

ORDINANCE NO. 190

AN ORDINANCE CREATING TITLE XIV “WATER QUALITY PROTECTION” TO THE CODE OF DUNES CITY AND ADDING CHAPTER 140 “PHOSPHORUS REDUCTION” TO THAT TITLE, AND DECLARING AN EMERGENCY

WHEREAS, the City Council of Dunes City is considering the adoption of various regulations to promote water quality in Dunes City, and;

WHEREAS, it is most appropriate to place new regulations promoting water quality in a new title to the Code of Dunes City that is intended for this purpose, and;

WHEREAS, the City Council of Dunes City is concerned about the degradation to the lakes of Dunes City from phosphorus contamination.

NOW THEREFORE, Dunes City ordains as follows:

Section 1. A Title XIV, entitled “Water Quality Protection,” is added to the Code of Dunes City.

Section 2. Chapter 140, entitled “Phosphorus Reduction,” is added to Title XIV of the Code of Dunes City and shall read as follows:

§140.001 PURPOSE

The purpose of this Chapter is to limit the unnecessary inputs of phosphorus from fertilizers and cleaning agents into the lakes, streams, and groundwater of Dunes City.

§140.002 DEFINITIONS

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

FERTILIZER. A substance containing one or more recognized plant nutrients that is used for its plant nutrient content and designed for use or claim to have value in promoting plant growth. Fertilizer does not include vegetable and animal manures, compost, marl, lime and limestone.

TURF. Non-crop land planted in closely mown, managed grasses, including, but not limited, residential and commercial residential property, and property owned by local units of governments, including parks and recreation areas. Turf does not mean pasture, hayland, hay, turf grown on turf farms, or any other form of agricultural production.

AUTOMATIC DISHWASHING DETERGENT. Any cleaning agent specifically designed for use in automatic dishwashers.

CLEANING AGENT. A laundry detergent, dishwashing compound, automatic dishwashing detergent, household cleaner, metal cleaner, degreasing compound, commercial cleaner, industrial cleaner, phosphate compound, or other substance that is intended to be used for cleaning purposes.

NON-PHOSPHORUS AUTOMATIC DISHWASHER DETERGENT. Any automatic dishwashing detergent containing no more than 0.5% phosphorus.

§140.003 RESTRICTIONS ON THE USE OF FERTILIZERS

(A) A person may not apply any fertilizer whatsoever within the 50 foot shore land and riparian setback or within any wetlands, locally significant or non-locally significant, within Dunes City.

(B) A person may not apply a fertilizer containing phosphorus to lawn or garden plants except under conditions listed in Section 140.003(C).

(C) Section 140.003(B) does not apply when:

(1) A residential property owner or an agent of the property owner conducts a soil test by a laboratory listed in the Oregon State University Extension Service publication EM 8677, "Nutrient Management Guide, Laboratories Serving

Oregon” using the Bray P1 test. The restriction does not apply if the test results indicate that the level of available phosphorus in the soil is insufficient to support healthy plant growth; or

(2) A residential property owner or an agent of the property is first establishing turf via seed or sod procedures, and only during the first growing season.

(D) Results of soil test conducted pursuant to Section 140.003(B) shall be submitted to Dunes City for the city’s records prior to application of phosphorus fertilizer by a residential property owner or an agent of the property owner.

(E) Applications of phosphorus fertilizer authorized under Section 140.003(B) must not exceed rates recommended by the Oregon State University Extension Service publication EC 1278 “Fertilizing Home Lawns “ or EC 1503 “Fertilizing Your Garden” as appropriate for soil test results and where applied.

§140.004 PROHIBITION OF THE USE OF PHOSPHORUS-CONTAINING CLEANING AGENTS

After the effective date of this ordinance, no person may use any cleaning agent that contains more than 0.5% phosphorus by weight.

§140.005 CONSUMER AND RETAILER INFORMATION

(A) Each year the City Council or designated committee shall make available to the residents of Dunes City with a list, by brand name, of the most common fertilizers that do not contain phosphorus.

(B) Upon passage of this ordinance, the City Council shall contact the managers of retail stores in Dunes City and its proximate environs to: a) inform such stores about the prohibition on the use of high phosphate fertilizers in Dunes City; and b) request that such stores post signs, labels or other markings that clearly distinguishes brands of fertilizers that do not contain phosphorus.

(C) Upon passage of this ordinance, the City Council or designated committee shall make available to the residents of Dunes City with a list, by brand name, of non-phosphorus automatic dishwasher detergents.

(D) Upon passage of this ordinance, the City Council shall contact the managers of retail stores in Dunes City and its proximate environs to: a) inform such stores about the prohibition on the use of high phosphate dishwasher detergents and other cleaning agents in Dunes City; and b) request that such stores post signs, labels or other markings that clearly distinguish non phosphorus automatic dishwashing detergents.

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§140.006 PENALTIES

(A) Any person who knowingly uses a fertilizer in violation of Section 140.002 of this ordinance shall be subject to a fine of not more than \$500.

(B) Any person who knowingly uses a cleaning agent in violation of Section 140.003 of this ordinance shall be subject to a fine of not more than \$100.

Section 3. 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, that portion shall be deemed a separate, distinct, and independent provision and that holding shall not affect the validity of the remaining portions of this Ordinance.

Section 4. It being necessary for the peace, health, safety, and orderly development of the City of Dunes City, an emergency is hereby declared to exist and this ordinance shall become effective immediately upon its passage by the council and signature by the mayor.

While not a part of this ordinance, the findings attached as Exhibit "A" and incorporated herein by this reference are adopted in support of this decision.

ADOPTED BY THE DUNES CITY COUNCIL THIS 8TH DAY OF MARCH, 2007.

Ayes: _____ Nays: _____ Abstain: _____ Absent:

Sheldon Meyer, Mayor

Joanne Hickey, City Recorder