

CH. II-21 PESTICIDE AND FERTILIZER REGULATION

ART. II-21-1.

Sec. 21-1. Purpose.

The purpose of this ordinance is to safeguard the health and welfare of the residents of Falmouth and to conserve and protect Falmouth's environment, water, and natural resources by ensuring the proper use of outdoor pesticides and fertilizers in Falmouth.

Sec. 21-2. Definitions.

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

Application: The use of pesticides and/or fertilizers on public or private property, including but not limited to lawns and landscapes, trees and shrubs, athletic fields, outdoor recreation facilities, campgrounds, and golf courses.

Combination product: A product that combines fertilizers and pesticides into a single entity.

Commercial Applicator: A ~~person, whether a sole proprietor or owner/supervisor of a business entity, who holds a commercial pesticide applicator license in the categories required by the Maine Board of Pesticides Control, or a person, whether a sole proprietor or owner/supervisor of a business entity,~~ whose use or application of pesticide and/or fertilizer is provided as a service for which compensation is received.

Fertilizer: Any material of synthetic, natural, or organic origin that is applied to soils or to plant tissues to supply one or more plant nutrients that facilitate the growth of plants.

Natural, Organic, or "Non-Synthetic": A substance that is derived from mineral, plant, or animal matter and does not undergo a "synthetic" process as defined in the Organic Foods Production Act, 7 U.S.C. § 6502(21), as the same may be amended from time to time.

Pesticide: Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. Herbicides, fungicides, insecticides, miticides, and rodenticides are considered pesticides. This includes any pesticide regulated by state or federal law. This does not include other biological agents not regulated as pesticides by the Maine Board of Pesticide Control or the Environmental Protection Agency, such as substances used to control mites, nematodes, parasitic wasps, snails.

Synthetic: A substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring sources, except

that such term shall not apply to substances created by naturally occurring biological processes.

Sec. 21-3. Pesticide and Fertilizer Application Registration Required.

No ~~sole proprietor or business entity commercial applicator~~ shall engage in the application of pesticides and/or fertilizers within the Town without first having registered to do so. Registrations must be renewed annually and are valid from February 1 through January 31 of the following year. Registration forms and processes will be administered by the Town Manager or the Town Manager's designee. Registration shall include, at a minimum, ~~include~~ the following information:

- a. Personal name or company name and address~~;~~
- b. Copy of State of Maine commercial pesticide applicator license, where applicable~~;~~
and;
- c. Annual registration fee of \$50.00.

Sec. 21-4. Pesticide and Fertilizer Application Reporting.

By January 31 of each year, any sole proprietor or business entity that received compensation for the application of pesticides and/or fertilizers ~~Commercial Applicators~~ must provide a summary report of applications made in Falmouth for the past year.

Reports must include the following for pesticides:

- a. General location of applications, by geographic area, identified as: east of I-295; west of I-295 and east of I-95; and west of I-95~~;~~
- b. Date of application~~;~~
- c. Environmental Protection Agency registration number for each pesticide used, where applicable~~;~~ and;
- d. Pesticide and combination product brand names used, whether identified as synthetic or non-synthetic, and total undiluted formulation (in pounds or gallons), with total area treated as listed and as amended on the Commercial Applicator Annual Summary Report required by the Maine Board of Pesticides Control.

Reports must include the following for fertilizers:

- a. General location of applications, by geographic area, identified as: east of I-295; west of I-295 and east of I-95; and west of I-95;
- b. Date of application;
- c. Fertilizer and combination product brand names used, whether identified as synthetic or non-synthetic, including total granular or undiluted or liquid formulation in pounds or gallons (or the ratio) of nitrogen (N), phosphorus (P), and potassium (K); and
- d. Square footage or acreage applied.

Sec. 21-5. Restrictions on Fertilizer Applications.

The outdoor application of fertilizers is prohibited between December 1 and March 31.

Sec. 21-6. Pesticide and Fertilizer Use Registration and Reporting Exemptions.

The following ~~lands activities or materials~~ are exempt from the provisions of this ordinance and will not require registration or reporting:

- a. Rights of way owned by the Maine Public Utilities Commission (PUC) regulated utilities;
- b. Rights of way managed by the Maine Department of Transportation;
- c. Rights of way managed by the Maine Turnpike Authority; and
- d. Commercial agriculture and commercial horticulture.

The following activities or materials are exempt from the provisions of this ordinance and will not require registration or reporting:

- a. Pet supplies, such as shampoos and tick and flea treatments, when used in the manner specified by the manufacturer;
- b. Disinfectants, germicides, bactericides, miticides, and virucides when used in the manner specified by the manufacturer;
- c. Insect repellents when used in the manner specified by the manufacturer;
- d. Rat and rodent control supplies when used in the manner specified by the manufacturer;
- e. Swimming pool supplies when used in the manner specified by the manufacturer; and
- f. General use paints, stains, wood preservatives, and sealants when used in the manner specified by the manufacturer.

Sec. 21-7. Violations; Penalties for Non-compliance.

Registration and Reporting – A ~~commercial applicator~~ sole proprietor or business entity that ~~who~~ violates the annual registration and/or the reporting requirements of this chapter shall be subject to a penalty of not more than \$500 for the first violation of either or both requirements, and for each subsequent violation, shall be subject to a penalty of not less than \$250 nor more

than \$1,000, plus costs and attorneys' fees.

A ~~commercial applicator~~ sole proprietor or business entity that ~~who~~ violates the fertilizer use restriction requirements contained herein shall be subject to a penalty per application of not more than \$500 for the first violation, and for each subsequent violation, shall be subject to a penalty per application of no more than \$1,000, plus costs and attorneys' fees.

Sec. 21-8. Administration and Enforcement.

The Town Manager, or the Town Manager's designee, will implement, administer, and enforce the provisions of this Ordinance.