requirements set forth in this Article  
102 that includes the most current version of the Florida Department of Environmental Protection's  
103 "Florida-friendly Best Management Practices for Protection of Water Resources by the Green  
104 Industries, 2008," as revised, and approved by the City Manager **or designee.**

105  
106 Best Management Practices means turf and landscape practices or combination of practices  
107 based on research, field-testing, and expert review, determined to be the most effective and  
108 practicable means, including economic and technological considerations, for improving water  
109 quality, conserving water supplies and protecting natural resources.

110  
111 ~~City Manager means the City Manager or his designee, who will administer and enforce the~~  
112 ~~provisions of this Article.~~

113  
114 Code Compliance Officer or Inspector means any designated employee or agent of the City of

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115 Marco Island whose duty it is to enforce codes and ordinances enacted by the City.

116

117 Commercial Fertilizer Applicator, except as provided in Section 482.1562(9), Florida Statutes,  
118 means any person who applies fertilizer for payment or other consideration to property not  
119 owned by the person or firm applying the fertilizer and includes the employer of the applicator.

120

121 Fertilize, fertilizing, or fertilization means the act of applying fertilizer to a lawn (turf),  
122 specialized turf, or landscape plant.

123

124 Fertilizer means any substance that contains nitrogen, phosphorus, or any combination of these  
125 plant nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other  
126 soil enrichment, or provides other corrective measures to the soil.

127

128 Guaranteed Analysis means the percentage of plant nutrients or measures of neutralizing  
129 capability claimed to be present in a fertilizer.

130

131 Impervious surface means a constructed surface, such as a sidewalk, road, parking lot, or  
132 driveway, covered by impenetrable materials such as asphalt, concrete, brick, pavers, stone, or  
133 highly compacted soils.

134

135 Institutional Applicator means any person, other than a private, non-commercial or commercial  
136 applicator who applies fertilizer for the purpose of maintaining turf or landscape plants.  
137 Institutional applicators shall include, but shall not be limited to, owners and managers or  
138 employees of public lands, schools, parks, religious institutions, utilities, industrial or business  
139 sites, and any residential properties maintained in condominium or common ownership.

140

141 Landscape Plant means any native or exotic tree, shrub, or groundcover (excluding turf).

142

143 Lawn and Landscape Professional means any person who engages in solicitation for the delivery  
144 of lawn or landscaping maintenance and services.

145

146 Low Maintenance Zone means an area a minimum of ten (10) feet wide adjacent to watercourses  
147 which is planted and managed in order to minimize the need for fertilization, watering, mowing,  
148 etc.

149

150 Leaching means the process by which soluble constituents are dissolved and filtered through the  
151 soil by a percolating fluid.

152

153 Non-Commercial Applicator means any person other than a commercial fertilizer applicator or  
154 institutional applicator who applies fertilizer on turf or landscape plants in the city, such as an  
155 individual owner of a single-family residential unit.

156

157 Person means any natural person and shall also mean any business, corporation, association,  
158 club, organization, and/or any group of people acting as an organized entity.

159  
160 Prohibited Application Period means the time period during which any of the following are  
161 likely: Flood Watch or Warning, or a Tropical Storm Watch or Warning, or a Hurricane Watch  
162 or Warning is in effect for any portion of Collier County, issued by the National Weather  
163 Service, or if heavy rain (World Meteorological Organization definition of heavy rain is rainfall  
164 greater than or equal to 50 mm (2 inches) in a 24 hour period).

165  
166 Rainy season means June 1 through September 30 of each calendar year.

167  
168 Rapid Release or Water Soluble Nitrogen means any product containing:

- 169 (1) Ammonium Nitrate.  
170 (2) Ammonium Sulfate.  
171 (3) Calcium Nitrate.  
172 (4) Diammonium Phosphate.  
173 (5) Monoammonium Phosphate.  
174 (6) Potassium Nitrate.  
175 (7) Sodium Nitrate.  
176 (8) Urea (not in the form of slow release nitrogen).  
177 (9) Others as may be designated in writing by the Administrator.

178  
179 Runoff means the water that results from and occurs following a rain event, or following an  
180 irrigation event, because the water is not absorbed by the soil or landscape and flows from the  
181 area.

182  
183 Saturated Soil means a soil in which the voids are filled with water. Saturation does not require  
184 flow. For the purposes of this ordinance, soils shall be considered saturated if standing water is  
185 present or the pressure of a person standing on the soil causes the release of free water.

186  
187 Slow Release, Controlled Release, Timed Release, Slowly Available, or Water Insoluble Nitrogen  
188 means nitrogen in a form which delays its availability for plant uptake and use after application,  
189 or which extends its availability to the plant longer than a “rapid release nitrogen” product.  
190 Forms of slow release, controlled release, slowly available, or water insoluble nitrogen include:

- 191 (1) Isobutylidene diurea (IBUD).  
192 (2) Resin, Polymer, or Sulphur coated urea.  
193 (3) Biosolids or residuals from domestic wastewater treatment.  
194 (4) Ureaformaldehyde.  
195 (5) Composted animal manure.  
196 (6) Others as may be designated in writing by the City Manager or designee.

197  
198 Turf, Sod, or Lawn means a piece of grass-covered soil held together by the roots of the grass.

199  
200 Wetlands means those areas that are inundated or saturated by surface water or ground water at a  
201 frequency and a duration sufficient to support, and under normal conditions do support, a  
202 prevalence of vegetation typically adapted for life in saturated soils [See 62-340 F.A.C.].

203  
204 Yard Waste means shredded yard clippings, leaves, grass clippings, coconuts, limbs and any  
205 plant debris created in the act of mowing, trimming and removal of vegetation.

206  
207  
208 **Sec. 18-64. - Fertilizer Regulations.**

209  
210 (1) Applicability. This Section shall be applicable to and shall regulate any and all applicators of  
211 fertilizer and areas of application of fertilizer within the City of Marco Island unless such  
212 applicator is specifically exempted by the terms of this Section from the regulatory provisions of  
213 this Section. This Section shall be prospective only, and shall not impair any existing contracts.

214  
215 (2) Exemptions. This Section shall not apply to:

216  
217 (a) Bona fide farm operations as defined in the Florida Right to Farm Act, Section  
218 823.14, Florida Statutes.

219  
220 (b) Other properties not subject to or covered under the Florida Right to Farm Act that  
221 have pastures used for grazing livestock.

222  
223 (c) Yard waste compost, mulches, or other similar materials that are primarily organic in  
224 nature and are applied to improve the physical condition of the soil. Yard wastes shall not  
225 be disposed of or stored by shorelines, seawalls, swales or near storm drains.

226  
227 (d) Athletic Fields that are maintained by a public entity and used by the public are  
228 exempt from fertilizer application regulations under Section 18-64 (6)a of this Article.

229  
230 (e) Newly planted turf and/or landscape plants may be fertilized only for a sixty (60) day  
231 period beginning 30 days after planting, if needed to allow the plants to become well  
232 established. Caution should be used to prevent direct deposition of ~~nutrients~~ **nitrogen and**  
233 **phosphorus** into the water.

234  
235 (3) Impervious surfaces. Fertilizer shall not be applied, spilled, or otherwise deposited on any  
236 impervious surfaces. Any fertilizer applied, spilled, or deposited, either intentionally or  
237 accidentally, on any impervious surface shall be immediately and completely removed. Fertilizer  
238 released on an impervious surface must be immediately contained and either legally applied to  
239 turf or any other legal site, or returned to the original or other appropriate container. In no case  
240 shall grass clippings, vegetative material, and/or vegetative debris, **including coconuts** either

241 intentionally or accidentally, be washed, swept, **thrown**, or blown off into stormwater drains,  
242 ditches, conveyances, water bodies, wetlands, sidewalks or roadways.

243

244 (4) *Fertilizer Free Zones.*

245 (a) Fertilizer shall not be applied within ten (10) feet of any pond, stream, storm drain,  
246 watercourse, lake, canal or wetland as defined by the Florida Department of  
247 Environmental Protection, or from the top of a seawall.

248 (b) Spreader deflector shields are required when fertilizing adjacent to Fertilizer Free  
249 Zones or impervious surfaces.

250

251 (5) *Timing of Fertilizer Application.*

252 (a) No applicator shall apply fertilizers containing nitrogen or phosphorous to turf and/or  
253 landscape plants during the rainy season (**June 1 - September 30**) and the Prohibited  
254 Application Period and to saturated soils.

255

256 (6) *Fertilizer Content and Application Rate.*

257 (a) Phosphorus fertilizer shall not be applied to turf or landscape plants unless a soil or  
258 tissue deficiency has been verified by an approved test. Where a deficiency has been  
259 verified, phosphorous fertilizer shall not be applied at application rates that exceed 0.25  
260 lbs. P<sub>2</sub>O<sub>5</sub>/1000 ft<sup>2</sup> per application and not to exceed 0.50 lbs P<sub>2</sub>O<sub>5</sub>/1000 ft<sup>2</sup> per year.

261

262 (b) Fertilizer applied to turf or landscape plants within the city must contain no less than  
263 50% slow release nitrogen per guaranteed analysis label as guaranteed analysis and label  
264 are defined in chapter 576, Florida Statutes.

265

266 (c) Total Yearly Applications. Fertilizers shall not be applied more than four (4) times  
267 during any one calendar year to a single area. No more than four (4) pounds of nitrogen  
268 per 1000 square feet shall be applied to any turf or landscape area in any calendar year.

269

270 (d) Where fertilizer application is not described in this article, fertilizer shall be applied  
271 in accordance with requirements and directions provided by Rule 5E-1.003, Florida  
272 Administrative Code for turf and as found in UF/IFAS recommendations for landscape  
273 plants, vegetable gardens, and fruit trees and shrubs.

274

275

276 7) *Education and Outreach.*

277 (a) The City of Marco Island will provide educational materials, notices and/or  
278 presentations notifying residents that fertilizers applied within the City shall be  
279 formulated and applied in compliance with this Section.

280 i) The Beautification Committee, in conjunction with City staff, shall incorporate  
281 into their community outreach programs no less than two educational sessions on the  
282 requirements of the fertilizer ordinance per year.

283

284

285 (b) Retail businesses within the City selling fertilizer are requested to post a notice in a  
286 conspicuous location near the fertilizer notifying customers of this ordinance.

287

288

289 **Sec. 18-65 - Permitting, Penalties and Enforcement.**

290

291 1) Permitting. All persons intending to apply fertilizer are required to obtain appropriate  
292 permits from the City.

293 (a) A minimum of one business day prior to fertilizer application within the City, the  
294 person must apply for an e-mail permit, free of charge, indicating the location, type of  
295 fertilizer and acknowledgement that a spreader deflector will be utilized.

296 (b) Codes Enforcement may visit any site where fertilization is occurring and stop  
297 work if a permit was not received or if improper products or methods are being  
298 employed.

299

300 2) Upon the request of Code Enforcement, applicators shall be required to provide the label for  
301 fertilizer being applied to verify compliance with this ordinance.

302 3) Any person who violates any provision of this ordinance shall be guilty of a noncriminal  
303 infraction. Violators will be subject to the issuance of a citation imposing the following  
304 penalties: (i) ~~First Violation—Warning;~~ (ii) ~~Second~~ **First Violation –a fine up to \$150**  
305 \$25; and (iii) Each Subsequent Violation – a fine not to exceed \$300.

306 4) Any person or persons, firm or corporation, or any agent thereof, who violates any of the  
307 provisions of any Section of this Article shall be punished by revocation of any certification  
308 issued under this Article, and other penalties as may be imposed by the Code Enforcement  
309 Magistrate pursuant to this Code, Chapter 14 of City Code of Ordinances, and Florida law.

310

311 **Secs. 18-66 --- 18-100. - Reserved**

312

313 **SECTION 3. Amendments to Marco Island Lawn and Landscaping Maintenance**  
314 **Certification Regulations.**

315

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316 The Code of Ordinances, Marco Island, Florida, is hereby revised by amending Article IV,  
317 entitled “Marco Island Lawn and Landscaping Maintenance Certification Regulations”, Sections 8-  
318 71 through 8-81, inclusive, in Chapter 8, entitled “Businesses”, as follows:  
319

320 **Chapter 8. - BUSINESSES**

321 ....

322 **ARTICLE IV. – MARCO ISLAND LAWN AND LANDSCAPE MAINTENANCE**  
323 **CERTIFICATION REGISTRATION REGULATIONS**

324

325 **Sec. 8-70. - Intent and purpose.**

326 The intent and purpose of this article is to require any person or business entity performing  
327 lawn or landscaping maintenance work in the City of Marco Island to possess minimum  
328 qualifications and competency that will assist in strengthening and promoting public awareness  
329 of the need to engage in certain lawn and landscape maintenance activities and therefore mitigate  
330 long-term and immediate adverse impacts from stormwater run-off into natural water bodies  
331 located in and adjacent to the City of Marco Island.

332

333 **Sec. 8-71. - Definitions.**

334 The following words, terms and phrases, when used in this article, shall have the meanings  
335 ascribed to them in this section, except where the context clearly indicates a different meaning:

336 Applicator means any person who applies, in any manner, fertilizer to turf or landscape  
337 plants within the City as defined in this ordinance.

338 Certification means the process of completing the State approved course and test as required  
339 in Florida Statute 482.1562

340 Commercial Fertilizer Applicator, except as provided in Section 482.1562(9), Florida  
341 Statutes, means any person who applies fertilizer for payment or other consideration to property  
342 not owned by the person or firm applying the fertilizer and includes the employer of the  
343 applicator.

344 Landscape architect means an individual licensed by the State of Florida responsible for the  
345 preparation of landscaping plans and design.

346 Lawn and landscape professional means any person who engages in solicitation for the  
347 delivery of lawn, landscaping or lawn or landscaping maintenance services.

348 Non-Commercial Applicator means any person other than a commercial fertilizer applicator  
349 or institutional applicator who applies fertilizer on turf or landscape plants in the City, such as an  
350 individual owner of a single-family residential unit.

351 Registration is the process of applying to the City for recognition of appropriate certification  
352 to apply fertilizer within the City and receipt of a decal identifying the vehicles of the approved  
353 applicators.

354

355 **Sec. 8-72. – Exemptions ~~Exception~~.**

356 The ~~certification~~ registration requirement of this article shall not apply to the following:

- 357 (1) Any individual non-commercial property owner engaging in lawn, landscaping or lawn  
358 or landscaping maintenance on one's own property;
- 359 (2) Any landscape architects licensed by the State of Florida engaging in lawn or  
360 landscaping maintenance services;
- 361 (3) Any individual or business entity, which possesses a license from the State of Florida to  
362 apply herbicides, pesticides, chemicals; or
- 363 (4) Any individual or business entity possessing a valid specialty contractor's license from  
364 Collier County, Florida for the delivery of services such as landscaping, tree removal  
365 and trimming, and irrigation.

366

367 **Sec. 8-73. - Regulated activities.**

368 (a) It shall be a violation of this Code to provide any lawn and landscaping, ~~or lawn or~~  
369 ~~landscaping~~ maintenance and services in the city without first being certified and registered  
370 with the city as a lawn and landscape professional as provided herein.

371 (b) Any lawn and landscaping ~~or lawn or landscape~~ maintenance and services, including  
372 fertilizer application, provided to the city by a lawn and landscape professional shall have at  
373 least one supervisor at each work site registered with ~~certified by~~ the city as a lawn and  
374 landscape professional. In addition, all business entities under contract with the city shall  
375 have ten percent of their staff certified and registered with ~~by~~ the city as a lawn and  
376 landscape professional within six months of entering into a contract with the city; and 50  
377 percent of their staff certified by the city as a lawn and landscape professional within one  
378 year of entering into a contract with the city.

379 (d) (c) Any lawn and landscaping ~~and landscape~~ maintenance or services, including fertilizer  
380 application, provided by lawn and landscape professionals within the city shall have at least  
381 one supervisor certified ~~by~~ and registered with the city as a lawn and landscape professional.

382 These businesses shall provide at least one supervisor and/or crew leader per vehicle ~~certified~~  
383 registered by the city as a lawn and landscape professional within one year of adoption. Any  
384 landscaping professional applying fertilizer is required to be state certified and city  
385 registered.

386

387 **Sec. 8-74. - Certification application; contents.**

388 1) Training and Licensing.

389 a) Section 482.1562, Florida Statutes, contains language regarding the limited certification  
390 of urban landscape commercial fertilizer application. Fertilizer applicators, as certified  
391 under that section of state statute, shall have and carry in their possession at all times  
392 when applying fertilizer, evidence of that certification.

393 b) The City also hereby requires lawn and landscape professionals, except as exempted  
394 above, to abide by and successfully complete the six-hour training program in the  
395 Florida-Friendly Best Management Practices for Protection of Water Resources by the  
396 Green Industries offered by the Florida Department of Environmental Protection through  
397 the University of Florida Extension program (or approved equivalent), as well as local  
398 ordinance requirements, as amended.

399 2) Lawn and Landscape Professional Registration. It shall be a violation of this Article for lawn  
400 and landscape professionals, except as exempted above, to fertilize lawns or landscape plants  
401 without first being certified with the state of Florida and business registered with the City as  
402 provided herein.

403 a) Any lawn, landscaping and landscape maintenance business that applies fertilizer shall  
404 register supervisors/crew leaders with the City.

405 b) Lawn and Landscape Professionals registering with the City as such shall:

406 i) Attend and successfully complete the six-hour training program as described above.

407 ii) Attend and successfully complete the three-hour annual refresher course (or approved  
408 equivalent) for renewal of registration.

409

410 ~~(1) Except as otherwise provided in section 8-72, all persons before entering into or upon~~  
411 ~~property within the city to perform lawn, landscaping or lawn or landscaping~~  
412 ~~maintenance shall demonstrate knowledge of the relationship between their~~  
413 ~~profession and the environment through both experience and education.~~

- 414 iii) Certification and registration shall be based on demonstrated ability, experience, and  
415 education in the following areas of competency:
- 416 (a) Effects of the environment from sediment, nutrients, and pesticides moving  
417 off-site through surface or ground water.
- 418 (b) Site design and plant selection to enhance the natural environment.
- 419 (c) Rates and methods of applying fertilizer and irrigation that minimize negative  
420 environmental consequences.
- 421 (d) Utilization of integrated pest management to both minimize pests and  
422 decrease chemical applications.
- 423 iv) Illustrate an ability to apply his or her knowledge of the concepts identified herein by  
424 providing a written, detailed management plan that outlines maintenance activities to  
425 be carried out for specific locations.
- 426 v) Provide an initial application fee of \$50.00, which shall be used to defray the costs of  
427 the program. A fee of \$15.00 shall be charged to renew certification. The application  
428 fee may be amended by resolution of the City Council as may be necessary.
- 429
- 430 ~~(1) A person applying for certification by the city as a lawn and landscape maintenance~~  
431 ~~professional shall provide evidence of completing a course of study from the Rookery~~  
432 ~~Bay National Estuarine Research Reserve, Naples, Florida, or other approved~~  
433 ~~provider, with at least six hours of instruction in the areas identified under section 2.~~  
434 ~~Confirmation of attendance in a three-hour annual refresher course from Rookery Bay~~  
435 ~~National Estuarine Research Reserve, or other approved provider must be provided to~~  
436 ~~the city prior to issuance of a renewal certification.~~
- 437 ~~(2) A person applying for certification by the city as a lawn and landscape maintenance~~  
438 ~~professional shall illustrate an ability to apply his or her knowledge of the concepts~~  
439 ~~identified herein by providing a written, detailed management plan that outlines~~  
440 ~~maintenance activities to be carried out for a specific location.~~
- 441 c) (4) The city shall provide any person who has satisfied the requirement set forth herein  
442 and paid the application fee, a certificate registration and a decal indicating the city  
443 considers that person to be a certified lawn and landscape maintenance professional.
- 444 d) ~~(5) The certification registration program shall be managed and administered by the~~  
445 ~~growth management department. However, the city council~~ City Manager or designee  
446 ~~shall retain the authority to approve certification registration of any applicant for lawn~~  
447 ~~and landscape registration maintenance certification.~~
- 448 e) It shall be the responsibility of the landscape professional to complete required training  
449 and to register with the City.

450

451 **Sec. 8-75. - Duration, renewal.**

452 A ~~certification~~ registration issued under this article shall be valid for one year. Renewals for  
453 an additional one-year period may be granted, unless previously issued ~~registrations~~ certificates  
454 are revoked as provided in this article. A maximum of two one-year renewals will be granted  
455 without submission of a new registration ~~certification~~ application and without payment of the  
456 applicable registration ~~certification~~ fee. However, prior to receiving a renewed registration  
457 ~~certification~~, the applicant must update and make any necessary changes needed to the  
458 previously submitted ~~certification~~ application. Certification with the state must occur in  
459 compliance with state regulations.

460

461 **Sec. 8-76. - Duty to carry, exhibit certification and receive appropriate permit.**

462 (1) Identification. Every ~~certified~~ registered lawn and landscaping professional shall carry his  
463 or her registration ~~certification~~ and photo identification at all times while engaged in lawn or  
464 landscaping maintenance work in the city.

465 a) The City-issued Lawn and Landscape Professionals decal shall be displayed on every  
466 state-licensed motor vehicle used by a commercial fertilizer applicator or institutional  
467 applicator, and by lawn and landscape maintenance professionals when performing  
468 services within the City limits. One decal will be issued with each registration; each  
469 additional decal will cost \$5. The decal shall be displayed prominently and in such a  
470 manner as not to be obstructed.

471 (2) Permitting. All registered landscape professionals are required to obtain appropriate permits  
472 from the City.

473 a) A minimum of one business day prior to fertilizer application within the City, the  
474 registered professional must apply for an e-mail permit, free of charge, indicating the  
475 location, type of fertilizer and acknowledgement that a spreader deflector will be utilized.

476 b) Codes Enforcement may visit any site where fertilization is occurring and stop work if a  
477 permit was not received or if improper products or methods are being employed.

478

479 **Sec. 8-77. - Reserved. Fees.**

480 ~~An initial application fee shall be \$25.00, which shall be used to defray the costs of~~  
481 ~~certificates and other expenses of the program. A fee of \$25.00 shall be charged to renew~~  
482 ~~certification. The application fee may be amended by resolution of the city council as may be~~  
483 ~~necessary.~~

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484

485 **Sec. 8-78. - Revocation authorized; grounds.**

486 ~~Certifications~~ Registration issued under this article may be revoked by the city manager or  
487 ~~the city manager's~~ designee after notice and hearing for any of the following offenses:

- 488 (1) Fraud, misrepresentation or a false statement in the application.
- 489 (2) Fraud, misrepresentation or a false statement in the performance of lawn or landscaping  
490 maintenance services.
- 491 (3) Violation of any condition, provision or qualification provided in the application.
- 492 (4) Conviction, nolo contendere plea or forfeiture resulting from violation of any city, state  
493 or federal law involving theft, fraud, violence or moral turpitude.
- 494 (5) Conducting business in an unlawful manner or in such manner as to threaten breach of  
495 the peace or menace to public health, safety or welfare.
- 496 (6) Failure to comply with any provision of this article and applicable sections of Chapter  
497 18-Environment, of the Marco Island Code of Ordinances.

498

499 **Sec. 8-79. - Notice of revocation.**

- 500 (1) Written notice of revocation of a ~~certification~~ registration issued under this article and the  
501 grounds therefor shall be mailed or delivered to a certified lawn and landscaping  
502 professional at the address specified in its application.
- 503 (2) **The public will be notified of revocation of any landscaping professional's registration**  
504 **through the monthly report to City Council, on the City's website and a notification will**  
505 **be posted at City Hall.**

506 **Sec. 8-80. - Appeal.**

507 Any person aggrieved by the denial of a ~~certification~~ registration or revocation of a  
508 ~~certification~~ registration shall have the right of appeal to the city council. Such appeal shall be  
509 taken by filing with the city manager or designee, within 14 days after notice of the action  
510 complained of has been mailed or delivered to such person's last known address, a written  
511 statement setting forth fully the grounds for the appeal. The city manager or designee shall set a  
512 time and place for a hearing on such appeal and notice of such hearing shall be given to the  
513 appellant at least five days before the date of said hearing. The decision and order of the city  
514 council on such appeal shall be final.

515

516 **Sec. 8-81. - Penalties.**

517 Any person or persons, firm or corporation, or any agent thereof, who violates any of the  
518 provisions of any section of this article shall be punished by revocation of any ~~certification~~  
519 registration issued under this article, and other penalties as may be imposed by the Code  
520 Enforcement Magistrate board pursuant to Florida Law or this Code.

521

522

523 **SECTION 4. Codification.**

524

525 It is the intention of the City Council, and it is hereby ordained that the amendments to  
526 the City of Marco Island Code of Ordinances made by this Ordinance shall constitute a new  
527 Article V to Chapter 8 of the City of Marco Island Code of Ordinances, and that the sections of  
528 this Ordinance may be renumbered and re-lettered as necessary, and that the word "Ordinance"  
529 may be changed to "Section, "Article" or other appropriate word.

530

531 **SECTION 5. Conflicts.**

532

533 All ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict  
534 with the provisions of this Ordinance are hereby superseded and resolved to the extent of any  
535 conflict in favor of the provisions of this Ordinance.

536

537 **SECTION 6. Severability.**

538

539 If any term, section, clause, sentence or phrase of this Ordinance is for any reason held to  
540 be invalid, illegal, or unconstitutional by a court of competent jurisdiction, the holding shall not  
541 affect the validity of the other or remaining terms, sections, clauses, sentences, or phrases  
542 portions of this Ordinance, and this Ordinance shall be read and/or applied as if the invalid,  
543 illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

544

545 **SECTION 7. Effective Date.**

546

547 This Ordinance shall become effective immediately following its adoption by the City  
548 Council.

549

550 ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND this \_\_\_\_

551

552 day of \_\_\_\_\_, 2016.

553

554

**CITY OF MARCO ISLAND, FLORIDA**

555

<sup>1</sup> Proposed additions to existing City Code text are shown by underlining; proposed deletions from existing City Code text are shown by ~~striketrough~~.

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Attest:

By: \_\_\_\_\_  
Laura M. Litzan, City Clerk

Reviewed for legal sufficiency:

By: \_\_\_\_\_  
Alan L. Gabriel, City Attorney

By: \_\_\_\_\_  
Robert C. Brown, Chairman

Proposed

<sup>1</sup> Proposed additions to existing City Code text are shown by underlining; proposed deletions from existing City Code text are shown by ~~striketrough~~.